HOUSE OF REPRESENTATIVES

Monday, October 19, 2009

The House met at 1.30 p.m.

PRAYERS

[MR. SPEAKER *in the Chair*]

PAPER LAID

The Annual Audited Financial Statement of Export Centres Company Limited for the Financial year ended September 30, 2008. [*The Minister of Finance (Hon. Karen Nunez-Tesheira)*]

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

DEFINITE URGENT MATTERS
(LEAVE)

Chinese Nationals
(Horrific Living Conditions)

Dr. Roodal Moonilal (*Oropouche East*): Mr. Speaker, in accordance with Standing Order 12 of the House of Representatives, I hereby seek your leave to move the Adjournment of this honourable House for the purpose of discussing the following matter, as a definite matter of urgent public importance, namely, the well-publicized exposure of the disgraceful inhumane circumstances and horrific living conditions imposed on Chinese nationals on labour contracts, employed in the construction sector in Trinidad.

The matter is definite since it refers to the failure of government agencies to monitor and regulate the importation of Chinese workers, on bonded contracts into the construction sector.

The matter is urgent since there is recent evidence of the denial of human and labour rights and the imposition of slave-like living and working conditions which can lead to undermining the international reputation of Trinidad and Tobago, as a law-abiding nation respecting international law and conventions.

The matter is of public importance since this horrific revelation suggests that in pursuit of Vision 2020, the Government has allowed labour contractors to violate international labour conventions which impose a duty to promote decent working conditions and the provision of health and social services for migrant workers.

Mr. Speaker: Hon. Members, I think that this matter is worthy of discussion and we will do that at 6.00 p.m. [*Desk thumping*]

Question put and agreed to.

A (H1N1) Virus

Dr. Tim Gopeesingh (*Caroni East*): Mr. Speaker, in accordance with Standing Order 12 of the House of Representatives, I hereby seek your leave to move the Adjournment of this honourable House for the purpose of discussing a definite matter of urgent public importance, namely, the urgent necessity by the Government and the Ministry of Health to fully inform, educate and allay the widespread fear, anxiety and apprehension of the citizens and medical personnel on prevention, testing, early detection treatment and management, in addition to much desired policies, programmes and protocols on the influenza A (H1N1) virus.

The matter is definite as it pertains to the present national uncertainty, lack of knowledge and information, the need for urgent answers and serious fear and anxiety currently being experienced by citizens and medical and nursing personnel on the influenza A (H1N1) virus. The matter is urgent because of, as of today, the number of seriously infected individuals from the influenza A (H1N1) virus and the uncertainty as to the cause of death in a number of patients, in addition to the already confirmed four deaths and the need for Government to inform the citizens with urgent communication strategies and national management procedures.

The matter is of public importance because the entire nation is gripped in widespread fear of contracting and dying from the viral disease and the established uncertainty by all concerned in combatting this deadly virus. [*Desk thumping*]

Thank you.

Mr. Speaker: Hon. Members, this matter was earlier raised on May 01, 2009 and it did not qualify then and does not qualify now.

Chinese Nationals
(Horrific Living Conditions)

Mr. Speaker: I will like to revisit the matter raised by the hon. Member for Oropouche East. I get the impression from those to my right that there is some uncertainty as to whether they want to have this matter debated. I will put the question again. [*Interruption*] Order!

Question proposed.

Mr. Speaker: The "Noes" to my right seem to be in ascendancy, but if nine Members wish to have this—actually, it is not nine. It would be 12. The Constitution takes precedence.

Mrs. Persad-Bissessar: But how could that be?

Mr. Speaker: The Constitution is the supreme law.

Mrs. Persad-Bissessar: Yes, we know that.

Mr. Speaker: The Constitution provides that a quorum is 12, so actually it would be 11 Members. This is the supreme law of the land, the Constitution. [*Interruption*] I will get it for you. Therefore, if 11 Members wish to have this matter debated, it would be debated. Do we have 11 Members wishing to have this matter debated?

[*Members stand and Mr. Speaker counts*]

Mr. Speaker: Yes, it more than sufficient to have this matter debated. [*Desk thumping*]

Question agreed to.

CRIMINAL PROCEDURE (AMDT.) BILL

Bill to amend the Criminal Procedure Act, Chap. 12:02 [*The Attorney General*]; read the first time.

COMMISSION OF ENQUIRY (VALIDATION AND IMMUNITY FROM PROCEEDINGS) BILL

Order for second reading read.

The Attorney General (Sen. The Hon. John Jeremie SC): Mr. Speaker, I beg to move,

> That a Bill to validate the proceedings and the record of the proceedings of the Commission of Enquiry into the Construction Sector, which was appointed on September 09, 2008 by the President under the Commissions of Enquiry Act, Chap. 19:01, and for other related matters, be read a second time.

The matter for consideration by the House this afternoon, is a Bill entitled, the Commission of Enquiry (Validation and Immunity from Proceedings) Bill, 2009. This Bill seeks to address the invalidity of the so-called Uff Commission of Enquiry into the Construction Sector and the consequences of that invalidity. Hon. Members would recall that this commission was appointed because there had been several complaints and allegations made by various commentators,

regarding the manner of operations of special purpose state enterprises and, in particular, the Urban Development Corporation of Trinidad and Tobago. Specifically, claims were made that the processes and procedures employed by UDeCott, a company which manages construction projects, lacked transparency; did not allow for accountability and did not conform to statutory regulations.

In addition, local construction companies complained that they were being unfairly treated and overlooked for contracts in favour of foreign-owned enterprises. In those circumstances, several commentators called for an enquiry into the operation of UDeCott. The Government at first considered several options in response to these calls for an investigation. Eventually, during debate in this very Senate on May 23, 2008, on the suitability of one of those options, that is, the use of a Joint Select Committee of both Houses, the former Chief Whip and current Member for Tabaquite made specific and pointed allegations against the Chairman of UDeCott. As a result, the hon. Prime Minister announced in the House on that day, that the Government would set up a commission of enquiry.

The commission was appointed by the President on September 09, 2008 in purported exercise of the powers of the President set out in section 2 of the Commissions of Enquiry Act, Chap. 19:01. Four persons were purportedly appointed as commissioners to enquire into a host of matters in relation to the construction industry. By section 15 of the Act, the appointment of the commissioners was required to be published in the *Gazette*, whereupon the commission would become effective in law from that date. This publication never took place. When that information came to the attention of the commission, it terminated its proceedings on September 07, 2009.

I wish at the outset to summarize for the benefit of hon. Senators, the objectives of the Bill which is before the Senate this afternoon. The Bill seeks to achieve seven main objectives. They are:

(1) To validate the proceedings of the commission which were held from September 09, 2008 to the date of actual publication in the *Gazette* sometime in the second week of September 2009, so that we seek to validate the proceedings by that objective.

(2) To validate the record of the proceedings of the enquiry—

Mrs. Persad-Bissessar: Just to clarify. You are validating up to the date of publication in the *Gazette* which was September 14, 2009.

Sen. The Hon. J. Jeremie SC: The gazetting began, I am told, on September 11 and ran for a series of days immediately thereafter.

Mrs. Persad-Bissessar: Are we speaking of the date of the beginning of the gazetting or the actual date of the *Gazette*?

Sen. Hon. J. Jeremie SC: The date of the *Gazette* is the 11th.

Mrs. Persad-Bissessar: The Gazette is 14th September, 2009. I am sorry.

Sen. Hon. J. Jeremie SC: My understanding is that it is the 11th September.

Mrs. Persad-Bissessar: I can send you a copy. The *Gazette* is September 14, 2009. It is No. 106 of 2009. At the end of the entire gazetting it says dated 14th September 2009.

Sen. Hon. J. Jeremie SC: We can check. I am pretty certain that the gazetting began on the Saturday and ran for the entire week. I have copies available to me.

The Bill seeks to achieve seven main objectives. The first is to validate the proceedings of the commission which were held from September 09, 2008 to the date of actual publication in the *Gazette* in the second week of September 2009.

1.45 p.m.

I say the second week, because I cannot tell you exactly what date, off the top of my head.

The second is to validate the record of the proceedings of the enquiry held by the commission. We seek to save the record of the proceedings.

The third objective is that the Bill seeks to validate any matter or thing done by a commissioner as a commissioner during the proceedings of the commission.

Fourthly, the Bill seeks to validate the evidence given by any witness or person to the commission under the purported authority of section 12 of the Act.

Fifthly, the Bill provides that the evidence given to the commission, as validated, can be used by the commissioners in preparing their report to the President.

The sixth objective of the Bill is to validate any publication made by a person of any evidence given to the commission; that is the media protection.

Finally, the seventh objective of the Bill is to protect every commissioner in relation to any matter or thing done as a commissioner, any person who provides information or any witness who gave evidence to the commission and any person who published any evidence or information obtained from the commission from any legal action or suit.

Mr. Speaker, it should be noted that no warrant is given in respect of a blanket immunity. This is to say, the Bill is not intended to and does not inoculate the commissioners from anything they might have done which might have breached well-established principles of public law. All of this has become critical because the appointment of the members of the commission was not published pursuant to section 15 of the Act. The details surrounding the issue of the non-publication of the commission in the *Gazette* has not yet been resolved. The Government has entrusted a retired Judge of Appeal to enquire into and report on this matter on its behalf. I wish to inform hon. Members that the Government now awaits a final report on this matter in the very near future.

The Bill, which is before us contains nine clauses. It would be inconsistent with sections 4 and 5 of the Constitution and is therefore required to be passed by a special majority of three-fifths of the Members of each House, pursuant to section 13 of the Constitution. That majority was comfortably obtained in the other place a fortnight or so ago, with the unanimous support of the Independent Bench. Unless it is obtained in this House this afternoon, the Bill shall fail.

I turn to examine the constitutional issue; that is the need for a special majority. One of the main operative clauses of the Bill provides immunity from legal proceedings to the members of the commission, persons who gave evidence to the commission and persons who published any evidence or information obtained from the commission. The effect of this is to immunize and not merely to indemnify the commissioners, witnesses, and persons who published any such information from legal proceedings.

A Bill which seeks to grant immunity from suit, in effect denies access to the courts to any person who might have been injured by certain things done by the commissioners, witnesses and other persons during the proceedings of the commission. This Bill, as a consequence, will deny a person who might allege that certain of his rights have been infringed of the opportunity to have such an allegation determined by the courts.

Sections 4 and 5 of our Constitution provide for a number of entrenched fundamental human rights and freedoms. These include:

"(a) the right of the individual to…liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by due process of law;

(b) the right…protection of the law; and

(c) the right…to respect of (one's) private and family life;"

Section 5(1) of the Republican Constitution expressly states that:

"…no law may abrogate, abridge or infringe or authorise the abrogation, abridgment or infringement of any of the rights and freedoms hereinbefore recognised and declared."

There are two exceptions to this constitutional principle. The first is a law enacted pursuant to section 30 and the second is an amendment to the Constitution made pursuant to section 54.

In the case of *Lasalle versus the Attorney General*, the Courts of Appeal of Trinidad and Tobago held, inter alia, that the concept of due process of law included adherence to the principles of trial by an independent and impartial tribunal and observance of the rules of natural justice. The Bill, by denying any person from filing certain legal actions against various classes of persons, however laudable its objective, in effect, contravenes the due process clause of the Constitution. For example, it would deny a person the right to be heard, access to the courts and be contrary to the rules of natural justice. For such a Bill to be validly enacted, it will, as a consequence, require three-fifths majority vote of the Members of each House of Parliament, as I have described before, pursuant to section 13 of the Constitution.

Furthermore, paragraph (e) of section 5(2) of the Constitution provides:

"Without prejudice to subsection (1), but subject to this Chapter and to section 54, Parliament may not—

"(e) deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations;"

In the case of *Alleyne-Forte versus the Attorney General and Another*, the police removed the appellant's vehicle which was parked contrary to section 108(1)(b) of the Motor Vehicles and Road Traffic Act, Chap. 48:50, and he was required to pay a prescribed sum for the removal of the vehicle and for its custody. The Privy Council held, inter alia, that this did not constitute an infringement of his constitutional right to enjoyment of his property. Mr. Speaker, the appellant also argued that the lack of an opportunity immediately to challenge the lawfulness of the removal and payment of the charges before the car was released infringed section 5(2)(e). The Privy Council ruled that the Motor Vehicles and Road Traffic Act did not deprive a car owner of his resource to the

courts to challenge the lawfulness of the removal of his car and to recover the charges paid and to obtain damages for any unauthorized interference with his car. On the other hand, it is the clear intent of this Bill, by clause 9, to deny a person access to the courts, in limited respects to pursue rights gained as a consequence of a failure to gazette the commission.

Section 13(1) of the Constitution provides:

> "An Act to which this section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 and, if any such Act does so declare, it shall have effect accordingly unless the Act is shown not to be reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual."

The question for consideration is: How would our courts interpret the words "reasonably justifiable in a society that has the proper respect for rights and freedoms of the individual", which are stated in section 13(1) of the Constitution?

It is to be noted that in this jurisdiction, the Scheduled Ordinances (Re-enactment, Commencement and Validation) Act 1980, (Act No. 31 of 1980), which validated the Narcotics Control Ordinance, 1961 and which, obviously, carried not simply retroactive but penal consequences, in that persons had for decades been convicted under a law, a narcotics law at that, which had never been in fact proclaimed, was enacted with a three-fifths majority in both Houses of Parliament.

On the other hand, it should be noted that the Public Utilities Commission (Amendment and Validation) Act, 1981, (Act No. 29 of 1981), which validated all acts done by the chairman designate of the Public Utilities Commission in purported exercise of the functions conferred on the Chairman of the Commission, under the Public Utilities Commission Act 1966, was enacted by a simple majority. This Amendment and Validation Act also came into force retroactively.

It is to be further noted that the Caribbean Food Corporation (Validation and Commencement) Act 1981, (Act No. 30 of 1981), which validated all acts and things purported to be done by any person or authority under the powers of the Caribbean Food Corporation Act, 1979, when the 1979 Act was not in point of fact brought into force by proclamation, was enacted by a simple majority and was also given retroactive effect.

Mr. Speaker, an Act may be passed with a special majority under section 13(2) of the Constitution, that is, by the votes of not less than three-fifths of all the Members of each House, but it may still be challenged, as was done in the case of

Morgan versus the Attorney General of Trinidad and Tobago, as being unconstitutional, because the act is shown not to be reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual. The question which constitutional courts have grappled with is the precise meaning of the words or such similar words "reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual". The corresponding words used in section 36(1) of the 1966 Constitution of South Africa, for example, are reasonable and justifiable in an open and democratic society, based on human dignity, equality and freedom.

In *Morgan versus the Attorney General of Trinidad and Tobago*, the Privy Council had to determine whether the Rent Restriction (Dwelling-Houses) Act, 1981, was a reasonably justifiable derogation of the right to property. That Act sets a cap on rental increases in relation to residential tenancies. In dismissing the appeal of the landlord, the board held that statutory rent restriction had long been a feature of many societies which protected individual rights and freedoms, although such legislation was a blunt instrument and should not be universally approved.

Lord Templeman, in delivering the judgment of the board, said on page 470 that:

> "Rent restrictions are justified by the need to prevent a landlord exploiting a shortage of housing accommodation."

The board also held that:

> "Many societies which pay proper regard to the rights and freedoms of the individual conclude that it is reasonably justifiable to control housing rents without, at the same time, making any attempt to control other incomes or to control other prices. Landlords have no fundamental right to increases of rent which reflect inflation."

Finally, it was held that the rent restriction legislation throughout the world varied from place to place. Some laws were inflexible, others provided a machinery for rent increases, but in all of the circumstances it was impossible to draw a distinction between a rent restriction law, which would be reasonably justifiable, only because it was flexible and the 1981 Act, which allowed the increases only within narrow limits.

It follows from the Morgan case that in this jurisdiction the burden of proving that an Act is not reasonably justifiable under section 13 of the Constitution is on the party challenging the constitutionality of the Act.

Further support for this principle is to be found in the Antiguan case of *de Freitas versus the Permanent Secretary in the Ministry of Agriculture, Fisheries, Lands and Housing and Others*. This, as are many of the cases on the interpretation of the expression "reasonably justifiable in a democratic society", is a freedom of speech case.

2.00 p.m.

The appellant was a public officer who was suspended from office because he participated in political activities. Section 10(2)(a) of the Civil Service Act, 1984 (Antigua and Barbuda) provides that a public officer cannot publish or express any opinion on matters of national or international political controversy.

Section 6 of this Act also states that the tenure of a public officer is subject to both the Act and the Constitution. Section 12(1) of the Constitution provides a right of freedom of expression, and section 13(1) provides for the right of freedom of assembly and association. But section 12(4) of the Constitution allows for the imposition of restrictions on public officers that are reasonably required for the proper performance of their functions, except that the restrictions would be unconstitutional if they are shown not to be reasonably justifiable in a democratic society.

The Board in de Freitas stated at page 144 that the burden of proof was on the appellant to show that the restraint was not reasonably justifiable in a democratic society, and he had succeeded in this case. Thus the Privy Council, our highest appeal court, has ruled, in both the Morgan case in Trinidad and Tobago and in the de Freitas case on an Antiguan appeal that the burden of proof is on the applicant to prove the unreasonableness of the Act being challenged, and not for the State to prove that it is reasonably justifiable.

Mr. Speaker, the Board, in allowing the appeal in de Freitas, held that any restrictions imposed on the freedom of expression and freedom of assembly of public officers must be restrictions which are reasonably required for the proper performance of their functions and must also be reasonably justifiable in a democratic society. The restrictions in section 10(2)(a) of the Civil Service Act, 1984, without qualification, did not satisfy the criterion of being reasonably required for the proper performance of a public officer's functions. In arriving at this conclusion, the Board in de Freitas considered the dictum of Dickson CJ in the Canadian case in *Re Fraser and Public Service Staff Relations Board* at page 122, where the learned Chief Justice stated that a balance must be struck between the freedom of expression and the duty of the public officer to fulfil his functions.

He said, and I quote:

> "The act of balancing must start with the proposition that some speech by public servants concerning public issues is permitted. Public servants cannot be…'silent members of society'. I say this for three reasons. First, our democratic system is deeply rooted in, and thrives on, free and robust public discussions of public issues…Secondly, account must be taken of the growth in recent decades of the public sector…as an employer. A blanket prohibition against all public discussion of all public issues by all public servants would, quite simply, deny fundamental democratic rights to far too many people. Thirdly, common sense comes into play here. An absolute rule prohibiting all public participation and discussion by all public servants would prohibit activities which no sensible person in a democratic society would want to prohibit."

Mr. Speaker, Lord Clyde, in de Freitas, in delivering the advice of the Board echoed these views when he stated, at page 141, that:

> "It cannot be that all expressions critical of the conduct of a politician are to be forbidden. It is fundamental principle of a democratic society that citizens should be entitled to express their views about politicians, and while there may be legitimate restraints upon that freedom in the case of some civil servants, that restraint cannot be made absolute and universal."

Lord Clyde, at page 143, also relied on the learning of Gubbay Chief Justice in the case of *Nyambirai v National Social Security Authority* in which the learned Chief Justice at page 75 said that the quality of reasonableness in the expression "reasonably justifiable in a democratic society" depended upon the question whether the provision which is under challenge:

> "arbitrarily or excessively invades the enjoyment of the guaranteed right according to the standards of a society that has a proper respect for the rights and freedoms of the individual."

Lord Clyde then noted that in determining whether a limitation is arbitrary or excessive, the court would ask itself—

> "whether:
>
> (i) the legislative objective is sufficiently important to justify limiting a fundamental right;
>
> (ii) the measures designed to meet the legislative objective are rationally connected to it; and

(iii) the means used to impair the right or freedom are no more than is necessary to accomplish the objective."

The Board accepted and adopted this threefold analysis of the relevant criteria, and concluded that section 10(2)(a) of the Act was offensive on the ground of being disproportionate in not distinguishing between classes of civil servants as to the restraints imposed on the freedom of expression and freedom of assembly and association. The test established in the Nyambirai case is now well accepted—I think it was used in the Northern Construction case in this jurisdiction that we spoke of in respect of the Financial Intelligence Unit Bill a few weeks ago—to determine whether or not a limitation is permissible in the sense of not being shown to be arbitrary or excessive, or alternatively if it is reasonably justifiable in a democratic society.

It is clear to us that the measure before us this afternoon satisfies the threefold test set out in the Nyambirai case and adopted in de Freitas, in that the legislative objective is important enough to justify any potential infringement—in this case it is of the due process right—the measures contained in the Bill are no more than those which will serve to achieve the legislative objective—in this case it is of validating the commission—and immunizing certain persons from prosecution, and the means used to impair the protected right—in this case the due process right—is no more than is necessary to achieve the legislative objective—that is the grant of the immunity conferred by the operative clauses, in particular, clause 9 of the Bill.

In summary, the test to be applied in determining whether an Act is reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individuals is the threefold test which is adopted in de Freitas. The standard of proof is the civil standard of proof, and in this jurisdiction, if not in certain others, the Morgan case is the authority to state that the burden of proving that an Act is not reasonably justifiable is on the party challenging the constitutionality of the Act. This is supported by the de Freitas case where the Board stated that the burden of proof was on the appellant to show that the restraint was not reasonably justifiable in a democratic society.

Mr. Speaker, the Privy Council is our final appeal court and it is submitted that the ruling on the burden of proof in the Morgan case and the de Freitas case is binding precedent on our courts. The contrary decisions coming out of the Supreme Courts in Zimbabwe and some of the courts in South Africa should be disregarded. In the Nyambirai right case, the Supreme Court of Zimbabwe had held that the onus was on the challenger to establish that the legislative provisions

went beyond what was reasonably justifiable in a democratic society, and that is the standard which I submit to which we must adhere in Trinidad and Tobago.

I turn now from the constitutional requirements which engaged a great deal of debate in the other place to the Bill before us.

[*Cellphone rings*]

I ask hon. Members to note that the commission has spent a great amount of time—[*Cellphone continues to ring*] [*Crosstalk and laughter*]

[*Mr. Speaker stands*]

Mr. Speaker, I heard nothing apart from the laughter coming from the other side.

The commission has spent a great amount of time to gather evidence and other material relevant to its mandate, that considerable resources have been expended from the national purse, and that the public surely awaits a report, with perhaps recommendations for reform, from the commission in relation to the several matters within its terms of reference. It would therefore be inconceivable in these circumstances for the commission to start all over again, to rehear all of the evidence previously given before it. In the interest of good order, the proceedings and the record thereof should not be allowed to lapse.

The Government is of the view that, in light of these facts, that this Bill, once enacted with the requisite majority vote, would be one which is reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual.

I turn in particular to the factual impasse before us as we speak. As I mentioned earlier, the commission of enquiry was purportedly appointed by the President on September 09, 2008. From September 09, 2008 until September 07, 2009 the commission proceeded to conduct an enquiry in relation to the construction sector. It did not of course, on every day between those dates sit and hear evidence. There were long adjournments to fit the diaries of the participants, but the commission, I am told, did work and did it diligently during that period of time. The commission summoned persons to appear before it when it had hearings and numerous persons did appear before it to give evidence.

However, section 15 of the Commissions of Enquiry Act required the appointment of the members of the commission to be published in the *Gazette*, whereupon the commission would be created in law from that date.

Section 15 of the Act provides, and I quote:

> "All commissions under this Act and all revocations of any such commission, shall be published in the *Gazette*, and shall take effect from the date of publication."

In the circumstances described before, the President's Commission was never published as required by section 15 of the Act.

Mr. S. Panday: Hon. Minister, could you kindly indicate what has been the result of the Justice Lucky's commission?

Sen. The Hon. J. Jeremie SC: Justice Lucky has not yet reported. I am given to understand a report is due within the next fortnight or so.

Mrs. Persad-Bissessar: Permit me, there was a report carried that an interim report from Justice Lucky was given to your good self, is there any truth in this?

Sen. The Hon. J. Jeremie SC: I prefer not to answer that question. Justice Lucky's final report is not yet available and it will be available in two weeks time.

Dr. Gopeesingh: Last question, Mr. Speaker. I heard you mention in your presentation earlier on, you said that the final report of this matter is going to be in the near future. So if there is a final report, there must have been a precedent report?

Mrs. Persad-Bissessar: He says he does not want to answer that.

Dr. Gopeesingh: You do not want to answer it.

Sen. The Hon. J. Jeremie SC: That is supposition. I stand by what I said, the final report is due in a few weeks' time. I did not speak about interim report; I did not speak about anything else but a final report. [*Interruption*]

Mr. Speaker, the failure to act in accordance with section 15 of the Act arguably rendered the President's Commission ineffective in law. This conclusion is supported by certain obiter remarks of the Privy Council in the case of *Joachim and Another v Attorney General of St. Vincent and the Grenadines and Another*. The facts of this case are that in 2003, the Government of St. Vincent and the Grenadines decided to establish a commission of enquiry into a failed marina and shipyard project. To this end, the Governor General appointed a single commissioner by instrument dated March 10, 2003, and the instrument was published that same day in the *Gazette*. The commissioner was appointed pursuant to section 2(1) of the Commissions of Enquiry Act, 1990—this is St. Vincent and the Grenadines. However, this section has been amended by Commissions of Enquiry (Amdt.) Act, 2002.

2.15 p.m.

The recitals in the instrument dated March 10, 2003, had erroneously referred to the original section 2(1) of the 1990 Act, and not, as it should have, the amended version which was effected by the 2002 Act. An attempt was made to correct the error by publishing an erratum. A second instrument, in precisely the terms of the first one, was issued on April 28, 2003, but that instrument was never published in the *Gazette*. Section 16 of the 1990 Vincentian Act required every commission to be published in the Gazette, similar to our section 15.

Mr. Speaker, I now quote verbatim from paragraph 12 of the advice of the board, this is the Privy Council, as delivered by Lord Browne of Eaton-under-Heywood:

> "The Board has already set out...section 16 of the 1990 Act which requires that all commissions are published in the Gazette and provides...that they 'shall take effect from the date of such publication'. In these circumstances it is well-nigh impossible to argue that the Second Instrument, never having been published in the Gazette, has ever taken effect. The approach to be taken to this question is that now established by the House of Lords in *R v Soneji*...Essentially the question to be asked is whether Parliament could fairly be taken to have intended the consequences of non-compliance to be total invalidity (or, in the present case, total ineffectiveness...). The answer their Lordships unhesitatingly give to that question is that Parliament must indeed be taken to have intended the consequence of non-publication of the commission to be total ineffectiveness. That intention is as plain as can be from the last ten words of section 16: 'and shall take effect from the date of such publication'."

Hon. Senators are asked to note that these remarks of the Privy Council, although obiter, may be accepted as a correct representation of the law. Thus, the commission, albeit acting in good faith, would not at any time have been authorized to exercise the powers which would ordinarily have been vested in it by the Commissions of Enquiry Act.

I also wish to refer to two other cases which support the caution of the government in viewing the non-publication as invalidating the commission; firstly, the case of *Ex parte Barbados Telephone Company Limited*, from the High Court of Barbados—this is a first instance judgment; I will not recite the fact—and the second is *Gatherer v Gomez* reported in 1992 in Volume 41 of the West Indian Reports at page 68. This was an appeal from the Court of Appeal of Barbados to the Privy Council; again I will not recite the facts.

In all these cases which I have mentioned, the failure to *Gazette* was held to be fatal; although in the Privy Council it is obiter. In the other two cases they formed a part of the raison of the case. It is reasonable, in these circumstances, for us on this side to take the view that the members of the Commission were not properly constituted in law as a consequence of the failure to gazette the commission. Therefore, they cannot rely on the immunity from suit provided to them under section 11 of the Commissions of Enquiry Act.

The relevant part of section 11 states that:

> "...no commissioner shall be liable to any action or suit for any matter or thing done by him as such commissioner."

Equally, persons who gave evidence before the Commission could not rely on the privileges and immunities set out in section 12(3) of the Act, which provides:

> "No person giving evidence before the commission shall be compellable to criminate himself,..."—it does not say "incriminate", it says criminate—"and every such person shall, in respect of any evidence given by him before the commission, be entitled to all privileges to which a witness giving evidence before the High Court is entitled in respect of evidence given by him before such Court."

The likelihood is that persons, who may consider themselves to have been injured by anything said or done during the proceedings of the commission, may have a course of action against a member of the commission, a witness or the media, which reported in great detail on the matters which took place before the commission.

Mr. Speaker, it was never the intention of the Government that persons who chose to give of their time, in the interest of the public, and to report on the proceedings of the commission, in reliance on the purported exercise of the President's powers, should now be faced with the possibility of legal action, because of the failure to gazette the commission.

Hon. Senators are also reminded of something I said earlier, that the commission had devoted a considerable amount of time to the gathering of evidence and other material relevant to its terms of reference; that resources have been expended from the public purse; that the citizens of this country must, as a consequence, expect a report and recommendation from the commission in relation to the several matters within its remit.

In all these circumstances, there has arisen a duty on the part of the Government to take steps to regularize the situation so that the commissioners may complete their assigned task. It would constitute a clear dereliction of duty

not to do so. We must take the requisite steps to validate the commission. The proceeding of the commission and the record of the proceedings of the commission should not be lost.

The law can, as has been done on numerous occasions in the past in this jurisdiction, provide that all that has been done so far has been validly and lawfully done. We are not reinventing the wheel in this respect. Examples of this course of action having taken place in this jurisdiction include: the Leases of State Lands (Validation) Act, 2003; the Patents (Validation of International Applications) Act, 1999; the Validation of the Sixth Report of the Elections and Boundaries Commission (Tobago) Act, 1996; Import and Excise Duties (Validation) Act, 1984; the Public Utilities Commission (Amendment and Validation) Act, 1981, to which I referred before, and the Scheduled Ordinances (Re-enactment, Commencement and Validation) Act, 1980, this is the validation of the Narcotic Ordinance, the forerunner of our Dangerous Drugs Act. This list is long, but it is, by no means, exhaustive.

Furthermore, it would be necessary to ensure that the members of the commission and persons who have given evidence before the commission are not subjected to legal action, because of a failure to act properly on the part of the Government. I pause to make the point that no wider exception is sought to be provided to the commission by the Bill, than arises out of a failure to gazette the commission. If the commission has breached principles of public law, it surely is not above the law. It is not the intention of this Bill to make the commission above the law.

Finally, the law should also expressly ensure that members of the media who reported or published any information or evidence provided to the commission, should be protected from any legal proceedings or suit.

In light of the above, the Government is of the view that this validating legislation should be enacted, inter alia, to underpin the acts of the commission and to protect all the members of the commission, witnesses and members of the media from possible legal action. The Commission of Enquiry (Validation and Immunity from Proceedings) Bill, 2009, seeks to achieve these and other specific objectives.

Mr. Speaker, Prof. Thornton in his text, *Legislative Drafting*, at pages 303—304, reminds us that:

> "Validating legislation should remedy the defect or irregularity which is sought to be remedied and cure the consequences of that…irregularity. It is important that validating legislation should not go too far."

As I mentioned earlier in this presentation, this Bill seeks to achieve seven specific objectives and no more.

I turn briefly to review the Bill clause by clause.

Clauses 1 to 3 are the preliminary clauses. The remaining six clauses are the main substantive provisions of the Bill. Clause 1 provides the short title of the proposed Act.

Clause 2 states that the Act shall have effect though inconsistent with section 13(1) of the Constitution. This constitutional clause, together with the Preamble and special parliamentary certificate at the end of the Bill, ensures, from a procedural standpoint, that the Bill is not ultra vires the Constitution. Of course, we accept, as we must, that it is ultimately for our courts, as guardians of the Constitution, to determine finally whether or not an Act is constitutional.

Clause 3 is the interpretation provision. I would ask hon. Senators to note the wide definition given to the word "evidence" and the specific meaning given to the word "proceedings".

Clause 4 seeks to achieve two distinct objectives: firstly, it seeks to validate the proceedings of the commission during the period September 09, 2008, to the date on which the commission was gazetted. Secondly, it seeks to validate the record of the proceedings of the commission during that time. Hon. Senators must have noted how specific the intent of this clause was, as opposed to a general purpose provision. It is a general rule that validating legislation should achieve its objective in a straightforward and apparent manner, rather than by implication.

Clause 5 seeks to validate any matter, thing or act done by the commission or a commissioner, as a commissioner, during the period of the proceedings of the commission and which was done under the purported authority of the Act, notwithstanding the failure to comply with section 15 of the Act. Again, this clause seeks to ensure that the proposed validation is very specific.

Prof. Thornton, at page 303 of his text to which I referred earlier, warns that:

> "...validation should not be effected absolutely without due thought as to the consequences, but should be restricted to remedying the acts or omissions which have caused the illegality and the consequences of those acts or omissions."

Clause 6 seeks to validate the evidence given by any person to the commission. You would recall that I indicated earlier that it would be an unnecessary, costly and time wasting exercise for the commission to restart its

proceedings. It is, therefore, necessary to ensure that this clause is enacted so the evidence given before the commission is validated.

Clause 7 provides that the commissioners can use the evidence, validated under clause 6, in the conduct of the commission and in their report to His Excellency.

Clause 8 seeks to provide that any evidence, which would include all information, books, plans and other documents given to the commission and obtained by any person, is validly and lawfully published. The intent of this provision is to ensure that members of the media, who published extensively the proceedings of the commission on the basis that the commission was a lawful and properly appointed body, should not now be faced with the possibility that they may have acted unlawfully.

Clause 9 seeks to ensure that the commissioner, a witness who gave evidence before the commission or any person who published any evidence obtained from the commission, shall not be subject to legal proceedings, or any other legal action, in relation to the proceedings of the commission. Mr. Speaker, clause 9 ensures that the commissioners, witnesses or members of the media are immune from legal action, notwithstanding the failure to gazette the commission, as required by section 15 of the Act. So it is to be interpreted in the context of the immunities granted by the Commissions of Enquiry Act. No wider immunity is intended by clause 9.

As I mentioned earlier, it is clause 9, in particular, which requires that the Bill be enacted with a special majority vote, because it plainly has the effect of denying a person access to the courts to have an alleged breach of his legal rights, occurring as a consequence of the failure to gazette the commission, determined.

2.30 p.m.

Mr. Speaker, I wish to inform hon. Members that a few minor amendments were made to the Bill in the other place. For example, the preamble to the Bill was amended to refer to an immunity from legal proceedings albeit limited, as I mentioned earlier, as opposed to an indemnification. This was done to ensure that the preamble was consistent with the substance of the Bill.

Mr. Speaker, the Government has taken steps to comply with section 15 of the Act by publishing the commission in the *Gazette* beginning on September 11, 2009. Consequently the reference to September 07 in the preamble and in clauses 3, 5 and 8 was amended to read 10th September.

Members in the other place felt there was no reason why the validation should not be extended up to the date before the publication. That is the reason for this change.

Mr. Speaker, the Government by the Commissions of Enquiry (Validation and Immunity from Proceedings) Bill, 2009 has sought to identify the nature and extent of the potential injury which might have been produced as a result of the failure to comply with section 15 of the Commissions of Enquiry Act. The extent of the illegality caused by that failure to act and to remedy those acts and omissions and any other consequences of the invalidity. The Government is of the strong view that this step is necessary to correct the effects of non-publication and, consequently, to allow the commissioners to complete their national mandate.

No one will regard a commission of enquiry into a specific allegation as being for the public good, unless the allegation was also of sufficient public importance to justify conducting an enquiry into the matter. An enquiry was conducted and there is absolutely no reason now to repeat the process; it is as simple as that.

One of the main purposes of validating, legislation notwithstanding its retroactive effect, is to confer a benefit and not impose a burden. This enquiry is for the benefit of the public.

Mr. Speaker, I urge hon. Members to support the Government in ensuring that this proposed legislation is enacted so that any questions surrounding the legality of the Commission of Enquiry into the construction sector may be laid to rest and the commissioners may complete their national mandate.

Mr. Speaker, I beg to move.

Mr. Speaker: Hon. Members, before I propose the question for debate, it is perhaps a good time to remind all hon. Members to either take off your cellphones, put them on silent or vibrate mode.

Also, the Member for Siparia had raised a query earlier on. For your information, it is section 60(1) of the Constitution that determines and prescribes the quorum of the House.

Question proposed.

Mrs. Kamla Persad-Bissessar (*Siparia*): Thank you, Mr. Speaker. Before I go into the substance of the debate of this Bill, hon. Speaker, allow me to congratulate the Trinidad and Tobago cricket team. [*Desk thumping*] They have won four of their matches so far. They started off in the tournament as underdogs and now they are favourites to win those championships. So congratulations to Daren Ganga and his team and we wish them very well.

Mr. Speaker, the hon. Attorney General in piloting this Bill referred to a number of cases to give substance to the contention that it is necessary to validate the proceedings, the evidence and actions of the commissioners because of a failure to gazette the Uff Commission.

I would like to use another case; this judgment was delivered today in the Eastern Caribbean Supreme Court in the High Court of Justice in the Federation of St. Kitts and Nevis and the judgment was delivered by Mr. Justice Errol Thomas, it is Claim No.: SKBHCV2009/0159 consolidated with claim 2009/0179.

In this case, Mr. Speaker, the Leader of the Opposition in St. Kitts, together with another parliamentarian challenged an election constituency boundary report where it was alleged that the boundaries had been gerrymandered, and the court today said you must comply with the lawful provisions in the law in setting those boundaries and gave judgment to the claimants declaring the proclamation be null and void and of no effect.

I was very happy to be part of the legal team together with Mia Mottley in this case. So it is very clear that where—the judgment by the way is 107 pages, Mr. Speaker, worthy of reading; a very substantive review of public law matters in judicial review on constitutional law.

Mr. Speaker, it is clear from what the Attorney General has said, and what the cases would show that non-compliance with what is known as a mandatory provision in the law, can lead to the invalidation of that. And here we are today where a very simple provision that you must gazette a commission with respect to a commission of enquiry, a very simple provision was not complied with.

It begs the question, and that question has been asked repeatedly: Why did this happen? How did this come about? The Government had in the past several commissions of enquiry: Those into the health sector, the Gladys Gaffoor Commission, Landate, several commissions of enquiry so that process should have been well known to the Government.

The hon. Attorney General today tells us: I am sorry I cannot tell you how that happened because we have asked former Justice Lucky to do a probe into that. However, on my question to the hon. Attorney General whether it was an interim report, the hon. Attorney General took, what is known in the United States as the Fifth Amendment, that is to say, he refused to tell us whether there was an interim report.

Hon. Jeremie SC: The Fifth Amendment, as you know, deals with the protection of the right to incriminate oneself. I am not being incriminated in any way by whether or not an interim report has been provided.

Mrs. K. Persad-Bissessar: The hon. Attorney General talked the Fifth Amendment. He refused to say whether there was, there is an interim report at all. That may have shed some light today on this very important matter. I do not know why he chose not to respond, perhaps it is because there is something incriminating in the report.

Hon. Jeremie SC: On me?

Mrs. K. Persad-Bissessar: I want to make it very clear. It is not incriminating of the Attorney General, but it could be incriminating of the Government that he represents, it could be. So we await that report. And again, I am disappointed because I want to quote from the hon. Attorney General from the statement that was made on Friday, September 11, 2009.

> "In this regard, on the instructions of the Cabinet, I have today taken steps to ensure that the President's Commission is gazetted. This must be carefully done, the full terms of reference along with an amendment, which would permit the Commissioners to make use of the evidence and other information collected during the course of the now suspended hearings, must form part of the terms which are to be gazetted."

So firstly, the hon. Attorney General informs this House that steps have been taken to ensure that the commission is gazetted. But more important the hon. Attorney General went further to say:

> "Further, and in any event, to take the matter beyond argument, the Government will bring before Parliament as a matter of urgency, a Validation Bill, which I have already drafted on the instructions of the Cabinet…"

This was September 11, 2009; today is October 19, 2009 and, with due respect, the urgency was not there. This is more than one month later. We have been in this House on several occasions since then, we have been here and done other matters which were given priority but this would not have appeared to be as urgent as this is. Nonetheless, here we are.

What happened in the interim? Before the hon. Attorney General brought the Bill, UDeCott went to court and I recall on this 11th day of September after the statement was made, I was being interviewed by some of the media as to some of the statements made about the probe, the gazetting and bringing the Validation Bill and so forth, and I said the Opposition will support it once we can see reasons with the provisions and bring it on quickly because we have to make sure that in the interim, somebody does not go to the courthouse in an attempt to stop this.

They did go to court, but on a different matter and we will speak about that in a moment. [*Mr. Imbert stands*] One moment, Sir, you always tell me about hurry something, so please wait. There it is the court proceedings intervene and the hon. Attorney General has said nothing about that and we will do nothing in this House today—I will attempt not to say anything to prejudice any court proceedings. But I think it is important when we look at this Validation Bill and remember there are court proceedings; whether this Bill will cover everything and will prevent us from losing the very valuable evidence that has come forward in this enquiry.

Mr. Imbert: Mr. Speaker, can the Government take it then that the Opposition is supporting this legislation?

Mrs. K. Persad-Bissessar: I have said the Member for Diego Martin North/East tells us about hurry and curry and whatever. We have said before in principle we support the legislation—

Mr. Imbert: Yes or no?

Mrs. K. Persad-Bissessar: You know, Mr. Speaker—would you like to say something?

Mr. Imbert: I thank the hon. Member for giving way again. Perhaps I did not make myself clear: Could the Member for Siparia speaking, I presume, on behalf of the Opposition indicate whether the Opposition intends to support without conditions, the Commissions of Enquiry (Validation and Immunity from Proceedings) Bill, 2009?

Mr. S. Panday: Calder Hart must go.

Mrs. K. Persad-Bissessar: Mr. Speaker, hurry; he will have to wait for an answer. I am saying we support the legislation in principle; there are provisions within it that we need clarified. We want to be sure that you cover, you capture and you get every single person who has been guilty of wrongdoing in this country. We do not want anybody to escape, so we have suggestions for amending this legislation and we would want them to be considered before we can say yea or nay to giving our vote.

I want to make it very clear that we have no intention of attempting to stymie legislation that would, in effect, validate the evidence that has been taken in the proceedings of the commission but you have to do it right and we will be prepared to support it, as I say, once you do it right, and other Members will speak.

I come back to the two statements extracted out of the Attorney General's statement to the House. Firstly, steps taken to gazette it. Mr. Speaker, we need to back up a bit just to spend a few minutes on the chronology, the sequence of events.

On April 23, 2008, the hon. Member for Diego Martin West, Minister Dr. Keith Rowley, was fired by the Prime Minister from the Cabinet. That hon. Member of Parliament told reporters that he was fired for raising at a meeting of a Cabinet sub-committee on April 14, 2008, the issue of inadequate Cabinet oversight of UDeCott. This is where all this began and we need to put that in the record.

On May 13, 2008, Prime Minister Manning announces the appointment of a joint select committee comprising Members of both Houses to be chaired by an Independent Senator to get the truth of the matter concerning UDeCott.

Mr. Speaker, that notion was completely rejected by persons within the House, outside the House and within civic society. The joint select committee was rejected by these interest groups because of fears that it will not have enough teeth to investigate the billion-dollar state company.

May 14, 2008: UDeCott Board led by Chairman Calder Hart, including a vociferous Mr. Michael Annisette, holds a press conference to defend the company insisting, notwithstanding severe delays on this million-dollar mega project, that the company was a good performer.

May 15, 2008: the JCC demands the return of Canadian forensic investigator, Bob Lindquist, to support an independent commission of enquiry into UDeCott. In an advertisement in the press published on May 19, 2008 the body accuses UDeCott of bid-rigging, the manipulation of tenders, making false statements to the Integrity Commission, bias in the award of contracts and a general lack of transparency.

2.45 p.m.

May 23, 2008: Prime Minister Manning announces the establishment of a commission of enquiry to probe the construction sector and UDeCott, after the Member of Parliament, Ramesh Lawrence Maharaj SC, alleges in Parliament the Calder Hart's in-laws received a $368 million contract from UDeCott. Prior to this the Prime Minister had indicated that there was no specific allegation against UDeCott such as to warrant a commission of enquiry.

In the same breath the Prime Minister announced the setting up of the commission of enquiry. The Prime Minister also defended UdeCott and lambasted the local construction sector. Even after the commission of enquiry began, the Prime Minister and his ministers continued to defend Calder Hart and UDeCott and at times pre-empted the finding of the commission by announcing that they are not going to find anything anyway.

Mr. Manning announces former chairman of the Integrity Commission, Gordon Deane, as Chairman of the enquiry and, again, because of the hue and cry Deane later declines the post because of the uproar from the Opposition Benches and elsewhere.

July 23: The Minister of Works and Transport, Mr. Imbert, announces British jurist Prof. John Uff as chairman.

September 10: Uff, Senior Counsel Khan, Kenneth Sirju, Desmond Thornhill and others, given instruments of appointment by the President.

December 9, 2008: At the first procedural hearing of the Uff Commission, the media is barred without explanation. Uff later says that it was never the intention to not allow the press into the procedural hearing. The error was not intentional.

September 2009, there is the reporting that there has been no gazetting of the commission and, therefore, all the proceedings are invalid; proceedings of evidence and so on.

We want to remember that UDeCott may have spent either through borrowing or through subvention in the last seven years about $50 billion to $60 billion of taxpayers' moneys—$50 billion to $60 billion. This is one state enterprise, one special purpose company and, therefore, there is a great deal of concern as to how taxpayers' money has been spent. So this commission of enquiry and everything before it, are exceedingly important.

But I have a problem because it seems the more things change sometimes is the more they remain the same, because we have conflicting dates. This is why, when the Attorney General spoke, I asked the hon. Attorney General about the date of the publication and up to what date it is we are validating; what are the dates that are being validated. We pick up the *Gazette* of Monday, September 14, 2009, No. 106, Volume 48 of 2009. And in this we read at item 1638:

"Further Alteration of the Commission of Enquiry into the Construction Sector"

And it is recited.

> "In accordance with section 15 of the Commissions of Enquiry Act…notice is hereby given that on the 14th day of September 2009, His Excellency, Professor GEORGE MAXWELL RICHARDS, President and Commander-in-Chief of the Republic of Trinidad and Tobago, in the exercise of the powers vested in him under section 3 of the said Act, prescribed in respect of the Commission of Enquiry into the Construction Sector in Trinidad and Tobago issued on the 9th day of September, 2008, and *Gazetted* on the 11th day of September 2009 as follows…"

And this is where the Attorney General said that it began prior to the date of the printing of it in the *Gazette*.

Sen. Jeremie SC: Could you give way a minute?

Mrs. K. Persad-Bissessar: Sure.

Sen. Jeremie SC: Just following from what you have read, what you have read is an extraordinary issue of the *Gazette*, dated Monday the 14th and it is headed at 1638:

"Further Alteration of the Commission of Enquiry…"

Now, my memory tells me, as I told you during the course of my contribution, that the gazetting began on the 11th. That is borne out by the beginning words of—

Mrs. K. Persad-Bissessar: 9th and 11th.

Sen. Jeremie SC: Exactly. So that it says on the 9th and the 11th of September, 2009. That is when the gazetting began. So this is just a further alteration which you passed for me.

Mrs. K. Persad-Bissessar: I am agreeing with the hon. Attorney General with respect to this 9th and the 11th, yes, but there are still problems, hon. Attorney General, because this is the later one. There was the *Gazette* that was not extraordinary. You would have the 9th to 11th. I still have to see a copy of that. I do not doubt you. And this, then, is a further alteration.

Sen. Jeremie SC: I am just saying, I think; I have not seen it myself, but we will see. I have sent for it.

Mrs. K. Persad-Bissessar: I do not want to say I disbelieve the Attorney General; I will wait until the end to see whether there was another *Gazette.* This is the *Gazette* which is of the latest date, and even if there were one prior to this, this supersedes all others. This is the substantive one that was done pursuant to section 15 of the Act.

But that is not all. Whether it was 9th or 11th, that is just part of it and I am not going to make a big issue out of that, if there was one prior to this and this is a further alteration. The question is, if there was one prior to this, then it means you did not get the prior one right and you had to come back and do it again here. But it may well be that you may have to do it again; it may well be.

I am not making an issue of the 9th and 11th. Let us leave that alone. I want to make another issue of substance with the dates, because in your speaking—9th or

11th gazetted, okay, it is done, and now on the 14th, done. But what is gazetted? And that is what I have a little problem with.

When the hon. Attorney General spoke, he spoke of the 7th of September, 2009 which was in the Bill and that was amended in—you gave us the clauses—clauses 3, I think 5 and 8, where there were references to 7th September; you changed it to the 10th of September 2009. Fair enough. It is the Preamble, clauses 3, 5 and 8, where references had originally been to the cutoff date as being the 7th of September, have now been changed to 10th September, 2009.

But there is still a discrepancy, Mr. Speaker, because when we read the *Gazette* we see that the *Gazette* is still speaking of the 7th of September, 2009. And almost towards the end of the *Gazette* it says:

"And whereas…from the 11th day of August…"

These persons, whatever, whatever; this is the final gazetting. The last paragraph states:

Now, therefore I, GEORGE MAXWELL RICHARDS, President as aforesaid, in exercise of the power vested in me by sections 2 and 3 of the…Act…and all other powers thereto enabling, do hereby:

"1. alter the Instruments dated the 10th day of December, 2008, the 20th day of May, 2009 and the 21st day of May, 2009, to record that they were made in the exercise of the power vested in the President by section 3 of the Commissions of Enquiry Act…and all other powers thereto enabling; and

2. prescribe that you the Commissioners make use of and rely on the information, evidence, books, plans and documents obtained by you between the period from the 9th day of September, 2008 to the 7th day of September, 2009."

So here we are gazetting that you make use of everything from the 9th of September 2008 to 7th September, 2009, sitting bona fide as enquirers, et cetera, but the Act now has been amended to speak of September 10 as being the cutoff date, based on what took place in the Senate. So there is a discrepancy now in what has been gazetted, the date gazetted, to cut off at the 7th of September 2009, and what is in the Validation Bill.

Sen. Jeremie SC: There is no discrepancy. Nothing took place between—I think we can agree that on the 7th of September, Prof. Uff held a press conference

and said that he was packing up shop. So that is the date that the President is concerned with in his instrument, the 7th of September, 2009.

Mrs. K. Persad-Bissessar: Then why are we being asked, if that is so— and I am being asked to rely on the words of the hon. Attorney General that nothing happened between the 7th and the 10th.Why are we being asked in the Validation Bill to vote in this House to agree to the Preamble which speaks of 10th September, 2009, which speaks of clause 3 in that definition section which relevant date is 10th September, 2009; to speak of clause 5 which speaks of 10th September, 2009 and clause 8 which speaks of 10th September, 2009? If there is nothing, then why am I being asked to do that today?

Sen. Jeremie SC: Again, there is a very straightforward answer. The President signs on whatever day, the 7th; presumably it cannot be gazetted on that day. It is gazetted on the 10th. Gazetting has no retroactive force. The Member for Tabaquite might whisper into your ears. So the legislation carries you from the 10th. Nothing has taken place between the 7th and the 10th. That is it.

Mrs. K. Persad-Bissessar: With due respect, the hon. Attorney General is contradicting himself. On the one hand he is saying, "I want you to believe nothing took place"; on the other hand he talks about the date. Look, the *Gazette* says given under the hand and seal of the President of the Republic of Trinidad and Tobago at the office of the President, St. Ann 's, this 14th day of September, 2009.

So obviously, when this gazetting was done from the 9th of September—and I take your word—and it is said here; issued on the 9th day of September, 2008 and gazetted on the 11th day of September, 2009. It recites that. So I take your word that somewhere from the 11th of September work began.

Mr. Imbert: May I clarify your problem?

Mrs. K. Persad-Bissessar: No. Wait a second. The *Gazette* is saying that the Commission of Enquiry and so on, the President prescribes that the Commissioners may make use and rely on information from the period 9th September, 2008 to 7th September, 2009. The Validation Bill is asking us to validate everything from that date in 2008 to 10th September, 2009. I am saying they are two different dates; I am not satisfied with the explanations given thus far.

Sen. Jeremie SC: Can I just try—

Mrs. K. Persad-Bissessar: Sure. We will have the lawyer and then we will have the expert.

Sen. Jeremie SC: Can I just try one more time? If the Bill takes you up to the 10th of September, it goes further than the 7th. Do you agree? If the Bill validates everything up to the 10th of September, it goes further than anything which purports to stop before; let us say on the 7th. The Bill is what has retroactive effect. It carries you further than is required. Then that is a good thing. It carries you further than is required. To all intents and purposes, Prof. Uff held a press conference on the 7th, so he stopped work on the 7th. That is a critical day. Now, just in case something took place on the night of the 7th or the day of the 8th or the night of the 8th or at any point in time up to the 10th, we are validating up to the 10th. Is there a difficulty with that?

Mr. Imbert: I thank the Member for giving way. Let me try this in a non-legal way. If the *Gazette* was published on the 11th, which I think you accept—the *Gazette* was published on the 11th; right?—then anything that took place from the 11th onwards was legal and, therefore, this is validating everything up to the day before the 11th; the 10th.

Mrs. K. Persad-Bissessar: I thank the hon. Members. You know, Mr. Speaker, the point is, you could not even get it right when you were gazetting. You did not gazette it in the first place and then when you went to gazette it, you gazetted it wrongly. That is what the point is. So how do we trust—[*Interruption*] Okay, you can laugh all you want. The point is you got it wrong the first time and when you were gazetting, you still got it wrong. That is why you have to come for a third shot, and you came for the third shot only when the Senators pointed out in the Senate, you need to amend it to the 10th. It was only then. So when this Government comes to this Parliament and says, "Listen to us; believe what we say; this is the truth", we cannot believe them. This is another example of it. We cannot believe them.

So here it is, there are several other issues that arise. [*Interruption*]

Mr. Speaker: Order!

Mrs. K. Persad-Bissessar: This Government had the opportunity on several occasions to spot the error and to *Gazette* the matter. The *Gazette* itself tells us of the various dates. On three occasions Government should have picked up—or the high powered lawyers who have been hired should have picked up that there was something amiss; that this matter has not been gazetted so we would not have been here today; we would not have been with this commission stalled at the point when it was about to go into giving its report to further delay this enquiry.

3.00 p.m.

When we look at the *Gazette* of September 14, 2009, we are told that on September 09, 2008, that commission was given and not gazetted. Thereafter, on December 10, 2008, there was an alteration. Again, it was not picked up. On May 20, 2009, again, there was an alteration and it was still not picked up. These alterations would also have had to be gazetted. We await the report that is to come. In the public domain there is a perception that the Government does not want the enquiry to go ahead and this information out. That is why these tiny errors, as they may seem to be but with very important consequences, are allowed to go unchecked.

The *Gazette* tells us the person who sends it to be gazetted. When you read this *Gazette* you would see the person who sends it. Every gazetted matter that is decided by Cabinet comes from the secretary to the Cabinet. When it is given under the hand of the President, the commission is given, it is gazetted, it is sent by the secretary to the Cabinet. We are of the view that the Cabinet was negligent or deliberately wanted to cover up these matters. They deliberately wanted these matters to go by the wayside, but the public outcry that has come has prevented the Government from slipping this under and hiding it. It would not stop there.

We have had so many commissions of enquiry and what has happened? It is either the Government hides the report or it does not implement the recommendations. They hide it, sanitize it and/or do not implement. We have had so many commissions of enquiry and they have not been implemented. We have the Justice Barnes Report, Justice Gladys Gaffoor, even more important there is a Bob Lindquist Cleaver Heights Report. We have not seen that yet. Those were the allegations made against an honourable Member of this House, the Member for Diego Martin West. There is a report. We have not seen that report. It has not been made public. No one knows what is happening.

Even this report, today, we ask the Attorney General to give an undertaking to the House and the country by extension that the report of the Uff Commission of Enquiry would be laid in Parliament immediately after it is completed.

Secondly, not just that he must lay it but implement the recommendations or findings contained therein. [*Desk thumping*] That is our first call to the Government. There is no point that you get the report and that report is hidden or put away. We call on the Government through the hon. Attorney General, to give that commitment to this House. I am not sure that I will take the commitment of the Member for Diego Martin North/East, so I ask the hon. Attorney General to give that commitment to this House.

Mr. Imbert: You have a motion of no confidence in him.

Mrs. K. Persad-Bissessar: Yes I do have a motion of no confidence in him, but the Office of the Attorney General continues. There is always an attoney general sitting in office.

A further point is the question as to why there have been no prosecutions. The hon. Attorney General did not give us any of the evidence. It may well be that there are some who believe that the evidence gathered by this commission should not be part of this proceeding.

Clause 6 of the Bill asks very clearly that the evidence given by any witness to the commission during the proceedings of the commission under the purported authority of section 12 of the Act, that it would have been lawful if section 15 of the Act had been complied with at the time when the evidence was given is hereby validated.

What is the evidence that we are being asked to validate? It is my respectful view that that is relevant in this debate. The evidence that we are being asked to validate points to wrongdoing on the part of several officials in UDeCott and elsewhere. I have an email sent by a gentleman by the name of John Peters who was a former project manager in Trinidad and Tobago and was involved with these players in UDeCott and Nipdec and with Mr. Calder Hart of course, and others. This email is dated August 27, 2009. I quote from it. Hon. Attorney General, I want to know if this is part of the evidence that we are being asked to validate. He says:

> "In 2003 at the urging of Margaret Thompson I decided to return for a short stint in Trinidad, to do a project in the Cleaver Woods area. Little did I know that I would again have to face this Chinese invasion."

My colleague will speak about the Chinese invasion in a moment.

> "The Riverwoods project which is just opposite your Cleaver Heights was conceived as an investment of the National Insurance Board. I recall arguing a case before the NIB of the importance of structuring the construction methodology to allow the participation of the small and medium sized contractors. The then Board agreed with the position.
>
> When the Calder Hart administration took over…,there was the forging of an alliance with Michael Annisette to ensure that their wishes were achieved on the project. Mr. Hart wanted the Chinese to take over the project, Annisette wanted his family and friends to be the sub-contractors. As project manager I resisted both. Mr. Hart introduced a Chinese firm he worked with…"

Mr. Imbert: Mr. Speaker, Standing Order 36(1), relevance. I cannot see how this is relevant to the validation of this enquiry.

Mr. Speaker: Clause 6 talks about the evidence. I do not know if that was part of the evidence. If it is part of the evidence, certainly, you can talk about it. If you are not sure perhaps, you can move on.

Mrs. K. Persad-Bissessar: Thank you, hon. Speaker. I am saying that we are being asked to validate evidence. I thank you for your ruling. Clause 6 asks us to validate the evidence. I am asking if this is part of the evidence because it is very important because this evidence relates to UDeCott.

Mr. Maharaj SC: I have the evidence.

Mrs. K. Persad-Bissessar: Mr. Maharaj has some of the evidence that he would share with you. Here it is:

"Mr. Hart introduced a Chinese firm he worked with at UDeCott to the Board,"

Mr. Speaker: Hon. Member, if you are sure and you are giving the House an undertaking that that is part of the evidence, I do not know if it is. I do not know if anybody on this side can vouch. If it is not part of the evidence that was given before the commission, then you would have to leave that matter alone. I do not know whether you can get some assistance from the hon. Member for Tabaquite to clarify. Perhaps, he can give you that information and you can move on to something else in the meantime.

Mrs. Persad-Bissessar: Mr. Speaker, I have no intention of attempting to mislead the House. Therefore, I say to you that this was sent to my mailbox from Mr. John Peters who was a project manager. In it he alleges wrongdoing on the part of Michael Annisette and on the part of Mr. Hart. If this is not part of the proceedings before the Uff Commision, it ought to be part of the proceedings. That is why it is important that we validate this commission. We are agreeing that we need to validate this commission so that they can continue their work.

I gave the chronology of events which called for the establishment of a commission of enquiry. There is still enough out there to say that we must continue this enquiry. This, from Mr. John Peters which I will pass to my colleague, Subhas Panday, who also has the bundle of evidence of the commission of enquiry. The point Mr. Peters is making is that there has been serious wrongdoing. I come back to this point now. Why has there been no prosecutions? There has been evidence and this is clearly part of the evidence of a link to Calder Hart and CH Development. Mr. Maharaj SC had read some of that into the record of the Parliament in a previous debate.

There is evidence before the commission against Calder Hart with respect to a fax number. That evidence is there, 624-8239. TSTT has confirmed that that was the fax number of Mr. Calder Hart. Mr. Hart told the commission of enquiry that it was a computer generated error. People out there in the public domain do not believe that. It means that there is sufficient—and I call again and ask: Why no prosecutions? The number is on the pages of all the letters as follows: CH Development Construction—

Mr. Imbert: Mr. Speaker, on a point of order. The enquiry is still in progress. I do not think that we should be discussing matters before the enquiry.

Mr. Speaker: The Bill as drafted talks about the evidence. In terms of the enquiry, I think that it is 36(2): "Reference shall not be made to any matter on which a judicial decision"—I do not think that is quite that—"in such a way as might, in the opinion of the Chair, prejudice the interests of the parties..." If you take it to its logical conclusion, I will determine if anything that is being said by Members is prejudicial to the enquiry.

Mrs. K. Persad-Bissessar: Thank you, hon. Speaker. I do recall a ruling of this Chair which said that it is most unlikely that any judicial officer would be influenced by Parliamentarians standing and speaking in Parliament. I am sure that the hon. Speaker recalls that they would not take us on. In any event I am not of the view that it is a judicial enquiry. It is a commission of enquiry. I have no intention of prejudicing whatever findings they may make. I am raising the point as to why there have been no prosecutions, when the evidence that we have been asked to validate is very clear that there is need for police investigation. You have an anti-corruption bureau and a fraud squad. Why are these people not involved? If they are, we are very happy to hear. We call upon the Commissioner of Police, the Fraud Squad and the Anti Corruption Bureau. The evidence is in the public domain. They can take this further and move forward.

The correspondence from Calder Hart, the CH Development dated October 25, 2004 addressed to the chairman of UDeCott and not to its CEO reveals that the directors of CH Development were invited to submit their credentials in order to prequalify for projects. How do we know that?

The letter begins: Thank you for the invitation to submit.

Mr. Calder Hart had to know them to invite them. CH Development was incorporated on October 19. Six days later its prequalification application was hand delivered to UDeCott. That evidence is there in the public domain.

Secondly, the question is whether CH Development was a subsidiary of Sunway Construction Caribbean Limited when it submitted its credentials to UDeCott to prequalify for contracts.

The letterhead of October 25, 2004 is simply CH Development and Construction PT Limited. Nowhere in the letterhead does it say anything as regards a subsidiary status of a parent company.

The letterhead of January 22, 2005, three months later, now explicitly stated that CH Development wholly owned subsidiary of Sunway Construction Caribbean Limited. There is a letter dated January 22, 2005 of authorization signed by—these are the names I find very difficult to pronounce—Nng Chinpo, naming Quan Fo Kui as the authorized representative of CH Development in the preparation and submission of tender. Quan Fo Kui is listed as one of the two current directors of Sunway Construction Caribbean Limited. The other is Lim Ban Leung.

CH Development changed its name to Sunway Construction Caribbean Limited on May 05, 2005. Its office is at 118 Abercromby Street, Port of Spain. With regard to the whereabouts of the three original directors of CH Development—Lee Hup Ming, Ng Chin Poh and Leong Choong Chee—nobody knows.

We recall that Salmon letters were issued to Mrs. Sherine Hart. I ask the hon. Attorney General to tell us whether this validation Bill when enacted would cover clearly, the salmon letters that have been issued by the commission to Mrs. Sherrine Hart, so that we would know that those letters are valid as well and bring her to give evidence or to answer evidence against her before the commission of enquiry.

There is a discrepancy as regards the date Sunway Construction Caribbean Limited was prequalified. Calder gives one date while the Minister of the board gives another date. [*Interruption*] Do you want to say something?

Hon. Jeremie SC: The effect of the salmon letters would be to put her on notice that the commission thinks that she has something to answer to. We are reinstating the commission and validating its records on all that it has done. It follows that everything that they have done will stand once you support us this afternoon in passing the Bill.

3.15 p.m.

Thank you very much, hon. Attorney General. Those letters will stand, but I have another problem. I will continue this and then come back to the issue of the Salmon letters, in terms of what has happened because—[*Interruption*] thank you, I would take a look at it.

There is a discrepancy about the dates and when they prequalified. Calder Hart had one date and the Minister gave another. On November 10, 2004: letters of invitation to tender for the construction of the Ministry of Legal Affairs Tower

were forwarded to six companies. Four contractors had previously qualified: NH International; Johnston International; Carillion Caribbean and Hafeez Karamath; Kee Chanona International; and the sixth company was Sunway Construction. Its prequalification application was dated October 25, 2004. It was evaluated and accepted by UDeCott's board on November 08, according to Calder Hart's statement to the Uff Commission of Enquiry.

Page 2 of the minutes of the board, however, dated November 06, signed by Calder Hart and CEO Secretary, Winston Agard, includes Sunway Construction in the list of contractors approved by the board to be invited to tender. It is obvious that the decision had long been made to include Sunway Construction in the list of qualified contractors even though it had neither NIS nor VAT certification. In its BIR certification dated January 31, 2005, its address is No. 68 Duke Street, Port of Spain. The question then further is: How could a contractor with the third highest bid be awarded a very lucrative contract to build? [*Interruption*]

Mr. Imbert: Mr. Speaker, Standing Order 36(1). I am pretty sure that is not the evidence.

Mr. Speaker: I do not think the hon. Member would want to go much further into the toing and froing, in terms of the evidence. I think what the Member is saying, which has some merit, is that although the Bill talks about the evidence, it is not for Members here to sort of judge the evidence or virtually repeat the evidence. Please, continue.

Mrs. K. Persad-Bissessar: Thank you very much, Mr. Speaker. This is part of the evidence we are validating. Am I being told I must come here and—not from you, but the attitude being taken by the Member for Diego Martin North/East—say nothing? We must come here and just vote. [*Interruption*]

Mr. Imbert: Talk about it.

Mrs. K. Persad-Bissessar: Rubber stamp and just vote.

Mr. Imbert: Yes.

Mrs. K. Persad-Bissessar: We have a duty to the people we represent, therefore, we need to raise these in the Parliament. We need to raise these issues which are of serious concern. The silence from the Prime Minister is deafening. The Prime Minister has been Corporation Sole from since 2002, until fairly recently when the Member for D'Abadie/O'Meara became Corporation Sole as the Minister of Finance and, therefore, had a duty. All these things have been happening under the watch of the hon. Prime Minister, in his capacity as Prime

Minister and Minister of Finance. Who has, under the law, responsibility for commissions of enquiry? Who is the Minister responsible for commissions of enquiry? It is the hon. Prime Minister. Therefore, the silence from the Prime Minister, in the light of all that has come forward is not just silence. On the other hand, with respect to the Prime Minister going somewhere and actually hugging up Mr. Calder Hart in some public function after all these matters are out in the public domain, the public out there finds that disgraceful. People out there are upset, worried and seriously concerned about $50 billion—$60 billion of their money. Right now you are calling upon them to pay property taxes and transfer for motor vehicles taxes when they cannot get water and roads. Here is a company that went like a runaway horse, with $50 billion—$60 billion of our money and the Prime Minister, as the Minister responsible for commissions of enquiry, has nothing to say on the matter.

We see that the third highest bidder was awarded. [*Interruption*]

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

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

Question put and agreed to.

Mrs. K. Persad-Bissessar: Thank you very much, Mr. Speaker and Members of the House. The people want to know how a contractor with the third highest bid was awarded the contract to build the Ministry of Legal Affairs Tower. Sunway Construction submitted its tender on January 21, 2005 and on April 05, UDeCott's Board of Directors awarded the contract to Sunway Construction. Its bid was $368 million; Johnston International, $346 million; and Hafeez Karamath, $301 million. The reason given by UDeCott as to why Sunway received the contract was that the other contractors both have a considerable workload on their hands. That is the reason given. As far as I am aware, this is in the evidence. We have it there. The bundle is there. [*Interruption*] Mr. Speaker, I will speak to you. Shut up everybody, that is all you can do. Take everybody to the Privileges Committee. I am not afraid of you. I am not afraid of your threats, Mr. Imbert. I am not afraid.

How would that have happened? How is it that the person with the third highest bid was given that contract when there were others? These are the matters that are coming before the Commission of Enquiry and which we are being asked to validate. Why is it that no prosecutions have taken place? Perhaps, the hon.

Attorney General can tell us something about that. Have there been any investigations by the authorities that he is aware of? We would be very happy to hear that, because there is sufficient evidence in the public domain for criminal investigations to take place and for charges to be brought against these persons.

The other concern that I have has to do with the consent order. I am not going to speak with respect to prejudicing or what is to come thereafter, but the first consent order was changed. The hon. Attorney General said, on the day that this Bill was being debated in the Senate:

> "I met with UDeCott's attorneys yesterday, while I was in the House of Representatives, for two reasons; first of all, for the purpose of ensuring that their claim did not proceed in the manner in which was crafted against the State, as a direct attack against the State and against certain actions to the President; that was one, and two, in respect of the applications which they seek for interim leave.
>
> …the point is that the proceedings have not been stayed, and my understanding is that whatever happens in court tomorrow, UDeCott will not seek to stay the proceedings of the commission, at least until such time."

This is from the other place, the words of the hon. Attorney General. The first consent order was changed and the hon. Attorney General admits meeting with these lawyers. By the way, let us take note of who these lawyers are, because it is most interesting that one of the lawyers for UDeCott is—[*Interruption*]

Mr. S. Panday: Only the "naanaa" and "aajee" missing.

Mrs. K. Persad-Bissessar: My colleague has put it very graphically in local language. He says all that is missing is the PNM's "naaneei" and "aajee"; friends and family of the PNM. One of the lawyers for UDeCott is none other than the husband of a Minister. When you come to the—[*Interruption*]

Mr. Speaker: Let me just interrupt you. Whilst the hon. Member, as is wont to raise Standing Order 36(1), he has not on this occasion raised it.

Mr. Imbert: I was waiting for you?

Mr. Speaker: Me? The consent order is not before us in the Bill, so I think you need to move on.

Mrs. K. Persad-Bissessar: Mr. Speaker, this is taking—I am not going against your ruling—a very narrow view of what we are doing here today. If it is that we want to validate the proceedings, we want to validate the evidence, but

there is something in that consent order that gives nonsense to all of this, then what are we doing here? This is where we said that we wanted to ensure and we would make suggestions and recommendations to ensure that everything is caught in the Bill, so that none shall escape. Therefore, if we cannot speak about the consent order, that will be allowed to escape. The consent order says you have to give UDeCott 28 days before UDeCott can do anything else. That, in effect, is a stay. You give them 28 days notice and what do they do? They would file a next court case within that 28 days to stop anything from going forward.

On behalf of my constituents, the people we represent and those who have been calling and emailing with very serious concerns about what is happening with this—the entire Board of UDeCott should be fired pronto, now. Put them—hon. Attorney General, with due respect it seems to me that they have disrespected the hon. Attorney General. He is agreeing. Who is in charge of this board? Is this an entity unto itself? Is this an organization that is out there operating on its own? The hon. Attorney General is agreeing that UDeCott's board has disrespected him. Not only is that important, the people out there believe that the UDeCott board had stolen from them and has taken their dollars. They should go. They should be fired. Instead of defending themselves—

This is a person, I do not know if I can refer to one of their members because he wears about five hats—if he is a member of UDeCott's board and his son is getting contracts, how could he stand and speak with an independent voice anywhere in this country? How could those things happen? Here we have a Government that is doing nothing and allowing UDeCott to make them look like fools, spinning them around the top. Why? "Yuh have cocoa in de sun, or yuh holding basket fuh somebody else? Yuh carry secrets for de Government?" Why would you not fire them and put another board in place? Why would you allow them to go and get another contract? To show scorn upon scorn and shame upon shame, not just give another contract, but do you know who they gave it to? They gave it to Sunway; the same Sunway where the enquiry has shown so much information. That should not happen. You have a board in UDeCott—[*Interruption*]

Mr. Imbert: Mr. Speaker, Standing Order 36(1). That second contract is not part of the enquiry, yet.

Mrs. K. Persad-Bissessar: Yet!

Mr. Speaker: No, I have to agree with him. It is quite possible that the Leader of the House will be on his feet. His legs will have good exercise today. But he is right.

Mrs. K. Persad-Bissessar: So, nothing that is before this House—yet still these dollars are stolen and used in all kinds of megaprojects. Are we validating this evidence? The evidence in the public domain is very clear.

Here it is, we have UDeCott bringing all these migrant workers. My colleague from Oropouche will speak a little more on that. What is even more worrisome is that we hear the company that is bringing them in is a company known as Trinity Housing of which Rahael Holdings is—we have done a search and it is clear here. These are persons—Rahael Holdings is Joseph Rahael, Anthony Rahael and so on. [*Interruption*]

Mr. Speaker: You are going off course. You were going good in the beginning. I think you are going off course.

Mrs. K. Persad-Bissessar: I am guided, hon. Speaker. I am making the point further, but I am guided and we will not go on that course but, on another one.

If we are to be sure that what we are doing here today will not allow any of these persons or wrongdoers to escape, then we need to put into place what is known as an omnibus clause. The lawyers say *ex abundanti cautela.* We need to put in a clause, because we may have something. The Attorney General says he is doing it specifically. You need, in a Validation Bill, to be specific. I am asking, in addition to the specific clauses that you put in an omnibus clause that will pick up anything or everything that may not have been caught in those specific clauses. You can do something that has been done in other pieces of legislation.

It was done with the Caribbean Food Corporation Act, of which you spoke. In that Act, it spoke of section 9:

> "Notwithstanding any rule of law to the contrary including in particular section 9…"

We can say for this Bill:

> "Notwithstanding any law rule of law to the contrary including in particular section 15…"

because that is the section that we offended by not gazetting.

> "…it is declared that all acts and things purported to be done by any person or authority under or in pursuance of the powers conferred by the Act are deemed to have been lawfully and validly done."

This was done in one of the Validation Acts that you mentioned; section 9 of the Caribbean Food Corporation Act. We are asking that you put in an omnibus clause. [*Interruption*]

Mr. Imbert: There is one.

Mrs. K. Persad-Bissessar: Is this the amended one from the Senate or the original clause 5?

Mr. Imbert: Clause 5.

Mrs. K. Persad-Bissessar: No. I am not satisfied. Perhaps, when the Member for Diego Martin North/East and the Attorney General get up, they can try to tell us if clause 5 is exactly the same as what I have proposed as an amendment. I am prepared to listen to the hon. Members. I am not convinced that is what I am asking be done as an omnibus clause.

Those are some of the points, with respect to this debate. The Opposition is prepared to support this Bill, but we ask, as I have said before, that we get a clear undertaking that the report be tabled in both Houses of Parliament and that the recommendations would be implemented.

Secondly, there is enough evidence in the public domain to take action against certain persons, and we call upon the Attorney General and the Government to tell us whether any such action is being pursued and if not, we ask, through you, Mr. Speaker, that steps be taken with respect to prosecutions.

Thirdly, I ask for the amendment that I have spoken of and there may be some others which my colleagues will place to us. We do, in principle, support this Bill. We want to save the enquiry, we want to save the evidence and we want to save the actions of the Uff Commission of Enquiry.

I thank you very much, Mr. Speaker.

3.30 p.m.

The Minister of Legal Affairs (Hon. Peter Taylor): Mr. Speaker, I thank you for allowing me the opportunity to rise on what is a very important debate. The Member for Siparia raised many issues, but we need to focus on why it is important for this House to agree to this validation. It was Members on the other side who asked for the commission of enquiry. Are they now saying that after millions of dollars have been spent; after Government has acceded to the request for the commission of enquiry, they now have problems with it?

The Member sought to limit her contribution to UDeCott, but the terms of reference, Members, are much broader and they ask fundamental questions about the construction industry in this country. I have many questions that this commission can answer and, indeed, there are many questions that the country has

that this commission of enquiry can answer. For example, the terms of reference—and we are talking about the development of a country and of a people. For years we have seen contracts awarded; we have seen works started and stopped and I would like to know the reasons. I was one who was happy that the commission of enquiry started and that the terms of reference have indeed been very broad. The terms of reference include:

1. To enquire into the procurement practices in the public construction sector;
2. The effect of the use of provisional sums, prime cost sums, nominated suppliers and nominated contractors in construction contracts in the public sector;
3. The effect of incomplete designs, design changes, variations, poor supervision and poor management on the course and delivery of construction projects in the public sector;
4. The performance of local and foreign contractors and consultants on public sector projects;
5. The effectiveness to the turnkey approach, also called the design/build approach for the delivery of public sector construction projects as compared to the traditional design and tender approach.

The Member would want us to believe that this enquiry is about UDeCott. It is about much more than that. It is about the behaviour and performance of contractors across the board in this country. When I look at the extension of the Churchill Roosevelt Highway that is supposed to go to Wallerfield, for years it has been in a state of abeyance. What is the reason for that?

Ask the Minister of Sport and Youth Affairs. When he came into office, there were a number of contracts that were issued for recreation grounds in this country that to date money has been spent on, contractors have gone their happy way and the grounds are no closer to completion. We need answers. The country needs answers and it is for these social reasons that this Bill must be given approval so that the commission of enquiry can bring its work to completion and the recommendations coming therefrom serve to inform the Government's policy in terms of issuance of contracts and procurement. It will also serve as a reference for future generations in terms of construction in this country.

Mr. Speaker, there are other legal imperatives. We have social imperatives and legal imperatives. The Bill speaks to validation. It also speaks to immunity. I

know the hon. Attorney General would have already made the point, but section 15 of the Act tells us clearly that unless the Bill is validated by gazetting, it has no life.

The learning tells us the importance of it and I turn briefly to Thornton and *Legislative Drafting, Fourth Edition,* at page 303. Permit me to refer to it. It says that drafters must take three preliminary steps before proceeding to draft legislation. We must ascertain the steps:

(1) to identify the nature and extent of the actions and omissions which are produced, the illegality which is to be cured;

(2) the extent of the illegality caused by those actions and omissions; and

(3) identify what acts and omissions have taken place after and in consequence of the invalidity.

Clearly, the nature of illegality has to do with the nature of non-gazetting. The second limb is that the effect of the non-gazetting will clearly mean that those persons who have given evidence—the witnesses, the commissioners themselves—could be exposed to legal enquiry. It was clearly not the intention of the framers of the Constitution that persons who, in good faith, would have come to an enquiry; persons who would have gone out on a limb to give testimony to assist the commission would be doing so not knowing they could be subject to a legal enquiry. It is clearly for the reason that we need to have the validation.

The Member for Siparia mentioned that—she went into a whole series of imponderables about the evidence—but as the Attorney General said, all these consequences would flow once the legislation has been validated. So the first step clearly is to let us get past the issue of validation and all the consequences from the enquiry would follow thereafter—the salmon letters, the nature of the evidence—that could be tested once the commission of enquiry is reconstituted.

The importance of the validation as well, if I may go back to give us a historical context, in the United Kingdom, they refer to such legislation as acts of indemnity, acts of amnesty or acts of oblivion. These Acts usually relieved individuals or groups from liability for breaches of the law. So way back in 1860, it was called the Act of Oblivion and gave a general indemnity for all illegal acts done during the late interruption of the government—this is how it was termed, the late interruption of the government—to capture a case such as this where, through administrative oversight on the part of the State, persons may be prejudiced adversely.

So the issue of legal immunity is of course the other limb upon which the legislation is predicated and the consent of legal immunity is not simply a defence

for legal action, it is intended to indemnify or protect any other person's ability to advance a legal claim for any wrongful action. For example, if the Permanent Secretaries, the witnesses or whoever comes to the commission in good faith to give evidence, the blanket of immunity is necessary to protect them from any type of suit.

Just to go back to the learning, you have what is a statutory immunity, that is to protect from legal action all persons who would have given evidence before the commission and this is really a legacy of the Crown immunity that existed when the king or queen would have held power, the concept being that the king or queen could do no wrong. Of course, over time, as government widened and broadened, there was the state and the public service where much of government's authority is vested and you have now a broadening of that concept of statutory immunity.

Insofar as the commissioners are concerned, it is important for them to have immunity and this could be found in the concept of what is called judicial immunity, so that in the same way a judge of the High Court could not be sued for the decision he or she gives, in very much the same way, judicial immunity is needed to protect the commissioners.

If, for example, someone disagreed with the judgment of a judge in a particular matter before the High Court or Supreme Court, you would not sue the judge in his own capacity, you would lodge an appeal and this is the cloak of judicial immunity that is necessary in a similar vein for the commissioners.

Of course, we require the general immunity for the enquiry as a whole and we need to understand that the Opposition may seek to make heavy weather out of this Bill, but there is precedent for it. There is precedent in the Commonwealth. There is precedent in our own jurisprudence; in our legislation where we have before sought validating legislation to cure whatever omissions that might have taken place. We all know that infallibility is the prerogative of the boards alone. People would make mistakes and governments would make mistakes from time to time and it is by virtue of the validating legislation that you seek to cure whatever omissions that have taken place.

3.45 p.m.

Mr. Speaker, to go back to my initial point, we have a social responsibility—when I say "we", I am talking about the Parliament as a whole—to ensure that we get answers for many of the questions that are bedeviling this country. We need answers and the commission of enquiry has very broad terms of reference. While one may seek to cast aspersions on UDeCott, we have to look at the development of the country as a whole, not only for ourselves, but for future generations and for, of course, those yet unborn.

When we look at the pace of development and the quality of development of, say for example, the Hyatt Regency and International Financial Centre (IFC) we see that there is much to be said for foreign contractors. There is much to be said for having a different view of things insofar as nation development is concerned.

When the Panama Canal was built, for example, the Panama Canal was built in a very great sense on foreign labour, [*Interruption*] so we have to understand national development in the broad context. More than that, if we were to look five or six years hence, there are very fundamental imperatives for development that this country needs; there are very important aspects of development that the country needs. The Government needs buildings for its ministries and the citizens of the country need infrastructural development in a very short order. The findings of the commission of enquiry must provide extensively the best practices, it must tell us where we went wrong and the recommendations must provide us with a road map as to how we engage in procurement practices and how we define our construction sector that would yield the best returns for our taxpayers.

Therefore, as I said in the other place, the debate revolved and evolved very interestingly. What is left for us to do in the Lower House is to understand where it says that there is no getting away from revalidating legislation, there are no ifs, no buts and no maybes. Section 15 of the Commissions of Enquiry Act has to be rigorously followed. If the other side is saying, listen, we agree that we will support you, then all is left for them to do after the hue and cry is to understand the merits of the legislation, understand the merits of the Bill and understand that were it not for the validating legislation the immunity would not be able to be granted for the actors and the personalities who would have taken part in the commission and who are still to take part.

Secondly, that the Act or validation itself requires this Bill to cure all the infelicities that would have followed due to non-gazetting.

I would invite hon. Members on the other side to make haste and support this Bill.

I thank you.

Mr. Ramesh Lawrence Maharaj SC (*Tabaquite*): Mr. Speaker, this is probably one of the most important measures that Members of Parliament would have to deal with for a very long time. It is important because if we do not support what the hon. Attorney General has piloted today, corruption would be compromised, misconduct in public office would be compromised and the public interest would be comprised. [*Desk thumping*]

This is a measure in which whenever there is an issue in a Parliament in which an Attorney General is taking an initiative to fight corruption and misconduct in public life, every Member of the Parliament would have a duty to support it and to support it without conditions. [*Desk thumping*] I want to make it clear I am not putting any conditions to my vote. The reason for that is that if this measure is not passed, what the commission of enquiry was intended to do would not be achieved. I cannot, in conscience, obstruct what I stood up in this House to get and to fight for, a Commission of Enquiry into the allegations of UDeCott.

So, I know from my experience how difficult it is for an Attorney General sometimes to take measures like these. I have been a victim of fighting to expose official corruption in Trinidad and Tobago.

Mr. Warner: You got fired.

Mr. R. L. Maharaj SC: Be that as it may, if I have to do it again I would do the same thing because there could be no compromise.

I would like to congratulate the hon. Attorney General [*Desk thumping*] and obviously he would have had to have some support from the Cabinet. He could not do this on his own—for taking this important step. A Government could have taken the position that we find a loophole and we are going with it. I want to be very fair, but I think we have to be very careful that we do not misunderstand what we are doing here today.

In response to what the Member for Princes Town South stated that we must look at development in a different way; look at the Hyatt Regency, look at the big buildings and look at the tower, and he talked about the Panama Canal. I do not know how he reached there but be that as it may. I think that we ought to make this quite clear that a lot of things have happened and the hon. Prime Minister would know this, because that is why I assume he is taking all the trouble to have these two international conferences in Trinidad and Tobago and the importance of the fight against corruption to have good governance. All the principles of good governance are underpinned with honesty in Government, integrity in Government and no compromise for official corruption. That is what it is about.

I hope that the hon. Member is not saying that in the quest for building a tower and in the quest for building big buildings we can condone official corruption, because the issue here is that we had allegations and at the time when I presented it to the hon. Prime Minister there were allegations. We now have evidence—and I would not go too much into the evidence—and based on the evidence it is not in the public interest for this commission of enquiry proceedings to be buried in a coffin. That is the sum total of it.

The sum total of it is that the Government or the Attorney General would not have been coming here unless it was felt that there is evidence which is buried, the public interest would be compromised. [*Interruption*]

Mr. Speaker, I am supporting to validate this Bill because I want Mrs. Sherrine Hart to go and give evidence before the commission of enquiry. I want her to go and give evidence for her to be cross-examined in relation to the evidence which is there. The evidence which is there is that her husband, Mr. Calder Hart personal fax number was the fax number of CH Development. When the fax was given for CH Development to accept the contract it was given from the personal fax number of Calder Hart. That is why I have to support the validation of this Bill.

I want that evidence because the common law husband or the former husband of Sherrine Hart gave evidence that CH Development, the company which got the contract, that Lee Hook Hing, who was a director of CH Development was the brother-in-law of Calder Hart. There was evidence given that Ming Chin Fu was the brother-in-law—Calder Hart's wife sister's husband—so there was a relationship with Calder Hart. So, you have a situation in which the evidence has disclosed that this state of affairs existed. The state of affairs in which the Prime Minister and the Members of the Cabinet were getting up after the Cabinet meetings and giving press releases, saying there was nothing wrong with UDeCott. UDeCott was clean. There are no bases for an enquiry. That is why we have to validate this commission of enquiry. We have to do it!

There is a point I want to make and I want the Attorney General to consider it. I noticed in clauses 5 and 6 of the Bill we are validating every matter, act or thing done by the commission, or a commissioner under the purported authority of the Act from September 09, 2008 to September 07, 2009, that would have been lawful if section 15 of the Act—[*Interruption*]

Mr. Speaker: September 10.

Mr. R. L. Maharaj SC: September 2010 or 2009?

Mr. Imbert: Clause 5 of the Senate amendments.

Mr. R. L. Maharaj SC: Oh sorry, September 10, I thought you meant 2010—had been complied with at the time when it was done is hereby validated and declared to have been unlawfully done by it or him respectively. Then clause 6 deals with the validation of evidence given by witnesses.

4.00 p.m.

Clause 7 states:

"The commissioners are entitled to rely on the evidence validated by section 6 in the conduct of the Commission and in their report to the President."

My question is: Why is it limited to the commission being entitled to rely on the evidence? If the evidence given before the enquiry discloses criminal offences and after the report is published there is action being taken to prosecute individuals, if this Bill does not say specifically that not only the commission—I am not the draftsperson—or does not make it clear that it is not only the commissioners who would be entitled to rely on the evidence validated, but also any court of law, by not putting this in, are we not creating a defence for anyone charged under this offence to say that the evidence could not be relied on, because the Parliament decided to limit it to only the commissioners?

Even if you do not agree with it, I will still support it, because I still want the evidence and the report to be published, because then we would probably have to consider other means to protect the public interest. If the Government really wants to preserve the evidence for all purposes, for civil, criminal and the commissioners, why could you not make it absolutely clear that the evidence which is being preserved, which is being validated, is good for all purposes: for the criminal court and the civil law?

Hon. Jeremie SC: Thank you, Member for Tabaquite. What we have before us is a Validation and Immunity from Proceedings Bill in relation to the Commission of Enquiry. So by definition we are seeking to validate the evidence given before the commission and we are allowing in section 7 the commissioners to rely on that evidence for the preparation of their report.

If the evidence discloses wrongdoing, as you know, the evidence is validated under clause 6. There is no need for us to say. As you know, the police can get evidence from any source. As a matter of fact, it has been suggested that they might use stolen evidence, in some cases. The point is, once the evidence is validated, there is no specific need, in my view, for you to give the police what is, in any event, a police power, to use evidence.

Mr. R. L. Maharaj SC: Mr. Speaker, I accept what the Attorney General said, as far as there being a strong argument, that as long as the evidence is validated before the commission of enquiry, and if the police goes and gets the evidence, then, obviously, it is strong reason why you cannot take the point. But does the

Attorney General know that lawyers could take points and frustrate prosecutions? All I am saying is that if our intention in this House today, with this Bill, is to ensure that the public interest is totally protected, that it is not compromised—because I started off my contribution with the premise, and I have to accept, on the face of it, that the Government would want to ensure there is no loophole for anyone to get out of anything that comes out of this evidence. It is in this context that I commend the Attorney General and, to some extent, I commend the Government. I hope that my commendation is not going to go by the wayside, because I believe that if we really want to protect the public interest, we would make certain that no lawyer—including this lawyer—[*Laughter*] could go to the court and take that point, if somebody is charged.

There can be no doubt—I think the Attorney General or anybody would know—that at the end of this process, some persons are likely to be prosecuted, and we do not want it to appear in history. I know the Attorney General likes his history. The Attorney General does not want that next two years or next five years, when he is no longer Attorney General, for someone to say that he did not do the best job for his country.

Mr. Manning: That would only happen if you are Prime Minister. [*Laughter*]

Mr. R. L. Maharaj SC: "Why yuh treating meh so?" [*Laughter*]

I see all the distinguished draftspersons there; I think that we should consider, and I would like to recommend strongly, closing the loophole, because one sees where this thing has reached, with points that have been taken.

Mr. Speaker, the concept of a validation bill—and I think I have the duty to talk about the concept of a validation bill—is quite clearly as the hon. Attorney General stated. The purpose of it is to remedy any defect or irregularity. If the defect which occurred could have been remedied by substantial compliance with the legislation, then we would not have been here today.

I notice from report that the Chairman of the Commission of Enquiry, Prof. Uff, has stated that he did not see a problem with the defect, but based on the case of Joachim it certainly would have been a problem. The problem has to be remedied, because you cannot have the doctrine of substantial compliance.

As the Attorney General would know, there is another matter being done in another place in which the Attorney General and members of the Environmental Management Authority (EMA) are contending that notwithstanding procedural irregularities, there is substantial compliance. But we want to put it quite clear, in

this particular matter, that there cannot be a matter of substantial compliance. [*Interruption*]

Mr. Imbert: I thank the Member for giving way. I am trying to follow your argument. My understanding of what we are trying to do is to cure the non-publication, non-gazetting of the commission and to put it as if the proceedings had been lawfully conducted.

In those circumstances, what is the difference between what you are proposing and a scenario where the commission had, in fact, been gazetted in 2008? The same Act would have come into play, the Commissions of Enquiry Act. These are proceedings where witnesses are giving evidence before a commission. Any recognized body, a court, a police agency or anybody like that, could use whatever means, as it has, at its disposal, to frame charges and to proceed with prosecution.

I am a bit uncomfortable going beyond what is contained within the Commissions of Enquiry Act. What I see us doing—[*Interruption*] I am listening to what the Member is proposing. I am listening to what you are saying and I am getting the impression that you want to go beyond what is in the Commissions of Enquiry Act, so could you clarify that, please.

Mr. R. L. Maharaj SC: Mr. Speaker, I know that the hon. Member for Diego Martin North/East has a love for the law [*Laughter*] and he is studying the law. I am not disputing that this Bill is attempting to validate, and it will validate, the proceedings before the Commission of Enquiry. That is not my point. The point is that the Bill expressly says that:

> "The commissioners are entitled to rely on the evidence validated by section 6 in the conduct of the Commission and in their report to the President."

My point is that since the Bill expressly limits the validation for the reliance of evidence by the commissioners, there can be an argument, if anyone is prosecuted, to say that the Bill expressly states that the commissioners are entitled to rely on it, but not a court of law.

To meet that argument will obviously be the principle in English law, which we have inherited, that even if the evidence was illegally obtained, the court has a discretion to admit the evidence, but that would give the court a discretion; whereas we can make it clear in the Bill that the majority in the Parliament is saying it is absolutely clear that for the law-making body, the policy was that the evidence which was adduced and validated, is not only for the commissioners to

rely upon, but also a court of law, whether the criminal court, the civil court or any court in Trinidad and Tobago. The Commission of Enquiry is not a court.

Let me give a scenario without calling names. Let us say that "Mr. X" in the next six months is prosecuted for misconduct in public office, based on the evidence which went before the Commission of Enquiry. Let us assume that one of the witnesses who gave evidence is no longer available, is abroad and cannot come, and there is an attempt, in a criminal enquiry, to put in that evidence, and the lawyer contends that evidence is not valid for the purposes of criminal law, that would be a strong argument for the judge not to exercise his or her discretion.

Mr. Imbert: It will not be a strong argument.

Mr. R. L. Maharaj SC: Well, why do we want an argument in the first place? Now I am becoming suspicious. One of the issues which the public would consider in a matter like this is, for example, a normal gazetting—as the Attorney General would know, this is normally a routine matter. As a matter of fact, when I served as Attorney General, gazetting was normal, routine matter. For the Solicitor General's Office, this was automatic.

One of the things that the public would be entitled to ask is: Why was this thing not gazetted; a normal, routine ting?" Nobody has been brought to discipline or anything. People could say: Was this thing deliberate? I am not entitled to say whether it was deliberate. We have a duty not to look at arguments which could prevent the maximum protection from being given. We have to look for arguments to ensure that the maximum protection to the public is now given; that is what we have to look at.

In making this case for the Government to look at the maximum protection, I just want this honourable House to be reminded that the Cabinet took a very strong stance against any enquiry; the Prime Minister took a very strong position.

Mr. Manning: That is not true.

Mr. R. L. Maharaj SC: Do you want me to say it first and then you would respond?

On May 09, 2008, in the *Guardian* newspaper, the headline read:

"Cabinet sees no need for probe of UDeCott

There is no real basis for a public Commission of Enquiry into the operations of UDeCott."

You had a team of Ministers, after the Cabinet meeting, who defended this; they included the Minister of Trade and Industry, then Sen. Dr. Saith; the Minister of Works and Transport, Mr. Colm Imbert; the Minister of Housing, Planning and the Environment, Dr. Dick-Forde; the Minister in the Ministry of Finance, Sen. Browne. They took a strong stand.

What we have to understand in this is that two Ministers of Government got sidelined because of the position they took to stand up against UDeCott.

Mr. Imbert: Who is the other one?

4.15 p.m.

Mr. R. L. Maharaj SC: One of the Ministers is sitting here and the other one is on a diplomatic mission. As a matter of fact, this House was interrupted during a budget debate by the hon. Prime Minister to talk about Cleaver Heights and the Prime Minister knows that Mr. Lindquist made a finding, and the finding was that there was no basis for the allegation.

So this is not a trivial matter, this is one in which the Government—it may be this Attorney General is giving the Government political salvation, but this Government took a strong position that UDeCott was clean. So we cannot in this House, in my respectful view, give the impression that if there is a clause to be put in to protect the public's interest, we do not want to have any paralegal officer or lawyer's argument, prevent that.

Mr. Manning: Mr. Speaker, I am determined to stay out of a lot of the "ol' talk" that is going on with this matter. If there is a commission of enquiry, the attitude of the Government is, let the commission do its work and when it makes its findings, the Government will take whatever action it considers appropriate. That is the position of the Government.

But I want to correct the mischief of the Member for Tabaquite, and that is, that the Government was taking a particular position vis-à-vis UDeCott. The Government was saying that on the basis of no evidence at all, individuals of this Parliament were calling for an enquiry when there was no basis for it, and all the Government was saying was, when you come with some basis, then the Government would consider that, and it is the fact. It was when that happened that the Government took the position that it would have the commission of enquiry. The Government has been consistent on this matter.

And may I make one final position that nobody was fired from the Government of Trinidad and Tobago because of any position they took vis-à-vis

UDeCott, that is mischief in the extreme. It is behaviour; people must learn how to behave. That was the problem.

Mr. R. L. Maharaj SC: Well, Mr. Speaker, the behaviour which was described as "wajang" was behaviour for exposing corruption at UDeCott, that was it.

The *Trinidad Newsday* on April 25 talked about the Finance and General Purposes Committee meeting with respect—well, I was not there, so I do not know.

Mr. Imbert: Mr. Speaker, Standing Order No. 36(1).

Mr. Speaker: No, no. I will have to get some Evo-stick for you just now. Please continue.

Mr. R. L. Maharaj SC:—dealt with what happened with the former Minister of Housing that the "wajang" behaviour which was alleged related to his exposure of what was happening at UDeCott with respect to Prof. Ken Julien and a Minister of Government at the Finance and General Purposes meeting. But the hon. Prime Minister got up in this House, in talking about Cleaver Heights, dealt with the Minister asking: "Whe de money gone?" And it had to do with the relationship with UDeCott and Cleaver Heights. So I do not think that the hon. Prime Minister should really get up and—what were the words he used? This "ol' talk". This is not "ol' talk".

Mr. Speaker, then I would have to withdraw what I said about this Government and just leave it for the Attorney General. This is not "ol' talk", this is where people's moneys are allegedly given to public officials, this is not "ol' talk". How could the hon. Prime Minister say this is "ol' talk"?

Mr. Imbert: Mr. Speaker, this matter is not before the commission; it is not evidence being validated. Standing Order No. 36(1). [*Interruption*]

Mr. Speaker: Order! I think the Member was moving on, in any event.

Mr. R. L. Maharaj SC: Mr. Speaker, I just mentioned Cleaver Heights as an aside in relation to what has happened. I am not going into Cleaver Heights.

Mr. Speaker, I want the hon. Prime Minister to know that this is not "ol' talk". Let me tell you, we are asking about the evidence and I will tell you some of the evidence which has been disclosed in summary: State owned special purpose company, UDeCott breached its own tender rules and did not comply with the Government's procurement procedure in the award of certain contracts. That is evidence, hon. Prime Minister, the evidence in the commission of enquiry.

Mr. Imbert: What page?

Mr. R. L. Maharaj SC: UDeCott paid no heed to the standard procurement procedure document submitted to it by the Government and the document was not adopted by UDeCott. So this is not "ol' talk". As a matter of fact, UDeCott's Chairman, before the commission of enquiry said that it did not see itself having to answer to the Government, to follow directives of Ministers of Government.

Mr. S. Panday: Dated January 28, 2009.

Mr. R. L. Maharaj SC: So, Mr. Speaker, this is not ol' talk. You talked about before the commission of enquiry was appointed, but after it was appointed, you and the Government are in effect giving UDeCott and Calder Hart contracts after contracts. In respect of the relocation of the staff of the Red House, three contracts were given to UDeCott.

Mr. Imbert: Mr. Speaker, Standing Order No. 36(1).

Mr. Speaker: Yes, I think that subject is for another time, and in the same place.

Mr. R. L. Maharaj SC: The point is that the Prime Minister is saying that was before, but he cannot say that was before because the Prime Minister, in spite of all the evidence that has come out—and I want to see whether he will vote for this measure because I believe he does not agree with it.

In spite of all the evidence that came out, the Prime Minister was with Mr. Calder Hart the next day holding hands showing the country that he has the support of the Prime Minister and the Cabinet of Trinidad and Tobago. That is why the Government cannot—and I call upon the Government to ensure that the measures in this Bill would include words to make it certain that it is not directly or indirectly giving any defence to anyone who will be prosecuted in respect of the evidence which has been disclosed before that commission of enquiry.

Mr. Speaker, so I want this validation done because I want the Immigration Department to give evidence before the commission of enquiry when it is resumed because that department will give evidence to show where Mr. Calder Hart was residing, where he started to reside and where he resided all the time as far as the immigration records show. Because the fax number which was found on the CH Development letterhead was the residence at De Lima Road in Cascade which showed that Mr. Calder Hart was living there from 1987 to April 2008.

So if the commission of enquiry is aborted or halted, the country would be denied having that evidence. As a matter of fact, when you look at the evidence because you would have noticed that according to the Bill, in clause 6 the evidence given by the witness during the proceedings is to be validated, and not

only the evidence, but in respect of "any person who reported, published or in any other manner disseminated any evidence given by a person to the Commission in respect of such dissemination".

So that where lawyers got up, spoke, made submissions and those submissions were disseminated; it would seem to me that the Act is attempting to validate that also, and if it is attempting to validate that, when Mr. Alvin Fitzpatrick made his address to the commission of enquiry, it was carried live, it was public knowledge. Therefore, what he said must be validated because this explains the seriousness of what we are doing here. What he said about the evidence must be validated because if that is not validated, then it would have no effect. I agree that it is being validated.

Mr. Speaker, the seriousness of what he disclosed, the public must know that the seriousness is going to be validated by this Bill and that is why I support it. The seriousness of what he disclosed in the summary of the evidence showed that CH Development did not have a VAT certificate, did not have a PAYE return form for any record, did not have an NIB certificate, and did not prequalify for the contract. It was a nominee company with no assets; the evidence shows that, and although it was not the lowest bidder and did not prequalify and it was a company just formed a few months before the tender—

Mr. S. Panday: Six days.

Mr. R. L. Maharaj SC:—that company was given the contract and the issue is that evidence disclosed there is a connection between that company and Calder Hart. That is the evidence. So we have evidence that Calder Hart was given a contract at UDeCott to himself. That is what the evidence disclosed, and the Prime Minister is saying that is “ol' talk”. So Calder Hart, representing UDeCott, Chairman of UDeCott to give a contract to himself in a company in which he is involved, he has interest—

Mr. Imbert: Mr. Speaker, 36(1) again, the Member is interpreting the evidence; that is not the evidence. He is interpreting the evidence.

Mr. Speaker: No, I disagree with you. Please.

Mr. R. L. Maharaj SC: Mr. Speaker, I want to make it clear, that is the evidence and I challenge the hon. Leader of Government Business to search the evidence and bring a Motion of Privilege to this House. He did the same thing when I was making the allegations in the House; he did not want me to talk about it. Now there is evidence in which his Prime Minister—and this must be very embarrassing to his Attorney General—got up today and say this is “ol' talk”.

Mr. Speaker, this is glaring. So that is why I want the proceedings to be validated so we can get other evidence. As a matter of fact, Mrs. Sherrrine Hart would be given the opportunity as a principle of justice to go into the Box and say what Mr. Khan said is untrue. Mr. Khan who was her previous husband who knows them and knows the family said that there was this relationship. The brother-in-law gave the evidence, so she would have an opportunity—and I want that justice to be done, to go into the witness box and to say—because she got the salmon letter and she has a right to go there with lawyers too, and the Prime Minister could help her; he could even pay for that lawyer too if he wants. But she could go and give evidence and we will see due process of law where she will be cross-examined. She could bring witnesses to deny that. Am I not correct, Attorney General? Of course, Attorney General.

Mr. Speaker: On that note, we will have some tea. The sitting of the House is suspended for tea, we will resume at 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed*.

Mr. R. L. Maharaj SC: Thank you very much, Mr. Speaker. I do not intend to be very long. I had intended to go through the salient parts of the evidence before the commission of enquiry—some of the evidence—but I do not think I should do that. I think I have made my point so I do not want to do that, because there are so many other things that I could say about the evidence. The only thing I regret is that I took a lot of time to read and summarize it, but I would not do that today.

What I want to say, however, is that there is only one aspect that I want to deal with. In the evidence, a fax number given was 624-8239 and in the evidence when Mr. Hart was asked to give an explanation, he said: "I have no idea but I am going to get to the bottom of it. I can tell you it is an error, a computer error."

Mr. Speaker, that is the CH Development and Construction Limited, No. 7, The Park Stencove, Port of Spain, Trinidad and Tobago, Telephone: 868-633-9311; Fax, 868-624-8239. Fax number, 624-8239 is at a house in Cascade which is occupied by Calder Hart. So this fax number, according to Mr. Calder Hart's evidence, it appeared by error and he is going to get to the bottom of it. So I am not going into any more of the evidence; I think I have made my point.

All I want to say is that the Government has to be very, very careful as to not accepting any recommendation to make this legislation airtight to prevent anyone who may be prosecuted, from having a defence or any loophole. I just want to

remind the Government that in the context in which all this happened, UDeCott was putting out an advertisement in the newspapers, regularly, on May 16, 2009, in respect of all the tendering that they were doing. They were saying that as a policy, no requirement for pre-qualification will be established which will impede or make it difficult for the participation of foreign firms.

And most of these irregularities in the evidence which came out before the commission of enquiry had to do with irregularities, misconduct, disregard in respect of the foreign firms. So you had a situation where UDeCott was openly saying that it is disregarding prequalification and nothing will prevent it from giving foreign firms contracts. It is not going to follow procedures.

I want the Government to remember—the Attorney General was not here at the time. I want him to know all the headlines. This one reads: "Government shoots down UDeCott Enquiry". That is why I feel so happy today. I feel good. Attorney General, you have made me happy. I feel good. I feel that there is some light, because I was getting the impression that this enquiry would all end up without the public being vindicated. I have some hope and I am only asking you—not for me, not for the UNC, not for the people of Tabaquite, I am asking you for the nation as a whole, to protect the public to ensure that the hon. Member for Diego Martin North/East listens and takes your advice and try to let us see whether we could get this amendment done. Because, as I explained again, and I explained it during the break, this is a situation where, suppose a piece of evidence is needed from the evidence before the commission of enquiry and it has to be tendered in evidence because of the absence of the witness—they cannot find him or he is abroad; he dies or whatever the case is—that evidence can be used in the court proceedings for all purposes. You have distinguished people there; people that I have worked with when I was Attorney General. You are fortunate to have a very good staff. You could get them to draft that amendment in a short while.

So I must thank you very much for giving me this opportunity to contribute in this important debate. Thank you very much. [*Desk thumping*]

Dr. Keith Rowley (*Diego Martin West*): Thank you very much, Mr. Speaker. I stand to signify my intention from very early to support this legislation so as to bring about the opportunity for this very important commission of enquiry to deliver to the people of Trinidad and Tobago what they expect of a commission of enquiry. We are dealing here today with a Validation Bill and the Attorney General was at length to give us the legal background and to quote the number of cases, and he discussed the jurisprudence around the decisions and so on. But

basically, for those of us who are not lawyers and who do not pretend to be, it is simple straightforward common sense that something ought to have happened under law and it did not happen and the remedy so as to bring about the situation as though it had happened is called the Validation Act.

I just, at random, want to bring to your attention, over and above the local examples that the Attorney General gave, some Commonwealth examples just to show you that we are on solid ground and that we are not doing anything out of the ordinary. I just picked up four or five of those matters dating back—the first example I have is back to 1927, and probably earlier, but this Act I just pulled at random, 1927, is in the UK, the Superannuation and other Trust Funds (Validation) Act. Something had happened in this legislation governing superannuation and other trust funds and the UK Parliament realized that actions were not covered by law and this bill was brought to the Parliament as a validation bill to correct it, and that was done.

The same thing; you go to Northern Ireland, the Licensing (Validation) (Northern Ireland) Order, 1992. Again, something happened with respect to licensing arrangements; an order was made and the Parliament supported it. Again in the UK, the Occupational Pension Schemes (Validation of Rules Alterations). Here you had a matter to do with pensions and the action was not covered by law. It ought to have been; it was not and the British Parliament intervened and a validation alteration was done and it was secured.

In Australia, they had a similar situation with the excise tariff and the customs tariff where the Australian government had collected taxes under customs and excise, substantial sums of money; it was the intention of the Parliament that the government agencies should have had that authority; it turned out that they did not have the legislative cover and they were collecting these moneys. The Parliament intervened, passed a validation act and what was not covered by law was deemed to have been legally and properly done.

So, therefore, we should have no qualms and no fear about covering this matter with an intervention of the Parliament to say, simply, what ought to have been done at the initiation of the commission of enquiry, this law that we will pass here today will give substance to the fact and it will become as though it was done in the very beginning.

But something bothered me and I will come to it a little later on. Before I go any further into this debate, I think it is incumbent upon me to make it quite clear that I have an interest in this matter. It is not normal that I intervene in the

Parliament on my own behalf or I use my own examples or my own business in the debate in Parliament, but I found myself in a very peculiar situation in this particular debate and I want to make it abundantly clear that insofar as I am going to comment on issues in this debate, I cannot help it. It cannot be but that way, and I am making it quite clear that I am in a unique position, unfortunately so, but the record has to be corrected and the record has to be established.

This validation is required for a purpose, but I just want to bring to your attention something that you may not know and that it ought to form part of this record, because we would not have been here today doing this had it not been for this piece of correspondence in my hand here this evening.

So we are asking, how did this validation come about? It came about because as a participant in that commission of enquiry, and worse, as a subject of the enquiry—because as a Member of Parliament, again I am in a unique position, I am in the House, a subject of this enquiry sent there by the Prime Minister. But my legal counsel wrote this letter and I am going to read it into the record to explain why we are validating today. It might have been another day, but today. This letter is dated Tuesday, September 01, 2009. It is addressed to the Secretary of the commission. It is very short, and it reads:

> "In light of the numerous and now escalating attempts by parties to the subject proceedings, seeking to challenge the ability of the commission to carry on its duties, out of an abundance of caution we request confirmation that the Commission has sought the relevant ratification of the President of Trinidad and Tobago for the Commission, as presently constituted, to continue its work pursuant to section 33 of the Commissions of Enquiry Act, Chap. 19:01."

This was sent to the commission on Tuesday afternoon. It was when this letter went out to the commission—because we, as participants in that enquiry had become quite convinced that, notwithstanding what was being said, there were strong forces, strong interests, interested parties, who were making it their duty to ensure that this commission did not complete its work. And when the commission's shape was changed by virtue of a challenge from a state company, challenging the commissioners themselves under the ground of bias and other allegations, we asked the commission to ensure that its new shape had the proper protection out of an abundance of caution, even though the law says that the President has the power to appoint a commission with one or more members. We wanted to make sure that if it was three, two or one, that it was covered and no argument could have been raised.

It is out of this enquiry from my counsel that the commission discovered that there was no gazetting in the very beginning and by Saturday afternoon, the cat was among the pigeons that the commission was not gazetted.

I want to ask you, Mr. Speaker, had this discovery been made after the report was done, what would have been the position? Given the attitude and the intention of the state enterprise, if the report was completed, we would not have been going to court for a stay, we would have been going to court to have the report sunk for all times, because it would never have had the cover of the Commissions of Enquiry Act.

So I would like a round of applause from this House for protecting the commission—I would like a round of applause. [*Desk thumping*] Because the lawyer who wrote this letter was in my employ and I have saved the country millions of dollars. [*Desk thumping*] And to the intent that all the good things that my friend from Princes Town/Tableland spoke about and the Member for Couva South spoke about, that ought to come out of this enquiry—

Mr. Maharaj SC: The Member for Tabaquite.

Dr. K. Rowley: Tabaquite. To the extent that those positives will come, they were saved because we discovered in the nick of time that the commission was not gazetted.

5.15 p.m.

Mr. Speaker, let me give you an idea of how much public money is involved in this matter. The Government has exposed that the commission to date has cost $3 million. That is payment to the commissioners for their services. That is not the cost of the commission of enquiry to the State. That is just the four commissioners' cost. The lawyers for the commission is a whole team, senior counsel, medium counsel, junior counsel, no counsel. They are all there getting big money. You had in the state sector a legal team, UDeCott's team headed by a foreign British QC paid in pound sterling. My colleague for Tabaquite can tell you how much that costs by the minute. Pound sterling multiplied by 10. You would understand about what we are talking. That is a legal team for UDeCott.

Insofar as the chairman of UDeCott is not part of UDeCott, UDeCott is paying another team of lawyers for the chairman. You follow, Mr. Speaker? The State is paying a legal team for UDeCott and the State is paying another legal team for the chairman, senior counsel and others. [*Interruption*] He could afford to say so what, because it is not costing him "notten". It does not cost him anything. It is

not costing him anything so he could say "so what." That is the point! Because this ability to spend public money and say "so what"? A team for UDeCott paid for by the State and a team for the chairman paid for by the State, both led by senior counsel. Millions of dollars. Then there is the Attorney General's team led by another senior counsel and many lawyers. Then there is a legal team shared by the Minister of Works and Transport. He and Calder Hart, the chairman, share the same lawyer. [*Interruption*] Yes. The Minister of Works and Transport and the chairman of UDeCott share the same senior counsel.

The Minister of Housing, Planning and the Environment was there and she has counsel as well, paid for by the State. HDC produced two senior counsels in the enquiry. One they fired halfway when they could not get from her what they wanted from her to destroy me, Deborah Pique. Then, they brought in the Jamaican QC Llyod Barnett who took over to make a case that I "tief" money in the HDC. Nipdec has a team. The Education Facilities Company has a team. All these teams of lawyers, except probably one, led by senior counsel paid for by the State in this enquiry.

If we do not validate today and give the commission life, if we do not make it, so that the commission could continue its work, all this money would go down the drain. All! All of it would go down the drain because we would not have had the benefit of the enquiry and all those who took part. I have not mentioned the private sector that had serious legal input because the Government offered to the country, a commission of enquiry, persons came to participate to assist the enquiry and paid lawyers only to be told that the commission does not exist because it was not gazetted. Whether we agree or we do not agree with all the clauses, we have to support this so that the commission can be given the opportunity to do the work it was meant to do.

What is the product that the commission is likely to deliver to the people of Trinidad and Tobago? The product is a report. The commission would have listened to all the testimony before it and subpoenaed or requested documents. As a participant in that commission, I can tell you that volumes upon volumes upon volumes of documents came there. I heard it said by my colleague, the Member for Princes Town South, that people are saying it is UDeCott and it is really the whole construction sector.

By and large this commission was brought into being to deal with the conduct of a state enterprise, UDeCott. In April 2008, I went on national television and told the country as a Minister of recent vintage of a few days before, because I was dismissed from the Cabinet a few days before, that I am asking for a

commission of enquiry into the affairs of this public company, UDeCott and if that enquiry shows that I have no reason to be concerned, then I would resign my seat in Diego Martin West and leave public life. I gave that assurance on national television in April 2008. [*Desk thumping*]

The issue that brought me out of the Cabinet was my demand for Cabinet oversight of that state enterprise. It provokes me no end that as we come here to validate today, for the second time in front of the national community and the world, the Prime Minister of Trinidad and Tobago gets up to slander me. When I was dismissed from the Cabinet the Prime Minister told the country, he went alone to a press conference and said that the reason I was dismissed—he did not have to give any reason, but he chose to give one—was because my conduct was unbecoming of a minister. Up to now nobody could say what I did to get that label. He stayed here this afternoon sleeping whole afternoon. He only woke up in time to say that I was fired for my behaviour. So my behaviour is now a part of this debate.

I would defend myself. Every time I am attacked by anybody in this country, specially any person who sets out to damage my family and I, I will defend them and myself. But the evidence is what is before us. This evening he got up again to say that there was no evidence until the Member for Tabaquite spoke about the family's contact with Calder Hart. I want to put on *Hansard* this afternoon that I went to the Prime Minister of Trinidad and Tobago in August 2003, as a Minister of Government in Trinidad and Tobago, a PNM Minister and told him that there was bid-rigging taking place in UDeCott. [*Desk thumping*] I described to him the conduct of the chairman as proven to me by the Permanent Secretary and for him to come here as he did earlier on and reinforce it today, that there was no evidence, what does that say about all of us in this country, when a Minister of Government could go and tell the Prime Minister that?

What does the Prime Minister do? Slander me and come to Parliament and put up a defence for Calder Hart and his wife. It is in *Hansard*. The same wife who today, is facing a Salmon letter from a commission of enquiry. During last year's budget debate, the Prime Minister was in Parliament defending her while slandering my wife. He had lingering doubts about my wife's project in Tobago but he had no lingering doubt about Calder Hart's wife who is now to answer for a Salmon letter. [*Desk thumping*] I have to bear this all the time. Because what? Because we are both sent here by the PNM.

I want to tell you, Mr. Speaker, that as we validate this today we are validating hopefully, to save the PNM. I heard the Member for Tabaquite congratulating the

Attorney General. I hope for the Attorney General's sake he can save himself through this action because he too, has a lot of questions to answer, but he can still be redeemed. We of the PNM, other than anybody else in this country, have a particular interest in this matter. As we come here today to validate this Bill, the works of the commission of enquiry, the PNM is on trial. Those of us who were here and carried the O'Halloran stain cannot take the position that this is "ol" talk. This is "ol" talk.

The Minister with responsibility for UDeCott only a couple days ago was standing up in the face of the incomplete commission of enquiry and saying that UDeCott is being treated badly, injustice to UDeCott and we went to court. While the Attorney General was saying that he was not happy about what was going on with UDeCott going to court, the country was saying that UDeCott a state enterprise should not be allowed to take the State's money and go to court and fight the Government. Maybe, it is all wrong. UDeCott was not fighting the Government.

The Minister of Housing, Planning and the Environment is on public record saying "we" took this, "we" decided to go to court. We, we, who? The Minister and UDeCott. I say again, as we validate this Bill this afternoon, "I doh know who she's speaking for; doh know where she come from; doh know who she represent, but she does not represent me" and all the PNM members and supporters who are opposed to this. [*Desk thumping*] It is a strange country where a Minister of Government who initially told the country that she was happy with UDeCott's reporting, there was nothing wrong there and then, what happens?

A commission of enquiry—I just came out of Cabinet last year. It is in the commission of enquiry that I found out how the contract was awarded for the Princes Building Ground. As a member of the Cabinet I did not know. I was just uncomfortable and uneasy about it. It is in the commission of enquiry documents where the contractor was asked: How did you get this job as contractor? And the contractor replied—and the country will know for the first time this afternoon how the contract was awarded there. I did not know. I found out in the Uff Enquiry—well, I did the Prime Minister's house and after we wanted more work in Trinidad and Tobago, so we went to the Government of China and asked them to offer the Government of Trinidad and Tobago $100 million to build the Performing Arts Centre and in so doing, name us as the contractor. And thus ended the lesson. That is how he got the contract.

I will tell you something! While I have to put up with the Prime Minister coming here and saying that I was fired from the Cabinet of Trinidad and Tobago

for my behaviour, the man who told the contractor that was some little underling working in a quarry in Tobago with a small contractor. He somehow morphed into this contractor who had the inside track to talk to the Government of China. How did the Government of China know that by offering the Government of Trinidad and Tobago money, it would be accepted? And so say so done, at a time when we were washed with cash. Did not need any loan. It was done. That is the procurement procedure that Ministers of Government are asked to defend.

The Prime Minister came here and made an argument about he cannot understand how a small contractor in Tobago could hire NH, a bigger contractor, and it has been a matter of concern to him and so on and so on, but the company was not too small to hire Michael Zang, but it is too small to hire NH. Do you understand? $700 million worth of contract lands on the Princes Building Ground. Not a soul in Port of Spain, Belmont, Cascade, Laventille, Diego Martin, not one day's work: 100 per cent Chinese work. Design, construction, materials, everything and I am supposed to support that. If I do not support it I get slandered in and out of Parliament by my Prime Minister.

This country has to understand that sometimes you have to break the mould to make a new shape. I am breaking the mould! [*Desk thumping*] I am breaking the mould on behalf of all the PNM people who in 1986, when we went to campaign in my area, I was there, I do not know who else was there and "yuh going door to door and they slamming doors in yuh face" in Westmoorings, Glencoe, Bayshore and all "they telling yuh about is O'Halloran." Today, every school child in this country knows that there is something called UDeCott and it smells to the high heavens. [*Desk thumping*] The whole country is saying that this problem as it exists, ought to be dealt with by changing the board.

You come to validate to put the commission in place and the commission is fighting UDeCott's management and board. Do not put the commission in a fight. Give the commission a free hand to investigate and let the evidence and the chips fall where they may. No! No! No action on that. In fact, you get support for that. You get photo opportunities for that. You get parties on the Waterfront and the Prime Minister in the front enjoying it. But "me" in the Cabinet, I am dismissed from the Cabinet and slandered for misconduct that nobody could say what the misconduct is. Do me a favour, Prime Minister in this debate. Get up and tell the country what I did in the Cabinet. [*Desk thumping*] The whole country knows that this is a contrived lie. A year and a half I have been keeping quiet and going down the road, "yuh" come back in the Parliament today to do it again, to reinforce it today.

5.30 p.m.

It appears as long as UDeCott is involved they do not care whose character and reputation they destroy. Look at my friend, the Member for Diego Martin North/East. Prof. Uff, whose commission is to be validated, the Member for Diego Martin North/East came here and read out a CV as long as my arm. We could not manage our own affairs in this country; we could not find anybody; luckily, we found an Englishman of the highest calibre, coming out of King's College, a lawyer and an engineer, ideally suited, to come and examine our messy circumstances and tell us where we are going wrong.

He makes a mistake. He now has to stand and defend his character and his reputation because, in little Trinidad and Tobago, a man who made a name for himself all over the world comes into our business and if we do not validate this Bill today and the commission falls apart, he would have on this CV that he came to Trinidad and Tobago to do an enquiry, behaved in a biased manner, according to some complaint, and the enquiry had to be aborted because his behaviour, biased they say, caused the commission to be aborted.

That is what is at risk here. If the Parliament does not act to allow this commission to conclude in a decent and normal manner, the reputation of Prof. Uff would be tarnished because the state company accused him of bias. Biased in whose favour? This Englishman came from across the ocean. He does not know any of us. In fact, he may very well view us as the sons of slaves and indentured workers who do not deserve independence. I do not know his position. He came here to assist us with our own problems of our own making; problems that could have been solved by our own Cabinet and if we do not validate the Bill for him to complete the work and virtually exonerate himself, he leaves here with his record showing that he came here, was accused of bias, the commission collapsed and he has no way to clear his name. Like me.

I said I have a personal interest in the matter. The Prime Minister got up here last year, after I spoke about the procurement process, the involvement of Sunway, the closeness of the Prime Minister's office to Sunway and the issuing of a unique Memorandum of Understanding. I spoke here on the Monday; on the Tuesday, you had to tell us that you were not inclined to have the Standing Order waived for the Prime Minister to lay documents of national importance and speak with unlimited time. A vote was taken and, in this *Hansard*, a case was made about moneys missing in the Ministry, at Cleaver Heights, for which I had responsibility.

I had to sit here and listen to my Prime Minister make a case of missing money and ascribe it to me by asking me where the money gone, and put on *Hansard* that he has concerns because a design for the force main for that contract, which was supposed to have cost $300,000, but instead the contractor was paid $6.1 million. He named the contractor, NHIC, and he put on *Hansard* that he heard that I was the mouthpiece for NHIC. Case made; circle closed. The record is now in at the commission of enquiry. The evidence is there. The design for the force main was $175,000, not the $6 million that the Prime Minister said. I am not interpreting here. I have seen the document. It is listed as items of work for the force main of Cleaver Heights.

Which brings us to the point: Should the Prime Minister have known that? If he knew that, what was he doing? If he did not know, he ought to have known. I do not want to go into the issue of contempt of Parliament. I am simply saying what the evidence says. That is the evidence that we are trying to validate to make sure that it is saved.

Why should people be sacrificed to allow others, wrongdoers, to prosper? That is what we have been called upon to do, colleagues. Those of you who think I am being obstructionist or whatever you want to think, we are being called upon to do that by a small clique of people in the country; to support wrongdoing, pretend not to know and see if we can ride it out. We are not going to ride this out.

Those of my colleagues, the young ones who just came in, I will draw to your attention that when we had the O'Halloran problem, which was phase one of this, Dr. Williams never one day got up and put on the public record any defence for him—not one day; not on the radio, the television or the newspapers. If O'Halloran was doing wrong, it was individual wrongdoing and he was to stand his own bounds. When Selwyn Richardson came as Attorney General, moneys were returned to this country that was supposed to have gone out in the wrong way. Today, we do not have that.

What galls me about all this is that I stood here on this side of the House saying to the Government on the other side that the Cabinet was facilitating wrongdoing. When I said that, there were people saying no. Now people are in jail all over the world over that. Right now, I am saying to my colleagues, what the commission of enquiry is looking at is 10 times worse than what happened with the Piarco International Airport [*Desk thumping*] and it is even more brazen.

I cannot believe they could have been so bold. When the commission of enquiry asked for the documents, the ones that we will protect here by the passage

of this Bill, what UDeCott will do is not comply and wait until the night before and give you six carton boxes of documents. But, Mr. Speaker, there are those of us who have a public duty and, in my case, the need to protect myself from those vermin. I had to spend the whole night and read every single page because the evidence is there if you can identify it.

That is how the fax number was discovered. It appeared on the document that accepted the contract, time, place and date. It is all there in the home of the chairman of UDeCott, a state enterprise. And when called upon to explain that, he says to the commission of enquiry, as part of the evidence, that it is Sunway which made a computer glitch and my fax number came out.

I ask my friends who are defending that: If the technology exists for Sunway to make a computer glitch in Glenco and generate the chairman's number in Cascade, how do you explain the same telephone number appearing on the rubber stamp? We need to validate the enquiry so that we could hear that piece of magic—how the phone number appeared on Sunway's rubberstamp. I am not even talking about the wife's business card where the same number exists, but the number of the chairman from de Lima Road in Cascade is on the rubber stamp on every UDeCott document for CH Development.

While that is so as a fact of sworn testimony and documentary proof, the deputy chairman tells the country, if there was one iota of wrongdoing at UDeCott, they would leave. We are not asking them to leave; we are demanding that the Government remove the board of UDeCott.

The Attorney General today spoke about—and his words were: "validation could still be challenged". He is right. He is putting us on notice that over and above the one-month window that UDeCott insists upon to prevent the President—the President asked for an enquiry and demanded that a report comes to him. A state enterprise under Cabinet control says that should not and would not happen without their say so and they have a month to put lawsuits in place to prevent the President from getting a report on their conduct based on the evidence that we are outlining here. That has to be wrong, colleagues. No country should accept that from any Prime Minister, this one or any other one.

The Minister of Housing, Planning and the Environment with responsibility for UDeCott could never have made the statement she made last week unless she knew she had the support of the Prime Minister. Any Prime Minister who hears a Minister doing that would have intervened, not only with UDeCott, but with the Minister.

Mr. Warner: That is "wajang" behaviour.

Dr. K. Rowley: That is not "wajang" behaviour; that is acceptable. But as a country, I do not care whom you vote for; I do not care whom you worship. Governments in any country are damaged by that kind of behaviour. If this country cannot call to order its Prime Minister, its Cabinet and its political party to say we are not accepting that, God help us. People whom we hire ought never to get bigger than those who hire them. The Government is hired by the people.

I take this position only to make it quite clear that insofar as this stain is being invited on to the PNM fabric, there are those of us in the PNM, for the PNM, who support the PNM, who want no part of this. I speak for them. I do not know for whom they speak, but certainly the PNM fundamental principles of morality in public affairs are under attack. I am putting you on notice that the next election will be the UDeCott election. O'Halloran has receded into the background. There are other names to be called.

I was Minister of Housing and I went to the Cabinet over the Valsayn project, got them to give NUGFW, 23 acres of prime land to build houses for union members and others to assist in the housing programme in the private sector. Nine months later, the land ends back up in the State. UDeCott bought it for $5 million more at a time when it had been advised that the Cabinet said not to continue the housing programme. When I accidentally found out that UDeCott was involved in the project, at a meeting in my office with all the agencies involved in housing, which I chaired, I asked UDeCott if they were involved. They would not answer. The Minister of Housing is asking a state enterprise a question and they would not answer; pretending not to know the question. It was minuted in the Ministry of Housing that they would report at the next month's meeting as to its involvement in this project. That was in April or May, 2006. I left that Ministry at the end of the following year. A year and a half later, they never reported.

I got the answer in the evidence of the commission of enquiry that we are going to validate now. Do you know what the answer was? Over and above putting $5 million of taxpayers' money in the union pocket just like that, undermining the Cabinet policy, because the land went from NHA owned land to the union; it ended up back in the State for $5 million more, but the people who sold the land to UDeCott sold them an arrangement too.

Before the land was sold to UDeCott, the union made an arrangement with Karamath that he would be the builder—no tender, no nothing—selected by partner. And when they sold the land to UDeCott, they sold the idea to them as

well. So UDeCott, now the owner of the land, honours the agreement the union had with Karamath. So the land is owned by UDeCott and Karamath gets the contract with no competition except that the union named him contractor of choice.

There is bank UDeCott that I did not know about as a Cabinet Minister. Part of that arrangement was that Karamath would be financed by UDeCott.

5.45 p.m.

Calder Hart, Chairman of UDeCott, goes to Calder Hart, Chairman of the Home Mortgage Bank and borrows $170 million and hands to the contractor $134 million. The contract is awarded for $134 million, no competition, no tender, no nothing, and Hart's UDeCott borrows from Home Mortgage Bank $170 million. The question is: If the contract was awarded for $134 million, why was UDeCott borrowing $170 million for the contract? [*Interruption*]

Mr. S. Panday: Some for the pocket.

Dr. K. Rowley: I only found that out, not when I asked about it at the Ministry of Housing when I was the Minister involved but, when Mr. Uff asked to have the documents brought before the Parliament. I would end on this note—[*Interruption*]

Hon. Member: Before the enquiry.

Dr. K. Rowley: Before the enquiry. I will end on this issue, because I have some more to do. When Karamath came before the enquiry, the documents were there. He got the contract. We cannot deny that. He was asked: How did you get this contract? He said it is a joint venture between me and UDeCott. Joint venture how? From me, as part owner of the land. The document will show that the lands went from National Housing Authority to NUGFW to UDeCott. Nowhere in the record of transfer document is there any reference to ownership by Hafeez Karamath, but go to the evidence in the Commission of Enquiry and you would see Hafeez Karamath, who is the luckiest contractor, got a $134 million contract dropped in his lap and UDeCott borrowing money from one state agency to give him that contract. He told Mr. Uff as chairman—what do you call testimony that is not true under oath? [*Interruption*]

Hon. Member: Perjury.

Dr. K. Rowley: Okay. If, in fact there are people who are to answer for their conduct before the enquiry and during the enquiry, we need to validate, so that they can all be brought to the court. That is what I am being asked to defend and

there is no way I as a PNM Member of Parliament defending that. Who want to defend that could defend that. Who want to stand up and give speech as to how good that is and how tall that building is, they could do that. Me? Next week I would be 60 years old. I am pensionable and I am good to go. Go quietly, I was advised. That is not on. As I told the Prime Minister when he fired me and asked me to go quietly, it is not on. I represent people and I first and foremost represent myself as a citizen, my family, my friends, and my neighbourhood and I have a job to do. That is all I am doing today. Let the record show that when this was going on, one Member of the PNM parliamentary line-up stood up and said: In the name of the PNM, this must not go on. It must not go on. We have seen where we have come from. We have seen where we are going.

There is another issue, for me, it is the biggest issue. When the Minister for UDeCott was talking a couple of days ago, she was throwing words for me. She was saying this thing about Ministers intervening with tender is—how did she put it? [*Interruption*]

Mr. S. Panday: Untidy.

Dr. K. Rowley: And that it is not good governance. That was for me, because I as a Minister with an instrument from the President, when UDeCott first started to attempt to rig bids, I intervened, because the tenderer did not meet UDeCott's own tender requirements. It came to my attention and I had it investigated by the Permanent Secretary. I reported to the Prime Minister on the matter and I took action. I wrote the chairman and I told him: "It has been confirmed to me that you are rigging the bids and you will stop it. You would go back out to tender and retender under prequalification." I laid down prequalification rules and I took responsibility as Minister. I did that. She was referring to that; a Minister should not do that, because a Minister is supposed to stay there and whether it is O'Halloran or O'Hallaroo; just stay there and the functionaries rob the country.

I will tell you one thing, there are very few Ministers who find themselves in a situation to influence government expenditure directly on cheque book. It is the functionaries in the system that do it. In Africa, Asia and South America, it is the functionaries in cahoots with their partners in the government. It is never the government. No Minister can sign a cheque, but if you have the right connections in the system, where the operations take place, then that is where it happens. When a Minister intervenes, he intervenes to ensure that you bring general direction and control. It is in this context why the whole issue of the role of a Minister, vis-à-vis the state enterprise is important to the people of Trinidad and Tobago today and we have to validate this Commission of Enquiry, because that

is a premier issue before the enquiry. One of the things that the enquiry will give us is the commission's findings as to how this issue of the Minister and the state enterprise should operate.

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

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

Question put and agreed to.

Dr. K. Rowley: I thank you, Mr. Speaker, and I thank my colleagues for the extension. I was saying this is the time when the Government's policy, as espoused, is that we will create a number of special purpose companies. We are even talking about an amendment to the Constitution or a new Constitution, which gives you governance by way of mini UDeCotts throughout the system. In that arrangement, if we are not clear as to the role of the Minister in managing these enterprises, what we are going to create is a situation where the state enterprises, special purposes or otherwise, determine the country's future. That is not what our electoral system was meant to deliver. The electoral system puts people in office, there is a Cabinet in place and state enterprises are to function from there outwards. The tail is not to wag the dog; the dog is to carry the tail and keep the tail behind it.

If you have a situation where the enterprises can do as they please, under the Companies Act, because that is what UDeCott is saying. UDeCott paid Queen's Counsel to talk for three days, to talk about their rights under the Companies Act. There is no Act called the Companies Act that is superior to the Representation of the People Act. The shareholders are voters who, on election day, give trust for a period of time, not forever. We must not think we are here forever, but the term is limited. The population gives us their trust for a period of time to act on their behalf; the shareholders.

This argument, where a state enterprise is saying that we have the authority to do, under the Companies Act, what we choose to do, is an issue of governance that needs to be clarified and this Commission of Enquiry should clarify it for us.

In the evidence before the Uff Commission, UDeCott is confronted with a situation where they hired Senior Counsel. I presumed they paid Senior Counsel—Senior Counsel money is big money—to advise as to whether it is proper to award a contract to a company who claims to be the subsidiary of

another company on the strength of the parent company. The legal advice which they have, which is evidence before the commission, is that you cannot do that. You cannot award a contract to company A on the strength of company B, C or D. When the commission asked UDeCott: "Why did you do that in the face of your legal advice?" UDeCott said: "Because we are the board and we could disregard the advice. That is the evidence." I did not make that up. That is the evidence: We the board could have legal advice. They cannot deny advice because it is there in documentary form. When asked: Why did you do that? They said because the board is free to do that. My argument to the commission and now here is: Is that proper governance? Is that right?

Look at what happened at Petrotrin. If that argument is held, is it that things could have been different? Is there anybody in the Cabinet this evening who could get up and tell me that they knew what was going on at Petrotrin? [*Interruption*]

Dr. Gopeesingh: "Say Standing Order 36(1) nah? Yuh 'fraid Rowley."

Dr. K. Rowley: Did they know? I am talking about—it is not a question of "'fraiding" anybody; it is a question of we are all going to hell in a hand basket, because we are not doing what we are supposed to do.

The Uff Commission of Enquiry will bring this issue quelled to the fore as to whether in fact a Minister of Government with an instrument under the Constitution, the requirement to exercise general direction and control over government agencies, put under his portfolio. Somewhere along the way, it has been changed that somebody in a room, over a drink, could agree with a partner to do something and then your whole Cabinet system becomes a rubber stamp after that and the next thing you know, as I was saying a moment ago, I do not know that all the Members of the Cabinet could tell me that they knew that the Uff Commission was running an overrun from $2.2 billion to $9 billion. If they knew then, they have to answer another question: What did you do? And if they did not know, what kind of ship are we running so that could happen? The $9 billion, first set borrowed at 7 per cent interest—[*Interruption*]

Mr. Speaker: No, you are straying now.

Dr. K. Rowley: Mr. Speaker, I am talking about the importance of the Uff Commission bringing us to understand, as I expect it would, that a Minister of Government has to be responsible for the state enterprise under his or her portfolio, because if that does not happen, you can have developments which could have been avoided. I am only using the Petrotrin example to show you—we have the UDeCott example—that as bad as UDeCott is, it probably would not

bankrupt us. We would be laughed at, but Petrotrin will bankrupt Trinidad and Tobago, because when it is time to pay that $9 billion and Petrotrin cannot pay it, I want to see the day or the year in this country when the Government will allow the bond holders to take Petrotrin and default on the bond. I want to see that day, because that day will never come. What will happen is that when Petrotrin cannot pay, the Treasury will pay and the Treasury will pay at the expense of the schools, the roads, the hospitals and so on.

That is the point I am making. A state enterprise could tell you, we could do what we want under the Companies Act and in so doing you bankrupt the country in the process. A Minister is there and saying: I am a Minister and it is not good governance to interfere in tendering procedures? What is worse, the record will show that this Parliament received from this Government a procurement document, a White Paper; government policy that was withdrawn, taken back, killed and buried in UDeCott of all places. The graveyard is in UDeCott. What is happening in Trinidad and Tobago? [*Interruption*]

Mr. Maharaj SC: In 2004, it was referred to him for his comments after Cabinet.

Dr. K. Rowley: You in Cabinet? This is something we have to focus on, these issues.

To the extent that we are going to allow functionaries such leeway, plenipotentiary power, such Prime Ministerial support and such PR in the paper—everyday in the newspapers there is a whole page ad from UDeCott. "We are here and we are doing this." How much thousands of dollars per leaf? If your performance was so good, you would not have to pay to send it out there. The very fact that you are having to pay page by page in this country where everybody has—

6.00 p.m.

Mr. Speaker, I am winding up on the note that even as we have these issues of governance in front of us there is a more sinister society. I heard somebody this afternoon ask for the Lindquist report. The commission of enquiry has before it as part of the extended terms of reference, Cleaver Heights. I personally would like that the Cleaver Heights enquiry come to a proper end and a finding is made in the commission of enquiry because I want my good name back from the Prime Minister of Trinidad and Tobago.

I thank you, Mr. Speaker.

CHINESE NATIONALS
(HORRIFIC LIVING CONDITIONS)

Mr. Speaker: Earlier on I had given leave to the Member for Oropouche East to raise a definite matter of urgent public importance and that relates to a Motion that he filed earlier on dealing with the well publicized exposure of the disgraceful inhumane circumstances—dealing with the Chinese situation. So I now call on Dr. Moonilal to present his Motion.

Dr. Roodal Moonilal (*Oropouche East*): Thank you very much, Mr. Speaker. I stand this afternoon on a rare occasion to present a definite matter of urgent public importance that was duly approved with the support of Members on this side of the House.

The Government is here kicking and screaming because they themselves did not support this Motion of urgent public importance to address the plight of migrant workers in Trinidad and Tobago.

Mrs. Persad-Bissessar: They voted against it.

Dr. R. Moonilal: They voted against it. So, if the Government had its way we would not be debating this matter as a matter of urgent public importance. For the Government this matter is not urgent, it is not in the public interest and it is not important for the Government of Trinidad and Tobago.

The other introductory point I want to make is that the matter I am raising today is actually connected to issues raised a few minutes ago by the Member for Diego Martin West. It is connected to the issue of the construction sector, UDeCott and government to government arrangements between the Government of China and the Government of Trinidad and Tobago. What I am dealing with is really the employment side of the financial corruption that took place. We are looking now at the employment effects of a process of corruption. This is what the Motion is about.

The plight of the Chinese workers in particular has come to the fore over the last couple of days, but this matter has been on the public agenda for quite sometime now. It was in August, earlier this year, that about 32 workers went in front of the Chinese Embassy at St. Clair and protested over issues of failure to pay overtime, and secondly, the non-provision of meal allowances. That was on August 24, 2009.

Many of us in the trade union community who interact with unions, workers and so on, and who move about the country would have heard in smaller quarters the issue of the exploitation of migrant workers. At a hotel in San Fernando we heard stories of Chinese workers and migrant workers having to sleep in the same dorm, in the same bedroom and in the same bed of the hotel in the evening. When the users in the day would leave the workers would come in the night. We have heard of cases where as shift changes for some of these workers they use the same bed and they use the same quarters at different times during the day because they operate on a 24/7 cycle.

This matter has been in the air sometime, but it was the morning of Tuesday, October 13, 2009 that a massive amount of traffic on the northbound side of the Solomon Hochoy Highway, when we learned later in the morning that it was because migrant Chinese workers from Chaitee Village in Cunupia had journeyed to the highway to protest the conditions of work and living conditions that they were experiencing. When migrant workers who cannot speak English—who, for all intents and purposes may actually be docile people, not prone to emotion, bacchanal and so on—who are in a foreign country, are motivated to leave their living quarters and journey on foot to the public highway to protest that should tell you something. It should tell you that they themselves have reached boiling point and they are fed up.

Mr. Speaker, on October 13, 2009 those workers moved from Central to Port of Spain at the embassy where they continued their protest, but there are some unexplained circumstances of that day. When they were in Port of Spain it was reported in the newspapers that those workers were detained. How were those workers detained and on what ground? What was the authority that detained them and for what? Did they commit an offence and if so what offence? They were detained from protesting. In the aftermath of that protest on October 13, we were informed in the process that one company involved—I will come to the companies in a few minutes—Beijing Liujian—B-E-I-J-I-N-G L-I-U J-I-A-N—applied to the immigration authorities to revoke the work permits of the Chinese workers. They applied to revoke their work permits in the aftermath of the protest, as if in some cases to punish workers for protesting and standing up for their rights in Trinidad and Tobago. That was a very instructive piece of news.

It is well recognized throughout the world that given the growing pace of economic globalization and the reduction and removal of borders, not only for capital, but for labour as well, there is an increasing incidence of migrant workers throughout many of the developing regions of the world. In Trinidad and Tobago

we would have known of migrant workers and contract workers since the early part of the last century; workers who would have come from smaller islands in the Caribbean to work in the oil industry and so on. The oil industry and the energy sector attract migrant workers. The Gulf States provide a classic example, where you have Pakistani workers, Indian, Philippinos and so on, and it creates a lot of social policy issues; a great deal of problems with labour policy.

Mr. Speaker, what we have witnessed over the last few years is an escalation in the incidence of migrant work, primarily of Chinese nationals, based on what the Member for Diego Martin West was pointing out, several arrangements made between the Government of Trinidad and Tobago and the Government of China. The last speaker gave a position on how those arrangements were made and I am talking about the employment effect of those arrangements because there is a connection. When those loans are made by secret, contact and in corruption, the employment fallout is that workers come here under all sorts of notorious, oppressive and exploitative conditions in their contract. [*Desk thumping*] So it is related.

Over the last few days—before I come to that, I want to remind the House and the national community that in April of this year I filed a question for answer by the Minister of National Security under which a key competent authority, the Immigration Department, falls. I asked the Minister of National Security—the question was filled in April and it was finally answered on July 03—"Could the Minister indicate the number of foreign (non-Caricom) workers entering Trinidad and Tobago and granted work permits by the Work Permit Committee for the years 2007 and 2008?"

Secondly, "Could the Minister indicate the number of Chinese immigrant labourers/workers employed in Trinidad and Tobago for the years 2007—2008?"

The answer given by the Minister of State in the Ministry of National Security reads as follows:

> "With respect to the number of Chinese nationals granted work permits for 2007 and 2008, the figures are 2007, 1,071; 2008, 1,756."

Mr. Speaker, if you look at this you would see in two years alone you have what could amount to about 2,700, almost 3,000 Chinese workers over 24 months coming into Trinidad and Tobago on work permits. Almost 3,000 in 24 months. [*Interruption*] That is the supplemental question. This is work that Trinidad and Tobago nationals could not get because it had to do with the contractual arrangements made pursuant to loan arrangements that the last speaker raised.

I asked as well through a question for written answer and the question I asked is: "Could the hon. Minister state the nature of the contracts and terms of employment of Chinese workers entering Trinidad and Tobago for the years 2007 and 2008?" In April 2009 the Member for Oropouche East asked about the conditions of work and terms of employment. Not in October, in April.

The Minister replied in a written response and gave the same figures again, 3,000 workers more or less. The Minister indicated in her written reply that for 2008 approximately 82 per cent of workers were employed in construction related occupations. Eighty two per cent of the Chinese nationals in construction. We all know that. We know where they went and where they are working.

In fact, in Port of Spain, one would notice in the evening, if you are walking and so on, you will see trucks coming up and workers filing into the trucks in a sort of regimental way and moving to some quarters where we do not know because we never followed the truck. That is how they come in on mornings and leave. This is the response that the Minister gave us, so we have a sense of the size of that community.

Over the last few days—[*Interruption*]—when I asked about the terms and conditions of work, the written response was, and I will quote from that written response of Friday, July 03, 2009:

> "Hon. Members should note that these workers are usually granted a work permit for a period of 12 months from the date of issue. The terms and conditions of employment for these workers are between their respective employers and the workers and do not form part of the records of the Ministry of National Security."

The Government is not involved in that. They do not know "nothing" about that. They just okay work permits; contractor come, contractor gone and nobody knows the terms and conditions of work. It might be in Chinese, but surely it is capable of being translated. I called the name earlier of one contractor. That contractor Beijing Liujian—

Mr. Speaker, over the last few days you will recall—I imagine that is what propelled the success of this Motion—the newspaper reports, and I will not read these newspaper reports, I will just cite them, "Cartel hiring Chinese workers says Elias", story by Sasha Mohammed, CCN Senior Multimedia Investigative Journalist—

Mrs. Persad-Bissessar: Privileges committee for that.

Dr. R. Moonilal: I am quoting from a document here and I believe there is a special feature later today—[*Interruption*] The *Sunday Express* obtained a copy of an employee contract and the employee's contract, the name of the firm is called Trinity Housing, a local company owned by one Rahael Holdings Limited. Trinity Housing, another company. This is from the newspaper report. Today we got hold of the document from the Companies Registrar Office and we have here Trinity Housing Limited, one of the labour contractors.

6.15 p.m.

Mr. Speaker, names and occupation of directors: Joseph Rahael—Trinity Housing Limited—Anthony Rahael; Joseph Rahael; Aldwin Chow. These are the names of the persons; I thought it was useful to have the names. We are not at all suggesting impropriety with this company or that they are doing something wrong or that they are doing something right. We are saying that this is the name of the company mentioned in the newspapers; these are the principals, the operatives. I quoted earlier from the newspaper, Rahael Holdings Trinidad Limited, a company, the same names: Anthony Rahael; Joseph; Annette Rahael. These are the names of the persons who are busy in this. The clerk is one Prakash Roopnarine of Monroe Road, Cunupia. [*Crosstalk*] He was replaced—the last name.

I called this, because I think it is time the country understands that there are persons out there posing as labour contractors. They may or may not be associated with the political elite. They are the ones bringing in contract labour, pursuant to loan arrangements, and it results in the stories that I have in my hand.

"Chinese work like slaves"

This article is written by Richardson Dhalai in the *Newsday* of Wednesday, October 14, speaking about the camp. We are now calling them labour camps in Chatee Trace, Cunupia, where persons are living in small brick housing units. I do not want to get into details about their washroom facilities and what they do there, but it is appalling; it is horrible. They operate there with some primitive concrete like structures on the ground and that is their washroom facilities. There are 10 of them in a bedroom; 10 workers in a bedroom.

I want to get to the terms and conditions of those workers. The labour camp in Central Trinidad, where 17 Chinese labourers took protest action a few days ago, this place—[*Interruption*]

Miss Le Gendre: Have you ever seen bathroom facilities in certain parts of India?

Dr. R. Moonilal: What is that? Have I ever seen bathroom facilities in certain parts of India? Have you?

Miss Le Gendre: Yes.

Mrs. Persad-Bissessar: This is not India; this is Trinidad and Tobago.

Dr. R. Moonilal: This is better than there; is that your point? What is your point?

Miss Le Gendre: Different cultures.

Dr. R. Moonilal: Well, we got an explanation for that. I can move away from this now; this is a cultural matter. Persons defecating in the cane fields—that is cultural; persons living 10 in a room—that is cultural. "De kitchen with cockroach and rat, well, that is cultural." [*Laughter*] [*Crosstalk*]

The public health inspectors should know that they cannot close down the kitchen, because that is cultural.

Mr. S. Panday: "All de flies and rat and vermin!"

Dr. R. Moonilal: "De rat and vermin come from India or China." [*Laughter*]

Mr. Speaker, we have our standards in Trinidad and Tobago; I do not want to know about India; I do not want to know about Africa; I do not want to know about Chile and Argentina. We have our standards here; they could do whatever they want. They could sleep on the roof there; this is Trinidad and Tobago. The public health inspectors had to close down the kitchen.

The Tunapuna/Piarco Regional Corporation indicated that when the owner/occupier of the premises came for permission, they indicated that the premises were to be used for warehousing, not for residential purposes. They had no approval from Town and Country Planning Division. We did not know it was Warehouse 13, as a labour camp.

There is a story as well in the newspaper that points out the conditions of work for these persons. I have to move quickly to that. I want to come to this, because I have a critical matter after to link it to. There are mass violations of labour laws, occupational health and safety policies and laws, according to the same report of the *Express* of October 18. The report says that persons there work 60 hours per week, which is above the 40-hour work week that is law in Trinidad and Tobago, and with no overtime. No overtime; they work 60 hours per week. Their working day is their waking day; when you "done" work you sleep and then you get up and work. That is it; slave like conditions.

I want to come to a related matter. The Government may not know, and the Minister of Labour and Small and Micro Enterprise Development may not know, but this country is a signatory to Convention 93 of the International labour

Organization, Migration for Employment Convention. This country signed on to this convention on May 24, 1963; look how long.

In my Motion I raised the issue of our international reputation. This is a country known internationally as a State that propelled and gave birth to the International Criminal Court to prosecute persons guilty of criminal offences across borders. Today we are known for labour camps in Trinidad and Tobago. That is where our reputation is.

According to Convention 97:

> "Each Member for which this Convention is in force undertakes to apply, without discrimination, in respect of nationality...to immigrants lawfully within its territory, treatment no less favourable than that which it applies to its own nationals..."—including—
>
> "(i) remuneration...hours of work, overtime arrangements, holidays with pay,..."

So we are signatories to a convention that compels the Government to provide the same conditions, no less favourable to immigrant workers, than we would give to our local workers, including overtime, hours of work, holidays with pay, et cetera.

Article 6, I just want to go through this quickly. This is Article 6 from the Convention to which we are signatories. According to this Convention as well, this applies to migrants for employment who are recruited under Government sponsored arrangement. What we are talking about is a Government sponsored arrangement; it is in pursuance of government to government loans.

According to this:

> "Each Member…"—where this Convention—"is in force which maintains a system of supervision of contracts of employment between an employer, or a person acting on his behalf, and a migrant for employment…"—and that the Government has a duty to monitor conditions of work.

Hear what they say at Article 6, No. 3:

> "The competent authority shall ensure that the provisions of the preceding paragraphs"—meaning monitoring conditions of work—"are enforced and that appropriate penalties are applied in respect of violations..."

So this Government is under a duty, by the Convention, to ensure that migrant workers are not treated less favourably, but also to set up the machinery to enforce regulations and law and also a machinery to deal with violations to provide for penalties. This is the responsibility of the Government.

It goes on at Article 12 to say:

> "Where the Members"—meaning the country—"maintain a system of supervision over contracts of employment, such agreement shall indicate the methods by which contractual obligations of the employer shall be enforced."

I am saying this for persons who believe, quite wrongly, that the Government could take a hands-off approach, or that this is a matter for the private sector, a matter for companies; they are wrong. This is a matter for the Government. You are compelled by an international convention to which this country is a signatory.

I want to remind you that Trinidad and Tobago sends farm workers every year to Canada. We have in our mission in Canada a representative of the Ministry of Labour, Small and Micro Enterprise Development of Trinidad and Tobago who looks after the conditions of work of labourers there. We do that. So the point being made by the Chinese Embassy is another matter we would deal with. I intend to write the Chinese Government, the embassy and the ILO to indicate to them that they have a responsibility to address this matter. [*Desk thumping*]

There is another Convention, No. 143, "Migrant Workers (Supplementary Provisions) Convention. It is a convention established in 1975 to which this Government is also committed. It says:

> "Each Member for which this Convention is in force undertakes to respect the basic human rights of all migrant workers."

They have reached the point where they have violated the human rights of nationals, so now it is time to violate the human rights of non-nationals; so you can be an international violator. Well, we have the International Criminal Court for that purpose. I am just going through Convention 143, Migrant Workers.

It goes on to say that the representative organizations of employers and workers would be fully consulted in regard to regulations and measures to provide for the elimination of abuses suffered by migrant workers. It is clear that the Government has a duty under several conventions. I do not want to spend the last few moments reading them.

I do not know who would respond, because this is a matter to be dealt with by both labour and immigration. I would like whoever is responding—well, the Government is responding—to tell us what they have done; what machinery is in place to ensure that Conventions 97 and 143 are implemented and enforced so that we could rest assured that the Government has some idea of what they are doing. This thing is increasing by the day, that is why in your wisdom you allowed this Motion to stand.

The Government has to tell us what their intention is in dealing with the current group of workers who are protesting over poor work conditions, lack of overtime payments, poor living conditions, breaches of conventions and breaches of national law. I asked that because this is expanding. The Education Facilities Company Limited, under the astute eye of the Member for Tunapuna, is now employing Chinese contract labour to build schools in Aranguez and Five Rivers, maybe in Monkey Town, Barrackpore, we hope. They are employing Chinese workers now in drove. We do not mind the building, but we want to ensure that their human rights are respected and their employment rights are respected. [*Desk thumping*]

Mr. Speaker, in the closing minutes, I would like to take this opportunity to call on the Government to implement first a comprehensive enquiry into the importation of Chinese workers into Trinidad and Tobago in the construction sector. [*Desk thumping*] I would like to call upon the Government to establish a permanent supervisory and regulatory institution to monitor and enforce national and international law as it relates to migrant workers. I am further advising that the supervisory committee should be comprised, in the spirit of tripartism, of members of the employer community, the trade union movement, the Government and a representative or representatives from the Industrial Court of Trinidad and Tobago. [*Desk thumping*]

Such a committee, established as a permanent committee, would monitor on a regular basis the incidence of contract work, migrant work, not only for Chinese workers. Some of my colleagues may remember that just last year there was another issue involving Indian workers at the Hyatt Hotel, which my friend from Princes Town South/Tableland was boasting about earlier—so we are building a developed country.

As I said in my Motion, we cannot construct a developed country on the abuse of human rights and employment rights.

Then all your claims to development will go down the drain, if you build country by violating human rights, civil rights and employment rights. We must have a healthy respect for that law, and then you can have a claim to developed country.

6.30 p.m.

So we cannot boast about buildings built in record time when we have exploited labour, we have oppressed foreign nationals in our own land and it is a sign of great shame, disgust and disgrace that today, when I looked at the Caribbean news this morning on the Internet, *The Nation*, in Barbados, I believe, a newspaper in Guyana and one in Jamaica had headlines dealing with labour camps in Trinidad and Tobago. That is a shame! And I call on the Government to address this matter at this moment.

Mr. Speaker, I thank you.

The Minister of Labour and Small and Micro Enterprise Development (Hon. Rennie Dumas): Mr. Speaker, if there is a matter to be ashamed of it seems to be the ignorance of the Opposition. [*Interruption*]

Mr. Speaker, I sat, I listened and I interrupted nobody; do I have to ask for your protection?

Mr. Speaker, before I proceed, I noted your request earlier for us to pay heed to the management of our cellphones. I think my cellphone created a disturbance earlier; I want to apologize for that matter.

Mr. S. Panday: "It was a Chinee lady."

Mr. Speaker: Order please!

Hon. R. Dumas: My sincerest apologies, Mr. Speaker.

Mr. Speaker, the issue of migrant workers in Trinidad and Tobago is not of recent vintage, because, despite the protestations of the Member for Oropouche East, I want to point out that the first use of migrant labour, especially Chinese labour occurred under the UNC when they brought workers from China under a government-to-government arrangement to build the Bamboo Primary School in 1999/2000. [*Interruption*]

Mr. Speaker, I want to try to deal with this matter, but if the Member for Oropouche East insists on disturbance, I may have to move to another mode.

Mr. Speaker, in that situation about employment, I hear him protesting about the employment situation and jobs not going to the nationals of Trinidad and Tobago. At that time, our unemployment rate was 16 per cent, our unemployment rate now is 5.1 per cent according to official figures.

In the different situation, one would want to make it clear that construction workers, contrary again to the impression which the Member for Oropouche East seeks to give, are not the only migrant workers in Trinidad and Tobago at this point in time who are nationals of the Republic of China.

We have in Trinidad and Tobago as was pointed out incidentally by the Member for Oropouche East—we are now a nation considered at the cusp of development and that is not accidental development, but as a result of deliberate policy by this Government in the whole sphere of our international development and, of course, our human development processes and practices.

We are at the forefront of regard for international conventions and we can point to the fact that we have ratified and managed our relationship over the major

areas and conventions governing international regard for labour practices in the world both at the United Nations and at the ILO, Trinidad and Tobago continuing to be a forefront country in terms of establishment of standards and the maintenance of them.

In fact, Mr. Speaker, the UNDP report on development pointing to labour and labour conditions for 2009, demonstrates the strides that Trinidad and Tobago have made and will demonstrate what is common practice in Trinidad and Tobago. I think taking and putting aside all the drama and heat that we have sought to inject into this, what is really a dispute between one employer and its employees, if we are to try to put this into context and we take the heat and imagination away from the Member for Oropouche East, his favourite writer, Ms. Sasha Mohammed, and a number of other writers—the issue would be reduced to one of a dispute over four issues. In fact, nowhere in the discussion that we have had with both workers and the company, with the assistance of able translators, did any issue of the living conditions arise. I want to suggest that the reasons given for the protest included basically three issues: the duration of the contract that we hasten to add is a crafted matter between those workers and the company that employed them, second the retention of earned wages as a bond for performance and third, the issue of wages retained.

The workers rightfully believing that they have an issue raised them and protested to bring public attention to them, and that is the simple fact of the matter.

Mr. Speaker, I want to point out that we have 19 companies employing workers in the construction industry that could be considered nationals of the Republic of China. In none of these have we had similar protest. In fact, try as the agitators did, when they went to those camps as you call them—Mr. Speaker, you know there was an attempt to put a dirty connotation on the concept of camps, but an army has a camp. A group of workers operating together as a unit whether it is Trinidad workers in Tobago, or Tobago workers in Trinidad, employment camps are common. And when we also ask workers to move as migrants outside, which is a practice perpetuated by the UNC and all its labour ministers in the past, those Trinidad and Tobago immigrant workers also go to camps in Canada on farms and, therefore, the situation is such that workers living together normally describe this situation as a camp. So again, the attempts to put negative connotations to that reality of living conditions are not appropriate.

Mr. Speaker, we sent CEPEP workers to assist Grenada with the hurricane, those workers came back with praise for Trinidad and Tobago, gratitude for the Government and the people. We describe it as a camp; they were living in a camp

and, therefore, I find the connotation quite distressing coming from a gentleman who I thought understood workers' issues. I thought if we had anybody with whom we could discuss this on that side, it would be the Member for Oropouche East, but I think he failed both his party and his country today. [*Desk thumping*]

What is happening, Mr. Speaker, in fact, is by the arguments we make by defamations, by the way we treat ourselves and discuss our matters, we behave as if our conventions, our laws, our systems are not robust enough to manage issues that may arise in Trinidad and Tobago.

I want to assure you, Mr. Speaker, that the laws of Trinidad and Tobago, the conventions we follow, the systems we have and certainly, the administration available to the Ministry of Labour and Small and Micro Enterprise Development is quite capable of managing the issues that arise in labour in Trinidad and Tobago.

Mr. Speaker, I want to assure you that we have nothing to be ashamed of, and I want to assure the country that we have nothing to be ashamed of. Again, in the interest of maligning the country and the workers of Trinidad and Tobago, maligning the organization and the ministry and in fact, the Occupational Safety and Health Agency and Authority are being maligned in this statement that is made in the preamble to the Motion.

What are the facts? The situation is that we have thousands, maybe 40,000 industrial establishments in Trinidad and Tobago. Yes, we have more than 40,000; of this we have our OSHA, which is a young organization with 35 agents yet, we have been able to visit each of these 19 establishments that we spoke about; we have conducted more than 400 inspections and visits to these establishments that we identified. We can give you a rundown and demonstrate that in each case there have been multiple visits to any company that is engaged in construction that has migrant workers.

The average number of visits would be about five. There are some we have visited 20 times, 10 times and in the main, there are no occupational health and safety issues. We have had instances where there were issues, for example, we have had non-compliance letters being issued, and we worked with these companies wherever the non-compliance issues arose, and in every instance, we were able to withdraw those non-compliance letters. We have been able to work with these companies, work with the agencies that hire them to ensure that the occupational safety and health issues are all dealt with.

In fact, in this particular company, the two sites in which they are currently engaged were visited by OSHA and labour inspectors, and in both instances, the

reports are clear that there are no dramatic issues. On one side it was found that there was an eight feet ladder unsecured and leaning against a wall, so we said that was a minor infraction, you should not have an unsecured ladder leaning against a wall. Issues like that.

So therefore, Mr. Speaker, the suggestion that the working conditions of these workers are dangerous, deleterious and such that you can associate with the dramatic words of slavery, et cetera, is a total falsehood.

In fact, Mr. Speaker, if you examine the reports, you will see a situation where one gentleman who has elevated himself to be a representative of these workers is saying that he never supported their coming to our country in the first place, you can read it. Read today's newspapers. He never supported these immigrants coming here.

6.45 p.m.

You see, there is a certain xenophobia that we follow, you know. While we are talking about being international citizens and dealing with the world, we are also very discriminatory and racist in our minds. We are quite clear that when you listen to people, they have objections. The Chinese almost becomes a bad word. Yes. And we want to make it clear that the Government of Trinidad and Tobago does not subscribe to that racism; does not subscribe to that discrimination. [*Desk thumping*]

I want to say to you, Mr. Speaker, that, again—you know, I hate to speak about reporters because I know they write every day and they choose when to come at you. I have had the experience of reporters saying that I speak unintelligibly. Do you know why? I am from Tobago. So my accent is unintelligible to some of the higher class reporters in Trinidad and Tobago. [*Interruption*] Yes. I have heard that.

I want to make the point clear that the reporters have to make sure their stories gel. I am reading three of the issues today in the newspapers. One of them is suggesting that the people are being held against their will, and as you read to the end of the report you are seeing that, again, it is being reported that at the site they saw workers walking out and they are assured by standers-by that these guys are walking up and down this area night and day. The two things cannot be true.

Why are we maligning ourselves, maligning our own country and maligning our conditions? That is where we are. The issue is clear. There are some of us who jump on the situations and go. I went on to say two things. In those

inspections, the people who live in some of these places are very careful of who comes there and sometimes when arrangements are made those arrangements cannot be carried forward because there may be obstructions.

I want to suggest to you that maybe if those conditions were seen at another time, they may look very different. When you take a time of stress and you visit a workplace or otherwise, you may see very different conditions than what are normal. We do not excuse any company; we do not condone any company having people living in less than ideal situations. In fact, if we had the best capacity, our will would be that all of us live in the best conditions that any one of us could afford.

The reality is that Trinidad and Tobago has come to take for granted living conditions; that we have come to ignore where we have come from. We take for granted the better living conditions that are enjoyed by the people of Trinidad and Tobago. We take for granted the better legal requirements, the better legal conditions under which we conduct work in Trinidad and Tobago. We take for granted the vigilance with which we manage our work sites; we take for granted the conditions for wages and service in Trinidad and Tobago.

I want to suggest that we look carefully and give the appropriate comparisons to work systems internationally and maybe we would get to understand why some difference exists. I met with the Chinese Embassy; I met with the workers; I met with the company; we also met with the ILO and we are assured that Trinidad and Tobago as a country—this Government and the systems we operate—meets the best standards. But we will tell you that where that one set of living conditions; that one set—because I am suggesting that what is seen as negative is duplicated in no other situations, because it would have been found and exposed. Therefore, we know that that one set of conditions need changing.

Mr. Sharma: That is one too many.

Hon. R. Dumas: What have we done? I want to say what we did before so that we will understand where we are at. We have established a work permit and migrant situation of this Cabinet three months ago and that unit is not yet staffed. So, the Member for Oropouche East could apply for leadership of that unit in the Ministry of Labour, Small and Micro Enterprise.

Dr. Moonilal: 36(1). [*Laughter*]

Hon. R. Dumas: That unit is in the process of being established and one of the primary functions of that unit is to establish that the connection between being granted a work permit and the need for an understudy is, in fact, demonstrated and

found. It is also supposed to manage the relationship of migrant workers to the system. Again, as you had said, if you read the whole convention and you did not pick out pieces like 6, 7 and 17; if you read the whole thing, you would see that there is a requirement for the country to have a reporting agency that manages migrant workers. We assure you that the Cabinet has taken such a decision and we are in the process of putting that unit in place.

There is also a requirement under the conventions that we should have a tripartite committee. And, again, that committee is in place. The Ministry of Social Development has a member; each of the tripartite partners has a member and they are looking at all the laws to make sure we comply. That is in place. The Ministry of Public Administration is in the process of working out the tripartite policy for determining membership and development of a tripartite compact for Trinidad and Tobago.

In other words, I assure you, again, that the tripartite policy of the ILO, we are working with the ILO on that matter and that is a matter that is in process. In other words, on every single issue raised by the Member for Oropouche East, if he had listened carefully to the policy and practices of the Government, and particularly the promotions, publications and pronouncements coming out of the Ministry of Labour and Small and Micro Enterprise, the Member for Oropouche East would have been assured that this country continues to maintain its reputation, is enhancing its reputation as a manager of labour; is at the forefront of the development of and management of the migrant labour situation and, certainly, we have nothing to be ashamed of. Where there are issues to be addressed, those issues would be addressed, one, by the committee of the labour inspectorate, the conciliation unit, because this still remains a matter to be settled by two parties coming to an agreement or by the courts.

The two parties are in conciliation with the use of our best conciliators available in this country. They are meeting. Even now they may be in meetings. I want to suggest that we give the system that we have built, the robust system that we have built; the exemplary system we have built, an opportunity to work and deliver on these issues and kill the "ol talk".

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

COMMISSION OF ENQUIRY (VALIDATION AND IMMUNITY FROM PROCEEDINGS) BILL

Mr. Jack Warner (*Chaguanas West*): I thank you, Mr. Speaker. I am happy to rise and to come after the Member for Diego Martin West. I am happy because in some ways he has given me and, I am sure my colleague on my right, a sense of hope.

When I came to this Parliament some two years ago, I had some high ideals. I felt I was coming here to a Parliament to work with political colleagues to help improve the lives of our people. I never thought that I would have heard today what I heard said by the Member for Diego Martin West; his dissertation today where he showed that over a period of time—he showed that evidence has been adduced that this country has been raped consistently with the collusion of those on the other side.

Today, for me, has been a very black day indeed; very, very sad day. I look at my colleagues and I ask myself if, within themselves, they do not ask themselves at some point in time, how much more they will take. Because mark my words, we, as parliamentarians, have lost our lustre; we have lost, as it were our shine, our sheen; we have lost it because of this UDeCott bogey, so to speak.

When I listened to the Member for Diego Martin West, I have been able to draw a link between UDeCott and UDeCott's excesses and the era of lawlessness in this country. If one sits down, really, and tries to distinguish when this whole era of lawlessness began, you will see it began around the same time UDeCott's excesses began. It began because people began to look at UDeCott as a law unto itself and if UDeCott can be lawless and has the sanction and support of the Government, then if the priest could do it, as they say, who is we?

Therefore, like the Member for Diego Martin West, I, too, shall support the validation of the Bill, because if that is not done, all that has been done will be in vain. I heard my colleague from Tabaquite making the case to the Attorney General and telling him that being an Attorney General is a difficult task, indeed. He was showing him, of course, how when an Attorney General fights corruption, not only is he fired but he is ostracized and sometimes attempts are made to even dismiss him years after.

He made the case to him that it is difficult as Attorney General. I remember the Attorney General before the present one, Sen. Brigid Annisette-George, I believe her name was, making a case for us not to have a commission of enquiry and she was batting on her feet making a case, "No commission of enquiry; let us have a parliamentary committee to study the complaints." And, poor lady, as she is finished, the Prime Minister comes and says, commission of enquiry. I shook my head and said, this is a sad day indeed. Because it meant, therefore, there was no nexus; there was no link between the AG and the Prime Minister. If that exists today, Mr. Attorney General, you are insulated. Stay far from the Prime Minister for your own safety.

I will tell you this. In today's world, colleagues and friends, you could run but you cannot hide. It took them 20 years to catch O'Halloran. If it takes 40 years,

they will catch up with all those functionaries in UDeCott who have raped and are raping the country with the collusion, support and sanction of the Government.

Therefore, this is why we have to validate the Bill, so as to make sure that we bring all those who are guilty, forward. I will, of course, support the validation of the commission and I will give some reasons why I support the validation of the commission. This Bill seeks to validate a commission of enquiry which, of course, in our political history, would be the most important commission of enquiry ever held. Therefore, this Bill seeks to validate that commission of enquiry and it has my support because this Bill validates the commission of enquiry that was generated by calls which began first and foremost with the Member for Tabaquite. Had he not persevered that afternoon, we would not be here today. We would have our committee as they were talking about initially.

7.00 p.m.

He persevered and we had calls from other Opposition Members, trade unions, the Chamber of Commerce, NGOs, Transparency International, the business sector, the construction sector and private citizens were asking for a commission of enquiry. If we do not validate the commission, all this would go down the drain and therefore it has my support. For close to one year all these bodies clamoured for an enquiry into this runaway train called UDeCott, a train that has broken away literally from its restraining rail, a train that is now ploughing into the heart of the Treasury. If we do not validate the commission all this would be in vain.

I listened to the Member for Diego Martin West speaking examples upon examples of how there is evidence of the Treasury being raped. He said that we need to validate the commission so as to bring that evidence and others into the forefront. It was painful for me to listen to the Member for Diego Martin West. You could have seen the pain when he asked all his colleagues to stand and be counted. He made the point that if we do not stand and be counted the time would come when all of us will pay a price.

This is the same country, the same oil rich country that could not pay the airfare or out of pocket allowance for Daren Ganga and his cricket team to go to India. They could not pay it. It is an Indian poultry businessman who paid. All this euphoria now and they would run to the airport to hug and kiss them and they did not pay a nickel, not a ha'penny for the team to go to India. While all this is happening, the Treasury is raped. [*Interruption*] Then, of course, after they win a couple matches they sent $100,000 from the Minister of Tourism. Yes go ahead.

Mr. Hunt: I thank the Member for Chaguanas West for giving way on the issue with regards to Government's assistance to the National Cricket Team. As an avid sportsman and a Special Advisor to the TTFF and all the other high posts that you hold, you would understand that a team does not reach to where it is by vaps to use your word. It is through stages of development and preparation.

Mr. Maharaj: Did you give money to them to go?

Mr. Hunt: With regards to assistance to the cricket team, the Trinidad and Tobago Cricket Board, for 2009 has received over $2.7 million. Of that $2.7 million, the sum of $549,926.81 was spent on national team preparation. If it is one thing that I can say is that the Trinidad and Tobago Cricket Board, through its administration, has always been a receptive NSO when it comes to development suggestions. They have one of the best development plans for the sport in Trinidad and Tobago.

Mr. Speaker: When an hon. Member gives way, it just is for a very brief intervention and it is not really to make a substantive contribution. For all Members, bear that in mind. When a Member gives way he is actually doing you a favour. It is just for a short time that you are allowed to exercise the benefit of that discretion.

Mr. J. Warner: Mr. Speaker, I am being generous and it would not happen again because the question has not been answered. I ask the question: Who is Venky's? "Venky's mark on my country's T-shirt". Who is Venky's? Venky's is the people who paid the airfare for the team to go to India. They did not get a cent for airfare or out of pocket. They won four matches straight and, of course, they would win the league and you would go to the airport to meet them. Who is Venky's? So, I am going back to my validation point. [*Interruption and laughter*] Thank you, Member for Mayaro. I had to validate the fact that the team did not get any money. [*Desk thumping*] These are the things that are painful because the evidence which the Member for Diego Martin West produced to us today, shows the kind of wanton corruption taking place, the amount of waste taking place and there are parts of this country where people are in need and want. That is why we have to validate the commission so as to get all the evidence that has been given before and those to come in place.

I make the point that all these bodies I spoke about including we on this side, saw a trail of mismanagement, cost overruns, corruption, lack of accountability and transparency. Therefore, we have to validate this commission to be able to bring this thing to fruition. If not, everything would be in vain.

When on May 23, 2008, the Prime Minister announced the establishment of the commission of enquiry, the nation breathe a collective sigh of relief. Therefore, it is important for us once again to validate the commission. This validation is important because UDeCott as a company has spent more money that any state company in the history of this country. In our collective lifetime there has been no state company that has spent so many billions of dollars as UDeCott. Except for some tall buildings in the sky we have little to show for it. Therefore, we have to validate the commission to be able to say where all the money gone. Where all the money gone? Let us validate the commission and we would see where all the money gone.

On September 05, 2009, the Minister of Sport and Youth Affairs, hon. Gary Hunt, the Member for Port of Spain North/St. Ann's West reported in the *Express* that a sum of close to $1 billion was spent on Tarouba Sporting Complex. He could not say when it would be completed. He cannot tell us when; he could not tell us then and he cannot tell us now. Therefore, when we validate the commission—[*Interruption*] Sure I will sit. Do you want to tell us? Mr. Speaker, if he wants to tell us I would sit. When we validate the commission, the commission would tell us when. He could not tell us then and he cannot now, but the commission will tell us when, so we have to validate the commission. You could laugh and giggle because it is people's money you are giggling about, but the time would come—if you feel all skin teeth is laugh, laugh.

I heard from the Member for Diego Martin West, [*Interruption*] yes, my backbencher, the next election shall be of course, UDeCott. He said that UDeCott shall be the Achilles heel. Mark my word as night follows day that that shall be the Achilles heel. "Laugh, gib, gib, gib, laugh."

In March, UDeCott by its admission through a newspaper advertisement said that there was a $250 million cost overrun on the Chancery Lane project. UDeCott said glibly, that there was a cost overrun of $250 million on the Chancery Lane Project. That is 100 per cent increase. Let us validate the commission and find out why. That is why I support the validation of the commission.

By its admission on its website, UDeCott stated that the cost of the construction of the Prime Minister's residence and diplomatic centre was $148 million. Additional infrastructure cost $138 million; another sum of $20 billion was spent on furniture and fixtures. Let us validate the commission and find out where the money gone. In all this UDeCott is in charge of 51 projects in this country.

Mr. Maharaj SC: Did you check the Parliament in that?

Mr. J. Warner: Yes and the Cabildo Chambers, 52 projects. One company, 52 projects. Therefore, I have to support the validation of the commission to know why.

What strength does this company have that makes it so powerful? I have no problem with Mr. Hart in the front row of the PNM convention. That is their business. I tell the Member for Diego Martin West, Dr. Keith Rowley, that I have no problem with the Prime Minister drinking Johnny Walker Black on the Waterfront. That is his problem. I have no problem if the Prime Minister wants to have Mr. Hart on the tarmac with his jacket on his hand to see him off. That is his business. But I have a problem when we have so many cost overruns and so many projects in the hand of one company and one man. Let us validate the commission and find out why and where the money gone.

We have to find out who is responsible for this state of affairs. Originally, I had come here to support the validation with some pre-conditions. When I listened to my colleague, the Member for Tabaquite, Mr. Ramesh Lawrence Maharaj SC and the Member for Diego Martin West, I decided no pre-conditions. I will support it. When I had come here, originally, I had prepared to ask the Prime Minister to give an undertaking to tell us when he will get the report of Justice Lucky and the interim report that was asked for by the Member for Siparia. In that interim report, who is responsible so far? I take that back. I am not asking for that. I was prepared to ask the hon. Prime Minister to tell us when the Lucky Report would be laid in Parliament as a precondition for my support. "I eh askin dat again." I am not doing that. I am supporting the Bill for the validation of the commission unreservedly. Therefore, we have to go this way if we have to account for the people's money.

I will not say too much about a company called Beijing Liujian and the contracts which were awarded to this company. The company is in my constituency in Chaguanas West. I will not talk about the evils and errors. I wanted to say as a pre-condition for my support, tell me if the site has town and country planning for the building there and if not why as a pre-condition for my support for validation.

I have taken it back. I will give no precondition again. I give my support unreservedly.

7.15 p.m.

I want to find out how a state board could rush to court to obtain an injunction to block an enquiry. Was that a slap in the face of the Corporation Sole? I was going to refer to a quotation by Senior Counsel Jairam and, as a precondition for

my support; I was going to ask them to tell me why this company is a law unto itself and can go to court to file an injunction. If they could not tell me why, I would say no support. But I have changed my mind. I will support this Bill unreservedly.

I wanted to ask the Government if, in the submissions before the commission to date, there are findings which can be sent to the DPP. Even at this time, I wanted to say so. Send it to the police, I said; send it to the Fraud Squad. I wanted to say: Let us start the process before the Uff Commission is concluded. I wanted to say that the Prime Minister has the power to extend the commission of enquiry to complete its job and he must say so here today before I give my support. I said, if he says so, I will give him my support. I have taken that back, too. I will give my support unreservedly.

I want to make just two more quick points. You will recall that there have been many requests by persons for an investigation into the policies and procedures for the issue of work permits, which have been flouted. There have been some calls as to whether there have been any unlawful activities in this regard. Notwithstanding what others may have said, these causes are still valid. There is some controversy that UDeCott has been given another $300 million contract for the furnishing of the legal affairs tower. The justification for that is that UDeCott is the best person to furnish the tower since they built it. Therefore, if a contractor built a house, he is the best person to furnish the house. Yet, they were given the contract in packages. I want them to tell this House why they cut it into packages and yet gave Sunway $300 million, as a precondition for my support. I have changed my mind. I will support the Bill because it is needed. This country has a right to know, and unless we know, then we shall all be guilty. Unless we know, unless we complain and take part in the process, we shall all be guilty and, therefore, we have to validate the commission.

I want to say to the Prime Minister that I would not give my support until he has changed the board of UDeCott, but even that I am prepared to waive for the time being because it is too important for us to have these preconditions and to stop this from taking place.

Today, therefore, I give the assurance to you and to the House that this Bill shall have my full support with no preconditions, in the interest of the people of Trinidad and Tobago.

I thank you.

The Minister of Works and Transport (Hon. Colm Imbert): Thank you, Mr. Speaker. Let me deal first with a point made by the Member for Tabaquite; whether in jest or anger, I am not sure.

The Member, during his contribution, had expressed some concern with respect to the wording of clause 7. It reads as follows:

> "The commissioners are entitled to rely on the evidence validated by section 6 in the conduct of the Commission and in their report to the President."

Clause 6 reads as follows:

> "The evidence given by any witness to the Commission during the proceedings of the Commission under the purported authority of section 12 of the Act that would have been lawful if section 15 of the Act had been complied with at the time when the evidence was given is hereby validated and declared to have been lawfully given by that witness."

So clause 6 seeks to validate the evidence given during the proceedings and clause 7 gives the commissioners the right, the authority and the power to rely upon that evidence in the conduct of the commission and in their report.

The point made by the Member for Tabaquite—I am paraphrasing now—is that a smart lawyer might decide to mount an argument and say that that only allows the evidence to be used for the specific purposes mentioned in clause 7. A smart lawyer may go for injunctive relief in order to restrain someone else—a law, authority, the police, some prosecutorial authority. I did not see any problem with it, and the Member referred to me as a paralegal.

Mr. Speaker: If the Member were to insult you, I would object.

Hon. Member: He did not mean you.

Hon. C. Imbert: Oh, he did not mean me? Oh, dear. I found the definition of paralegal. It is someone with legal training whose job is to help a lawyer. I do not mind helping you. We are going to deal with that matter and the Attorney General has assured me that suitable amendments will be made to clause 7.

Let me go into the substance of this debate. The Member did not say much. He made a few wild allegations here and there. I had to invoke Standing Order 36(1) from time to time. Sorry. I had to ask the Speaker to invoke Standing Order 36(1). He had me up and down, but he did not really say much. I did not take many notes from the contribution of the Member for Tabaquite, except to say that, following some of the arguments presented by the Member for Tabaquite, the Member for Couva North is currently before the courts. If one follows his argument, anybody accused of something, other persons should immediately dissociate themselves with that person. That is the argument. I heard the Member

for Tabaquite say that we should fire the board of UDeCott. I heard him complain that the Prime Minister was seen in the company of the chairman of UDeCott.

Mr. Maharaj SC: There is evidence.

Hon. C. Imbert: That is the point. He wants to make me believe he did not say this, but that is what he said. He said that Mr. Hart is accused of so many wrong things. It is an accusation that has not been proven and the fact is, if, based on mere allegations, we should dissociate ourselves from the company of certain persons, then everybody on that side should dissociate themselves from the company of the Member for Couva North and everybody else on that side.

Factual. That is a very good analogy. I am surprised that an attorney with the pedigree of the Member for Tabaquite does not subscribe to the principle that someone is innocent until proven guilty.

Mr. Maharaj SC: Are you saying Calder Hart is innocent?

Hon. C. Imbert: Nothing has been proven. Just allegations.

Mr. Maharaj SC: Calder Hart innocent, but Rowley guilty.

Hon. C. Imbert: I have had to sit and listen to hon. Members opposite. Do not get vex. The Member for Tabaquite walked out of the UNC government. I was sitting in this Parliament. I was on that side; he was on this side.

Mr. Peters: Where will you be next year?

Hon. C. Imbert: The only way I will be on that side is if it is a meeting of the Public Accounts Committee [*Laughter*] and the chairs on this side are full and there is only space over there. That is the only time I would find myself on that side.

Mr. Peters: Rowley was sitting over there, too.

Hon. C. Imbert: I am saying that with confidence. Mr. Speaker, it pains me. The Member for Tabaquite walked out of UNC government alleging corruption. Was anything proven? Arising from that incident, a number of persons are now incarcerated in the United States of America. People have admitted massive fraud against the people and country of Trinidad and Tobago. They have made plea bargains and are serving jail time. That is a situation where allegations have been proven.

In the Piarco Airport Development Project—I told you not to get vex. I see the Member getting hot under the collar, but in that project persons have admitted fraud, made plea bargains and are serving jail time in the United States. These are not allegations. They were convicted.

As I said, I used the analogy. The Member for Couva North has not been convicted of anything. In fact, his conviction was quashed. [*Interruption*] I am defending persons who have not been proven guilty. It cannot be just a mere allegation. The Member for Couva North was convicted, but his conviction was quashed. Why? I hear all kinds of things in this Parliament. It seems there is one rule for Peter and not the same for Paul. Why was the conviction of the Member for Couva North quashed? Because an application was made on the grounds of bias.

7.30 p.m.

The Member for Couva North exercised his right, as any citizen of Trinidad and Tobago is entitled to do, and claimed in that particular case that the magistrate was biased. [*Interruption*]

Dr. Gopeesingh: Standing Order 36(1).

Hon. C. Imbert: What 36(1)? After the fulminations of the Member for Chaguanas West, the Member for Tabaquite and also the contribution of the Member for Diego Martin West, Standing Order 36(1) has relevance, Mr. Speaker? Come on, this debate has been opened to the limit. I will abide by your ruling, of course, Sir. The fact of the matter is that the Member for Couva North, through his attorneys, made an application to the court to quash his conviction on the grounds of bias and his application was upheld.

The development in the law of bias, everybody is familiar with it. I know a bit about it. Even if I was trying that case, I might have concluded that there was a potential bias.

Dr. Gopeesingh: Mr. Speaker, point of order; Standing Order 36(2). That matter involving the Member for Couva North is still going on and a decision has to be made on Thursday.

Mr. Speaker: Before you get to Standing Order 36(2), you could have tried Standing Order 36(1).

Hon. C. Imbert: Mr. Speaker, I am not talking about the retrial. There is no judicial decision pending on the application to quash the original conviction on the grounds of bias. You want to argue with me? You are a paralegal. I am not getting vexed. [*Interruption*]

Mrs. Persad-Bissessar: You are getting distracted.

Hon. C. Imbert: I am not getting distracted. The fact of the matter is that the Member for Couva North—I am bringing it into the question of bias and the

applications that have been spoken about with respect to the current matter before the court and other matters that involve bias. Because arguments are being presented here that UDeCott is wrong to go to the court and make an application on the grounds of bias. That is where I am going. If UDeCott is wrong to go to the court and ask a court to adjudicate on whether the commissioners were biased or not, if UDeCott is wrong to do that, then why was the Member for Couva North right to make an application to the court to crush his conviction on the grounds of bias? [*Interruption*]

Mr. Maharaj SC: He used his own money; not taxpayers' money.

Hon. C. Imbert: If UDeCott is wrong to apply to the court for a judge to adjudicate on whether there have been victims of bias or procedural fairness or whatever, if they are wrong to do that, why was the Member for Diego Martin West right to go to the court and challenge the conduct of the Integrity Commission on the ground of a procedural irregularity? It is one rule for Peter and another rule for Paul. [*Interruption*]

Mr. Maharaj SC: And one rule for Calder Hart.

Hon. C. Imbert: I cannot accept this. Everybody in this country—look at what the Member for Couva North is doing right now as we speak. There is a matter in the court right now—and I will not speak about the merit—where the Member for Couva North is challenging bias in the case of the presiding magistrate. I would not go into whether I believe there is or not. I am not going there. It is happening now, where the Member for Couva North is saying that a judicial officer is guilty of bias. [*Interruption*]

Dr. Gopeesingh: Standing Order 36(2). That matter is pending.

Mr. Speaker: The Member has raised a point of order. Standing Oder 36(2) is not relevant. Standing Order 36(1) is relevant. I think you need to come back to the Validation Bill before us.

Hon. C. Imbert: Most certainly, Mr. Speaker, but that point needed to be made. It seems that the law only applies to one set of people in this country; it does not apply to everyone.

Mrs. Persad-Bissessar: It applies to the PNM.

Hon. C. Imbert: It seems that the law only applies to one person. It does not apply to everyone. If people feel their constitutional rights have been infringed, they must be prohibited from seeking relief. That is what you are saying? I could never agree to that. [*Interruption*]

Mr. Manning: The rule of law.

Hon. C. Imbert: Today is Calder Hart; tomorrow is you, if you continue with this.

Mr. Peters: Today is Calder Hart; tomorrow is you.

Hon. C. Imbert: Go ahead. Let me deal—I will never subscribe to any view that people must be prohibited from exercising their constitutional rights. I will never subscribe to that; it does not matter who it is.

For example, I could use the case of the former Chief Justice.

Mrs. Persad-Bissessar: That is tedious repetition.

Hon. C. Imbert: I can use it as to if he was right.

Mr. Maharaj SC: He spent his own money.

Hon. C. Imbert: What money? Taxpayers' money was spent.

Mr. Manning: Whose money?

Hon. C. Imbert: Millions of taxpayers' dollars.

Mr. Manning: The State paid for it all.

Hon. C. Imbert: The State paid for it.

Mr. Peters: "Calder Hart is de Chief Justice?"

Hon. C. Imbert: That is the point I am making. What the Members opposite are saying is that the laws of this country do not apply equally to every citizen and that is an infringement of the Constitution, to have the right of equal treatment under the law. That is enshrined in our Constitution. [*Interruption*] I would repeat it a thousand times.

Let me deal with some of the issues that were raised in this debate. I heard the Member for Chaguanas West make an impassioned contribution. He said that he agreed that the next election shall be about UDeCott. I think that is very unlikely. I believe the next election would be about many other things. I am afraid I do not subscribe the importance of UDeCott, but hon. Members opposite do. I certainly doubt that the next election will be about that. [*Interruption*] Yes, time will tell. I certainly doubt. I am sure it will be about other things such as who is fit to run this country; who has the moral authority to run this country; who is the best party to run this country; who is best equipped to serve the people of this country and who is best capable and suited to improve the standard of living of all the citizens of this country. I am sure that is what the next election will be about. I do not think it will be about UDeCott.

Mr. Speaker, there are some issues that I need to address. The Member for Diego Martin West said that the reason for this debate on the Validation Bill was a letter dated September 02, 2009, that came from his attorney. For the record, it is irrelevant as to who the originator was; it is irrelevant. But, for the record, my information is that the commissioners were looking at this matter for some time.

Mrs. Persad-Bissessar: A whole year.

Hon. C. Imbert: That is my information. The issue that the commissioners were looking at, is the question of a quorum. Hon. Members opposite do not do their homework. This whole thing arose when Commissioner Israel Khan Senior Counsel resigned from the commission.

Mr. Warner: I told you not to put him.

Hon. C. Imbert: The question arose with respect to a quorum. There was quite a lot of confusion as to whether their three members constituted a quorum. For the benefit of hon. Members opposite, since you all do not read and since the Member for Siparia had the wrong version of the *Gazette*—we have sent the correct one to you—it is Friday, September 11. [*Interruption*] That is all right. Since the Member for Siparia was waving, in the usual manner of the hon. Member for Siparia, the wrong document, in the *Trinidad and Tobago Gazette* of Friday, September 11, 2009, for the Commission, the President appointed Professor John Uff; Ken Sirju; Desmond Thornhill and Israel Khan SC, to be commissioners to enquire into a number of things. It is important to understand what the enquiry is all about, because hon. Members opposite would have us believe that this enquiry is all about UDeCott. UDeCott is only one part of this Commission of Enquiry. In the *Gazette* of September 11, if Members opposite had bothered to read it, you would see that the President directed that a quorum shall consist of two commissioners. That was in the original instrument; the original instrument that should have been published in September 2008. These exact words appeared.

From inception, the intention always was that there would be a quorum of two. The question arose when Israel Khan SC came out. The remaining three commissioners started to examine the validity of the commission, with the departure of Mr. Khan SC. Having satisfied themselves that a quorum was two, questions arose about the publication.

In their research into establishing whether they were properly constituted with a membership of three, then they began to look into the question of the publication. That is how the matter unfolded. I need to put that on the record. The commissioners themselves were looking at this thing long before this thing came

into the public domain; long before. When did Mr. Khan SC resign, was it in August? I believe it was in August. It was in August, when the commissioners began to look at the rules governing the commission and it was in August that questions began to be asked about the publication.

Dr. Gopeesingh: About gazetting?

Hon. C. Imbert: Yes.

Dr. Gopeesingh: We would report on that.

Hon. C. Imbert: No problem. We had to do a lot of checking through.

Dr. Gopeesingh: You are misleading the House and I will show that. Careful!

Hon. C. Imbert: I do not know what you talking about. Let me get back to the matter at hand. He is just wasting my time with stupidness.

Mr. S. Panday: That is colonial language.

Hon. C. Imbert: When it was discovered that the commission had not been published, because the Minister of Information consulted with the Government Printer to ensure that the matter that had been reported was in fact so, or to determine whether it was in fact so, the Minister of Information consulted with the Government Printer to determine whether in fact the commission had been gazetted or not and eventually confirmed that it had not be gazetted.

Immediately, the Government had to look at this and come up with a solution. The Attorney General has already indicated in a statement that he made on September 11, the various matters that the Government looked at and it is worth repeating. The Government looked at the Interpretation Act, to see whether section 42 of the Interpretation Act could save the commission. There were some views. Some lawyers felt so. When you look at section 2 of the Interpretation Act, you see that if a country's intention occurs in legislation, then the Interpretation Act itself does not apply. Inevitably, the Government came to the conclusion that is the only way to save the work of the commission, because that is what we are about. We are not here to play games; we are here to save the work of the commission. [*Interruption*]

Mrs. Persad-Bissessar: The Attorney General said all of that.

Hon. C. Imbert: All right, it is worth repeating, because the things that are said by hon. Members opposite, we need to counter them. I have heard some people on that side say today that we are not interested in this Commission of Enquiry, we do not want it and the Prime Minister does not want the report to be

published. I heard you say that and it is necessary for Members on this side to refute those baseless allegations. If we did not want the proceedings of the Commission of Enquiry to be saved, if we did not want to get a report, then we would not be here today.

Mr. Manning: Correct.

7.45 p.m.

Hon. C. Imbert: We would not have been here! We would have done what one of them said. I cannot remember which one of them it was that said we would have exploited the loophole in the law and just walked away quietly. That was an option available to the Government. [*Interruption*] No, because we want the work of the enquiry.

Mr. Speaker, from day one we have never bowed to the cacophony of calls on the other side. From day one, never! Yes, it is necessary, based on allegations made in this House, to enquire into the procurement practices of UDeCott. We considered it necessary to do so. The Prime Minister announced that, but we also consider it necessary to enquire into many other things and that is why when you look at the terms of reference of the commission that we are saving today with this Validation Bill it is worth repeating.

The commissioners were required to:

(i) enquire into the procurement practices in the public construction sector;

Not just UDeCott.

(ii) effect of the use of provisional sums, prime cost sums, nominated suppliers, nominated contractors in construction contracts in the public sector;

Not Calder Hart only.

(iii) effect of incomplete designs, designs changes, variations, poor supervision, poor management on the cost to delivery of construction projects in the public sector;

These are real things. These are not make belief. [*Interruption*]

(iv) the performance of local and foreign contractors and consultants on public sector projects;

(v) the effectiveness of the turnkey approach also called the design/build approach for the delivery of public sector construction projects as compared to the traditional design and tender approach;

(vi) the reasons for and the effect of cost overruns, delays and defective workmanship in public sector construction projects, the existence of price gouging and profiteering—[*Interruption*] I am taking my whole 75 minutes—in the public construction sector; and

(vii) the procurement practices and methods of operation of Urban Development Corporation of Trinidad and Tobago.

Mr. Warner: Most important.

Hon. C. Imbert: Then having enquired into those things, the commissioners were asked to make recommendations and observations as may be deemed appropriate to ensure with respect to public sector construction project—not just UDeCott—and the procurement practices and methods of operation of UDeCott—and, not or:

(i) taxpayers get value for money;

(ii) the delivery of projects and the highest standard of workmanship are achieved and maintained;

(iii) there is free and fair competition; and

(iv) full participation and access for all citizens in the public procurement process and integrity and transparency in the public procurement practice are assured.

While hon. Members opposite would dearly love the population to forget that we spent months dealing with all of these matters that I have raised here, we did not spend all our time talking about UDeCott. That was part of the business of the enquiry and we on this side—as I have said before in this House—our Public Sector Investment Programme over the next 10 years could be as much as $50 billion. It could be more when you add the PSIP of the state enterprise sector and when you add in all of the state enterprises, if you take a typical PSIP/IDF programme for the Government, of, say, $5 billion a year, over the next 10 years it could conceivably be $50 billion.

If arising out of the Uff Commission of Enquiry we can save just 10 per cent of that $50 billion by improving the method of delivery of construction projects by cutting out the cartel that exists in the local construction sector; by dealing with the cartel, by making free and fair competition and by making the playing field level; if we can save just 10 per cent of the Public Sector Investment Programme over the next 10 years we will save $5 billion.

I made a point when I appeared before the commission and spoke about a programme at the Ministry of Education—the Early Childhood Centre Programme—a foreign contractor bid $150 million, am I correct? [*Inaudible*] How many of them is it, 50? [*Interruption*] Fifty early childhood centres at $3 million each, $150 million; the second bid was a local at $300 million and then the others followed, $320 million, $330 million, $340 million, $350 million and so on. Those centres are being built now. There is one under construction in my constituency. There are early childhood centres under construction all over the country, because I know that the Minister of Education ensured there was equity in the distribution of those centres.

There are centres under construction in central Trinidad, in south Trinidad, in east Trinidad, north, everywhere and they are being built at an approximate cost of $3 million. [*Interruption*] If we had not decided to try and get value for money for the people of this country, we would have had to accept the bid of $300 million; $150 million down the drain. [*Interruption*] Who are you talking about! Mr. Speaker, that is the point I made. Hon. Members opposite do not want the country to know what this enquiry was all about. [*Desk thumping*] This was not the Calder Hart enquiry even though Members opposite would like the country to think so.

One of the items—and I will read it again, the existence of price gouging and profiteering in the public construction sector. If we cannot get Prof. Uff to submit his report on these terms of reference, then the population may never know of the level of price gouging and profiteering that exists in the construction sector in Trinidad and Tobago. People can pontificate and be as sanctimonious as they want, you know. The facts are, you have a tendering process and a foreign contractor comes in at $150 million, the next one is a local at $300 million and then after that is, $350 million, $400 million, $500 million, et cetera. Must we expect that, Mr. Speaker, when the real cost is $3 million, not $6 million for one? Why must the population pay double for construction projects? This is what this is all about. [*Interruption*]

No, they are not. They say all kinds of things. Let me talk about the Centre for the Performing Arts, because this matter that we are about today is to validate this commission of enquiry which was enquiring into the performance of foreign and local contractors and the effectiveness of the turnkey approach. One of the projects that was subjected to scrutiny by the Uff Commission that we are about to validate in this debate today was the north Academy for the Performing Arts. The one that is now almost complete on the Princes Building Grounds.

Hon. Member: The ship.

Hon. C. Imbert: It is so interesting. Prof. Uff toured a number of projects, he went to the Brian Lara Stadium, he went to the waterfront, he went to the Government Campus, he went to Cleaver Heights and he went to the north Academy for the Performing Arts and his commentary was published in the newspaper, probably down on page 26 in a little corner, because it was not good news as far as the media was concerned. When he walked through that building he said this building is equivalent to the Sydney Opera House. That was his comment! [*Desk thumping*] As I said, down on page 26, in a little corner the professor declared that was a prestige building, a signature building worthy of a developed country, as good as one of the wonders of the world, the Sydney Opera House. He compared it to the Sydney Opera House. [*Interruption*] How you know that?

He had other things to say about other projects. He went down to the waterfront and declared that to be a good project; he went down to the Brian Lara project and he was not happy, so he had different things to say about different projects. The fact of the matter is, I have heard all kinds of "ol' talk" on that side about the Performing Arts Academy, but I bet you that you all will be the first to go there. Just like the water taxi, you know. [*Interruption*] It is just like the water taxi [*Crosstalk*] "all ah them having breakfast at the waterfront".

Hon. Member: With Dookeran. [*Desk thumping and laughter*]

Hon. C. Imbert: Yes, the Member for Chaguanas West. Yes, Mr. Speaker, I forgot. One of the first Members of Parliament to try out the new breakfast shed for a photo opportunity was the Member for Chaguanas West [*Desk thumping*] as he was doing the unity dance with "duck and run". [*Laughter*] But when the Performing Arts Academy is opened next month—

Mr. Manning: "Make sure none ah all yuh go in it."

Hon. C. Imbert: —all of them would line up. If we do not invite them, they "go geh vex" and they will go to the Equal Opportunity Commission and complain that we did not invite them on the grounds of racial discrimination. I bet you I will see every one of them there rushing, [*Interruption*] they will be in front of me in the line.

Hon. Member: Yes.

Hon. C. Imbert: Every one of them! I have toured that facility myself—

Dr. Gopeesingh: I see you used the airport already, it is taxpayers' money, it is not PNM money built that, it is taxpayers' money.

Hon. C. Imbert: Yes, of course, I used the airport.

Mr. Speaker, I have toured that facility myself and it is not complete. I endorse the comments made by Prof. Uff when he said that the north Academy for the Performing Arts is equivalent in terms of its quality, in terms of its impact and in terms of the architectural legacy of Trinidad and Tobago, it is equivalent to the Sydney Opera House. I endorse his comments and you will see for yourself, Mr. Speaker. [*Desk thumping*]

I am sure that at some point in time after the opening or at the opening itself you will have an opportunity to see for yourself what I am talking about when the first performance is held at the Performing Arts Academy.

Mrs. Persad-Bissessar: What about the management—[*Inaudible*]

Hon. C. Imbert: I want to move on. When one deals with the contract, [*Interruption*] the estimate of cost of that project using the traditional design and tender, traditional bill of quantities, drawings, contract documents where you put it out to tender; where you have an architect and an engineer supervising and a contractor is then hired and then the architect and engineer supervise the contractor, the traditional design and tender approach; the cost of that facility with an inferior design, something looking like a secondary school—

Mr. Manning: Junior Sec.

Hon. C. Imbert: The Prime Minister is reminding me, something looking like a junior secondary school, [*Interruption*] the cost with an inferior design of that north academy was inching up on $800 million.

Mr. Manning: And you all should see it!

Hon. C. Imbert: Inching up on $800 million! That is just the north alone. I am not talking about the south. The north alone, the cost given to us by the local private sector for an inferior design, I am telling you, something looking like a junior secondary school was close to $800 million.

If one looks at the convention and what has happened in Trinidad and Tobago, if that was the original estimate from the local private sector, by the time that project had finished it would have been $1.6 billion and it would have taken 10 years to finish too. [*Interruption*] Much less than that. The original contract for the two academies, exclusive of fees and other non-construction items was in the vicinity of US $100 million. Exclusive of non-construction items. Things like currency fluctuation, project management and all those things, the two "eh", that is for the north and the south. The financing was made available to this country at 2 per cent.

Mr. Manning: [*Inaudible*]

Hon. C. Imbert: Yes, I am coming to that.

Mr. Speaker, they like to say all kinds of things you know, but as I said, they would be the first in the line to a performance at the Performing Arts Academy. They would be the first in the line. "All ah them go an stay in the Hyatt you know."

8.00 p.m.

When we run late here, [*Desk thumping*] what is the hotel of choice of Members opposite? The Hyatt; every one of them. [*Crosstalk*] They do not want to stay in the Hilton; they do not want to stay in Crowne Plaza; they do not want to stay in the Marriot. When you ask them, they put down on the sheet, "I want to stay in the Hyatt". [*Desk thumping*] [*Laughter*]

We had a situation, just the other day, where the Member for Fyzabad was filibustering. Do you know why? Because once we cross 10 o'clock at night, you get to stay in the Hyatt at the cost of the State; those are the rules of this Parliament. So the Member for Fyzabad was filibustering, just so we could get past the 10 o'clock deadline, so he could stay at the Hyatt built by Calder Hart. [*Crosstalk*]

Mr. Warner: I stay in Five Rivers.

Hon. C. Imbert: This is the hypocrisy of hon. Members opposite. If you do not like "de" man and you do not like what he is doing, why are you staying in the Hyatt? Why do you not make a conscience decision? It was built by this Government, a policy decision of this Cabinet; it was built for the taxpayers of this country.

I am told that the Hyatt is already approaching profitability; I am told that the Hyatt is profitable and that it was an excellent investment decision. [*Desk thumping*] It is a five star hotel. The launch of the World Cup by FIFA was held in the Hyatt. [*Desk thumping*]

Mr. Warner: So what? Paid for by whom; by you?

Hon. C. Imbert: What do you mean, "So what"? If everything that UDeCott has done was wrong and evil, according to hon. Members opposite, and is an abomination—this is what I hear coming out from the other side, that everything UDeCott touches is an abomination—why do you go to the Hyatt? Why do you go to the waterfront?

Mr. Warner: It is taxpayers' money.

Hon. C. Imbert: The Member for Chaguanas West has reminded me about something, and I am coming back to this bias thing. [*Interruption*] What 36(1)? The Hyatt Regency Hotel is a public sector construction project, built by a foreign contractor using the turnkey approach and it is one of the projects that we have asked the Uff Commission of Enquiry to examine and tell us whether it was a good project. [*Crosstalk*] Of course it was examined; that is relevance.

I am coming back to something the Member for Chaguanas West said. How would the Member for Chaguanas West like to submit himself to a commission of enquiry chaired by Jennings? It was just a question. [*Laughter*]

Mr. Warner: Just like you.

Hon. C. Imbert: It is a scenario. I am trying to make an analogy that would get close to home. The Member for Chaguanas West would never, in his wildest dreams, allow himself to be subjected to a commission of enquiry chaired by Jennings. You would not allow it.

Mr. Warner: Would you allow it?

Hon. C. Imbert: No, never; it is the same thing; that is the point I am making. For those who do not know, Mr. Jennings wrote a book called *Foul* which upset the Member for Chaguanas West terribly, to the extent that they got into an altercation at the airport—a widely publicized altercation. There will always be situations where a person may feel that he is not getting a fair deal. I just used that as an example.

Mr. Warner: I do not spend taxpayers' money. Hart spent taxpayers ' money, not me.

Hon. C. Imbert: Coming back to the matter that we are dealing with, let me just address a matter raised to the Prime Minister.

The Member for Diego Martin West felt aggrieved that the Prime Minister referred the Cleaver Heights project to the Commission of Enquiry. In this *Gazette* is contained the actual commission that dealt with the procedures. [*Interruption*]

Mr. Speaker: The speaking time of the hon. Member for Diego Martin North/East has expired.

Hon. Jeremie SC: Mr. Speaker, I beg to move that the speaking time of the hon. Member be extended by 30 minutes.

Mr. S. Panday: He is not a Member of the House. [*Laughter*]

Mr. Speaker: I think you had better move this Motion. [*Laughter*]

Mr. Manning: Mr. Speaker, I had sought to defer to my good friend.

Mr. Speaker: I will research the point, because the Attorney General can appear. It is a point worth researching, but out of an abundance of caution—

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

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

Question put and agreed to.

Hon. C. Imbert: I thank the hon. Attorney General and the hon. Prime Minister for being so gracious and kind to me. I think you should research that point, Mr. Speaker.

Mrs. Persad-Bissessar: [*Inaudible*]

Hon. C. Imbert: You cannot tell me how to talk to my Members. "Look, ketch yourself." [*Crosstalk*]

Mr. Speaker: Order! [*Crosstalk*]

Hon. C. Imbert: Mr. Speaker, let me look at this *Gazette* of September 11, 2009. On the fourth page of the *Gazette*, the President commissioned Prof. Uff, et al, to look into the procedures, practices and procurement processes employed by the Trinidad and Tobago Housing Development Corporation in the award of the contract to NH International to develop the land and infrastructure and to build 408 houses at Cleaver Heights. That was the Cleaver Heights project. Cleaver Heights was made part of the expanded terms of reference of the Commission, based on information that came to the Prime Minister. The Prime Minister was of the view that an enquiry was warranted.

The Member for Diego Martin West has taken umbrage at that and has spoken about a force main. He complained that the Prime Minister said that a force main in the documentation was costing millions of dollars and that was one of the reasons he referred the Cleaver Heights project, and when you look in the evidence it was only $150,000.

Mrs. Persad-Bissessar: $170,000.

Hon. C. Imbert: I was here when the Prime Minister was reading that. I saw the document he was reading from.

Speaking through you, Mr. Speaker, I was here. I saw the document that the Prime Minister read from, and in that document the design of the force main was indicated to cost millions of dollars; I saw it. Whether the contractor has since submitted a corrected document is irrelevant. The information the Prime Minister had, at his disposal, indicated as one of the irregularities on that project, was that the design of a force main with a line item cost millions of dollars.

Mr. Manning: And when you accuse them of it, they now put in an amended document, which is a different figure. That was what they did.

Mr. Warner: Prime Minister, you found your voice.

Hon. C. Imbert: All of that would come out. I do not know what it is with hon. Members opposite. You all have some kind of love affair with Cleaver Heights, or something? If you went up on that project, you would see for yourself the irregularities. If you bothered to investigate, you would see for yourself that there are no building approvals, no statutory approvals. If you went up there, you would see for yourself that the title for the land was not conveyed to the State. You would see that there are no completion certificates; you would see that purchasers cannot take possession of their property, and the Housing Development Corporation (HDC) cannot get paid, because of the lack of completion certificates, the lack of planning approvals, the lack of building approvals, and so on.

Mr. Manning: "Dat doh concern dem."

Hon. C. Imbert: You would see all that for yourselves, but you have some kind of love affair with Cleaver Heights. Is it that when a query is raised about the Town and Country Planning approval for the Performing Arts Academy, that is a matter worthy of enquiry; the fact that there might or might not have been full, final Town and Country Planning approval for the Performing Arts Academy at the commencement of construction? That is a big "ting". Calls for enquiry, noise, editorial front pages for weeks; that is a big "ting". It all turned out to be a hullabaloo for nothing, because when you look at the paper trail you would see that the layout of that building was as it is now from day one.

In fact, if you go into that building now, you would see that it is impossible that the hotel was an afterthought; impossible. You would see that the way the thing was designed, from its external shape to its internal layout, it is all part of an integrated whole. You would see that it is absolutely impossible for the hotel to have been an afterthought.

Mr. Bharath: "So Rowley lie?"

Hon. C. Imbert: It was always part of the original design. But a big set of noise, confusion about Town and Country Planning for the Performing Arts Academy; a big set of noise about alleged lack of approvals for the Performing Arts Academy. But on Cleaver Heights, you have one approval, no Town and Country Planning; no Ministry of Works and Transport; no fire; no WASA; no T&TEC; no regional corporation, but that is not a big "ting". I ask you again: Do you have a love affair with the people up at Cleaver Heights?

Mr. Warner: Give us the report.

Mr. Manning: Oh, you want a report now?

Hon. C. Imbert: So the fact of the matter is that there are serious issues on that project that needed to be investigated. The contractor was paid over $130 million for houses built on land that does not belong to the State; no completion certificates; violation of all the outline permissions that were given. There was need for investigation of that project so we could understand what went wrong and how to avoid these kinds of mistakes in the future.

Mr. Warner: "Where de money gone?"

ADJOURNMENT

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, I intend to utilize my whole extended time; but I wish to adjourn this debate at this time, and to reserve my right to continue to use up my full allotment of 30 minutes.

Therefore, I beg to move that this House now adjourn to Wednesday, October 21, 2008 at 10.30 a.m. to complete this debate.

Mr. Speaker: For your information, you would have 24 minutes of your extended time.

Mr. S. Panday: Only?

Mr. Speaker: Yes, only 24 minutes.

We have some matters on the adjournment. [*Interruption*] Before you proceed, for the benefit of hon. Members, I did take the liberty of ordering dinner. You can avail yourself of dinner if you wish; those who are leaving that is. [*Crosstalk*] Order! When we are adjourned, there will be dinner available to Members.

Biche Presbyterian School
(Failure of the Government to Construct)

Mr. Harry Partap (*Cumuto/Manzanilla*): Mr. Speaker, the Biche Presbyterian School was temporarily relocated at the Cushe Government Primary School eight years and eight months ago, on February 07, 2001.

8.15 p.m.

Mr. Speaker, teachers then complained of what was described as an offensive odour emanating from the nearby construction site of the Biche High School.

The official report written by the then principal on Tuesday, January 18, 2001 to the Ministry of Education spoke of an unpleasant odour in the school's environment. There was no reference to the smell of gas or oil.

The school has a student population of 152 with 10 teachers. The decision to relocate the school was taken following complaints of this offensive odour, and industrial action by teachers supported by the Trinidad and Tobago Unified Teachers' Association. In fact, the then TTUTA President, Trevor Oliver, had issued a media statement alluding to the closure of the school even before any decision was taken on relocation by the Ministry of Education.

Contrary to a statement made in Parliament by the former Minister of Education, Sen. The Hon. Hazel Manning, the Ministry of Education was the driving force behind the move to relocation and quite rightly so. Mr. Speaker, this was responsible action by the then Minister of Education, Mrs. Kamla Persad-Bissessar. Ministry officials had been made aware of the concerns of teachers from the day of the offensive odour, and that was on January 04, 2001. The ministry had called on the Environmental Management Authority along with other agencies that were investigating the site of the Biche High School to do a similar exercise at the Biche Presbyterian School.

It is clear then that the report of the offensive odour had some connection to the situation at the site of the Biche High School. Since then, a commission of enquiry had investigated the school and made recommendations which, if they had been pursued, would have made the site safe.

The PNM Government refused to do anything and, in fact, did not pursue the recommendations of the commission of enquiry, and eight years later the Biche High School complex is still standing as a monument to what I term spite and vindictiveness against the children of Biche. The students of the Biche Presbyterian School have been travelling 14 miles to Cushe and they must get up at 6.00 a.m. in order to catch the available transport.

Mr. Speaker, I read a report which was submitted to the Ministry of Education under the heading: "Students Performance" and it said teachers reported that some of the students are less responsive. They are always tired and sleepy because of the early hours they have to get up on mornings to get the bus. Students are getting ill very often in school and have to be sent home. That is the situation at the relocated Cushe Government Primary School.

And in letters sent to the General Secretary of the Presbyterian Primary School Board of Education dated September 10, 2008 and March10, 2009 the principal wrote, and she indicated to the board on September 10, and I read the letter from the principal:

> "I would like to inform you that our students leave home as early as 6.00 a.m. to get the PTSC bus to transport them to school and they return home sometimes as late as 5.00 p.m. or even later when there are problems with the bus.
>
> Students travel eight to 14 miles to school and cannot perform to their fullest potential because they are fatigued and exhausted when they arrive at school and also when they return home."

And in the March 2009 letter, the principal told the board:

> "We would like to return to our school at the 16 3/4 mile mark, Cunapo Southern Main Road, Canque Village, Biche or be relocated to a new site in Biche as early as possible so that we can deliver the curriculum more efficiently and effectively to the students and also to assist the members of the community with adult literacy.
>
> Students travel 8—14 miles to school and cannot perform to their fullest potential because they are fatigued and exhausted when they arrive at school and also when they return home."

Mr. Speaker, the plight of these children continues even today eight years later. I call on the hon. Minister of Education to tell this House, and by extension the children of Biche, when they will get a new school.

I plead with the hon. Minister to give us a reply in favour of these children. In fact, the Rio Claro/Mayaro Regional Corporation has sympathized with the children; it understands their plight and the corporation has offered a piece of land near the Biche Community Centre which can be used for a new building.

Mr. Speaker, I hope that the hon. Minister will take this into consideration and provide the children with a new school as early as possible.

Thank you.

The Minister of Education (Hon. Esther Le Gendre): Mr. Speaker, it is instructive that the issue raised in 2009 by the Member for Cumuto/Manzanilla was first raised by the then Member for Nariva in January 2007 as he said.

Mr. Speaker, inadequate research is not the only failing of the Members on the other side, but it is also one of playing fast and loose with the facts that are already a matter of record.

Mr. Speaker, in 2007 the question was asked what plans the Ministry of Education had for the opening of the Biche Presbyterian Primary School. The Member at that time was advised that the record showed that the Biche Presbyterian Primary School was vacated as he said on February 07, 2001 by a decision of the Presbyterian Board. I see there is now an attempt by the Member for Cumuto/Manzanilla to rewrite history, but facts are stubborn things, they do not go away especially when they are written into *Hansard*.

There was no consultation with representatives of the Ministry of Education when this decision was effected. The reason for the relocation was given as the Member said the presence of an offensive odour. This decision and subsequent action were taken during the term of office—as you are very well aware—of the United National Congress.

Following the closure, the staff and students of the Biche Presbyterian Primary School took up residence at the Cushe Government Primary School and remained there up to the present time. The school has a capacity for 250 students and at the time in 2001, the enrolment was 112.

The enrollment of students at the Biche Presbyterian School in 2001 was 151, not 152 and the staff included the principal and eight teachers. Even without permission sought for closure—and that is required by all schools operating in Trinidad and Tobago—they need to request permission to close from the Ministry of Education and this was not done. And even without that permission, the Ministry of Education as a responsible organization, did not shirk its responsibility to these young charges, but provided a daily school bus transport for the children to Cushe, a service you have admitted is provided up till today for the 15-mile drive to the new school. Breakfast meals, lunches, textbooks and screening for vision and hearing in conjunction with the Ministry of Health are also provided. The Government continues to meet these obligations to the students and staff of the Biche Presbyterian Primary School.

Mr. Speaker, it is to be noted that the construction of a replacement school for Biche Presbyterian is not included in the construction programme for the year

2009/2010. The Presbyterian Board had already signed a contract with the Ministry of Education only on April 04, 2008 for two schools which were identified as its priority schools. I will give you one guess. Was it Biche? No. It was signed for the Lengua and Harmony Hall Primary Schools.

A contract has been awarded, as you are well aware, for the construction of the Lengua School and there are site issues to be finalized in respect of the Harmony Hall School which preclude construction at that particular site. The Presbyterian Board subsequently signed an agreement that would address all of its schools, but only did so on December 19, 2008.

Mr. Speaker, at the time of the January response, the ministry had indicated that there was a shared responsibility for deciding on the future of this school and it would have welcomed proposals from the Presbyterian Primary School Board of Management. The board indicated in 2003 a request for repairs to that original school as a condition for moving back. At that time the board shared responsibilities for repairs with the ministry and would have been required to forward the proposal for such works to be approved and partly financed by the ministry. The ministry would have borne the lion's share; the board would have had to put a contribution of either a quarter or one-third of the expense.

In 2006, the board further communicated a list of five schools for priority works; once again, the Biche School was not among these. The ministry is currently involved in phase 1 of the construction of some 40 primary schools; six have been built, three have had a temporary solution supplied; five are under construction; three have been awarded for construction beginning in 2009; three are currently being tendered, and the others are in various stages leading to construction pending the availability of funds.

Mr. Speaker, there is no Government failure to construct the Biche School as the Member suggests. The fact is that the present accommodation which was selected by the responsible board remains in excess of the space requirements for both schools occupying the premises.

8.30 p.m.

The records indicate that the school population at the Biche Presbyterian School has dwindled from 151 to 32, while the teaching staff comprises one principal and six teachers. This represents a pupil/teacher ratio of one to five in the face of a national standard of one to 25.

In the case of the Cushe Government Primary School which has a capacity for 250 students, the current enrolment is 71, while the teaching staff comprises one principal and seven teachers. This represents a pupil/teacher ratio of one to nine. It is evident, therefore, that the existing space requirement is more than adequate to accommodate both schools comfortably at this time.

The time has come for the ministry to have a serious look at the rationalization of schools and school places, given the shifting demographics and declining populations in certain areas. The time has also come for our partners in education to be open to the opportunities by a rational approach to school construction which acknowledges the central role of the school in all communities.

The high cost of construction and the need for the Ministry of Education to be more efficient in the deployment of supporting human resources for all schools, require a strategic approach to school construction and operations. Even as we do this, I want to assure the Member for Cumuto, we will do this and we will continue to ensure that students and teachers are accommodated in safe and satisfactory conditions.

I thank you. [*Desk thumping*]

Mr. Speaker: Hon. Members, just as a matter of a point raised earlier on, at first blush it would appear to me that the Attorney General can, in fact, move that Motion and I am looking at section 62(4) of the Constitution. But I would do some deeper research. On the face of it, section 62(4) of the Constitution, I think, would give the Attorney General that power, but I will do some research on it.

Then I am told that there is some agreement with respect to a guillotine debate on Wednesday and we will start at 10.30 a.m.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 8.33 p.m.