

*Papers Laid**Friday, July 09, 1999***HOUSE OF REPRESENTATIVES***Friday, July 09, 1999*

The House met at 1.32 p.m.

PRAYERS[MR. SPEAKER *in the Chair*]**PAPERS LAID**

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the Special Account and statement of expenditure disbursements in respect of Business Expansion and Industrial Restructuring Loan (BEIRL) Project for the year ended 1997 December 31, as required by section 4.01(b)(i) and (c)(iv) of the Loan Agreement No. 3432 TR between the Government of the Republic of Trinidad and Tobago and the International Bank for Reconstruction and Development. [*The Attorney General (Hon. Ramesh Lawrence Maharaj)*]
2. Report of the Auditor General on a Special Audit of the Operations of Accounting Units in the Public Service. [*Hon. R. L. Maharaj*]

*Papers 1 and 2 to be referred to the Public Accounts Committee.***ORAL ANSWERS TO QUESTIONS**

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, may I indicate that the Government would like a deferral of questions Nos. 71 and 72 for two weeks, the reason being that the information which has to be compiled is taking longer than the required three weeks.

Question put and agreed to.

The following questions stood on the Order Paper in the name of Mr. Kenneth Valley (Diego Martin Central):

New Projects in Energy Sector

- 71.** Would the Minister of Energy and Energy Industries kindly identify the new projects which have been started in the energy sector and have been the result of initiatives of the Government?

Constitutional Cases
(Number Won and Costs Awarded)

72. (a) Would the hon. Attorney General identify the constitutional cases won by the state since the enactment of the Republican Constitution?
- (b) Would the Attorney General also identify whether costs were awarded to the state and if so, whether costs were paid in any of the situations identified?

Questions, by leave, deferred.

Caroni (1975) Limited
(Compensation Package—CEO/GM)

65. **Dr. Keith Rowley** (*Diego Martin West*) asked the hon. Minister of Agriculture, Land and Marine Resources:
- (a) Could the Minister give a breakdown of the total compensation package of the current Chief Executive Officer of Caroni (1975) Limited?
- (b) If there is a difference between any element of the existing package and that enjoyed by the previous General Manager/CEO, could the Minister identify the nature of such difference/s?
- (c) Could the Minister further outline the procedure adopted by Caroni (1975) Limited in identifying and hiring the most suitably qualified person for the job of Chief Executive Officer?

The Minister of Agriculture, Land and Marine Resources (Dr. The Hon. Reeza Mohammed): Mr. Speaker, Price Waterhouse has traditionally been carrying out surveys on executive compensation packages, as well as the recruitment of executives. In this regard, Price Waterhouse assisted Caroni (1975) Limited with the compensation package of the Chief Executive Officer.

The current Chief Executive Officer's total compensation package is as follows:

Monthly salary	\$30,000.00
Company vehicle (Opel-Omega)	\$256,000.00
10 per cent of salary for housing	\$3,000.00 monthly

He is also entitled to cellular phone service, an accountable credit card facility, as well as an annual performance bonus of 0—6 months' salary for successful attainment of performance criteria outlined in the job profile.

Prior to the Chief Executive Officer's appointment, Caroni (1975) Limited had an Acting General Manager. His compensation package was as follows:

Monthly salary	\$16,284.00
Company vehicles:	
Toyota Corona	\$236,000.00
Pajero	\$147,000.00
10 per cent of salary for housing	\$1,628.00

The former Acting General Manager was also entitled to cellular phone service and an accountable credit card facility.

The major differences between the compensation packages of the current Chief Executive Officer and the former Acting General Manager are as follows:

- (a) Difference in salary of \$13,716.00;
- (b) Difference in cost of one vehicle of \$20,000.00;
- (c) Difference in housing allowance of \$1,372.00 due to salary differences.

In fact, the Acting General Manager had an additional vehicle, the Pajero, at a cost of \$147,000.00 for his use.

The company was advised by Price Waterhouse that the comparative Chief Executive Officer salaries in the private sector were in the order of \$30,000—\$45,000 plus similar allowances.

The procedure adopted in recruiting the Chief Executive Officer was as follows:

Applications for the post of Chief Executive Officer were invited through the local media and in the United Nations Business Development fortnightly publication. Advertisements were published in the *Newsday* of October 4, 5 and 6, 1998 and in the *Express* of October 7, 10 and 11, 1998. An advertisement was also published in the United Nations Business Development publication of August 16, 1998. The closing date for applications was October 21, 1998.

Oral Answers to Questions
[DR. THE HON. R. MOHAMMED]

Friday, July 09, 1999

Twenty-nine applicants responded to the local advertisements and four were short-listed for interviews. The interview panel comprised of: Mr. Carlos Martinez of Price Waterhouse; Mr. K. J. Ramkissoon; Mr. F. Karim and Mrs. N. Loquan, Board of Directors of Caroni (1975) Limited.

Based on the selection criteria established for the ranking of candidates, Mr. S. Lalla ranked first among the four candidates interviewed. The panel therefore concluded that Mr. Lalla was the most suitably qualified person for the job.

The letter of appointment and the terms and conditions of employment were developed for the company by Price Waterhouse. The appointment and terms and conditions were subsequently approved by the Board of Directors.

I thank you, Mr. Speaker.

Dr. Rowley: Supplemental question, Mr. Speaker. Did the persons who recommended Mr. Lalla for the position take into account the circumstances surrounding his removal from his previous employment at Trinidad Cement Limited?

Dr. The Hon. R. Mohammed: Mr. Speaker, I was never involved at any stage in the selection of this individual, and whether the persons who selected identified Mr. Lalla as the most qualified person for the position and took into account his present circumstances, I am unable to respond.

Dr. Rowley: Is the Minister aware that Mr. Lalla was separated from his previous employer and, as regards documents placed in the court by his previous employer, he has been accused of actions which, if determined as per his previous employer's statement in the court, would deem him unsuitable to hold this position?

Dr. The Hon. R. Mohammed: Mr. Speaker, the Minister is aware that this matter is *sub judice*.

Dr. Rowley: *Sub judice*?

**Chaguaramas Convention Centre
(Restaurant Facilities)**

66. Mr. Colm Imbert (*Diego Martin East*) asked the hon. Minister of Trade and Industry:

- (a) Is the Minister aware that with the exception of fast food restaurants that there are over 100 established restaurants listed in the TSTT Yellow Pages?

- (b) If the answer to part (a) is in the affirmative, could the Minister state why the concession to operate the restaurant at the Chaguaramas Convention Centre was given to the Treasurer of the United National Congress and/or his restaurant concern without public advertisement and/or public tender?
- (c) Could the Minister also state the terms and conditions of the current lease for the kitchen and/or restaurant facilities at the Chaguaramas Convention Centre?

The Minister of Trade & Industry and Consumer Affairs and Minister of Tourism (Hon. Mervyn Assam): Mr. Speaker, on November 15, 1998, it was announced that the 1999 Miss Universe Pageant had been relocated to the Heliport in Chaguaramas and the Hotel and Convention Centre was identified as the accommodation for the Miss Universe Pageant staff and technical personnel.

The Chaguaramas Development Authority (CDA), mindful of the need to have an operational Hotel and Convention Centre by April 15, 1999, placed an advertisement in the *Trinidad Guardian* at page 19 on January 15, 1999 inviting proposals to operate the restaurant/dining room and kitchen located at the Chaguaramas Hotel and Convention Centre. Several interested parties visited the site and inspected it, but no proposals were received by February 1, 1999, the deadline date advertised.

In late February 1999, Bougainvillea Restaurant, which has a director, Unanan Persad, indicated his interest in the restaurant facilities at the Chaguaramas Hotel and Convention Centre. This interest he subsequently reduced into writing a letter dated March 4, 1999. At that time, the proposal of Bougainvillea Restaurant to the Authority was for a lease of the kitchen and restaurant facilities at a monthly rental of \$65,000. Preliminary discussions with the management of the Chaguaramas Development Authority commenced as a result.

On February 2, 1999, Cabinet agreed that after the hosting of the Miss Universe Pageant in May 1999, the Authority should invite private sector participation in the operation of the hotel and convention centre.

A Steering Committee headed by the Chairman of the Chaguaramas Development Authority was appointed by the Minister of Tourism in May, 1999, with a life until July 31, 1999 to overview and manage the hotel and convention centre project.

At the committee's second meeting held on March 17, 1999, the proposal of Bougainvillea was discussed, but the committee, mindful of Cabinet's directive to invite private sector participation in the operation of the hotel, expressed concern about the danger of leasing the facilities before an operator was found for the hotel, since they felt that to consider the proposal in isolation might jeopardize negotiations with any proposed hotel operators. The committee's decision and opinion were communicated to Bougainvillea Restaurant Limited by the management of the Authority.

At the third meeting of the committee held on March 22, 1999 management reported that only two proposals were in hand at that time, which included a joint proposal made by Mobile Kitchens Limited and the Trinidad and Tobago Hospitality and Tourism Institute, and a further proposal made by Bougainvillea Restaurant Limited.

1.45 p.m.

Mr. Speaker, management's assessment of the proposals was considered. The joint proposal contemplated considerable expenditure by the Authority in all areas, including the purchase of kitchen equipment, together with the payment by the Chaguaramas Development Authority (CDA) of a large management fee to the joint partnership, while the revised proposal of Bougainvillea Restaurant Limited was based on a payment of rent to the CDA in the sum of \$20,000 per month, and their providing certain costly and necessary items of kitchen equipment.

At the fifth meeting of the committee held on March 31, 1999, the steering committee, after investigating the limited options opened to it in the short term, recommended and approved the grant of a six-month lease agreement for Bougainvillea Restaurant Limited to operate the restaurant and kitchen facilities and to provide food and beverages to the hotel. The terms and conditions under which Bougainvillea Restaurant Limited operate the restaurant are: the lease is for a period of six months from May 1, 1999 to October 31, 1999; the lessee pays to the CDA a monthly fee of \$20,000; the lessee was required to establish a bond in the sum of \$100,000 with the Authority for the duration of the agreement; and the lessee must abide by the directions of the general manager of the hotel.

In addition, the Chaguaramas Development Authority negotiated with the lessee a fixed rate that it would charge to the hotel for the food provided to guests under the American Plan or the Modified American Plan that the hotel offers.

Thank you.

Mr. Speaker: Question No. 67 by the Member for Diego Martin East.

Mr. Imbert: Mr. Speaker, I actually wish to ask a supplemental to question No. 66.

Mr. Speaker: I will allow the supplemental.

Mr. Imbert: Could the Minister indicate why a six months' contract was given to Bougainvillea Restaurant Limited, and a six months' lease arrangement made rather than a one or two-year lease? Could the Minister also indicate whether that six months falls between the Miss Universe contest and the Commonwealth Parliamentary Association Conference at the Convention Centre?

Hon. M. Assam: I could not tell the rationale for the six months, but it seems to me that it was mutually acceptable to both the lessor and the lessee. The Minister does not get into these contractual arrangements between lessor and lessee.

With respect to the Commonwealth Parliamentary Association Conference, I do not know the date or dates on which the conference falls. I am fully aware, however, that there is going to be a CPA conference in Trinidad and Tobago some time in 1999.

**Miss Universe Pageant Company
(Fee charged for use of kitchen)**

67. Mr. Colm Imbert (*Diego Martin East*) asked the hon. Minister of Trade and Industry:

Could the Minister state the fee charged by the UNC Treasurer and/or his restaurant concern to the Miss Universe Pageant Company for the use of the kitchen at the Convention Centre for the Coronation Ball?

The Minister of Trade & Industry and Consumer Affairs and Minister of Tourism (Hon. Mervyn Assam): Mr. Speaker, the UNC treasurer and/or his restaurant concern did not charge a fee for the use of the kitchen at the Chaguaramas Convention Centre. However, Bougainvillea Restaurant Limited was contracted to provide food and beverage facilities as follows:

- (a) rental use of the kitchen equipment at the Chaguaramas Convention Centre for the Coronation Ball which resulted in the cancellation of a previously arranged private function scheduled to be held at the restaurant consequent upon the Pageant Company's inability to host this

function at the original venue, which is Pier 1, due to electrical and other problems;

- (b) provision of bath facilities.

The cost of (a) and (b) amounted to \$36,000 to which a service charge of 10 per cent, that is \$3,600, was added.

**Identification Cards
(Expiration of)**

68. Mr. Colm Imbert (*Diego Martin East*) asked the hon. Prime Minister:

- (a) Could the Prime Minister state the number of voters in Trinidad and Tobago whose Identification Cards expired during the period January 01, 1996 to May 31, 1999 and who had not been issued with new identification cards up to May 31, 1999?
- (b) Is the Prime Minister aware that in many instances due to a lack of resources the Elections and Boundaries Commission is taking up to three months to renew expired Identification Cards?
- (c) If the answer to part (b) is in the affirmative, could the Prime Minister state what additional resources the Government intends to give the Commission in order to allow the Commission to renew Identification Cards within a reasonable time frame such as two weeks?

The Minister of Housing and Settlements and Acting Prime Minister (Hon. John Humphrey): Mr. Speaker, I can give, if permitted, the answer to question No. 68, which is relevant to the forthcoming Local Government Election. *[Interruption]*

Mr. Speaker, on the Prime Minister's Office receiving notification of this question, it was referred to the Elections and Boundaries Commission. What I will do is read the Elections and Boundaries Commission's reply to the question. As we all know, the Elections and Boundaries Commission is an independent commission, so for the reply under paragraph (a) of question No. 68, I quote from the EBC:

"Identification cards which expired in 1996, 1998, 1999: those which were renewed in these years, none was produced in 1997, and those which were not renewed at all up to May 31, 1999 for want of responses by electors to written notices inviting them to do so, are as follows:

Oral Answers to Questions

Friday, July 09, 1999

Year	Cards Expired	Cards Renewed Up To May 31, 1999	Cards Not Renewed
1996	62,940	41,873	21,067
1998	182,241	102,855	79,386
1999	85,744	33,847	51,897

The way part (b) of the question is worded, it was based on the assumption that it is due to lack of resources that the Commission is taking up to three months to renew expired identification cards. However, this assumption is incorrect because the time of three months taken to renew identification cards has been due to these factors:

- (1) the upsurge in new applications for renewals as well as new applications by qualified persons to be registered as electors in order to obtain the Commission's highly valued national identification cards that go with such registrations, and further, to provide themselves thereby with authoritative evidence of identity for the use of commercial banks, business enterprises, Government offices and at other miscellaneous places at home and abroad;
- (2) the bottle-neck caused by late responses of registered electors to the commission's written invitation to apply within the time limit of three months given them to obtain their renewals before the expiry dates of the identification cards; and
- (3) the other necessity in the present times and circumstances to check thoroughly and verify with particularity, applications for renewals involving changes of addresses, of names and other relevant particulars given by applicants, and often the very bona fides of many applicants seeking such renewals.

This other necessity, as will be appreciated, is not only time-consuming but it also calls for the exercise of vigilance and careful investigation in order to preserve the integrity of the Commission's operations.

As to lack of the resources given to the Commission to cope with the responses referred to, it is only fair to say that the application of the Elections and Boundaries Commission on two previous occasions, in November 1998 and January 1999, for additional resources, was not only duly granted but also

continued on a further request in that behalf. In these circumstances, awareness of the incorrect facts assumed cannot be attributed to the Prime Minister, and calls to be answered in the negative.

The question asked under paragraph (c) does not, therefore, arise. However, out of courtesy to the questioner it is fair to say that the Commission anticipates no difficulty in being provided with additional resources in the future if request for same is duly made.

The Commission takes the opportunity to express the firm view that the period of two weeks suggested as reasonable for the renewal of identification cards in present circumstances, is neither realistic nor prudent having regard to the considerations specified under paragraph (b). Moreover, it would be wrong for the Commission to adopt the practice of churning out its identification cards to electors with the same rapidity as others do in the cases of driving permits and identification documents. Such a practice would not be suitable for adoption by the Commission.

For question No. 69, Mr. Speaker, it is a short reply. I quote from the EBC:

"An expired identification card says what it means and means what it says. Consequently, a person with an expired card attending a polling station falls to be treated as a person without a valid card.

The procedure to be followed in such a case is clearly set out in election rules. It is simply a matter for the person concerned to enter the relevant polling station, joining the red line thereat and stating his name and address to the polling station official. If his name appears on the revised list, or failing this, it appears in the unit register, he is called upon to take the oath prescribed and after doing so he is provided with a ballot paper and instructed to proceed to the polling booth to cast his vote in secret, then returns to the ballot box, stains his finger in the ink provided, and after doing so is allowed to insert his ballot in said box before leaving the polling station.

This is signed by the Chief Elections Officer of the Elections and Boundaries Commission.

Mr. Imbert: Mr. Speaker, I have a supplemental to question No. 68. If, as the Prime Minister has indicated, the delay in issuing new identification cards is not due to a lack of resources, then what is the cause of the delay?

Hon. J. Humphrey: As I indicated, the Prime Minister's office sought answer to this question from the Elections and Boundaries Commission and, therefore the Prime Minister should not be expected to speak on behalf of that constitutionally independent Commission.

Mr. Imbert: Whom should we ask? [*Interruption*]

Mr. Speaker: Order please!

WRITTEN ANSWER TO QUESTION

The following question was asked by Mr. Kenneth Valley on behalf of Mr. F. Hinds:

San Juan/Laventille Regional Corporation (Paving and/or Repairing of Roads)

70. (a) Would the Minister of Local Government indicate whether he has authorized the paving and/or repairing of roads under the purview of the San Juan/Laventille Regional Corporation and without the authority, consent or involvement of the said Corporation?
- (a) If the answer to (a) is affirmative, would the Minister name the roads so paved/repared and indicate the source of funds used for the work so done?

The Minister of Local Government (Hon. Dhanraj Singh): Mr. Speaker, the response was given to the Clerk for circulation.

Vide end of sitting for written answer.

ARRANGEMENT OF BUSINESS

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I wish to indicate that it is the intention of the Government to proceed with "Bills Second Reading" at this stage.

2.00 p.m.

FREEDOM OF INFORMATION (NO. 2) BILL

[SEVENTH DAY]

Order read for resuming adjourned debate on question [April 30, 1999]:

That the bill be now read a second time.

Question again proposed.

Mr. Barendra Sinanan (*San Fernando West*): Mr. Speaker, on Friday last when we met I was quoting from a document put out by Trinidad and Tobago Transparency International stating their comments on the Freedom of Information Bill. While the comments are lengthy I think they are sufficiently important to have same placed on the record so I will continue where I left off quoting from the document.

“Untrammelled access to information by the public, is a necessity in the fight against corruption.

In particular:

(i) Transparency International (TI) works on the assumption that transparency and openness act as automatic control mechanisms to reduce corrupt actions in bureaucracies.

(ii) TI's central policy is that sustainable standards to reduce corruption can only be created and sustained through the active involvement of civil society, since governments and the private sector cannot effectively reform themselves from within.

In order for civil society to perform its function of monitoring governments, it must have access to information about these activities.

The T&T FoI Bill 1999 is particularly concerned about defining, in detail, various classes of information that are exempt.

However, corruption is one of the most spectacular kinds of mismanagement which is facilitated by the lack of transparency. As Martin and Feldman state in their study, ‘Access to Information in Developing Countries’; ‘...often, in a practical sense, access to information means getting the information the government does not want you to have.’

Restricting information a priori according to classes, with the exception of governmental deliberations and personal information (narrowly defined), may turn out to be a means of hiding information which may not be in the interest of the public authorities to have published, but may be in the public's interest.

A policy for the T&T's FoIA should therefore include:

(i) The principle that the right to information in a basic right as incorporated in the European Convention of Human Rights, Article 10.

This follows as a corollary from the right to freedom of expression and political participation as enshrined in our Constitution and the Universal Declaration of Human Rights.

(ii) Freedom of access to all information should be the rule, and provisions of secrecy of documents should be the exception, and must be justified on a case-by-case basis.

The above makes sense when it is realised that public administrators are there to serve the public interest, and they should be accountable to the public; i.e. access to information on their activities must be allowed.

When the access is denied, this must be justified in terms of public interest they serve...

The T&T FoI Bill 1999, also provides an appeal via the High Court.

However, the Bill is so written, that the decisions which can be appealed are limited, and there is no relief from the high financial burden traditionally associated with these legal proceedings, to say nothing of the time delays.

Any judicial procedure will make pronouncements according to the provisions of the Act.

Hence the Act has to be open enough to include having the refusal of any request for information by an authority, subject to review without any caveats built in as to what classes of information can be requested e.g. Section 10."

They give an example here of such intent.

"The present Bill specifically denies access to the internal working documents and confidential documents from ministers to the public authorities.

To allow this in the Act, is to frustrate the process of establishing transparency and accountability.

The internal working documents and ministerial instructions to authorities arguably represent the most formative stage of the decision-making process, during which civil society can have the most influence on decision-making.

This is also the stage at which corrupt influences on decision-making take place.

These documents must be available for public scrutiny once the process is completed.

Freedom of Information (No. 2) Bill
[MR. SINANAN]

Friday, July 09, 1999

The T&T FoI Bill 1999 exempts ICN or NBN from the provisions of the Act, in that the company is not required, under the Act, to give access to the public to material it has obtained or produced for broadcast.

The over-riding concern here, is whether the release of this information is in the public interest, or whether disclosure will harm the public interest.

Thus, a total blanket exemption on information of this type, held by the authority, is unwarranted in the spirit of the public's right to information.

Further, the jurisdiction of the Act should not only extend to the ICN or NBN, but to all the broadcasting stations since, in effect, they carry out functions of a public nature and, in many ways, have an imbalance of power over the public...

In conclusion, the T&T FoI Bill 1999, is a proposal for a set of laws that masquerade under the title freedom of information.

From the outset, the Bill mis-understood the fundamental reason for such an Act, which is really to confirm the right to information, as a corollary to the constitutional guarantee of freedom of expression and political participation.

The tenor of the Bill is opposite to that which is emerging in the world where information is free to the public except on a case by case basis for the state has to show otherwise.

In the present Bill with its number of caveats that limit the court, and the sheer expense of engaging in court proceedings, the state has become, in effect, the final arbiter of what is the public interest; public scrutiny of government and its accountability go out the window."

Now I took time to put this into the record, Mr. Speaker, because I endorsed everything that is said here by Transparency International. It is a body that is not politic and which looks after the interest of citizens.

I now wish to go through the Bill clause by clause and the first clause I wish to refer to is 3(1) dealing with the object of the Bill. It states:

"The object of this Act is to extend...the right of members of the public to access to information in the possession of public authorities by—

- (a) making available to the public information about the operations of public authorities and, in particular, ensuring that rules and practices affecting

members of the public in their dealings with public authorities are readily available to persons affected by those rules and practices; and

(b) creating a general right of access to information in documentary form.”

Now the question has to be asked whether these rules and practices referred to in clause 3(1) (a) exist or do these rules and practices now have to be developed and reduced into writing? If that is the case, as the Bill suggests they have to be, then that will take time. In other words, this Bill that we are debating this afternoon will take some time before it is assented to by the President. It will take an extremely long time for the Minister charged with the responsibility to get this information. Rules and practices and information in a documentary form will take time to determine.

When one looks at the definition of “document”, Mr. Speaker, one will see:

“‘document’ means information recorded in any form, whether printed or on tape or film or by electronic means or otherwise and includes any map, diagram, photograph, film...”

et cetera. We are all familiar with government departments and the way they keep records. There is a multitude of documents in government departments and the filing system leaves much to be desired. Just look, Mr. Speaker, at the situation in the Registry here and you will see what I mean. Recently we had a situation where files at the Ministry of Education were misplaced. We have had a whole computer at the Ministry of Finance disappear. So here it is we are talking about all these different forms of documents and there are no proper areas to store these documents.

There are documents here, for instance they talk about video-tape, film, microfilm, most of which will have to be stored in an air-conditioned environment. I am not sure whether most Ministries, Government departments and public authorities have an air-conditioned environment in which to store these documents and certainly at the end of the working day, even if the departments do have it, the air-conditioning must be continued in order to preserve the life of these documents. There again, Mr. Speaker, is a cost to that because it costs money to run the electricity on a 24-hour basis.

The document here refers to computers and whilst the Minister of Information laid a paper indicating the status of the Government departments on Y2K, I myself, and I think also the general public—we are not convinced—[*Interruption*]

Mr. Speaker: May I appeal to hon. Members to carry on that conversation either behind the Chair or outside. It is not right that a Member should be on his legs and you are meeting like this.

Mr. B. Sinanan: Yes, Mr. Speaker, so whilst the Minister did make a statement on the Y2K situation, I do not think the public is convinced that the Government and its various departments are quite ready for the Y2K problem.

In this definition of “document” it speaks of tapes and we have had, within the recent past, information being released through a tape which was made available for the President to pass on to the Attorney General, the Prime Minister, the Minister of National Security and, I think, the Director of Public Prosecutions. Whilst we are in this bacchanal season where men lose their reason, I think this is a classic case of normally sober people losing sight of what was important and the material thing that that tape suggested that should have happened.

It is not a question of whether the tape determined the innocence or guilt of Sankeralli. It had nothing to do with that. The fact of the matter remains that a tape was produced, the jury and the judge are the ones who should determine whether a person is guilty or not and that did not happen.

Mr. Speaker: No, with the greatest deference, I would appeal to the Member not to go into the facts of issues like that. One may talk generally about tapes but I do not think it is right to particularize issues like that and open up debate so that it will continue in a certain vein. I have no problem with you talking about tapes generally, but to particularize—I want you to be general and not particularize.

Mr. B. Sinanan: I will abide by your ruling, Mr. Speaker. All I would say to close off my point on that is simply, what happened on that occasion was that I know we are attempting to establish a Caribbean Court of Appeal. It would appear that the Court of Appeal already sat in this same Red House.

2.15 p.m.

I am continuing on the definition of “document”. For how long would these documents be stored? There is a part in the Bill under “exemption” that speaks about information from the Cabinet, one can get that information after 10 years. Government departments do have a multitude of documents that they store: would there be a time limit on the retention of documents? The Bill does not say that. The Bill does not address whether documents would be kept for a minimum of 10 or 15 years, or whatever. Perhaps the Attorney General can look into that. I think

there must be some time limit otherwise they would run out of space to store all these documents.

Clause 3(a) also has the effect of including provisions dealing with the Service Commissions and what the Constitution Bill would not address with the Service Commissions, this Freedom of Information (No. 2) Bill has done.

Clause 7(1) states:

“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—”

Mr. Speaker, eight things that have to be published are listed here:

- (i) a statement setting out the particulars of the organisation and functions of the public authority...particulars of any arrangement that exists for consultation...
- (ii) a statement of the categories of documents...”

and so forth.

When you say, “as soon as practicable after the commencement of this Act,” what do you mean? “As soon as practicable” could mean anything. Again, I am suggesting that a time limit should be put on all of this. I know that, firstly, the information has to be compiled by the Minister of Information, and that may take some time. But if we do not put a time limit on this then it could very well mean that this Bill would not become implementable in the near future. The Government, as I said, should put a time limit. Also, when one looks at all of these things that have to be done under Part II, there is a tremendous cost. When we look at what is happening: cane farmers and sugar workers cannot be paid; teachers cannot get their bonds, and money seems to be a problem, today, we ask ourselves, from where would the money come? Would the Minister of Finance lease sufficient resources to allow the appropriate Minister to implement this section of the Bill?

Mr. Speaker, clause 7B (4) of the Bill talks about “Where a statement has been published in accordance with subsection (1), the Minister shall promptly give reasons...” Again, what does that mean in terms of time? Throughout the Bill one sees references to 10, 21 and 30 days, but when there are expressions like “as soon

as practicable” and “shall promptly give reasons”, I think the Bill should be consistent in having a time limit.

Clause 8(2) states:

“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; and
 - (ii) with the approval of the Minister, cause to be published in the *Gazette* and in a daily newspaper circulating in Trinidad and Tobago, a statement (which may be in the form of an index) specifying the documents that are, at the time of preparation of the statement, so available and the place or places where copies may be inspected and may be purchased; and
- (b) during twelve months after the publication of the first statement under paragraph (a) and thereafter at intervals of twelve months, with the approval of the Minister cause to be published in the *Gazette* and in a daily Trinidad newspaper circulating in Trinidad and Tobago...”

Mr. Speaker, I think there is a newspaper in Tobago called the *Tobago News*. Why leave out the *Tobago News*? I continue to quote:

“...statements bringing up to date the information contained in the previous statement or statements.”

Now, Mr. Speaker, this section says the Minister can determine what documents can be published. So that if the Minister does not want a particular document to be made available to the public, that document is not made available to the public, and this is, to me, a flaw in the Bill.

We talk here about clauses 7, 8 and 9. They are only good to the extent that they can be implemented and, as I said, the Minister can prevent them from being implemented simply because he can refuse a document which he dislikes published, or there is a tremendous cost in publishing these documents. We have not heard any of the speakers from the Government side articulate this point about the training of the people. The Bill talks about a “designated officer”. People would have to be trained in the different public authorities to respond and to

implement this piece of legislation. I do not know whether there is any training of these designated officers. Again, if there is training, there is a cost involved.

I move to clause 10 which, again, is not a bad clause but there is a difficulty in terms of the time. It talks about 21 days and there are different time limits which are not consistent. Clause 10 also says that if information comes within a period of the first publication, and the information comes after the publication one has to wait for a whole year. I do not see the necessity for waiting a whole year, if money is not a problem; the information can be published before the next statement is published.

Section 13(2) states:

“A request shall identify the official document, or provide sufficient information to enable the designated officer of the public authority, or an employee of the public authority who is familiar with the relevant documents, to identify the document with reasonable effort.”

Mr. Speaker, what about a document that does not exist? Well, if it does exist, the Minister does not want it to be published. Then there is the cost of the Bill which provides for judicial review. Although there is the avenue of judicial review, there is a cost to that and, to me, the whole purpose of this Bill is defeated if the Government insists on costs in a case of judicial review, where the applicant wins. We have all been to government departments at some time or the other and when the Bill talks about the “designated officer” identifying the document with reasonable effort, to me, that is one of the biggest jokes in this Bill.

When we go to government departments, by and large, the treatment one gets from public officers is not up to standard, so I would like to hear from the Minister of Public Information what is happening in the public service with respect to training of public officers.

2.25 p.m.

Clause 15, Mr. Speaker, is particularly important. It states:

“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.”

When we read this clause, one makes a request of the public authority and there is no time limit within which the public authority has to respond. It talks

Freedom of Information (No. 2) Bill
[MR. SINANAN]

Friday, July 09, 1999

about them taking reasonable steps to notify an applicant of the approval or refusal. For example, one makes a request to the public authority and they will respond within 30 days to say, “Yes, your request is approved” or “No, your request is denied”. It does not say that the information would be had in 30 days. I would like the Attorney General to look at clause 15, in particular.

I wish to emphasize that clause 15 deals with notification of approval or refusal. One makes a request within 30 days, or not less than 30 days, and the public authority is mandated to say yes or no. It does not give a time within which one will get that information. So, the public authority can take whatever time it deems fit to give this information.

[MR. DEPUTY SPEAKER *in the Chair*]

When we look at the amendments to clause 17(4) they talk about if one does not get the information in seven days:

“Notwithstanding subsection (2), where a public authority fails to give an applicant access to an official document within seven working days of the payment of the relevant fee pursuant to section 16(1)(c), the applicant shall, in addition to access to the official document requested, be entitled to a refund of the fee paid.”

Mr. Deputy Speaker, it appears to me that based on the past history of the operation of Government departments, the Government would have a lot of refunds to pay, and I hope the money is available to pay when people make their requests for refunds.

Clause 17(5) talks about the cost of making these documents available. Again, we know now that with privatization of the postal services, TT Post is going to charge the Government money. I saw an article in the newspapers where the TT Post is not going to start charging the Government until some time in October and we know that rates have gone up. Again, it is a question of money. When we look at it, who determines the cost? We have the cost of postage, the time it takes to get the document, the cost of producing the document, and if the document is too costly to produce or to have the applicant pay, then the whole purpose of the Bill is defeated.

When we look at clause 18(4)(a), Mr. Deputy Speaker, it says:

“If the form of access requested by the applicant

- (a) would interfere unreasonably with the operations of the public authority; access in that form shall be refused...”

So, apart from all the exemptions they have, what this is saying is if the form of access requested by the applicant would interfere unreasonably with the operations of the public authority, access in that form shall be refused, but access may be given in another form.

This is a means, as my colleague says, of preventing the information from becoming public. It defeats the whole purpose of the Bill. It is like clause 21 which says:

“A public authority dealing with a request may refuse to grant access to documents in accordance with the request, without having caused the processing of the request to have been undertaken, 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.”

To me, this is more potent than the entire clause dealing with the exemptions because anybody requesting information which the Government or relevant Minister thinks inappropriate or embarrassing to the Government can rely on clause 21. All the person has to say is that it will cost too much money and it would divert the resources of the Ministry to provide this information.

Here we are seeing, long before we come to the clause dealing with exemptions, a whole avenue or list of clauses which provide the Government with the means of preventing information being accessible to the public. It is a dangerous clause and it should be removed.

When we look at clause 21(2) it says:

“Subject to subsection (3) but without limiting the matters to which a public authority may have regard in deciding whether to refuse under subsection (1) to grant access to the documents to which the request relates, the public authority is to have regard to the resources that would have to be used.”

In other words, the Government department will have regard to the resources and they will have to prioritize, and I do not think that the Government will be keen on giving information that would be damaging to themselves, so this whole clause 21 defeats the entire purpose of the Bill.

Freedom of Information (No. 2) Bill
[MR. SINANAN]

Friday, July 09, 1999

Clause 26 says:

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

Mr. Deputy Speaker, who determines whether the document would be contrary to the public interest? Is it the Minister? We have had examples in the past where we have had documents that are of the public interest being denied. I need not go through, but we had the Deyalsingh report. That was of public interest and it was denied. The Soodhoo report was of public interest and it was denied. We had a report on NFM and that was denied.

What really is the point if somebody there can determine that a document will not be disclosed if it is against the public interest? And who is determining that? The same people who would be embarrassed by releasing the information would easily say that this is against the public interest and they are not releasing it. So, the whole purpose, as Transparency International has said, is really to hide information. It is not really in the context of what is happening throughout the world in terms of giving information to the public.

I remember reading an article on the House of Commons where the House of Commons is now debating the cost of implementing the freedom of information in the United Kingdom—and the Bill has not even been passed. There is a tremendous cost attached to implementing this Bill. I am not convinced, and I do not think the public is convinced, that the Government would channel the necessary financial resources to make this Bill workable.

In clause 26, Mr. Deputy Speaker, when we look at what is against the public interest, I am surprised that we do not have a clause here dealing with libel, because when we look lower down in the clause, they can attack anybody and get away scot-free. To me, this is a licence to libel and slander people without recourse.

At clause 36, who will determine the accuracy of the information? Is it the designated officer? Is it the Minister? As Transparency International says, when we look at clause 37 it defeats the whole purpose of the Bill.

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

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

Question put and agreed to.

Mr. Barendra Sinanan: Mr. Deputy Speaker, look at clause 37—Broadcasting information. That, again, defeats the whole purpose of the Bill. Look at clause 38(1):

“Where access to a document has been given in accordance with the requirements of this Act or in good faith in the belief that it was required to be given in accordance with this Act—

(a) no action...may be brought...”

As I said, this is a licence for designated officers and Ministers to libel people and those who are libelled or slandered will have no recourse. This entire clause dealing with removing the right of a slandered or libelled person from recourse should be deleted. It defeats the whole purpose of the Bill.

While clause 39 talks about one's right to judicial review, again, we have seen that these cases of judicial review cost money. We cannot expect the average citizen to go to court seeking information and then he is saddled with a huge bill for costs. It defeats the whole purpose of the Bill. Clause 40 says that the Bill should be laid. Should the Bill be laid, or should it be debated?

Mr. Deputy Speaker, information in the hands of people who disseminate it is very important, and the information must be very accurate. We have had recently one Government Minister—I think it is the Minister of Works and Transport—spending a whole lot of money in Caparo fixing the river and he said that flooding would be a thing of the past. Now, we see that the whole place is being flooded. Information! When he makes a statement like that, that is information to the public which is relying on that information.

The Minister of Public Utilities said he is going to fix the problem in three weeks. Well, I hope he has the assistance of the Member for Pointe-a-Pierre, because it would appear that the Member for Pointe-a-Pierre seems to be a Mr. Fix-it, or so he claims. We see the Minister of Local Government running some sort of competition with the Minister of Works and Transport, and I would not venture to say who is ahead of whom, but I would imagine that Members on the Government side know who is doing a better job than the other. Perhaps both of them are doing a par job.

Mr. Deputy Speaker, again, information. Last night the Prime Minister was questioning TTUTA about why they are insisting on more than one book per subject. TTUTA is not saying that, but here it is that the Prime Minister is getting a

Freedom of Information (No. 2) Bill
[MR. SINANAN]

Friday, July 09, 1999

lot of airtime on the radio and in the newspapers putting forward information that is not accurate. He is misrepresenting TTUTA's position. TTUTA's position talks about the fact that they do not like the idea of the same book. They are not against one book. It is the same book that they have difficulty with. It is published. They put out a whole big article in the *Sunday Express* of July 4, 1999 and the position of TTUTA is set forth here with clarity.

In this season of bacchanal, Members of Parliament lose their reason. The Prime Minister goes there and is making all these statements. What he says, people will listen to and the press will publish. He is inferring that TTUTA wants to have more than one textbook and they did not say that.

2.40 p.m.

They talk about their one-book policy.

“Both TTUTA and the Textbook Evaluation Committee agreed that there should be one book per subject. This policy has been in effect since last year.”

It is all here.

“The idea of one book per subject has resulted in a reduction of the cost of books to parents and also a lowering of the school books. This should not mean the same book per subject for all schools.”

And that is what TTUTA is about. They are against the same book. They are not saying that one must have more than one book, it is the same book.

Mr. Deputy Speaker, the point I am making is this: information given by public figures, ministers or whoever, must be accurate. Because people will go out and believe that this is true, and it is not true. It is like the case of old age pensions. Yes, the old age pension went up to \$620, but what was not said was if one is in receipt of national insurance, one is limited to \$620. One cannot have national insurance and old age pension to exceed the \$620.

So you see, information must be accurate. Information in the hands of this Government so far, to me, has not been accurate. I am not sure whether this Government can implement the provisions of this Bill. As I said before, long before one reaches the exemptions part of the Bill, there are certain sections in this Bill which are wholly unworkable; they are more dangerous than the exemptions.

Mr. Deputy Speaker, I will take my seat now. I am sure we cannot support this Bill in the form in which it is being presented.

I thank you very much for your attention.

The Minister of Local Government (Hon. Dhanraj Singh): Mr. Deputy Speaker, I stand here this afternoon in support of this Bill. Firstly, let me compliment the Attorney General on bringing this Bill to the Parliament.

The objects of this Bill are really (1), making available to the public information about the operations of public authorities; and (2), creating a general right of access to information in documentary form.

Mr. Deputy Speaker, as I sat here and listened to the Member of Parliament for San Fernando West, I feel it is my right to respond to some of the statements made here. He spoke about the issue of TTUTA and the textbooks. As you know, there was a textbook committee which looked at the issue of textbooks and it is good to see that everybody is buying into the idea of one textbook per subject. *[Desk thumping]* That is the most important point. Finally, we are getting the idea across that school children should have one textbook per subject.

Mr. Hart: That is “dotishness”, boy. Check the Principals' Association. Check TTUTA.

Hon. D. Singh: But, how did the Ministry of Education come up with one textbook per subject for all schools? You see, it was done through a poll of all the school principals. The school principals were written to and asked to identify which one of the school books they would want and, based on the most popular school book per subject, a list was compiled. The Ministry of Education recommended the most popular school books which the principals of the schools chose. *[Desk thumping]* It is good to know they now recognize that one textbook per subject is the way to go. The information is there. We are not hiding that information.

Mr. Hart: Which one of “allyuh” grow up on one textbook?

Hon. D. Singh. They are making all kinds of statements here, but let us talk about the Bill.

Mr. Hart: “Dhanraj ain't go to school for no long time, he work in his father sawmill”.

Hon. D. Singh: Mr. Deputy Speaker, the Opposition has launched an attack on this Bill on the basis that the Government is trying to stifle information, saying that this is a UNC secret Bill. This Bill is designed to open up the public authorities for scrutiny by the public. The Opposition does not have the moral

Freedom of Information (No. 2) Bill
[HON. D. SINGH]

Friday, July 09, 1999

authority to say that this Government is trying to hide things. What did the Opposition do to release information to the public?

I have a particular problem in my constituency. Everyday, my constituency office is bombarded with people who have made applications for jobs in the public service. Some of those applications date 1970—1974, 1980 and 1981. These people have been denied information about what has happened with their applications. With this Bill, I see that for the first time people would have information as to what has happened with their applications.

I must compliment the Attorney General for bringing this Bill here. The lack of transparency in the operation of the public service commission has had a tremendous impact on many of the constituents of Pointe-a-Pierre.

This Bill creates a legal right to obtain information and people would have recourse to get information for the first time. I am glad that the Attorney General has followed the English system in bringing this legislation before this House.

This Bill creates an avenue for information and the Opposition is saying that we are stifling information, but in all our operations we have taken steps to make this Government's operations more transparent. Take, for example, the Unemployment Relief Programme (URP), the very nature of the URP where we have transformed the URP and broken it up into several smaller segments; information is readily available. Only recently the Auditor General went down into the URP and for the first time the Auditor General's Department was able to access information in the URP department. [*Desk thumping*] Before, we could never get any information about the URP because it was centralized and everything was done helter skelter; there was no proper record keeping. This Government has done everything to make our operations transparent.

Only yesterday we opened the Tent City Mall. A budget of \$8 million was allocated for the construction of this mall and we did build that facility for \$8 million. The books are there to show it. So all this talk about corruption and what have you, Government has been very transparent in its dealings. So, when they come and talk willy-nilly about corruption, why do they not say that out in the public so we can deal with them?

[MR. SPEAKER *in the Chair*]

There are several other issues. For example, in the operations at the Ministry, we take care to make sure that all our projects are completed within budgeted

time. When they ask for information here in the Parliament, we bring correct information for them. So this Government is about providing correct information and this Bill puts in place a legal framework to obtain information in Trinidad and Tobago.

So, I wish to compliment the Attorney General and the Government again for bringing this Bill here and I stand in support of this Bill.

Thank you.

Mr. Kenneth Valley (*Diego Martin Central*): Mr. Speaker, I was about to say that you missed the very important contribution of my colleague from San Fernando West, but I am aware that in your chamber you can hear the proceedings of the Parliament.

Mr. Speaker: For the sake of the record, just in case the record does not have it right, I was here for three-quarters of the speech.

Mr. K. Valley: No problem, Mr. Speaker, I take that back. Really, the significant point I wanted to make is that my colleague from San Fernando West examined the Bill clause by clause and the conclusion is clear, that this Bill before the House is a farce.

One simply has to look at clause 21 of the Bill to see clearly that after writing a Bill of some 45 pages, that one clause nullifies everything that is said in the Bill. Clause 21 says quite clearly that a public authority can refuse to give information, and would permit the refusal of a request on the grounds that:

“(1) ...the work involved in processing the request would substantially and unreasonably divert the resources of the public authority from its other operations.”

That alone suggests to me that the Bill is, in fact, a farce.

When we look at the objective of the Bill as stated in clause 3, especially 3(1)(b), it states:

“(b) creating a general right of access to information in documentary form in the possession of public authorities limited only by exceptions and exemptions necessary for the protection of essential public interests and the private and business affairs of persons in respect of whom information is collected and held by public authorities.”

Freedom of Information (No. 2) Bill
[MR. VALLEY]

Friday, July 09, 1999

We note that does not include the right of the public authority to refuse information simply because the information requested is too much or what have you. But clause 21 makes that extremely clear.

In my view, especially given the information that has come into my possession, the whole purpose of this Bill is to allow the Government to legalize propaganda using ICN; that, to me, is the sole purpose of this Bill.

In 1994 when the Government—which was then in Opposition—brought a Private Members' Bill on this issue, it was the present Attorney General who informed the House that, "Listen, the right to information is already implied in our Constitution, quoting Article 19 of the United Nations Universal Declaration of Human Rights. He stated that:

"...the right to freedom of opinion and expression includes the right to seek, receive and impart information and ideas. So, one sees that even under the Universal Declaration of Human Rights, that there is a commitment taken by this Government to give effect to the spirit of fundamental human right to the freedom of expression and the freedom of the press.

In other words, that there is an implied right in our Constitution at present with respect to freedom of information. He continued, Mr. Speaker, that that right can be protected through the media or mechanism of the judicial review.

2.55 p.m.

Mr. Speaker, you would know also that governments in the past—I am sorry the Government was unable to answer the question today—traditionally refused to go after citizens for cost in constitutional cases; for example, in cases for judicial review relating to matters of this type. So that where one has the protection of judicial review, one's cost would be simply that of one's lawyer, but in this environment, even though the Bill provides for appeal to the High Court in certain situations, we now live in an environment where the state is demanding costs from private citizens. If that is so, then the right of appeal to the High Court is really of no effect. Because if an individual were to request information and it is refused for whatever reason at the state agency, and the individual decides to go for judicial review to the High Court and he loses, then he may have to pay cost to the state nullifying the whole effect of the provision in the legislation.

Mr. Speaker, if there is some information that has come into my possession, it is clear what the Government intends to do via this legislation is provide an

environment where it can feed the public with misinformation. You are aware that some months ago we started a debate on the Constitution (Amdt.) (No. 3) Bill which attempts to have the service commissions report to parliamentary committees and more than that, to file reports to the Prime Minister by October 1 of each year. You would recall also that six of our more eminent citizens objected to that legislation. I want to tell you that when this Government was faced with the objections of these individuals: two former Presidents, a sitting Chief Justice, a former Chief Justice—they ran to a public relations agency and fed the public with misinformation, all done in our committee room here on February 26.

I quote a bit from Minutes of some of these meetings on February 25, 1999:

“The Client...met...to give an inclination of the Government’s interest in having the Agency...”

That is the public relations firm.

“...devise a strategy to ‘damage control’ an existing situation arising out of the Constitution (Amendment) (No. 3) Bill...”

Mr. Speaker: If you are quoting from a document you should—

Mr. K. Valley: Should I read the whole thing?

Mr. Speaker: The practice is in referring to documents, one needs to identify them.

Mr. K. Valley: No problem, Mr. Speaker.

Dr. Griffith: Mr. Speaker, could I get the name and title of that document from which the Member is reading?

Mr. Speaker: That is being taken care of in terms of identifying the document.

Mr. K. Valley: I would put the whole thing into the record. The letter head is:

“Valdez & Torry

Advertising Limited

7 Alcazar Street, St. Clair, Port of Spain.

It is dated March 1, 1999 and signed by Nylah Ali, Public Relations Manager. It refers to a meeting of February 25.

Freedom of Information (No. 2) Bill
[MR. VALLEY]

Friday, July 09, 1999

“CLIENT: The Honourable Dr. Rupert Griffith
Minister of Information, Communications,
Training and Distance Learning
VENUE: Office of the Minister of Information, Communications, Training
and Distance Learning—Level 20, Financial Complex
PRESENT: Hon. Dr. Rupert Griffith
Mr. Roy Rique
Mr. Steven Valdez
Ms. Cheryl Lala
Ms. Nylah Ali
(CONFERENCE CALL): The Honourable Basdeo Panday, Prime Minister of
Trinidad and Tobago
The Honourable Ramesh L. Maharaj, Attorney
General”

I am quoting from the document.

“February 25, 1999

The Client through his representative Mr. Roy Rique, Assistant Director of Information at the Information Division, met with the Agency represented by C. Lala and N. Ali on Thursday, February 25, 1999, at the Agency to give an indication of the Government’s interest in having the Agency devise a strategy to ‘damage control’ an existing situation arising out of the Constitution (Amendment) (No. 3) Bill 1998, Section 66A.

Mr. Rique briefly outlined the misconceptions surrounding the insertion of Section 66A and informed the Agency that Minister Griffith would like a follow-up meeting on Friday, February 26, 1999, at his office. The Agency gave preliminary verbal responses to Mr. Rique on damage control methods that could possibly be used to redress the situation including the liberal use of vox pop interviews with ‘people-on-the-street’.

February 26, 1999

At the follow-up meeting on Friday, Minister Griffith provided a thorough Brief to the Agency...

He explained...that the parent Bill was not before the Parliament at this time and that Parliament was adjourned in order to effect a Public Relations strategy as a forerunner to the Amendment/Clause insertion.”

Do you remember Parliament was adjourned? Mr. Speaker, taxpayers’ money, Freedom of Information.

“He emphasised that the parent Bill was not before the Parliament at this time and that Parliament was adjourned in order to effect a Public Relations strategy as a forerunner to the Amendment/Clause insertion.

...He added that the Cabinet had agreed that there should be an effective Public Relations campaign to lay the groundwork for the presentation of the Bill.

Attorney General Maharaj echoed his colleague’s Brief...He too saw the need for an advertising campaign to transmit the right messages to the public.”

Wait till you see the messages.

“Prime Minister Panday opined that the government’s message was not being communicated and that it was important for a Public Relations campaign to be effected in ‘simple terms’. He suggested that a ‘series of approaches...including public meetings’ and asked that an ‘attractive programme be designed’. He said he would be willing to give his opinion on such a proposal by Monday if it was forwarded to him over the weekend.”

Mr. Speaker, this document continues and indicated that in fact the programme was developed.

“March 1, 1999

Contact was received from Minister Ganga Singh who gave his approval to the proposal and stressed the need for immediate action on the project.”

He was then acting as Attorney General.

“Contact was received from Minister Griffith who indicated that the Prime Minister, the Attorney General and himself had all given their approval and the Agency was instructed to proceed with the proposal presented.”

Hear the proposal, Mr. Speaker. Public Relations Campaign, it is a subtle campaign. There was a public relations and image building. Here are the eight elements of the “National Campaign”:

Freedom of Information (No. 2) Bill
[MR. VALLEY]

Friday, July 09, 1999

- “Programming Letters to the Editor”

Nice word for planting, “eh”. When you take up the newspaper and look at the letters page, you think that ordinary citizens are writing in and expressing their views, you do not know that they are programming letters to the editor.

Hon. Member: That is the PNM strategy.

Mr. K. Valley: PNM strategy, this is not PNM strategy. I continue:

- “Programming News Stories and Feature Articles”

This morning when I picked up the *Newsday* and I saw an article about Minister Baksh having such a good time in the East/West Corridor I shook my head and laughed.

- “Programming Opinions by columnists
- Programming call-in opinions on talk shows in the electronic media”

Hear this one:

- “Programming results on opinion polls conducted.”

Do you understand, Mr. Speaker, that is how they are spending taxpayers’ money. Talking about freedom of information, it is misinformation they want to feed all of us in Trinidad and Tobago.

Understand, Mr. Speaker, the point is made that there is a general right to information. One could have judicial review and while, at present, there are no restrictions, it is left for the court to decide. *[Interruption]*

Mr. Speaker: Would the hon. Minister of Planning and Development just lower the newspaper please.

Mr. K. Valley: Mr. Speaker, I was making the point that at present, there is that right to information and given that right, if one is denied, one may go to the High Court and make a case. He can either get it, or the court may say he does not have a right so there are no constraints. With this legislation and the exemptions within it, the Parliament would then be telling the court these are your bounds. That is why the concept of a Freedom of Information Act is a misnomer. In effect, what you have is an Official Secrets Act and only the British call it correctly. It is an Official Secrets Act that is what it is. There is a general right and one simply has to look at the fact that of some 150 countries in the world, there are merely

about a dozen of them with freedom of information legislation so it is clear that this Government's intention is to put certain constraints on our ability to get information, and when one looks at the legislation, one is at a doubt whether the committee such as the Public Accounts Committee can obtain information required to do its work.

If one looks at the legislation very closely, one sees that doubt exists where the information critical to the proper functioning of the Public Accounts Committee and Public Accounts (Enterprises) Committee would be available after this legislation is passed. At least it appears that public officials cannot provide us with that information.

The last thing I spoke about was programming results and opinion polls conducted because within a week in the newspapers, one saw three different polling results. I do not know how many of them were programmed. The first one said it was 56/12, a day later it was supposed to be 56/27, the following day it was supposed to be 49/37. I could tell them as a fact, by Monday it is going to be about 30/70 you wait and watch because that is not programming, that is actual human beings going out there to stain their fingers.

3.10 p.m.

We continue, Mr. Speaker:

- "Targeting panellists for television and radio debates.
- Selecting speakers for news and current affairs programmes—CCN TV6's 'Morning Edition', ICN's 'Issues Live', FM 102, ICN & TBC radio programmes.
- Programming a survey poll"

Not doing, or conducting, but programming. What they are really doing is programming results.

Then there was the "Ground Campaign":

- "Producing pamphlets and flyers for mass distribution".

Nobody saw this public relations firm—Information Division—and they claim that they were doing their own thing. But this is what this Government is doing, feeding misinformation. Mr. Speaker, when there is a government that is acting in this manner, is it any wonder that the country says there can be no trust in this Government?

Mr. Speaker, about two weeks ago I saw a little newspaper article saying that the International Monetary Fund (IMF) gave a thumbs up to the economy of Trinidad and Tobago. I said to myself, "IMF, that staff is going mad; something has to be going wrong!" So I went on the Internet to see what I could find. I was able to pull down from the Internet the Trinidad and Tobago staff report before consultation, and unlike the programmed information—I can lay this in the House, whatever the House wishes—let me give you some headlines of what this document said, after you cut away the diplomacy in the language. The document, on page 5, said that there was a widening, worsening, weakening of the fiscal position since 1996/1998. It started with the background, that the fiscal position has weakened from 1996—1998; Current account balance has shifted from surplus into substantial deficits amounting to some 10 per cent of GDP over the last two years. On the interest rate they commented that right now in Trinidad and Tobago we have high, real interest rates and that is caused by excess borrowing by the Government from the Central Bank. They now owe the Central Bank some \$1.5 billion.

The IMF said that the Government has fixed the ceiling at \$6.30 on the exchange rate, and that, from time to time, they have been cueing to commercial banks to get foreign exchange. They advised that this situation would not work. But we see this report, a programmed news article, that the IMF said thumbs up. Mr. Speaker, while the Minister of Finance at the time of the budget told us that the growth for 1998 was some 5 per cent, the IMF said that there was a slowing down in the rate of growth, in 1998 it was 3.25 per cent, rather than the 5 per cent projected by the Government, and there is rising inflation. Of course, if you have that amount of excess liquidity, there must be rising inflation. *[Interruption]* It must cause rising inflation. Ask any economist; if you have excess liquidity, it must cause rising inflation.

Mr. Sudama: No wonder they moved you out of the Ministry of Finance.

Mr. K. Valley: Ask the economists and the Member for Tobago East, whether excess liquidity would not lead to rising inflation.

The IMF is saying that there is now heavy reliance by the Central Government on borrowing from the Central Bank, in other words, they are printing money, \$1.5 billion. Mr. Speaker, you know our National Gas Company which has always been making a lot of money; in 1998, the National Gas Company, our flagship, ran a large deficit. Caroni (1975) Limited continues to accumulate large debts. I

remember in 1992 we wrote off \$2.1 billion in Caroni's debt. The only bright spot in the report was when it commended that unemployment fell to just over 14 per cent, but as all of us know, while it was around 14 per cent at the end of the year, by the end of the first quarter in 1999 it started to climb once more. The direction is obvious, there would be increasing unemployment.

Mr. Speaker, the IMF said that the Government, since May, was supposed to come to this Parliament to increase its limits under the Act which allows them to borrow, so that it could repay the Central Bank. When it owes the Central Bank \$1.5 billion, in spite of what my colleague from Oropouche says, it is monetizing their situation and the adjustments must be in rising prices, higher imports and, perhaps, marginal growth, for increased liquidity. That is first year economics. I am not coming here to teach him economics. *[Interruption]* We are having rising unemployment.

Mr. Speaker, I want to tell you some of the things the population of Trinidad and Tobago can look out for after this Local Government Election on Monday. Perhaps that is why they brought it early, because it is blood and sand afterwards. Let me give you an idea concerning the options facing the Government as seen by the International Monetary Fund. Understand this, Mr. Speaker: May has gone, there has been no Bill before the Parliament. I think it is on the Order Paper, as a matter of fact. It has been on the Order Paper for quite some time, but rather than debating that the Leader of the House is setting his own agenda. I think it is somewhere here, not to increase the Government's ability to borrow, but that was supposed to be completed since May so that they can repay the Central Bank, and it is not being done.

The IMF said that given the situation there are about six options facing the Government, and it is not either or. These are the things it said have to be done: one, sale of state companies—Trinidad Cement Limited, \$110 million they expect to get there; National Flour Mills, \$168.6 million; and the Trinidad Nitrogen Company, \$300 million. These sales are planned for the third and fourth quarters of the fiscal year. We have just entered the final quarter of the fiscal year and I am not hearing anything about any planning. Nobody has come to this Parliament and informed the national community that this is the plan of the Government. One expects that we will just get up one morning and hear that there was some deal in the dead of night, and NFM gone, TCL gone, Trinidad Nitrogen gone. Mr. Speaker, everybody knows that I am not against divestment, but I say two things: one, it must not be used to finance current expenditure and, secondly, there must be a planned approach.

We continue, Mr. Speaker—the first option is the sale of assets. The second option they are saying is higher utility rates, especially for electricity; as Sprangalang would say, "Pressure!" Higher utility rates! It is all there in the IMF report. They are hitting everybody; it is the businessman and the small man. In our legislation if a company incurs a loss, that loss is allowed to be carried forward indefinitely, until the company makes a profit. The IMF is telling the Government, "Listen, that is too attractive, you need money and revenue; and to get revenue you have to restrict that loss-carried-forward provision.

Mr. Speaker, the next point, on the newspaper I saw an ad saying that the Government has reduced taxes and removed VAT from basic foodstuff. First of all, when I saw that ad I had to jog my memory because I thought that was done by the National Alliance for Reconstruction government way back when we brought in VAT legislation, I was in the Senate at the time. So I went back and found that in 1996 the government removed VAT on cheese, corned beef, curry, fresh butter, macaroni, sardines, smoked herring, yeast and baking powder. That is what they are talking about. [*Interruption*]

Let me tell you what is happening after this Local Government Election, because the IMF has told them clearly that they have to broaden the application of the value added tax by removing zero-rated items and abolishing exemptions. While they boast now about doing that [*Interruption*—not on food, I am giving you three months.

Mr. Speaker, the next one is increasing taxes on imports. You know that we import quite a lot of stuff, well, to raise revenue, because they need revenue. Do you know why they need revenue? Understand that by the end of this fiscal year, a point my colleague has been making, this Government would have spent almost \$47 billion. Remember that they used to be making a lot of noise and saying that the People's National Movement, in the oil-boom years, spent \$60 billion over a 10-year period, and they were asking what the PNM did. We can point to Point Lisas and the Hall of Justice and all these things. I am asking the national community through you, Mr. Speaker, what can we really point to and say that this Government has spent over \$47 billion on over this period?

Some \$100 million gone on the airport, \$30 million gone on rice, a set of money gone on InnCogen and so forth, and that is why the Government needs money now because it has wasted our funds, and now the citizens of Trinidad and Tobago would be called upon to pay via increased electricity bills, duties on

imports and all types of other things. But they would not come—talking about freedom of information—the Minister of Finance is not here. They tell him he has to come with a revised budget, but he is not here to tell us about that. He would not come here to tell us about that, because he and his colleagues are busy providing misinformation to the public, taking our money to pay a public relations firm to lie to us—I do not think that is a parliamentary word, Mr. Speaker—to tell untruths to the people of Trinidad and Tobago. That is what we have.

There is another one, they are planning also to raise taxes on gasoline, that is the sixth one. [*Interruption*] I am just telling you because it is coming. They want to get this out of the way to come and hit us after they have wasted our funds over the last three-year period.

Mr. Sudama: What did you do in 34 years?

Mr. K. Valley: Mr. Speaker, my central thesis is that freedom of information is enshrined in our Constitution, one already has that right. When you attempt to legislate freedom of information, in fact, what you do is restrict it and, therefore, the Freedom of Information Bill is, in fact, a misnomer.

I was making the point that of the 150 countries of the world there are nearly a dozen or so with freedom of information legislation. I am just looking for that information, it ought to be somewhere here—[*Interruption*]

Miss Nicholson: Is Yugoslavia one of them?

Mr. K. Valley: No, I do not think so. Canada, the United States—if you look at any of the legislation you would see a whole list of exemptions.

At present, in the United Kingdom they are talking about freedom of legislation. Right now they operate under a code, and last year they introduced in the House of Lords a bill dealing with freedom of information. This bill was subject to so much criticism at the time, that the general feeling now in the United Kingdom is that the code which exists is much better and should continue to exist for some time to come.

Mr. Speaker, it appears that in the drafting of our own legislation, the Government depended quite liberally on the United Kingdom legislation.

3.25 p.m.

The problem, however, is that they failed to include some of the key provisions. In the United Kingdom legislation, for example, there is the concept of

Freedom of Information (No. 2) Bill
[MR. VALLEY]

Friday, July 09, 1999

the Information Commissioner sitting between the official and the High Court. In other words, if one is refused information, one can seek the protection of the Information Commissioner rather than incurring costs and so forth in going to the High Court. There is no such provision in our legislation. What it says is that any public official can simply say no and, given that he says no, one then has to find the funds necessary, if one is so determined, to go to the High Court. If one loses that appeal, because the Attorney General brings down his high-cost lawyer friends from the United Kingdom, then there might be a certain liability making a nonsense of the whole legislation.

So that, given the performance of this Government, one sees clearly that their intention is not honourable. You would note—I have just found it—the countries with so called freedom of information legislation are the USA, Canada, Sweden, Australia, New Zealand, Norway, Ireland, Denmark, Finland, France, Greece and The Netherlands. The Commonwealth countries in that bunch, Mr. Speaker, number merely two, Canada and Australia. No one can say that it is the norm to have freedom of information legislation because, in democracies, freedom of information is implied in our laws and the central thesis is that it is there already.

We have argued that in 1994; our attempt to legislate such legislation is restrictive in that it sets constraints, while the courts at present would have to use their own judgment in determining whether this information—one would have to prove a case. The Government would have to say, “We cannot provide this information for reasons, A, B or C”. If this legislation is passed no longer would they be under that obligation. Simply, they would say that it is provided in the law. In my own case, Mr. Speaker, and speaking for those of us on this side, we prefer the existing situation where we request information and, if it is not given, we have the right to judicial review. I thank you, Mr. Speaker.

The Minister of Labour and Co-operatives (Hon. Harry Partap): Mr. Speaker, I thank you for allowing me the opportunity to join this debate on 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. I want to join with Members on this side in congratulating our Attorney General for bringing this Bill to Parliament. I regard this as a very important Bill and I am sure the country regards it as such, and I think deep in the hearts of those opposite they also want to support it but because of pique they do not want to do it. They feel that they should have done it and not us. But they could not do it, Mr. Speaker.

I may as well preface my remarks this afternoon with a categorical statement that I fully support the contents of this Bill and I do so principally because of the commitment in the legislation to allow members of the public access to information about the operations of public authorities and, in particular, ensuring that rules and practices affecting members of the public in their dealings with public authorities are readily available to persons so affected. This Bill also creates the right of access to information in documentary form, in the possession of public authorities. There are limits, of course, and the limits are that there are exceptions and exemptions as contained in the Bill.

Mr. Speaker, I am a bit surprised that those on the opposite side see so many problems with the Bill and I am wondering if they are really seeing problems or they are trying merely to inject into the debate some measure of doubt so that the public will get the wrong information. They are accustomed to spreading misinformation and I fear that they are trying to do that again and they may be covering up something. Why is the Opposition against people having access to information? Why are those opposite opposed to free access to information? That is what the Bill does. Is the Opposition afraid that access to information would expose deeds committed in time past? I do not know.

What I will tell you is that it was my dream as a journalist to have access to information from public authorities when I was there. However, we could not access information from public authorities and I am sure that, as I understand it, my journalist friends would welcome a Freedom of Information Bill. In fact, I believe and I verily believe that they will have no opposition to this Bill. The opposition comes from those who own the media because they have a vested interest. [*Interruption*]

The Member should not walk out, he should stay because I was a journalist during the period 1986 to 1991 when I used to write a column in the *Express* and, Mr. Speaker, during the period 1986 to 1991, there were several attempts to silence me and to stop me from writing. If the *Express* is fair and if the *Express*—well, of course, the editor at the time is no longer there; the general manager, of course, is no longer there—I can call his name, Mr. Owen Baptiste, a very good man, a very good journalist—and during 1986 to 1991 I know several attempts were made to prevent me from writing my column. [*Interruption*] Of course it was by a combination of the PNM and those people at the time. But, in fairness to the *Express*, they did not succumb.

Mr. Speaker, the Freedom of Information Bill will allow journalists and the public in general to have access to information that one cannot get from public authorities. As a journalist, as I said, it was extremely difficult to get public authorities to answer one's queries. People were aggrieved but they had no recourse because the PNM used to keep everything very close to their chests during their time and there was a reason for that. The reason for that is because they did not want exposed, information on the kind of corruption that they were harbouring. Do you know how many reporters wanted to investigate things like Lock Joint and Lockheed and the Twin Towers in Toronto? They could not get the information.

This Bill is offering that kind of openness [*Desk thumping*] and they do not want it because they know what would happen. I know they are worried about what would happen because all that "ole" talk about trying to stain the UNC with corruption will just fall back on them so they do not want that exposed. We are willing to put this forward so they could investigate us. It will be open for them to investigate us. Why are they preventing it?

Mr. Speaker, the Member for Diego Martin Central seems to forget that this Bill creates a legal right for people to access information. I want you to understand that, you know. The Member, in his contribution, spoke about a public relations programme and he read from a document. What is wrong with running a public relations programme? You all did it. You had a special committee to write letters to the editor. Do you think we do not know that? Ask Muriel. She will tell you about it. [*Interruption*] Oh, you want to know who Muriel is. I will tell you who Muriel is. I do not know if you remembered but the PNM, using taxpayers' money, had brought down a Canadian public relations consultant attached to the office of the Prime Minister, the Member for San Fernando East, and it still lost the election [*Desk thumping*] and it will lose again [*Desk thumping*] and Monday will be "a next set" of beating. [*Desk thumping*].

Hon. Member: That will be the end of Valley.

Mr. H. Partap: Well, Tuesday he is gone. But, Mr. Speaker, if the press is not printing accurate facts and is printing biased information about the Government, I think that the Government is entitled to have a programme to combat that misrepresentation. [*Desk thumping*]. What is wrong with that? I see nothing wrong with that. Let me tell you, I think the Government has a right and the Government is entitled to get opinions on the best way to communicate a

message. I see nothing wrong in that. [*Interruption*] As the Attorney General says, that is responsible Government. That is what we should be doing. So, Mr. Speaker, I do not know what the Member for Diego Martin Central had in mind but it is not surprising, really, that the Opposition is against this Bill.

3.40 p.m.

Under this Bill the people of Trinidad and Tobago would have the right to get the information, even about previous governments. That is what the Member for Diego Martin Central is afraid of, because, Mr. Speaker, consultancy contracts with BWIA could also be under investigation. I do not know, there may be somebody opposite benefiting from it. The Acker deal which is supposed to be the best deal: they may want to know more about that. The public would be able to get information about the official records on unemployment that the public authorities have. Right now we are getting a little problem with some of the ministries.

For example, some of the workers at the Ministry of Labour and Co-operatives want to set up this Human Resource Information System so we can know, at the touch of a button, how many workers are there; where they are and what they are doing. And we need the hard information, but public servants are afraid, because everything used to be very close to their chest. They do not want to throw out any information to anybody. Even information about themselves which would benefit them, they keep it very close to them. This Bill provides some kind of protection to the public outside.

The Member for Diego Martin Central, in fact, raised the question in this honourable House that we squandered money. He has the temerity to stand here and tell us that we are squandering money. Mr. Speaker, through you, I want to ask him: What about the \$60 billion that this country had when they were in office, and for 34 years there were people who still could not get water. Our Minister of Public Utilities, at this stage, is now delivering water to all parts of the country. [*Desk thumping*] A PNM councillor in Moruga is now trying to incite the people. They did not provide water for them in 34 years, when they were in office, \$60 billion, but now he wants to incite them into saying, “no water, call for water!” The Minister is soon going to be pumping water there. They would have pipes down there.

You go up to Mayaro and another PNM councillor, Mr. Pierre—he is no longer a councillor—tried to mobilize a few people, burning tyres in the road because he

knew that the Minister of Public Utilities was about to start a pipeline project. He knew that! But that is what the Member for Toco/Manzanilla always does. He goes there and says, “we want that” knowing full well that within a week or two this Government is going to start the project. Cheap kind of politics! They could not have provided this country with basic amenities but they want people to support them. They would get a shock of their lives, come Monday.

Mr. Speaker, if you travel to South Trinidad you will see the massive piping projects that this Government is doing, and I am merely responding to the Member for Diego Martin Central who says that we are squandering money. If you go up to the east coast—Mr. Speaker, I invite you to come across there because my constituency straddles part of the beaches across there—you will see the fine bridges that have been built. That is where the money gone! We have built five bridges and these bridges were temporary for 25 years! They are now being rebuilt. They have provided access to the eastern seaboard, providing-communication transportation links on the east coast.

I want to address a few aspects of this Bill to which, with the kind of misinformation coming from the other side, I thought I should simply just refer them. For example, the Member for Diego Martin Central has been looking at clause 21 which states that “A public authority...may refuse to grant access” in certain cases. Mr. Speaker, certain information that is strategic, that is vital to, maybe, national security, Cabinet information and so forth; *[Interruption]* What is wrong with the authority saying that one cannot have access to this kind of information? I do not see anything wrong with that.

Mr. Speaker, I want to deal, particularly, with clause 38 of the Bill, but I am quoting from clause 36: It states:

- “(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) In subsection (1), ‘inaccurate’ means incorrect, incomplete, misleading or not relevant to the purpose for which the document is held.”

I see nothing wrong with that. You are correcting the information if it is wrong.

- “(3) For the purpose of this section, information may be corrected by amending, supplementing or deleting it.”

What is wrong with that clause? I think that clause protects the individual.

Mr. Speaker, clause 37 states:

“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—

- (a) any part of the document which consists of information obtained in the course of making any programme or broadcast or discloses the source of any such information; or
- (b) any recording of images or sound which was made or obtained for the purpose of being broadcast.”

The Opposition is saying that information in the possession of the International Communications Network—which is a Government-owned radio and television station—that the reporter, the person who collates the report, must disclose his or her source of information, if requested to do so, and I am saying no—that must not happen.

3.50 p.m.

Mr. Speaker, it has been an old practice in the journalistic field that sources are protected, and we would like to maintain that. We want to protect the rights of the journalists, but if those opposite do not want that, perhaps they can bring an amendment to change it so that they could force a journalist to disclose his source. We are saying that, not because ICN is controlled and owned by the Government, and it is a public authority. It should be exempted so that the source of information can be protected. I feel that this Bill offers that kind of protection and this Bill, in itself, opens up information to the public. I want to stress that. It opens up information to the public. We on this side feel that the public has a right to know.

Our learned Attorney General brought several other pieces of legislation in previous times giving the public an opportunity to access information to question. My colleague, the Member for Pointe-a-Pierre, indicated that there are people in this country who applied for jobs in the public service and for 15—20 years they could not get a reply. We know that. We see them every day. They cannot get a reply. In some ministries—not now, not under this Government, but in Governments of the past—they would overlook people for promotion and those persons would have no recourse at all. What we are saying is that with this Bill

Freedom of Information (No. 2) Bill
[HON. H. PARTAP]

Friday, July 09, 1999

they can access information. They can call for the information and they would have to get it.

Mr. Speaker, I said I would make a brief intervention and I join with my colleagues on this side and urge those opposite to join us as well in passing this Bill. I lend my support and congratulate the Attorney General for quite an innovative way to provide people with information in this country. Thank you, Mr. Speaker. *[Desk thumping]*

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, may I express, on behalf of the Government, our thanks to the Opposition for their comments on this most important Bill which would empower individuals in Trinidad and Tobago to know what is happening in respect of information which affects their daily lives.

It is unfortunate, but not surprising, that the Opposition is not prepared to support this Bill. We expected that, but we believed that there may have been a change of heart in that they would recognize that this Bill would be an answer to constant allegations of corruption in that it could empower individuals, the media and the Opposition to have a statutory and enforceable legal right to compel the state to give information.

Mr. Speaker, we have heard a lot during the long time this debate has taken about how this Bill would be used to prevent information. At the present time, there is no established legal and enforceable right which would compel a Minister or a state department to give information which the state has. For example, let us say that the people of Laventille would like to know why the Minister of Works and Transport or the Minister of Local Government is not repairing their road but he is repairing other roads; this Bill would give the people of Laventille a right to get that information—a legal right. *[Interruption]* Mr. Speaker, they had their chance.

If an individual in Laventille is involved in an accident and the person is taken to the hospital and a medical report which the hospital has compiled would assist the individual to either file a case or to make representations for compensation, under the present law, the hospital, as happens all the time, would refuse persons medical reports. They then go to lawyers and lawyers have to try to beg and write letters and there is no legal obligation on the state authority to give that medical report. This Bill would create a legal right and an obligation on the state authority to give that information.

This has nothing to do with opinion. This has to do with facts. Let us say, for example, that in relation to a road, the Ministry would have to say why it is not doing X, Y, or Z from the information that it has. I would have thought that these are matters to empower individuals in a society to know about Government and what Government is doing for them. It can be extended. It is there in the Bill in black and white.

If a public servant believes that he or she is not being treated fairly by a commission, whether it is the Public Service Commission or whatever commission in relation to his or her employment, and he or she believes that for some reason there is something in his or her work file, employment record, which he or she ought to know, to see and to inspect, this Bill gives a right to that public servant to inspect that record and also to get information about that record.

This is a right which people have been fighting in different societies for years. It is regarded as a culmination of a recognition that those who occupy office do not occupy office for themselves. Those who occupy Government do not occupy those positions of Government for themselves. They occupy those positions, have that power and hold it in trust for the people who have given them that power. The whole new paradigm in governance is that governments must recognize that they have to empower people, and one of the ways it is recognized that they have to empower people is to provide institutions and mechanisms so that people would be able to be truly empowered.

The hon. Member for San Fernando West quoted from the local Transparency International group. As a matter of fact, I will come to that later as to what they have said, but Transparency International, worldwide—on the international level—has been asking that governments must pass freedom of information legislation. They must pass it if they truly want to empower people, and Transparency International has been advocating for Government to pass this kind of legislation.

Here it is in one breath, the hon. Member for San Fernando West is saying that I am quoting the local Transparency International group—and in fairness to him, he is not saying that he is supporting it, because from his contribution it seems to me that he is asking for certain amendments—but his party is saying that they are not prepared to support the Bill; they are against freedom of information. As a matter of fact, the hon. Member for Diego Martin Central, in his contribution, gave the impression that this legislation is not necessary.

Freedom of Information (No. 2) Bill
[HON. R. L. MAHARAJ]

Friday, July 09, 1999

Mr. Speaker, I have great difficulty in understanding what the Opposition would like a Government to do in order to empower people insofar as information is concerned. The hon. Member for Diego Martin Central read from a document which he considered very important for his contribution to this most important Bill, and he read from the document in the context that action was taken by the Government to have a public relations programme to deal with what the Government considered to be misinformation. This programme involved getting people to express their views to the editors and in call-in programmes, and for the Government to have a programme for educating the people in the society about the Bill—that Constitution (Amdt.) Bill—he found that totally unacceptable and improper.

Well, Mr. Speaker, let me put it on the record. A government has a duty to the public, and if a government believes—and if the people are unhappy about that, they have, at election time, to show their unhappiness, but a government is charged with that responsibility—that in any particular matter the public interest is not properly being served because of inaction or deliberate action—they are not properly informed about matters and matters are being distorted—the Government has a responsibility and a duty to create a programme in order for the message to be given to them and for them to understand about matters which affect the public interest and matters which affect their lives.

The matter he was talking about, Mr. Speaker, is a very important one. He was talking about a Constitution (Amdt.) Bill in which the Government was saying that this Bill would empower Members of Parliament, Opposition Members of Parliament to be able to give greater representation to their constituents and to the public because they would be able to have parliamentary committees to scrutinize Government and state agencies in respect of allegations of corruption or any matter; and the Opposition was not supporting it. Therefore, the Government believed that in the light of what was being printed, it needed to get the message to the population as to what the Bill was about and they would better understand what the Bill was about.

Yes, it involved the service commissions and it was the view of the Government that the message was not being given as to how this matter would not affect any fundamental rights to the Constitution and that it would mean that the service commissions, including the Judicial and Legal Service Commission, in its administrative capacity, must be accountable to the people.

4.05 p.m.

Yes, it also involved the service commissions and, it was the view of the Government that the message was not being given as to how this matter would not affect any fundamental rights in the Constitution, and that it would mean that a service commission—including the Judicial and Legal Service Commission—in its administrative capacity, must be accountable to the people. Certain positions were being taken in the media that the Judicial and Legal Service Commission, on its administrative basis, must not be accountable to anyone. We were saying that it was not in the public interest and we wanted that message to be given. So, what was wrong in that? But a lot of time was spent dealing with that.

Mr. Speaker, we heard from the Opposition, in their contributions, that there should not be the situation where people would have to go to a court of law if there is a refusal for the information, and there should be some tribunal or body which would prevent this from happening.

In presenting this Bill, I went through the history of this Bill, and a part of that history was that a Freedom of Information Bill was published for public comment. In that Bill which was published for public comment by this administration, before we reached this Bill, there were provisions for an Information Council and an Information Tribunal. The Bill had provided for an application to be made to an information council and the council would ensure that the information would be obtained and, if there was dissatisfaction, there would be an information tribunal.

I think the hon. Member for Tobago West may remember that this Bill was discussed throughout the country, even in Tobago. From the discussions, the view was taken that it would become too bureaucratic to have an information council and an information tribunal. The recommendations from the majority of the population in Trinidad and Tobago was that we should scrap the information council and the information tribunal, and what we should do is have a direct application to the department and if there is a refusal, a direct access to the court; that was the recommendation from the population. Based on that, the Bill was redrafted in the form in which it has been and when we come here with the Bill now, we are being told that this is wrong; do not have a situation where one would have to go directly to the court—have a middle position.

But may I say that there is one point which the hon. Member for Diego Martin Central made which, in fairness to him, I think is a very good point, which is, that there should be some mechanism even before one goes to court, and it may be that

Freedom of Information (No. 2) Bill
[HON. R. L. MAHARAJ]

Friday, July 09, 1999

that mechanism may prevent persons having to go to court. That has to do with some kind of information Ombudsman under the Bill. That is a provision of the English Bill and it is a provision which the Chief Parliamentary Counsel Department had looked at and had even drafted the proposed amendment to include that kind of mechanism. So that in fairness to him, I think that is a very good point and that is a point which the Government had decided it would include in the proposed amendment at the committee stage.

So that, we have been prepared, if there are suggestions to improve the Bill, to do so, because at the end of the day what the Government wants to do is be able to have a law which would work.

Mr. Speaker, in order for there to be no misunderstanding about this matter, although the Universal Declaration on Human Rights specifically speaks about the right to get information and the imparting of information, governments have not recognized that freedom of the press includes that. When I say governments have not recognized, I mean in a legal sense, because under previous administrations that had not been recognized. As a matter of fact, in Trinidad and Tobago, the legal position taken by the state, in cases in which that point was argued and which pronouncements were being asked for by the court, was that freedom of the press did not include the right to receive information. So that, under our set up, there is no decided case which, authoritatively, says that freedom of the press in Trinidad and Tobago includes a legal and enforceable right to get information.

That is why even under the Constitution, the press and the media cannot file a constitutional motion and say with confidence of success that they would be entitled, as a right, to get that information. Because, the courts in Trinidad and Tobago, the Caribbean, the Privy Council and the Commonwealth have not held that in relation to our Bill of Rights or a similar Bill of Rights. So that, under the present set up, neither the Constitution of Trinidad and Tobago nor any other law gives to an individual—*[Interruption]* I know what I said has a lot of authority, but I was in Opposition and I was not a judge.

Mr. Speaker, it seems as though the hon. Member for Diego Martin Central really does not understand these matters. One can express an opinion and, in respect of the law, the point I am making is that the legal position in Trinidad and Tobago from the decided cases up to today is to the effect that under the Constitution of Trinidad and Tobago, the freedom of the press does not include a right to get information.

Mr. Valley: I wonder if the hon. Member would give way, and if he would inform the House whether at that time in 1994 if he was aware of the legal provision when he gave that opinion that, in fact, one had that right.

Hon. R. L. Maharaj: Mr. Speaker, I now understand why the leader really would not like to have him and he is saying that if he leaves after the elections—

I spent so much time explaining that. I will explain it again. Under the Universal Declaration of Human Rights, the contention is argued from time to time, that because of the rights that are enshrined in the Universal Declaration of Human Rights, the freedom of the press involves the right of an individual to get information. But the Universal Declaration of Human Rights is an international document. It does not have a legal force in Trinidad and Tobago that one can enforce it in a court of law. Therefore, the position was being taken and has been taken from time to time, that if one construes our Constitution in Trinidad and Tobago, it would appear that the Constitution of Trinidad and Tobago, where it says “freedom of press”, “freedom of expression”, should also include—as he said—imply, a freedom to get information.

That is the position which even I argued as a lawyer in a court case. But, the courts in Trinidad and Tobago have not held that that right is implied, and we were trying to argue that and to get the courts to hold that, but the courts in Trinidad and Tobago—I should say the High Court—held it, and then it was reversed in the Court of Appeal. So the legal position in Trinidad and Tobago is that the freedom of the press does not imply the right of an individual to get information.

So Mr. Speaker, the present law in Trinidad and Tobago as decided by the courts on its interpretation of the law—and which we must take, unless it is set aside by another superior court—is that the freedom of expression and freedom of the press do not give a legal enforceable right to have information. Under the present law in Trinidad and Tobago—as I was at pains to explain, but I understand the Member for Diego Martin Central has a difficulty in understanding these matters—is that an individual cannot go to the courts and say that I am entitled to get information.

Mr. Valley: Mr. Speaker, if the Member would give way. What I want to know is, did the Member know all of this in 1994?

Hon. R. L. Maharaj: Mr. Speaker, that question does not deserve to be answered. He comes here, he has not prepared, he has not read his Bill, he comes

Freedom of Information (No. 2) Bill
[HON. R. L. MAHARAJ]

Friday, July 09, 1999

here talking about finance matters, does not talk on the Bill, he does not understand the Bill, but he is getting up to ask big questions. I was coming to this point. Look at what the Opposition has done. On an important measure like this, he comes here and he is talking about financial matters. Well if he wants that and he is sure about what he is saying, he can file a motion. But he does not want to file a motion, he wants to come here and relate misinformation on these matters.

Mr. Speaker, let us deal with this Bill. One of the major points made by the Opposition in this Bill was that the Bill protects information to be given by the National Broadcasting Station and that it is a very offensive thing, it must be deleted, it should not be there, it is suspicious, and the words used were anti-democratic, it is oppressive, it is dangerous. Mr. Speaker, let me explain that.

This Bill is to give to an individual the right to get information from the state or any public authority, not from a private individual. Where the state owns a radio or television station and the business of that station is to do matters relating to the media and involves journalism, if this Bill puts a provision that a journalist's source of information could be violated, then the state would be altering an established principle of the freedom of the press, that a journalist's source is protected and not even a judge can compel a journalist to give his or her source of information. What this Bill does is protect the journalist's source of information. So that, if Mr. 'A', who is employed at Trinidad and Tobago Television, writes a story which is very critical of a government and a government minister is annoyed about it; the minister says that he wants to know, "Who gave you that information?", the journalist can say, "I am not giving that information". This Freedom of Information Bill would not be able to compel the journalist employed with the state to give that information.

Now, I would have thought, since the Opposition always talks about importance of the freedom of the press, they would want to ensure that this well-established constitutional rule is protected, and they would not take the opportunity for cheap political gain to say that they would like this to be removed, because if we are going to remove that, then it would mean that the Government would have to alter a long list of established cases and principles on this point.

Mr. Speaker, for the record, as far back as 1893 in the case of *re: Bahamas Islands*, the Privy Council held that where an article was published, the court could not compel an editor to disclose the source of information or even the name of the author of the article. So, that established principle has been there and it has

been followed. As a matter of fact, in the case of *Goodwin and the United Kingdom*, 1996, No. 22 - European Human Rights Report at page 123, the European Court ruled that this is an important principle and cannot be violated even by a Government.

4.20 p.m.

Mr. Speaker, there are several other matters, and as a matter of fact, may I mention that when the United Kingdom had to consider passing its Contempt of Court Act in 1981, it expressly stated in that Act that no court may require a person to disclose, or is any person guilty of contempt of court for refusing to disclose the source of information contained in a publication for which he is responsible.

So that clause in the Bill is to protect the human and fundamental rights of journalists, persons who write stories, persons who are employed by the state in a capacity of being in a media company and to protect them from having to disclose either to a court, a Government, or anybody, the source of their information. There are many times a journalist may get a story and the information would be given on the basis that he does not disclose the source, but the information is correct and it is of public interest, therefore, the journalist must have that latitude in order to be able to write, and no Parliament should try to take that away.

As a matter of fact, this thing has developed that even where the journalist gets the information, he does not disclose the source, but he brings matters which turn out to be false; in spite of the fact the article is proven to be false, the journalist's source of information is protected and no one can compel him to give that information.

In the United States of America, if a judge makes an order, the person can say he is disobeying the order and it is a contempt of court, but in the English jurisdiction, that is not a contempt. It has been ruled that it is not a contempt and the person does not have to disclose the source of information. It can only be a contempt, obviously, if the court rules that the information you are asked to supply does not fall within the category of the source of information.

Mr. Speaker, that has been one of the major objections of this Bill and the question has been asked by the Member for Laventille East/Morvant. He stated that there is no need for legislation like this in Trinidad and Tobago and asked the question: what gave rise to the need for freedom of information legislation in Trinidad and Tobago? Is it because other countries have it? He said we should not

Freedom of Information (No. 2) Bill
[HON. R. L. MAHARAJ]

Friday, July 09, 1999

do it because other countries have it and today the hon. Member for Diego Martin Central stated that this Bill is patterned along the English Bill. That is not correct. As a matter of fact, when I opened the debate I showed it is patterned along the Australian model.

Mr. Speaker, it is not only England which is in the process of passing legislation like this, there are several Commonwealth countries. We have Canada, Australia, New Zealand, Belize and others and there are non-Commonwealth countries like the United States of America, Ireland, and Sweden.

Mr. Speaker, quite recently there was a Commonwealth Law Ministers Conference in Trinidad and Tobago and at that conference the question was discussed on the need for freedom of information legislation and there were law ministers with the authority from their respective Cabinets to make decisions, and one of the decisions which was made at that conference was that countries should take steps to enact freedom of information legislation. The Trinidad and Tobago legislation was looked at and it was considered that it effectively gives to the individual the right to freedom of information.

Mr. Speaker, the Commonwealth Law Ministers Conference also recognized that there must be exceptions to giving information and there must be exceptions, as mentioned, on the grounds of national security, and established exceptions. The exceptions which are in this Bill are exceptions which have been recognized in other pieces of legislation of other countries, so it is totally wrong to give the impression that this freedom of information concept is one which is anti-democratic. On the contrary, it is one to promote democracy, it is a concept to promote good governance. As a matter of fact, the World Bank, the IMF, the IADB and all international lending institutions are asking for countries to take steps to produce legislation which would give individuals greater access to state information. So the argument which has been produced that this Bill is anti-democratic is really not correct.

Mr. Speaker, the Member for Diego Martin East criticized clause 24 of the Bill which deals with Cabinet documents. Obviously, the Member did not know or understand clause 34 because let us take Australia for example. These documents which are Cabinet documents are also exempt, but we have a provision in our Bill that even though they are exempt, Cabinet has the authority to waive that exemption and produce it, and we also have the clause in our Bill that after a given time-frame, the information would be made available in any event.

More importantly, we have a provision in our Bill that if the Government says that a document is exempt, the court still has the power in the public's interest, notwithstanding the document is exempt, to order the production of the document. For example, if there are Cabinet documents in which it is thought there would be evidence of corruption, and even though the documents are exempt, under this Bill, the court has the power to order the production of the document, and if the High Court disagrees, one can go to the Court of Appeal and if one is not satisfied with the Court of Appeal, one can go to the Privy Council. So all this talk by the Opposition that this is a UNC Secret Bill is not correct.

As a matter of fact, the NAR in its manifesto in 1986 stated that if they got into office they would enact a Freedom of Information Bill. That was a high point of the campaign and unfortunately it was not enacted. Unfortunately, the PNM did not enact it, and my colleague from Tobago West, when she was in the Cabinet agreed that we should have such a Bill.

Miss Nicholson: Why are you bringing me into this?

Hon. R. L. Maharaj: She agreed to this Bill and it is unfortunate that she is not in agreement with it now. Mr. Speaker, this is not an issue for narrow, political gain. This is an issue which involves the lives of our people, and their betterment and I would ask Members not to allow political considerations to colour their actions in this matter.

ADJOURNMENT

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I am not complete with my submission, but I want to move the adjournment of the House.

Miss Nicholson: You are going to campaign. I want to see the Bill finished.

Hon. R. L. Maharaj: Mr. Speaker, I beg to move that this House do now adjourn to Friday, July 16, 1999 at 1.30 p.m.

May I announce on that day we would complete this Bill and also do Motion No. 2, Motion No. 3 and the Caribbean Investment Fund Bill. There are two short bills—the Evidence (Amdt.) Bill and the Mental Health Bill—which we would complete.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 4.30 p.m.

WRITTEN ANSWER TO QUESTION

The following question was asked by Mr. Kenneth Valley on behalf of Mr. F. Hinds:

**San Juan/Laventille Regional Corporation
(Paving and/or Repairing of Roads)**

- 70.** (a) Would the Minister indicate whether he has authorized the paving and/or repairing of roads under the purview of the San Juan/Laventille Regional Corporation and without the authority, consent or involvement of the said Corporation?
- (b) If the answer to (a) is affirmative, would the Minister name the roads so paved/repared and indicate the source of funds used for the work so done?

Pursuant to his reply to question 70, earlier in the proceedings, the Minister of Local Government (Hon. Dhanraj Singh) caused to be circulated to Members of the House the following:

- a) The Minister of Local Government did authorize the paving and/or repairing of roads under the purview of the San Juan/Laventille Regional Corporation. It is to be noted that the Ministry is the final player in the approval process and as such is not required to have the approval of any entity to ensure that remedial work is carried out on any Local Government infrastructure, including that under the jurisdiction of the San Juan/Laventille Regional Corporation.
- b) The Minister of Local Government directed that the following roads in the San Juan/Laventille Regional Corporation be paved with the assistance of neighbouring Corporations.

NAME OF STREET	SOURCE OF FUNDING
Abass Ali Road	Road Improvement Fund
El Socorro Extension No. 1	Road Improvement Fund

NAME OF STREET	SOURCE OF FUNDING
El Socorro Extension No. 2	Road Improvement Fund
Chankar Extension	Road Improvement Fund
Temple Street	Road Improvement Fund
Parry Street	Road Improvement Fund
Farouk Drive	Road Improvement Fund
Hosein Terrace	Road Improvement Fund
Don Miguel Extension	Road Improvement Fund
Raffique Hosein Trace	Road Improvement Fund
Patraj Road	Road Improvement Fund
Maryland Hill Road	Road Improvement Fund

This was done for three reasons:

- (i) The many complaints by the burgesses of the San Juan/Laventille Regional Corporation and the general public about the condition of the roads under the purview of the San Juan/Laventille Regional Corporation.
- (ii) The questionable use of funding on the part of the San Juan/Laventille Regional Corporation.
- (iii) The Ministry is the facilitating agency for all Municipal Corporations and therefore must assist the burgesses of Municipal Corporations that are in dire need. An example is the Maryland Hill Road project where citizens of all walks of life, including, the Member of Parliament for the area, Ms. Eulalie James, school children and teachers, were crying out to the Ministry for the road to be repaired. The Ministry of Local Government embraced the Maryland Hill Road as a special project to be completed under the Road Improvement Fund.