

*Leave of Absence**Tuesday, March 22, 2011***SENATE***Tuesday, March 22, 2011*

The Senate met at 1.30 p.m.

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

Mr. President: Hon. Senators, I have granted leave of absence to Sen. Kevin Ramnaire who is out of the country and to Sen. Basharat Ali who is ill.

SENATORS' APPOINTMENT

Mr. President: Hon. Senators, I have received the following correspondence from His Excellency the President, Professor George Maxwell Richards, T.C., C.M.T., Ph.D.:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency Professor GEORGE MAXWELL RICHARDS, T.C., C.M.T., Ph.D., President and Commander-in-Chief of the Republic of Trinidad and Tobago.

/s/ G. Richards
President.

TO: MR. RABINDRA MOONAN

WHEREAS Senator Kevin Christian Ramnarine is incapable of performing his duties as Parliamentary Secretary by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, in exercise of the power vested in me by section 40(2)(c) and section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, RABINDRA MOONAN, to be temporarily a member of the Senate, with effect from 22nd March, 2011 and continuing during the absence from Trinidad and Tobago of the said Senator Kevin Christian Ramnarine.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 18th day of March, 2011.”

Oath of Allegiance

Tuesday, March 22, 2011

OATH OF ALLEGIANCE

Senator Rabindra Moonan took and subscribed the Oath of Allegiance as required by law.

PAPERS LAID

1. Annual Report of the Government Human Resource Services Company Limited for the fiscal year 2009. [*The Minister of Public Administration (Sen. The Hon. Rudrawatee Nan Gosine-Ramgoolam)*]
2. Administrative Report of the San Fernando City Corporation for the fiscal year 2008-2009. [*The Minister of State in the Ministry of National Security (Sen. The Hon. Subhas Panday)*]

HOUSE COMMITTEE OF THE SENATE

**First Report
(Presentation)**

The Minister of State in the Ministry of National Security (Sen. The Hon. Subhas Panday): Mr. President, I beg to present the following report:

First Report of the House Committee of the Senate 2010-2011 Session.

JOINT SELECT COMMITTEE REPORT

**Ministries, Statutory Authorities and State Enterprises (Group I)
(Presentation)**

Sen. Corinne Baptiste-Mc Knight: Mr. President, I beg to present the following report:

First Report of the Joint Select Committee on Ministries, Statutory Authorities and State Enterprises (Group I) on the Ministry of Health and its management of vector-borne diseases.

ORAL ANSWERS TO QUESTIONS

The Minister of State in the Ministry of National Security (Sen. The Hon. Subhas Panday): Mr. President, with your leave I wish to indicate that the Government is ready to answer questions Nos. 27, 28, 29 and 34.

In the case of questions 35 and 36, these functions were transferred to the Ministry of Justice, however, I have here prepared the two questions but I thought it prudent to wait until the hon. Minister of Justice returns to the jurisdiction. He is at this present time out of the jurisdiction. Also question 39 on the Supplemental Order Paper and question 40.

Mr. President, before I go on, you will see on the Appendix that there are two questions for written answer. Those answers will be produced on or before the next sitting. Thank you.

The following questions stood on the Order Paper in the name of Sen. Penelope Beckles:

**Drug Related Offences
(Before the Courts)**

35. Could the Minister of Justice indicate how many drug related offences are presently before the courts in Trinidad and Tobago?

**Firearm Related Offences
(Before the Courts)**

36. Could the Minister of Justice indicate how many firearm related offences are presently before the courts in Trinidad and Tobago?

**Privatization of WASA
(Details of)**

39. With respect to the Water and Sewerage Authority (WASA), could the Minister of Public Utilities inform this Senate:
- (i) whether the Government has commissioned a study on the privatization of WASA;
 - (ii) if the answer to question (i) is yes, could the Minister provide the Senate with a copy of the said study?

The following question stood on the Order Paper in the name of Sen. Dr. James Armstrong:

**National Physical Development Plan (NPDP)
(Details of)**

40. With reference to the requirement under the Town and Country Planning Act, Chap. 35:01 that a fresh survey of approved development plans is to be undertaken every five (5) years, and given that the last National Physical Development Plan (NPDP) was approved in 1984, could the Minister of Planning, Economic and Social Restructuring and Gender Affairs indicate:
- (a) what arrangements are in place for the preparation of an updated NPDP;
 - (b) when will a final document be submitted to the Parliament for its consideration; and

- (c) whether any consideration is being given to updating the legislation and institutional arrangements governing land use in the country?

Questions, by leave, deferred.

**GATE Programme
(Details of)**

27. Sen. Terrence Deyalsingh asked the hon. Minister of Science, Technology and Tertiary Education:

With respect to the Government Assistance for Tuition Expenses (GATE) Programme, could the Minister indicate to this Senate:

- (i) what is Government's policy on GATE funding for both public and private tertiary institutions; and
- (ii) whether any new programmes have been approved for funding since June 2010 for both public and private institutions?

The Minister of Science, Technology and Tertiary Education (Sen. The Hon. Fazal Karim): Mr. President, the GATE Programme, the Government's Assistance for Tuition Expenses which commenced in September 2004 was predicated on its predecessor, the dollar for dollar programme. [*Desk thumping*]

1.40 p.m.

In other words, the UNC's dollar for dollar programme was used to open the GATE. [*Desk thumping and laughter*] But more importantly, Mr. President, the Government of the People's Partnership, in its 120-day action plan, item no. 2, states as follows: we will secure GATE and expand it to vocational education and training. [*Desk thumping*]

The following objectives were the dollar for dollar and subsequently the GATE programme:

- To make tertiary education affordable to all so that no citizen of Trinidad and Tobago would be denied tertiary education because of his or her inability to pay.
- To widen access to tertiary education that would support economic development and promote social equity.

Mr. President, currently there are 18 public institutions and 38 local, private institutions approved for GATE funding. Additionally, two regional private institutions, namely, the University of Technology (UTECH), Jamaica and the St.

George's University (SGU), Grenada, have been included in the GATE programme. In respect of UTECH, all accredited programmes are GATE approved, while students enrolled in the final year of the pre-medical programme and the medical programme at the St. George's University are eligible for GATE funding.

The criteria for GATE funded programmes are demand-led and based on the following:

- (i) Accreditation Council of Trinidad and Tobago (ACTT) or the National Training Agency (NTA) institution registration.
- (ii) The Accreditation Council of Trinidad and Tobago/National Training Agency programme approval and recognition.
- (iii) Institution adherence to conditions for GATE approval.
- (iv) Policies of Government and relevant legislation.
- (v) The availability of financial resources.
- (vi) An assessment of the tertiary education sector.
- (vii) Priority areas of Government based on labour market information.

Further, Mr. President, Cabinet, in Minute No. 116, the second session of June 24, 2010, approved the policy framework for sustainable development of the Government. This policy framework is built on seven interconnected development pillars which constitute the cornerstone of its strategy for sustainable development of Trinidad and Tobago. In the context of the policy framework, which the question asked that I address, the Government recognizes that tertiary education, Technical-Vocational Education and Training (TVET) and lifelong learning play a pivotal role in the social, economic and cultural development of modern societies.

Mr. President, you may recall that the Ministry of Science, Technology and Tertiary Education has established a White Paper on Tertiary Education, Technical-Vocational Education and Lifelong Learning. The vision for tertiary education (TVET) and lifelong learning is to construct a more secure and sustainable future for Trinidad and Tobago. Government's present commitment to expand the GATE programme to include TVET, entrepreneurial development and research is based on the objective of steadily increasing access to tertiary education so as to achieve a participation rate of 60 per cent.

The expansion of the GATE programme into TVET is premised on the award of the Trinidad and Tobago National Vocational Qualifications (TTNVQ) and the Caribbean Vocational Qualification (CVQ), thereby enabling the growth of local and regional certification. The presence of foreign awarding bodies that offer certification that is below the level of the TTNVQ and the CVQ, and for which

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GATE funding is provided, accounts for a major hemorrhaging of the country's foreign reserves. Training providers seeking GATE approval for transnational TVET programmes will also be required to meet quality criteria for the delivery of TVET programmes by the Accreditation Council of Trinidad and Tobago and the National Training Agency.

The second part I now give some details to, and it is as follows: three public institutions have been approved for funding since June 2010 for six additional programmes, while 12 private institutions were approved for funding within the same period for 56 programmes.

Mr. President, the following are the institutions and their programmes that have been approved for GATE funding in accordance with the question that has been asked:

Public Institutions	Programmes
Arthur Lok Jack Graduate School of Business	<ol style="list-style-type: none"> 1. Master of Science in International Finance; 2. Association of Chartered Certified Accountants (ACCA).
Cipraini College of Labour and Co-operatives Studies	<ol style="list-style-type: none"> 1. Bachelor of Arts in Co-operatives Studies; 2. Bachelor of Science in Security Administration and Management; 3. Certificate in Occupational Safety, Health and Environment.
Metal Industries Company Limited	<ol style="list-style-type: none"> 1. Diploma in Technical Vocational Teacher Training (TVITT).
Private Institutions	Programmes
Dawill Law Academy	<ol style="list-style-type: none"> 1. Bachelor of Laws (LLB).
College of Legal Studies	<ol style="list-style-type: none"> 1. Diploma in Law.
Advanced Solutions Technical Institute	<ol style="list-style-type: none"> 1. Diploma in Telecommunication Systems; 2. Diploma in Information Technology.
Kenson School of Production Technology Limited	<ol style="list-style-type: none"> 1. Advanced Diploma in Oil/Gas.

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Automation Technology College
Limited

1. Diploma in Electrical
Installation.

Catholic Religious Education
Development Institute

1. Masters of Science in
Educational Studies.

College of Professional Studies
Limited

1. Certificate in Business
Management;

2. Diploma in Business
Management I;

3. Certificate in Human
Resource Management;

4. Diploma in Human Resource
Management I;

5. Certificate in Travel, Tourism
and Hospitality Management;

6. Diploma in Travel, Tourism
and Hospitality Management.

So both at the certificate and diploma level.

7. Certificate in Financial
Management;

8. Diploma in Financial
Management; and

9. LCCI Diploma in Secretarial
Administration.

University of the Southern
Caribbean

1. Master of Arts in Curriculum
and Instruction;

2. Master of Arts in Human
Communication.

West Indies School of Theology

1. Diploma in Interdisciplinary
Studies;

2. Bachelor of Arts in
Interdisciplinary Studies.

SITAL College of Tertiary Education

1. Bachelor of Business Education
Limited Administration (Generic);

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| SITAL College of Tertiary Education | <ol style="list-style-type: none"> 2. Bachelor of Business Administration (Marketing Management); 3. Bachelor of Business Administration (Human Resource Management); 4. Bachelor of Business Administration (Financial Management); 5. Bachelor of Business Administration (Tourism and Hospitality Management); 6. Master of Business Administration (Generic); 7. Master of Business Administration (Marketing Management); 8. Master of Business Administration (Human Resource Management); 9. Master of Business Administration (Financial Management); 10. Master of Business Administration (Tourism and Hospitality Management). |
| School of Higher Education Limited | <ol style="list-style-type: none"> 1. Bachelor of Business Administration (Generic); 2. Bachelor of Business Administration (Human Resource Management); 3. Bachelor of Business Administration (Logistics and Supply Chain Management); |

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| School of Higher Education Limited | <ul style="list-style-type: none"> 4. Bachelor of Business Administration (Entrepreneurial Management); 5. Master of Business Administration (Generic); 6. Master of Business Administration (Human Resource Management); 7. Master of Business Administration (Logistics and Supply Chain Management); 8. Master of Business Administration (Entrepreneurial Management). |
| CTS College of Business and Computer Science Limited | <ul style="list-style-type: none"> 1. Bachelor of Business Administration (Generic); 2. Bachelor of Business Administration (Marketing); 3. Bachelor of Business Administration (Leadership); 4. Bachelor of Business Administration (Human Resource Management); 5. Bachelor of Business Administration (Human Resource Management, again, I said that before. 6. Bachelor of Business Administration (Logistics and Supply Chain Management); 7. Bachelor of Business Administration (Financial Management); |

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The same award of that qualification.

CTS College of Business and
Computer Science Limited

8. Bachelor of Business Administration (Tourism and Hospitality Management);
9. Bachelor of Business Administration (Entrepreneurial Management);
10. Master of Business Administration (Generic);
11. Master of Business Administration (Marketing Management);
12. Master of Business Administration (Human Resource Management);
13. Master of Business Administration (Finance);
14. Master of Business Administration (Tourism and Hospitality Management);
15. Master of Business Administration (Logistics and Supply Chain Management);
16. Master of Business Administration (Research Masters);
and
17. Master of Business Administration (Entrepreneurial Management).

I thank you, Mr. President.

Sen. Deyalsingh: Thank you, Mr. President, and congratulations to the hon. Minister of Science, Technology and Tertiary Education for continuing with sound PNM policy.

**On-the-Job Training Programme
(Details of)**

28. Sen. Terrence Deyalsingh asked the hon. Minister of Science, Technology and Tertiary Education:

With respect to the On-the-Job Training Programme, could the Minister state:

- (i) what is the Government's policy in this regard; and
- (ii) what monies have been allocated for this fiscal year towards the running of this programme?

The Minister of Science, Technology and Tertiary Education (Sen. The Hon. Fazal Karim): Thank you, Mr. President. Great people lead and others follow. [*Desk thumping*] Such was the leadership and the ingenuity of the UNC with dollar for dollar. [*Desk thumping*]

Mr. President, the On-the-Job Training Programme is a pre-employment programme which offers participants an induction into the world of work and focuses on the acquisition of occupational skills. I had the pleasure as well, as the CEO of the National Training Agency, to ensure that this On-the-Job Training Programme worked better than other places in the country. [*Desk thumping*]

The major objective of the programme is to provide post-secondary and tertiary graduates, ages 16 to 35, with job skills and work-based training opportunities that would offer them a foothold in the employment market. The programme meets the full cost of stipends in respect of trainees placed in the public sector while private sector organizations are reimbursed to a maximum of 50 per cent of the stipulated stipend rates.

The current thrust of the programme is to increase involvement of the private sector. Mr. President, I wish to repeat that. The current thrust of the programme is to increase the involvement of the private sector in the development of an apprenticeship initiative that would provide the expanding workforce of Trinidad and Tobago and the region with a suitably trained and certified cadre of young people through partnering with entities representing industry and commerce.

1.55 p.m.

Trainees can be placed on the programme for up to two years. This duration was determined with reference to the fact that licensing and registration requirements for disciplines involved in craft technical training as well as in some professional areas require a minimum training period of two years. Trainees on

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the On-The-Job Training Programme are granted a maximum of seven (7) working days, discretionary leave and five (5) working days, sick leave per 12-month period.

Mr. President, trainees on the programme are paid monthly stipends as outlined:

Level 1	CXC or Craft level training	\$2,000 per month
Level 2	2 A Levels, Associate Degree, HND (Higher National Diploma) or similar qualifications of two (2) years full time duration	\$3,000
Level 3	Undergraduate Degree	\$5,000
Level 4	Postgraduate Qualifications	\$6,000

The allocation to the OJT Programme for the fiscal year 2010—2011 is \$203,088,000.

Mr. President, it might be useful for me to give some comparisons in terms of the budget allocations and actual expenditure for the period 2007—2011. They are as follows:

YEAR	BUDGET ALLOCATION	ACTUAL EXPENDITURE
2007–2008	\$191.8 million	\$161.3 million
2008–2009	\$206.3 million	\$137.1 million
2009–2010	\$217.7 million	\$217.067 million.
2010–2011	\$203.088 million	\$107,726,901.33 as at 2/3/2011

Mr. President, I thank you.

Sen. Deyalsingh: Thank you very much, Mr. President, and congratulations again for following PNM policy this time. Thank you.

**UTT, Bachelor of Science in Criminology
(Details of)**

29. Sen. Terrence Deyalsingh asked the Hon. Minister of Science, Technology and Tertiary Education:

With regard to the Bachelor of Science in Criminology programme offered by the University of Trinidad and Tobago (UTT), could the Minister state:

- (i) what was the cost incurred in developing this degree programme inclusive of local and foreign accreditation fees, advertising, promotion, lecturer recruitment and training;
- (ii) what was the commencement date on this programme;
- (iii) the number of students enrolled in the programme; and
- (iv) the expected length of time for completion of the degree?

The Minister of Science, Technology and Tertiary Education (Sen. The Hon. Fazal Karim): Mr. President, I thank you for this opportunity again and I thank my colleague for asking this question. I want to say that what we have done really with the OJT programme is to substantially improve the performance of the programme, but let me just—I forgot to mention, I suspect he may have been asking something relevant to this—[*Crosstalk*] but I will stay to the question—I will stay to the question.

UTT as in the case of OJT, had millions of dollars in cost overruns and overpayment. So I will answer UTT and I will answer OJT at another time. I will give you some startling figures of moneys paid and unable to be recovered.

Mr. President, with respect to the answers for those questions, I wish to offer the following answers. For the benefit of my colleagues on the other side who sometimes do not listen and talk instead, I should first clarify that there is no programme entitled “the Bachelor of Science in Criminology” being offered by the University of Trinidad and Tobago. However, a programme entitled “the Bachelor of Applied Science (BASc) in Criminology and Public Safety” was developed by the University of Trinidad and Tobago, but never commenced. The University of Trinidad and Tobago (UTT) developed the programme, but it never commenced. It reminds me of the seagulls that came and left.

The cost involved, Mr. President, in developing the BASc in Criminology and Public Safety were as follows:

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(i) Local and foreign accreditation fees. Answer to this part of the question, there are no local or foreign accreditation fees.

With respect to lecturer recruitment and training, there are no costs related to training.

With respect to advertising, the total cost of advertisements amounted to TT \$141,478.44 as follows:

- (a) cost of advertisements in the local print for recruiting students, \$102,157.47;
- (b) cost of advertisements in the local and regional print media for the recruiting of teaching staff, \$39,320.97.

With respect to the item of promotion, the total cost related to promotional activities, for the BASc in Criminology and Public Safety amounted to TT \$292,351.72 as follows:

- (a) cost of artwork for the preparation of brochure for printing, TT \$5,520.
- (b) Ministerial meeting with then Acting President and Programme Professor of UTT Institute of Criminology and Public Safety, Prof. Ramesh Deosaran, Sen. The Hon. Brig. John Sandy and Sen. The Hon. Subhas Panday on September 13th, 2010, amounted to \$7,995.75. [*Crosstalk*]
- (c) Pre-planning meeting for a conference entitled A Trans-boarder Expert Alliance for Caribbean Safety held at the Trinidad Hilton and Conference Centre on October 07, 2010, to promote the BASc in trans-border expert alliance for Caribbean safety conference amounted to \$278,835.97.

(ii) Mr. President, answer to another part of the question, the programme did not commence.

(iii) There are no students enrolled in this programme.

(iv) The question is not applicable.

I thank you, Mr. President.

**Arima Administration Facility
(Details of)**

34. Sen. Fitzgerald Hinds on behalf of Sen. Penelope Beckles-Robinson asked the hon. Minister of Local Government:

Could the Minister indicate:

- (i) the date for the commencement of construction of the Arima Municipal Building and or the Arima Administration Facility;
- (ii) the estimated cost of construction of the said facility; and
- (iii) the projected date of completion?

The Minister of Public Utilities (Sen. The Hon. Emmanuel George):

Thank you very much, Mr. President. I rise to present the answer to question No. 34 as proposed to the hon. Minister of Local Government.

Since 1984, the Arima Borough Corporation has been leasing approximately 836 square metres of office space above First Citizens Bank at the Corner of Hollis Avenue and Woodford Street, Arima. These premises which are leased at a monthly rent of \$51,750 VAT inclusive are severely inadequate to accommodate the present staff at the corporation. It should be further noted that the lease agreement comes to an end on December 31, 2011. Cabinet, by Minute No. 1332 of May 19, 2004 agreed, inter alia, to the construction of an administrative complex for the Arima Borough Corporation on lands owned by the corporation and situate at Nos. 33—34 Sanchez Street, Arima.

2.05 p.m.

Further, it was agreed that, in accordance with the provisions of section 20A(1)(c) of the Central Tenders Board Ordinance, 1961, the Ministry of Local Government enter into a contract with the Urban Development Corporation of Trinidad and Tobago Limited for the completion of the design prepared by the Ministry of Works and Transport and the undertaking of preparatory works, inclusive of detailed costing and contract documents.

By July 12, 2007, UDeCott had completed the tender drawings and a design/build tender document for the construction of the administrative complex for the Arima Borough Corporation. The estimated cost of constructing the complex was \$40 million, VAT exclusive, based on 2007 market prices. Tenders were invited by UDeCott on July 12, 2007 and closed on September 21, 2007. The lowest tender received was approximately \$63 million, VAT exclusive, and the construction period was estimated at approximately 18 months. In response, UDeCott prepared a draft version of a modified design/build contract as a retendering option.

Currently, the start of construction is predicated upon a funding mechanism. The Minister of Local Government will approach Cabinet shortly to obtain its approval, and that answers item (i) of the question.

The date for commencement of construction, therefore, of the Arima municipal building and/or the Arima administration facility, the Minister of Local Government will soon approach Cabinet regarding funding for the construction. The estimated cost of the construction of the facility is \$40 million VAT exclusive, based on 2007 prices, and the projected date of completion will be approximately 18 months after the construction start date, which answers Item (iii) of the question.

I thank you, Mr. President.

Sen. Hinds: A supplemental question. Would the hon. Minister like to elucidate upon what he meant by a funding mechanism to be put in place for the commencement of construction? And, similarly, would the Minister address his mind and indicate whether that mechanism is similar to the one that has been applied for the construction of that Point Fortin Highway where work has begun and no money has yet been brought to bear for it? Is it similar?

Sen. The Hon. E. George: I think those are two completely different questions and, therefore, if you wish, you can file those other questions and we will be prepared to answer.

Sen. Hinds: But, Mr. President, the Minister told us, in answer to a serious question to a serious institution that is the Parliament, more specifically this Senate, that a funding mechanism is to be put in place. I have been in public life for a while and I would like to know, and the public would like to know, what do you mean by a “funding mechanism”?

Sen. Panday: Simple English!

Sen. The Hon. E. George: Mr. President, if the goodly Senator would present those questions to the Senate, they will be answered in due course.

Thank you.

Mr. President: I understand the Minister to say he is not aware of the answer to the question and, therefore, you might call it on another occasion.

Sen. Hinds: And therefore, Mr. President, when they stand proudly and say that, “We are able to answer question 34, that was a statement of untruth demonstrating the usual deception of the Government.

I thank you. Mr. President.

Sen. Panday: We will deal with you! Keep on attacking. When we attack we hope that others do not say we should not attack the PNM.

Mr. President: Sen. Hinds, next question.

**Privatization of WASA
(Details of)**

39. Sen. Fitzgerald Hinds on behalf of Sen. Pennelope Beckles-Robinson asked the hon. Minister of Public Utilities:

With respect to the Water and Sewerage Authority (WASA), could the Minister inform this Senate:

- (i) whether the Government has commissioned a study on the privatization of WASA;
- (ii) if the answer to question (i) is yes, could the Minister provide the Senate with a copy of the said study?

The Minister of Public Utilities (Sen. The Hon. Emmanuel George): [*Desk thumping*]. Thank you very much, Mr. President. Before I go into the nitty-gritty of the answer to this question, I think I need to make a comment which relates directly to the answer. I am moved to comment at the suddenness or the interest—this new-found interest—of the Opposition in WASA and what is going on at WASA. I am saying this in the context of visits that I have been making to WASA's facilities. On Saturday, March 12, I visited some of WASA's facilities, inclusive of the Caroni Water Treatment Plant. Mr. President, you would be aware that that plant was built circa 1985/1986 and it ought to be our flagship plant in terms of water production in Trinidad and Tobago. It is the largest producer of potable water for the population, producing some 75 million gallons per day.

So I visited the plant on Saturday, March 12, and discovered that the plant is considerably rundown, and I will explain. That plant takes water off the Caroni River for treatment—

Sen. Hinds: On a point of order. Mr. President, I am so sorry to trouble my friend—

Sen. Panday: What is the point of order? [*Crosstalk*] What is the point of order? [*Crosstalk*] Cite the point of order!

Sen. Hinds: Mr. President, it would be easy for the Minister to tell us that he is talking about WASA and the question is about WASA and, therefore, it is relevant, but we have asked a specific question. The question is whether the Government has—

Sen. Panday: What is the point of order? [*Crosstalk*] What is the point of order?

Sen. Hinds: Standing Order No. 18, and I am demanding that he be told, under the force of that Standing Order, that his answer ought to be relevant to the question asked, and the question is:

- “(i) whether the Government has commissioned a study on the privatization of WASA.
- (ii) if the answer to the question (i) is yes, could the Minister provide the Senate with a copy of the said study?

Mr. President, it has to be relevant to the question asked.

Sen. Panday: He is giving you a rationale. “He giving yuh a full answer.”

Mr. President: As I understand it, the Minister of Public Utilities is giving the context for the answer to his question, so I will permit it. [*Desk thumping*]

Sen. The Hon. E. George: Thank you very much, Mr. President. Indeed, the success of any effort at privatization of a utility like WASA, where you are seeking the interest of investors to put money in, must depend on the environment and the quality of the infrastructure that is WASA. So anyone wishing to invest must be concerned with the condition of the infrastructure in WASA. So when you ask about the privatization of WASA, I think I am very relevant.

I was saying that that ought to be our flagship facility and it takes water off the Caroni River and it passes through what we call a trash rack. Now, that trash rack filters out the large material and then it passes through what we call a band screen which takes out thinner material that would not have been taken out by the trash rack. So we are filtering here, literally.

We discovered that the trash racks are broken and are malfunctioning and so, too, are the band screens. So, essentially, what is happening is that a lot of stuff, large material that ought to be filtered out at that stage, is not being filtered out, so that trash is getting into the pumps, and when that trash gets into the pumps it is similar to a bird getting into the engine of an aircraft. You just simply do not want to contemplate it. So it is destroying the pumps.

When we got there, of the eight pumps that are associated with this process, three of them are out of order and the cost to fix one of those pumps will be between \$500,000 and \$1 million. Let me backtrack, because the cost to fix the trash rack is about \$100,000. So we are not repairing the trash rack, which costs \$100,000 and we end up now having to repair the pumps which cost approximately between \$500,000 and \$1 million each.

We go through the process further. When it passes through the pumps, in the process, chemicals are added to remove mud or the siltation in the water, and it is then put in some sedimentation ponds and in those sedimentation ponds the mud falls out. In the normal course of things there is, what we call, in that sedimentation pond, a travelling bridge that goes up and down, up and down, and takes out the mud.

Sen. Hinds: Standing Order 18, Mr. President. I am again calling upon you, Mr. President—[*Crosstalk*]

Sen. Panday: What? “Yuh bad, boy?” [*Interruption*]

Sen. Hinds: I am calling upon you, Mr. President, as Presiding Officer of this honourable Chamber, as I raise Standing Order 18 again, to indicate to me, Mr. President, with great humility and respect, whether, in your opinion, the discourse, factual as it might be coming from the hon. Minister, is in any way connected to or relevant to the question that is before this honourable House. I call upon you, Mr. President, to tell me whether, in your opinion, this is so in light of Standing Order 18.

Mr. President: Thank you, Sen. Hinds. Of course, the question related to this is that the Minister would best know the context of the matter and how it relates to the answer to this question. [*Desk thumping*] I cannot presume that the Minister is speaking out of context until the point comes when he draws the reference to how the preamble that he is now in relates to the question that has to be answered. Yes, it is carrying us down a different path, but I assume the Minister—and I think I am entitled to assume that the Minister will put it into context relative to the answer to this question, so we will permit him to so answer.

Sen. Hinds: I thank you very much, Mr. President, and I am prepared to sit for the next hour and I should wait.

Sen. The Hon. E. George: Thank you very much, Mr. President. As I was indicating, when the water gets to the sedimentation basins, there are these travelling bridges that scrape the mud out and send it into what we call a sludge pond. But I want to mention that none of those travelling bridges are working and, therefore, the Authority is forced to pump the mud out using another means. So those travelling bridges are also not working. So we come from where we are taking the water out of the river where the filters are not working and so on.

What happens then is that the water is now sent to other filters where it is filtered out and additional chemicals are fed in, and what is happening is that because of the condition of the water much more chemicals are used, so it becomes a lot more costly to the utility to produce this potable water.

2.20 p.m.

This is the final stage, and at this stage the water goes into a 54-inch main that takes it down south, and a 48-inch main that carries it down the Corridor.

I went through all of this preamble to enquire, as I mentioned earlier on, why this new found interest of the Opposition in WASA, because, obviously, our signal and most important production facility has been considerably neglected and is hanging on by a shoestring. I have asked the management of WASA to present me with an estimate of the cost to do all of these repairs, and I will have to do these repairs in short time, lest that facility collapses. If it collapses, Trinidad and Tobago is in very dire straits with respect to the supply of water.

Let me say that if one wants to privatize an agency like WASA, one cannot. The worst time to privatize it is when it is in this kind of condition; when all of its infrastructure is depleted and so on. [*Desk thumping*] All of the infrastructure has been neglected by the previous government, and this threatens, I want to underscore, this threatens the well-being of the country, because we depend so much on that facility, which is our largest producer of water. I want to underscore that that facility, which ought to be our proudest facility, and the one we are most proud of in terms of water production, our flagship facility, we have not taken care of it. So it has deteriorated to the point where it is virtually going to shut down very soon if we do not take remedial action.

So the worst time to privatize any agency is when its infrastructure is in the condition that WASA's infrastructure is in. And so I come to the major point I want to make; This is the neglect that is the hallmark of the operations of the previous government in respect of WASA, because we have several other facilities, including a lot of the mains that have deteriorated considerably, which have to be changed out now in order to ensure that people get an adequate supply of potable water.

So that with respect to the direct answer to the question of whether the Government has commissioned a study on the privatization of WASA in the context in which I have just explained, the answer is no.

Sen. Bharath: Good answer. [*Desk thumping*]

Sen. The Hon. George: Question (ii) does not apply. And let me say today is World Water Day, and it is a coincidence that I have to answer this question today, because, if one were to consider what has not been done by the previous government to ensure that this country, and its water production and supply

secure, it is what one would call a condemnation of the highest order against the former regime, and their attitude to such a significant and important resource, because water is life.

So I want to point out to the country on this day, our World Water Day 2011, that the previous government was neglectful, considerably, of all of WASA's facilities. I do not know where the money went, but it certainly did not go into WASA where it was desperately needed.

So as I said, Mr. President, the answer to item (ii) of the question does not apply. Thank you very much, Mr. President. [*Desk thumping*]

Mr. President: Senators, it is now 2.24 p.m., so that we will therefore have to move on to other sections of our Order Paper.

PROCESS OF CONSTITUTIONAL REFORM

[Second Day]

Order read for resuming adjourned debate on question [February 22, 2011];

Be it resolved that the process of constitutional reform be pursued through a series of amendments addressing specific areas of concerns;

And be it further resolved that the rationale for, as well as the scheduling and sequencing of each series of proposed amendments to the Constitution, be effectively communicated to the citizens of Trinidad and Tobago prior to debate in the Parliament. [*Sen. S. Ramkhelawan*]

Question again proposed.

Mr. President: The debate on the following Motion which was in progress when the Senate adjourned on February 22nd, 2011 will be resumed. Those who spoke on the last occasion of Tuesday, February 22nd, 2011 are the mover of the Motion, Sen. Subhas Ramkhelawan, Sen. Lyndira Oudit, Sen. Helen Drayton and Sen. Rabindra Moonan. At this stage, Senators wishing to contribute to the debate may do so. Sen. Prof. Ramkissoon. [*Desk thumping*].

Sen. Prof. Harold Ramkissoon: Thank you very much, Mr. President, and fellow Senators, for giving me an opportunity once more to make a contribution in this honourable Senate, this time on a Motion that proposes the way forward with respect to constitutional reform.

Mr. President, as you are aware, there have been a number of discussions, consultations and reports on constitutional reform and I think the time is ripe for us to work out in a systematic manner how we should approach this exercise. Sen. Ramkhelawan has proposed one way forward, and I will come back to this approach and make some comments on it in due course. What I want to do now is to give some history on constitutions and in particular our Constitution.

A constitution is, by definition, a set of man-made laws, principles by which a state or organization is governed. As I said, I think in my last contribution in this Senate, man is a social animal, one, though, who is prone to misbehave from time to time and who therefore needs to be guided.

There are two types of constitutions. There is the written or codified constitution and there is the unwritten or uncoded constitution. Most countries have written constitutions. The United Kingdom, Israel and New Zealand have unwritten constitutions.

My good friend, Sen. Al-Rawi will be pleased to know that as early as 2300 BC that is about 4000 years ago, there is evidence of an unwritten code of laws issued by the Sumerian king.

Sen. Al-Rawi: Hammurabi.

Sen. Prof. H. Ramkissoon: Yes, I am coming to that. Further down there is evidence of a written code of laws, and as the Senator mentioned, by Hammurabi, okay. So constitutions in some form or the other are almost as old as mankind. I had the honour of introducing in this Senate Draco of draconian fame.

2.30 p.m.

Draco had introduced a set of laws in Athens, laws that were too harsh I think in the year 621 BC. Later on in 594 BC came into existence the Solonian Constitution, which in fact was drafted by the then ruler of the City of Athens, Solon. Then, of course, we have modern constitutions of countries such as the USA. The British Constitution, as I said earlier, is unwritten and seems to work quite well. It is, though, the product of centuries of customs, traditions and conventions.

Mr. President, I now turn to our Constitution. Ours is a young nation. The birth of our nation was ushered in, in 1962 with our Independence Constitution of which the late Sir Ellis Clarke was the architect. This was based on the Westminster model, and consequently not well suited, mainly for two reasons. It did not take into consideration the plural nature of our society. Secondly, as I said,

the British model was based on traditions and conventions. We do not have a culture of traditions and conventions. For example, it is not unusual for a Minister in the United Kingdom to resign. Resignation is not part of our culture.

The next step with respect to historical development of our Constitution came in 1976 with our Republican Constitution. This was headed by Sir Hugh Wooding. Then in 1987, about 16 years later, the Hyatali Commission was appointed to hold an enquiry in public, to consider the Republic Constitution and make recommendations for its revision. Noting the inadequacy of the first-past-the-post system, the Hyatali Commission, like the Wooding Commission, proposed a mixed electoral system with a proportional representation component. Again, this was turned down.

In 2006, Mr. President, we had two draft Constitutions, one by the Principles of Fairness Committee—a group of distinguished citizens—and the other by Sir Ellis Clarke. In 2006, the then Prime Minister laid the latter draft by Sir Ellis Clarke in Parliament as a document titled, “The Constitution of the Republic of Trinidad and Tobago”. In addition, there have been calls from a number of our citizens, including constitution experts, for constitutional reform. I wish to add that there were 31 meetings of a round table chaired by the then Prime Minister, and at least 16 public consultations with a subcommittee of that round table.

Finally, in 2009, the then Prime Minister laid in Parliament a working document on the reforming of the Constitution of the Republic of Trinidad and Tobago. A great deal of work has been done and there has been a great deal of talk. As I said, the time has now come for action and the question is: how do we move forward? Is the approach suggested by Sen. Ramkhelawan a reasonable one?

A constitution, like democracy, must be of the people, for the people and by the people. It goes beyond an individual, it goes beyond the party. It must seek to do at least three things: one, to promote national unity; secondly, to promote justice and equality for all; and thirdly, it must avert dictatorial leadership. While it should be treated as something sacrosanct, it cannot be cast in stone and should evolve organically to meet the changing needs of the people and address the burning issues of the day. What are some of those issues? Democracy is more than the right to vote. It involves proper and just representation. It involves the establishment of functioning institutions.

Let me focus on representation. In 1981, the Organization for National Reconstruction (ONR) received 22.8 per cent of total votes, almost a quarter, but gained no seats; while the United Labour Front received 15.25 per cent less than

the ONR, and got eight seats. Where is the fairness in our electoral system? In 1986, the National Alliance for Reconstruction won 66.4 per cent of popular votes and that translated into 33 seats, while the PNM, with 32 per cent or about half of the popular votes cast, captured only three seats. Where again, Mr. President, is the fairness in our electoral system?

In 2007, the United National Congress got 29.85 per cent of the popular votes and 15 seats, while the Congress of the People got 22.71 per cent or about three-quarters of what the UNC got and received no seats. That meant that 22.71 per cent of those who voted had absolutely no representation in Parliament. And the question again: where is the fairness of our electoral system? Mr. President, obviously our electoral system is flawed and is in dire need of reform.

Both the Wooding and Hyatali Commissions recognized that the first-past-the-post system is inadequate and recommended a component of proportional representation. That is a mixed electoral system, both Sir Isaac Hyatali and Sir Hugh Wooding were honourable men. They were also some of the best legal minds our country had produced. The fear that proportional representation would lead to a polarization of our society is, in my view, unfounded.

People today, particularly the young people, are more interested in jobs, they are more interested in crime and a less corrupt society. None of these have shades of colour attached to them. Any party that is not aware of this would find it difficult to survive. There has also been in the past some criticism about the PR system, that it would lead to coalition government. Now that is a non-issue, and I should point out that most countries now do have coalition governments. In my view, coalition government is a limiting case, over time, of a two-party system.

In addition, the mixed electoral system could bring special interest groups into the political arena that can play a positive role in our development. The Green Party in Germany illustrates this point. It represents the environmentalists. It was founded in 1980. It had its first representation in the German Bundestag, the German Parliament in 1983. It is because of their mixed electoral system that the Green Party was able to have representation in Bundestag, and they have since played a major role in shaping the politics of Germany. They have made Germany one of the greenest countries, and are partially responsible for their strong green economy. It is predicted that by 2020 the environmental industry would be the lead component of the German economy, and that it will be the main engine of economic growth in Germany. I should also point out that today there are over 30 green parties around the world. Any reform of our Constitution must, therefore, include electoral reform, otherwise we are going to be perpetuating an unjust system.

Mr. President, I now wish to turn to a second issue, and this issue was mentioned by fellow Independent Senator Drayton, when we had the first meeting to debate this Bill. I want to turn to campaign financing. This is an issue that troubles me and troubles many citizens of our society. While we recognize that financing is necessary for efficient campaigning, there is a growing perception that things are getting out of hand. In fact, some cases are bordering on corruption.

When an individual or company makes a substantial contribution to a political party, he or she sees or views this, in most cases, as an investment and expects a return. That something, for example, could be an overpriced contract. It is morally wrong and corrupt. That additional profit, paid for by taxpayers, could be used to alleviate poverty. But more than that, when a party accepts a large donation from an individual, it stands the risk of compromising itself, the party, and also the country.

We may end up in the situation where an individual appointed, say, as a CEO can become more powerful than the line Minister. He or she can become an untouchable. We need to deal with this problem before it gets completely out of hand. We note that in today's *Newsday* there is an article by a former MP, Mr. Trevor Sudama, on this very, very issue. The article is headed, "Impediments to good governance—Condonation of corrupt behaviour". Mr. President, I should let this honourable Senate and the public know that there are a number of countries that have regulations in place for campaign financing. Some countries, for example, use a combination, with respect to funding, of private and public funding.

Some parts of the USA are trying to promote what they call clean elections, where no funding from the private sector is going to be utilized. We need, therefore, to produce effective regulation grounded in our own political culture. Canada, I should mention, has a long history of campaign financing starting way back in 1873.

Mr. President, the other major issues are, in my view, Executive President, fixed terms and the role of the service commissions. Permit me to make some brief comments here. Men and women love power and control. Once in power, he or she wants to cling on to power for as long as is possible, it is either legitimately or otherwise, and regardless of whether he or she is wanted or not by the people.

It is a human weakness. We have seen and continue to see many examples of this around the world, leading to dictatorial and oppressive regimes. Two terms, or not more than 10 years, in my view, is more than sufficient for a government to implement its programme and its vision.

2.45 p.m.

In addition, term limits encourage change, succession planning and shield the country from dictatorship. Barbados, one of the more politically mature country, rarely allows a party more than two consecutive terms. I do not think I am aware of any occasion where they have allowed a party more than two consecutive terms.

Sen. Dr. Balgobin: Owen Arthur.

Sen. Prof. H. Ramkissoon: Owen Arthur, well there is one occasion there, but in general they allow a party no more than two consecutive terms, and this I think is wise. This would then not allow the situation of where you have a leader for more than two terms, but it is not in their constitution, it is more or less an understanding of the people. And of course, we know in the United States, since 1951, the Presidents are allowed only two consecutive terms.

My colleague, Sen. Drayton, in her contribution mentioned that one may be denying an individual the right to stand for an election. My argument is that the right of the larger society to good governance supersedes the right of an individual. That is my argument. [*Desk thumping*] The Senator has also mentioned the case of Guyana where the current President is now coming to the end of his two terms. He is a very youthful President, one who has done a reasonably good job in Guyana. I think most people would admit that. I have found the President, President Jagdeo, to be one of the more progressive leaders of our region: bright, articulate, visionary and unassuming. He has no airs about him but he is the exception, and he, I understand, has no intention of changing the constitution unlike one of the neighbouring countries. Maybe the message he wants to get across to the politicians and others in the region is that two terms is more than adequate for the head of a country.

Mr. President, let me now get to the heart of the Motion. Given the fact that there has been widespread interest in constitutional changes, there are two questions to be answered and they are embodied in the Motion. These are the questions: do we need a third Constitution, do we need constitutional reform or do we need amendments? That is the first question; and the second question is: how

do we proceed? I strongly do not believe that we need to undertake the mammoth task of coming up with a third Constitution. The current one, in my view, has served us reasonably well.

For example, I do not see any real advantages in moving to an Executive President. [*Desk thumping*] I do not see how this will better deal with our social, economic and political problems or what special benefits it will bring to our people. So I would not recommend a third constitution. Whether then we want constitutional reform or constitutional amendment is another question. To me it makes very little difference once we address the burning issues with respect to constitutional reform.

One of our highly respected a former Senator, Prof. John Spence, in a newspaper article expressed the view that major constitutional review is not needed, but that we should devise amendments to address the issues. He is further of the view that the problem is not in the system but in the way we operate the system, and that is something that I think we need to think about.

Mr. President, I want to now come to the procedure. So again, there are two parts to the question. I have answered the first part, that I think we do not have to go the way of a third constitution; we can undertake either constitutional amendments or constitutional reform once we address the burning issues. The question now is the procedure and the procedure proposed by Sen. Ramkhelawan, if I may state it, is that we proceed with constitutional reform through a series of amendments, addressing specific areas of concerns, and that the rationale for, as well as the scheduling and sequencing of each series of proposed amendments to the Constitution be effectively communicated to the citizens of Trinidad and Tobago prior to the debate in Parliament.

Mr. President, that is certainly one option as to how we proceed, but I think it is a bit too cumbersome. What I would like to suggest instead is the following approach with respect to constitutional reform: Set up a committee and include some constitution experts to go through all the work that has been done before, and a tremendous amount of work has been done on constitution reform. Two, make recommendations with respect to reform or amendments. Three, that these amendments or recommendations be debated en bloc in Parliament; and lastly, proceed with a referendum. This is my suggestion.

Mr. President, bringing about changes in a Constitution is not admittedly, an easy exercise, particularly when you are dealing with a plural society. It is a challenge. You are not going to be able to please all individuals and all sectors of

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the society but that exercise has to be undertaken. Moreover, man could be difficult to govern and sometimes unfit to govern.

I want to end my contribution by a quotation from a well-known former German Chancellor, Konrad Adenauer and I quote:

“God in creating man has hit upon a very poor compromise. If he had made man more intelligent he would have known how to behave. If he had made man less intelligent he would have been easier to govern.”

I thank you most kindly, Mr. President. [*Desk thumping*]

Sen. David Abdulah: Thank you very much, Mr. President. I want to first congratulate Sen. Ramkhelawan for a very important Motion on a crucial issue that affects the lives of ordinary people of Trinidad and Tobago. As someone who as myself participated in discussion on constitutional reform for more than a decade in the Constitution Reform Forum which was launched and organized in 2001 in January, the issue of constitution reform often is not recognized by the citizens as impacting directly on their lives.

Often citizens focus on the immediate material concerns—roads and other issues such as that—and do not necessarily see the linkage between how services are delivered and the issue of the structure of the State and how decisions get made and therefore how the Constitution is constructed to ensure that as the preamble to our Republican Constitution states so very well:

“...that the operation of the economic system should result in the material resources of the community being so distributed as to subserve the common good, that there should be adequate means of livelihood for all, that labour should not be exploited or forced by economic necessity to operate in inhumane conditions but that there should be opportunity for advancement on the basis of recognition of merit, ability and integrity.”

2.55 p.m.

The Preamble also states another very important principle and that is that we the people of Trinidad and Tobago “have asserted our belief in a democratic society in which all persons may, to the extent of their capacity, play some part in the institutions of the national life and thus develop and maintain due respect for lawfully constituted authority.”

One could very well argue that our existing constitutional arrangements, and the way in which certain governments have operated over the past years, have in

fact resulted in our citizens not only playing no part in the institutions of national life but actually feeling totally alienated from the institutions of national life and, as a result of that, have lost due respect for lawfully constituted authority.

The process of constitution reform is essential, not only to ensure that the economy is so organized that the resources are distributed so as to subserve the common good, namely, to deal with all the needs of our citizens, but also to ensure that power is so organized in our society, that citizens can play a part in the institutions of national life and, therefore, by not only having a high degree of respect for lawfully constituted authority, but also to feel that this nation, Trinidad and Tobago, is their own, that we own it and that we are responsible for it.

The tradition of the People's National Movement while in government really has been to undermine that sense of responsibility and collective ownership of Trinidad and Tobago, as they have created, over the years, a culture of dependency and other things which are extremely negative to nation building.

I want to congratulate Sen. Ramkhelawan for bringing this particular Motion. It is really for us in the Senate, as we debate it, to make those connections to how we govern ourselves.

It was very, very important that just yesterday evening the hon. Prime Minister of Trinidad and Tobago, hon. Kamla Persad-Bissessar, on her return from London, stated once again the People's Partnership's commitment to deepening democracy in Trinidad and Tobago, our intention to establish local government within the framework of the Constitution, so that the institution of local government, which is that institution closest to the people and in which they can play a major role as an institution of national life, would be strengthened, given more capacity, more authority and responsibility and included in the constitutional arrangements of our country.

In that way, local government will be respected, not as it was in the past with the PNM, where, not only did they stifle local government, not only did they seek to subordinate local government totally to central government, but between the period 2006—2010, on no fewer than four occasions, the persons on the opposite side, the PNM, postponed local government elections thereby denying citizens the right to vote and establish a democratic process—the election of their local government representatives and thus denied citizens their franchise; no fewer than four times in that period of 2006—2010.

But, that was not the first time that the PNM denied citizens the right to engage in the process of electing their local government representatives. It happened as well between 1962 and 1968 and again between 1974 and 1977, as that party has

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always sought to simply play politics with local government, whereas local government really ought to be close to the citizens of this country, delivering the services and, therefore, meeting the needs of citizens, but they simply want to use local government, have tried to use local government in the past to gain some political advantage.

Compare that to the People's Partnership Government, where at the very first sitting of this Session of Parliament, the hon. Prime Minister announced the date for the local government elections and we therefore ensured that those four postponements would no longer happen and that citizens went to the polls on July 26, 2010 and elected their local government representatives thus bringing meaning to the issue of democracy and representation in a very significant way.

If one was to look at the manifesto of the last government—the Motion does refer to the fact that the People's Partnership had indicated, during the election campaign, that certain constitutional reform measures would be pursued—compare that, for example to that of the People's National Movement. I looked through the manifesto of the PNM, “Caring About You Today and Tomorrow” I think is what it was entitled, I found absolutely no reference whatsoever in that manifesto document to the issue of constitution reform; absolutely not a single reference to constitution reform in that manifesto; nothing, nor was there anything, in the section dealing with Tobago, to deal with the constitutional or other arrangements between Tobago and Trinidad. Absolutely nothing was said in that manifesto on either constitution reform or the relationship between Tobago and Trinidad.

That is somewhat contradictory, having regard to the fact that, in 2009, the then Prime Minister laid a document in the Parliament, which was entitled “The Working Document on Constitutional Reform for Public Consultation.” Not only did he lay it in Parliament, but he also went all over the country speaking to the document, seeking the support of party and country for what was contained in the document and I am going to come back to this a little later on.

It is very interesting that, whereas this working document which many refer to as the “Manning Draft”, because apparently it had no author and since he laid it one would therefore have to say that it was his draft, though he campaigned for it in 2009, did not see it fit to make a single reference to it or any process of constitutional reform in the manifesto of the PNM. But, such is the nature of that party, where they could, on a fundamental issue such as constitution reform, ignore what they were doing for well over a year, by making no reference to it in

what should have been an electoral pledge to the people of Trinidad and Tobago in their manifesto. [*Desk thumping*] But such is the contradictions of which they are well known, and I would return to that somewhat later.

Other Senators have referred to the earlier processes of constitution reform and spoke, of course, to the Wooding Commission. I want to go back a little earlier to that and to make the point that constitution reform in this country, the early process of constitution reform, was really driven by the labour movement. It was as a result of the strike that began on the waterfront in November 1919, and which, over a period of weeks, became what is generally regarded as the first general strike in this country that went on between 1919 and 1920. That strike and that protest movement led the British to establish a commission of enquiry, the Wood Commission of Enquiry, which then led to the first introduction of some element of democracy in that, in 1925, we had some members of the then Legislative Council (Legco) being elected.

Prior to 1925, all the members of the Legislative Council would have been nominated by the Governor or ex officio, as the Governor himself was. The Governor, of course, was also the Speaker of the Legislative Council and there was no right to vote. There was no adult franchise. Adult franchise, in a limited form, came in 1925, where those persons with a certain amount of financial assets or property and who were literate in English were allowed to vote. It was after the 1937 June 19 strike and labour uprising, not only here in Trinidad, but throughout the region, that we got full adult franchise in 1946. The first full adult franchise elections, significant reform of the arrangements of governance in the country in 1946, came as a result of the efforts of ordinary people fighting for democracy, fighting for freedom. The labour movement has historically defended that democracy over the years.

For example, in 1970/1971, when those opposite who were then in government sought to bring a nefarious piece of legislation called the Public Order Act, it was, of course, the labour movement that went to front and stopped that piece of legislation. It was also a popular movement under the name, United People's Front, that campaigned against certain elements of the 1976 proposed constitution at the time and had amendments made to that proposed constitution, which ensured the rights and freedoms of citizens of Trinidad and Tobago. I wanted to go back a little further than Sen. Prof. Ramkissoon did, even though he is my elder in years, but I wanted to go back to that period of the 1920s to show that historical development and situate the importance of constitution reform to those ordinary citizens; those who labour.

In 1971—1974, we had the Wooding Constitution Commission. It is very noteworthy that the Wooding Constitution Commission, having reported in January of 1974, then had its report savaged by the then Prime Minister, Dr. Eric Williams, in a speech in the House of Representatives. I am not sure particularly what Standing Order enabled him to speak for two days, but he spoke for two consecutive sittings of the House, and the entire content of that speech apparently was to move a Motion. But in moving the Motion, he did not get an hour, an hour and 15 minutes or an hour and a half, he actually spoke for more than six or seven hours on two consecutive sittings of the House.

The entire content of that speech was to tear to shreds the report of the Wooding Commission of Enquiry and to supplant the position of his party over that of the consultative process; which the Wooding Commission engaged in over a period of several years; so opposed was the PNM to what Sen. Prof. Ramkissoon was saying a while ago, in terms of the need to have a constitution reflect the culture and plurality of our society and so on.

I heard Sen. Prof. Ramkissoon suggest that there may need to have some form of mixed representation, in terms of our electoral system, given its unfairness in certain election results. Dr. William savaged that approach, because that approach had, in fact, been proposed by the Wooding Commission in its 1974 report, because the Wooding Commission did recommend a mixed system of electing persons to the House and, therefore, forming the government.

3.10 p.m.

What is significant and interesting, Mr. President, as I heard Sen. Prof. Ramkissoon mention Germany and the Greens, is that Dr. Williams took particular exception with Germany and spent about four pages of his speech attacking the German constitution and the mixed system as it operated in West Germany. So it would have been interesting to have heard the goodly Professor go up against Dr. Williams in a debate on that point. I am not going to elaborate on that, Mr. President, suffice it to say that what the Wooding Commission had recommended and I simply want to quote:

“Having regard to our concern to find a system which would meet the twin needs of representation and efficiency, we recommend an electoral system in which the principles of proportional representation and the first-past-the-post system are mixed. It is similar in part to that now used in the Federal Republic of Germany.”

Dr. Williams said that this was the key and he said that he was totally opposed to that.

At the very end of his speech, Mr. President, Dr. Williams then said:

“It is in that spirit that on behalf of my colleagues here in the Parliament and the Cabinet, and all the many thousands of the people who, over the years, have constituted one of the best parties Trinidad and Tobago will ever see,”—of course that was then—“that I have the honour to move the resolution, taking note of these documents of Constitution Reform and putting Parliament on notice, both Houses, as to the steps that will have to be taken as quickly as possible to draft a Constitution acceptable to the country as a whole...”

He rejected out of hand the Wooding recommendations.

“...and avoiding, like the plague, all the mischievous procedures adopted in other countries, or the indigestible diet that has been put up for us, this patchwork of ideas in the Constitution.”

So he referred to the Wooding report and dismissed it as a “patchwork of ideas”. He then went on to say:

“They have done their work. We in Parliament have ours to do.”

And what he meant by that obviously, Mr. President, is that the majority in Parliament, having the majority, would do their work and ditch all of the hard work of the Wooding Commission. That culture of dealing with the issue of constitution reform by the PNM as reflected in the statement by Dr. Williams, seeps right through how they function, which, Mr. President, is perhaps why in this debate not one of the Members on that bench has risen to contribute; absolutely silent.

Sen. Panday: Really, really?

Sen. D. Abdulah: I do not know if they have lost their voice, lost their tongue, whether their convention had some impact on their ability to speak, but something as important as a Motion on Constitution reform, brought by the goodly Sen. Ramkhelawan, those have had nothing to say. They are very voluble on all kinds of other issues and raising questions to the Government, as is their right, but on something as fundamental to the citizens of Trinidad and Tobago, Mr. President, up to now they have had nothing to say. It would be very interesting to hear if they can say anything given the fact that, if I am not mistaken, their party at a convention actually adopted. “The Working Document on Constitutional Reform for Public Consultations”, they will tell me if I am wrong otherwise.

So, Mr. President, we have had that particular experience—I would not talk about the Hyatali Commission. Others have made reference to the fact that in 2006 there were two documents produced, one a private initiative, a draft constitution presented by the Principles of Fairness, and then there was a draft constitution which was essentially the work of Sir Ellis Clarke as a discussion paper, and this was in 2006.

There was actually a third document, Mr. President, for the records, and that was done by the Constitution Reform Forum. It was not in the form of a draft constitution but as what we called at the time, as a member of the CRF, “let us remake our constitution towards a people’s manifesto for constitution reform” in which a number of the principles and approaches and issues that would inform the kind of constitution that the country needs were addressed in that.

What then happened, Mr. President—and it is important for us to be aware of what then happened—was that the government asked two eminent political scientists, Professors La Guerre and Ryan, to engage in a series of public consultations and those public consultations began on October, 23, 2006 and those consultations were on those two draft documents.

The CRF asked Professors La Guerre and Ryan to also consider, as they went around, the CRF’s document “Towards a people’s manifesto on Constitution Reform”. And Messrs La Guerre and Ryan engaged in a process of public discussion/consultation in various parts of Trinidad and Tobago but no report of that process was ever made public. It is quite amazing that the government set up and spent money to engage in a process of public consultation on two documents, one a private document and the other a draft which had been commissioned apparently by the government, and no report was ever made public.

Rather than making the report of that consultative process public, Mr. President, we then heard the announcement of a so-called round table, and, sometime after that, another document then appeared in January 2009, the so-called working document on constitutional reform which really is a draft constitution. It is laid out as a constitution, clause by clause by clause as a draft constitution and so, Mr. President, without having the benefit of the report of Professors Ryan and La Guerre, which would have enabled the public to have some sense of what citizens’ views were at the time in 2006 and going forward on these various drafts, we all of a sudden get a third document out of the blue, so to speak—and incidentally the cover was partially blue—this thing drops, was presented, laid in Parliament.

Then, Mr. President, what happened was, the then Prime Minister went all over the country—and I will come back to that in a while—in what he called a programme of political education by the PNM—I will come back to what nature of education that was. I think since the Motion does refer specifically to the fact that this document had been tabled, we need to spend a few minutes in analyzing the context of this document, and to say why this country was so very lucky that this document never saw the light of day.

It really was in the Greek tradition from Draco. I will demonstrate exactly how, Mr. President, and therefore draconian in the extreme because on page 36 of this document, which was the Manning draft, it said:

“Transitional: The person holding the office of Prime Minister under the former Constitution shall, at the commencement of this Constitution, hold the office of President under this Constitution until a President is elected in accordance with this Chapter and takes and subscribes the oath...”

The Prime Minister would have automatically become the President and one would think, Mr. President, that in fact the then Prime Minister, in calling an early election on May 24, 2010 was hoping that he would have gotten a constitutional majority which would have enabled him to pass this Constitution and then he would have become the Executive President, having regard to the fact that he already had changed the licence plates on his car, taken off the licence plate and put on the symbol of the Coat of Arms, could not go gold so he went silver, but with this he was going from silver to gold. Thank God May 24, 2010 happened and he did not go gold, thank God. [*Desk thumping*] Because that was what he was hoping [*Crosstalk*]

He went back to black and white. He left like the seagull, left a mess, an unholy mess behind too which the People’s Partnership now has to clean up, Mr. President. But it is worse than that, because we are not now dealing with the trappings of office but the nature of the office, and therefore this constitution on page 38 said that, I am sorry on page 37 “Election of President”.

3.20 p.m.

Therefore, this constitution, on page 38, “Election of President”, section 42(2):

“Where after a general election a political party secures a majority of the seats in the House of Representatives but its candidate nominated under...is not elected as a member of the House of Representatives...the Chairman”—of the Elections and Boundaries Commission—“shall...declare that member to be the President elected.”

So the person will be declared by the Chairman of the Elections and Boundaries Commission, and I will come back to who appoints the Chairman of the Elections and Boundaries Commission in a while because when you read this you will see not just Draco but the emperor operating in full.

So the political leader of the ruling party would become the President and if the presidential candidate was not elected to the House, then the political leader of the ruling party would appoint the person. So whoever is the political leader of the party either becomes the President or determines who the President is.

When one goes to the issue of the Parliament and comes to the Senate, this honourable Senate would recoil in horror, I am sure, because the composition of the Senate shall be as follows:

- “● nineteen shall be appointed by the President acting in his discretion;”—not a half/half thing now;
- “seven shall be appointed by the President acting on the advice of the Minority Leader;”—which is more or less what is on the other side;
- “...eleven shall be appointed by the President after consultation with various interest groups...”

He is obviously not bound to follow the advice of the interest groups. He shall appoint after consultation. In effect, Mr. President, the President would have been able to appoint 30 of the 37 Senators in this Senate and what we now have as an Independent Bench would not now exist. That is the power which the emperor wanted to give unto himself had he won the election on May 24, 2010.

Then we come to the Elections and Boundaries Commission, which is on page 86:

“92(1) There shall be an Elections and Boundaries Commission...

(3) The members of the Commission, including its Chairman, shall be appointed by the President, after consultation with the Minority Leader.”

Not “on the advice of”. We all know what “after consultation” means in the context of constitutional arrangements. It simply means that I have talked to you; I have heard what you have to say and I shall do what I want to do. Therefore, the chairman and members of the EBC are appointed by the President; and the Chairman of the EBC has to appoint the President; the circuitous—I am trying to find a polite word, but it escapes me.

Hon. Senator: Nepotism.

Sen. D. Abdulah: It is worse than nepotism. The arrangements that the party of the balisier was promoting all over the country were on this. Then they had the “brass face” to attack us saying that we are not concerned with democracy. No Senator opposite said a word against this draft document; not one. That is why they are silent today. In terms of the Cabinet, it is appointed by the President and, therefore, all the Ministers are subject to that.

Then we go to permanent secretaries. All kinds of attacks were made on the People’s Partnership about permanent secretaries and what the Prime Minister is doing and whether the Cabinet is interfering with permanent secretaries and so on. So when we come to permanent secretaries, they can veto, as the Prime Minister can now, and the President can also transfer a permanent secretary.

The permanent secretaries are appointed by the Public Service Commission under this Manning draft, but who appoints the commission? Let us go to the Public Service Commission. When we go to the PSC, the members of the Public Service Commission shall be appointed by the President. So the Permanent Secretaries are appointed by the Public Service Commission, but the Public Service Commission is appointed by the President. In effect, the permanent secretaries are appointed by the President.

The President makes nominations, but the nominations for the Public Service Commission go to the House of Representatives, simply subject to a negative vote. If he is the ruling party, the majority will vote and, in effect, the Public Service Commission is appointed by the President. Similarly, ipso facto, ibid—whichever is the right Latin word, my friend, Sen. Al Rawi will correct me on my Latin ibid—the same for the Police Service Commission, appointed by the President.

Let us remember the President is the main political person. He is an elected person. The Teaching Service Commission—appointed by the President. We can almost have a calypso going here—Prof. Watson is good at calypso—and the refrain after I sing is: Appointed by—

Hon. Senators: The President.

Sen. D. Abdulah: Appointed by?

Hon. Senators: The President.

Sen. D. Abdulah: Appointed by?

Hon. Senators: The President.

Sen. D. Abdullah: Appointed by?

Hon. Senators: The President.

Sen. D. Abdullah: Mr. Manning. Sans humanité! Absolutely right! Without mercy on the citizens of Trinidad and Tobago and without mercy on the democracy of Trinidad and Tobago. Sans humanité! Even the Education Human Resource Agency within the Teaching Service Commission, appointed by?

Hon. Senators: The President.

Sen. D. Abdullah: Mr. President, we are not referring to you. For the citizens who are viewing on television and listening on radio, we are referring to the proposed Executive President under the Manning draft constitution which was laid.

There are more. Public Service Appeal Board: So public servants have problems with their rights as they often do—and now some of them are saying they have problems with their rights—they have the right to challenge via appeal tribunals. There is a Public Service Appeal Board, and who appoints the Public Service Appeal Board?

Hon. Senators: The President.

Sen. D. Abdullah: Mr. President, the Ombudsman is appointed by the President, subject to negative resolution of Parliament, but he controls the Parliament because he is the political leader of the ruling party.

Then we come to the Judiciary. I know this one is of concern to you being someone who has practised before the courts for many years. What was proposed was the establishment of a permanent secretary in the Judiciary, who shall report to the Minister of Justice. Now this person within the Judiciary, described as the permanent secretary of the Judiciary. Of course, we all know already how permanent secretaries are appointed and so there would have been a Trojan horse within the Judiciary appointed by the President to know exactly what was going on. You did not need the SIA to know what was going on within the Judiciary. He would have had his own permanent secretary as the Trojan horse.

It is worse than that. The Chief Justice, section 128(1):

“The President shall, after consultation with the Minority Leader and the President of the Law Association, nominate a person to be appointed as the Chief Justice.”

That person would be subject to negative resolution of Parliament. We know who will be in the majority of the Parliament. So, in effect, the President would appoint the Chief Justice.

What about the judges? Well:

“The judges...shall be appointed by the President”—but this time—“acting in accordance with the advice of the Judicial and Legal Services Commission.”

So he would have to appoint who the Judicial and Legal Services Commission would recommend. However, the Judicial and Legal Services Commission is appointed by?

Hon. Senators: The President.

Sen. D. Abdulah: So, the President appoints the Judicial and Legal Services Commission in his own image and likeness and, therefore, they are unlikely to make recommendations for the appointment of judges. Therefore, in effect, the entire institution of the State would have been under the thumb of the President, under this Mr. Manning draft constitution, laid and defended by him and his party throughout Trinidad and Tobago in public meetings.

That was the nightmare. The Judicial and Legal Services Commission, after consulting with the President, would have appointed the Solicitor General, the Chief Parliamentary Counsel, the Director of Public Prosecutions, the Registrar General, Chief State Solicitor; but if the JLSC was a creature of the President, then all those appointees who have important independent roles under our existing Constitution would have been political appointees.

Yet the other side wants to criticize our Attorney General when he raises a concern with respect to Calder Hart. I do not know how they could be so bold to do so when they wanted to have their President appoint the Judicial and Legal Services Commission which would have in turn appointed the Director of Public Prosecutions and what we, therefore, would have had was a nightmare. It was a dictatorship.

So much did this individual think that he was Lord Something Else that at page 98, the President also had the power of mercy and the power to pardon. He was creating almost to himself the power of God that, in the word of Louis XIV, “L’état c’est moi.” The State is me. This constitution embodied the State in a single individual, being the President. It was that nightmare which we rescued this country from on May 24, 2010.

What was ironic is that, in going around the country in a so-called political education—it was a party activity, so I do not know how Senators opposite will disassociate themselves from that. Sen. Hinds has suddenly gotten quiet. What is the right word, Sen. Hinds? Discombobulated? Have I got it right? You are perhaps so discombobulated by the evidence before you that your normal vociferous self has been stunned into silence.

Sen. Hinds: I am trying to remain awake.

Sen. D. Abdulah: Mr. Manning at the time, in defending this document in his political education sessions, talked about the philosopher Montesquieu developing the separation of powers—I am sorry I had asked for the particular newspaper, but I sure I am absolutely right—and the importance of the separation of powers between the Executive, the Judiciary and the Legislative arms.

All of that was not Montesquieu, Mr. President, it was “mamaguy”. It was not political education; it was political “mamaguy”. This was not about separation of powers; this was about the centralization of power into a single individual and all those Senators opposite went around taking on that “mamaguy” of political education; of so-called enlightenment PNM style, which is really why I talk about PNM revisionism. They cannot escape the fact that historically they have stood against the interest of deepening democracy in Trinidad and Tobago.

[*Desk thumping*]

3.35 p.m.

They stood against that; so much so, Mr. President, that the hon. Chief Justice, at the opening of the 2009/2010 law term on September, 16, 2009, was moved to comment on this working document. He would not have used the words “Manning draft”. He referred to it as it was officially defined as a working document. And so he said—and I wish to quote from his address, if I may, Mr. President.

“The proposed constitution represents something far more fundamental than an amendment or revision of the existing constitutional arrangements. It is a complete rewrite of the social contract that is to govern the way in which our institutions function and interrelate.”

The words of the hon. Chief Justice—[*Crosstalk*]

Sen. George: The Chief Justice said that, you know.

Sen. D. Abdulah: —very cautious gentleman, saying that this was far more fundamental than an amendment or revision; it is a complete rewrite of the social contract, complete rewrite. He then went on to say:

“Presumably it is premised on the assumption that there are several aspects of the existing constitutional arrangements that are not working satisfactorily. Presumably also, the proposed arrangements have specific objectives in mind and are perceived to be superior in achieving those objectives. The discussion would have been better informed if both the shortcomings and the objectives had been articulated in writing with some specificity along with the draft.”

In other words no reason, no rationale, drop the draft out of the blue. And so he went on to say that he trusted:

“...that as a nation, we are moving forward on the basis of certain fundamental principles to which we all adhere. These include the paramountcy of the rule of law, the separation of powers and the independence of the judiciary. I make this assumption because I have listened very carefully to what the Honourable Prime Minister has said during the current series of public meetings and he has articulated those principles as the basis for constitutional reform, including the importance of institutional independence as well as individual judicial independence in the adjudication of matters before the courts. What I have to say, therefore, is by way of reinforcement of those principles but in the context of the draft that has been put out for public comment. It is a critique of the draft only, and not of any person.”

And he then went on to say:

“The rule of Law is unsustainable without scrupulous adherence to the principle of separation of powers. It is for good reason that we refer to the separation of powers and not the separation of responsibilities. The separation of powers is not a provision of the Constitution. It is the philosophy underlying the Constitution and the framework upon which government is structured so as to harness individual human nature (in the sense of providing both focus and restraint) to serve society at large. In that context, Judicial Independence is a device, a set of structural arrangements, to get something done—to implement the Separation of Powers.”

The Hon. Chief Justice then went on, Mr. President, to say:

“It is against that background and understanding that I must confess to some concern when I read some of the provisions of the draft constitution that refer to the judiciary. They do not meet the objectives that have been otherwise publicly articulated and, in fact would, if passed, take us in the opposite

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direction”,—opposite direction. [*Desk thumping*]—“In my respectful view they stem from a fundamental misunderstanding of our role and function and have disturbing implications for judicial independence.”

He went on to say:

“The danger lies in the potential to gradually and systematically strip the judiciary of its independence and the citizens of their protection through ordinary or subordinate legislation requiring no special majority.”

He went on to say:

“The point is best illustrated by the posing of a rhetorical question. If you were one of the parties to a lawsuit, would you feel comfortable in knowing that the party on the opposite side could have access to the judge’s chambers, could control the filing of documents and the keeping of all the records in the matter, the selection of the judge who would handle the matter, the scheduling of courtrooms and other resources, the composition of the judge’s support team including his or her research assistant, all the information, technology and security associated with the matter and the court, the judge’s leave and travel approval, training, reading material and personnel records?”

Mr. President: Hon. Senators, the speaking time of the hon. Senator has expired.

Motion made, That the hon. Senator’s speaking time be extended by 15 minutes. [*Sen. The Hon. S. Panday*]

Question put and agreed to.

Sen. D. Abdulah: Thank you very much, Mr. President. I am continuing the quote from the Chief Justice.

“You might with some justification entertain great apprehension that the scales could be tilted against you.”

That is what they wanted to do, tilt the scales of justice, Mr. President. The Chief Justice went on to say:

“Perhaps the most worrisome clause is clause 125, which gives Parliament the power to confer on any court any part of the jurisdiction and powers conferred on the High Court by the Constitution or any other law. It requires no special majority, nor does it require that the new court or courts enjoy the constitutional protections designed to ensure the independence of the Supreme Court.”

Mr. President, I commend the address of the hon. Chief Justice at the opening of the 2009/2010 law term to all members of this honourable Senate because he made the point that I made earlier, about the way in which the Chief Justice and members of the Judicial and Legal Services Commission being appointed by the Executive President as well as the service commissions and so on. In fact, the Chief Justice said that:

“Service Commissions were originally created for the express purpose of insulating certain public offices from political interference.

...The nation has to decide whether we still want that.”

So, Mr. President that was where we were on May 24, 2010 and the country was rescued from the State becoming one individual. Compare that now, to the manifesto of the People’s Partnership. The People’s Partnership very boldly put out in our section on good governance, “Participatory Democracy The People are Sovereign.” And we said and I want to quote—because this is Government policy now, Mr. President:

“As a matter of urgency, our government will engage the population in consultations for Constitutional Reform. We will observe the bedrock principle that the Constitution should emerge out of the collective aspirations, will and judgment of the people of Trinidad & Tobago. The difference will be that consultations will inform and influence documents produced and positions taken by Government. Our Government will table amendments to provide for and/or strengthen provisions for the following, as may be required.”

A number of bullet points were identified here.

Let me just make a few points here, Mr. President. One is, “The introduction of Procurement Legislation which is fair, efficient and transparent”, and that has been done by this Government and we are in the process of addressing that through a joint select committee of Parliament to ensure that we have good procurement legislation in this country. “Mandatory provisions for making Local Government an integral part of the governance process”, and the hon. Prime Minister spoke to that once again last night:

“A right of recall for non-performing parliamentary representatives. Fixed election dates for national and local elections. Mechanisms for a referendum process. Limiting the Prime Minister to two successive terms as Head of Government”.

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Mr. President, those are very bold positions taken, demonstrating without a shadow of a doubt that the People's Partnership is committed to deepening the democracy.

Sen. Prof. Ramkissoon made the point that persons in power do not relinquish that power easily, but here it is this Government before the election, in our manifesto, said that we are prepared to introduce and table amendments to the Constitution to limit the Prime Minister to two successive terms as head of Government. That demonstrates a commitment to democracy which that other side cannot even think about. [*Desk thumping*]

In fact, not only can they not think about limiting the Prime Minister to two terms in government, they have difficulty thinking about one member, one vote within their own party. [*Desk thumping*] They have difficulty in doing that; as expressed by former councillor, Leslie Lynch, representative for San Fernando East constituency at your convention, where he said that to introduce one man, one vote democracy is to allow drug lords. Does that suggest, therefore, that to introduce one person, one vote adult franchise in Trinidad and Tobago in 1946 was to allow drug lords to control who is elected? "Ah mean, give us a break", but that is the culture that comes out of San Fernando East, which has been relegated to the dustbin of history, thank God, Mr. President.

3.45 p.m.

So, with respect to Tobago—Sen. Cudjoe likes to talk about Tobago and the interest of the people of Tobago with extreme vigour, and that is her right, and we enjoy that and so on—in her party's manifesto there was not a word about Tobago. In the People's Partnership, Tobago is side by side.

Sen. George: I do not believe that. [*Crosstalk*]

Sen. D. Abdulah: We went on to speak about:

- "Review the matters listed in the Fifth Schedule of the THA...and other relevant sections.
- Bring to the Parliament a Bill to amend Section 75(1) of the Constitution so as to give the THA Executive and Legislative authority for matters under the Fifth Schedule and other matters incidental thereto."

and so on. That is our commitment, serious constitutional reform; deepening democracy in the country; allowing citizens to play a fuller role in the institutions of national life and, therefore, develop a healthier respect and regard for legally constituted authority.

What does the other side do? Undermine institutions of national life; place all constituted authority in the hands of one. I think there used to be a radio programme—what was it called? [*Interruption*] “The Voice of One”? This was a little before my time, with Larry Harewood. Well, that Constitution was voice of one, the power of one; everything of one. The only thing that he did not realize is that he was the only one who did not know he was not wearing clothes; like the proverbial emperor. That is the culture. So, that is our manifesto, very clear government policy expressed in the manifesto of the People’s Partnership. We have been pursuing that through a process of engagement in the office of the Prime Minister.

The Minister of State in the Office of the Prime Minister has been engaged in a very significant consultative process by meeting with civil society organizations. I, myself, know because, wearing several of my other hats, I have had two meetings with him as part of delegations representing civil society and so on, and the draft terms of reference for constitution reform process, not constitution reform as a document, as gospel, as detailed or as a proposed amendment, but draft terms of reference for a process going forward have been developed, and those draft terms of reference speak to a process of very widespread consultation.

I have to depart here from Sen. Ramkissoon and be closer with Sen. Ramkhelawan in that the process of consultation will not be after the document is tabled, but rather to develop a document in the first place. So, the proposed terms of reference will see public education and information, much like what the Wooding Commission did in its “Thinking Things Through” process of educating citizens about the existing Constitution; the options that exist for dealing with an Executive, a Legislature and other institutions of the State; checks and balances; the electoral process; local government and so on, educating our citizens, getting their views and then, of course, through that process, developing proposals which will come back to Parliament and to the citizens of Trinidad and Tobago—in other words, a very deeply consultative process as spelt out and committed to in our manifesto.

And, yes, the terms of reference do speak to some priority areas. Which priority areas were the four areas addressed in the manifesto? The right of recall, referenda, term limits and fixed election dates. What could be more significant in terms of acting as a check and balance on the abuse of power and on the unfettered power of the Executive than to put things like right of recall; term limits, referenda and fixed election dates? No longer will a Prime Minister be

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walking around with some election date in his back pocket, front pocket or some pocket that does not exist to drop it like a bombshell and so on, to try and score political points and to win office on the basis of that, but to put in place better governance. At the root of the process of constitution reform is the need for good governance.

When we saw a photograph of a podium in the newspapers with the word “resurgence” in bold letters over the last weekend, one was deeply disturbed, because we have to ask, resurgence of what? Is it resurgence of the nature of governance that this so-called working document was going to bring about? Is it resurgence of Calder Hart, of special purpose companies running riot with the resources of the country so that the resources would not be used to subserve the common good? Is it resurgence of legislative actions such as the Public Order Act? Is it resurgence of corruption in all its many forms at UTT, Petrotrin and of mismanagement? The question is, resurgence of what? Certainly, on this side, we are confident that the People of Trinidad and Tobago want absolutely no resurgence of that kind whatsoever. We do not want to be covered by a tsunami of that kind whatsoever that will destroy everything in its path as was being threatened prior to May 24 with the so-called working document that went out on constitutional reform put out by the balisier and others.

What we do want is good governance in Trinidad and Tobago; what we do want is consultative processes to be developed in Trinidad and Tobago; what we do want is putting in place legislative provisions to deal with public procurement; what we do want is legislation that will deal with crime; and what we do want is accountability and transparency at all levels of government in Trinidad and Tobago. If those are the things that the citizens want, then two things are necessary. Constitutional reform is necessary in that regard and the process by which we get that constitutional reform is very important, a process which we are developing through draft terms of reference. I should say that the draft terms of reference are that, draft.

Civil society groups have been asked to comment and have been commenting on the terms of reference so that we could get the terms of reference as right as possible, because the better the terms of reference, the better the process. The better the process, then the better the outcome and the more likely we would get an outcome that is in the best interest of all the citizens of Trinidad and Tobago, and that is the People’s Partnership and thank God we had May 24th to have this

process, because, if not, we would have had l'état, c'est moi, l'etat, c'est Manning. [*Desk thumping*] L'état certainly was not Manning, l'etat certainly will never be one person as they would like to have in the culture of that party, in the culture of their governance and that resurgence will never happen.

Thank you very much, Mr. President. [*Desk thumping*]

Sen. Panday: “The PNM gone down!”

Sen. Dr. Rolph Balgobin: We would chalk it up to my ability to capture the eye of Mr. President, first. Thank you, Mr. President, for the opportunity to speak. I suppose the structure of the Motion permits debate on the merits and demerits of the current Constitution as well as its alternatives and so, it is, I suppose, that we must necessarily consider many of the arguments mooted both here and in the wider society.

Mr. President, I propose just to say a few things and really to land my contribution by the 4.30 p.m. mark, and I suppose I should begin by picking up on something Sen. Abdulah said, and would like to make the point that I am from San Fernando and do not feel that—I am not from San Fernando East, but I am from San Fernando, a product of San Fernando. I do not feel that part of my culture is relegated to any—

Sen. Abdulah: “A Pres old boy too.”

Sen. Dr. R. Balgobin: “A Pres old boy” and that need not be an indictment. I am proud to have gone to Presentation College. [*Desk thumping*] It is a very good school. Just in defence of San Fernandians, I think that south has produced many good persons, and if San Fernando stands as a proxy for south, then I should point out that the current Prime Minister also hails from south, and we ought to be mindful of how we speak about particular geographies, because persons can be sensitive about those things. I do still feel, notwithstanding the fact that I hail from San Fernando that I can make a contribution, and I propose to do that and try to keep it as brief as possible.

I would start by agreeing with Sen. Abdulah or agreeing with a fundamental proposition that his contribution has put forward, and that is that democracy is a durable thing. If democracy was not a durable thing, then many of the concerns that Sen. Abdulah had would have come to pass. [*Desk thumping*] So, I think that it is autocracy that is fragile.

If you look at how people behave, they will not, as a general rule, I suspect, tolerate enslavement or oppression ad infinitum. Look at Egypt, Tunisia, Libya and even further afield at less repressive environments like Jordan and Bahrain,

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what are you seeing? You are seeing people rising up and saying that they want to have a voice, they want to be able to speak and they want their colleagues, their fellow citizens and their government to listen, to hear and to be an instrument of what they are trying to say as opposed to telling them what they should hear.

I think that constitutions are critical in this regard. Constitutions are meant to guide us and provide some kind of framework for us to live with each other. A constitution or any constitution, once you hear of one, implies fairness; it implies transparency; it implies good governance but, Mr. President, a constitution cannot ensure these things. No constitution can.

I have watched the debate on constitution reform or change or transformation or redrafting or amendments for several years now with growing concern, because it is disturbing to see documents, and our Constitution as a document, in particular, being blamed for people's behaviour. [*Desk thumping*]

It leads directly, therefore, into a general question of what is it that we are trying to fix. We want to change the Constitution or we want a new Constitution, but what are we trying to fix? Five things come to mind. They jump out because they are things that have really captured the public's imagination over the years. One, of course, is the issue of representation. To what extent does our political, legal and institutional framework permit the average voting citizen in Trinidad and Tobago to have a voice and to have that voice be heard?

If a citizen cannot express himself or herself in a way that allows them to be heard, then democracy is, in fact, a sham. It is the merest delusion. So the question of representation becomes absolutely essential, and the principle alone is sufficient or should be sufficient to guarantee that, any effort to look at our Constitution critically pays attention to this particular point, because we are a small society but a complex one, and we must ensure that our political system does not inadvertently disenfranchise large groups of persons who, for whatever reason, have not voted for one mainstream party or the other.

4.00 p.m.

Another issue related to representation but more in terms of service, Mr. President, that jumps out at us, would be this whole notion of where local government fits in with national government, when you have an island as small as this. How do you juxtapose the two when the local government operatives are, in many instances, operating cheek by jowl with people who are doing national work? And there clearly has to be some thought put into how we juxtapose these two things, whether that is, in fact, a false dichotomy, and if it is not, how do we

treat with it so that we carry it forward in a way that allows our citizens to be best cared for, because our citizens are not always able to discern where the distinctions lie.

So our citizens might see, for example, a CEPEP crew doing something and there may be a glaring issue that is, in fact, the work of local government right there that needs to be addressed and the citizens say: “Well look, the government does not know what it is doing”, completely unaware of the inner workings of government that would allow a problem to be addressed at one level as opposed to another, because citizens often just see government. And even within that, that notion of local versus national government, Mr. President, one has to pay attention to the recent, I would not say unravelling of a relationship, I would say challenges that appear to have surfaced between the Mayor of Port of Spain and the Minister of Local Government, where the Mayor of Port of Spain actually writes to international bodies and so on, seeking protection.

Now, I am not quite sure how that is supposed to work out in a positive way, but certainly, for me, as a citizen, what I am interested in is not how well these folks get along as much as how well do the citizens of Trinidad and Tobago, and those located in Port of the Spain in particular, are served by the government, whether it is local or whether it is national. So I think that is a second issue that bears some consideration.

The third would be this question of an Executive presidency and the power of the Executive and what is the ideal governance model that we should use. There are a great many people, Mr. President, who speak of governance in general; in terms of the private sector and so on we speak of corporate governance in particular, but I can safely say that there is no governance model that exists at present on earth that is ideal. They all have their problems and it comes back to a point that I made earlier, that is, they are all susceptible to people who would act dishonourably, but, of course, we must consider the merits and demerits of this.

The fourth issue would be the service commissions model, which, for whatever reason, appears not to be working as effectively as it might. What is of greatest concern to me is not the model itself but the product of the model, because, what we have generated inadvertently or otherwise, Mr. President, is an environment that is largely consequence free and a consequence free environment cannot be good for serving the public, for serving the citizens of Trinidad and Tobago, and so, those service commissions models need a lot of work.

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Of course, finally, Mr. President, in terms of observations and what jumps out at one, when thinking about constitutional change and amendments and so on, would be the question of fixed terms, and I raise that simply because it does not, in my mind, pass the test to say that because other countries are doing it, we should do it. I think that we need to be clear on why we are doing it, if our context really is suited for that. The reason I would say that, Mr. President, is because the electorate ought to have the ultimate power, every five years anyway, especially if you fix it so that the electorate can actually vote for the Prime Minister, which would be a novel change to the way that we do things.

But, Mr. President, any constitution, particularly ones that get older and older as time passes, would have gaps that would leave us open to abuse and questionable decisions. This Constitution that we are currently living and operating under is no different and there are aspects of it that can be used to justify anything. I will read, Mr. President, if you permit me, a section in the Preamble of the Constitution. The Preamble, section (d), which says:

“recognise that men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law;”

And that, which does not really form even part of the substantive document, was used to change a government.

There is no legislation that you could pass to prevent something like that, to prevent this from being used as an instrument like that, and, of course, there are other instances. There is the SIA, SAUTT, there are lots of other things that one might reasonably question but you cannot possibly legislate for or even structure a constitutional document to prevent.

How do we fix it then, Mr. President? The first question which the motion purports to answer, suggest—well, really the first question is: do we fix it in whole or in part? The Motion answers that question in advance for us by suggesting that we fix it in part, and that is by a series of parts that then add up to fixing the whole. And, Mr. President, what I would say is that that has been happening for several years. Even as we contemplate changing the entire document, we have been making amendments to our Constitution and so on, and so I support that view.

I would go further to say that I support an inclusive view of the issue and I hope to come back to that in a moment, Mr. President. What I would say again is that we cannot legislate integrity or proper behaviour, we cannot legislate selflessness. If people are going to behave badly, they are going to do so in spite

of what is written down, not because of it or because of some gap in what has been written. And, you know, I would say, even to Sen. Abdulah, there are instances on all sides of the divide where things go awry, and it is not the province of any one political party for errors to be made or misbehaviour to occur.

I was reading the Code of Conduct for Parliamentarians, and it says there explicitly that Ministers ought not to try to get jobs through other Ministers in publicly contracted works and so on, but do you have, simultaneous with my reading of that, any of your Ministers saying: “Hey, you know, we are the Government and I should be able to employ people?” And these are really the realities that we have to face and treat with as a society and not tell ourselves, as we have been doing from election to election, that mistakes and improper behaviour are the sole concern of one party or the other. I think the problem, the challenge has gone beyond that and I think the opportunity to fix it also lies in a much broader domain.

4.10 p.m.

Mr. President, I would also make the observation that when we concern ourselves overmuch with the limitations of a document, as opposed to the limitations of our own actions and behaviour, we become enamoured of process and particularly of this notion of due process, and due process drives, in part, this conversation. We could take that to a logical conclusion.

I must say, I was very concerned to hear some of the attacks being launched against the Minister of Health when she intervened to resolve a matter regarding the most untimely death of a young mother in the San Fernando General Hospital. I say that because I do not have to agree with what the Minister does or even what the Minister says. What I take issue with is that people grab on to this notion of due process and say that the Minister must follow due process or the board of the SWRHA has to follow due process; everybody has to follow due process.

You hear people pontificating about the rights of doctors and the rights of nurses, and they deserve to have their rights protected. What about the rights of the parents of that girl, or the husband of that wife, or the children of that mother? They have to live with the devastation that has been wrought by that mistake, whatever mistakes were committed, long after this becomes a non-issue. [*Desk thumping*]

Sen. Panday: True!

Sen. Dr. R. Balgobin: I do not hear anybody arguing for their rights or for why due process was not—[*Interruption*]

Sen. Panday: Hon. Senator, can you give way? Last night, on the Prime Minister's return, she spoke about patients' rights.

Sen. Dr. R. Balgobin: Sorry, I should clarify "by anybody". I was excepting Government. I am talking about the national conversation. You hear a lot of this notion of due process and, "There is a way to deal with these things," and "We have to deal with it the right way," and we become so enamoured of process, sometimes we can miss the most important thing that is right in front of us, which is that a young mother and wife is dead. [*Desk thumping*] How is that okay? I think we have to be mindful of some of these things and stop seeking answers in documentation, as it has become sort of commonplace in our society so to do.

Mr. President, no Constitution can fix the intolerance that is rearing its head in our society. I think that democracy's core element is conversation, and the relentless effort that I see in the society for us to categorize each other sometimes prevents us from listening to each other. I have seen it rear its head even amongst my colleagues here, where people make contributions and some people say that they are a Senator of one group or the other. That is most unfortunate, because we are all here trying to make our contribution, and when we label each other and use those labels as an excuse not to listen to each other, we judge the messenger as opposed to the message. We are losing a fundamental aspect of our democracy.

If in a democratic environment we stop listening to each other, no Constitution can save us—no Constitution can save us. For this reason and because I recognize the importance of conversation and engagement, I have to join in the observation of my colleague that the silence of the Opposition is— [*Interruption*]

Sen. Panday: Frightening! Deafening! Disturbing!

Sen. Dr. R. Balgobin: I would say "distressing", but I would confine myself to say that it is notable. [*Laughter*] I hope this is because my friends—many of them I count as my friends—have nothing to say. If that is the case, then that silence is warranted, because one should never stand and speak if one has nothing to say. [*Laughter*] It wastes too much time. I always try to keep that in mind. [*Interruption*]

Sen. Panday: Then the PNM should never speak! [*Laughter*]

Sen. Dr. R. Balgobin: If the truth is that anyone here has been muzzled, on either side, about anything, that would be an unfortunate reality, especially in this particular situation, because the Opposition has done more constitutional writing

that anyone in this country. We all have a part to play, and I am sure before the close of this particular Motion we would hear from them. I know that they have a lot to contribute.

What I would say, Sen. Panday, “picong” aside, crosstalk aside, I have seen the genuine spirit of collaboration that has been extended by the Opposition to the Government. That is something that ought to be recognized explicitly and lauded. I sit on a joint select committee and the Senators there really do their best to contribute and to advance the interest of Government, as we try to find a way forward, so I know that the Opposition has a valuable input and set of contributions to make. I am, therefore, very hopeful that they make it.

Mr. President, we must listen to each other, we must work together. In this spirit I wish to suggest, in closing, an amendment in accordance with Standing Order 31.

I beg to move that the Motion be amended in the first resolution by leaving out the words “be pursued through a series of amendments addressing specific areas of concern” and inserting the words “a Joint Select Committee be established to consider” after the word “that” in the first line. In the second resolution by inserting first the words “this committee report to Parliament on” after the word “that” in the first line, and, secondly, the words “within three months of its appointment and that the contents of this report” after the word “Constitution”. With all that legal sounding language, the result would sound something, I presume, like this:

“Be it resolved that a Joint Select Committee be established to consider the process of constitutional reform;

And be it further resolved that this committee report to Parliament on the rationale for, as well as the scheduling and sequencing of each series of proposed amendments to the Constitution, within three months of its appointment and that the contents of this report be effectively communicated to the citizens of Trinidad and Tobago, prior to debate in the Parliament.”

Mr. President, I thank you.

Sen. Corinne Baptiste-Mc Knight: Mr. President, I rise to second the Motion and reserve my right to speak at a later stage of this debate.

Mr. President: Hon. Senators, the amendment to the Motion has been seconded by Sen. Baptiste-Mc Knight.

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The Resolutions, therefore, as amended will read as follows:

“Be it resolved that a Joint Select Committee be established to consider the process of constitutional reform;

Be it further resolved that this committee report to Parliament on the rationale for as well as the scheduling and sequencing of each series of proposed amendments to the Constitution within three months of its appointment and that the contents of this report be effectively communicated to the citizens of Trinidad and Tobago prior to debate in the Parliament.”

Senators from this point on may speak either to the original Motion or to the proposed amendments.

Question on amendment proposed.

Sen. Embau Moheni: Thank you, Mr. President, for affording me the opportunity to make my contribution on this Motion.

We all know that the Constitution is of critical importance in any society. While I appreciate the concerns of Sen. Dr. Balgobin in recognizing that the mere documentation of laws and principles is not going to compel a certain type of behaviour within a society, we also need to recognize that the Constitution itself, because of how it is framed and what it represents to a people, does have a very strong and lasting impact on how people respond to their society, how they respond to the State.

We need to ensure that collectively we present the Constitution in such a manner as to solicit the type of confidence from our population that could be the only guarantee to having the kind of ordered society that we all yearn for. We need to recognize that the Constitution is there to serve man and not man to serve the Constitution. The Constitution is there to serve the people, and I think that in too many instances we look at the macro while ignoring the micro.

4.25 p.m.

The constitution of a country should reflect and represent the will of the people of that country and hence, as we move forward, it is so important that the very participatory democracy that has become Government policy, arising out of the manifesto of the People’s Partnership, be the very point of departure or the starting point from which we formulate any changes or the changes that need to be made in the Constitution.

The Constitution should also represent the spirit of our nation, the spirit of our people who yearn for the kind of arrangement, the kind of guarantees, the kind of safeguards that are so necessary for us to be able to pursue our goals, our aspirations, our hopes. Notwithstanding the fact that we are all searching for the

right mechanisms, the right principles and the right arrangements that need to be formulated in coming up with the type of Constitution that could ensure or that could best guarantee that our society could be so better organized—because this is at the heart of the Constitution, ensuring that the judicial system functions in a manner as to dispense the justice that we need, the law enforcement is so organized that we could feel that greater sense of comfort and security that the other institutions could dispense the services that are necessary for our day-to-day lives.

Notwithstanding that, I would like us to take another look at our Constitution and I would just quote very, very briefly:

“Whereas the People of Trinidad and Tobago—

- (a) have affirmed that the Nation of Trinidad and Tobago is founded upon principles that acknowledge the supremacy of God, faith in fundamental human rights and freedoms, the position of the family in a society of free men and free institutions, the dignity of the human person and the equal and inalienable rights with which all members of the human family are endowed by their Creator;”

And if you take note, they are speaking about the dignity of the human person. We are not talking about the dignity of the Africans within the community or the Indians or the Chinese or Syrians or the Caucasians or any other grouping, we are talking about—

ADJOURNMENT

The Minister of State in the Ministry of National Security (Sen. The Hon. Subhas Panday): Mr. President, thank you very much. Since the PNM Opposition has refused and/or failed or prevented or did not take part in this debate, we would not like this debate to be closed today without giving them that opportunity.

So in the circumstances, I beg that the Senate be now adjourned to Tuesday, 29th March, 2011 when we shall be prepared for two Bills: A Bill entitled an Act to give legal effect to electronic documents, electronic records, electronic signatures and electronic transactions and also a Bill entitled an Act to provide for the protection of personal privacy and information.

I hope that the PNM will get their voice and speak on one of those Bills and they will not remain in a state of dumbness. Thank you, Mr. President.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 4.31 p.m.