

**HOUSE OF REPRESENTATIVES***Friday, April 30, 1999*

The House met at 1.30 p.m.

**PRAYERS**[MR. DEPUTY SPEAKER *in the Chair*]**CRIMINAL INJURIES COMPENSATION BILL**

Bill to establish the Criminal Injuries Compensation Board, to make provision for the payment of compensation to victims of criminal injuries and for matters relating thereto, brought from the Senate [*The Attorney General*]; read the first time.

**PAPER LAID**

Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the period of account January 01, 1998 to September 30, 1998 and on other Selected Audit Activities. [*The Attorney General (Hon. Ramesh Lawrence Maharaj)*]

*To be referred to the Public Accounts Committee.*

**ORAL ANSWERS TO QUESTIONS****Voter Identification Cards**

*The following questions stood on the Order Paper in the name of Mr. Colm Imbert (Diego Martin East):*

- 53. (a)** Would the Minister state:
- (i) the number of voter identification cards belonging to persons registered to vote in the Diego Martin East constituency that have expired in the years 1996, 1997, 1998 and 1999 to date?
  - (ii) the number of voter identification cards belonging to persons registered to vote in the Diego Martin East constituency that are due to expire in the remaining months of 1999 and the year 2000?

**Voter Identification (ID) Cards  
(Expiration of)**

- 54. (a)** Is the Minister aware that a large number of voter identification (ID) cards have expired within the last three years and a significant number of voter (ID) cards are due to expire in 1999 and 2000?

- (b) If the answer to part (a) is in the affirmative, in view of the Local Government Election which is constitutionally due in 1999 and the General Election is constitutionally due in 2000, could the Prime Minister state the level and type of resources, in terms of financial, human and technical resources, that the Government is providing to the Election and Boundaries Commission to enable the Commission to satisfactorily address the problem of expired voter (ID) cards in a timely manner?

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Deputy Speaker, may I respectfully ask to defer the answers to the questions asked, for later on.

*Questions, by leave, deferred.*

**PLACEMENT OF PRIMARY SCHOOL GRADUATES  
(CURRENT STATUS)**

**The Minister of Education (Dr. The Hon. Adesh Nanan):** Mr. Deputy Speaker, the post primary programme has had an interesting evolution over the past 60 years. In the early days of its existence, students who did not gain secondary school places continued into Standards six and seven where they sat the Primary School Leaving Certificate Examination. These students often played a very crucial role in extra curricular activities and leadership in the school.

The School Leaving Certificate was widely accepted by employers as attesting to a reasonable standard of literacy, numeracy and general ability. Many persons were recruited from among these graduates into the police service, the nursing profession, the pupil teacher system, the lower ranks of the civil service and the private sector. Many of these graduates went on to further study and have had very distinguished careers.

Mr. Deputy Speaker, with increasing numbers of students being able to gain secondary school places over the years, though, with a concentration on preparation for the Common Entrance Examination, less and less attention was paid to those who were left behind. The growth of secondary enrollment lowered the currency of the School Leaving Certificate by throwing on to the labour market large numbers of secondary school graduates and marginalized the post primary programme itself.

A 1997 study conducted by Ralph Romain for the Caribbean Development Bank and the Ministry of Education revealed that, based on the range of scores

obtained by students placed in secondary schools about whatever type, there were students placed in a post-primary programme whose highest scores exceeded some of the students placed in junior secondary, comprehensive, composite and even private secondary schools.

By the logic of the placement, policy and practice then, some of the students placed in the post-primary centres had actually qualified for placement in the secondary schools, Mr. Deputy Speaker, but unfortunately and sadly missed out. It would, therefore, be wrong to assume that the post-primary programme caters only for those who are too indolent or dull to merit a secondary school place or that a student is in need of remediation. It is also a fact that some brilliant students are late developers and the PNM placement policy discriminated against many deserving students.

Prior to 1997 there were only 100 scholarships offered to the students obtaining the highest grades from post-primary classes in Trinidad and Tobago. These students were placed in junior secondary schools, youth camps and trade centres. This Government recognizes and respects the value of each student in our education system and believes that every child can learn and that there must be a place in the education system for each and every child in Trinidad and Tobago. Based on the unfairness suffered by many children and an intrinsic belief, Mr. Deputy Speaker, in justice for all, this Government of national unity changed the policy for placement of post-primary students.

From 1997, all post-primary students who attained passes in all subjects, whether in one or two years, were placed in a public or private secondary school. In 1998 a total of 1,725 students qualified for secondary school places based on the results of the Primary School Leaving Examination. Of this number, 1,254 have already been placed, thus leaving a shortfall of 471 students. This is made up of 328 from Trinidad and 143 students from Tobago. The Ministry of Education has identified the places in private schools in Trinidad and Cabinet has approved the purchase of the 328 places needed. Up to September 1999 this is estimated to cost \$369,000.00 while the cost for the succeeding four years will be \$738,000.00 per annum. I wish to assure this honourable House that this does not require any additional injection of funds from the Treasury as the funds are already available in the budgetary provisions of the Ministry of Education to meet this expenditure.

Mr. Deputy Speaker, the situation in Tobago is different. Presently, Tobago does not have private school places to accommodate the 143 unplaced students.

*Primary School Graduates*  
[DR. THE HON. A. NANAN]

*Friday, April 30, 1999*

These students are encouraged to continue classes at post primary centres located in Bon Accord, Roxborough and Black Rock whilst arrangements are being made for their absorption into the public and private secondary schools in Tobago. Discussions are currently taking place, too, between the Tobago House of Assembly and Harmon SDA regarding the latter's expansional facilities to accommodate at least 100 of these students. The Ministry of Education expects, however, that when Mason Hall Government Secondary is completed, this will put an end to the shortage of places for post primary graduates in Tobago. This project is expected to be sent out for tenders shortly.

Mr. Deputy Speaker, as it stands, though, from 1996 until now this Government has expended a total of \$4,578,825.61 on equipping post-primary centres, paying tutors and placing post-primary students. Any improvement in the post-primary programme, though, cannot be conceived in isolation from the rest of the education system and, in any event, the post-primary programme would run out of entrants by 2002 as this Government will ensure universal secondary education through the construction of 10 new secondary schools by then.

Mr. Deputy Speaker, the fortunes of this country are inextricably bound up in an education system that produces well-trained and trainable individuals, a system that provides for all types of students from all sections of the society, a system that is culturally relevant and reflective of the dynamism of this century and the myriad possibilities of the next. This Government is committed to providing universal secondary education for all its young citizens. Each one of them is as precious to us as they are to Him who lent them to us. Our responsibility is to care for them in the best way we can. As Minister of Education, I will continue to accept the challenge so to do, and I assure this honourable House that the future of our children is as bright as this Government's. I thank you.

#### ARRANGEMENT OF BUSINESS

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Deputy Speaker, I beg to move, that the House now deal with Bills Second Reading under "Government Business" instead of "Motions".

*Agreed to.*

#### FREEDOM OF INFORMATION BILL

*Order for second reading read.*

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

That the Bill entitled, “an Act to give members of the public a general right (with exceptions) of access to official documents of public authorities and for matters related thereto, be now read a second time.

Mr. Deputy Speaker, this Bill would give to an individual a legally enforceable statutory right to know about and have access to state held information. The Bill would also give to an individual a statutory legally enforceable right to know what information is held about him or her in state records and it would give to him a legally enforceable right to have inaccurate personal information corrected.

**1.45 p.m.**

Mr. Deputy Speaker, apart from giving to the individual the new right, a legally enforceable right to know and to have access to state information, it will give to that individual, not only the right to have personal information from official records, but the right to have that information corrected if it is misleading or inaccurate insofar as personal information is concerned.

The Bill creates a statutory obligation on public authorities to publish information. When one looks at Part II of the Bill, one sees that the Bill expressly states the information that is required to be published. The information must be published in a daily newspaper and/or in the *Trinidad and Tobago Gazette*, particulars of organization, functions and decision-making powers by the state authority.

So that, after this Bill is passed there will be this obligation on the public authority under Part II, clause 7, to cause to be published the information. The purpose of publishing that information is that people will know about the functioning and the procedures which govern the public authority. The Bill creates a statutory obligation on the public authority to assist an individual who makes an application for information under this Bill.

Mr. Deputy Speaker, the Bill deals with exemptions and these are dealt with in Part IV of the Bill. The whole purpose of freedom of information legislation—which we know that the PNM has stated it will never support—As a matter fact the Opposition in 1993 and 1994, attempted to get the then government to enact freedom of information legislation. Even a draft bill was presented to the House and their excuse was that this was a copy of a bill in England, so they were not interested in it. The hon. Member for Diego Martin Central, as a minister of

government, said in his speech that they were not interested in freedom of information legislation. *[Interruption]*

**Mr. Valley:** That is a lie.

**Hon. R. Maharaj:** So we know that they will not support the Bill.

Mr. Deputy Speaker, the purpose of this Bill is that people would be empowered to know whether the Government or public authority are corrupt. And the PNM would not want that to be exposed, because the Bill will be able, not only for Parliamentary committees, as we know in the Constitution (Amdt.) Bill, to scrutinize state activity, this Bill will give to every individual, including the media, the right to get this information.

The history of freedom of information legislation would show that the media, throughout the world, fought in order to have government enact freedom of information legislation. I do not know whether Trinidad and Tobago would be an exception. The purpose of that was for the media to perform its proper role to society by properly providing the public with accurate information. Therefore, initially it was observed that freedom of information was really a right to be given to the media, but as time developed it was recognized that not only was the media entitled to accurate information from government and public authorities, but that every individual of the public is so entitled.

The rationale for this kind of legislation has been to make government more accountable by making it more open to public scrutiny. The PNM will not support that. It is also to improve the quality of decision-making by Government, to enable groups and individuals to be kept informed of the functioning of the decision-making process as it affects them, and to know the kinds of criteria that will be applied by government agencies in making those decisions, to enable individuals, except in very limited and exceptional circumstances, to have access to information about them held on Government files so that they may know the basis on which decisions that can fundamentally affect their lives are made and, have the opportunity of correcting information that is incorrect or misleading. Also, it is to increase the level of public participation in the processes of policy-making and the Government. The PNM will not support these things.

Mr. Deputy Speaker, we know we have brought this legislation to this House knowing, from past actions of the Opposition, that they will come here and talk about irrelevant matters. They will get sections of the media to print the bacchanal and those matters which are not important, but they will not support matters which are for the best interest of the people of Trinidad and Tobago. Having

given the rationale of the legislation, I would want to put it first in a sort of international context.

Article 19 of Universal Declaration of Human Rights, December 1948, states:

“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

Article 19 of the Sixth United Nations Declarations on Civil and Political rights of 1966 states in paragraphs 2 and 3:

- “2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
  - (a) For respect of the rights or reputations of others;
  - (b) For the protection of national security or of public order (*ordre public*), or of public health or morals.”

Mr. Deputy Speaker, one would therefore see that on the international scene at the United Nations level, it recognizes that states should take steps to ensure that freedom of information is observed and, that there should be steps taken to ensure that legal frameworks are put in place so that the people would get information. The United Nations also recognized in Article 19, that there would be exceptions and exemptions in order to protect the rights of individuals, law, and the public interest.

In 1980 at the Commonwealth Law Ministers Conference in Barbados, the Commonwealth agreed that public participation in a democratic and governmental process was at its most meaningful when citizens had adequate access to official information.

That meeting called upon Commonwealth countries to take steps to enact freedom of information legislation, so that individuals would get a statutory right to information.

**1.55 p.m.**

*Freedom of Information Bill*  
[HON. R. L. MAHARAJ]

*Friday, April 30, 1999*

Mr. Deputy Speaker, some Commonwealth countries in Caricom, like Belize and Jamaica, are in the process of taking steps to introduce freedom of information legislation, and there are several other countries of the Commonwealth which have taken steps to do this. One of the greatest assets of freedom of information legislation is that it throws light in respect of the darkness which can exist in official decisions. It removes secrecy from these official decisions and acts and, in fact, promotes openness and transparency.

It may be opportune to quote what Jeremy Bentham said:

“Secrecy, being an instrument of conspiracy, ought never to be a system of regular government.”

John Stuart Mill said that the proper function of a representative assembly was:

“To watch and control the Government; to throw the light of publicity on its acts; to compel full exposition and justification of all of them which anyone considers questionable; to ensure them, if found, condemnable; and if men who compose the government abuse their trust to fulfill it in a manner which conflicts with the deliberate sense of the nation. to expel them from office.”

Mr. Deputy Speaker, Mr. Woodrow Wilson echoed—at least before he became President of the United States—the ringing condemnation of Bentham. He said:

“Everybody knows that corruption thrives in secret places and avoids public places, and we believe it is a fair presumption that secrecy means impropriety.”

This legislation is to give to the people of Trinidad and Tobago their due right. The people of Trinidad and Tobago have been denied these entitlements for too long. It is not a favour which Government gives. It is not a favour which the Parliament is giving. It is an entitlement for people to know what is happening in official actions.

I know that some persons who object to these principles can say, “If we have a right to know, then we should know everything, whether it involves national security or otherwise”. In countries where governments have introduced this kind of legislation and opposition parties did not want it, those are some of the arguments with which they came. It would not surprise me, in the light of the history of this Opposition, for them to use some of those tactics.



One will recall that I said that the Bill gives to an individual a legally enforceable right to know about, and to have access to, state-held information. If we go to clause 11 of the Bill, we will see that:

- “(1) Subject to the provisions of this Act, it shall be the right of every person to obtain access to an official document.
- (2) Nothing in this Act shall prevent a public authority from—
  - (a) giving access to documents or information;
  - (b) amending documents,

other than as required by this Act where it has the discretion to do so or where it is required to do so by any written law or order of a court.” *[Interruption]*

**Mr. Deputy Speaker:** Member for Tobago West.

**Hon. R. L. Maharaj:** Mr. Deputy Speaker, under clause 11, we therefore see that there is this right given, and it also gives a residual discretion and authority to public authorities that a document may be exempt, they may decide to release the document.

When one looks at clause 17, one sees that there will be no fee charged for making the application for the document to be given. The application is on a prescribed form and the information for which one can ask can be from any arm of the state insofar as it relates to administration. It can be information from the Parliament, the Judiciary and the Executive, subject to certain exceptions. The information to which one is entitled would be information from the state, including service commissions!

Mr. Deputy Speaker, one also sees, according to clauses 17 and 18 of the Bill, that if the information is agreed to be given, the person will then be able to access the information by inspecting their records; seeing the information. For that, there will be no charge, but if the person wants copies of the document, there will be a charge for the expenses in relation to the copies. If the document is not in a written form, but in some other form—the form of a video or what have you—arrangements can be made for the document to be shown, or for the information to be heard, and there would be the expenses charged.

So, one sees that there is no obstruction placed in relation to requesting the information. If the authority decides to give the information, it must be given forthwith. If the authority has suspicions as to whether the information is exempt, within 30 days that decision must be made. If there is a decision that it is exempt

and the person is dissatisfied, under the Bill the person is entitled to review that decision.

Mr. Deputy Speaker, there is a history to this freedom of information legislation. In 1996, when the new administration took office, the administration published a Freedom of Information Bill for public comment. The Bill provided for an Information Council and an Information Tribunal, and under that Bill, in order to get the information, a person would have had to apply first to the Council, and if there was some dissatisfaction, the person would be entitled to go to the Information Tribunal. Then, if there was still dissatisfaction, they could go to the courts.

There were public consultations on these matters in San Fernando, Port of Spain and Tobago. From these consultations, the public agreed with the concept of having a Freedom of Information Bill but, it disagreed with the concept of having an information council and an information tribunal. The public recommended that the Government amend the Bill to make a direct application to the public authority and that the public authority must take steps to provide the information, and if one was dissatisfied with that, then one could go to the courts.

The argument of the public was that by creating an information council and an information tribunal and then going to the court, it would make the Bill too bureaucratic and, therefore, it should be a direct application so that if people are dissatisfied, they go to the court.

The Government, Mr. Deputy Speaker, accepted the views of the population and amended the Bill. As a matter of fact, this Bill is a re-draft because the population made other recommendations. So, apart from the population saying that it must be a direct application to the authority and not an information council or information tribunal, the population also said that they wanted in the Bill, not only the right of an individual to apply for information, to have access to it and to get copies of the information, but they also wanted a statutory obligation on public authorities to make information available.

So, in offices, ministries, state boards and state corporations, they would have an index as to what the documents are by which the companies, corporations and public utilities operate. Whether they are manual, what the procedures are for making applications, what informed the policy makers in their decisions, and that they should publish this and create an obligation for public authorities to do this. We have done that, Mr. Deputy Speaker, in Part II of the Bill, and I will go through some of those matters in a short while.

The public also said that there must be a time limit for the public authority to make a decision as to whether this information should be gotten. There were different time periods recommended, and from the comments that we received from the population—because this Bill was published in the newspapers and there were public consultations; the hon. Member for Tobago West would remember the public consultation in Tobago—the public said that they wanted a time-frame.

**Miss Nicholson:** Do not call my name!

**Hon. R. L. Maharaj:** No. As a matter of public record, there was a public consultation in Tobago, and the distinguished Member for Tobago West was present and made a very impressive speech at that consultation.

**Miss Nicholson:** Not at all. You are fibbing!

**Hon. R. L. Maharaj:** And we accepted some of the views of the population, which includes the people of Tobago, and put a time-frame of 30 days for that decision to be made.

Mr. Deputy Speaker, one sees, therefore, under clause 18 of the Bill, as I was saying, that one makes an application, the application is decided in favour of the person to whom the information should be given, the person can inspect the information at no charge, and if the person wants copies, he will pay for the expenses. Clause 18 deals with the different forms of access to get that information, whether it is in print or otherwise.

As I said, the way I intend to deal with this Bill, because of the time constraints, I cannot go through all the clauses of the Bill, but I will go through the principles of the Bill in the different parts and refer to particular clauses. Mr. Deputy Speaker, I also mentioned that the Bill gives an enforceable right to an individual, not only to know what information is held about him, but also the right to correct, accurate information.

So, we first have a situation where the person can apply for information and he can get information in respect of any matter, whether it applies to him or otherwise. We have the other situation where if he gets information about himself and that information is wrong, inaccurate, then he can apply to correct that information.

**2.10 p.m.**

Mr. Deputy Speaker, I refer to clause 36 of the Bill:

“(1) Where a document (whether or not it is one to which access has been given under this Act) contains personal information of an individual and that individual alleges that the information is inaccurate, the public authority which holds the document may, on the application, in writing, of that individual, correct the information.

“2. ‘inaccurate’ means incorrect, incomplete, misleading or not relevant to the purpose for which the document is held.”

Mr. Deputy Speaker, we all know that at the present time, public servants, who include teachers, police officers, public officers, cannot see their files, they are not entitled as of right to see their files and there is no legal obligation to produce those files. As a matter of fact, if there was a doubt this would make it clear that they have a right to see their files and, therefore, public officers would then be able to inspect their files to see, for example, if there was some adverse matter in the file which was probably being held against them and which perhaps was inserted there deliberately, in order to prevent them from being promoted or to get other benefits. They would be able to apply to have these records corrected.

Mr. Deputy Speaker, that has to do with providing justice to people, being fair to people, removing the secrecy of governance and opening up the system—but we know how the PNM operates. *[Interruption]*

**Mr. Deputy Speaker:** Member for Laventille East/Morvant, you have your 75 minutes to speak, now if you persist in that, it might be wise to take part of your time because you are getting extra time each time you comment, so I might decide to take off some of your time.

**Hon. R. L. Maharaj:** Mr. Deputy Speaker, much obliged Sir, thank you very much.

Mr. Deputy Speaker, I also said that it creates a statutory obligation, so I mentioned the two legally and forcible rights and now I come to the third. *[Interruption]* I know they do not want us to say it, they want to drown what is true and they do not want the truth to come out.

The third right, it creates a statutory obligation on public authorities to publish information. Now they say lies, they say not true, but Mr. Deputy Speaker, for this one only let me read what the clause says, so that we will be in the records so that they would probably understand it if they never understood it before. They had it for months but they probably did not understand it. Mr. Deputy Speaker, clause 7:

“A public authority shall, with the approval of the Minister—

- (a) cause to be published in the *Gazette* and in a daily newspaper circulating in Trinidad and Tobago as soon as practicable after the commencement of this Act—
  - (i) a statement setting out the particulars of the organisation and functions of the public authority, indicating, as far as practicable, the decision-making powers and other powers affecting members of the public that are involved in those functions and particulars of any arrangement that exists for consultation with, or representation by, members of the public in relation to the formulation of policy in, or the administration of, the public authority;
  - (ii) a statement of the categories of documents that are maintained in the possession of the public authority;
  - (iii) a statement of the material that has been prepared by the public authority under this Part for publication or inspection by members of the public, and the places at which a person may inspect or obtain that material;
  - (iv) a statement listing the literature available by way of subscription services;
  - (v) a statement of the procedure to be followed by a person when a request for access to a document is made to a public authority;
  - (vi) a statement specifying the officer responsible within each public authority for the initial receipt of, and action upon, notices under section 10, requests for access to documents...
  - (vii) a statement listing all boards, councils, committees and other bodies constituted by two or more persons, that are part of, or that have been established for the purpose of advising, the public authority, and whose meetings are open to the public, or the minutes of whose meetings are available for public inspection;
  - (viii) if the public authority maintains a library or reading room that is available for public use, a statement of that fact including details of the address and hours of opening of the library or reading room;

Mr. Deputy Speaker, and it goes on. One would see the transformation of Governments in Trinidad and Tobago. [*Desk thumping*]

Anybody who knows the PNM do you think they would agree with that? No, they would not agree with that. They are not interested in change. They are interested in short change. [*Laughter*]

Mr. Deputy Speaker clause 8 of the Bill:

“This section applies to documents that are provided by a public authority for the use or guidance of the public authority or its officers—

- (a) in making decisions or recommendations, or in providing advice to persons outside the public authority, with respect to rights, privileges, benefits, obligations, penalties or other detriments, being—
  - (i) documents containing interpretations or particulars of written laws or schemes administered by the public authority, not being particulars contained in another written law; or
  - (ii) manuals, rules of procedure, statements of policy, records of decisions, letters of advice to persons outside the public authority, or similar documents containing rules, policies, guidelines, practices or precedents;...
- (2) A public authority shall—
  - (a) as soon as practicable after the commencement of this Act—
    - (i) cause copies of all documents to which this section applies in respect of the public authority to be made available for inspection and for purchase by members of the public;”

Mr. Deputy Speaker, one sees that the obligation is spelt out in clauses 7, 8 and 9. In clause 9 it creates a statutory obligation on public authorities to provide access to individuals to documents which are used to guide the public authority in making decisions. So in clause 9 it gives you that additional right, for the public authority to give access to the public for them to be able to get information in respect of documents which guide the department or the public authority in making decisions.

Clause 9—

“This section applies, in respect of a public authority, to any document that is—

- (a) a report, or a statement containing the advice or recommendations, of a body or entity established within the public authority;
- (b) a report, or statement containing the advice or recommendations, of a body or entity established outside the public authority by or under a written law...
- (c) a report, or a statement containing the advice or recommendations, of an inter-departmental committee...”

It enumerates all class of matters and that the authority has to have these things published. So one could just look at clauses 9 and 10 that whole part and see the obligation which the public authority has.

Mr. Deputy Speaker, in clause 14(2) of the Bill, Part III, deals with the right of access to information. I have dealt with some aspects of that in dealing with how the person makes the application *et cetera*, but in 14(2) it specifically states that the public authority must give the applicant a reasonable opportunity of consultation with the public authority, with a view to the making of a request in a form that does comply with that section. In other words, the public authority cannot say that because the form does not comply with the normal application, it is not going to supply the information.

And subsection (3) says:

“...a public authority shall take reasonable steps to assist any person in the exercise of any other right under this Act.”

Mr. Deputy Speaker, that public authority is defined under the Act in clause 3 as:

“‘public authority’ means—

- (a) Parliament, a Joint Select Committee of Parliament or a committee of either House of Parliament;
- (b) subject to section 5(2), the Court of Appeal, the High Court or a court of summary jurisdiction;”

and there is an amendment to include the Industrial Court and the Tax Appeal Board.

Section 5(2) shows that it is only in respect of administrative information and not in respect of information relating to the performance of a judicial duty.

There is also going to be an amendment to see that public authority includes the Cabinet, a ministry or department or division of a ministry—bearing in mind, there are exceptions in all these cases—the Tobago House of Assembly, the Executive Council of the Tobago House of Assembly, or a division of the Tobago House of Assembly, municipal corporation, regional health authority, statutory body, company incorporated under the laws of Trinidad and Tobago owned or control by the state, a service commission established under the Constitution or other written law, a body corporated in relation to the state. So one sees it is a wide range of public body.

**2.20 p.m.**

Mr. Deputy Speaker, you would recall that when I read from what was stated in the United Nations document, it was recognized that there cannot be a right to all information. When one looks at all the legislation which have been drafted, one sees one that one has to recognize that there would be certain established rights which were protected in the favour of the public interest. These have been documented in other legislation and when, with the consultation of the population—the consultation revealed that the population understood that there had to be some exemptions.

Mr. Deputy Speaker, the Bill is drafted in a way in which there provides certain forms of redress in relation to if the public authority believes that the information is exempt. The clause which deals in deciding whether the information is exempt is clause 15. It says:

"A public authority shall take reasonable steps to enable an applicant to be notified of the approval or refusal of his request as soon as practicable but in any case not later than thirty days after the day on which the request is duly made."

There is a situation where, if the public authority determines that the information is exempt and is not going to give that information, it has 30 days in which to make that decision. Even if a public authority knows that the information is exempt, there is power by the public authority to determine to give that information and we have put into the Bill a certain criterion to be used so if the matter has to be reviewed by a court, the court would be able to say what the people decided in respect to these matter.

Clause 35 says:



“A public authority shall give access to an exempt document where there is reasonable evidence that significant—

- (a) abuse of authority or neglect in the performance of official duty;
- (b) injustice to an individual;
- (c) danger to the health or safety of an individual or of the public; or
- (d) unauthorised use of public funds, has or is likely to have occurred and if in the circumstances giving access to the document is justified in the public interest having regard both to any benefit and to any damage that may arise from doing so.”

Mr. Deputy Speaker, we have gone further than some countries have gone in relation to exempt information. We have gone that route because we believe that you can have a blockage in that there can be a situation where, because the information is strictly exempt, the public authority may not want to disclose it. And, therefore, we want to make it quite clear to the public authority who would have to exercise the principles of law contained in the Bill, and even though it falls under an exempt category, where there is reasonable evidence to show there is an abuse of authority, or neglect in the performance of official duty, or injustice to an individual, or danger to the health or safety of an individual or the public, or unauthorized use of public funds, that the public authority can disclose the information.

How this would work is if Mr. “A”, or let us say a journalist goes to a state-owned corporation and applies for information relating to WASA because the journalist believes that there is a corrupt deal at WASA. He goes to WASA and applies for this information, but WASA says it falls under exempt and it is not disclosing it. But suppose the information, even though it may be under that category of being exempt, shows that there was an abuse of authority by either somebody at WASA, or somebody out of WASA, or some Minister, or a neglect in the performance of official duty, or it shows there was an injustice to an individual, or danger to the health or safety of an individual, or it involves corruption or unauthorized use of public funds, the public authority has a duty to address its mind to that and decide whether to disclose it or not. If it wrongly decides to disclose, then the court would be able to examine the record and show—and you could go right up to the Privy Council—that the public authority should have disclosed that.

Mr. Deputy Speaker, let us be serious in this House. If the Opposition is saying that Government is corrupt, that public boards are corrupt, state-owned corporations are corrupt. And if the Opposition is getting from the Government an opportunity to have an additional machinery to apply to get information to be able to test their allegations, and it does not want that, if the public, there as a jury, what conclusion would you reasonably draw?

This is not fantasy, this is real. This is in black and white, it is here, and I would expect that if sections of the media did not understand it before, they must read and understand it because I want to say that this Trinidad and Tobago bill has been recognized by the Commonwealth as one of the model pieces of legislation for freedom of information. [*Desk thumping*] Those who want to remain in ignorance can remain in ignorance, because what has happened in this country clearly shows that some people are Members of Parliament but they do not understand their functions and duty. They believe they came here because they are good looking. They do not understand that they have come here because people voted for them. They do not understand that they do not exercise their power, they exercise people power. They do not understand that they have to do things for the benefit of people; they want to do things for themselves, they want to protect themselves. Narrow, political consideration.

Mr. Deputy Speaker, it is in black and white that even though there is exempt under the Bill, there is a situation where the public authority can supply that information and the court can review it. Clause 39(1) of the Bill expressly states:

“(1) For the removal of doubt, a person aggrieved by a decision of a public authority under this Act may apply to the High Court for judicial review of the decision.

(2) Notwithstanding any other law to the contrary, where an application for judicial review of a decision of a public authority under this Act is made to the High Court, that application shall be heard and determined by a Judge in Chambers, unless the Court, with the consent of the parties, directs otherwise.”

Mr. Deputy Speaker, we have, therefore, the situation where, under clause 15 of the Bill there is that residual discretion, in any event, for the public authority to say whether the information, although exempt, should be given or not.

Let me now deal with the exempt information which is at Part IV of the Bill. Part IV of the Bill, starting at clause 24(1), deals with the question of Cabinet records. It says:

“A document is an exempt document if it is—

- (a) the official record of any deliberation or decision of Cabinet;
- (b) a document that has been prepared by a Minister of Government or on his behalf or by a public authority for the purpose of submission for consideration by Cabinet or a document which has been considered by Cabinet and which is related to issues that are or have been before Cabinet;
- (c) a document prepared for the purpose of briefing a Minister of Government in relation to issues to be considered by Cabinet;
- (d) a document that is a copy or draft of, or contains extracts from, a document referred to in paragraph (a), (b) or (c); or
- (e) a document the disclosure of which would involve the disclosure of any deliberation or decision of Cabinet, other than a document by which a decision of Cabinet was officially published.”

Clause 24(2) says:

“Subsection (1) shall cease to apply to a document brought into existence on or after the commencement of this Act when a period of ten years has elapsed since the last day of the year in which the document came into existence.”

We have followed what other countries have done in that even if documents are privileged, there must be a period of time that they would remain privileged. And as in other countries who have gone this route with Cabinet records, we have decided to put a period and we have put a period of 10 years. Some countries have put a longer period, a period of 15 years, in other countries they have put a period of seven years. We have put a period of 10 years. It would therefore mean that after this Act comes into operation, every Cabinet decision in this country which is older than 10 years would be able to be exposed. People can apply for it and get it. Cabinet notes, Cabinet minutes, recommendations, whatever it is. *[Interruption]*

Mr. Deputy Speaker, clause 25(1) says:

“A document is an exempt document...”

Bearing in mind if the Cabinet, or a public authority acting on behalf of the Cabinet says that this document should not be released and the person feels it should be released, the person can go to the court and apply for the court to decide. If there is a Cabinet document, and even though it is exempt, but it shows that there was an abuse of authority or neglect in the performance of official duty, or injustice to an individual, or danger to the health or safety of the individual, or unauthorized use of public funds, the court would have the power to order it if it is refused.

Mr. Deputy Speaker, another recognized limb of protection under the law in relation to information that there must be exception, is defence and security documents which are dealt with at clause 25(1), which says:

“A document is an exempt document if it contains information, the disclosure of which would be likely to prejudice the defence of the Republic of Trinidad and Tobago.”

Clause 25(2) says:

“A document is an exempt document if it contains information, the disclosure of which would be likely to prejudice the lawful activities of the security or intelligence services.”

Clause 25(3):

“For the purposes of this Act, a certificate signed by the Minister...”

Here again, if it is found that there is an abuse of authority, the document can still be released and the court would be able to review it and order to be released.

Mr. Deputy Speaker, then there is information relating to international relation documents which is dealt with at clause 26.

Then there is information relating to internal working documents which is at clause 27(1) which says:

“(a) would disclose matter in the nature of opinion, advice or recommendation prepared by an officer or Minister of Government, or consultation or deliberation that has taken place...”

Clause 27(2) deals with matters which have been provided for guidance and so forth. They are all there, bearing in mind in all these matters, if there is abuse of power, corruption, any matter which is of danger or injustice to an individual, although they are exempt, can be released and if the authority wrongly refuses, the court can order it.

Mr. Deputy Speaker, clause 28 deals with documents. It says:

“...a document is an exempt document if its disclosure under this Act would, or would be reasonably likely to—

- (a) prejudice the investigation of a breach or possible breach of the law or prejudice the enforcement or proper administration of the law in a particular instance.”

Or prejudice the fair trial of a matter and matters relating to the administration of justice. Again, if there is an abuse and it is exempt, it should be released in the public’s interest and they can be challenge in the court.

**2.35 p.m.**

Clause 29—Documents affecting legal proceedings or subject to legal professional privilege. Well, we all know that this is a recognized aspect of the law, as long as there is a lawyer/client relationship, it has to be protected.

Mr. Deputy Speaker, documents affecting personal privacy are dealt with in clause 30, and in clause 31, documents relating to trade secrets.

In clause 32, documents containing material obtained in confidence are dealt with; and documents affecting the economy, commercial affairs and certain documents concerning operations of public authorities are dealt with in clause 33.

I want to make it clear that these are under the recognized exceptions and if anyone—a bush lawyer, a law student, or anyone else—picks up any piece of legislation that deals with this matter, he or she would see that there are recognized exceptions.

In South Africa, there have been freedom of information rights. In some countries, they have put it in the Constitution by amending the Constitution; some countries have passed special Acts and there are recognized exceptions. We have gone further than that and we have put clause 35 so even though they are exempt and the public interest justifies it, it should be released. If the public authority does not release it, then the court can order it to be released.

Mr. Deputy Speaker, clause 34 deals with existing laws. It says:

“A document is an exempt document if there is in force a written law applying specifically to information of a kind contained in the document and prohibiting persons referred to in the written law from disclosing information

of that kind, whether the prohibition is absolute or is subject to exceptions or qualifications.”

In Trinidad and Tobago, this would impact upon some other legislation: the Official Secrets Act; the Standards Act; the Statistics Act and the Income Tax Act. We have looked at it and we believe that this section ought to be there, but we have also put in that even in respect of those matters, even though it falls under those pieces of legislation, if it is exempt information, whether it is under the Official Secrets Act, the Standards Act, the Statistics Act or the Income Tax Act, if the information discloses a possible:

- “(a) abuse of authority or neglect in the performance of official duty;
- (b) injustice to an individual;
- (c) danger to the health or safety of an individual or of the public; or
- (d) unauthorised use of public funds,”

as stated in clause 35, there is a duty to disclose the information and if the public authority acts wrongly, then the court can order it to be disclosed.

We see, generally, that it is the scheme of the legislation with one other addition. It is an addition for accountability of the ministries and the public authorities in the operation of this Bill.

In clause 40, we see that:

- “(1) The Minister shall, as soon as practicable after the end of each year, prepare a report on the operation of this Act during that year and cause a copy of the report to be laid before each House of the Parliament.
- (2) Each Responsible Minister shall, in relation to the public authorities within his portfolio, furnish to the Minister such information as he requires for the purposes of the preparation of any report under this section and shall comply with any prescribed requirements concerning the furnishing of that information and the keeping of records for the purposes of this section.
- (3) A report under this section shall include in respect of the year to which the report relates the following:
  - (a) the number of requests made to each public authority;

- (b) the number of decisions that an applicant was not entitled to access to a document pursuant to a request, the provisions of this Act under which these decisions were made and the number of times each provision was invoked;
- (c) the number of applications for judicial review of decisions under this Act and the outcome of those applications;
- (d) the number of complaints made to the Ombudsman with respect to the operation of this Act and to the nature of those complaints;
- (e) the number of notices served upon each public authority under section 10(1) and the number of decisions by the public authority which were adverse to the person's claim;
- (f) particulars of any disciplinary action taken against any officer in respect of the administration of this Act;
- (g) the amount of charges collected by each public authority under this Act;
- (h) particulars of any reading room or other facility...
- (i) any other facts..."

Then, clause 41 deals with Regulations.

One sees that the Government will account to Parliament by providing a report and one sees the things which must be mentioned in the report. One would therefore see that the additional weapon people will have in Trinidad and Tobago now, is that apart from freedom of information when the parliamentary committee system in respect of the Bill which is passed here and passed above, comes into play, it will therefore mean that even a parliamentary committee would be scrutinizing the action of Government as to how it operates this Bill. So, there will be a situation where, not only an individual will be entitled as of right to information, but parliamentary scrutiny can also be used in getting to know how the ministries are operating under this Bill even before the annual report comes to Parliament.

Amendments will be circulated and what the amendments will do, as I mentioned, is to include the Industrial Court and the Tax Appeal Board but there will also be an amendment to say that if the information is not supplied within the required time and the information has to be supplied, the information would have

to be supplied without any charge for that information. So it puts the public authority under pressure that they have a time frame within which to supply the information and if they do not supply it within that time, the person would not have to pay for the information. Even if the person paid, there has to be a refund of the money paid for that information.

There is also a new clause, clause 42, which deals with preservation of records and documents. It says:

“A public authority shall maintain and preserve records in relation to its function and a copy of all official documents which are created by it or which come at any time into its possession, custody or power. A person who wilfully destroys or damages a record or document required to be maintained and preserved, commits an offence and is liable, on summary conviction...”

It means that there will be this obligation to preserve records.

This Bill, therefore, satisfies the requirement of both the Commonwealth and the international requirement for freedom of information legislation. The principle of the Bill is to provide a right to get information; to make it absolutely clear that there is a legal and statutory right to get information and that it will be guided by having that right and having as much disclosure as can be had.

The second principle is that public bodies should be under an obligation to publish key information. We have satisfied that.

Principle three is that public bodies must actively promote open government. We see clauses 8 and 9 as satisfying the international and Commonwealth commitment.

We see principle four—exceptions should be clearly drawn with a test that even though they are exempt, that the public interest can demand for that information to be supplied. I have explained that and we have satisfied that.

Requests for information should be processed rapidly and fairly, and there should be a review of a refusal which is made. We have put that; we have put a time-frame and an independent review by a court.

We have also decided there should be no cost because the sixth principle is that individuals should not be deterred from making requests for information by excessive cost. We have done that in that we have said there will be no cost for making an application and the only cost would be for the expenses incurred in



making the copy, but if the person wants to see the information, there will be no charge. If the person wants copies, they will be able to make copies.

Mr. Deputy Speaker, quite recently, the British Government indicated that it was introducing a Freedom of Information Bill and, based on what is happening in the United Kingdom, our Bill is more advanced than their bill. It creates greater opportunity of getting information, but under that bill—and I would just like to quote what is stated, because it probably assisted us in understanding what this thing is all about.

“Your right to know”, a freedom of information booklet printed by Her Majesty’s Government in December 1997.

“Unnecessary secrecy in Government leads to arrogance in governance and effective decision-making. The perception of excessive secrecy has become a corrosive influence in decline of public confidence in government. Moreover, the climate of public opinion has changed. People expect much greater openness and accountability from Government than they used to do.”

This has been published by the British Government as an introduction to introducing its Freedom of Information Bill.

At Chapter 2 of “Your right to know”, the rights of access under the Act:

“We believe that freedom of information is a fundamental element of our policy to modernize and open up Government.”

I cannot close this presentation without referring to what the PNM said about freedom of information legislation in 1993 and 1994. My only hope is that for the sake of their credibility and for the sake of having to give an explanation, not only to the national community, but also to the regional community, as to: On what basis could a government or an opposition be against legislation which empowers citizens to enforce rights to know about governance, and to promote openness and transparency in government?

As I said earlier, we tried to get a freedom of information law in Trinidad and Tobago. In Opposition, we produced a bill and, at that time in the United Kingdom, there was much talk about freedom of information and we produced the bill and tried to get it as a Private Member’s Bill. There were all sorts of objections—objections on technicalities and all sorts of objections.

But what did the government have? It had a draft bill before it. It was in Government; if it did not like it, it could have amended it; if it wanted a different

bill, it could have thrown away that bill and brought a new one. But the PNM said it was not interested and leading the fight for the Government then, was the now self-acclaimed leader of the PNM, the Member for Diego Martin East.

**Mr. Imbert:** Leader?

**Hon. R. L. Maharaj:** Yes, he leads the debate. As a matter of fact, he has shown here that he is the leader. He has shown that the Leader of the Opposition is a silent leader; he does not make any contribution of worth here; that on major issues, the Member for Diego Martin East takes the lead. He is emerging as the national leader of the PNM and he has been showing—Why do you think the Member for Diego Martin East takes the lead? It seems to me he has the full blessing of the Member for Diego Martin Central.

**2.50 p.m.**

The Member for Diego Martin East was objecting and talking about this clause and that clause. On August 26, 1994, at 3.50 p.m., I got up.

“**Mr. Maharaj:** What is the Government’s position on this matter?”

**Hon. C. Imbert:** You will find out, you will find out, but I can tell you that you are jumping to conclusions.”

He did not want to say whether they were going to support a Bill, whether they were going to have a new Bill—what is their position on freedom of information.

Mr. Deputy Speaker, he completed his contribution and he did not say what was the government’s position on the Bill. As a matter of fact, he said:

Other more distinguished members would give some indication on the Government’s position on this matter. May I say, simply, that I cannot support the Motion in its present form.

I have no doubt, Mr. Deputy Speaker, that the hon. Member for Diego Martin East would come back here again today to come and put some kind of things on this Bill. Because, you see, they have a philosophy, a policy that they know that certain sections of the media would not be interested in the serious issues; they would not be interested in what this Bill is about; they would not be interested in what it does—what it will do for the media; what it will do for the population—they would be interested in what is bacchanal. He knows that he would get up and the Opposition would get up and then the sections of the media would highlight that.

Mr. Deputy Speaker, if you notice, the Opposition has become a party in which they do not deal with issues, they only deal with points from which they can get bacchanal printed on the newspaper.

I am putting it on the record, because I have a plan that we are going to publish this information so that the public would see what sort of news they got in this country; and what sort of news they got from this Parliament in this country.

On August 26, 1994, when the hon. Member for Diego Martin Central got up—he was the Leader of Government Business—he said:

“Any individual who wants information, and he asks for it and he does not get it, he has the right to go to a court and before a judge and say, I want that information. That is a right that is there...”

His attitude to a Freedom of Information Bill is that if you want information, go to the court and get information. It is in black and white—*Hansard*. He is denying that he said it: August 26, 1994, 5.15 p.m. He cannot believe he said it.

Mr. Deputy Speaker, at 5.25 p.m., I got up:

“**Mr. Maharaj:** Since the Minister is speaking on behalf of the Government, we would like to know what he is saying. Is the Government saying that under the present Constitution that freedom of expression and the press includes the entitlement to get information? That seems to be what he said just now. I do not understand it to be so. If the Government is saying so, I want a commitment from the Government.

**Hon. K. Valley:** Mr. Deputy Speaker, I am making the point that the general right to information is implied in the Constitution. If one wants to exercise that right, he can request the information. If the information is not given to him, he can go to court and make a case. Of course, one may have a defence that, that information is privileged or classified. That is the situation. The member belongs to the Bar...

**Mr. Maharaj:** “Explain it.

**Hon. K. Valley:** I cannot explain it to you. I am saying that as a lawyer there are certain precedents which the courts have held.”

Well, I want him to produce a precedent in this House to say that when a public servant wants information from the Government he can get it. As a matter of fact, the Opposition has complained that they cannot get information from the

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Government. They have complained and said that there are allegations of corruption and they cannot get all the information. Well, we are giving them the opportunity now. When they were in government we gave them the opportunity to pass a law. They refused to pass it. Hear what he said—I asked him:

**“Mr. Maharaj:** I wonder if he can answer this. Can he tell us the machinery where a person who wants to find out the information about divestment of the Government, can apply and be compelled to give the information?”

**Hon. K. Valley:** That is easy. He can do a number of things. I would deal with that. If he asks his colleague he would know that when she left they were...”

He is speaking about the distinguished hon. Member for Caroni East, Miss Indira Sagewan, because she had just worked.

“at the 10th draft on the White Paper on divestment...”

he said all about the White Paper.

“With respect to state enterprises, it is not a favour; it is a right to information. If there is information that we believe we cannot give for whatever reason, we shall say so. If the citizen feels that he must have the information, then he has the right to go before the judge and state the reasons why he wants it. That is a general right.”

Here it is, he is saying people want to know about divestment—whatever he wants to give, as a government, he gives it. No Freedom of Information Bill, if they want—go to court. Then he said:

“With respect to our state enterprises policies or the general operation of the state enterprises, we have come to this House on a number of occasions and made statements to the House with respect to divestment of different companies. We have asked questions. I remember in the last budget debate I spent considerable time outlining Government’s divestment policy. I would always do that.

The point must be taken that what we have before us is a motion, the purpose of which is to limit the rights we already have.”

That was a Motion for a Freedom of Information Bill, and he was saying, as a government, that is a Motion to limit the rights that we already have.

“I make the point, also, that openness or transparency in Government does not require such legislation. Again, this is a point my colleague made.

He had the brass-face to say, at the end:

“I make the point...”

that is at 5.25 p.m.

“I make the point that this Government has a commitment with respect to transparency in government, accountability to Parliament and the electorate; in some cases by the Parliament, in other cases directly to the people of Trinidad and Tobago. We would continue to maintain that posture. We do not need a Freedom of Information Act so to do.”

Here it is, Mr. Deputy Speaker, the Commonwealth asking to improve governance, to remove corruption or allegations, promote transparency and open government, Freedom of Information Act, Parliamentary Committees. The United Nations is asking for that, the IMF is asking for that, the World Bank is asking for that, the people are asking for that, legislation being passed to ask for that, but they want secrecy in government, and the reason they want it, is that they are afraid when legislation like this is introduced, all that they have done in the past would be exposed. People would have to give the information, public servants and those who man these operations would be required by law to provide files to individuals and to the media. This is a Bill which the media should hold on to; would say that they want—they have fought, people have died for this kind of legislation. We will determine what you want; what the Opposition wants in this country. Let us hear what they have to say, Mr. Deputy Speaker. Thank you.

*Question proposed*

**Mr. Colm Imbert** (*Diego Martin East*): Mr. Deputy Speaker, I do not know what the hon. Attorney General is so jumpy about. He spent about half of his presentation trying to predict what the response on this side would be; making a plea to the press that—do not publish what we have to say on this side.

The fact of the matter is that this Bill is an abomination. That is the fact. Really, it should be called the “UNC Secrecy Act.” [*Desk thumping*] That is what this Bill should be referred to as the “UNC Secrecy Act.” However, I now understand what the Government is up to, and I think it is necessary for us in the PNM to give an undertaking that when we are returned to government, we would reverse these dishonest and treacherous pieces of legislation. [*Desk thumping*]

**3.00 p.m.**

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Let us deal with this parliamentary committee issue about which the Member spoke. I think it is necessary to remind the population that these parliamentary committees will be Government committees, chaired by Government with a Government majority and the Government will set the agenda and it is, therefore, just a pretence, a “mamaguy”, just like this Secrecy Act we are dealing with today; a “mamaguy”. If there is a parliamentary committee chaired by the Government with a Government majority, how in God's name would any intelligent person expect that committee to investigate the Government? It is an absurdity and that is why I say this Bill is an abomination.

You see, the Attorney General likes to refer to *Hansard*. I have it too. But he picks bits and pieces to suit his twisted arguments. What we said in 1994 when the Member for Couva South brought his ridiculous Private Members' Motion to legislate secrecy in this country, was that there are so many exemptions to this legislation that what is, in fact, being done is legislating the right of public authorities to deny information to the public. [*Desk thumping.*] That is what this Bill is all about. It is going to legislate the right of the Government and public authorities to withhold information. That is what it is all about. Let me go straight to “Exempt Documents” at clause 24. An exempt document is:

“(a) the official record of any deliberation or decision of Cabinet;”

So that is the end for Cabinet notes or Cabinet decisions. You cannot get them. Listen to this. An exempt document is:

“(b) a document that has been prepared by a Minister of Government or on his behalf by a public authority for the purpose of submission for consideration by Cabinet.”

So even the brief for Cabinet one cannot get. It reinforces that. An exempt document is:

“(c) a document prepared for the purpose of briefing a Minister of Government in relation to issues to be considered by Cabinet.”

So we see immediately that all Cabinet notes and Cabinet decisions will be withheld from the public by legislation. That is what this Government is doing. And now, persons who would provide Cabinet notes and so forth could be subject to all sorts of sanctions because they will be publishing exempt documents.

Now listen to this.

“25. (1) A document is an exempt document if it contains information, the disclosure of which would be likely to prejudice the defence of the Republic of Trinidad and Tobago.

(2) ...if it contains information, the disclosure of which should be likely to prejudice the lawful activities of the security or intelligence services.”

So no police records will be available to the public because, under this legislation, one can interpret that the disclosure of any police record or any police matter would be likely to prejudice the lawful activities of the security services.

“26. A document is an exempt document if disclosure under this Act would be contrary to the public interest and disclosure—”

Who determines that? And:

(a) would prejudice relations between the Government of the Republic of Trinidad and Tobago and the government of any other State;”

So the details of that trip the Prime Minister made to Guyana would be exempt because they will say, “If we publish information on where in the Rupununi or the Essequibo the Prime Minister stayed on his trip to Guyana, that would prejudice relations between the Government of the Republic of Trinidad and Tobago and another state”. Alternatively, if it was known and one wanted to find out if there was any record of any meeting between any political party in Guyana and the Prime Minister, that would prejudice relations between the Government and the Government of another state. Therefore, one cannot get the information so that is the end of that.

Listen to this.

“27. (1) Subject to this section, a document is an exempt document if it is a document the disclosure of which...

(a) would disclose matter in the nature of opinion, advice or recommendation prepared by an officer or Minister of Government, or consultation or deliberation that has taken place between officers, Ministers of Government or an officer and a Minister of Government, in the course of, or for the purpose of, the deliberative processes involved in the functions of a public authority.”

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So board minutes are now exempt documents because board minutes will contain advice and recommendations to the Minister and so forth—board papers. So the exposure of the Minister of Finance in this Parliament a couple weeks ago will now be exempt. “You think it easy”? You think it easy for these people? [*Desk thumping.*] They are legislating secrecy. That is what they are doing. For the first time in Trinidad and Tobago a Government is legislating secrecy.

Listen to this.

“28. (1) ...a document is an exempt document if its disclosure...would...

- (a) prejudice the investigation of a breach or possible breach of the law or prejudice the enforcement or proper administration of the law...”

reinforcing again no availability of police records, no information on criminal matters whatsoever because, according to this, that could prejudice the investigation of a possible breach of the law. They have gone beyond; it is investigation of a possible breach of the law.

Listen to this nice little gem inserted deliberately by the Member for Couva South to explain his unprofessional conduct:

“29. (1) A document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege.”

Now remember, we asked the Attorney General whether he advised that the airport contract was illegal and his device—he hid behind the pretence that he is the legal adviser to the Cabinet and, therefore, the Cabinet is his client so that any advice he gives to the client is protected on the ground of legal professional privilege. He has stuck this inside here so no more will one ever be able to determine any advice the Attorney General gave to anybody, anywhere, any time, anyhow; stuck it inside of here. [*Desk thumping.*]

**Hon. Member:** Very good point.

**Mr. Imbert:** Listen to this nonsense:

“31. (1) A document is an exempt document if its disclosure...would disclose information acquired by a public authority from a business, commercial or financial undertaking...”



Well, what other kind of information is there that a public authority has other than business, commercial or financial? What other information is contained in the records of a public authority? But now, information of that type would be exempt, and there are pages and pages of this nonsense.

“31. (4) A document is an exempt document if—

(a) it contains—

(ii) in the case of a public authority engaged in trade or commerce, information of a business, commercial or financial nature,

that would if disclosed under this Act be likely to expose the public authority to disadvantage;”

What utter rubbish! So if we find out that there is “tiefing” at WASA and T&TEC and NP and NIPDEC, we cannot get that information because it would expose the public authority to disadvantage. You see the nice little words inside here: that it is exempt if it contains information of a business, commercial or financial nature that, if disclosed, would expose the authority to disadvantage? What does “disadvantage” mean? What is the meaning of “disadvantage”? It means anything that, in the opinion of the authority, is not to its advantage. So it is not to the advantage of NIPDEC to reveal to the public that they gave an illegal contract to Galbaransingh for the airport. That is not in their advantage so they are not giving one the information, and it goes on and on and on.

However, the most criminal clause in this Bill is clause 37 and, of course, the Attorney General did not refer to clause 37. He hid clause 37. It is criminal and he hid it under “Miscellaneous”. Check this out under “Broadcasting Materials”. Now we understand the nonsense that we hear from that parrot opposite me:

“37. Notwithstanding any other provision of this Act, where a request is made for access to a document held by the International Communications Network...”

re TTT or NBS or whatever:

“that company shall not be required to give access under this Act to—

(b) any recording of images or sound which was made or obtained for the purpose of being broadcast.”

Have you ever heard anything more criminal than that? Let me read it again:

“Notwithstanding any other provision of this Act, where a request is made for access to a document held by the International Communications Network, that company shall not be required to give access under this Act to—

- (b) any recording of images or sound which was made or obtained for the purpose of being broadcast.”

When that is read to me it means one will get no information from TTT, NBS or any other communications company owned by the state, and they are legislating that now. They sneaked this into this Bill. He did not talk about it, you know, he left it out. He is trying to fool people. He is trying to fool people.

I think we need to remind people of statements made by the Prime Minister and the Attorney General when they were in the Opposition because of the rubbish I was hearing. I was in my constituency office and there was a radio on and I was disadvantaged. I could not turn it off in time. I had to hear rubbish coming from one person on that side about monitoring the media, watching the media, “We looking at the licence”.

Anyway, let me read from the *Hansard* record of March 7, 1985, the hon. Basdeo Panday, Member for Couva North, on a matter of public importance for which he got permission; an urgent matter. He was quarrelling about censorship at TTT. Listen to this. He was talking about some incident with a wrecker in 1985 that was broadcast on the television and I am reading now from Mr. Panday, the Member for Couva North.

“Mr. Deputy Speaker, what is disturbing is that there occurred a series of events leading up to what is regarded in the society at large as an infringement of the rights of the people, the constitutional right of the freedom of speech and more particularly the right to information.”

Can you imagine, this is the same Member for Couva North talking about the right to information?

“I am sure you will agree with me that a democracy cannot function unless there is freedom of speech and freedom of expression. But, more important, without the freedom of information a true democracy cannot flourish unless the people of one part of the country know what is going on in another part of the country, unless all the people in the country know what is going on in all the other parts of the country.”

This is the individual, this Member for Couva North, who, just the other day, was saying that there were certain matters which, if he had his way, would not be

reported on TTT. That is what he said in 1999 but in 1985, full of sound and fury, he was quarrelling and saying that people in this country have the right to know everything that is going on in every other part of the country.

### **3.15 p.m**

Listen to this:

“...one has seen a trend...”

This is him in 1985—

“towards a kind of fascism in the society, a creeping fascism, the tendency towards an erosion of the democracy by attacks on the press...”

He is talking, you know.

“...attacks on the media, attacks on the judiciary.”

Who is attacking the press, the media, and the judiciary in Trinidad and Tobago today? The Member for Couva North and the Member for Couva South. [*Desk thumping*] But they were carrying on in 1985 that everybody has a right to hear everything that is going on in every part of the country. It goes on to talk about Trinidad and Tobago Television. Mr. Deputy Speaker, this is Panday, the Member for Couva North, again.

“Mr. Deputy Speaker, the TTT is a state owned enterprise. It has come under judicial review, so to speak, only recently, not emerging therefrom totally unscathed...”

He had the word “unscathed” all that time.

“...But no sooner such observations are made, then we come up upon a situation again where the most powerful media in the country is being muzzled and strangled from bringing to the attention of the people what is going on and I am sure you will agree with me and I am sure every Member of this House will agree that that ought not to take place.”

This is the Member for Couva North in 1985, carrying on and carrying on about freedom of information, freedom of expression, the right to know and all kinds of things; demanding that TTT not censor the news; that they show it verbatim as is; where is; how is, no matter how brutal it is. Those were his words in 1985! However, in 1999, in this Trinidad and Tobago, there must be censorship of government information by the UNC Administration. Do you think it is easy?

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Let us read the contribution of the Member for Couva South quarrelling about the prison. This is on March 19, 1993.

“I am of the view that whether it is the BBC or any member of the press, all members of the press, both local and foreign, should be entitled at all times to be able to have access to the prisons and to be able to have access to all public institutions. The grounds of national security can be used as a smoke screen.”

This is the same Member for Couva South who brings a Bill into Parliament, and anything that has to deal with defence, national security and enforcement of the law and so forth, is exempt—the same man. But, in 1993, according to him, national security could be used as a smoke screen and we also have access to all public institutions at all times. This is this UNC Government. He had a Freudian slip as he was winding-up, he said the scheme of the legislation is to do so and so, and he is right: it is a scheme—a massive scheme.

I want to educate certain Members on the other side. I know there is a high level of illiteracy, if one is to believe the Member for Tobago East and not only do they not read, they do not understand—*[Interruption]*

**Hon. Assam:** You are using him as an authority now.

**Mr. C. Imbert:** Well, I have to assume that the Member for Tobago East has more knowledge of the internal workings of the UNC Cabinet than I do, and therefore if he says that most of them are illiterate and ignorant he must know what he is talking about. *[Desk thumping]*

I would like to refer Members on the other side to the Novel by George Orwell, *Nineteen eighty-four*. Mr. Deputy Speaker, you know as Trinidad and Tobago develops under this UNC, more and more it reminds me of Orwell’s vision of 1984. I am reading:

Orwell’s nightmare derives from a vision...implicit in the ‘pink decade’ of the 1930’s. This was when Hitler established the German Third Reich which was supposed to last a thousand years...”

Are there any similarities here? I always hear the Member for Couva North talking about “they will last forever.”

I continue to quote:

“destroyed all opposition in Germany, branded the Jews and many others as...inferiors, converted many of those religious and intellectuals who were originally his opponents by the...force of the power he exercised, and demonstrated that propaganda machinery run by men who boasted that the biggest lie could deceive more people more effectively than a small one, could, by the enlistment of all the organs of publicity into its service...deceive people.”

This is Trinidad and Tobago under the UNC in 1999, because we have come to the point where they have decided that the communication machinery of the state will only publish good news.

Let us read; let us educate the Members on the other side, because maybe two of them have read this book and, maybe, one of them understood it. Perhaps the Member for St. Joseph is the only one who might have read it and understood it. Even the Member for Tobago East, he does not read completely.

I continue to quote.

“The Ministry of Truth—Minitrue, in Newspeak—was startlingly different from any other object in sight. It was an enormous...structure of glittering white concrete, soaring up, terrace after terrace, three hundred metres into the air. From where Winston...”

Winston is the main character in this book.

“stood it was just possible to read, picked out on its white face in elegant lettering, the three slogans of the Party:

WAR IS PEACE  
FREEDOM IS SLAVERY  
IGNORANCE IS STRENGTH

The Ministry of Truth contained, it was said, three thousand rooms above ground level, and...below...So completely did they dwarf the surrounding architecture that...you could see...The Ministry of Truth, which concerned itself with news, entertainment, education...”

There were other buildings. I continue to quote:

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“The Ministry of Peace, which concerned itself with war. The Ministry of Love, which maintained law and order. And the Ministry of Plenty, which was responsible for economic affairs. Their names, in Newspeak: Minitrue, Minipax, Miniluv and Miniplenty.”

That is UNC’s newspeak.

"The Ministry of Love was the really frightening one. There were no windows in it at all...It was a place impossible to enter except on official business, and then only by penetrating through a maze of barbed-wire entanglements...Even the streets leading up to its outer barriers were roamed by gorilla-faced guards...armed with jointed truncheons.”

And Ministers. *[Laughter]*

So, the whole point of this book is that you had this dominating—

**Hon. Member:** What year was that?

**Mr. C. Imbert:** It was 1984. The whole point of this book is that you had this dominating, state propaganda apparatus—"big brother is watching you." So they had cameras in every room, every corridor, every public place and they were watching you. They would send out official propaganda, as we are about to hear from—What they are saying here? Citing the Government’s power to grant and revoke licences, a Minister warned that local media companies were being examined under a microscope. So, big brother is watching you.

So, Mr. Deputy Speaker, in Orwell’s 1984 all citizens were required to listen to Government broadcast and if you did not listen you were going to jail. Listen to how you had to conduct yourself.

“Winston turned round abruptly. He had set his features into the expression of quiet optimism which it was advisable to wear when facing the telescreen.”

It is a two-way screen: you watching the screen; they watching you. So, in 1984 when you were watching the Government’s news, put a smile on your face.

“He crossed the room into the tiny kitchen. By leaving the Ministry at this time of day he had sacrificed his lunch...He took down from the shelf...”

*[Interruption]*

**Mr. Deputy Speaker:** Member for Tunapuna and the Member for Arouca North, do us a favour. I have allowed it to pass a couple of times today, the waving of newspaper around the place with the banner or what you have there. It

does not look good, because the press is picking it up and it is looking bad in terms of the whole Parliament. I will appreciate if you desist from waving those banners around please. It would establish a certain amount of decorum while the Member for Diego Martin East is going through his literary cases.

**3.25 p.m.**

**Mr. C. Imbert:** Thank you, Mr. Deputy Speaker. I see the Member for Tobago East has returned, so maybe there are two people who know about this book on that side. What the book tells us is that there was this bizarre society in *Nineteen Eighty-four* where everything one did or said was controlled by the Government. Everywhere one went, even when one took a bath, “big brother” was watching and he would summon one from time to time to tell one about good news with the economy, on the military front, and so forth. The hideous intent of that Orwellian society was to suppress freedom of expression and freedom of thought. [*Desk thumping*]

When one goes to the back of the book at “The Principles of Newspeak” that is what they want to create in Trinidad and Tobago. It says:

“To give a single example. The word *free* still existed in Newspeak, but it could only be used in such statements as ‘This dog is free from lice’ or ‘This field is free from weeds’. It could not be used in its old sense of ‘politically free’ or ‘free’, since political and intellectual freedom no longer existed even as concepts...”

So, this is where they want to take this country, and it is the hypocrisy! When one reads what the Member for Couva North said in 1985, his passionate speech, his matter of “definite public importance” was about freedom of information and the right for all persons to know everything that is going on in the country, no matter how brutal and ugly it is. That was his thesis in 1985, that we must know everything, no matter how brutal and ugly it is. He comes back in 1999 and says, “If I had my way, certain matters would not be aired on the media,” and already instructs the state-owned media to make sure that they censor information that is disadvantageous to the Government.

This piece of legislation, just like the parliamentary committees legislation, has very devious intent. Let us pick out another clause. This Bill is a masterpiece of diabolical contrivance. [*Desk thumping*] Listen to this piece of absurd foolishness in clause 21(1):

“A public authority dealing with a request may refuse to grant access to documents in accordance with the request...if the public authority is satisfied that the work involved in processing the request would substantially and reasonably divert the resources of the public authority from its other operations.” *[Laughter]*

Have you ever heard more rubbish!?

So what they will tell you—and it is now being legislated—is, “We are busy. Your request for information cannot be entertained because that would substantially divert us from our other operations.” Therefore, I will read the question I have put on the Order Paper today, which they refuse to answer:

“Would the Minister state:

- (i) the number of voter identification cards belonging to persons registered to vote in the Diego Martin East constituency that have expired in the years 1996, 1997, 1998 and 1999 to date?”

The Elections and Boundaries Commission could say, “You see that information, right now we are preparing for a local government election and that would cause us to take staff away from dealing with matters and it would interfere with our operations, so you cannot get that information.” *[Desk thumping]* A simple thing like this, and they put in this Bill that if an authority is of the view that compiling information would divert it from its operations, no information for you!

In relation to clause 21, the Attorney General thinks he is clever because he keeps harping on this thing about court. If one is aggrieved by a decision of a public authority and one feels that one is entitled to information and they would not give it, one could go to the High Court. But he knows how long these matters will take. What precedence would the High Court put on a matter regarding a request for information? What priority would the court put regarding a complaint that one wants to get information and was denied it by a public authority? Where, in the order of precedence would it be? Would it come before murder, rape, manslaughter or robbery with assault? Where in the order of priority of court matters would the court put the request that there is a request for information?

It has to go through all its stages: go to the High Court, and even if the High Court rules in one's favour, go to the Appellate Court, and even if the Appellate Court rules in one's favour, they have to go to the Privy Council. Would the Privy Council put the hearing of constitutional matters of condemned prisoners on the back burner to deal with a complaint regarding denial of information? It would



take 10 years through the courts to deal with these matters, by which time, the statutory period of 10 years in the Bill would have expired. And the Treasury is empty and all of them are laughing all the way to Costa Rica, London and wherever else. [*Desk thumping*]

So, by the time one gets one's information through the courts, 10 years have passed and they are taking it to the Privy Council. What little citizen would have the resources to fight the Government on a matter going to the Privy Council? Which member of John Public, which poor person would have access to hundreds of thousands of dollars to take a matter like this to the Privy Council?

Mr. Deputy Speaker, the Attorney General is not serious. He has brought a Bill filled with subterfuge, trickery, deceit and deception, and this is what we told them in 1994. When he tried to bring in legislation, at that time he did not even understand the ramifications of his own submission and we had to tell him that in the United States where there is this type of legislation, the purpose is not to give information: it is to deny it. That is what all of these Acts are about. It is not to give information to people. It is to take it away from them.

The Freedom of Information Act and the Privacy Act in the United States have nine exemptions, just like this. They are classified documents, internal personnel rules, confidential business information, internal government communications, all of which cannot be gotten, and this is what he has modelled.

Mr. Deputy Speaker, he talks a set of nonsense about this Bill and how he has received so many compliments from the Commonwealth and it is a model piece of legislation. Nonsense! He is a plagiarist! He has gone into the other legislation and has made sure that there are so many restrictions and exemptions on information—he takes the worst aspects of all secrecy and privacy Acts all over the world and puts them in this legislation. That is what he has done. [*Desk thumping*]

They are not fooling anybody. They talk all their nonsense, but when we listen to the call-in programmes, read the editorials, read the letters in the newspapers and listen to the man on the street, they are not fooling anybody. All of this rubbish about how parliamentary committees could investigate corruption and that this Bill would allow persons access to information so that they could deal with matters like corruption at the airport, nonsense; utter nonsense!

We might ask the Attorney General, “Did you advise the Cabinet that the airport contract was illegal?” He could say, “You see that, that is privileged information. It is exempt”. Fine. We might try to find out on what basis they

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granted the contract. Was it a Cabinet instruction? He could say, “You see that information, I need more time. I cannot tell you”. Then we bring information into the Parliament which proves the Minister of Finance is dishonest. What is his response? He has apologized already for lying to this Parliament. He has proven himself to be dishonest. *[Desk thumping]* We brought information here that proves that when the Minister of Finance said that no additional compensation was being paid to the Director of NIPDEC it was untrue, and listen to his reply: “That is an unauthorized document.”

**Hon. Assam:** Mr. Deputy Speaker, on a point of order.

**Mr. C. Imbert:** Mr. Deputy Speaker, I am not giving way.

**Mr. Assam:** Mr. Deputy Speaker, Standing Order 36(5). Is it proper to call the Minister of Finance dishonest?

**Miss Nicholson:** But he is dishonest!

**Hon. Persad-Bissessar:** Say it outside of the Parliament!

**Miss Nicholson:** I can say it outside of the Parliament. Everybody knows he is dishonest.

**Mr. Deputy Speaker:** Hon. Members, Standing Order 36(5) says:

“No Member shall impute improper motives to any other Member of either Chamber.”

And if you look further down, 36(10) also deals with conduct of the Members of the House of Representatives, and so forth.

I am going to rule that it is out of order to impute improper motives to any Member of either Chamber, but if you have a problem with the conduct of a Member, you can bring a substantive motion. So says 36(10).

**Mr. Manning:** We will censure Kuei Tung!

**Mr. Deputy Speaker:** I am on my feet, just in case the House wants a suspension! Member for Diego Martin East, withdraw what you just said.

**Mr. C. Imbert:** Thank you, Mr. Deputy Speaker. When a Government Minister is asked a direct question in this House and is asked for information—because this Bill is about Government information—and the question is as follows, “Are you saying that no member of NIPDEC or NIB is receiving additional compensation from any source?” and he says no; and he is asked, “Are you sure?” and he says no; and he is asked a third time and he says no; and then

documents are produced verifying that a member of the board of NIPDEC and NIB is receiving a stipend of \$15,000 per month, additional compensation in addition to his salary, this Government's response is, "How did you get that information?"

You are not entitled to that information. [*Desk thumping*] That is it and now they are bringing this legislation which will legislate the right of the

Government to deny Cabinet minutes, internal working papers, notes of meetings, legal advice and so on. You are bringing a Bill to legislate and enshrine in law for the first time, the right of a government to deny information to the public and the media, so I understand what they are all about.

**3.40 p.m.**

We heard what the Minister of Finance had to say. When it was proven that the information he gave this Parliament was wrong, his response was "you are not entitled to that information; you have unauthorized documents and I am going to take you to court,"—

**Mr. Manning:** Privileges Committee.

**Mr. C. Imbert:** Privileges Committee. You have unauthorized documents—beat up his chest and carried on, I mean as if it is now a crime. I am wondering if this is not the devious intent of this Bill that, when in the future, we bring Cabinet Notes and board papers, it will be deemed to be an offence; if that is not the devious intent of this Bill; the hidden underbelly of this Bill; if that is what it is all about. [*Desk thumping*]

Mr. Deputy Speaker, obviously, the Government is creating a system where it will be immune from investigation and prosecution. That is what it is doing and that is why I had to read extracts from 1984, because in Orwell's *Nineteen eighty-four*, the Government kept telling the people, do not mind you are starving, do not mind you are sick, do not mind you have nowhere to live, do not mind I am living in a palace, [*Laughter*] you are okay. That is what big brother used to tell all the citizens, do not mind you are there "ketchin' you tail",—if you will pardon the language Mr. Deputy Speaker do not mind if you are suffering.

**Mr. Deputy Speaker:** I would like you to take note of what I told the Member for Laventille East/Morvant about the deduction of time. Member for Diego Martin East.

**Mr. C. Imbert:** Mr. Deputy Speaker, I hope you have been keeping an accurate record, so he will have no time to speak. [*Laughter*] Mr. Speaker, in

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George Orwell's *Nineteen eighty-four*, that is the society they created, so that you are watching this carpet in front of you and you can see it is red, but big brother over there, the Member for Couva South says that the carpet is green and says, repeat after me, the carpet is green and when you say no, it is red they say, "boop, boop," lash; take that—and beat you until you say, yes, it is red. That is the kind of society that this Government wants to create today, the oppressive legislation, the dangerous anti-democratic legislation that they want to bring in. They want to hide information.

We will never know what inducements were offered to those two men over there. [*Desk thumping*] You only have to get that information, it may be contained in some government document, in some record of meeting, in some ministry somewhere.

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

*Question put and agreed to.*

**Mr. C. Imbert:** Mr. Deputy Speaker, as I was saying, if there is any record of any inducement given to Members in this House to cross the floor, you are not going to get it, because they would say, that is not in the public interest to say how much we pay them to cross the floor, and you cannot give that information. This is the intriguing theme in this Bill, Mr. Deputy Speaker, and I often wonder, how can the Members for Couva South and North come in this Parliament with a straight face—and outside—and adopt positions that they were so opposed to when they were in Opposition. How can they do it? If you go back to the Prime Minister's 1985 submission on censorship of TTT, it went on for hours about how—listen to this:

“As you please, Mr. Speaker. Insecurity of tenure—that is one of the weapons the fascists have always used throughout history to hold on to power, insecurity of tenure where the victims never know where they are from one day to the next so that they become minions, they lose their minds, their self-respect and their dignity: that is the threat to the freedom of the press...”

So we have a Minister telling the workers at TTT that from now on good news only, and if you do not comply, pack your bags and go; and telling independent communication houses, “we watching your licence, we have a right to revoke your licence, from time to time we will call to see accounts of your coverage and if you step out of line we are going to revoke your licence.” Just yesterday, that is what we were hearing but here you have honourable Panday in 1985 saying that

insecurity of tenure where the victims never know where they are from one day to the next; they lose their minds, their self respect and so on, and talking about controlling influence at TTT. No wonder why they could treat people with such indignity. What they do is either make you insecure by putting you on contract, sometimes one day's notice, month to month, sometimes three years' contract. This is UNC you are talking about, this is what is happening in Trinidad and Tobago today.

Just recently in debating the National Insurance Bill they wanted to get rid of somebody at NIB, they legislate to remove the position from the Act.—That is UNC—legislate to remove the post. Is it deputy director?

**Hon. Member:** Yes.

**Mr. Imbert:** Legislate it out of the establishment of the National Insurance Board.

**Mr. Hart:** Required by legislation.

**Mr. C Imbert:** Imagine not only the auditor at NIPDEC is fired by being made redundant because he is suspected of providing the information which incriminated the Minister of Finance—not just the auditor but now they have decided that the deputy director of NIS, they will fire him by legislation.

This is Basdeo Panday speaking and look at this most interesting comment—I mean listen to this amazing comment Mr. Deputy Speaker:

“When the late Prime Minister, Dr. Eric Williams was alive, because of his stature...”

imagine this is Panday speaking—

“charisma and self-confidence in his own power he did not have the need to attack freedom of speech in order to stay in power. He did not need to degenerate to brutality to stay in power because he could stay in power by the sheer strength of his charismatic personality.”

That is the Member for Couva North speaking about the deceased Dr. Eric Williams first Prime Minister of Trinidad and Tobago. Making the point that Dr. Eric Williams had, in his opinion, such a charismatic personality that he did not have to degenerate to brutality and try to suppress information, attack the press, or the media.

**3.50 p.m.**

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As the elections draw nearer, more and more with this legislation, and the overt aggression of the Government against people who have a right to know what is going on, especially the media, the overt aggression where a Minister refused to answer questions, where people are told that questions are insulting and all sorts of things. As the election season grows nearer, we are going to see more and more brutality on members of the media, Members of the Opposition, members of the public who question Government's conduct.

Look at this absurdity with the Medical Board. My colleague, the Member for Diego Martin West in his efforts to demonstrate that the medical records of a particular medical practitioner are not up to standard goes to the Medical Board seeking information which he was denied. He was told to come back, when he went back, he was further denied information. He was denied the right to see the medical register and the response of the Minister of Health was: he has no authority, he has no responsibility, he cannot tell the Medical Board what to do.

I have read the *Hansard*. At least the *Hansard* is still available to the people of Trinidad and Tobago. [*Desk thumping*] Because under the "UNC Secrecy Act", which this is, the next thing they would tell you is *Hansard* is exempt because it contains matters that relate to public authorities and deliberations and advice.

Mr. Deputy Speaker, imagine this Bill has clauses that say if you wrote something to a Minister and in that letter you made a recommendation about the functioning of a public authority—so a public servant writes the Minister of Public Utilities and says: "Minister, WASA is in chaos, the entire northern region is without water and I recommend that you take action by doing "X, Y, Z". Under this Bill you cannot get access to that information because that falls under the rubric of advice and recommendations given to Ministers in the performance of the duties of public authorities. It is the most absurd, however, most transparent attempt at suppressing information. And I really would love to know what is going to happen after they use their majority and pass this legislation and an Opposition Member requests information of the Government, as he is entitled to do. Are we going to have all of them like a jack-in-the box getting up and saying: "Under the Freedom of Information Act, this is an exempt document, therefore, you are not entitled to the information?" Is that what we are going to get? Because we already had it from the Attorney General when we asked him about that corrupt airport contract. He said, under client/attorney privilege, that is exempt information.

Let me bring in the Soodhoo report. They feel they are smart. That is another clause in this Bill. There is a clause which talks about editing of information and in the clause it indicates that if a person requests information the authority can

only give it to him if it is edited. You heard what the Prime Minister said. In the Soodhoo report there were little bits that were libellous and he cannot publish the report because of these libellous inserts. So you cannot get any part of the report because if you take out those pieces of the report, it would not make any sense. That is what the Member for Couva North said.

So there is a 165-page dissertation on the transgressions of National Petroleum and one or two paragraphs in there, in his opinion, are libellous, even though the report is prepared by two distinguished senior counsel who should know what is libellous and what is not. Two distinguished senior counsel prepared this 165-page dissertation on the racket of National Petroleum and the Prime Minister says, "there are bits and pieces in there which are libellous so I am not giving any information". And in this Bill they have included a clause which gives a public authority the right to deny a report because parts of it have to be edited out. It is in here, Mr. Deputy Speaker. They are legalizing all of their tricks, all of their subterfuge, all their manipulations, all their dark secrets. That is what they are doing. Legalizing it.

**Hon. Member:** Do you have any recommendations?

**Mr. C. Imbert:** You want to hear about recommendations? Take out all this rubbish about exemptions, take it out, open it up. Open up everything. That is my recommendation. I will support that. Take out all the exemptions and I will support the legislation. That is my recommendation for this legislation. They are always saying we do not have any recommendations. As far as I am concerned, you should remove all of this "simidimi" and let us go through it clause by clause.

Clause 21(1) says:

"... if the public authority is satisfied that the work involved in processing the request would substantially and unreasonably divert the resources of the public authority from its other operations."

it may refuse access to documentation. So Government Minister, Government Ministry, state enterprise, NIPDEC, National Petroleum Company Limited, Caroni (1975) Limited, whatever. If Caroni (1975) Limited decides they are too busy cutting cane and you ask for the information during crop season, and going to get that information would divert them from their work, there would be no information for you. Blank it. Grandfather clause number one. If the public authority believes that it is too busy, there is no information for you.

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The matter about the edited copy is in clause 21(5)(b) which speaks about the edited copy. I would read it:

“A public authority may refuse to grant access to the documents...if—

(b) either—

(ii) it is apparent from the request...that the applicant would not wish to have access to an edited copy of the document.”

You see. Do you think it is easy? Trickery!

Then there is the question of matters that are being enquired into publicly.  
*[Interruption]*

Mr. Deputy Speaker, could you please control them? I know they do not want to hear this.

**Mr. Deputy Speaker:** Order, order!

**Mr. C. Imbert:** Clause 23(1) says:

“Where in relation to a request for access to a document of a public authority...”

No. That is not the correct one. That is the nonsense about applying to the court. Let us go to clause 24.

**Hon. Assam:** Read it.

**Mr. C. Imbert:** No problem. This is clause 23(1):

“Where in relation to a request for access to a document of a public authority, a decision is made under this Part that the applicant is not entitled to access to the document...the public authority shall...—

(a) state the findings on any material question of fact, referring to the material on which those findings were based, and the reasons for the decision;”

I asked the Attorney General, did he advise that the airport contract was invalid? He said: “I am not giving that information and the reason is that is client/attorney privilege.” That is all this is. So you ask the public authority why are you not paving roads in north Trinidad? Why are you not giving people in north Trinidad water? Why are you not giving people in north Trinidad employment and the public authority says: you are not getting that information and the reason is, I am too busy giving water, roads and employment to people in



south. This is nonsensical. You just deny information and give reasons. That is what it is all about.

Clause 24(1) says:

“A document is an exempt document if it is—

(c) a document prepared for the purpose of briefing a Minister...”

Have you ever heard such nonsense?

According to clause 27(1), a document is an exempt document if it:

(a) would disclose matter in the nature of opinion, advice or recommendation prepared by an officer or Minister of Government...”

**Mr. Assam:** Read the whole thing.

**Mr. C. Imbert:** *Words Expunged.*

**Mr. Assam:** *Words Expunged.*

**Mr. Deputy Speaker:** Those remarks will be expunged from the record. One more outburst like that and the sitting will be suspended. One more.

Member for St. Joseph, you are dropping below 70 minutes.

**Mr. C. Imbert:** Thank you, Mr. Deputy Speaker. Look at the nonsense in this—*[Interruption]* Mr. Deputy Speaker, what is going on? Is he taking my time? Sit down!

**Mr. Assam:** *Words Expunged.*

**Mr. Deputy Speaker:** The sitting is suspended for half an hour.

**4.05 p.m.:** *Sitting suspended.*

**4.41 p.m.:** *Sitting resumed.*

**Mr. Deputy Speaker:** The Member for Diego Martin East has 10 minutes to complete his contribution.

**Mr. C. Imbert:** Mr. Deputy Speaker, I see the errant Member for St. Joseph is not here; he is ambling into the Chamber. Anyway, the point is—and I would like the hon. Attorney General to pay attention; I see him wandering away off to the side—that far too many clauses in this Bill are open to wide interpretation. Some of them are explicit; some of them categorically provide provisions for denial of information; others provide loopholes for public authorities to wiggle

out, such as the provision that if you want to get information from public authorities and it would interfere with their work, they can refuse access. That is giving a public authority too much flexibility in the denial of information, because one can always say that one is busy.

In another area of the legislation, where it speaks about documents that are in the nature of advice or recommendations given to Ministers and that this can be declared exempt, again, this is allowing too much flexibility and freedom; it will give public authorities far too much freedom to avoid giving information.

Mr. Deputy Speaker, who could possibly be against freedom of information?

**Mr. Hinds:** Nobody.

**Mr. C. Imbert:** Who? I mean, certainly with this Government we have on the other side, we wish to get as much information as possible. Therefore, what this legislation needs is a thorough overhaul to remove all of these trapdoors, escape hatches, back-doors, ships' ladders and other holes, apertures, hidden entrances and exits where public authorities can escape their responsibility to give information.

As for clause 37, it should be deleted. There is absolutely no need to put into this Bill a specific provision which gives International Communications Network the right to deny access to any recording of images and so forth. I mean, who put that in here? Clearly, the intent of this clause is to give to Trinidad and Tobago Television and National Broadcasting Service a privilege that other communication companies will not enjoy. I ask for the complete deletion of clause 37 and one hopes that underneath all the old talk—

Mr. Deputy Speaker, there is persistent grumbling and mumbling. Are you hearing it? I have a few minutes left and I would ask you to assist. It is irritating.

**Mr. Deputy Speaker:** Order.

**Mr. C. Imbert:** What this Parliament needs to do is to thoroughly examine the exemptions—because the exemptions are the problem—to see whether it is necessary to have such wide-ranging exemptions and so many areas where public authorities will now legitimately be entitled to deny information to the public.

So, underneath all the old talk from the other side about information, this Bill legitimizes denial of information; it restricts access to information; it prevents publishing of information. I would ask the Government if it is serious and not engaged in “mamaguy”, to look at all the exemptions, put limits on them—time

limits and constraints—remove some of the clauses; tighten them up so that public authorities will not be able to use weak, lame excuses to deny information to the public.

I thank you, Mr. Deputy Speaker.

**The Minister of Legal Affairs (Hon. Kamla Persad-Bissessar):** Mr. Deputy Speaker, it is very clear that the Opposition, in the words of the Member for St. Joseph, has changed its name and it is just that they have not told us, because in everything that this Government tries to do, the Opposition is against. It is against hanging; it is against increased pensions for poor people; they voted against the budget if you remember, Mr. Deputy Speaker. It is against freedom of information.

What the hon. Member for Diego Martin East has done is to mislead this honourable House by selecting clauses of the Bill to say that these exemptions are, in fact, legislation for secrecy. He selects some of the clauses, ignores all the other clauses in the Bill and concentrates on a few clauses and, when he selects those clauses, he does not read the entire clause—in fact, that led to a little backward and forward a while ago—so that he gives the impression that the exemptions are total and absolute.

If the Member were honest enough, he would have read the clause right through so that he would have been able to put to this House that these exemptions do not apply in every single case and there are cases where the exemptions will not hold. I will deal with those in a moment.

**Mr. Beraux:** That is what we want you to do.

**Hon. K. Persad-Bissessar:** Secondly, if we are to believe the Member for Diego Martin East, it will mean that all those countries in the world that have enacted freedom of information legislation, all of which contain exemptions, are legislating for secrecy.

**Mr. Imbert:** That is a fact. That is what it means. That is what it is.

**Hon. K. Persad-Bissessar:** That all of these are “Orwellian”.

I want to ask him, for example: In Australia where there is freedom of information legislation containing exemptions, are those “Orwellian”? Are those legislating for secrecy? In New Zealand; in Canada; in Sweden; in Europe; in every one of these countries, there is freedom of information legislation and the legislation contain exemptions.

You see, what the hon. Member does not understand and realize is there can never be anywhere, in a civilized society, total freedom. You can never have total freedom, because if you had total freedom, it is anarchy. [*Desk thumping*] The hon. Member knows that well.

For example, our Constitution recognizes there must be a balancing of interests and a balancing of rights so that all those rights in our Bill of Rights are all subject to restriction regulation. So, yes, we have freedom of expression, but to exercise that right, it has to be restricted in some form.

We see what happens when everybody tries to speak at the same time. It cannot happen. There must be some kind of regulation. There must be some kind of balancing of that right to freedom of expression and the right of the other individuals in the society for freedom of expression. Take the right to freedom of assembly; freedom of association: all of those rights are to be restricted in a balancing of the individual rights against the rights of the society as a whole, and the rights of other individuals in the society.

So, if it is, we are to believe this hon. Member, it means, therefore, that when I am exercising my right to freedom of assembly, and if every other citizen in Port of Spain decides to exercise that right, it would be chaos. If we have a right to gather together, to speak together, it will be chaos. It will be total anarchy.

So that we must understand that rights and freedoms, if they are to be properly enjoyed, must be restricted and balanced so that all individuals in the society can truly enjoy and benefit from those rights. As we will show later, in other countries, this has been done. It is working, not in a way in terms of secrecy of information but, clearly, to give freedom of information.

I want to take this opportunity to congratulate the Parliament which under this administration is able today to write to say:

“In its effort to deliver services to Members of Parliament, members of the media and the general public with the greatest of efficiency, the Parliament is pleased to announce that its website...is now online. Members can access the Order Paper, Bills, Hansard Debates as well as other information directly from our website.

We are also in the process of creating an ‘e-mailing list’ of all Members and would appreciate your co-operation in providing an e-mail address to which information such as the Order Paper and any other communication from the department can be sent.”

Mr. Deputy Speaker, the Member is suggesting that this has nothing to do with freedom of information. You see, it is because they do not understand; that is their problem. They do not understand what information can do; that information means empowerment. [*Mr. Hinds rises*] That is what gaining access to information is all about.

In fact, if I may quote from one of the constitutional fathers of the United States, James Madison, who said that:

“A popular government without popular information or the means of acquiring it, is but a prologue to a farce, or a tragedy, or perhaps both.”

Knowledge will forever govern ignorance, and a people who mean to be their own Governors must arm themselves with the power which knowledge gives.”

That is what information is about, that empowerment one can have from having information and having knowledge about things. It is clear then that there can be no true democracy if there is no freedom of information.

When the hon. Member for Diego Martin East spoke about subterfuge, he held that this Bill and this Government were about subterfuge.

**Mr. Hinds:** He is right.

**Hon. K. Persad-Bissessar:** I want to say to him that the subterfuge is clearly from his side.

I quote from the *Daily Express* of Wednesday, March 30, 1994, in an article headlined “Padmore: Level with the people”. It was so curious when I heard about subterfuge from the Member for Diego Martin East and Padmore, I believe, was the person supported by the Member for Diego Martin East to be the chairman of the PNM. This is what Mr. Padmore had to say in the *Daily Express* of March 30, 1994:

“Former PNM Minister Overand Padmore on Monday warned the Government...”

And it was then the PNM Government.

“that there was too much subterfuge in its decision-making.

Padmore agreed with the Government that some form of the World Bank/IMF structural adjustment was necessary and he felt it inevitably had to be along some of the lines already taken.

But the greatest problem with the structural adjustment programme, he said, was that ‘There is far too much subterfuge in undertaking these discussions and decisions that it leaves people angry with their Government.’ He warned that ‘It happened with the predecessor Government and there is every indication that it is happening with the present Government.’”

The then PNM Government. Subterfuge from Padmore, former PNM Minister.

**4.55 p.m.**

Mr. Deputy Speaker, this Government has been committed, and has been working assiduously to keep its promises to the electorate. That is what this Government has done. We have seen this Government keeping its promises in terms of its manifesto’s pledges. On page 22 of the manifesto:

“A UNC government will, as a matter of priority, introduce legislation to set up an Equal Opportunities Commission...”

There is a Bill now on the Order Paper for the Equal Opportunities Commission.

“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.”

Again, Mr. Deputy Speaker, we have kept that promise.

Manifesto promise on page 23:

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

That manifesto promise is what this Bill seeks to honour and to fulfil. This is in total contrast to what was done by the PNM.

In 1991, in the PNM manifesto, the PNM gave a commitment and made a promise to the people. A promise which they failed to keep.

**Hon. R. L. Maharaj:** Read it.

**Hon. K. Persad Bissessar:** On page 7 they talk about the implementation of strategies for the administrative framework.

“...the PNM will provide a competent administration in which:

- There will be accountability at all levels.”

Look at it, that was in 1991. They went on their election campaign. When they were campaigning, this was the promise they made. Lo and behold, in 1993 when the then Opposition Chief Whip, the present Attorney General, brought a Private Members’ Bill to the Parliament, for freedom of information legislation, it was rejected on the other side. Totally rejected on the other side. They used a technicality to say he could not bring it as a Private Members’ Bill. He came back in 1994—he did not give up—with a motion to resolving that the PNM put in place freedom of information legislation.

You have heard the Attorney General today, very clearly reading the attitude from the other side then, in 1994. It is the same attitude today. In fact, the contribution of the Member for Diego Martin East—if you read the *Hansard*—it is the identical contribution. It is exactly the same. He had taken up the Bill that was brought by the Attorney General, then Opposition Chief Whip, went through the exemption clauses and the same arguments he made then, are the same arguments he made today. Why is it then, if he had a difficulty with those exemptions, that they took no steps to bring any kind of legislation to redraft it, or consider it in any way to keep their manifesto promise? They brought no freedom of information legislation whatsoever in all the years they were there. It was said very clearly by the Member for Diego Martin Central when he was then in Opposition he said: “we do not need any freedom of information legislation”. He said: “we already have. What we have will work.” [Interruption] In that *Hansard* he said he does not need freedom of information legislation. Yet, here it is, there has been a public cry for freedom of information legislation.

On Friday, May 13, 1994 the *Trinidad Guardian* editorial headline:

“Information, please.

TODAY we renew our call for a Freedom of Information Act which should be an integral part of our democratic system. It is our view that if the Press is to fulfil its role as an independent arbiter in national affairs, if it is to keep the citizenry fully informed about the disposal of the natural resources that belong to them, then the Press must have unhindered access to information subject, of course, to national security considerations.”

The article goes on, and it talks about what they call “virtual giveaways”. Maybe this is the difficulty the Opposition has with this piece of legislation. The article states:

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“We remember also the difficulties encountered in attempting to obtain information on the lease of the ISCOTT plant to Caribbean Ispat, negotiated under the previous Government. We now know that the lease was not only inordinately generous to the Indian company—some say it was a virtual giveaway—but made no provision to secure the long term interests of local downstream industries...”

It goes on—

“Now we have signed-and-sealed contracts for a number of major projects such as the Liquified Natural Gas plant, NUCOR’s Iron Carbide plant and Enron’s 95 percent stake in three SECC gas fields, the Kiskadee, Ibis and Oilbird. On the face of it, of course, the country must welcome such large investments in the development of its gas resources, but the details of these contracts are generally unknown and it still remains largely unclear to what extent the people...will benefit.”

After our front page report on NUCOR yesterday, we were informed that the National Gas Company will benefit from a profit-sharing scheme with the American company...

On the other hand, Opposition member John Humphrey has been arousing some concern over these contracts by revelations made in recent bye-election meetings. If, as he says, the NGC is contracted to buy gas from Enron at US 83 cents per 1,000 cubic feet and then sell it to NUCOR at US 60 cents, is that not a questionable arrangement, is it not a substantial subsidy to the carbide plant? And if NUCOR has been given EPZ status with all the attendant benefits, will the country’s percentage of the profits justify the losses in other areas?”

It concludes—

“Only a Freedom of Information Act will assure us of that access to information of this kind.”

**Hon. R. L. Maharaj:** Mr. Deputy Speaker, the Member has not finished, but I did indicate to her that I wanted to move a procedural motion.

#### ADJOURNMENT

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Deputy Speaker, I beg to move that this House do now stand adjourned to Friday, May 14, 1999 at 1.30 p.m. when we will continue debate. This means that we will not



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be sitting next Friday. We will continue and we hope to complete the debate on this matter.

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 5.06 p.m.*