

*Leave of Absence**Friday, July 16, 1999***HOUSE OF REPRESENTATIVES***Friday, July 16, 1999*

The House met at 1.32 p.m.

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

**Mr. Speaker:** Honourable Members, I wish to advise that I have received communications from the Member for San Fernando West and the Member for Port of Spain North/St. Ann's West. The Member for San Fernando West is granted leave of absence from sittings of the House from July 14, 1999 to July 27, 1999 and the Member for Port of Spain North/St. Ann's West for today.

**PAPER LAID**

The Venture Capital Incentive Programme Annual Report—1998. [*The Minister of Finance (Hon. Brian Kuei Tung)*]

**ORAL ANSWERS TO QUESTIONS****Financial Rules****(Tobago House of Assembly)**

**73. Miss Pamela Nicholson** (*Tobago West*) asked the Minister of Finance:

- (a) Could the Minister state whether the Tobago House of Assembly submitted its Financial Rules for approval as required by section 52 of the Tobago House of Assembly Act, 1996 to the Government?
- (b) If the answer is in the affirmative, could the Minister inform this honourable House when these Financial Rules were received and why they have not been laid in Parliament as mandated by the said section 52 of the Tobago House of Assembly Act, 1996?
- (c) Further, could the Minister state what Financial Regulations are in operation in the Tobago House of Assembly, to ensure accountability, transparency and the prevention of corruption?

**The Minister of Finance (Sen. The Hon. Brian Kuei Tung):** Mr. Speaker the reply to question No. 73 is as follows:

- (a) The Tobago House of Assembly has submitted draft financial rules for approval by the President as required by section 52 of the Tobago House of Assembly Act No. 40 of 1996.
- (b) The draft financial rules prepared by the Tobago House of Assembly and adopted at its Plenary Sitting on January 30, 1997, were actually received by Cabinet on February 5, 1997. The President, in the exercise of his functions under section 52 of the Tobago House of Assembly Act, is required under the Constitution to act in accordance with the advice of Cabinet.

The draft rules were examined by a standing sub-committee of Cabinet which found that there appeared to be several deficiencies. The sub-committee, therefore, recommended that a technical committee be appointed to review the draft rules. The technical committee was appointed on August 12, 1997. In its Report dated January 31, 1999, the committee identified several areas of difficulty within the draft rules and made recommendations on the approach to be taken in order that the Tobago House of Assembly Financial Rules should be compatible with the existing legislation governing the operation of the financial system of the state.

It was also recognized that the Tobago House of Assembly Act needed to be amended and that this should be done before the Draft Financial Rules are laid in Parliament.

The Tobago House of Assembly has also made recommendations for the amendment of the Tobago House of Assembly Act, 1996. These recommendations are being considered along with the recommendations of the technical committee which was appointed to review the draft financial rules.

Mr. Speaker, one will be happy to know that several consultations have taken place with the Tobago House of Assembly and these are still ongoing.

- (c) The Financial Regulations in operation in the Tobago House of Assembly, to ensure accountability, transparency and the prevention of corruption, derive from the legislation governing the public sector of Trinidad and Tobago, of which the Tobago House of Assembly is part, namely:

- (i) The Constitution of the Republic of Trinidad and Tobago and the Exchequer and Audit Act and the Financial Regulations and Instructions made under it;
- (ii) Section 78(2) of the Tobago House of Assembly Act 1996, makes provision for the Tobago House of Assembly Financial Rules, 1990, to remain in force and apply to the Assembly with such modifications as are necessary for conformity with the Act until such time as Financial Rules made under section 52 of the Act come into force. *[Desk thumping]*

**Miss Nicholson:** Is the honourable Minister of Finance saying that it will take the sub-committee and the Cabinet almost three years to bring to this Parliament, the Financial Regulations for the Tobago House of Assembly?

**Sen. The Hon. B. Kuei Tung:** Mr. Speaker, I thought that I was as clear as daylight. I have given the whole background and explanation. I do not know if it makes any sense repeating myself. *[Interruption]*.

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

**Administrators  
(Tobago House of Assembly)**

**74. Miss Pamela Nicholson** (*Tobago West*) asked the Minister of Public Administration:

- (a) Could the Minister of Public Administration inform this House if he is aware that Administrators should be appointed to supervise the divisions of the Tobago House of Assembly?
- (b) Would the Minister state who is responsible for the appointment of these Administrators?
- (c) Is the Minister also aware that a number of persons have been assigned to serve as Administrators in the Tobago House of Assembly and could he inform this honourable House who appointed these persons?

**The Minister of Public Administration (Sen. The Hon. Wade Mark):** Mr. Speaker, the Minister is aware of provisions made at section 73 of the Tobago House of Assembly Act No. 40 of 1996 which state that:

“Each Division of the Assembly shall be under the supervision of an Administrator who shall be of a level no lower than that of a Chief Technical

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Officer and who shall be the Accounting Officer of the Division under his supervision.”

On May 6, 1999, Cabinet agreed to the creation of seven positions of Administrators in the Tobago House of Assembly, with effect from October 1, 1998 subject to the final classification thereof, by the Chief Personnel Officer.

The positions of Administrator form part of the Public Service. Consequently, the appointment of persons to the positions of Administrator must be made by the Public Service Commission, the body responsible for making appointments to offices within the public service in Trinidad and Tobago.

The Minister of Public Administration is not aware that a number of persons have been assigned to serve as Administrators in the Tobago House of Assembly. However, the Minister of Public Administration has received correspondence from the President of the Public Services Association, which states that certain appointments have been made in the positions of Administrator by the Chief Administrator. This matter is now receiving the attention of the Minister of Tobago Affairs and the Minister of Public Administration.

**1.40 p.m.**

**FREEDOM OF INFORMATION (NO. 2) BILL**

[EIGHTH DAY]

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

That the Bill be now read a second time.

*Question again proposed.*

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, as hon. Members would recall, when this matter was debated on the last occasion, I was pointing out how misguided the Opposition had been in their attitude towards the Bill. The Opposition had stated that it is opposed to this Freedom of Information Bill and I want to be able to show that the Opposition is opposed to openness.

Openness is fundamental to the political health of any modern state. This Freedom of Information Bill marks a watershed in the relationship between the Government and the people. At the present time, the existing law does not permit an individual to have a right to government-held information. The existing law, as a matter of fact, can promote secrecy in governance and it can prevent members of

the public from getting information as of right from government and other state institutions. So as it stands, individuals in Trinidad and Tobago do not have—

**Mr. Speaker:** Hon. Members, I appeal to you, could we please have some quiet. If it is necessary for Members to talk while other Members are talking, I ask you please to go behind the Chair, or go outside and do it. Please.

**Hon. R. L. Maharaj:** Thank you very much, Mr. Speaker.

I was saying, at the present time members of the public do not have an enforceable legal right to know about the affairs, but the PNM is opposed to any law to give the people that right. This is the third attempt made in the history of the Parliament to get the PNM to agree to a Freedom of Information Bill. The last Opposition, on two occasions, tried to get the then PNM administration to agree and it refused and, in Government, we are trying and they are objecting to it.

At last, there is a Government ready to give to the public their due and to trust the people with a legal right to have information about their affairs. This right is central to democracy and it is a right that has been denied the people of Trinidad and Tobago for too long a time. This Bill recognizes that there are matters of national security or personal privacy where information has to be protected. Government itself needs some section of its internal deliberations not to be exposed to information as a right. The Bill, therefore, strikes a proper balance between giving that right to members of the public—that is the right to information—and, at the same time, preserving national security interests and the right to privacy. So this Bill strikes a new balance with the scales now weighted in favour of openness.

It is significant to know that the Commonwealth recently recognized that countries which have not passed freedom of information legislation should do so. As a matter of fact, in 1980 at the Commonwealth Law Ministers Meeting in Barbados, the PNM administration supported the call of the Commonwealth for countries to enact freedom of information legislation; but the PNM administration did not do that. May I read from the recent communiqué of the meeting of Commonwealth Law Ministers which was held in Port of Spain in May, 1999. It states:

“Commonwealth Freedom of Information Principles.

Commonwealth law ministers recalled that at their meeting in Barbados in 1980 they emphasized that public participation in the democratic and

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governmental process was at its most meaningful when citizens had adequate access to official information.”

But the PNM is against that now, Mr. Speaker. Then it says:

“Benefits of Freedom of Information.

Freedom of information has many benefits: It facilitates public participation in public affairs by providing access to relevant information to the people who are then empowered to make informed choices and better exercise their democratic rights; it enhances the accountability of Government; it improves decision making; provides better information to elected representatives; enhances government’s credibility with its citizens and provides a powerful aide in the fight against corruption; and it is also a key livelihood and development issue, especially in situations of poverty and powerlessness.”

Mr. Speaker, the Commonwealth Freedom of Information Principles go on to say—and these principles are embodied in this Bill.

“Member countries should be encouraged to regard freedom of information as a legal and enforceable right.”

The Member for Diego Martin Central said in his contribution that this was not necessary in Trinidad and Tobago and they are not prepared to support it. It goes on:

“There should be a presumption in favour of disclosure and governments should promote the culture for openness.

The right of access to information may be subject to limited exemptions, but these should be narrowly drawn.

Government should maintain and preserve records.

Unprincipled decisions to refuse access to records and information should be subject to independent review.”

Mr. Speaker, we have all that in this Bill.

Now, we have heard many things from the Opposition which are totally false. For example, Members of the Opposition gave the impression in their contributions that this Bill would, in effect, prevent information from being given, when, in black and white for everybody to read, including the media. This Bill gives an enforceable right and it sets out in black and white that even though

information is regarded as exempt, there is an overriding policy that the public authority can disclose the information if it is found that the information would be in the public interest.

In clause 35, it says quite clearly:

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

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

So it is stated quite clearly in the Bill, although the Opposition spent day after day saying that this Bill would not be able to give authorities the right to give information. As a matter of fact, the Member for Diego Martin East said it is a UNC Secrecy Bill. How untrue!

Under this Bill, not only does it give the public authority that discretion in the public interest, this Bill provides that in addition to this, if anyone is dissatisfied with the public authority the person can go to the court and the court would be able to determine whether it is in the public interest. What better machinery does one want in order to determine whether information should be disclosed? If one puts it to a Minister they would say that is political interference. If one puts it to an information tribunal, the objection was that it is too bureaucratic. The people in the national consultation said they wanted it to go to court. We have put it there, but the Opposition is using any excuse not to support measures which would promote openness and fight corruption in public affairs.

Mr. Speaker, we have taken on board one of the criticisms of the Bill, the recommendation by the Opposition—both the Members of Parliament for La Brea and Diego Martin Central—that before this goes to court, there should be some machinery by which an investigation can be made. We have drafted an amendment to permit the Ombudsman to investigate the matter and to make recommendations to the public authority. *[Interruption]*

The Member for Tobago West is complaining, but I am saying, and I have the records here, the Member for Tobago West attended the Cabinet meetings on

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three occasions when this Bill was discussed and it was agreed to. So that, this is not a Bill for narrow political consideration. This is a Bill for the benefit of the people.

**Miss Nicholson:** Mr. Speaker, on a point of order.

**Mr. Speaker:** The section for the relevant Standing Order that is being infringed?

**Miss Nicholson:** Section 35, Sir.

**Mr. Speaker:** You want to change your mind about which section?

**Miss Nicholson:** Yes, Sir. Section 36(5).

**Mr. Speaker:** Overruled. Please continue.

**Hon. R. L. Maharaj:** Mr. Speaker, the Member for Tobago West agreed to this measure—

**Miss Nicholson:** I did not agree to that measure.

**Hon. R. L. Maharaj:** And the Member for Tobago West has come here now for narrow political considerations to say, “I am not supporting it”. Mr. Speaker, this shows how politics operates in Trinidad and Tobago.

**Miss Nicholson:** Mr. Speaker, that is improper.

**Hon. R. L. Maharaj:** Here it is the Opposition is aware that this Bill is in the public interest, but for narrow political considerations they are not prepared to support it.

**Miss Nicholson:** It is loaded with flaws.

**Mr. Speaker:** Could I please ask the Member for Diego Martin West not to continue along those lines?

**Hon. R. L. Maharaj:** I want to tell them that their supporters and the people who voted for them are supporting the measures of Government. *[Laughter]* For example, in the Diego Martin Corporation in the 1996 election, the PNM got 15,807 votes. In 1999, the PNM got 15,000—

**Mr. Speaker:** Order, please. With the greatest deference, Mr. Attorney General, I do not see the relevance of that in terms of your reply.

**Hon. R. L. Maharaj:** Mr. Speaker, what I am saying, however, is that their policy of objection to this Government is not finding favour with the people of



Trinidad and Tobago and, in their areas, the results show that they should reconsider their position.

**1.55 p.m.**

Mr. Speaker, let me deal with some of the matters which have been raised by the Member for Diego Martin West. The Member in his contribution stated, and I quote what he said in order to answer some of these matters:

“...it is unfortunate that the Attorney General has to go on a public political platform and try to use the demise of nine of our unfortunate citizens.”

in order to get support for his government. Saying that:

““The PNM knew that Dole Chadee killed 21 people and did nothing about it.””

He went on to say:

“...he gets up as a spokesman for the Government, providing information to the Government and says to the country that the PNM did not do anything about Dole Chadee. It was three times unlucky that Dole Chadee got hanged.”

Mr. Speaker, he went on to say:

“But worse than that, he knows that before he and his friends were in Government, the said Dole Chadee was arrested twice before by the state, through its machinery, and appeared before the courts and the PNM had no role in that. This political party had no role in that.

In the courts twice before he won his cases as a result of the midnight oil being burnt by whom?”

To which hon. Members on that side shouted:

**“Hon. Members: Couva South.”**

Mr. Speaker, it is unfortunate that the Member for Diego Martin West would use this debate to make those comments, but may I put it on record that if he considers that these persons were unfortunate citizens, he must see, and he is aware of the nature of the crimes which they committed, and he must also know that they were not unfortunate in that they got full due process of law and it is totally improper for him to allege that they are unfortunate.

He went further, Mr. Speaker. He gave the impression that the Attorney General at some stage in his career appeared on behalf of Dole Chadee, and

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although the Member for Barataria/San Juan has given that response, I want to put it on the record that the Member for Diego Martin West knows fully well that the Member for Couva South at no time appeared on behalf of Dole Chadee. [*Desk thumping*]

Mr. Speaker, why he says that they are unfortunate citizens is because the Member for Diego Martin West was protecting them at the fort in Piparo, that is why he said that. [*Desk thumping*]

**Dr. Rowley:** Rubbish.

**Hon. R. L. Maharaj:** Mr. Speaker, he talked about the Sankerali tape and he said:

“Let the record show, Mr. Speaker, that the Attorney General of Trinidad and Tobago, a provider of information, the person bringing this Bill to Parliament with lofty statements, was charged by the state of Trinidad and Tobago for conspiracy to commit murder. His position on that information was, ‘I dismiss that. It is an allegation. Blame the PNM’, and so forth. We know that that information, the file disappeared and the witness died. He would have us believe that because he said that there was no merit in the charge, we must accept that.”

Mr. Speaker, the Member for Diego Martin West knows that with respect to the charge, which the PNM instigated with respect to the Member for Couva South with conspiracy to murder, that matter was called up at the San Fernando Magistrate’s Court and the prosecution could not provide particulars as to when this alleged murder took place, when the alleged agreement took place—  
[*Interruption*]

**Mr. Speaker:** I would say to the Member for Diego Martin West that he made certain allegations and he knows that we do not play it like that. I am simply saying that the Attorney General is rebutting some of the things that you said. Surely, he has to be permitted to say it, and it is not really right that you should be shouting across the table to him while he is doing it. We are all entitled to hear what he says. I ask you please to desist.

**Hon. R. L. Maharaj:** Mr. Speaker, if he has evidence or any information to contradict what I say, he should bring it to the Parliament, or withdraw the allegations. As I was saying, the Member for Diego Martin West knows that when the charge was laid and the case was called up, the prosecution could not supply

particulars. They did not have any particulars. No file was missing. The case was called up at the San Fernando Magistrate's Court, the state was represented by Mr. Vernon De Lima and the case was dismissed, but he comes here and makes these allegations because he also knows the background of that charge.

At that time, I was going all over the country accusing him of being involved with Dole Chadee. I was saying that the PNM administration was involved in drugs. I was saying that the PNM was supporting the corruption and it would use parts of the police service in order to harass people as they had done before. So when the charges were laid, the PNM could not have supported them and evidence has shown now that the PNM knew, the Opposition knew, the then Prime Minister knew that Mr. Dole Chadee and his gang had committed 21 murders and did nothing about it.

Mr. Speaker, there was another set of charges which the PNM instigated. Let us see how the file disappeared in that matter. The other set of charges is where I attempted to expose the corruption of certain police officers. The PNM got a person who was involved in bank robbery, gave him \$500.00—Mr. Speaker, these matters came out in evidence as a matter of record—put him up at the Holiday Inn in order for him to lie. When he went to the court, he admitted he lied and the cases were dismissed by the magistrate and when legal proceedings were commenced against the state for damages, in order to show that the charges were concocted and the proceedings were in the bosom of the state, the file disappeared. *[Interruption]*

**Dr. Rowley:** Where is “Loaf”?

**Hon. R. L. Maharaj:** Mr. Speaker, it was “Loaf” who was employed by the Member for Diego Martin West—

**Dr. Rowley:** Mr. Speaker, I object to that. The joke has gone far enough now.

**Mr. Speaker:** I rule against it. You just asked, “where is ‘Loaf’”, and he was answering it. Would you continue, please. *[Desk thumping]*

**Hon. R. L. Maharaj:** Mr. Speaker, this gentleman called Mervyn Hall, otherwise known as “Loaf” was—

**Dr. Rowley:** Mr. Speaker, I rise on Standing Order 36(5). The Member has imputed that I have employed Mervyn Hall.

**Mr. Speaker:** I rule against it. Please continue.

**Hon. Member:** What!

*[Dr. Rowley walks out]*

**Hon. R. L. Maharaj:** This gentleman called Mervyn Hall who the PNM asked the police to pay \$500 a week, the records would show that he went to rob a grocery in Chaguanas and was shot by a policeman while robbing the grocery. An inquest was held and the coroner, Mr. Melville Baird, found that this man went to rob a grocery and was shot. That is the kind of recruit that the PNM had to harass people.

Mr. Speaker, the Member for Diego Martin West goes on in his contribution:

“However, I have a problem with the Attorney General trying to make political mileage out of a situation which any person of reason seeing information, not through this Bill or any gift from him, but seeing what happened this week, the question of the tape and the Attorney General gets up and he and his friends decide down in a room in this building that the man must lose his life without any further recourse, without his defence lawyer being informed that the tape exists. So when Sankeralli says he is innocent, dismiss him, but when Ramesh says, ‘I am innocent’, ‘Believe me.’ That is how they see information. At least Sankeralli’s case went to court and he was convicted and he was sentenced to hang.

If the Attorney General had any commitment to information being used in the proper way, our system provides for a Mercy Committee to examine all aspects and in the PNM—I know I speak for the PNM—we say a man or woman fighting for his life in this country under the laws in this country must be allowed to fight. But you see, Mr. Speaker, which of us in this Chamber on the Mercy Committee would have heard what is on that tape and not want to consider it? I am not saying what the outcome would have been.”

Mr. Speaker, for the purposes of the record, may I say that in respect of this tape, the record would show that the contents of the tape supported the prosecution’s case in the matter. It was not inconsistent in any way and based on that, according to the Constitution, the law had to be carried out. It is totally without foundation for the hon. Member for Diego Martin West to say that there was any irregular conduct in this matter.

**Mr. Manning:** Would the hon. Member consider that such a tape should have been the subject of some kind of judicial review, having regard to what was

involved, rather than to have been the subject of review by some other body that was extrajudicial?

**Hon. R. L. Maharaj:** Mr. Speaker, the record has shown that the Member for San Fernando East had this tape. He did not consider it necessary to pass it to the police or the Director of Public Prosecutions and—

**Mr. Manning:** Mr. Speaker, it was passed by the Chief of Defence Staff to the two other security agencies in the country, that is to say, the Special Branch and the OSS which is the co-ordinating body for drugs at the time. Those two agencies are the agencies which had the responsibility to report it and, therefore, all the information was available to the Attorney General and the authority. He knows that.

**Hon. R. L. Maharaj:** Mr. Speaker, I will answer his question and then deal with his comments. As I was saying, the Member for San Fernando East at the time he was Prime Minister had possession of the tape. He did not consider it necessary to pass it to the Director of Public Prosecutions who was responsible for prosecutions in the country. He did not consider it necessary to pass it to the Commissioner of Police who is the person under the laws to investigate crime. He passed it to two agencies which are concerned with intelligence and analysis.

On the fact that he asked whether it was necessary to have a judicial inquiry, the Constitution of Trinidad and Tobago provides that when a man is sentenced to hang, and subject to what the Mercy Committee says, the person should be executed unless there is some court case or some aspect to that.

### **2.10 p.m.**

When this matter came up, the facts clearly showed that there was no inconsistency. The facts have been published and nobody has been able to show any inconsistency. It would have been totally unlawful, unconstitutional and irresponsible for any government to stop an execution, when the stopping of that execution could have, in effect, frustrated the operation of the Constitution and the law. There was no basis for any enquiry, no basis for any judicial enquiry, no provision made for any enquiry in those circumstances. It was purely a matter for the Executive, and the Minister of National Security had that discretion.

Mr. Speaker, in respect of the comments which the Hon. Member for San Fernando East has made, I am very surprised that a Prime Minister of this country did not know the functions of the Commissioner of Police and the Director of

Public Prosecutions. The Special Branch is not involved in the investigation of crime. The Special Branch is involved in intelligence and other matters—not in the investigation of crime. The Strategic Services Agency is set up by statute—

**Mr. Manning:** Is that correct?

**Hon. R. L. Maharaj:**—and is not involved in the investigation of crime.

Mr. Speaker, the Strategic Services Agency (SSA) has been set up by statute, introduced by the last administration. That organization is not involved in the investigation of crime. The statute says exactly what it does. It analyzes. The two main functionaries which are involved in the investigation and prosecution of crimes are the Commissioner of Police and the Director of Public Prosecutions. The then Prime Minister decided not to send it to those persons, when, according to the facts, it quite clearly showed that the Dole Chadee gang had committed at least 21 murders in Trinidad and Tobago. He probably could give an explanation to the country why he did not want these people investigated, why he did not want them prosecuted, and why he did not want them convicted for those offences.

I think it was necessary for me to put on record, in some of these matters, the points which they have considered to make in relation to these matters as being relevant to this debate.

The other factor, of which a lot of heavy weather was made, was a factor that the Bill, in effect, would limit the information which could have been provided before. We are saying that under the Bill it does not do that. What we have done in order to make it crystal clear, in effect, was to introduce an amendment which would make it crystal clear that the Bill does not, in any way, take away the right to information which people had before. We also recognized, under the Bill, that there are certain matters under official secrets law, under the Standards Act and under the Income Tax Act in which information cannot be disclosed and we have made the Bill subject to those matters.

Why is it, therefore, that the Opposition is not prepared to support this Bill? The Opposition is saying it is not prepared to support this Bill because it is a “Secrecy Bill”. Mr. Speaker, I want to tell them that the Bill says in clear terms that it is an enforceable right to information. It says so very early in the Bill. An elementary school-child can understand it. If they do not want to support the Bill it would have to be for other reasons, not those reasons. It also says under the Bill, that the information would be given under two headings: one, that there will be an

obligation by the state, generally by the Government, generally to make information available. In that, there will be a statutory obligation for them to publish information from time to time, regardless of whether persons apply for it or not. The other limb would be that it gives an individual the right to get information.

Mr. Speaker, what it also does under Part II—many comments were made that it will be published in the *Gazette*. As a matter of fact, there are certain matters to be published in the *Gazette* and there are certain matters to be published in a daily newspaper. It is all there in black and white because these are matters for guidance of the public authorities. As a matter of fact, for the first time, there will be a situation where the public would know—from the publications in both the *Gazette* and the daily newspapers—what influences governments and public authorities in making decisions in matters which affect their lives.

This would also be a good machinery for the people to be able to assess whether there is corruption, misuse of office, or abuse of public office. This is an important tool for the population and especially the media to investigate and to have investigative journalism. Why is it that the Opposition, which complains so much about the right to get information, is opposing measures like these?

Mr. Speaker, the Bill in no way discriminates against stations. The Member for Diego Martin Central asked a most ridiculous question—with the greatest respect to him. He said, why is it that ICN does not have to supply information, but CCN would have to supply information? This is a Bill which affects the state. This is a Bill in order to get information from the state. CCN is not owned by the state. CCN is owned by private individuals. CCN is not owned by the state. Therefore, what we put in the Bill is a clause to protect the source of information of journalists who are employed at ICN.

In respect of one matter which the Hon. Member for Diego Martin West raised: he called the name of Mr. Francis Joseph as a reporter. He said he linked the tape and said that Mr. Francis Joseph is a lackey of the Attorney General. I find that also very unfortunate for the Hon. Member for Diego Martin West to say. As a matter of fact, most politicians, if not all, would have friends at the media, would know them very long. If because people are friendly or know people at the media, it means that one could make allegations against persons like that, it is very unfortunate. For example, I know that the Member for Diego Martin West is very friendly with Mr. Andy Johnson at the *Trinidad Guardian*. I know he talks to him. I know he tried to get him to print stories.

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If the *Trinidad Guardian* only has PNM stories, would I be justified in saying Mr. Johnson is a lackey of the Hon. Member for Diego Martin West? No, I would not say that. I would be more responsible than that. The fact of the matter is that Mr. Johnson may have his political leanings and may want to print three pages of matters on the PNM. That is the right of the press to do that. The population will determine whether it is a biased newspaper or not. It may be that the Hon. Member for Diego Martin West considers Mr. Johnson a lackey of him, because he talks to him and he could get him to print his stories.

If the Opposition has serious concerns about a Bill, let them come and say: “we do not want to support this Bill because of X, Y or Z clause. We would want to substitute, we would want to amend it”. After weeks of debate on such an important measure, I have not seen any constructive amendment submitted by the Opposition, with the exception of one in which they said there should be a role for the Ombudsman; and we have taken that on board.

I conclude by saying that this—as an important measure—transcends political differences. It should be a bipartisan issue, and it should not have any considerations with respect to politics. Even at this evening stage of the debate, I would ask the Opposition to reconsider its position and support the people of Trinidad and Tobago by empowering them: by giving them a tool to get government-held information; by giving them a tool which has been recognized by the international lending agencies, by the Commonwealth, by the United Nations that this is a necessary tool for people to be empowered to get government-held information, and for them to be able to do justice to the people of Trinidad and Tobago. No matter which government is in power, this would be a tool for the benefit of the people of Trinidad and Tobago. They must not allow history to record them; they must not leave a legacy in which the people would know that they voted against them in a measure like this.

Thank you very much, Mr. Speaker. I beg to move. [*Desk thumping*]

**2.20 p.m.**

*Question put and agreed to.*

*Bill accordingly read a second time.*

*Bill committed to a committee of the whole House.*

*House in committee.*



**Mr. Chairman:** Hon. Members, what you have before you are two sets of amendments that are proposed, both of which have been circulated by the Attorney General. I take it that you all have them.

*Clauses 1 and 2 ordered to stand part of the Bill.*

*Clause 3.*

*Question proposed,* That clause 3 stand part of the Bill.

**Mr. Maharaj:** Mr. Chairman, I beg to move that clause 3 be amended in terms of the circulated draft as follows:

Delete the words “as far as possible” occurring in subclauses (1) and (2).

*Question put and agreed to.*

*Clause 3, as amended, ordered to stand part of the Bill.*

*Clause 4.*

*Question proposed,* That clause 4 stand part of the Bill.

**Mr. Maharaj:** Mr. Chairman, I beg to move that clause 4 be amended in terms of the circulated draft as follows:

A. In the definition of—

(a) “exempt document”—

(i) delete the words “which, by virtue of a provision of” and substitute the words “referred to in”; and

(ii) delete the words “, is an exempt document” after the words “Part IV”;

(b) “public authority”, renumber paragraphs (c) to (j) as (d) to (k) respectively and insert the following new paragraph (c):

“(c) the Cabinet as constituted under the Constitution;”.

B. In the definition of “public authority” in paragraph (b), insert the words “, the Industrial Court, the Tax Appeal Board”, after the words “High Court”.

Basically, the draft is not only tidy, but it is also to make clear that it includes the Industrial Court and the Tax Appeal Board in which there will be exempted information, and it also makes sure that it says, “ the Cabinet as constituted under the Constitution”.

*Question put and agreed to.*

*Clause 4, as amended, ordered to stand part of the Bill.*

*Clause 5.*

*Question proposed, That clause 5 stand part of the Bill.*

**Mr. Maharaj:** Mr. Chairman, I beg to move that clause 5 be amended in terms of the supplemental circulated draft as follows:

Delete paragraph (b) of subsection (2) and substitute the following:

“(b) a registry or other office of the Court and the staff of such a registry or other office in their capacity as members of that staff in relation to those matters which relate to court administration, shall be regarded as part of a public authority.”

What it does is, it makes it quite clear that in respect of judicial functions one is not entitled to get information, but in respect of administration. The drafting was a bit hazy and, therefore, the Chief Parliamentary Counsel's department has made (b) clearer as stated above, and in respect of the judicial functions, it would not be a public authority.

*Question put and agreed to.*

*Clause 5, as amended, ordered to stand part of the Bill.*

*Clause 6 ordered to stand part of the Bill.*

*Clause 7.*

*Question proposed, That clause 7 stand part of the Bill.*

**Mr. Maharaj:** Mr. Chairman, I beg to move that clause 7 be amended in terms of the circulated draft as follows:

A. In subclause (2), insert the word “exempt” after the words “publication of” and delete from the word “that” to the words “exempt document”.

B. Delete subclause (3) and substitute the following clauses:

“(3) Where a public authority is created on or after the commencement of this Act, the public authority shall comply with subsection (1) as soon as practicable after its creation;

- (4) Where a statement has not been published in accordance with subsection (1) the Minister shall promptly give reasons, to be published in the *Gazette*, for the failure to publish.”.

*Question put and agreed to.*

*Clause 7, as amended, ordered to stand part of the Bill.*

*Clause 8 ordered to stand part of the Bill.*

*Clause 9.*

*Question proposed, That clause 9 stand part of the Bill.*

**Mr. Maharaj:** Mr. Chairman, I beg to move that clause 9 be amended in terms of the circulated draft as follows:

Delete the word “instructions” and substitute the words “policy directions”.

*Question put and agreed to.*

*Clause 9, as amended, ordered to stand part of the Bill.*

*Clause 10 ordered to stand part of the Bill.*

*Clause 11.*

*Question proposed, That clause 11 stand part of the Bill.*

**Mr. Maharaj:** Mr. Chairman, I beg to move that clause 11 be amended in terms of the circulated draft as follows:

In subsection (1) insert before the word “Subject” the words “Notwithstanding any law to the contrary and”.

*Question put and agreed to.*

*Clause 11, as amended, ordered to stand part of the Bill.*

*Clause 12 ordered to stand part of the Bill.*

*Clause 13.*

*Question proposed, That clause 13 stand part of the Bill.*

**Mr. Maharaj:** Mr. Chairman, I beg to move that clause 13 be amended in terms of the circulated draft as follows:

Insert after subclause (4) the following subclause (5):

“(5) An application for access to an official document held by a public authority referred to in section 4(j)(i) or (iii) shall be made to the Responsible Minister.”.

*Question put and agreed to.*

*Clause 13, as amended, ordered to stand part of the Bill.*

*Clauses 14 to 16 ordered to stand part of the Bill.*

*Clause 17.*

*Question proposed, That clause 17 stand part of the Bill.*

**Mr. Maharaj:** Mr. Chairman, I beg to move that clause 17 be amended in terms of the circulated draft as follows:

Insert after subclause (2), the following subclauses:

- “(3) Notwithstanding subsection (2), where a public authority fails to comply with section 15, any access to official documents to which the applicant is entitled pursuant to his request shall be provided free of charge.
- (4) 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.
- (5) The fees payable by the applicant shall be commensurate with the cost incurred in making documents available.”

*Question put and agreed to.*

*Clause 17, as amended, ordered to stand part of the Bill.*

*Clause 18.*

*Question proposed, That clause 18 stand part of the Bill.*

**Mr. Imbert:** Mr. Chairman, I wish to recommend that clause 18(4)(a) be deleted.

**Mr. Maharaj:** Why, may I ask?

**Mr. Imbert:** Well, I think this gives the public authority too much flexibility in refusing access to a document. I think that should be a matter which is determined by a court. If you tell a public authority that if the form of access:

“would interfere unreasonably with the operations of the public authority”

then I think it gives them the flexibility to deny access for trivial reasons. I prefer not to see it.

**Mr. Maharaj:** What if you go to subclause (4), it says:

“If the form of access requested by the applicant—

(a) would interfere unreasonably...”

The form of access, so you could give it in another form.

**Mr. Imbert:** But it says access “may” be given in another form, not “shall”. If you put “shall”, I will withdraw my objections.

**Mr. Maharaj:** I am told that there must be a discretion in this matter and I am told that they looked at all the major legislation and this is how it is done.

**Mr. Imbert:** I am aware of that. That is why I have the problem. That is why I prefer not to see it.

**Mr. Maharaj:** I am sorry, but I cannot accommodate you.

**Mr. Imbert:** I am aware of that.

*Question put and agreed to.*

*Clause 18 ordered to stand part of the Bill.*

*Clause 19.*

*Question proposed, That clause 19 stand part of the Bill.*

*Question put.*

**Mr. Imbert:** Mr. Chairman—

**Mr. Chairman:** Well, you should really have taken it before I put the question. No problem. I am allowing you to put it now but before I put the question, one would raise any objection one has, particularly where one has not circulated anything, but I will allow it.

**Mr. Imbert:** On clause 19(1)(a), I request that the whole thing be deleted vis-à-vis if a document has been prepared for Parliament, that does not mean it will be laid before the Parliament. The same thing goes with (c).

**2.35 p.m.**

**Mr. Imbert:** How does one establish a time frame here?

**Mr. Maharaj:** Is that the only one you have or is there more?

**Mr. Imbert:** Clause 21 as well.

**Mr. Maharaj:** We can probably deal with it one time.

**Mr. Imbert:** Again, this comes to an authority's discretion because it states:

"...the request would substantially and unreasonably divert the resources of the public authority from its other operations."

You are giving the public authority the discretion.

**Mr. Maharaj:** Mr. Chairman, I think that the hon. Member would know that in all the legislation done in this matter, they have to balance the public interest as against the interest to give information. The important mechanism really is whether there is an overseer machinery, and wherever there is a discretion in this Bill as would be amended, it is a discretion which can be reviewed because there are always the Ombudsman and the court. You cannot have a situation where it would be very voluminous and the state would have to drop everything to prepare that. It does not mean that you would not get the information, but it would not be provided within the time frame that you want. If the information is bulky, the public authority can make arrangements for a person to get the information, so it is a discretion.

Therefore, in relation to the proposed amendments of deletion, I regret that I cannot accomodate the hon. Member.

**Mr. Imbert:** Our amendment regarding the Ombudsman still gives the public authority absolute right, because a public authority is required to consider the recommendations of the Ombudsman and to such extent as it thinks fit exercise its discretion, so they can completely ignore the recommendations of the Ombudsman.

**Mr. Maharaj:** That is why you have another review. That is how all the legislation is done.

**Mr. Imbert:** It is useless!

**Mr. Maharaj:** Mr. Chairman, I think the Member is not very well informed, if I may say so with the greatest respect. If one looks at all the legislation, even the recent Commonwealth model, one would see that it is recognized that you must

have this discretion, otherwise it would be injurious to the public interest, there would not be a proper balance.

**Mr. Imbert:** Well, I do not agree.

**Mr. Maharaj:** The public authority also has to give reasons.

**Mr. Imbert:** I know that but I still find that they have far too much flexibility, and they can easily deny access for trivial and spurious reasons.

**Mr. Maharaj:** If it is denied there is a form of redress.

**Mr. Imbert:** That can take 10 years in the court.

*Question put and negatived.*

*Clause 19 ordered to stand part of the Bill.*

*Clauses 20 to 23 ordered to stand part of the Bill.*

*Clause 24*

*Question proposed, That clause 24 stand part of the Bill.*

**Mr. Imbert:** Mr. Chairman, I would prefer to limit this simply to (a), because (a) is a record of the deliberation or decision of Cabinet. Why do you have to bring these things in? Surely all these issues can be captured in paragraph (a).

**Mr. Maharaj:** No, Mr. Chairman, paragraphs (b), (c), (d) and (e) are, in effect, different to paragraph (a) which merely says "the official record of any deliberation or decision of Cabinet;" Clause 24(b) covers a document that has been prepared for the purpose of submission for consideration. A document prepared in (c) is for the purpose of briefing.

Paragraph (d) refers to:

"a document that is a copy or draft of, or contains extracts from, a document referred to in paragraph (a), (b) or (c); or

(e) a document the disclosure of which would involve the disclosure of any deliberation or decision of Cabinet, other than a document by which a decision of Cabinet was officially published."

As a matter of fact, the existing law as it stands is that Cabinet documents are not available to the public, but the court has a discretion in any matter in the public interest to order it to be disclosed. That is the existing law. This is saying

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that we are maintaining that position but we would be going one step further, in that, even though it is exempt you have the authority to disclose it and the court is being given the power to review that discretion exercised in not disclosing it.

**Mr. Imbert:** That may be so, but a minister could say that any document he has is a brief for him to submit to Cabinet. Any minister could say that about every piece of paper he has.

**Mr. Maharaj:** There has to be a balance. The model would recognize the balance in order to protect deliberations and decisions to be made. In the ultimate under this Bill, documents can be available even though they are for Cabinet, but you have to strike that balance.

**Mr. Imbert:** How does one establish that a document in the possession of a minister is not for the consideration of Cabinet?

**Mr. Maharaj:** This is not an absolute right. All constitutional rights are not absolute. As the hon. Member for Diego Martin East would know, when he was in government he recognized that you could not even give this right; not even a fettered right you could give. That is why the world community has said that although there are great arguments why you have to protect the state, they have found a machinery to give a right but also to protect the state, but if you make it absolute it would destroy the interest of the state.

**Mr. Imbert:** I feel that you have gone to the other extreme. It would take years for legal precedent to be established.

*Question put and negatived.*

*Clause 24 ordered to stand part of the Bill.*

*Clauses 25*

*Question proposed, that clause 25 stand part of the Bill*

**Mr. Imbert:** I have also asked that clause 25 be deleted. How does one establish this: "prejudice the defence of the Republic of Trinidad and Tobago?" How do you establish "prejudice relations between the Government" and another country? This is all going to the court.

**Mr. Maharaj:** Mr. Chairman, all I can say, with the greatest respect to the hon. Member, because it does not seem he has been informed on this matter, these defence and security documents, international relations document and internal working documents and law enforcement documents, are necessary to be protected in the public interest. I am sorry, we really cannot accommodate him.



*Clause 26*

*Question proposed, That clause 26 stand part of the Bill.*

**Mr. Imbert:** I beg to move that clause 25 be deleted.

*Question put and negatived.*

*Clause 25 ordered to stand part of the Bill.*

*Clause 26*

*Question proposed, That clause 26 stand part of the Bill.*

**Mr. Imbert:** I beg to move that clause 26 be deleted

*Question put and negatived.*

*Clause 26 ordered to stand part of the Bill.*

*Clause 27*

*Question proposed, That clause 27 stand part of the Bill.*

**Mr. Imbert:** Look at clause 27, in particular, which states that a document is exempt if it:

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

So that if the Minister of Public Utilities tells someone to cut my water, I cannot get access to that?

**Mr. Maharaj:** Mr. Chairman, we have argued a lot of this on the floor of the House, and it is a matter of policy. When I was making my contribution the hon. Member, perhaps, was not listening, but I did make the point that it is not an absolute right, and that matters of national security, personal privacy, security interests and Government deliberations, have to be protected. I am very sorry, I cannot accommodate that.

**Mr. Imbert:** So we cannot get access to opinions, advice and recommendations of government officers?

**Mr. Maharaj:** No, you have an overall thing that you can still get redress. The public authority has the power to make it available, and in clause 27(2) it says that it does not include a host of things.

**Mr. Imbert:** I am seeing it, but then it refers to clause 8(1). It goes right back to clause 8(1).

**Mr. Maharaj:** Under clause 27(2) it gives all the things that are available as a right. Under your administration you had it as a secret shop.

*Question put and negatived.*

*Clause 27 ordered to stand part of the Bill.*

*Clauses 28 and 29*

*Question proposed, That clauses 28 and 29 stand part of the Bill.*

**Mr. Imbert:** Mr. Chairman, I ask that clauses 28 and 29 be deleted.

**Mr. Maharaj:** Mr. Chairman, I have already dealt with that on the floor of the House in my submissions, on this and the last occasion. There seems to be a difficulty in our policy matters. The other side is against our policy in this matter, but I do not think that I can accommodate him.

*Question put and negatived.*

*Clause 28 and 29 ordered to stand part of the Bill.*

*Clause 30 ordered to stand part of the Bill.*

*Clause 31*

*Question proposed, That clause 31 stand part of the Bill.*

**Mr. Imbert:** Mr. Chairman, I beg to move that clause 31 be deleted.

**Mr. Maharaj:** Mr. Chairman, I have already dealt with this on the floor of the House.

*Question put and negatived.*

*Clause 31 ordered to stand part of the Bill.*

*Clause 32 ordered to stand part of the Bill.*

*Clauses 33 and 34*

*Question proposed, That clauses 33 and 34 stand part of the Bill.*

**Mr. Imbert:** Mr. Chairman, I beg to move that clauses 33 and 34 be deleted.

**Mr. Maharaj:** Mr. Chairman, I have already dealt with those clauses on the floor of the House. I cannot accommodate him.

*Question put and negatived.*

*Clauses 33 and 34 ordered to stand part of the Bill.*

*Clause 35*

*Question proposed, That clause 35 stand part of the Bill.*

**Mr. Maharaj:** Mr. Chairman, I beg to move that clause 35 be amended as follows:

"Insert before the word 'A' in line one the words 'Notwithstanding any law to the contrary'."

*Question put and agreed to.*

*Clause 35, as amended, ordered to stand part of the Bill.*

*Clause 36 ordered to stand part of the Bill.*

*Clause 37*

*Question proposed, That clause 37 stand part of the Bill.*

**Mr. Maharaj:** Mr. Chairman, I beg to move that clause 37 be amended as follows:

"Delete from the words 'to-' to the end and substitute the words 'to any part of the document which discloses the source of any information obtained in the course of making any programme or broadcast.'"

*Question put and agreed to.*

**Mr. Imbert:** Mr. Chairman, I would ask that the amended clause 37 be deleted.

**Mr. Maharaj:** Mr. Chairman, if the Government deletes this clause it would be contravening the constitutional right to the freedom of the press. Legislation can contravene a right. Legislation which attempts to abrogate a fundamental right would contravene—[*Interruption*] It does not make sense arguing law with the hon. Member for Diego Martin East.

What this clause does, as I mentioned on the floor of the House, is to protect a journalist employed with International Communications Network from having to

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disclose a source of information, and as a Government we do not want to be part of abrogating that right. When or if the hon. Member is in government, he can attempt to do that, but we do not want to do that. We want to protect the source of information. [*Crosstalk*]

*Question, on amendment, put and negatived.*

*Clause 37, as amended, ordered to stand part of the Bill.*

**2.50 p.m.**

*Clause 38.*

*Question proposed, That clause 38 stand part of the Bill.*

**Mr. Imbert:** Mr. Chairman, I request that clause 38 be deleted.

**Mr. Maharaj:** Mr. Chairman, I cannot accede to that. That will be contrary to established principles.

**Mr. Imbert:** Of which ones, I ask you?

*Question put and negatived.*

*Clause 38 ordered to stand part of the Bill.*

*Clause 39.*

*Question proposed, That clause 39 stand part of the Bill.*

**Mr. Maharaj:** Mr. Chairman, I beg to move that clause 39 be amended as follows:

“Insert after subclause (2), the following subclause:

‘(3) In this section, “decision of a public authority”

includes the failure of a public authority to comply with section 15 or 16(1).”

*Question put and agreed to.*

*Clause 39, as amended, ordered to stand part of the Bill.*

*Clauses 40 and 41 ordered to stand part of the Bill.*

*New Clause 42.*

**Mr. Maharaj:** Mr. Chairman, I propose a new clause 42 which reads as follows:

“Insert after clause 41, the following clause:

Preservation  
of records and  
documents

42. (1) A public authority shall maintain and preserve records in relation to its functions and a copy of all official documents which are created by it or which come at any time into its possession, custody or power.

(2) A person who wilfully destroys or damages a record or document required to be maintained and preserved under subsection (1) commits an offence and is liable on summary conviction to a fine of five thousand dollars and imprisonment for six months.

(3) A person who knowingly destroys or damages a record or document which is required to be maintained and preserved under subsection (1) while a request for access to the record or document is pending commits an offence and is liable on summary conviction to a fine of ten thousand dollars and imprisonment for two years.”

*New clause 42 read the first time.*

*Question proposed, That the new clause be read a second time.*

**Mr. Maharaj:** Mr. Chairman, have we dealt with 38A? Is that an amendment or a new clause, 38A? It should be a new clause, I think.

**Mr. Chairman:** We dealt with 38.

**Mr. Maharaj:** And it includes 38A? The new clause 38A, which reads:

“Insert after clause 38, the following clause: Review by the Ombudsmen”

have we dealt with that?

**Mr. Chairman:** You will move that it be amended as circulated.

**Mr. Maharaj:** Yes, I beg to move that—*[Interruption]*

**Mr. Chairman:** So it was not.

*Question put and agreed to.*

*Question proposed, That the new clause be added to the Bill.*

*Question put and agreed to.*

*New Clause 42 added to the Bill.*

**Mr. Maharaj:** Mr. Chairman we have not dealt with the new Clause 38A or have we dealt with it as part of the—*[Interruption]*

**Mr. Chairman:** We will put it in at this point.

*New Clause 38A.*

**Mr. Maharaj:** Mr. Chairman, I propose a new clause 38A which reads as follows:

“Review by the  
Ombudsmen

38A. (1) A person aggrieved by the refusal of a public authority to grant access to an official document, may, within twenty-one days of receiving notice of the refusal under section 23(1), complain in writing to the Ombudsman and the Ombudsman shall, after examining the document if it exists, make such recommendations with respect to the granting of access to the document as he thinks fit.

(2) In recommendations under subsection (1), the Ombudsman—

- (a) is not required to include any matter that is of such a nature that its inclusion in a document of a public authority would cause that document to be an exempt document;
- (b) may state the recommendation in terms which neither confirm or deny the existence of any document, if the recommendations relate to a request for access to a document which is an

exempt document under section 24, 25 or 28 or which, if it existed, would be an exempt document under section 24, 25 or 28.

(3) A public authority is required to consider the recommendations of the Ombudsman and, to such extent as it thinks fit, exercise its discretion in giving effect to the recommendations.”

*New clause 38A read the first time.*

*Question proposed, That the new clause be read a second time.*

**Mr. Imbert:** Mr. Chairman I would recommend that all words after “Ombudsman” in the third subclause be deleted.

**Mr. Maharaj:** Sorry?

**Mr. Imbert:** I would like all the words after “Ombudsman” in the last subclause on the last page to be deleted.

**Mr. Maharaj:** I cannot accommodate that.

**Mr. Imbert:** Why not?

**Mr. Maharaj:** The Ombudsman has to have the power to review and he has to have the power to make recommendations.

**Mr. Imbert:** No, no, no, the last one, (3) on the last page.

**Mr. Maharaj:** The one which states:

“A public authority is required to consider the recommendations of the Ombudsman and, to such extent as it thinks fit, exercise its discretion in giving effect to the recommendations.”

That is the present position with the Ombudsman.

**Mr. Imbert:** But why do you need these words?

**Mr. Maharaj:** Because it is the new power given to the Ombudsman. This is the same situation you have in the existing law.

**Mr. Imbert:** You are saying:

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“A public authority is required to consider the recommendations of the Ombudsman...”

Why does it go on to say:

“...and, to such extent as it thinks fit, exercise its discretion in giving effect to the recommendations.”?

Why not take that out?

**Mr. Maharaj:** No, because the public authority may not agree with it and then the person can go to court.

**Mr. Imbert:** But if you delete those words, that does not prevent the public authority from exercising its discretion.

**Mr. Maharaj:** Well, I am guided by the Chief Parliamentary Counsel who are experts in this and—[*Interruption*]

**Mr. Imbert:** He knows what I am talking about, Mr. Attorney General. He knows if we take that out it would not do anything.

**Mr. Maharaj:** I am advised against deleting it.

*Question put and agreed to.*

*Question proposed, That the new clause be added to the Bill.*

*Question put and agreed to.*

*New clause 38A added to the Bill.*

*Schedule ordered to stand part of the Bill.*

*Question put and agreed to, That the Bill, as amended, be reported to the House.*

*House resumed.*

*Bill reported, with amendment; read the third time and passed.*

#### ARRANGEMENT OF BUSINESS

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, I wish to announce that the Government will proceed with Motions Nos. 1 and 2 at this stage in that order.

*Agreed to.*



**NATIONAL INSURANCE (HARMONIZATION OF  
PENSION FUND PLANS) (AMDT.) REGULATIONS**

**The Minister of Finance (Sen. The Hon. Brian Kuei Tung):** Mr. Speaker, I beg to move the following motion standing in my name:

*Whereas* it is provided by section 57 of the National Insurance Act, Chap. 32:01 that where it is desired to harmonize pension fund plans in operation on the appointed day for the payment of contributions, with the system of national insurance such harmonization shall be effected in accordance with regulations made by the President in that behalf and that Regulations under that section shall be subject to affirmative resolution of Parliament:

*And Whereas* Regulations made under the aforesaid section have been amended by the National Insurance (Harmonization of Pension Fund Plans) (Amdt.) Regulations, 1999:

*And Whereas* it is expedient to confirm the National Insurance (Harmonization of Pension Fund Plans) (Amdt.) Regulations, 1999:

*Be It Resolved* that the National Insurance (Harmonization of Pension Fund Plans) (Amdt.) Regulations, 1999 be confirmed.

Mr. Speaker, you will remember I noted in this honourable House some time ago that the work of the first phase of the pension reform programme has been completed. This phase includes the harmonization and integration of the national insurance pension benefits and the old age pension benefits to lay the foundations for the future substantial reform. In essence, this is a relatively simple motion. The existing legislation allows for private pension plans to harmonize the benefits with the system of national insurance.

However, the legal process for harmonization appears somewhat difficult and it has been suggested that harmonization could only take place at present where there is agreement between the employer and all members, all employees that is, of the plan to be harmonized. This, if one gives it any thought, is fairly obvious. At any given time for an employer to have the consent of all of his employees must be a pretty difficult if not impossible task. At any given time he will have employees who may be on sick leave, on vacation, away from work with the employer's consent and, therefore, to get the consent of all the members seemed to have been a problem.

Furthermore, Mr. Speaker, many pension fund plans have not been harmonized because of the previously insignificant levels of national insurance contributions and benefits. However, because of the significant increases which have been made recently, there would be considerable burden on both employers and pension fund members alike who are required to contribute to their private pension plans as well as to the system of national insurance with its increased contributions. So that, the amendment which is before this honourable House serves to eliminate the requirement for the consent of all private pension fund members before a private pension fund plan can be considered for harmonization.

It is therefore proposed that a pension fund plan may now be modified for the purpose of harmonization with a system of national insurance where the proposed modification complies with the conditions set out at Regulation 4 of the National Insurance (Harmonization of Pension Fund Plans) (Amdt.) Regulations. I should remind hon. Members of this House that there are already in existence regulations for the harmonization of pension fund plans with the system of national insurance. The amendment to these regulations is intended to reduce the burden to both employers with private pension fund plans whilst, at the same time, preserving the accrued rights of members of these plans.

The existing law provides in Regulation 5, of what I will refer to as the harmonization regulations, that proposals for harmonization may only be approved by the Supervisor of Insurance where he is satisfied that the conditions set out in Regulation 4 have been observed and that the rights and interests of members are adequately preserved. I want to assure this honourable House that any proposed harmonization between private pension fund plans and the system of national insurance can only—and I want to emphasize only, Mr. Speaker, be effected prospectively so as not to derogate from the accrued rights of members.

Regulation 4 of the harmonization regulations ensures that such accrued rights are not prejudiced in any way in that modification for the purpose of harmonization would have to satisfy the following conditions. Firstly, all accrued benefits in the plans up to the date of harmonization must be preserved. Secondly, benefits under the modified plan plus retirement pension payable under the system of national insurance shall not be less than the benefits payable under the plan had it not been modified. Thirdly, Mr. Speaker, where before modification the plan includes a provision for commutation of pension, such provision may be retained upon modification of the plan. The commuted sum payable to a member of the plan shall, however, not exceed 25 per cent of the commuted value of the pension

payable to him or her under the plan as modified plus 25 per cent of an amount equal to the commuted value of retirement pension payable under the system of national insurance.

It is clear from the conditions stated in Regulation 4, Mr. Speaker, that it will be quite difficult, if not improbable, for any modification to any private pension fund plan for the purpose of harmonization with the system of national insurance to affect the accrued rights of its members. Many companies, and this includes state corporations and statutory authorities, have pension fund plans for their employees. The majority of these companies provide excellent retirement benefits as well as death and disability benefits. These plans are often supplemented by group health and life insurance policies. There are also tax approved deferred annuity products issued by insurance and trust companies and these allow for retirement savings in a tax efficient manner.

As I have mentioned earlier, the amendments to the National Insurance (Harmonization of Pension Fund Plans) (Amdt.) Regulations is really intended to reduce the cost to employers and to ensure that benefits which have accrued to existing employees are preserved. With these few words, Mr. Speaker, I beg to move that the National (Insurance Harmonization of Pension Fund Plans) (Amdt.) Regulations, 1999 be confirmed. [*Desk thumping*].

*Question proposed.*

**3.05 p.m.**

**Mr. Colm Imbert** (*Diego Martin East*): Mr. Speaker, during the Minister's presentation we heard him say that he is giving us the assurance that persons would not suffer disadvantage. No assurance from that Minister can be accepted by this side, especially as it deals with this matter. This is the same Minister of Finance who misled the people of this country into believing that when National Insurance contributions were increased, persons would receive pensions upwards of \$3,000. This has been proven to be a complete falsehood. It is the same Minister of Finance who has come into this honourable House on many occasions, and given assurances which have proven to be false.

I am very, very suspicious of this Motion and I suspect it is an attempt to interfere with persons' pension plans because the effect of the regulations will be to allow persons to modify plans without the consent of every single person in the plan. What does that tell you? It is just the continuation of the anti-democratic tendencies of this administration. Mr. Speaker, what are we doing with all these

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National Insurance contributions anyway? The employees have to pay sometimes as much as 200 per cent more now than they paid before; employers have to pay 200 per cent more. Many National Insurance recipients foolishly believed the United National Congress that their pensions would be increased, only to understand that they got a pittance, a one-hundred-dollar increase from this caring United National Congress administration, while NIS contributions have gone up to almost \$100, in some cases. For companies, it is now thousands of dollars.

I am afraid I cannot support this Motion. I believe it is an attempt by the Minister and the Government to interfere with private pension plans. I do not accept his assurances. He has proven to have given false assurances in this House before.

I thank you.

**The Minister of Finance (Sen. The Hon. Brian Kuei Tung):** Mr. Speaker, I have grown used to coming here and debating issues to find that, at the end of the day, the Member for Diego Martin East, for some reason known only to him, continues to attack me, personally. The issues continue to remain undebated. The people of Trinidad and Tobago continue to be short-changed by him because *[Interruption]* he insists on talking to me as an individual instead of dealing with the issues. This is an issue that had been asked for by employers and employees alike. The fact is, the employers have recognized that it did not make sense providing a pension in terms of its benefits for its employees if it is going to be superfluous to what the National Insurance is providing.

In the old days, when the National Insurance contributions and the benefits were small, it made relatively little difference to a person who was already in an excellent pension plan. But if there is an excellent pension plan and they also have to contribute to another plan called the National Insurance, it makes sense to both the employers and employees that they be harmonized. Because it means that one will still be provided with an adequate level of benefits upon retirement. But what do I hear? I hear about assurances; I hear about benefits; I hear about the Minister of Finance. I do not know when the Member for Diego Martin East would stop this tirade against me. I imagine that until I understand what is his problem with me, I would not be able to resolve it. I guess I will have to continue to live in hope that maybe one day when he rises on his feet he really would explain what is his problem with me.

Mr. Speaker, this is an excellent Motion. I think this Motion is one that would benefit the people of Trinidad and Tobago, both employers and employees, and with these few words, I beg to move.

*Question put and agreed to.*

*Resolved:*

That the National Insurance (Harmonization of Pension Fund Plans) (Amendment) Regulations, 1999 be confirmed.

#### GOVERNMENT'S AUTHORIZED BORROWING

**The Minister of Finance (Sen. The Hon. Brian Kuei Tung):** Mr. Speaker, I rise again and beg to move the following motion which is standing in my name:

*Whereas* by section 3(1) of the Development Loans Act, the Government is authorized, *inter alia*, for the purposes of financing general development in Trinidad and Tobago or repayment of borrowings effected for general development, *inter alia*, by a statutory authority within the meaning of the Statutory Authorities Act, Chap. 24:01 or by an enterprise that is controlled by or on behalf of the State, from time to time to borrow money externally or internally in a sum or sums not exceeding in the aggregate seven thousand, five hundred million dollars in the currency of Trinidad and Tobago and thereafter such sum in such currency as may from time to time be specified by resolution passed by the Senate and the House of Representatives:

*And Whereas* it is necessary for the Government to borrow further sums of money for the purposes stated in the said section:

*Be It Resolved* that for the purposes stated in the said section, the Government is hereby authorized to borrow money externally or internally in a further sum or sums not exceeding in the aggregate two thousand, five hundred million dollars in the currency of Trinidad and Tobago.

Mr. Speaker, for the benefit of this honourable House, I wish to inform you that at the end of December 1993, the borrowing limit, under the Development Loans Act, stood at \$5,000 million. As at that date, the total debt outstanding had reached to approximately \$4,600 million, thereby leaving a borrowing capacity of the Government of some \$400 million.

#### **3.15 p.m.**

In 1994, Parliament approved an increase in the borrowing limits under the Development Loans Act from \$5,000 million to \$7,500 million, and this increase was intended to serve the following purposes: to accommodate the assumption of debt of state enterprises, statutory authorities and para-statal agencies and to

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facilitate the sourcing of further borrowing requirements by the Central Government.

Mr. Speaker, the debts to be assumed by the Government were estimated at that time at \$1,550 million, while the Central Government borrowings were projected to be \$950 million. These borrowings were to finance the proposed development programmes for 1995 and 1996 and the issuance of bonds for the police accommodation projects.

By the end of 1997, the outstanding debt under the Development Loans Act reached \$6,050 million, and this was further increased to \$7,300 million at December 31, 1998. Largely responsible for this substantial increase during 1998 was a bond issue of US \$150 million, that is the equivalent of TT \$945 million, which was raised under the Development Loans Act by a consortium of local banks.

Mr. Speaker, I wish to inform this honourable House that traditionally, all the US dollar loans are raised on the external market by international financial institutions. The authority for sourcing such funds is the External Loans Act, but with the liberalization of the Trinidad and Tobago financial market and the increased availability of foreign exchange, the domestic market is gradually being recognized as an alternative source of US dollar loans.

It is in this regard that a local consortium was awarded the mandate in 1998 to raise US \$150 million. Since all loans raised locally—whether denominated in either local or foreign currency—must fall under the Development Loans Act, the impact on the borrowing limit was significant. Thus, at the end of 1998 the borrowing capacity was reduced to a mere \$200 million.

Mr. Speaker, in the 1998—1999 fiscal year, the borrowing requirements for the Central Government Development Programme are projected at \$1,000 million. In addition, the final bonds for the maximum security prison complex are expected to be issued in the amount of some \$550 million. In order to accommodate these borrowings, and any future borrowings as might be necessary, Government is seeking parliamentary approval for the increase in the borrowing limits under the Development Loans Act from \$7,500 million to \$10,000 million.

Trinidad and Tobago currently has very favourable access to the international financial markets and will continue to tap this avenue as an integral source of external funding. With the development of Trinidad and Tobago's financial market and the increased accessibility to US dollar loans, it is envisaged that there

will be a reduction in the level of borrowings under the External Loans Act and an increase in borrowings under the Development Loans Act.

I would like to advise that currently there is unused capacity under the External Loans Act in the vicinity of TT \$3,500. This capacity can be utilized in the immediate future for the sourcing of loans for Government's development programme. It is in this context, Mr. Speaker, that Government is seriously considering the merger of both the Development Loans Act and the External Loans Act. This will facilitate access to the unused capacity under the External Loans Act without having to approach the international markets.

Mr. Speaker, until such time as legislation is brought to this honourable House to effect a merger of those two Acts, namely the Development Loans Act and the External Loans Act, Government is seeking, through the present resolution, to increase the borrowing limit under the Development Loans Act from \$7,500 million to \$10,000 million in the currency of Trinidad and Tobago.

Mr. Speaker, I beg to move. [*Desk thumping*]

*Question proposed.*

**Mr. Colm Imbert** (*Diego Martin East*): Mr. Speaker, the Government and this Minister, in particular, like to bring motions to this Parliament that seem so innocuous and so simple. Any discussion about increasing the limit for borrowing for the Government, especially this Government, has to be in the context of for what the money is being used.

If we look closely at the behaviour of this Government and this Minister of Finance since the UNC came into office, one will see that the local debt has increased from \$6.3 billion at the end of 1995 to \$8.5 billion at the end of 1998. God alone knows what it is now! So, this Government has increased our local debt by over \$2.2 billion since it came into office and we need to ask why.

[MR. DEPUTY SPEAKER *in the Chair*]

Mr. Deputy Speaker, people may not be aware that the UNC has determined that the conditions that the external agencies place on loan disbursements prevent corruption. That is what this is all about. When the Inter-American Development Bank, the World Bank or the Caribbean Development Bank lend money, the procedures for prequalification, invitation of tenders, evaluation of tenders and award of contracts for general development—which is what this is all about—are so structured to prevent corruption, but what this Government is doing and has

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done for the last three and a half years, and will do over the next 18 months before it is removed from office, is borrow more and more money on the local market. That is what this is all about.

They are coming here and asking us to increase the amount of money, the limit they can borrow locally by two and a half billion dollars, and that is the extent of the corruption that will take place over the next 18 months—two and a half billion dollars worth of corruption, in my view. We see that the Ministry of Public Utilities has abandoned the World Bank loan for the water sector project and has gone on the local market. Of course, they used their own internal procedure so that the highest bidder would get the contract.

**Mr. G. Singh:** Would the hon. Member indicate that we have clear internal procedures that ensure the integrity of the process?

**Mr. C. Imbert:** Mr. Deputy Speaker, it is not the procedures. It is the persons whom they place on these boards and state enterprises who breach these procedures. [*Desk thumping*] They modify them just like at NIPDEC. NIPDEC—plural equals singular.

For the last 20 years or so when NIPDEC was in power, they had to invite more than one bid for a contract if it was in excess of, I believe, \$150,000. That is a specific requirement put in to prevent racketeering. This UNC administration modified the tender rules of NIPDEC so that plural means singular. So, when it says invite tenders with an “s”, they modify it with a sleight of hand to say that one tender means tenders. That is how NIPDEC is now awarding contracts for millions of dollars to one person without competitive tenders. Of course, who else is the chairman of NIPDEC except the “pardner”, the long-time friend and business colleague of the Minister of Finance.

I hear rubbish in this Parliament about what I have against the hon. Minister. I have nothing against him *per se*. I am against corruption. When a contract is inflated, it is supposed to be \$10 million but they do not invite tenders and give it to one person and award it at \$20 million, that is where the money comes from to hand out in envelopes during a Local Government Election! [*Desk thumping*] By the way, I am still waiting for the law suit. Where is it? I know the Minister of Finance is a man of considerable financial resources. Bring your lawyers!

I think the Minister is a bluffer, but anyway, let us go on to more substantive issues. The fact of the matter is that the country voted against corruption on July



12, 1999. [*Desk thumping*] Now that they know their days are numbered, it is open season on the Treasury, and this is what this is all about.

Why do they have to borrow locally? The Minister said it himself. There is a preference now to borrow more money locally. Why? The reason is they can make up their own rules. They could award contracts to who they want; give a contract to the highest bidder; it could have a cost overrun of 100 per cent; it could be six months late; no penalties will be imposed and money will be given back in kickbacks, as I said, to put in little envelopes and hand to poor, unsuspecting people so that they would vote for the UNC. The thing is, they took the money and voted PNM! [*Desk thumping*] They took all the money they got in the little envelopes and voted for the PNM. They should have given them more. My constituents need money. They did not give them enough! That \$2,000 in one envelope is not enough. Give them \$5,000 the next time, because all the money which is being stolen in Trinidad and Tobago, give it back to them! It is poor people's money! [*Desk thumping*]

These people, Mr. Deputy Speaker, are very clever. Why do we have to increase our internal debt? Why do we not practise restraint? Is it that the Government believes that oil is going to hit \$50 per barrel? I understand what is going on. When they take an airport contract that is supposed to be \$300 million, send it to \$900 million and the boys pocket \$600 million, they have got to increase their borrowing limit to facilitate that, because nobody anticipated these kinds of things. Nobody anticipated that a project of that nature would be inflated in cost by over 200 per cent and then money would be borrowed on the local market!

Poor people's money would be used to finance the corruption that is taking place out there, Mr. Deputy Speaker. It is right through the system. We are going to see that every single Ministry will be executing projects using money borrowed on the local market. The bigger the better—\$100 million, \$200 million, \$500 million. That is what this is all about.

### **3.30 p.m.**

The Government will continue to shy away from dealing with agencies like the World Bank in the case of the drainage programme. The TT \$400 million drainage sector programme that was negotiated by the PNM administration, would have fixed most of the drainage problems in Trinidad and Tobago if it had been implemented, where we were going to spend \$100 million in north Trinidad; \$100

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million in central Trinidad; another \$100 million in the San Fernando and the greater San Fernando area and a further \$100 million dealing with specific problems like the Oropouche Lagoon and so on, and we put everything in place.

Mr. Deputy Speaker, what are they going to say?

**Mr. Manning:** Puzzle island.

**Mr. C. Imbert:** Because they are masters of untruth with everything that they got on a platter, unless it was in train already; unless the loan agreement had been signed; tenders had been invited; contracts had been awarded and they could not stop it. They have deferred and delayed it like the education sector programme, where secondary schools should have been built in this country, as far back as two years ago, where the former Minister of Education had negotiated an education sector loan from the international agencies, and only now, after nearly four years, this bungling, incompetent Government is now getting ready to execute the first phase of that programme.

I am coming back to the water sector programme. If they had moved with dispatch and competence, then you would not have a situation where a Government Minister was making a “pappy-show” of himself and saying, “We need two weeks’ praying, no rain for two weeks”. No rain in the rainy season? *[Laughter]* So if it is only taking two weeks to do a diversion from Caparo to the Honda River—three weeks, whatever—you have already had almost 200 weeks since you have been in office. You came into office in November 1995, from then to now is almost 200 weeks, so how come the three weeks could not fit into that 200? But this is a “mamaguy, pappy-show” government.

Local Elections coming, they said when they got into power flooding would be a thing of the past.

**Mr. Manning:** Oh God!

**Mr. C. Imbert:** They say, “Is because PNM wicked that Central always flooding”.

**Mr. P. Manning:** Chaguanas.

**Mr. C. Imbert:** Well, Chaguanas Main Road flood for the first time in 40 years, under the UNC administration, and that is why we want them to price out *[Desk thumping]* for the people of this country are not taking “mamaguy” and “pappy-show” anymore. *[Interruption]*.

Mr. Deputy Speaker, quite apart from the incompetence and the bungling and distress that they have caused people of this country in the health, education, and infrastructure sectors—they could say what they want—they have been in power for four years. It does not take four years to take a programme, where most of the work was done already to carry it to execution. It does not take that. Next year they will be saying the same thing—the same old tired refrain.

**Mr. Manning:** “We did not have enough time”.

**Mr. C. Imbert:** “We did not have enough time; there was a lot of work to do”. Mr. Deputy Speaker, absolute nonsense!

Let me come to another externally funded programme. The reconstruction of the Solomon Hocht Highway. Tenders were invited by the PNM in 1990, everything was put in place to invite tenders in 1995. Shortly after the UNC came into office in 1996, tenders were invited and received in the middle of 1996. It is almost the year 2000!

**Mrs. Robinson-Regis:** Water for all?

**Mr. C. Imbert:** No, I am talking about the Solomon Hocht reconstruction—the EDF funded programme. “Yuh cyah thief” when the European Community is involved. That is why they have frustrated that Solomon Hocht project and that is why they took so long to fire the contractor. They let commuters suffer on the Solomon Hocht Highway for two years.

**Mr. P. Manning:** They are still suffering.

**Mr. C. Imbert:** Frustrate the contract, fire the contractor about two years after he should have been fired, and it is all part of an elaborate plan to move away from borrowing from external agencies and do these projects, because the Solomon Hocht Highway project must be done. They have made such a mess of it. They create such distress to commuters from north to south that the project must be done. It is a little clever cabal on that side. I have said it on platforms and I say it here. While we were in government, we used to think about what we could do for this country. They have a little group of “fellas” studying what they could do for themselves. There is a hidden agenda in everything that they do. So when they frustrate a highway contract and when a contractor is clearly in breach—it is externally funded—funding coming from overseas. “Yuh cyah thief”. The lowest tender has to get the project. The contract must be administered in accordance with the rules—“cyah thief”—so you frustrate it and create a crisis. Everyone in

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South now crying out for improvement to the highway so that this comes here today. They want to increase the borrowing power on the local market by \$2.5 billion, so that they can do that work locally, using local rules, so that they can give contracts to their friends and, once again, the highest bidder will get the job, there will be cost overruns and there will be no penalties.

Look at the gas station—I cannot believe it—that is using locally borrowed funds. That is what those gas stations are built for. Awarded to the highest bidder, disqualify competent contractors, award a contract to a novice contractor, the contract is six months' late, the thing eventually cost almost—I mean it looks to me like about twice the price it is supposed to cost—as far as I remember, it was \$8 million for two stations, so how one station could cost \$7 million? It is supposed to be \$ 3.5 million. So a station gone from \$3.5 million to \$7 million and the Prime Minister will come in this House and say, “This is an example of the performance of this UNC administration”. The thing late, it is expensive and they had all sorts of irregularities in the contract award. But we are going to see more and more of this over the next 18 months.

Imagine boasting about corruption—imagine that! You award a contract to the wrong person, it gone over budget and over time and you are boasting about it saying that, “those who are opposed to this are opposed to progress.” Well, if that is progress I want none of it [*Desk thumping*] and the people of this country demonstrated on Monday, July 12, 1999, that they want none of it too.

Mr. Deputy Speaker, where did the money come from for all those television advertisements? Millions of dollars in television advertisements. In one newspaper alone on July 11, 1999, they had 12 full page advertisements. [*Desk thumping*]

**Mr. Manning:** And it still did not help them.

**Mr. C. Imbert:** That is almost \$70,000 or \$100,000 in advertisements in one newspaper, in one day.

**Mr. Manning:** Thirty thousand posters about Manning. [*Laughter*].

**Mr. C. Imbert:** Mr. Deputy Speaker, and you have to ask yourself, where does a political party get that money from? Where are they getting the millions and millions of dollars to place 12 ads in one day in one newspaper? One hundred thousand dollars in ads in one day or \$60,000 or \$70,000 or whatever it is. Where are they getting the money from to put ads on television? They were even interrupting the cable channels.

Mr. Deputy Speaker, I was watching HBO Showtime and Stars and all these channels and I was getting all kinds of Government ads coming through *[Laughter]* during elections. That has to be a breach of my constitutional rights. I mean, if I do not want to watch TTT, I can switch to Channel 41 or 46 and so on. What is a government ad doing on that channel? *[Laughter]* But you see, it is what they are doing with the money they are borrowing.

**Mr. Manning:** They have more dollars than sense *[Laughter]*.

**Mr. C. Imbert:** What are they doing with the contracts that they have awarded? *[Laughter]*. The amount of money that must have come, any logical person would conclude, that the money that was poured out in this country over the last month from the UNC had to come from all of these corrupt contracts, where they have borrowed the peoples' money, mortgaging our children's future. They borrowed money and gave their partner a contract at double the price. He gave them back 25 per cent and they took it and put it in an envelope or an ad on TV.

### 3.40 p.m.

Mr. Deputy Speaker, the Prime Minister could say what he wants. In my constituency, they were paying people \$100 a day to wear a UNC jersey, because the people would not wear it for free. *[Laughter]* That is licks, you know. If you walk around in my area with a UNC jersey is blows, so you have to get paid to do that. So that in my constituency it was \$100 a day to wear a UNC jersey, \$150 a day to canvas and go around and ask people to vote for UNC, and some got \$2,000 and \$3,000 in little envelopes. I estimate that in about one week they spent about \$300,000 to \$400,000 in my area alone trying to bribe voters.

But the good thing about all of this is that on July 12, 1999—and I would ask the Minister of Education to listen very carefully to what I am about to say—the results of the election demonstrated a paradigm shift in the politics of Trinidad and Tobago.

**Mr. Hart:** Paradig-im. E-quiteable. *[Laughter]*

**Mr. C. Imbert:** You see, it demonstrated that not everybody in Trinidad and Tobago is for sale. *[Desk thumping]* We have some elected persons who are for sale, but not everybody, especially the voters in Trinidad and Tobago, is for sale. And that is why I say a paradigm shift took place on July 12, 1999.

Notwithstanding what this Government is going to do with this \$2.5 billion it is going to borrow over the next 18 months to run its general election campaign,

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what will happen is that the UNC will get the backlash it deserves. You see, they take people for granted. The arrogance of some of the Members of Government, for example. The arrogance at this book list issue, learned educators, professors at the University, teachers, persons who are grounded in education have come out and said, "One book does not mean the same book". But these illiterate Cabinet Ministers—and I am taking the Member for Tobago East as my source of information—none of whom even have a diploma in education—none of them—decided that all of these educators, the textbook committee—I see Prof. Ramchand resigned in disgust, good for him and 19 members of his committee. They decided it is a communist country now, one book means the same book.

Anyway, Mr. Deputy Speaker, I have to ask the question, I do not expect them to answer: What are they going to use this money for? Is it to give to the Member for Pointe-a-Pierre to award contracts in complete breach of every procedure in the Municipal Corporations Act? And the court has ruled against him! It is about time. The Chairman of Tunapuna/Piarco Regional Corporation took the Chief Executive Officer (CEO) of the same corporation to court because the CEO was following the instructions of the Minister and awarding contracts in defiance of the Council and the court has ruled that was illegal. [*Desk thumping*]

What are they going to use this money for? Are they going to use it to borrow money? Are they going to use this provision to borrow money to "mamaguy" the people in Diego Martin; like the Sierra Leone Road? For three years the Members for Diego Martin Central, West and East have been speaking to the substantive Minister of Works and Transport. Up to two months ago, the Minister of Works and Transport was in this Parliament, I called him aside and I asked him personally, I said, "Minister Baksh—if you pardon me using the name—would you please do something about the Sierra Leone Road? That is a road under your jurisdiction and you need to do something about it". He told me, "There is a WASA problem there, there is a pipeline that needs to be completely replaced and I cannot fix the road". That is what the Minister of Works and Transport told me two months before the local election. But two uninformed Members of the Government arrived by helicopter at the Sierra Leone Road about three weeks before the local election and check them: "Oh my God, look at this road, how could it be in this condition!" The same ministers who passed down that road all the time—when their activists have to share out envelopes and things—many times before, but somehow, it was only apparent to them in a local election that the road was bad. So, the Minister of Local Government then goes on record,

speaks an untruth and says that the corporation should have fixed Sierra Leone Road, when under the laws of this country, Sierra Leone Road is published as a Ministry of Works and Transport road. You see? And this is what they want to borrow money for. They want to borrow money locally so that when they get up in the morning—

**Mr. D. Singh:** Are you saying I should not fix it?

**Mr. C. Imbert:** I am very happy you are fixing it. They want to get up in the morning and say, “Leh we go and fix Freeling Road in Tunapuna, nah. Call a pardner. Give me a price—\$100,000? No problem, take that.” Because that is what has happened in Tunapuna. The councillors estimated \$30,000 to \$40,000 to fix roads, the Minister has abrogated the rights of the council, taking it away from them and has spent two to three times as much money as the estimate of the Council to fix the same road. There is a particular road in Tunapuna. *[Interruption]* But how you mean? It is the truth I am talking! I am not like them. I am not like the Minister of Finance, you know.

But anyway, I am convinced that notwithstanding what they do with this \$2.5 billion over the next 18 months, whatever corrupt contracts they facilitate, whatever kickbacks they get, whatever bribes they hand out to the population, that it will do them no good. Because if one analyzes the election results properly—forgetting the idle boasts of the Prime Minister, who could not be found on Monday night: he was hiding, and three ministers out of 20—seventeen were missing. Notwithstanding the nonsense that they have spoken about the election results, they are well aware of the sound licking they got. *[Desk thumping]* We wiped them out in Arima, San Fernando, Port of Spain, Diego Martin and Laventille. We nearly beat them in Sangre Grande and if we had done what they are doing now—smudged vote and that is an “X” and all kinds of things—we would have taken all seven. If we had done what they are doing now in their desperation in San Fernando, we would have won in Sangre Grande too. We hauled them to a draw in Siparia and we made inroads in Dow Village, Hindustan, Point Lisas, Enterprise. We pulled over 1,000 votes in Ramai Trace in Penal. They could say what they want, you know. Imagine, the UNC is in power and we won a seat in Chaguanas? Imagine that! *[Desk thumping]* And they want to tell me nonsense about they won the election. Is licks they get! Bad licks, too! So I am satisfied, Mr. Deputy Speaker, that no matter what they do with this money, no matter how much of it is stolen—*[Interruption]*

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Mr. Deputy Speaker, if you will allow me. You know, the Minister of Finance was so “bazodee” with licks on Monday night, that he did not listen properly to what I was saying about the sharing out of money in the envelope. *[Interruption]* I said he was there, while others were sharing money. He is so “bazodee” with licks he cannot even hear properly.

**Sen. Kuei Tung:** I was not there. He is lying. I might have been at his home, because I know he was not at home.

**Mr. C. Imbert:** You see, Mr. Deputy Speaker, I also said—and I will say it here now, I will repeat what I said on Monday night—that the performance of my political leader in San Fernando, taking back and increasing his majority in that election, was fantastic. *[Desk thumping]* I said it on television on Monday night and I will say it again. You could say what you want. I speak the truth. That is what they cannot take. They cannot take the truth. When I do not like something, I say so. When I like something, I say so. When credit is due, I give it. When it is not due, I do not give it. And I give credit to my political leader for his performance on Monday night in San Fernando. “Take that in yuh waist!”*[Desk thumping]*

Anyhow, I do not really care what they do with this money, they could thief all, but they are going to lose the next general election.

Thank you.

**Mr. Patrick Manning** (*San Fernando East*): Mr. Deputy Speaker, I rise this afternoon just to make a brief intervention in this debate. The honourable Prime Minister has been saying that I only won. I can only assume that he is referring to the Development Loans Act, the resolution that is before us today, to increase the ability of certain state agencies to borrow.

One would have thought that in a matter as important as this, the Minister of Finance in making his presentation to the Parliament would have given us some indication of the state of borrowings in the country—public sector borrowings, contingent liabilities by state enterprises—and that, he would have given us some kind of indication of the developmental thrust of the Government that now warrants him coming to the Parliament and seeking an increased ability of \$2.5 billion for borrowing on the domestic market.

**3.55 p.m.**

Mr. Deputy Speaker, we are none the wiser as to what this money is to be used for. We are none the wiser as to what borrowings have taken place and have



brought them today to the limit that has already been approved by Parliament, and we are none the wiser as to the general direction that the Government wishes to go that would warrant improved and increased ability to borrow money in this country.

We are aware that as you borrow money, especially on the domestic market, and as you spend money especially—nine years ago in 1990, when Iraq went into Kuwait and oil prices sky-rocketed, the then government, on the basis of enhanced revenues, increased the expenditure on the domestic market and it led to a devaluation of the Trinidad and Tobago dollar within two years. That is what happened just over a year, and so we know this is one of the dangers that face us and, therefore, we would have wanted to find out from the Minister of Finance or from the Government, whether that is something we can look forward to on the basis of this. We would have liked to know, for example, whether they are seeking to borrow on the domestic market to replace funding that is available from external agencies or sources.

Mr. Deputy Speaker, four years ago, this Government came into office and met an arrangement in place by December 15, 1995 by which they could have built an airport for this country on the basis of external funding, none coming from the Treasury. There was no need for domestic borrowings, and on the basis of that arrangement, they could have had, not only an airport, but a new airport that would have reverted to the people of Trinidad and Tobago in a particular time frame.

The question that arises, therefore—when we take that experience into account that they scuttled that arrangement, and entered into some new arrangement which was twice the cost, being financed out of our own resources, domestic borrowings and otherwise—is whether this is the approach which is now contemplated by the Government of Trinidad and Tobago as they come before this Parliament seeking an increase in domestic borrowing.

Mr. Deputy Speaker, we are well aware and quite concerned that what this Government might be doing is exactly what we inherited on the last occasion, that is, a bed of thorns that was prepared for us when a previous government, not only went to the IMF, but rescheduled the public debt, postponing debt service to the years 1992, 1993, and 1994 at a significantly enhanced level. We are asking ourselves the question whether this Government intends to borrow itself to the next general elections knowing that the people of Trinidad and Tobago do not fall

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for those blandishments that the Government may have dollars but the people of Trinidad and Tobago have sense, and that we might very well find that as a new government comes in, that we meet a situation where the amount of money required to service the public debt is so significant that the amount of money that is available for normal developmental works may not be available, or even worse, that there may not be enough money available to satisfy the current expenditure, meaning salaries and all of that.

We are very concerned and scared about that Mr. Deputy Speaker, that this Government is planning to do us exactly that. We have faced that situation before and one of the reasons I chose to intervene briefly in this debate is to put the country on notice that now that the writing is on the wall, a new strategy is going to be pursued by this Government; one designed to bankrupt the country, to borrow as though it is going out of style, knowing that the responsibility to pay back would not fall on their shoulders, but on the shoulders of the People's National Movement, [*Desk thumping*] and that we would be very lucky and it is most unlikely—on the basis of the track record of this Government—that the country is going to get value for money, and in putting it that way, I seek to put the best face on what the Government would surely do.

There is one other concern because while they are now seeking to borrow and raise the limits for borrowing, the Minister of Finance has been very silent on borrowing from the Central Bank as part of the overall public debt. I remember very well when we came into office in 1991, we met a situation like that where the previous government had tried to borrow itself into the hearts of the people and the borrowings from the Central Bank were billions of dollars. By prudent management, and asking the population to tighten its belt and tolerate some sacrifices, in three years we were able to reduce the borrowings from the Central Bank to a level that was below \$400 million in circumstances where our payment was over \$3 billion, but we had to do that. And, in fact, we warned when we left Government in 1995 that prudence dictated that the in-coming government and particularly the in-coming Minister of Finance—who should have known better because he knew what we had to pass through—should have been very careful in the way they approached the Central Bank and very careful in the way the country's finances were handled because we were not entirely out of the woods, but that prudent management was required to ensure that we were eventually out of that situation.

The record now shows, as far as we now know—because sometimes we wonder about the integrity of the figures that we get—the borrowings from the

Central Bank have now reached \$1,500 million. They have begun to borrow again and they are borrowing heavily from the Central Bank, the effect of which, as you know, is to print money: that is the effect of that. And as you do that, Mr. Deputy Speaker, you are putting pressure on the exchange rate, and the Minister of Finance would be well-advised before this debate is over to tell us something about that. He must understand that, especially subsequent to Monday last, when the results of the local government election became clear to the national and the international community, a certain unease has stepped into the minds of many people as a consequence of the fear of what this Government is likely to do now that it realizes that their sun is setting.

Mr. Deputy Speaker, I am merely urging the Minister of Finance to be a little more forthright with us please. We have just passed in this Parliament the Freedom of Information Act, yet the very Minister and the Government are asking us to take major decisions and not giving us enough information as a basis for taking those decisions. [*Desk thumping*] It merely underscores what we have been saying: that the attitude of the Government is one to conceal rather than to reveal and even where the Government appears to reveal, one has to be very careful about the integrity of what is said, or done.

Notwithstanding those facts, we urge the Minister of Finance to take us into his confidence please. Take the country into your confidence because it is not my money, it is not your money, it is everybody's money. It is our money. It is the people's money and the people have a right to know, if I am to quote the hon. Attorney General. The people have a right to know and if the people have a right to know, especially where their money is likely to be spent, they must know what the money is to be spent for; they must know how much, and what the priorities are; and they must know what the current state of the country's borrowings and finances are. They must know how much money must be appropriated and set aside for servicing debt already and what these new borrowings would mean in terms of the amount of money that has to be used to pay debt, and the amount of money available for developmental services.

I urge the Minister of Finance to come clean with us. [*Desk thumping*]

**4.10 p.m.**

[MR. SPEAKER *in the Chair*]

**The Minister of Planning and Development (Hon. Trevor Sudama):** Mr. Speaker, we have not heard the Member for San Fernando East for a very long

time in this House. It appears that there has been some sort of resurrection in this House. I want to say after resurrection—temporary as it may be—there is death. This is permanent death.

**Mr. Manning:** Death is everlasting life.

**Hon. T. Sudama:** Yes, in another world. Everlasting life, but not in this world. In another world there may be everlasting life for you. What I want to tell you is, that your resurrection—whatever you may call it—is very temporary. When one comes back from the dead one normally comes back as a ghost and nothing else. So, when I look at the Member for San Fernando East I am not sure that I am seeing a living person or a ghost: a ghost from San Fernando East. But I want to wish him well in his new incarnation and ask him to enjoy himself in his temporary respite and resurrection.

He made a number of rather wild and inaccurate statements in his contribution. The first is, he questioned the purposes of the borrowing and he intimated, like his colleague from Diego Martin Central, that these moneys which may be borrowed by raising the ceiling under the Development Loans Act will be used for purposes of extravagance. The usual complaints that they will be used for corruption, to buy votes and to bribe the population: the usual thing which the PNM—what they are accusing us of falsely is what the PNM record is for 34 long years in this country: bribery, corruption and nepotism; exactly what their record has been for all these years.

Mr. Speaker, the country takes that with a pinch of salt. They have boasted here in this House—the Member for Diego Martin Central—Diego Martin East, sorry, he has promoted himself to Diego Martin Central. When I hear him praising the Member for San Fernando East, I said: “My God! How times have changed.” Crawling on his belly in order to “mamaguy” the Member for San Fernando East. I assure him, because today he said: “the Member for San Fernando East is my political leader”. I want to know what is the Member for Diego Martin West to him, his ex-political leader? Today he is singing a different tune. “My political leader”, crawling on his belly in order to try to ingratiate himself with the Member for San Fernando East. I want to tell him that the Member for San Fernando East is a man with a long memory and he does not forget, neither does he forgive, for what the Member did when the challenge came to him in 1994. He will not forgive and he does not forget. I just want to give the Member a little warning. No matter how much you crawl and beg today, it is too late. Too late shall be the cry for you, Member for Diego Martin East. Put that in your pipe and smoke it!

Mr. Speaker, he wants to know what are the purposes for which this intended borrowing would be put. From time to time, all governments raise the ceiling for borrowing. They have done it umpteen times in their reign during the era of the PNM. There is a simple reason for this, which is that the value of money at one point in time is not the same as the value of money at another point in time. So when a ceiling is fixed say, in 1970 or 1980, of say \$5 billion and you come to 1990, \$5 billion in 1990 is not the same as \$5 billion in 1980. The value of goods and services goes up. Therefore the need to borrow on a higher scale also rises. It is a simple thing.

**Mr. Manning:** Would the Minister please give way?

**Hon. T. Sudama:** Yes, I will give way. As a resurrected one, let me give way.

**Mr. Manning:** I thank the Hon. Minister for giving way. I think the Hon. Minister is saying that there is a need to raise the limit on borrowings purely on the basis of the considerations of inflation. Is that what is being said?

**Hon. T. Sudama:** That is one of the reasons, because the value of money over time would have dropped. Therefore, the nominal figure that is used will not purchase the same value of goods and services 10 years hence, or five years hence. I thought this is a simple matter. I do not know how to get through to the Member for San Fernando East in very simple terms. Therefore, there is a need to raise the ceiling. They have done it. He says he does not know what the borrowing is for.

Mr. Speaker, the Motion is very clear: money is borrowed for the purposes of financing general development—I will elaborate on that later—or repayment of borrowing defected for general development in a past era. What we are borrowing for is to effect payment for money wasted for so-called development purposes borrowed under the PNM. That is one of the purposes of this; and by statutory authority, within the meaning of the statutory corporation and in enterprises that are controlled by, and on behalf of the state. All the mismanagement of the state enterprises in the past under the PNM, we have to pay for it today. This is why we have to raise the ceiling in order to borrow for our own developmental purposes and in order to borrow to pay for the wastage and the corruption of previous governments—previous PNM regimes. That is why we are borrowing here. It is stated here very clearly.

There was a certain limit of \$7,500 million and now we are trying to raise that limit by another \$2,500,000,000: moneys which today, are at the rate of TT \$6.30

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to US \$1. When they were borrowing and when money had a greater value, ask them what they have to show for it. They talk about waste and extravagance. In the 1960s, they collected over \$100 billion from 1956 to 1986, particularly the \$60 billion or \$70 billion which they collected between 1973 and 1983. Ask them to account for it. What did they do with that?

Mr. Speaker, let me tell you what we have been doing for developmental purposes. Every time we get into a loan with multilateral institutions—whether it is the World Bank, the Inter-American Development Bank or the Caribbean Development Bank—as part of the overall programme, a loan is given and counterpart funding has to be provided by the Trinidad and Tobago Government. That counterpart funding either comes from your own revenues or from loans that would be raised internally. Let me give you an example. While education has been in a state of dire neglect under the PNM regime, particularly in the last years of the PNM regime. I heard a former Finance Minister of the PNM speak about “the need for a revolution in education if we are going to make ourselves capable of handling the situation in the new millennium”. I wonder what he was doing in the four years when he was Finance Minister of that discredited PNM regime? Were they thinking about revolutionizing education?

I tell you Mr. Speaker, one of the first things we got into was negotiations for a Secondary Education Modernization Programme (SEMP) in which, in the first instance, we are committed to a programme of US \$150 million to revamp our secondary school system, to build additional places so that there will not be any Common Entrance Examinations after the year 2001. No Common Entrance Examinations. All students who graduate from primary schools would have a place in a secondary school. That is one of the objectives of Secondary Education Modernization Programme. *[Desk thumping]* We are going to amend the curriculum. We are going to train teachers. We are going to upgrade their skills. We are going to decentralize the management in the education system. We are going to put a science laboratory and a computer and multimedia facility in every secondary school in Trinidad and Tobago. This is what this loan is for. The counterpart funding for this—we are borrowing US \$105 million. We are putting from our own resources, US \$45 million which is almost TT \$300 million. Do you understand? So when we raise the limit and we borrow internally, this is what we are borrowing for.

We are borrowing internally in order to provide counterpart funding for the National Highways Programme, where we are going to extend and refurbish

hundreds and hundreds of kilometres of main roads in Trinidad and Tobago. We are borrowing in order to provide counterpart funding for the Health Sector Reform Programme, where we are going to revamp the whole health sector and bring more efficient delivery of health services to the population. We are borrowing in order to restructure the agricultural sector. We are borrowing for the postal sector where there will be an improvement and enhancement in communications. That will be the responsibility of the postal sector.

When the Opposition comes here to talk about what are the purposes and so forth, we are explaining to them what are the purposes that this raising of the ceiling which will enable us to borrow more locally, will permit.

Mr. Speaker, they talk about value for money. I want to ask them: did we get value for money on the Hall of Justice which was slated to cost \$98 million and cost \$300 million? We got value for money? Did we get value for money on Mount Hope Medical Sciences Complex which was slated to cost, I think it was \$800 million and we spent \$2 billion on the Mount Hope facility? Did we get value for money on the Twin Towers which was scheduled to cost \$450 million and cost \$790 million? They come here to talk about value for money!

Mr. Speaker, they have very little credibility to talk about value for money under the stewardship of the PNM. They talk about strategy to bankrupt the next illusion of coming back into power in the year 2000. It is a grand illusion they have. They said that the Government plans to bankrupt the Treasury when they take office so that they will get an empty Treasury.

#### **4.20 p.m.**

They have very short memories. What was the state of the Treasury at the end of 1986? The state of the Treasury was such that we had absolutely no money, no foreign exchange reserves, and one of the first things this NAR government had to do was to have recourse to the International Monetary Fund, not out of choice, but out of necessity, given the state of the Treasury by the PNM government prior to 1986. But they have the gall to come here and talk about bankrupting.

Then they talk about the elections—how they did so well and won so many seats. [*Crosstalk*] When you look at the results, unfortunately, in a first-past-the-post system, certain results are produced which do not accord with the overall voting pattern. In San Fernando, they are boasting that they won. They won seats by 10 and 15 votes in San Fernando.

**Mrs. James:** You could win by one.

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

**Hon. T. Sudama:** Now, a big claim about winning San Fernando and so forth. Well, we pulled back one in San Fernando.

Mr. Speaker, when we look at the pattern of this result and how they spoke triumphantly, talking about the sound licking the UNC got.

**Hon. Member:** That is right!

**Hon. T. Sudama:** When you look at some of these figures for the overall picture, in Diego Martin Corporation—their heartland—where in 1996 we got 2,697 votes; in 1999 we got 5,510. [*Desk thumping*] When we look at the Port of Spain Corporation, in 1996 we got 1,185 votes; in 1999 we got 1,529 votes; we increased our voting strength. [*Desk thumping*]

**Mr. Hart:** What is the relevance of that?

**Hon. T. Sudama:** In San Juan/Laventille—the heartland of the PNM—in 1996 the UNC got 10,090; in 1999 we got 12,487 votes, [*Desk thumping*] increasing our support in San Juan/Laventille by up to 2,500 voters.

**Mrs. James:** You paid them so they felt safe.

**Hon. T. Sudama:** Now, maybe at the micro level, you did win seats, but when you look at the whole picture, you will see that the UNC Government is on the move, gathering more and more support and momentum, but wait until these results are transposed on a constituency basis, then you will see what is happening.

They are crowing about the Tunapuna/Piarco Corporation. Although we did not take control of that corporation, in 1996 we got 22,990 votes; in 1999 we got 23,900. We increased our support by almost 1,000 votes in the Tunapuna/Piarco Corporation. I want to put in some perspective this victory that they glibly talk about. [*Interruption*]

Then, in Arima, where my good friend from Arima is being pilloried and so forth—

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

**Hon. T. Sudama:**—the UNC Government has performed creditably in Arima. Hear what happened in Arima. In 1996 we polled 1,847 votes; in 1999 we polled 4,007 votes, [*Desk thumping*] increasing our voting strength in Arima overall by 2,160 votes. These are the figures we have.



As we go along in their heartland, let us take San Fernando, for example. They are claiming a big victory in San Fernando. Let me tell you what happened in San Fernando. In 1996, the PNM received 12,482 votes; in 1999, they received 12,620 votes; they increased their votes by 138. In 1996, the UNC in San Fernando got 8,670 votes, but in 1999, we got 9,142 votes, that is, increasing our votes by 472 as against the increase by 138 for the PNM in San Fernando.

I give the Members for San Fernando West and East a little warning. When we transpose the votes polled at the local elections onto the constituency boundaries, PNM versus UNC—[*Crosstalk*] we show that we beat the PNM in 19 constituencies in Trinidad and Tobago as against 15 in which they beat the UNC, on the basis of constituency allocation of voting in the year 1999. [*Desk thumping*]

**Mrs. James:** Not in Laventille!

**Mr. Speaker:** Hon. Members, I ask you please to distinguish as between the type of discourse that is good and proper on the political platform and on the street corners, as opposed to that which we elevate in the Parliament. Obviously, we would not get anything done in the way in which we are going. Every Member will have an opportunity of speaking and, because the debate has been widened to include election results, if one wants to speak about that, get up and speak about it, but let us not engage in a market scene while one Member is on his legs. Please.

**Hon. T. Sudama:** Mr. Speaker, this whole issue came about because of the boasts, both from the Member for Diego Martin East and the Member for San Fernando East, about the UNC being soundly trounced at the last local government election. I am just trying to put a perspective on the results of the last election. Yes, they obtained more seats than the UNC, but it is clear that the United National Congress in the 1999 local government election, got 20,000 more votes in the whole country than the PNM was able to muster, and where they won seats, it was by very small margins; where we won, it was by a thumping 1,000; 2,000 or sometimes 3,000 votes. [*Desk thumping*]

**Mr. Hart:** You know why!

**Hon. T. Sudama:** So, I put their boast to rest here because even if they consider themselves winning a battle, the war is still to come. [*Desk thumping*] I just want to give them a little warning: that war will not be fought until the year 2000.

**Dr. Griffith:** The last laugh is the best laugh!

**Hon. T. Sudama:** That war will not be until—what is the date, John? [Laughter] I am being prompted by the Member for St. Augustine about the exact date. I will not tell tales out of school, but the war is coming next year so you may have squeezed in a little on a battle. You squeezed in on the basis of seats; you did not squeeze in on the basis of popular support; you are not more popularly supported in Trinidad and Tobago than the United National Congress when the whole national election total is taken into account.

We have gone into the East/West Corridor and we have increased our support on the East/West Corridor. We have not won seats yet, but that is coming later; [Desk thumping] everything in time. As the *Bible* says, “there is a time for every purpose under the sun” and there will be a time when the East/West Corridor will fall into the conquering hands of the United National Congress. [Desk thumping] That is not too long far away. We are looking at the micro levels here—the local government election deals at the micro level of voting.

When we look at the macro level, a different picture emerges. At the macro level, we transpose on a constituency basis, we have beaten the PNM in 19 of the 34 constituencies in Trinidad. That is for the record. You can take the Elections and Boundaries Commission figures; you can analyze them anyway you want to analyze them. That is the record.

**Mr. Hart:** Where were you on Monday night? You were ashamed!

**Hon. T. Sudama:** The Member said that they got 1,000 votes in Ramai Trace. In the whole Penal/Debe Corporation, they got 4,000 votes; Ramai Trace is one short street. The entire voting population of Ramai Trace is about 500, but they got 1,000 in Ramai Trace. These fellows do not live in this world; they live in the resurrected world of the Member for San Fernando East; that is their problem.

They are looking for any straw to grab on to, so these results that came out on Monday night were a straw. A drowning man grabs at anything and you have drowned already because you are not going back for any election. You are politically drowned, Member for Diego Martin East and no amount of crawling on your belly and “mamaguy” of the Member for San Fernando East will get you that Diego Martin East seat. In one set, you have gone through.

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

**4.31 p.m.:** *Sitting suspended.*

**5.05 p.m.:** *Sitting resumed.*

Mr. Speaker, when we went for the tea break, I was on this question of refuting the very hollow boast on the other side that the PNM had won so handsomely in the election of Monday 12, July. I was trying to put all the results in a wider perspective with respect to voting patterns and the confidence that the large number of voters who turned out to support us, expressed in the Government of Trinidad and Tobago.

The whole question of who made inroads where, I tried to deal with that by transposing the results onto a constituency basis, which expressed to us the fact that we beat the People's National Movement in the 17 constituencies which we currently hold and which we held in 1995. We also topped the PNM because we got more votes than they did in the constituencies of San Fernando West and Tunapuna. So 17 plus two is 19, which is a majority—[*Interruption*—and 17 minus two is 15. I just wanted to say that for the purposes of the media who, of course, are singing the same tune like the PNM Opposition.

When you read the media statements they are not telling us the total number of votes we got as against the People's National Movement. Merely for the record, Mr. Speaker, when we tally the votes on a constituency basis, in Tunapuna the UNC obtained 5,176 votes, as against 5,094 for the PNM. In San Fernando West the UNC polled 5,443 votes in the last election, as against 5,311 for the PNM. I will put that on the record merely to indicate to the people of this country that you take results and can interpret them in any way you wish.

For the claim that they have made inroads into our areas where we have received substantial support in the past, let me just tell this House that in the Chaguanas Corporation, the UNC received 13,217 votes, as against 5,759 votes for the PNM; in Couva/Tabaquite/Talparo, 31,364 votes, as against 12,804; Mayaro, 7,414 for the UNC, as against 4,316 for the PNM; Penal/Debe Corporation, 20,586 for the UNC, as against 4,490 for the PNM; and in Princes Town, 19,194 for the UNC, as against 9,486 for the PNM. So that if they want to claim success and victory, and claim that they have made inroads into the strongholds of the United National Congress, all I am saying here is that the figures speak for themselves. When the voting pattern is analyzed you would see one result on the basis of Local Government seats and another result on the basis of the larger picture.

Finally, Mr. Speaker, a lot of heavy weather was made on our managing the economy; that we are running this country bankrupt and so on. We have had the latest report from the International Monetary Fund (IMF) which said that despite

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the difficult conditions which we faced in the early part of the fiscal year, we have managed well. We have stabilized the fiscal situation and have still achieved growth. When you compare the situation at the end of 1995 with what it is today, in the middle of 1999, you see some of the more significant indicators. The IMF spoke a lot about internal debt. They did not speak a lot about the external debt which we have managed to reduce. So from 1995 to today's date, we have a reduced external debt which is below the figure of US \$1.8 billion.

The IMF also said that we have reduced the debt service ratio, from 1995 to today, which is another significant indicator of the performance of the economy. The debt service ratio is hovering around 15 per cent, whereas it was over 20 per cent when we took office in 1995. Of course, as you know, we have reduced unemployment from 19 to 14 per cent by the first quarter. We have increased the total reserves of the country from anything like US \$400 million at the end of 1995 to over \$1 billion at the first quarter of 1999, and we have contained inflation. When you look at all the overall indicators, they have shown that we have done well with the economy of Trinidad and Tobago, and that whatever borrowing we are seeking is for developmental purposes which will further lay the foundation for increased growth in our country and, indeed, increased development.

I merely rose to deal with a few issues raised on the other side and to put their boast to rest and their triumphalism to account—to face reality. So, Mr. Speaker, I think that the population would be aware of what we are doing. The population knows. When you judge how we have performed in terms of any mid-term election, it is a general experience all over the world that a governing party does suffer a bit in a mid-term election. Whether it is in the United Kingdom or other parts of the world, it does happen. When you look at the figures, we have experienced no such reversal as claimed by the other side. With these few words, I thank you. [*Desk thumping*]

**Mr. Jarrette Narine** (*Arouca North*): Thank you. Mr. Speaker, with the information I have to give, they would have to give another thumping of the desk when I am completed. [*Desk thumping*]

Mr. Speaker, I stand here, not to support this Motion, because over the last three and a half years asking questions in this Parliament and moving Motions on the adjournment and in general debates, I will draw some examples of why we should not support this Motion. As a matter of fact, only recently, standing in my name was a question about Jogie Contractors in the Couva/Talparo/Tabaquite

Regional Corporation, where over \$200,000 was spent on the market in Couva, and the contracts were broken up under \$25,000. It was clear that because of the construction which took place, the corporation had a right to go to the Central Tenders Board to have approval. It was also clear the type of difficulties we had, in that one contractor received all the contracts, and the work was done with eight and nine contracts in that corporation.

Another example was the 36 recreation grounds for which contracts were given in the Chaguanas Municipal Corporation. On the average for any year, the corporation spent \$250,000 on those 36 grounds. On this occasion, MaxCon contractors were allowed to tender. They had broken it down into three tenders and had Seereeram Brothers, MaxCon, and PR Contractors tendering for the 36 grounds in Chaguanas. What happened? MaxCon tendered for \$1.139 million and the PR contracting firm tendered for \$357,000 which was \$107,000 over the cost that they did it for in 1998. But the PR contracting firm got the contract based on two tenders and not three, because Seereeram Brothers do not brushcut grounds. If you look at Saith Park on which they spent approximately \$11,000 to brushcut, in my estimation that was an over-expenditure of about \$7,000, and that was only for one ground.

Mr. Speaker, I would not delay the House this afternoon, but I only want to give some figures on the last local government election results on Monday. While the Government is trying to con the people of Trinidad and Tobago for another time, the facts are that in 1996 the UNC only fought 91 seats. The other party involved in the elections was a coalition between the United National Congress and the National Alliance For Reconstruction. The UNC received 178,000 votes for 91 seats, an average of 2,000 votes per seat. In 1999 the UNC fought 124 seats and got 175,000 votes, which means they got less votes in 1999 than they got in 1996.

It was sad, for people told me—I did not see it on television on Monday night—that only two ministers sat with the Prime Minister pondering over election results at Rienzi Complex. With regard to the average for this election as against the last, the UNC got some 1,500 votes per seat. In the last election they averaged 2,000 votes, so obviously there was a decrease. Let me say what happened in Arima, Mr. Speaker: the UNC won one seat in the last local government elections in Arima, which we won this time.

**Mr. Speaker:** Order!

**Mr. J. Narine:** The NAR had placed candidates in Arima. With regard to the two seats in Arima, Tumpuna and Calvary, because of the independent candidates

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the UNC sent up—who were also candidates in this election, one being Mr. Kenneth Rampersad in Tumpuna, who went independent last time—if you added the independent and NAR votes we would have lost that seat in Tumpuna. The same thing happened in Calvary with a candidate called Hollingsworth who went up as an independent. Adding the two votes, the UNC's coalition partner and their independent candidate who was also a candidate in this election, we would have lost that seat as well.

We won seven seats in Arima “hands down” and the Member for Arima is trying to fool the Member for Couva North by saying he made inroads. No inroads were made.

**5.20 p.m.**

When we look at the election results we are forgetting and they are forgetting conveniently that the NAR fought for them in the last local government elections. While the Member for Oropouche and others are standing here giving false figures, we know that they have continued to do that for their lifetime in politics, trying to fool the people of Trinidad and Tobago. On Monday the people were not fooled, Mr. Speaker. We got enough votes that we got more seats and they got less votes, according to my statistics.

**Hon. Member:** Licks.

**Mr. J. Narine:** So that the statistics the Minister representing the constituency of Oropouche was speaking about are false figures. They got less votes in this election. Their average went down. There were candidates in this election who fought for them in the last election as independents. Those same candidates fought this election for them in Arima and lost because they figured they would have added their votes from the last election in order to secure a win. They won a seat in Cocal/Mafeking because a chairman of their party had to drop out of the race and fight as an Independent. If he had not fought and it was on a one-to-one basis we would have won another seat in the Mayaro/Rio Claro Regional Corporation.

We increased our lead in San Fernando and in Arima, we won a seat in Chaguanas and you come here trying to fool the nation. The deceivers are out. I have coined a name for them, you know. They are deceivers and con men so they are “deceptocons”. Thank you very much, Mr. Speaker.

**The Minister of Finance (Sen. The Hon. Brian Kuei Tung):** Mr. Speaker, let me start by thanking all those who contributed to this debate. For a while there

it seemed as if we had got a bit off track. I want to remind everyone that the matter at hand today is very serious business. We are here today to increase the level of development loans under the Development Loans Act and we need to do this for many reasons.

The first big reason, maybe, is the fact that in 1998 we borrowed what was considered the largest loan ever raised in Trinidad and Tobago. It was raised in Trinidad and Tobago and it was raised in foreign currency, Mr. Speaker. We raised US \$150 million which, as I said, translated into a little under \$1 billion and it was for that reason, because of the way both Acts are structured—there is one called the Development Loans Act and the other one is the External Loans Act—the Development Loans Act intended only to raise money locally and the External Loans Act to raise money from outside the shores of Trinidad and Tobago.

What transpired is that, in essence, the External Loans Act recognized it was borrowing foreign currencies whereas the Development Loans Act was intended to borrow only local currency. Once you begin to develop local financial markets and raise foreign currencies, and by this I mean US dollars, on the local market it created a particular problem. Whereas we had a lot of room under the External Loans Act to raise foreign currency, we had very little room in the Development Loans Act because the Development Loans Act had already reached fairly close to its maximum.

Having, therefore, brought in the US \$150 million which was raised locally—\$150 million in foreign currency, US currency at that—it meant that the Development Loans Act reached near pretty much to its maximum, hence I had to come here because it is not intended for this to remain at this level. What I hope to do, as I said in my opening remarks, is to be able to merge both and that is to recognize the role that the local banks are playing in providing foreign currency loans to the Trinidad and Tobago Government.

Mr. Speaker, I heard the Member for Diego Martin East talk about the number of wild things which he expects this Government would do because we are raising this money one year before the expected general elections. In my opening remarks I reminded him, and I thought he would have noticed, that in 1994, one year before they called elections, he also raised the ceiling, so it is obvious that they had themselves begun to develop a plan of action which backfired on them. It is because of his own thinking, therefore, that he believes we are going to be raising money for the same purpose. Our performance speaks for itself.

*Government's Authorized Borrowing*  
[SEN. THE HON. B. KUEI TUNG]

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I have, for argument's sake, the most recent publication from the Central Bank, the *Annual Economic Survey* for 1998 and on page 3 *Review of the Economy*, the selected economic indicators from 1994 to 1998 give some clear indications as to where the economy is headed. I would just quote a few, Mr. Speaker, to indicate the kind of confidence being displayed to ensure that this economy moves from strength to strength. If you look at debt service ratio, it was 25.2 per cent in 1994. It is down to 9.3 per cent in 1998. What this means is that whereas in 1994 we needed 25 cents of our foreign currency to service our debt, today we only need 9.3 per cent of our foreign currency and that is because of the acute management—[*Interruption*].

I cannot help it if you cannot read. [*Interruption*] Of the *Review of the Economy*? The *Review of the Economy* is review of the national economy. [*Interruption*] That is what I am talking about, the Central Bank statistics. [*Interruption*] I think you have difficulty reading it. [*Interruption*] Yes, but you are not reading it.

The unemployment rate for argument's sake, Mr. Speaker, fell from 18.4 per cent to 14.2 per cent. Inflation rate moved from 8.8 per cent and, after enjoying two of its lowest rates, 3.3 and 3.7, still settled at 5.6 per cent in 1998. Look at the gross international reserves; it was \$678.9 million in 1994 and it rose to a little under \$1.2 billion in 1998. [*Desk thumping*] The Member for Diego Martin East and the Member for San Fernando East got up and asked what are we doing with all the money that we have when all of the selected economic indicators clearly show growth in the economy.

You will continue to peddle a lot of nonsense to the people that you have kept in ignorance, particularly the people who support you. You have developed—[*Interruption*]—because of the nonsense you are peddling not because of that—[*Interruption*]—because of the ignorance that you are peddling. So when the Member for Diego Martin East gets up brassfacedly and says that UNC activists have been handing out money, I dare him to produce one single person in Diego Martin East who collected an envelope with money from a UNC activist. Produce one and I will be satisfied that you were truthful. [*Interruption*] If you produce one I will be satisfied that you have been truthful. You cannot produce a single one. [*Interruption*] You will not produce another one, okay. You have been a stranger to the truth for too long.

Mr. Speaker, I remember the Member for San Fernando East saying that the airport financing could have been done from overseas and that the Government



will not have to provide a single cent. It is the same such sentiment he expressed when he came to this Parliament and sold us on the idea of Severn Trent. Severn Trent came to Trinidad and Tobago under an agreement that was signed by the previous administration. They brought not a penny to this country. Instead, the previous administration was relying upon some kind of illusory money from overseas which never turned up. Nobody wants to build an airport for you. Nobody wants to see about your water for you. You have to get up and see about it for yourself. It is a lesson that ultimately has to be learned by that administration; if you do not fend for yourself, no one is going to fend for you.

So, therefore, we come here with the intent of raising development loans for the development of the country. We want to build our own airport. Let me say, Mr. Speaker, this nonsense about borrowing money for all kinds of spurious reasons, no bank in or outside of Trinidad and Tobago is going to lend money if it does not have the confidence in what you are doing. We have had more success in raising money than they have had; as a result of which they have had to go to the multilaterals—they have gone to the World Bank and they have had to go to the Inter American Development Bank.

In our case, we have been able to improve our credit rating to the point where we are able to borrow money at much better rates than Venezuela, Brazil and Jamaica. So that, our credit rating has allowed us to borrow money at a much cheaper rate than at any other time in the last 10 years. The Member for Diego Martin East gets up and asks what are we going to do with the money. I do not know anybody who is going to lend money if you are not able to satisfy the lender about the reasons for which you are borrowing the money.

I think that this motion is well commended. I am sorry that Members on the other side seem to have some difficulty with it, but I recommend it to this honourable House. Mr. Speaker, with these words I beg to move.

*Question put and agreed to.*

*Resolved:*

That for the purposes stated in the said section, the Government is hereby authorized to borrow money externally or internally in a further sum or sums not exceeding in the aggregate two thousand, five hundred million dollars in the currency of Trinidad and Tobago.

**ARRANGEMENT OF BUSINESS**

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, may I announce that we did agree on the last day to complete Bills Nos. 2, 3 and 4 and we should be able to do that very quickly.

*Agreed to.*

**CARIBBEAN INVESTMENT FUND BILL**

*Order for second reading read.*

**The Minister of Foreign Affairs (Hon. Ralph Maraj):** Mr. Speaker, I beg to move,

That a bill to give effect to the Agreement concerning the Caribbean Investment Fund and to provide for matters connected with or related to the foregoing be now read a second time.

Mr. Speaker, it was at the Heads of Government Conference of the Caribbean Community which was held in Grenada in July 1989 that there first emerged the idea for the establishment of a regional equity venture capital fund. After that was done, studies were conducted as to the viability and effectiveness of the fund and how we should go about doing it. Eventually it was decided that it would be a privately-owned Caribbean Investment Fund and the draft principles of the Caribbean Investment Fund were approved at the Third Intersessional of Caricom States of Government in 1992 held in Kingston.

The fund was registered in the Bahamas as the Caribbean Basin Investment Fund on May 7, 1997 by the ICWI Group Limited of 2848 Barbados Avenue, Kingston 5 in the parish of St. Andrew, Jamaica. Trinidad and Tobago signed the Caribbean Investment Fund and the supplemental agreement thereto on October 13, 1993 and July 6, 1996 respectively. Both agreements have now been incorporated into one agreement and this was signed by Trinidad and Tobago in 1998.

**5.35 p.m.**

The agreement sets out the concessions and privileges that each signatory state is required to grant the Fund for a certain period of time in order to facilitate the establishment and operation of the Fund and also to enhance the viability. In other words, each state has to provide the kind of environment for the Fund to be successful. The environment includes tax concessions, tax incentives and privileges; the acquiring of buildings and disposing of real and personal property by the Fund; the transferability without restriction, shares within and outside of

the signatory states, approvals with respect to investment securities, real and personal property, and remittances by the Fund of any profits, dividends and capital gains.

The agreement also requires the signatory states to grant exclusivity to the Fund for a period of five years. In other words, the heads have decided, very wisely, that at least in the first five years there should be no competition for this Fund, because it is a fledgling Fund. It is a pioneering effort in Caricom and we want to give certain exclusive status to the Fund so that it can increase and improve its viability.

Mr. Speaker, the Bill before this honourable House, therefore, seeks to give effect to Trinidad and Tobago's obligations under the agreement, by incorporating all of the three conditions of the two agreements and, in particular, it seeks to give the force of law to clauses 4(2) and 12(2) of Schedule II of the Bill. The original agreement, as I said before, the supplemental agreement, and the agreement incorporating the original and supplemental agreements are contained in the three Schedules to the Bill.

I have just been advised by my Leader of the House that the other side really have no objection to this Bill. They seem to be very conversant with it. In fact, if you look at the original agreement there is a certain "Patrick Manning", whose signature is appended to the agreement when it was first signed in 1994, so I am not surprised that they do support this Bill. *[Desk thumping]*

Mr. Speaker, I beg to move.

**Mr. Imbert:** Mr. Speaker, we support the legislation. *[Desk thumping]*

*Question put and agreed to.*

*Bill accordingly read a second time.*

*Bill committed to a committee of the whole House.*

*House in Committee.*

*Clauses 1 to 7 ordered to stand part of the Bill.*

*Schedules I to III ordered to stand part of the Bill.*

*Question put and agreed to, That the Bill be reported to the House.*

*House resumed.*

*Bill reported, without amendment, read the third time and passed.*

**EVIDENCE (AMDT.) BILL**

*Order for Second reading read.*

**The Minister of National Security (Sen. Brig. The Hon. Joseph Theodore):** Mr. Speaker, I beg to move,

That a Bill to amend the Evidence Act, Chap. 7:02, be now read a second time.

The Bill before this honourable House proposes an amendment to section 19 of the Evidence Act, Chap. 7:02. The amendment provides for the inclusion of the following positions on the list of persons named therein as Government experts. These positions are:

1. Forensic Document Examiner;
2. Forensic Biologist; and
3. A Scientific Examiner (motor vehicles);

The three positions all relate to the Trinidad and Tobago Forensic Science Centre. The current situation is that the Trinidad and Tobago Forensic Science Centre was established in 1983 to provide the required scientific support for those government agencies responsible for the investigation of crime and the administration of justice. Its typical operations include the provision of forensic science service, such as the identification of illicit drugs in seized materials and the screening of blood and urine for narcotic and psychotropic substances.

The restoration of erased identification numbers also forms part of the requirements of the laboratory, in examining chassis and engine numbers on motor vehicles; in comparison of handwriting, typewriting and detection of alterations on documents; identification of devices such as firearms and ammunition; identification of cutting instruments and other tools from examination of tool marks; an estimation of firing distances in shooting cases.

The demand on the Forensic Science Centre has expanded over the years. The Forensic Science Centre has been experiencing difficulty in getting qualified staff to fill the public service posts that are catered for in the Act. Therefore, because of this persistent shortage of staff and an increased demand for a wider variety of services, the Trinidad and Tobago Forensic Science Centre began exploring the possibility of training scientific personnel in the performance of court duties in the various sections.

This amendment seeks to add to section 19 these categories of forensic document examiner, forensic biologist, and scientific examiner. Perhaps I should

mention, at this stage, that the renumbered section 8 was amended in the Senate to read—I will read how it stood before:

“19(4)(e) the holder of any office declared by the President by Notification published in the *Gazette* to be an officer to which this section applies;”

The amendment changed it to read:

“The holder of any office or any other suitably qualified and experienced person declared by the President by notification, published in the *Gazette* to be an officer or person to which this section applies.”

**5.45 p.m.**

Mr. Speaker, the reason that came about is that since these posts are contractual posts, they do not fall under the ambit of the President declaring them to be experts, in the sense that section 19 holds a Government expert. By that amendment, it means that His Excellency, the President, is now in a position where other posts in an expanded Forensic Science Centre come about—

**Mr. Imbert:** The President, in this case, would mean Cabinet.

**Sen. Brig. The Hon. J. Theodore:** Mr. Speaker, it means on the recommendation of.

**Mr. Imbert:** I just want to be clear.

**Sen. Brig. The Hon. J. Theodore:** Yes, of course.

So what we are seeking to do here, Mr. Speaker, is to add these contractual posts and make them part of the Bill and make provisions for His Excellency, the President, to declare any other posts that are required by the Forensic Science Centre to be expert witnesses.

One of the major drawbacks is that unless one of these scientists is declared an expert witness, they would be required to appear in court, to give evidence and testify to the document which forms the evidence from the Forensic Science Centre. By making this amendment, the expert witnesses will not have to go to court, because once these requirements have been met by the certificate or the report, it is admissible as evidence of the facts stated on it, and this amendment expressly removes the obligation of a court of law to require the attendance of such an expert witness.

So, in effect, we are making it possible for these officers, who have been hired to perform expert duties and write certificates in the Forensic Science Centre, to

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be treated as expert witnesses whose certificates will be accepted by the court and they would not need to be summoned to give evidence personally.

So, without these amendments, we will continue in the old way of having these expert witnesses who, in fact, have been trained and who are all qualified university graduates, who have filled these posts.

So, the Bill, therefore, is now being presented to this honourable House so that the Trinidad and Tobago Forensic Science Centre can benefit from the amendments that are being made.

Mr. Speaker, I beg to move. [*Desk thumping*]

*Question proposed.*

**Mr. Colm Imbert** (*Diego Martin East*): Mr. Speaker, I would like to sound a note of caution to the Minister and the Attorney General. Over the last several months we have had public debate, and even in this Parliament, over the qualifications of persons who would be listed in this Act, forensic pathologist in particular. Now, they are allowing the Cabinet to determine who is an expert. I have no real issue with that, but I think much of the controversy that has arisen over the last six months could have been avoided if we had proper regulations in place which give a proper definition of the qualifications required to be declared an expert.

In a particular case of a forensic pathologist, we have had a situation where one forensic pathologist employed by the Government had stated that another “forensic pathologist” is not a forensic pathologist. Matters were raised in Parliament, the Minister himself came and said that as far as one is concerned, the individual is a forensic pathologist. So, if the executive is now going to exercise its executive authority to determine who is and is not an expert, I think they need to be careful and, as I said, establish regulations and proper qualifications to define what is a forensic document examiner, forensic biologist, or scientific examiner. This is not to say there may be definitions in existence right now, but I think we need to look at it very carefully and see whether the kind of confusion that erupted with this forensic pathologist matter does not occur, since there would be no question. In other words, a court would not be able, or should not be able to determine that someone is not a forensic pathologist, just based on the word of another person.

So, I hope the Minister understands what I am saying. I am in support of what he is doing, but I think we need to address this very quickly and deal with it. Get

the qualifications out, get them published and let everybody know who is a forensic document examiner, *et cetera*.

**The Minister of National Security (Sen. Brig. The Hon. Joseph Theodore):** I would like to thank the Member for Diego Martin East for his contribution. The point is well taken, but as far as these technical people are concerned, I would like to read their requirements.

A Junior Scientific Officer would have to undergo a two-year training course and, on the successful completion of training, he or she would be responsible for conducting scientific examinations of documents and other material to determine their authenticity. He or she would also be required to give evidence in a court of law on all reports. This is the crux of the matter, that their certification will be accepted as evidence. Qualification: Bachelor of Science degree in Natural Science.

I would like to read the requirements for the other two positions. For the post of Junior Scientific Officer/Biology, the successful applicant will undergo a one-year training course. On successful completion of training, the applicant would be responsible for conducting scientific analysis in the discipline of Forensic Biology, work involved in the analysis of blood and other body fluids, clothing and other materials of evident value submitted. Qualification: a Master of Science degree in Biochemistry, Biology or Zoology. With respect to the position of Scientific Examiner/Motor Vehicles, the successful applicant will be responsible for conducting scientific examinations of stolen vehicles to determine, among other things, whether identification marks—

**Mr. Imbert:** I thank the Minister for giving way. When I listen to those definitions, a Master of Science degree, you could tighten that by saying “from a recognized university”. Just look at it. I think it needs to be tightened up and given the force and effect of law.

**Sen. Brig. The Hon. J. Theodore:** Mr. Speaker, I understand more clearly the point the Member is making and the point is fully taken. We both understand the problems that this can cause.

But again, what is encouraging is that the Forensic Science Centre is now in a position to offer training courses to bring the people up to standard. In fact, even with the Forensic Document Examiner, we are negotiating with a university abroad, so the matter of standards is addressed. But, again, the point is well taken concerning tightening up on the qualifications, as the Member for Diego Martin East pointed out, from a recognized university.

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Mr. Speaker, at this point I beg to move.

*Question put and agreed to.*

*Bill accordingly read a second time.*

*Bill committed to a committee of the whole House.*

*House in committee.*

*Clauses 1 and 2 ordered to stand part of the Bill.*

*Question put and agreed to, That the Bill be reported to the House.*

*House resumed.*

*Bill reported, without amendment, read the third time and passed.*

#### **MENTAL HEALTH (AMDT.) BILL**

*Order for second reading read.*

**The Minister of Health (Dr. The Hon. Hamza Rafeeq):** Mr. Speaker, I beg to move that the Mental Health (Amdt.) Bill be now read a second time.

Mr. Speaker, this Bill has already been debated in the other place and the Bill, together with the amendments that were made in the other place have been circulated.

The Bill before us seeks to amend the Mental Health Act to allow the next of kin of mentally ill patients who are not institutionalized to apply to the High Court for an order to exercise control over their property. The Mental Health Act as it now stands makes provision for such an order to be made on behalf of patients who have been admitted to a hospital or a psychiatric ward. However, at present, there are many patients suffering from senile dementia, Alzheimer's disease and other mental illnesses who are being treated at home or at various clinics as outpatients. In addition, it is the trend in health care all over the world to treat mentally ill patients in the community, as far as is possible, rather than as patients in a hospital setting.

At present, there is no provision in the Mental Health Act for these patients—those who are not hospitalized—or their relatives to approach the court to appoint someone to deal with their property affairs. This Bill seeks to regularize that, while putting in place the necessary safeguards and controls. As such, clause 3 of the Bill seeks to redefine the word “patient” to include both institutionalized and non-institutionalized persons.



Part VII of the existing Act deals with the protection of the patient's property. When one examines this section, it is clear that the powers of the court to protect a mentally ill person's property are limited to persons who are institutionalized in a hospital or psychiatric ward.

Mr. Speaker, section 38 of the Act confers on a judge the power to:

"...do or cause to be done all or any such things which he may consider necessary or expedient—

- (a) for the maintenance or other benefit of the patient or members of his family or both;
- (b) for making provision for other persons or purposes for whom or which the patient might be expected to provide if he were not suffering from mental disorder; or
- (c) generally for administering the patient's property and affairs."

**6.00 p.m.**

Section 39 provides that in the exercise of the powers, under section 38, the judge may make such orders and give such directions and authorities as he thinks fit, for the purpose of this section and, in particular, may for those purposes make orders or give directions or authorities for *inter alia*:

- (a) The control and management of any property of the patient;
- (b) The sale, exchange, charging or other disposition of, or dealing with any property of the patient;
- (c) The conduct of legal proceedings in the name of the patient or on his behalf; or the dissolution of a partnership of which the patient is a member.

Mr. Speaker, the Ministry of Health has been approached on numerous occasions for advice and assistance, arising out of the following—not atypical circumstances that is:

- (a) An individual is elderly and is suffering from senile dementia, or is mentally retarded which has the effect of impairing that person's judgment;
- (b) That person owns property and the relatives wish to access his property to support him, and the extent of the mental impairment is not such as to require hospitalization, whether in a psychiatric ward or otherwise.

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Further, such a person cannot give a power of attorney because of his or her mental impairment. The only recourse is to approach the court, so that the court can exercise control over the patient's property by authorizing the carrying out of certain functions or by the appointment of a committee or receiver. The current Act is an obstacle to such a course for these individuals who are not institutionalized.

Mr. Speaker, it is unfortunate to say that numerous situations exist today, where persons are mentally unable to care for themselves, or even to consent to someone else giving such care through a power of attorney. In those situations, therefore, the court should be allowed to exercise control over the patient's property for the benefit of the patient.

In the light of this, clause 4 of this Bill before us would amend section 36 of the Act to allow the next of kin of an institutionalized patient to make an application to the court, in order to exercise control over the patient's property and affairs. This clause would also allow the next of kin of a patient who is not institutionalized, but who is by reason of a mental disorder incapable of managing his affairs, to make an application to the court to exercise control over that individual's property and affairs.

Mr. Speaker, once we agree to this and the Bill is passed, we need to ensure that there are necessary safeguards and controls for the patient's property. In this regard, clause 5 seeks to amend section 37 of the Act, permitting the certificate of a qualified psychiatrist as to the patient's mental condition to be submitted to the court. This stringent requirement is to ensure that only mentally ill persons are so deemed by qualified specialists in the area of psychiatry.

Clause 5 will also require that the applicant furnish the court with a statement, giving a detailed description of the patient's property and its value. This clause makes it mandatory that the court be satisfied that the service of the summons was effected on at least one of the patient's next of kin when the application is not made by the next of kin. This is to ensure, as I said, that the Act is not abused or misused by public officers.

To further ensure and guarantee no misuse of this power of mentally ill persons, clause 6 introduces a new section 37A, which would require that periodic medical certificates be filed, stating the mental condition of the patient and the possible duration of the disorder. It also requires that periodic statements of the status of the patient's property be also submitted to the court. Accordingly, the High Court would have the authority to continue or discharge the committee.

Clause 9 seeks to repeal section 48 since it further restricts the application of this part of the Act. Mr. Speaker, I wish to inform this honourable House that the majority of mentally ill patients are treated in the community and live at home. Many of those would have been entitled to benefit from the estate of others, for example, their parents. Moreover, they may have had property of their own prior to becoming ill. Because of the nature of their illness, these patients are not capable of managing their own affairs or even to take care of themselves without the help of others.

Mr. Speaker, all mentally ill patients whether institutionalized or not, require someone to look after their affairs, some on a short-term basis, others for a much longer period. This Bill seeks to correct that injustice. In some instances, patients have had to be hospitalized to satisfy the requirements of the law to have someone look after their property rights.

Mr. Speaker, with our thrust in community care for mentally ill patients, more and more mentally ill patients would be seeking care in the community and would have to deal with issues like these. Accordingly, I seek the support of this honourable House, in this particular amendment. I beg to move. [*Desk thumping*].

*Question proposed.*

**Mr. Colm Imbert** (*Diego Martin East*): Mr. Speaker, as I mentioned to the Minister of Health, who is one of the Members of the Government that I have some respect for, we are introducing a situation here where persons would have custody and control over the assets of mentally ill people.

I am very pleased to see the amendment which states:

“the High Court may require the person appointed as the committee of the patient’s property to file-

- (a) periodic statements of the status of the patient’s estate; and
- (b) periodic medical certificates...”

because clearly there can be an abuse of this. There can be a situation where a person may have been declared mentally ill, but has improved to the point where he or she can be declared sane—I think we have a case with the Member for St. Augustine.

Mr. Speaker, more seriously, there can be cases where a person can be correctly or incorrectly declared to be mentally ill, but the situation has changed or new evidence has come to light, and the person in charge of the estate has

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squandered the money and stolen it, *eteetera*, so that I am happy to see this clause and I think you need to monitor it. You need to see what is going on. It would take a close eye on what occurs after this legislation is passed. But I would like to propose an amendment as I see an element of confusion here.

In the amendments coming from the Senate, you have included as a definition of “a spouse” a cohabitant and a stepchild or an adopted child as a “child”. But in the case where a mentally ill patient has natural children, step children and adopted children, or a mentally ill person has a “legal” wife, using the term advisedly, and there is no divorce or anything like that, who takes precedent, the cohabitant or the legal wife? Who takes precedent, the natural child, stepchild or the adopted child? So that I would propose an amendment, that it is up to the court to establish in a case like that, where you have more than one child, a natural child, stepchild or adopted child claiming custody of property, that the court should really examine which of these children would take priority in determining who should have custody of property and, similarly, with cohabitant and spouse. So I will propose an amendment at the committee stage and I hope that the Government would accept it.

**Dr. The Hon. H. Rafeeq:** Mr. Speaker, I am glad for the support from the other side and we will look at the amendment during the committee stage. I beg to move.

*Question put and agreed to.*

*Bill accordingly read a second time.*

*Bill committed to a committee of the whole House.*

*House in Committee.*

**6.10 p.m.**

*Clauses 1 and 2 ordered to stand part of the Bill.*

*Clause 3.*

*Question proposed, That clause 3 stand part of the Bill.*

**Mr. Imbert:** Mr. Chairman, as it was amended in the Senate, could we insert a new clause 3 or add a clause 4?

The legal draftsmen will have to address this. In a situation where more than one spouse or more than one child claims rights under this Act, the court shall determine the order of priority.

**Dr. Rafeeq:** I am being advised that the court already has that jurisdiction. In addition to that, the court may summon all the interested parties.

**Mr. Imbert:** I know that. There is an extra protection I want to add, that it is in the law. Because one could have a stepchild, an adopted child, they may not be contacted, they may be abroad, and one may have a situation where they may not appear before the court. Remember, it is mentally ill patients we are dealing with, so they cannot call on their natural child in North America to come, they may be so mad that they do not even understand what to do.

**Mr. Chairman:** *[Inaudible]* If indeed, the court goes and grants it in circumstances where information is withheld—

**Mr. Imbert:** It can be overturned. You see, I am trying to avoid that, someone coming and saying, “I was abroad, nobody told me, my mother is in an institution, she could not contact me.” Her stepchild is the one who came to the court and said that he is the one taking care of her, and the other person is—you understand where I am coming from?

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

**Mr. Imbert:** Yes, but if one has a natural child, a stepchild and an adopted child—one can have that in a relationship—all three are saying they are the ones who should be given the priority in determining custody of a patient. Which one will be picked?

**Mr. Maharaj:** The court will determine which one.

**Dr. Rafeeq:** The same thing happens in the case where one has three natural children, the court will still have to decide which one of the three.

**Mr. Maharaj:** As a matter of fact, that has happened. It happens all the time. There are three brothers or sons applying and the court says, “No. I am giving it to one person”.

**Mr. Imbert:** I follow what you are saying, but remember you are dealing with people who cannot speak for themselves because they are mentally ill, so they may not even be able to inform the court.

**Mr. Maharaj:** That is the whole point; the court determines.

**Mr. Imbert:** The court may not know. How will they know?

**Mr. Maharaj:** One has to make an application.

**Mr. Chairman:** The court, in circumstances dealing with the estate of someone who is mentally ill, is always more than cautious in terms of just giving the estate to someone who is—and it is an inherent jurisdiction.

**Mr. Imbert:** I just feel in dealing with the situation where you may have people coming forward saying, “I am next in the line of priority”, but there is someone else.

**Dr. Rafeeq:** [*Inaudible*]

**Mr. Imbert:** No problem. I hear what you are saying, but I am just flagging, because I have had situations where people have come to me and made representations that they are the natural child and so forth, and they are being prevented from dealing with the estate because the adopted child is—you understand what I am saying?

*Question put and negatived.*

*Clause 3 ordered to stand part of the Bill.*

*Clauses 4 to 9 ordered to stand part of the Bill.*

*Question put and agreed to, That the Bill be reported to the House.*

*House resumed.*

*Bill reported, without amendment, read the third time and passed.*

#### ADJOURNMENT

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, I beg to move that this House do now stand adjourned to Friday, July 23, 1999 at 1.30 p.m. That day is Private Members' Day so, perhaps, the hon. Member could indicate to us either now or later. The Motion which was being debated under Private Members' Day is the State Agencies (Unsatisfactory Award of Contracts), the allegations of corruption motion.

I am sure that the Opposition would not have any objection because we are dealing with two Private Members' Bills for second reading. It would not take long.

Then there is the Motion from the Special Select Committee appointed to consider the Project Excel (Inc'n) Bill.

Mr. Speaker, may I announce, and I indicated to the acting Opposition Chief Whip, the hon. Member for Diego Martin East, that we also propose to sit on

*Adjournment*

*Friday, July 16, 1999*

Monday, July 26, 1999 from 10.00 a.m. to, at least, 8.00 p.m. We will go further depending on the situation. We will also sit on Thursday, July 29, 1999 and Friday, July 30, 1999 from 10 a.m.

I just wanted to indicate that on Monday, July 26, 1999, the matters we propose to deal with would be Motion No. 3, which deals with the acquisition of land, and Motion No. 4, which deals with the Botanic Gardens Act. Under "Bills Second Reading", Bills No. 5, the Regional Health Authorities (Amdt.) Bill; No. 6, the Trinidad and Tobago National Steel Orchestra Bill. Also, completion of Bills No. 7, the Forests (Amdt.) (No. 2) Bill; No. 8, the Sawmills (Amdt.) (No. 2) Bill; and No. 10, the Legal Aid and Advice (Amdt.) Bill.

It should not be very long, having regard to the co-operation which the Opposition has given today. One sees what one can do with co-operation.

Mr. Speaker, obviously, the Government would like to complete the matters which have been completed in the other place and, if we do that, we might be able to get a holiday in the month of August. So I am sure with that incentive the Opposition would try to see whether we would be able to complete these matters in July.

Mr. Speaker, I beg to move.

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 6.22 p.m.*