

*Leave Of Absence**Friday, July 04, 2008***HOUSE OF REPRESENTATIVES***Friday, July 04, 2008*

The House met at 1.30 p.m.

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

**Mr. Speaker:** Hon. Members, I have received communication from the Hon. Paula Gopee-Scoon, Member for Point Fortin, requesting leave of absence from today's sitting of the House. The leave which the Member seeks is granted.

**PRIVILEGES—HOUSE OF REPRESENTATIVES  
(SEN. THE HON. HAZEL MANNING)**

**Mr. Speaker:** Hon. Members, at the last sitting of the House on Monday, June 30, 2008, the hon. Member for Siparia was granted leave to raise a matter of privilege in accordance with Standing Order 27(2). I indicated then that I would give my ruling at a later date. I do so now.

The fact as presented by the hon. Member for Siparia is that at a sitting of the House on Friday, June 18, 2008, the hon. Minister of Local Government, in responding to the matter raised on the Motion for the Adjournment of the House by the Member for Siparia said, with respect to water trucking funding:

“For fiscal year 2008 the Penal/Debe Regional Corporation received \$4 million, 40 per cent of the entire allocation.”

The Member for Siparia contends that this statement is not true and therefore the hon. Minister has committed a breach of privilege and contempt of the House by misleading the House. The Member has supported her contention with the relevant extract from *Hansard* and a sworn statement from the Chairman of the Penal/Debe Regional Corporation, in which he claims that the corporation received only \$1 million and not \$4 million as stated by the hon. Minister. In further support of her claim, the hon. Member for Siparia quoted Erskine May's *Parliamentary Practice*, 23<sup>rd</sup> Edition, page 132, where it states:

“The Commons may treat the making of a misleading statement as a contempt.”

Reference was also made to the footnote on the said page, C.J. (1962—1963) at page 246, which indicates that such conduct, in addition to being contempt, has been held to be a breach of privilege.

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Hon. Members, in considering the matter before me, I have looked at the practice in the House of Commons of the United Kingdom and some other Commonwealth jurisdictions. While there is no standard or fixed definition of privilege in the literature, the rules with respect to privilege in these jurisdictions appear to be the same. It has been recognized that if a Member or Minister misleads the House deliberately, that is a breach of privilege and may be treated as a contempt.

Further, the learning states that there are two ingredients to be established when it is alleged that a Member or Minister is in contempt on the grounds of misleading the House. Firstly, the statement must in fact have been misleading; and secondly, it must be established that the Member or Minister making the statement knew at the time the statement was made that it was incorrect and that in making it the Member or Minister intended to mislead the House.

Indeed, the wilful and deliberate making of a false statement under the cloak of parliamentary privilege is a contempt of this House. The contempt of deliberately misleading involves the conveying of information to the House or a committee that is inaccurate in a material particular and which the person conveying the information knew was inaccurate at the point at which it was conveyed or at least ought to have known it was inaccurate.

Hon. Members, simply put, in order to constitute a breach of privilege or contempt of the House, it has to be proved that the statement was not only wrong or misleading, but that it was made deliberately to mislead the House. A breach of privilege can only arise when a Member or Minister makes a false or incorrect statement willfully, deliberately and knowingly to mislead the House.

In a similar matter in 1986 in New Zealand, for example, the Speaker Wall ruled, and I quote:

“In an allegation of breach of privilege by deliberately misleading the House, there must be something peculiar to the making of the incorrect statement that can be reasonably regarded by the Speaker, on the face of it, as indicating that the Member may have been intending to mislead the House. Remarks uttered in the hurly-burly of debate can rarely fall into that category; nor can matters about which a member is likely to be aware only in an official capacity. Usually, only in situations in which the member can be assumed to have personal knowledge of the facts contained in a statement, and when that statement is made in a situation of some formality in the House (for example, by way of personal explanation) can a presumption that the member intended to mislead the House arise.”

Similarly, in India, on March 10, 1964, when two Members sought leave to move a question of privilege against the Minister of Food and Agriculture, on the ground that he had misled the Public Accounts Committee, the Speaker ruled *inter alia*:

“Incorrect statements made by a Minister cannot make any basis for a breach of privilege. It is only a deliberate lie, if it can be substantiated, that would certainly bring the offence within the meaning of breach of privilege. Other lapses, other mistakes do not come under this category because every day we find that Ministers make their statements in which they make mistakes and which they correct afterwards.”

All Members are aware that information such as what is reported to have been said in the House by the hon. Minister of Local Government is provided to Ministers by officials and technocrats from their Ministries and various departments and is not necessarily within their personal knowledge and, therefore, it is possible for mistakes to be made. A deliberate attempt to mislead the House would be a contempt if a Minister discovers that incorrect information has been given to the House and the Minister makes no attempt to correct it.

The Chair, therefore, in deciding whether a *prima facie* case of breach of privilege by wilfully misleading the House has been made out, must consider whether the facts alleged indicated, not a remote possibility, but a clear possibility of deliberate intent to deceive.

After careful consideration of what has been presented to me, I am not convinced that the hon. Minister of Local Government deliberately intended to mislead this House and, in the circumstances, I find no *prima facie* case of breach of privilege or contempt. I so rule.

[*Interruption*]

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

#### PAPERS LAID

1. The Rescission Notification of His Excellency, the President, in respect of the nomination of Mr. Stephen Williams for appointment to the Office of Commissioner of Police. [*The Deputy Speaker* (Hon. Penelope Beckles)]
2. The Notification of His Excellency, the President, in respect of the nomination of Mr. Stephen Williams for appointment to the Office of Commissioner of Police. [*Hon. P. Beckles*]

*Papers laid*

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3. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Eastern Regional Health Authority for the year ended September 30, 2002. [*The Minister of Finance (Hon. Karen Nunez-Tesheira)*]
  4. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Eastern Regional Health Authority for the year ended September 30, 2003. [*Hon. K. Nunez-Tesheira*]
  5. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Agricultural Society of Trinidad and Tobago for the year ended December 31, 1997. [*Hon. K. Nunez-Tesheira*]
- Papers 3, 4, and 5 to be referred to the Public Accounts Committee.*
6. Annual Administrative Report of the Princes Town Regional Corporation for the period October 01, 2006 to September 30, 2007. [*The Minister of Works and Transport (Hon. Colm Imbert)*]

#### ORAL ANSWERS TO QUESTIONS

**The Minister of Works and Transport (Hon. Colm Imbert):** Mr. Speaker, I am happy to report that the Government has answers to 80 per cent of the questions on the Order Paper today. We shall be answering questions Nos. 146, 147, 155 and 156 and I ask that the remaining question be deferred.

*The following question stood on the Order Paper in the name of Dr. Hamza Rafeeq (Caroni Central):*

#### **Housing Construction in Edinburgh 500 (Details of)**

- 148.** Could the hon. Minister of Planning, Housing and the Environment state:  
With respect to the high-rise housing complexes being constructed in the Edinburgh 500 area in Chaguanas:
- (a) whether the necessary approvals were obtained from the Chaguanas Borough Corporation;
  - (b) if the answer to (a) is in the affirmative, what were the dates of such approvals;
  - (c) what is the cost of construction of the housing units; and
  - (d) at what price will these units be sold or rented?

*Question, by leave, deferred.*

### Removal of Subsidy on Gasoline and Other Fuels

#### (Status of)

**146. Mr. Harry Partap** (*Cumuto/Manzanilla*) on behalf of Dr. Hamza Rafeeq (*Caroni Central*) asked the hon. Minister of Finance:

Could the hon. Minister state:

- (a) Whether the Government intends to remove the subsidy on gasoline and other fuels in Trinidad and Tobago; and
- (b) If the answer to (a) is in the affirmative, when would the subsidy be removed and what would be the new price of gasoline and other fuels to the motorist?

**The Minister of Finance (Hon. Karen Nunez-Tesheira):** Mr. Speaker, the Government of Trinidad and Tobago does not intend at this time to remove the subsidy of gasoline and other fuels in Trinidad and Tobago. However, because of the rapidly escalating price of oil which has a direct bearing on the price of gasoline and fuels, this matter is being kept under constant review.

Given the response above, part (b) of the question is not applicable.

### Housing Construction in Carlsen Field

#### (Details of)

**147. Mr. Harry Partap** on behalf of Dr. Hamza Rafeeq (*Caroni Central*) asked the hon. Minister of Planning, Housing and the Environment:

Could the Minister state:

- (a) how many houses the Government intends to construct in Carlsen Field; and
- (b) the expected date of completion of construction of the housing units stated in (a)?

**The Minister of Planning, Housing and the Environment (Sen. The Hon. Dr. Emily Gaynor Dick-Forde):** Mr. Speaker, the Housing Development Corporation has commenced a housing programme and plans to continue its expansion of housing in the Chaguanas area.

The development of a new town centre for the Chaguanas/Couva area was conceived to address and resolve the deficiencies that have resulted from the inadequate provision of facilities, amenities, infrastructure and services within the

area over the past 15 years. Consistent with these developments, approximately 3,900 single and multi-family units are expected to be constructed in Carlsen Field as follows:

- (a) Phase I: 250 single family units and these were completed and distributed;
- (b) Phase 2: 250 single-family units; expected date of completion of which is October 2008;
- (c) Phase 3: 700 multi-family units; expected date of completion December 2009;
- (d) Phase 4: 700 multi-family units; expected date of completion September 2010;
- (e) Phase 5: 1,000 multi-family units in design stage; and
- (f) Phase 6: 1,000 multi-family units in design stage.

The projected completion date for the construction of the housing units is 2012.

**1.45 p.m.**

**Renal Haemodialysis  
(Details of)**

**155. Mr. Harry Partap** (*Cumuto/Manzanilla*) on behalf of Dr. Hamza Rafeeq (*Caroni Central*) asked the hon. Minister of Health:

Could the Minister of Health state:

- (a) how many persons in Trinidad and Tobago are in need of renal haemodialysis;
- (b) how many persons are receiving renal haemodialysis on a regular basis; and
- (c) how many successful kidney transplant operations have been performed in Trinidad and Tobago from cadavers since the inception of the programme?

**The Minister of Works and Transport (Hon. Colm Imbert):** Mr. Speaker, in the absence of the Minister of Health, but in the interest of providing an answer, I would answer on behalf of the Minister of Health. I wish to warn hon. Members that I may not be able to answer supplemental questions. Thank you.

Answer to part (a), the National Organ Transplant Unit has indicated that due to the lack of a national registry system, the number of persons in need of renal haemodialysis cannot be accurately determined. Towards this end, the Ministry of Health established in its first phase, a patient management system to document patients on haemodialysis and those on the donor registry in May 2008.

However, when the second phase is implemented in 2009, the dialysis centres would be given the capability to register potential high-risk renal dialysis patients from different health institutions into one centrally located registry management system.

Subsequently, the difference between the number of persons who actually need and receive renal haemodialysis would be determined and hence the relevant policy intervention would be implemented to remove such gaps.

Answer to part (b), as of May 2008, there are 577 patients receiving renal haemodialysis at 15 dialysis centres in Trinidad and Tobago. Whereas just one year ago, the number was 436, this represents an increase of more than 32 per cent on a year and year basis. Clearly, this administration has provided urgent relief to our citizens requiring haemodialysis treatment.

Answer to (c), Mr. Speaker, since the launch of the National Tissue Transplant Programme, there have been 40 successful kidney transplants including one successful cadaveric transplant.

Towards this end, the Ministry of Health is currently developing a comprehensive plan to further enhance public awareness and to strengthen the capacity of the National Organ Transplant Unit in order to increase the donation of organs.

### **Chaguanas Passport Office**

#### **(Details of)**

**156. Mr. Harry Partap** on behalf of Dr. Hamza Rafeeq (*Caroni Central*) asked the hon. Minister of National Security:

Could the Minister of National Security state:

- (a) why the passport office in Chaguanas has not yet been reopened; and
- (b) how many passports will be processed on a weekly basis at the Chaguanas passport office when it is reopened?

**The Minister of State in the Ministry of National Security (Hon. Donna Cox):** Hon. Members are advised that barring unforeseen circumstances, the

Chaguanas Passport Office is expected to be in operation in July 2008. The Ministry is satisfied that, despite the time taken to locate appropriate accommodation to house the new Chaguanas Passport Office, the identified facility is adequate, particularly as it relates to meeting the security requirements of the new machine readable passport system. At present, customization works at the facility are 90 per cent complete, following which the Immigration Division will undertake to ensure installation of the necessary equipment and allocation of staff.

With regard to (b), the Immigration Department has estimated, when operational, the Chaguanas Passport Office would be capable of processing a minimum of 625 passport applications per week.

**Mr. Speaker:** Supplemental?

**WRITTEN ANSWER TO QUESTION**

**Dr. Tim Gopeesingh** (*Caroni East*): Mr. Speaker, I have seven questions for written answers due for today; is it possible that the Government can give an idea as to when we would expect the written answers to these seven questions?

**Mr. Speaker:** Well, as the entire House knows, I keep repeating to the Government to answer, not only oral questions, but also written questions. Perhaps you may wish to have a word with the Leader of Government Business.

*The following question was asked by Dr. Roodal Moonilal (Oropouche East):*

**Rural Development Company—Penal/Debe Projects  
(Details of)**

- 90.** With respect to the Rural Development Company, could the hon. Minister of Local Government state:
- (a) the number and type of projects undertaken in the Penal/Debe area between January 01, 2006 and December 31, 2007;
  - (b) the total expenditure on each of these projects;
  - (c) the names of all contractors employed to undertake these said projects in the Penal/Debe area;
  - (d) the status of these projects; and
  - (e) what new projects are being proposed in the Penal/Debe area and when are they scheduled to commence?

*Vide end of sitting for written reply.*

**PRIVILEGES—HOUSE OF REPRESENTATIVES  
(HON. RENNIE DUMAS)**

**Mrs. Kamla Persad-Bissessar** (*Siparia*): Mr. Speaker, by letter dated July 04, 2008, I hereby sought your leave under Standing Order 27(2) to raise a matter at this sitting concerning the privileges of the House of Representatives against the hon. Minister of Labour and Small and Micro Enterprise Development, Member of Parliament, Hon. Rennie Dumas, for misleading the House on Friday June 27, 2008, as set out hereunder.

On Friday, June 27, 2008, during the debate in the House on the Motion on rising food prices, in responding to my statement that the PNM had not removed VAT on bread, flour, rice, sugar, milk, cheese, and pasta as claimed by the hon. Minister of Finance and in fact that the first five of these items have been zero-rated in 1989 when the PNM was not in Government and with respect to cheese and pasta by the UNC in 1996, hon. Minister Dumas stated:

“Mr. Speaker, I am sure the last piece of mischief should also be answered. Rice, flour, milk, unprocessed foods, et cetera, were zero-rated by the PNM in 1992.”

I was personally present in the House and did then and there hear hon. Minister Dumas make the said statements. The Minister’s words were recorded by the *Hansard* and I had forwarded it to your good self for ease of reference and a copy of the relevant portions from the unrevised *Hansard* of that day.

The Minister’s statement is untrue. The truth is that VAT on rice, flour, milk and unprocessed food was removed in 1989 by the NAR, when the same were zero-rated in Schedule 2 of Act No. 37 of 1989. Again, I forwarded to your good self for ease of reference, a copy of Schedule 2 of Act No. 37 of 1989.

Further, far from zero-rating unprocessed food in 1992, as hon. Minister Dumas claimed, unprocessed food having been already zero-rated by the NAR in 1989 by the same Schedule 2 of Act No. 37 of 1989, what the PNM did in 1992, by section 15(g) of Act No. 4 of 1992, was to restrict the kind of processed food that would be zero-rated when they added the words “of a kind used for human consumption” after the words “processed food”. Again, for your ease of reference, I had forwarded to your good self a copy of section 15(g) of Act No. 4 of 1992.

Section 55(1) of the Constitution provides:

“Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of the Senate and House of Representatives, there shall be freedom of speech in the Senate and House of Representatives.”

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[MRS. PERSAD-BISSESSAR]

By virtue of the said section 55(1), a Member of the House and Senate enjoys freedom of speech in the House, but such speech must not breach the rules and Standing Orders regulating the procedure of the House.

Under Standing Order 91 of the House, in cases where a matter is not provided for in our Standing Orders, as in this case, resort shall be had to usage and practice of the Commons House of Parliament of Great Britain. The relevant practice of the Commons House of Parliament of Great Britain is that a Member of Parliament who misleads the House of Representatives commits a breach of privilege and contempt.

I again refer to Erskine May's *Parliamentary Practice*, 23rd Edition, page 132, which states that:

“The Commons may treat the making of a misleading statement as a contempt.”

The footnote reference states thereto on page 132 that such subject conduct, in addition to being a contempt, has also been held to be a breach of privilege.

In the circumstances, it is my respectful view that there are valid reasons to question whether, by his statements, the hon. Minister has committed a breach of privilege and a contempt of the House by misleading the House in the manner that I had set out before.

Consequently, this matter should be referred to the Privileges Committee of the House to examine and enquire into the facts and then lay before this House a report containing the evidence, findings and recommendations, so that the House may take appropriate measures to punish the offence in a proper manner.

I thank you, Mr. Speaker.

**Mr. Speaker:** Again, hon. Members, my earlier ruling would be applicable to the matter raised by the hon. Member for Siparia.

However, may I alert the hon. Minister of Labour and Small and Micro Enterprise Development to my ruling and in particular that sentence that says: “A deliberate attempt to mislead the House would be a contempt if the Minister discovers that incorrect information has been given to the House and the Minister makes no attempt to correct it.”

**PRIVILEGES—HOUSE OF REPRESENTATIVES  
(SEN. THE HON. HAZEL MANNING)**

**The Minister of Local Government (Sen. The Hon Hazel Manning):**  
Thank you very much, Mr. Speaker. In my response to the matter raised by the

Member for Siparia on the Motion for the Adjournment of the House on June 18, 2008 on the water trucking service to residents of the Penal/Debe region, I inadvertently said:

“For fiscal year 2008, the Penal/Debe Regional Corporation received \$4 million, 40 per cent of the entire allocation.”

Mr. Speaker, I have since re-examined the records and discovered that I was misinformed. The records revealed that the figure of \$4 million that I quoted actually refers to the total allocation received for truck borne water distribution by the Penal/Debe Regional Corporation for the period 2004—2008. The records further revealed—*[Continuous interruption and crosstalk]*

**Mr. Speaker:** If you see the expression on the face of the Hansard reporter, you would recognize that she is having difficulty in recording what the Minister is saying so, please.

**Mr. Ramnath:** She is smiling.

**Sen. The Hon. H. Manning:** The records revealed that the figure of \$4 million that I quoted actually refers to the total allocation received for truck borne water distribution by the Penal/Debe Regional Corporation for the period 2004—2008. The records further revealed that in 2008, the initial allocation to the Penal/Debe Regional Corporation for truck borne water was \$1 million. However, I am advised that virements were made and allocations for truck borne water for this corporation now stand at \$2 million.

Mr. Speaker, it was not my intention to mislead this honourable House and I apologize for any misunderstanding that may have occurred. Thank you.

#### WORLD YOUTH MONTH

**The Minister of Sport and Youth Affairs (Hon. Gary Hunt):** Mr. Speaker, I have been authorized by the Cabinet to make the following statement on the subject of National Youth Month, which would be celebrated this year during the month of July. The theme of this year’s celebration is “Achieving the Dream”.

Allow me to begin by quoting the lyrics of the song ‘Reclaiming our Youth’, by prolific calypso lyricist and son of the soil Winsford Des Vignes:

“We have to try and do something to reclaim the souls of our youth.”

This Government has made a commitment to bring about a quality of life for the national community and, indeed, for our young people to achieve developed country status by 2020. It is a vision that speaks to the quality of life achieved as a people; our development as innovative individuals.

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This vision also describes our physical and business environment, as well as the effectiveness of our governance. It is this commitment that impels us to look towards new initiatives for the young people of Trinidad and Tobago to create new spaces that can promote their health and all-round development.

Our National Youth Policy describes the Government's position on providing our nation with a new delivery system as well as improved access to services for our young people. Within this policy, the Government envisages empowered young men and women who are able to make informed choices, lead meaningful and enjoyable lives, while contributing to the sustained development of Trinidad and Tobago. The Government sees the implementation of this National Youth Policy and the creation of an enabling environment for our young people as critical, to bring about more positive perspectives and attitudes, particularly among the youth.

This Government's preoccupation with youth development is today evident in the fact that free tertiary education is now a reality in Trinidad and Tobago. It is also evident in the fact that this country now has its own university, the University of Trinidad and Tobago, whose programmes are aligned to the demands of the world of work and to meet the increasing challenges that our young people encounter in the face of rapidly advancing technology.

Our commitment to youth development is exemplified by the myriad programmes that are geared to prepare our youth at all levels for a better and more productive life and to contribute to it in a meaningful way, to the development of their country.

Mr. Speaker, it is within the context of an unswerving commitment to youth development that has endured for more than five decades that the Cabinet has supported the designation of July 2008 as National Youth Month in Trinidad and Tobago.

**2.00 p.m.**

Quite appropriately, National Youth Month 2008 will have as its theme, "Achieving the Dream", concentrating as it were on providing for and supporting the dreams of our nation's youth.

Mr. Speaker, we in the Ministry of Sport and Youth Affairs propose to pursue these dreams through 10 key areas: business, participation, empowerment, leisure, faith, expression, sport, relationships, health and technology.

In the area of business, we will focus on exposing our young men and women to business opportunities as they relate both to career choices in established businesses and to self-employment. This will involve the organizing of a number

of career expositions in key areas throughout Trinidad and Tobago. It will involve the launch of an Employability Policy Task Force that will take a critical look at employment opportunities for youth, their preparation for the world of work and its link to the education system, from nursery to tertiary.

To help concretize the business dream, we propose a campaign simply called, “Bring Youth to Work”. This is aimed at encouraging employed persons to take a young person to their place of work and providing them with a unique opportunity to observe and experience the workplace atmosphere, however briefly.

To pursue the dream of business even further, the ministry will host several business fora, to increase private sector involvement in youth development by encouraging business people to impart information and advice to young people at the community level.

Mr. Speaker, one critical factor in facilitating young persons in the achievement of their dreams is ensuring their empowerment so that the voices of these young men and women are heard where national development is concerned. Here, the activities will include round table discussions involving young people representing various communities interacting with key personalities in the society. It will also involve the production of a two-minute news segment using videos produced by young people to be aired nationally.

Also, in this area of youth empowerment is something that will be reflective of what we do right here in this august Parliament Chamber. It is something called “Elect a Youth”, where a national youth debate will cater to mainly out-of-school young persons between the ages 18—29. They will be nominated as candidates in simulated national elections. The outcome of the elections will entitle the participants to actually sit in a simulated chamber and assume the roles of Government and Opposition members for a limited period. It is expected that the simulation will give youth an opportunity to focus on youth specific legislative issues.

Another significant area of focus for National Youth Month will be the involvement of denominational bodies in sharing their diverse perspectives as they interact with our young people. We feel that the involvement of our young people in activities that will uplift their moral and spiritual values is critical to our own development as a people. The month we dedicate to youth will feature partnerships with key faith-based youth bodies aimed at encouraging our young men and women to consider, maintain and strengthen their religious and spiritual moorings.

Mr. Speaker, it has been widely recognized that sport is a major developmental tool to hone and strengthen the discipline of young people. Mindful of this,

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National Youth Month will include activities such as the Sports Training and Enhancement Programme (STEP) under which community-based training camps will be set up to focus on developing sport within the various local communities.

Mr. Speaker, this area of sport will also include what we call “retro-games”. Every Sunday, during National Youth Month, will be dedicated toward organizing in the various communities “retro games” that revive our own traditions such as pitching marbles, top-spinning, hop-scotch, hula-hoop and dominoes. [*Interruption*] In other communities, Sunday football tournaments will be held in which established football teams will be paired with community teams to promote the building of skills and camaraderie. [*Interruption*]

We in the Ministry of Sport and Youth Affairs believe that good relationships are critical to youth development and, therefore, we continue to promote positive engagements among our young people. We see this as an approach to address many of our social ills. Another project along similar lines will involve an explanation of the influence of music to reduce criminal impulses.

Mr. Speaker, the month of activities will culminate in a national youth rally at which all genres of music, drama and cultural expressions of our young people will be showcased.

This is an outline of what the Government, through the Ministry of Sport and Youth Affairs, has planned for National Youth Month 2008—a comprehensive programme that reflects the continued commitment of this Government to the development of the young people of Trinidad and Tobago. And, just as I began by focusing on the theme “Achieving the Dream” I would like to conclude by citing a quotation from the late Dr. Eric Williams: “To your tender and loving hands the future of the nation is entrusted, on your innocent hearts the pride of the nation is enshrined”.

Mr. Speaker, in National Youth Month, we hope that by entrusting and enshrining pride, the dreams of our youth will be realized.

Mr. Speaker, I thank you.

**Mr. Speaker:** Order.

**PRISON SERVICE (AMDT.) BILL.**

Bill to amend the Prison Service Act, Chap, 13:02 [*The Minister of National Security*]; read the first time.

*Municipal Corporations (Amdt.) Bill*

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**MUNICIPAL CORPORATIONS (AMDT.) BILL**

Bill to amend the Municipal Corporations Act, Chap. 25:04 [*The Minister of Local Government*]; read the first time.

**The Minister of Works and Transport (Hon. Colm Imbert):** Mr. Speaker, in accordance with Standing Order 48(2), I beg to move that the next stage of the Municipal Corporations (Amdt.) Bill, 2008 be taken on Monday, July 07, 2008.

**Mr. S. Panday:** That is incompetence.

*Question put and agreed to.*

**INCOME TAX (AMDT.) BILL**

Bill to amend the Income Tax Act, Chap. 75:01 [*The Minister of Finance*]; read the first time.

**TREASURY BONDS BILL**

*Motion made,* That the next stage be taken later in the proceedings. [*Hon. C. Imbert*]

*Question put and agreed to.*

**POLICE SERVICE COMMISSION NOMINATION  
(MR. STEPHEN WILLIAMS)**

**The Minister of Works and Transport (Hon. Colm Imbert):** Mr. Speaker, I beg to move the following Motion standing in my name—

**Mr. S. Panday:** Are you the Minister of National Security now?

**Mr. Ramnath:** You will find your way out like Dr. Rowley.

**Hon. C. Imbert:**—in the name of the Leader of the House.

*Whereas* section 123 (3) of the Constitution of the Republic of Trinidad and Tobago, Chap. 1:01 (“the Act”) provides that the Police Service Commission shall submit to the President a list of the names of the persons nominated for appointment to the offices of Commissioner or Deputy Commissioner of Police;

*And whereas* section 123 (4) of the Act provides that the President shall issue a notification in respect of each person nominated under subsection (3) and the notification shall be subject to affirmative resolution of the House of Representatives;

*And whereas* the Police Service Commission has submitted to the Acting President the name Mr. Stephen Williams as the person nominated for appointment to the office of Commissioner of Police;

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*And whereas* the President has on the 1st day of July, 2008 issued a notification in respect of the nomination;

*And whereas* it is expedient to approve the notification;

*Be it resolved* that the notification of the President of the nomination by the Police Service Commission of Mr. Stephen Williams to the Office of Commissioner of Police be approved.

Mr. Speaker, the first thing I would wish to do is to explain to hon. Members the wording of this resolution. If one looks carefully at the Constitution (Amdt.) Act, 2006 which was assented to on April 13, 2006, one would see at section 6, the Constitution was amended by repealing section 123 and substituting the following section—if one goes to subsection 123(4) it reads as follows:

“The President shall issue a notification in respect of each person nominated under subsection (3)...”

Subsection (3) speaks to the offices of Commissioner of Police or Deputy Commissioner of Police.

“and the notification shall be subject to affirmative resolution of the House of Representatives.”

Mr. Speaker, now, when an Act has wording of this nature, the way that the resolution has to be worded—apparently, there is no other way. I have researched this matter—is that the Motion has to be presented for the affirmative resolution of the House. This is why this particular resolution is in this form:

“*Be it resolved* that the Notification of the President...be approved.”

I wanted to make that absolutely clear, because it could be inferred by persons who are not aware that the Government was proceeding to call upon the House to approve the nomination. It is simply the form of words that flow from the phrasing “affirmative resolution”. So, that is the first point I wish to clarify. There is no other way to do the Motion.

It is not that we should take note of the nomination of the candidate; it is not that we should consider the nomination or we should discuss the nomination; but the way the Act is worded, the Motion must be proposed for affirmative resolution.

Now, let me go into some history as to why we are here today. The Police Reform legislation was a major feature of the Parliament in the last term of the Parliament. In fact, when one goes into the documentation, one would see as far

back as 2002 and 2003, a joint select committee was appointed to consider the package of the Police Reform Bills which included the Constitution (Amdt.) Bill and other bits of legislation, all dealing with reform of the police service, the police service regulations and other bits of legislation associated with police matters. So, as far back as 2002 and 2003—I think 2003 is the correct time. I looked into the record and I saw a committee appointed with Members from this House and Members from the other place. That exercise was not successful at that time.

**Mrs. Persad-Bissessar:** It was not completed.

**Hon. C. Imbert:** Well, I am not going to quibble about whether it was completed or not. It was not successful. That joint select committee did not receive the report of that committee or the lack of the report thereof. The matter did not receive the approval of the House at that point in time. The matter continued to be discussed, and there were several attempts thereafter to get the support of the Opposition, because these Bills, particularly the Constitution (Amdt.) Bill which found its way eventually onto the statute books as Act No. 6 of 2006 required the support of the Opposition, because it required a special majority which the Government did not have at the time.

So, there was much discussion from 2002—2006 and, eventually, in 2006 the Opposition agreed at that time to support the Government and the Constitution (Amdt.) Act, 2006 was passed, as I said before, in April 2006 with the requisite special majority.

In fact, the majority required was a two-thirds majority. It was not the basic three-fifths majority. It was a two-thirds majority, because the matters that were the subject of the Bill were entrenched provisions requiring this two-thirds majority. [*Interruption*]

**2.15 p.m.**

**Mr. S. Panday:** You are wasting time.

**Hon. C. Imbert:** Pardon?

**Mr. S. Panday:** Go ahead, go ahead.

**Hon. C. Imbert:** Thank you. So, under the new system arising from Act No. 6 of 2006, an Act to amend the Constitution to reform the Police Service Commission to confer powers on the Commissioner of Police to control and manage the police service and for related matters, new arrangements came into being. It is necessary to give this history because hon. Members opposite will be

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aware of the history but the wider population may not be, so it is necessary to give the history and the background so there will be a proper understanding. [*Inaudible*] I know, as I said, hon. Members opposite will be aware of the history, but not everybody in Trinidad and Tobago will be aware, and therefore it is necessary to give a proper background so that this discussion could be placed in context. So, arising from the passage of the Constitution (Amdt.) Bill in 2006 new arrangements were put in place for the appointment of the Police Service Commission itself, and also the process for the selection of a Commissioner of Police and a Deputy Commissioner of Police.

The new arrangements for the Police Service Commission were that the President after consultation with the Prime Minister and Leader of the Opposition would nominate persons who had certain qualifications to be members of the Police Service Commission, and the President would then issue a notification—and that will lead me into something else where I will explain what happened with the notification that came to the House sometime ago in respect of each person nominated; this is for appointment to the Police Service Commission—and the notification shall be subject to affirmative resolution of the House of Representatives. So that process was followed, the names came to this House and the House agreed. I do remember the Member for Princes Town North making “picong” about one of the members, but it was—

**Mr. S. Panday:** Come to the point. You want Williams or not?

**Hon. C. Imbert:** We will get there.

**Mr. Speaker:** Order!

**Hon. C. Imbert:** Do not be so previous. So, a new Police Service Commission was appointed and members were selected based on consultation between the President, the Prime Minister and the Leader of the Opposition, so we now had a broad-based commission which had persons who had the support of all Members of this House, both Government and Opposition.

Subsequent to that, it was necessary to lay in this honourable House, certain notices, being Legal Notice No. 165 and Legal Notice No. 166. Legal Notice No. 165 dealt with the qualification and selection criteria for the appointment of the Commissioner of Police and Deputy Commissioner of Police and Legal Notice No. 166 dealt with the selection process for the Commissioner and Deputy Commissioner of Police, which is the matter that we are looking at today.

Mr. Speaker, the process that was enacted into law by Act, No. 6 of 2006 flowed into a provision where after having gone through the relevant procedures,

which are the subject of the two legal notices, which I will explain in a short while, under the new section 123(2) of the Constitution, the Police Service Commission was now required to nominate persons for appointment to the offices specified in the legislation which was the offices of the Commissioner and Deputy Commissioner. The Police Service Commission was mandated to nominate persons in accordance with the criteria and procedure prescribed by order of Parliament subject to negative resolution. So that is the process that got us to the place that we are at today.

I think it is incumbent upon me to explain the error made by President's House which resulted in an incorrect notice coming to the House.

**Mrs. Persad-Bissessar:** President of the Senate.

**Hon. C. Imbert:** President's House, President of the Senate, you could put it anyway you wish, it all boils down to the same thing. It is the error made by President's House with respect to the original notification that came to this Parliament. The original notification was dated June 13, 2008 and arrived, I am advised, in the Parliament on June 18, 2008, contained a wording which gave the impression that the Acting President was in fact nominating the candidate for appointment to the office of Commissioner of Police and that was not consistent with the Act, because as I have just read out—and this is why, Member for Princes Town North, it is important to give the background, because when you go to section 123(2) you will see that the entity that has to nominate the person for appointment to be the Commissioner of Police is, in fact, the Police Service Commission. That is what section 123(2) of the Act says.

So, inadvertently, the notice that came, unfortunately, was not consistent with section 123(2) of the Act, Act No. 6 of 2006. So, as a consequence the President, Prof. George Maxwell Richards, rescinded the notification dated June 13 under the hand of the Acting President which purported to nominate Mr. Stephen Williams to the office of Commissioner of Police because that could not be done, and the President, Prof. George Maxwell Richards, issued a new notification on July 01, 2008, and this was now consistent with section 123(2) of the Constitution, where the President informed the House, and the Deputy Speaker laid these papers in the Parliament today.

The President informed the House that in accordance with section 123(4), he was notifying the House of Representatives that the Police Service Commission, acting in accordance with section 123(2), which I have just read out, has nominated Mr. Stephen Williams for appointment to the office of Commissioner of Police.

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There was just a little mix-up in terms of the communication between the Attorney General's Office, the CPC, Solicitor General's Office, President's House and so on, and it has been corrected. [*Interruption*] Well, whatever it is. I mean, this is the information that I have.

**Mrs. Persad-Bissessar:** I want you to point to your source—[*Inaudible*]

**Hon. C. Imbert:** The Solicitor General's Office. It appears that there was some confusion in terms of the precise wording of the notification which found its way to President's House and then found its way into this House, and that has since been properly corrected, so we are properly debating this matter today.

I may also add that the Speaker—if the Speaker will allow me—exercised his inherent power to correct an obvious error that had appeared on the Order Paper at the last sitting of the House of Representatives. So I just want to get the procedure right so we will all understand what we are about.

**Mr. S. Panday:** We do, come to the point.

**Hon. C. Imbert:** You may know because you may have spent a few days researching it, but not everybody knows what you know, so, I think we need to let the public know what the facts are.

Let us now go to Legal Notice No. 165 and Legal Notice No. 166. Now, Mr. Speaker, Legal Notice No. 165, as I have said before, deals with the qualification and selection criteria for the appointment of the Commissioner of Police and deputy. It is an Order that was published by way of Legal Supplement Part B Vol. 46, No. 143 on August 27, 2007. This Order which was laid in the Parliament but subject to negative resolution and was therefore not debated, has some issues in it, which, in my opinion creates some weaknesses in the process. This Order No. 165, and in addition, in my view, Order No. 166 have some weaknesses which translate themselves into the selection process.

[MADAM DEPUTY SPEAKER *in the Chair*]

The first point I wish to make is when you look at Legal Notice No. 165 it gives you the qualifications for the Commissioner of Police as follows:

a degree from a university recognized by the ministry responsible for higher education, in law, criminal justice, criminology, et cetera; plus, no less than 15 years experience of increasing responsibility in law enforcement; plus, evidence of leadership skills, management skills and communication skills; commitment to the cause of the organization; vision; integrity; et cetera. Those are the basic qualifications for a person who has an appropriate university degree and the necessary 15-year experience.

When you go to section 4 of Legal Notice No. 165, it says:

“Where an officer does not hold the qualifications stipulated...but meets the core criteria listed in paragraph 3”—which would be the matters of leadership skills; management skills; communication skills, et cetera—”and has twenty years experience or more in the Police Service, he shall nonetheless be considered as a candidate for appointment.”

**Mr. S. Panday:** So, you found somebody else?

**Hon. C. Imbert:** When you look at this very closely, the first criterion allows someone from any part of the world to be appointed. So in the first criterion there is no limit. There are no limiting criteria which would prohibit applicants from overseas, because all it says is that person must have a university degree and—

**Mr. S. Panday:** Come to the point; you want Williams or not? You are wasting time.

**Hon. C. Imbert:**—15 years experience in law enforcement. When you go to the other one, the person who would not necessarily have a university degree but may have a diploma or something like that, that person must be a member of the police service. So, in the case of the person with the degree, that person can be an overseas applicant, but in the case of the person who does not have the degree, by this wording—which I consider to be a bit unfortunate, because it uses the words, “20 years in the police service”, the police service referred to here is the Trinidad and Tobago Police Service, so that the first weakness in the process, in my opinion, was introduced by the words “the police service”.

**Mr. Maharaj SC:** One minute?

**Hon. C. Imbert:** Sure.

**Mr. Maharaj SC:** When did the Government realize that there was this weakness, after the recommendation of Mr. Stephen Williams or before?

**Hon. C. Imbert:** Before.

**Mr. S. Panday:** Before June 13?

**Hon. C. Imbert:** If we go to Legal Notice No. 166—

**Mr. Ramnath:** What is the opinion of the Government?

**Mrs. Persad-Bissessar:** [*Inaudible*]

**Hon. C. Imbert:** There is no egg, it is a fact. [*Interruption*]

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Mr. Speaker, when we go to Legal Notice No. 166, you will see in clause 3 of that Legal Notice it indicates that:

“The Commission shall advertise each vacancy twice each on the Internet; two daily newspapers in circulation, locally, regionally and internationally; two journals, locally, regionally and internationally, at least four months before the appointment is made.”

So, it introduces a limiting condition and what this tells you is that from the time that you advertise to the time that you make an appointment to the office of Commissioner of Police there is a minimum of four months. So this Order introduced a constraint that you would be unable to select a Commissioner of Police in less than four months. That is another weakness in the process.

**Mr. S. Panday:** How does it affect this Order? Tell us that.

**Hon. C. Imbert:** The other apparent weakness in the process—

**Mr. S. Panday:** Are you appointing Stephen Williams?

**Hon. C. Imbert:**—in section 3 is the fact that during the assessment process the firm that is selected, because Legal Notice No. 166 indicates that a firm has to be contracted to conduct an assessment process. In other words, the assessment of the candidates is initially done by a consulting firm and not by the Commission.

In Legal Notice No. 166, it indicates at section 3(h):

“the firm shall submit the results of its assessment process to the Commission in the form of an Order of Merit List and only thereafter the Commission may consult or discuss with the firm those results;”

So it means that while the assessment is going on there can be no communication between the Commission—I see the Member for Princes Town North is nodding his head, I am sure that he too has—

[MR. SPEAKER *in the Chair*]

**Mr. S. Panday:** That is indeed so, but how does it affect—do you want Stephen Williams or not? Let us come to the point.

**2.30 p.m.**

**Hon. C. Imbert:** We will get there—so that in the selection process, it indicates that the Commission is unable to have any discussions of any meaningful nature with the consulting firm that is doing the assessment, until after they have produced their results, which again, introduces a further delay in the

process. So, if the Commission discovers some issues with respect to the assessment, the Commission will have to start all over from scratch from that point.

When you look at the two legal notices very carefully, as I indicated with the first one, if the person does not have a university degree, we are limited to local candidates and not overseas candidates, and when you look at the selection process, it introduces a number of delays into the system; it could delay the process of selection and appointment by several months.

Mr. Speaker, let me go now to what actually happened. I have in my possession a report on the action taken with respect to the assessment of candidates for the office of Commissioner of Police, and this just gives a history of what transpired. It does not go into the merits or demerits of the candidates themselves.

The legal notice as I have just described, came into effect on August 27, 2007. The office was advertised by way of circular memorandum on August 08, 2007, in the *Newsday* on Tuesday, August 14, 2007 and August 19, 2007; in the *Express* on Wednesday, August 15, 2007 and Sunday, August 19, 2007; in the *Guardian*, August 16, 2007 and Sunday, August 19, 2007.

On August 16, 2007, the Commission requested that the salary should not be included in future publications of the advertisement, so that initially, a salary—I am not sure what it was, but I think it was \$25,000 [*Interruption*]—of TT \$25,000 was advertised as the salary attached to the office of the position. The salary was then omitted from every further notice that was sent for publication. Regionally, the notice was advertised in Barbados, Grenada, Antigua, Bahamas, Guyana and Jamaica as follows:

- in the *Barbados Nation* in August 2007 on two occasions;
- in the *Grenada Voice* in August 2007;
- in the *Antigua Sun* in August 2007;
- the *Bahamas Tribune* in August 2007;
- *Stabroek News* in August 2007;
- the *Jamaica Gleaner* in August 2007.

Internationally, the advertisement was published in the United Kingdom, Canada and United States of America as follows:

- the *Daily Telegraph*, London, in August 2007 and in September 2007;
- the *Toronto Sun* of Canada, August and September 2007;
- the *Washington Post* of USA, August and September 2007.

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It was advertised on the Internet which is consistent with the selection process on LawEnforcementJobs.com. It was also advertised on the website of the Association of Caribbean Commissioners of Police, and the International Association of Chiefs of Police websites.

Commencing on August 07, 2007, the Service Commission Department commence the search for a firm to be contracted to conduct the assessment of candidates. Seven foreign firms and one local firm were contacted. Replies were received from six firms: five foreign firms and one local firm.

In September 2007, the Director of Personnel Administration looked at the six firms, shortlisted four of them and requested expressions of interest. In October 2007, the firms were contacted by email, and in October 2007 responses were received from the shortlisted firms.

In November 1007—and I am reading this out, Mr. Speaker, because people need to know how convoluted this process is. It is necessary for people to understand how convoluted it is in order for us to make the necessary adjustments to the procedure—[*Interruption*]

**Mrs. Persad-Bissessar:** When?

**Hon. C. Imbert:** In due course. In November 2007, the Director of Personnel Administration agreed that Penn State (JASI) should be recommended for the contract. A relevant recommendation was made to the Director of Contracts on November 26, 2007. The terms of reference for the engagement were completed and forwarded to the Director of Contracts on December 27, 2007. I wish to stop here, to point out that the process was established in August 2007, but it was only in December 27, 2007, that the Service Commission Department was in a position to send terms of reference for the contract, for the assessment firm to the Director of Contracts at the Central Tenders Board. So several months had already elapsed before the process had actually begun.

In January 2008, the Director of Contracts was informed of certain members of the evaluation team, including the Director of Personnel Administration. Again, in January 2008, Penn State (JASI) was invited by the Chairman of the Central Tenders Board to submit a proposal for the consultancy service. On January 11, applications for the office were sent to Penn State (JASI) via Express courier and Penn State eventually began the process of assessment in January 2008.

Again, in January, the report on the evaluation of the proposals submitted by Penn State was sent to the CTB from the Service Commission Department, and

again in January, Penn State was contracted by the CTB to conduct the assessment. The contract was signed by Penn State (JASI) on February 13, 2008, and the Director of Personnel Administration—so we have a situation where the assessing firm that is required by law to do the assessment was eventually contracted in February 2008.

Mr. Speaker, all of this, I want to be absolutely clear, was done by the Service Commission. The Government has no involvement because the intention was that the Service Commission would be in control of this process. So between August 2007—and I want to make the point, the Service Commission is an independent agency—and February 2008, the Service Commission was in the process of selecting a consulting firm to do the assessment of the applicants.

Beginning March 31, 2008, Phase I of the assessment process began and a total of 18 applicants completed all stages of the Phase I process. The consulting firm began to assess 18 applicants on March 31, 2008, which is by any calculation some seven or eight months after the selection process had been published. Nine applicants were selected for the second phase of the process. One applicant subsequently withdrew before the second phase began, and the eight remaining candidates comprised three locals and five foreigners.

I notice the Member for Princes Town North is taking notes now. You did not want to know this. That is all right.

**Mr. S. Panday:** Dust to dust— [*Inaudible*]

**Hon. C. Imbert:** I know the Member wants this information. The foreign candidates arrived in Trinidad in April 2008, and were taken on a tour, together with the three locals, of selected police stations in April 2008. The candidates were briefed in April again by the consultants, and Phase II of the assessment was conducted over the period April 20, 2008 to April 21, 2008. Again, a meeting with stakeholders was held at the request of the consulting firm in April 2008. Eventually, towards the end of April, the five foreign candidates who had been assessed during this period, returned to their home country.

On April 23, 2008, the shortlist of the five candidates—because the way the Legal Notice No. 166 is written, it is necessary for the firm to submit the results of its assessment process to the Commission, in the form of an order of merit list—was received from Penn State (JASI), and the top three of that shortlist were firmly recommended for the position. So it was the view of Penn State (JASI) that the top three candidates who were eventually selected for the order of merit list were suitable for the position.

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On May 06 and May 07, 2008, the Commission interviewed the top three of the shortlisted candidates, two locals and one foreigner—[*Interruption*]

**Mrs. Persad-Bissessar:** When did they do the polygraph test; before or after this list? [*Laughter*]

**Hon. C. Imbert:** On Friday, June 06, 2008, the Police Service Commission met with the foreign candidate to discuss an adverse Internet report on his previous tenure. Before I came here—that is Mr. Louis Vega—I took a little time and I went on the Internet myself, to see what this is all about. [*Interruption*]

**Mr. Maharaj SC:** He declined.

**Hon. C. Imbert:** It is just necessary. I know he declined, but I think it is necessary to demonstrate what has transpired. If you go on the Internet—and it is interesting if you check what has happened in Milwaukie. [*Interruption*]

**Dr. Moonilal:** Where?

**Hon. C. Imbert:** Milwaukie is a place in the United States if you do not know.

**Mr. S. Panday:** What about Debe and Penal?

**Hon. C. Imbert:** I want to read something I downloaded from the Internet which is dated August 06, 2007:

Police Chief finalists cut to eight. An even number of internal and external applicants remain as eight final candidates seek to become Milwaukie's next Police Chief, according to the list of finalists released by the Milwaukie Fire and Police Commission today.

The internal candidates included four of them at various ranks within their division and an assistant chief as well. And then finalists from outside the department included a candidate who was an officer in the Chicago Police Department; another candidate from the DC Metropolitan Police Department; another candidate, a Chief of Police from the Michigan Police Department, who was also a former Colonel; and Louis Vega, Assistant Chief of the Miami Police Department since 2003. The Commission had received 44 applications and they were expected to announce their new police chief on October 18.

This is in August, so I am just making the point that in another jurisdiction, they were going through a similar process, and in August, they were announcing that they would select their Commissioner in October. I will say what I was able to determine about this gentleman, Mr. Vega. He spent most of his time in the

New York City Police Department, but left amidst controversy and went to Connecticut. There was also an issue with him and he went to Miami. It is a fact that if you surf the Internet, you will find adverse commentary about the foreign candidate who was selected as a potential—[*Interruption*]

**Hon. Member:** [*Inaudible*]

**Hon. C. Imbert:** That is true, but I am not applying for the post of Commissioner of Police.

**2.45 p.m.**

On Friday, June 06, the Police Service Commission met with the foreign candidate to discuss an adverse Internet report on his previous tenure. Following that process, [*Crosstalk*] the Police Service Commission eventually selected Mr. Stephen Williams and sent the nomination to—[*Interruption*]

**Mr. S. Panday:** Not true!

**Hon. C. Imbert:** It is not true that they selected Mr. Stephen Williams?

**Mr. S. Panday:** He did not want the job, because he said the Government was not serious about crime, and he walked out on you all.

**Hon. C. Imbert:** I am not aware.

**Mr. S. Panday:** “Yuh did not read dat on de Net?”

**Mr. Speaker:** Order!

**Hon. C. Imbert:** I did not see that.

Following the process, after the Commission interviewed Mr. Vega about the adverse reports published about him, the Commission eventually nominated Mr. Stephen Williams and sent that nomination to the President. [*Interruption*]

**Mr. Ramnath:** And here we are to debate that.

**Hon. C. Imbert:** I could also tell you the cost of the exercise. I have all the information; I am pre-empting you. Expenditure incurred for the selection of a new Commissioner of Police, between August 2007 and June 2008—you see, you do not even ask to ask a question—was \$2,299,902.

**Mr. S. Panday:** Therefore, we must take it seriously; the recommendations!

**Hon. C. Imbert:** I have explained its legal origin; I have outlined what happened between August 2007 and June 2008, when the nomination was sent to

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the President for onward transmission to this House. Eventually, the Commission, after it deliberated and interviewed candidates, did its own examination, because the legal notices allow it to do that. I think it is necessary for me to read this into the record.

**Mr. Ramnath:** What is the point?

**Hon. C. Imbert:** If you look at Legal Notice No. 166, section 4:

“The Commission has the right to determine the veracity of any statement or adverse report made to the Commission in relation to any candidate for the office of Commissioner of Police...”

If you also look at section 3(j):

“the Commission may gather such other information on each applicant as it considers necessary and appropriate to determine the merits of his application and suitability for the office for which he is being considered.”

There is also a natural justice provision where it says:

“where enquiries by the Commission result in an adverse report of a criminal, legal or ethical nature, the candidate...shall be given an opportunity to be heard...”

After the consulting firm presented its report to the Commission, it presented its Order of Merit list; the Commission did its own work, consistent with sections 3 and 4 of Legal Notice No. 166, which is the selection process. This all culminated in the nomination of Mr. Stephen Williams.

Let me give this House some information on Mr. Williams. I have sent this information to the Opposition, so they also have it. *[Interruption]* I sent it to the Member for Princes Town North who asked me for it. *[Crosstalk]* You must consult; you must let people know what is going on. Come on, man; we are not playing games here.

Mr. Stephen Williams was born in August 1960, so that would make him 47, if my calculations are correct. He has been a member of the Trinidad and Tobago Police Service since 1979; so that would be 29 years, if my calculations are correct. He is the Senior Superintendent who leads the transformation programme being undertaken, at the present time, by the police service.

Between 2005 and 2007, he managed the Executive Secretariat, which has a coordination function in terms of a number of other units and departments of the police service. He had a brief stint with the Nottinghamshire Police Force in the United Kingdom, from March—June 2005.

Between 2001 and 2005, he worked in the Court and Process Branch in Port of Spain, the Assistant Superintendent, Courts. From this it says that he managed a team of court prosecutors for the Magistrates' Court in Port of Spain, and dealt, generally, with prosecution matters in the Court and Process Branch of the police service.

Prior to that, he was Assistant Superintendent of Planning looking at the refurbishment of some 16 police buildings, and from June 1998—2007 he was an Inspector, Courts, but, substantively, he was the President of the representative association for Second Division officers. He was head of the Second Division union. He was a trade unionist.

Between 1996 and 1998, again at the Court and Process Branch, he was involved in prosecution. Prior to that, he was a sergeant supervising police stations in the Eastern Division. As you go down, he would have done various things, been involved in various police operations. He was a detective in the Eastern Division between 1989 and 1990, and so on.

His academic qualifications are as follows:

- He has a level seven executive diploma in strategic management from the Chartered Management Institute of the United Kingdom.
- He has an executive masters in business administration from the University of the West Indies.
- He has an executive diploma in public sector management from UWI.

Mr. Speaker, I am reading from the curriculum vitae given to me, so I do not want the Member for Siparia to come with a privilege motion to say that I left out a full stop or a semicolon. This is simply what I was given. I just remembered what happened today; I am reading what I was given. [*Interruption*]

**Mrs. Persad-Bissessar:** Just do not lie; when you lie I will come at you.

**Mr. Speaker:** Order!

**Hon. C. Imbert:** Mr. Speaker, it continues:

- He has a legal education certificate from the Hugh Wooding Law School, which he obtained in 1995, and he has a Bachelor of Laws degree, which he obtained from the University of London—I assume by distance learning, in 1993, or he could have gone to one of the schools here.

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He has been on a number of training courses in the United States, a variety of training courses for police executives for change management: he has been on the International Visitor Programme of the United States Department of State; co-operation in criminal matters; industrial relations management; collective bargaining; forensic science for police officers, and so forth.

**Mr. Ramnath:** How are you voting on this?

**Hon. C. Imbert:** So that is Mr. Stephen Williams. He has been in the police service for 29 years. He has reached the rank of Senior Superintendent. He has a law degree and some other qualifications, and he has been associated with the Court and Process Branch. [*Crosstalk*]

From all the information I have, I do not think that he ever managed an operational division. The Minister could clarify that. Has Mr. Williams managed a division such as the homicide division?

**Hon. Joseph:** No. [*Crosstalk*]

**Hon. C. Imbert:** From all the information I have, he has not managed a major field division of the police service. I also think that I need to put on the record the seniority list for the police service. In the police service there are 15 executive members at the immediate top, coming down from the Commissioner, of course. You have three Deputy Commissioners and 12 Assistant Commissioners of Police.

I took the opportunity to get the organizational chart from the police service. At the top you have the Commissioner of Police; below him you have the three Deputy Commissioners; one is in charge of strategic planning and development; one in charge of crime and operations, and one in charge of criminal intelligence. Below the Deputy Commissioner in charge of strategic planning, you have ACP South; ACP North/East; ACP Tobago; ACP community relations. Below the crime and operations Deputy Commissioner, you have again, ACP North/West; ACP mobile; ACP crime; ACP Anti-corruption Bureau, homicide bureau. Below the Criminal Intelligence Deputy Commissioner you have ACP Special Branch.

With that organizational structure you have three deputies and 12 Assistant Commissioners of Police. The 15 top persons in the police service in the order of seniority: First is Deputy Commissioner James Philbert, he is the most senior police officer in the service at the time, in terms of seniority, and his substantive post is Deputy Commissioner of Police, Criminal Intelligence. Below him you have Deputy Commissioner Gilbert Reyes; Deputy Commissioner Maurice Piggott; Assistant Commissioner Richard Frederick; Assistant Commissioner Donald Fergusson—I assume that is Donald; Assistant Commissioner Raymond Craig; Assistant

Commissioner Glenroy Woodley; Assistant Commissioner Benjamin Watson; Assistant Commissioner Barnette Meyers; Assistant Commissioner Samuel Jemmott; Assistant Commissioner John Trevejo; Assistant Commissioner Steve Waldron; Assistant Commissioner Fitzroy Frederick; Assistant Commissioner Errol Denoon, and Assistant Commissioner Rattan Singh.

After that, you go into the next rank which is the senior superintendent rank. Within that rank, Mr. Stephen Williams, based on the information given to me, is No. 11 on the seniority list. So if you go on strict seniority, take the top 15 officers [*Crosstalk*] in the police service, and 11 on the seniority list in the superintendent rank and do a simple mathematical calculation, you would discover that based on strict seniority, Mr. Stephen Williams is No. 26 in terms of the police service. [*Crosstalk*] I thought it was necessary to put that information on the record. [*Crosstalk*]

**Hon. Members:** Merits and demerits!

**Mr. S. Panday:** The law has been changed.

**Hon. C. Imbert:** Let me move on to some of the commentary that we have been subjected to. I took the opportunity to look at some of the commentary. I made some clippings; just a few. [*Interruption*]

**Mr. Maharaj SC:** Is it true that the Prime Minister saw Mr. Williams at his Whitehall office at 3 o'clock one afternoon recently, and told him that the Government has a plan, but he is not included in that plan, and that he should back down?

**Hon. Members:** What? Oooh!

**Hon. C. Imbert:** I am not aware.

**Mr. Maharaj SC:** The Minister of National Security is there; you could ask him.

**Hon. C. Imbert:** I am not aware.

**Mr. S. Panday:** Why pilot this Motion then?

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

**Hon. C. Imbert:** Let me go now to the *Guardian* of June 29, 2008. Here is an article by the former Chairman of the Police Service Commission, Mr. Kenneth Lalla, Senior Counsel. The article was written by Shaliza Hassanali, and is headlined (Action a back hand slap):

“PSC under fire”

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The article refers to comments made by Mr. Kenneth Lalla. The clear inference from the article is that in the opinion of Mr. Lalla, the Police Service Commission is no longer an independent body. It is a puppet on a string, et cetera. Mr. Lalla was reported as saying that prior to the amendment of the Constitution in 2006, the Police Service Commission was totally independent and, in his opinion, that was no longer so. He went on to speak about the old PSC. He said that the old Police Service Commission was totally independent in making the appointment of a commissioner and now it was an exercise in futility, and so on, and so on, and so on, and so on.

You also have Mr. Anand Ramlogan saying that seniority was not the criterion for acting appointments in the police service, and so on and so on and so on—the same Anand Ramlogan who has contested appointments in the courts many times on the basis of seniority.

We also have Thursday, July 03, 2008, Dr. Bhoendradath Tewarie. [*Interruption*]

**Hon. Members:** “How much time he has left?”

**Mr. Speaker:** Plenty.

**3.00 p.m.**

Here we have Dr. Bhoendradatt Tewarie, in a long article in the *Trinidad Guardian* dated July 03, 2007, a long lecture essentially telling us, this is the operative section of his dissertation, that Parliament must do the right thing and endorse the recommendation of the Police Service Commission because it would strengthen the process and the system, as well as the independence of the Police Service Commission. “It would be sheer folly even in the midst of confusion to squander this opportunity which has now presented itself”.

You have Mr. Lalla saying that when he was head of the commission he was totally independent and now the commission is no longer independent. Now, you have Dr. Tewarie saying to do whatever the commission tells you to do. If the nomination comes do not bother to debate it; do what they say and endorse whatever you are told. This is Dr. Tewarie, distinguished former principal of the University of the West Indies, in the face of legislation which requires the nomination to be subjected to affirmative resolution, which means that it has to be debated and go to a vote, saying not to worry with that; just do whatever they tell you to do and endorse the recommendation.

There are some articles about the notice. I have dealt with that. There is a strange article in the *Express* about the Government to attack the process, not

Williams. I do not know from where that reporter gets the information. [Interruption] I am speaking. I did not speak to the reporter. I do not know. Sometimes, I am amazed at what I read in the papers. I do know what is going on. I do not know if it is extrasensory perception. They sit and they are bugging my home. [Interruption] Speculation is good journalism?

In the *Trinidad Guardian*, “Heat in the Senate today”. “In de Senate, eh.” You think this is a joke. This is a responsible newspaper. “Heat in de Senate”—we are in the House of Representatives—over police chief post”. Then, there is this story about secret talks which I assume the Member for Tabaquite was referring to and of which I know nothing. You asked me and I know nothing.

Then you have an article by Gillian Lucky saying, “Welcome, Mr. Acting Police Commissioner. Gillian Lucky said that we have to look at the bigger picture.

“...while others deal with the method of appointment of the Commissioner of Police and the deficiencies that may lie therein, our concern should be that the holder of this...position be, above all,...”—“independent and fair-minded.

...unless the country is proved with the passage of time, we must allow Mr. Philbert to do his job.”

Of all the commentators, the one that I see who has indicated that she has knowledge of Mr. Philbert; she has interacted with Mr. Philbert in the past and she is indicating that we must allow him to do his job. She says:

“...I would prefer...to show support for the acting Commissioner of Police...and...to give him the chance to prove that he is a worthy selection.”

That leads me into my point. I have heard the crosstalk. Kenneth Lalla SC says, “puppets on a string; no independence”. Dr. Bhoewarrie says, “do not bother to debate it; just do whatever they tell you to do.” Kenneth Lalla SC and Dr. Bhoewarrie are perceived as being independent people because they are not in support of the Government. Gillian Lucky who says allow Philbert to do his job; give him a chance to prove that he is a worthy candidate to be an acting commissioner, is condemned. That is not a supporter of the Government. Gillian Lucky who is saying to give Philbert a chance to prove that he can do the job of acting commissioner is condemned. Kenneth Lalla and Bhoewarrie who said puppets on string and all sorts of things are raised up as the examples that we must follow.

The point that I want to make is that it is not irrelevant. There are people in this country who say that they are independent. Mr. Kenneth Lalla SC was the

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Member of Parliament for Couva. I know that there are some who may not even have been born in 1970, when Mr. Kenneth Lalla SC was the Opposition Member for Couva. I have his *Hansard* record. I got his *Hansard* record. I looked at the contributions of Mr. Kenneth Lalla SC chairman of the Police Service Commission who has condemned the acting appointment of Mr. Philbert to serve as acting commissioner and Mr. Lalla has portrayed himself as a very independent person. When you read Mr. Lalla's contribution in the Parliament, particularly in the 1970/1971 period, if I could take out the name, I could substitute names like the Member for Tabaquite and the Member for Princes Town North, the kind of things that Mr. Kenneth Lalla had to say about the PNM government in 1970/1971, could easily have been said by the Members for Tabaquite and Princes Town North.

So extreme was the commentary of the then Member for Couva who then became the so-called independent chairman of the Police Service Commission. I want to make a point that this goes into the concept of bias. There are some people—and I would like to put Mr. Lalla into this category—who do not understand when they are being biased. Unconscious bias. I see that the Member for Tabaquite has been looking at some precedents. I am sure that you have looked at the Northern Spirit case and the George Meerabux case. I am sure that you have looked at it. In terms of the concept of bias some persons do not even know that they are biased.

I have looked at the contributions of Mr. Kenneth Lalla SC when he was an Opposition parliamentarian in this House. He almost accused the PNM of murder in one impassioned speech before the Parliament. As I said, this is the kind of contribution. When someone tells me that when he was chairman of the Police Service Commission, he was independent and that person has a history of opposing the PNM administration in Parliament, I have to say that I cannot accept that. That person is suffering from unconscious bias. That person does not even know that he or she is biased. I am afraid that I cannot use Mr. Kenneth Lalla SC as any yardstick as to what is independent and what is not independent. In my book an Opposition Member of Parliament who condemned the PNM administration, no matter how long ago, could never be independent of anything.

As for Bhoewarrie, the less said about Dr. Bhoewarrie, the better. Imagine a former principal of the University of the West Indies telling distinguished Members in this Parliament, such as the Member for Tabaquite and the Member for Siparia, distinguished legal luminaries such as the two Members opposite, that we should not debate this matter. That article is not just addressed to the

Government. [*Interruption*] I do not want anything. That article written by Bhoew Tawarie is not thrown just at the Members on the PNM side. It is thrown at the members of the UNC as well. He is saying do not debate it; just do whatever they tell you to do.

Mr. Speaker, how much time do I have?

**Mr. Speaker:** [*Inaudible*]

**Hon. C. Imbert:** I have lots of time. The long and short of it is that when you go into the process from August 2007 to June 2008, an interval of 10 months elapsed between the publication of the legal supplement identifying the selection process and the qualifications, I stress that 10-month interval between the establishment of the process, criteria and the actual nomination of the preferred candidate had nothing to do with the Government of Trinidad and Tobago. It had to do with the convoluted, impractical and unworkable procedures that found their way into legal supplement, Notices Nos. 165 and 166.

**Mrs. Persad-Bissessar:** Will the hon. Member give way, please?

**Hon. C. Imbert:** Sure.

**Mrs. Persad-Bissessar:** Legal Notices 165 and 166 of 2007 that you are calling convoluted, by whom were those legal notices made?

**Hon. C. Imbert:** By the Government.

**Mrs. Persad-Bissessar:** Which Government?

**Hon. C. Imbert:** That is obvious. By this Government. I did not come here to play games today. I am stating the facts.

These notices were prepared by this Government and laid in this House by this Government. That is a fact. Nobody is disputing that. I have cast no aspersions on the Opposition in my presentation with respect to the construction of Legal Notices 165 and 166 and I do not intend to. I am aware that the Opposition did not play any significant role in the preparation of Legal Notices 165 and 166. I want to set the record straight. My purpose here today is to state the "true" facts. Let us move on.

As I said, a period of 10 months elapsed between the establishment of the process in August 2007 and the nomination of the preferred candidate in June 2008. As I indicated, built into Legal Notice 166 is a minimum of a four-month delay. I am advised that because these notices were subject to negative resolution and the Standing Orders or rules provide that there is a 40-day waiting period

before a notice that is laid subject to negative resolution is confirmed—it becomes law immediately—published, it becomes law and remains law unless it is negative.

An Opposition Member in this case has 40 days to file a resolution to negative the order. I am advised that because of that the commission waited the 40 days because they were not sure whether a Member of the Opposition would have raised an objection to this process. They allowed the entire 40 days to elapse before they began to get deeply into the process of selecting. The 40 days run out and then you have a four-month minimum period by virtue of section 3 of Legal Notice No. 166. Built into this process is a five-month delay before we start. As we see, the process took 10 months.

As I pointed out, there are what I consider to be flaws and weaknesses in the order. As I said in the case of someone who does not have a university degree in law, it can be only somebody, from my interpretation, the local police service. In the case of the process itself, the commission has to wait until the firm that is doing the assessment has completed its work and has submitted its results to the commission; then the commission would go through its process of interviews. Certainly, it is the Government's intention to propose changes to this process so that the next time this process is utilized, it would give the commission the necessary flexibility to do what it requires it to do.

**3.15 p.m.**

In our view it is necessary in any recruitment exercise to give the recruiting agency the ability to head hunt, especially in something as important as electing a Commissioner of Police. You should not be constrained with a slavish adherence to what I would call convoluted procedures in terms of advertisement. You should be allowed, if the process does not yield a suitable candidate, to head hunt. That is what is done in any organization and anybody who is serious about the process of recruitment will know that you need that kind of flexibility.

This built-in four-month delay, in our view, has to come out. Certainly, this error where, “if the person does not have a university degree”, “you can only pick a local” has to come out as well. If you are using the normal phrase, “a suitable combination of qualifications and experience”, you will be allowed to do that whether you are picking a local or foreigner.

**Mr. Maharaj SC:** Will you say whether the Government is supporting the nomination of the Police Service Commission?

**Hon. C. Imbert:** Mr. Speaker, I advise the hon. Member for Tabaquite that I have until 3.22 p.m. to do that and I assure him that I will tell him on or before then.

I want to deal finally with the whole question of an acting appointment. That is why I was particularly concerned about the statements made by the former chairman of the Police Service Commission, who, I am certain—I am subject to correction, of course—on numerous occasions made acting appointments based on seniority.

When you look at the thrust of the article “not good enough to be promoted; not good enough to act; action is a backhand slap”, it gives the clear impression that the hon. gentleman would never have appointed someone to act in a post of commissioner based on seniority. I am certain that the gentleman did that endless times. I want to use the example of what happened with the appointment to one of the highest offices in the land, the appointment to the post of Chief Justice.

In the seniority list in the higher Judiciary, there were a number of judges of the Court of Appeal who were senior to the Honourable Ivor Archie. These would have included Roger Hamel-Smith, Justice of Appeal; Margot Warner, Justice of Appeal; Stanley John, Justice of Appeal; Allen Mendonca, Justice of Appeal; Wendell Kangaloo and so on. All of these judges were senior to the honourable Chief Justice Ivor Archie.

The Member for Princes Town North knows that and all Members opposite know that whenever it was necessary to appoint an acting Chief Justice, more often than not—I am not aware of any situation when it was not so—one of these people that I have called was appointed.

When it came to selecting the permanent holder of the post; when it was necessary for the President, in his own wisdom, to examine everybody in the Court of Appeal and other candidates, he looked at the seniority list, bypassed all of the people and picked the honourable Ivor Archie because, in his opinion, in terms of holding the permanent position of Chief Justice, the President was of the view that Justice Ivor Archie, although a very young man and not having the experience of the others, was the most suitable person to hold the permanent position. When the President did an acting position, he did not select Justice Ivor Archie, he would select Justice Roger Hamel-Smith, Justice Margot Warner, Justice Stanley John, et cetera.

Those are facts; it is not fiction. You can spin all around, but those are the facts. It is my understanding that a similar approach operated with respect to the selection of Mr. Philbert. That and other considerations are what operated with respect to his selection. As I have indicated to you, Mr. Stephen Williams is number 26 on the seniority list and, in order to put him as the Acting Commissioner of

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Police, the Commission would have had to bypass 25 similar officers. I see nothing wrong with the use of seniority for an acting position. It has been done countless times in this country and will be done many times in the future.

Respectfully, the Government is of the view that the process did not achieve its desired objective. When I read Mr. Steven Williams' CV, he has had a distinguished record in the police service. He is well qualified, but the Government is of the view that, because of weaknesses in Legal Notices Nos. 165 and 166, the process did not result in the best available pool of candidates to allow the Commission to make the best possible selection for the post. This is no reflection on Mr. Williams who has had an extremely distinguished career.

*Question proposed.*

**Mr. Ramesh Lawrence Maharaj SC (Tabaquite):** Mr. Speaker, the issue before the House today is a very serious one. It relates to the House of Representatives approving the notification in respect of the nomination, by the Police Service Commission, of Mr. Stephen Williams as Commissioner of Police.

The Government has indicated that the process was flawed and as a result—am I correct?—it is not supporting Mr. Williams as Commissioner of Police.

**Mr. Imbert:** I want to make it clear that we are of the view that the process has not achieved the desired objective.

**Mr. R. L. Maharaj SC:** Mr. Speaker, before I actually respond to the irrelevant matters, the hon. Member for Diego Martin North/East has said that it is dealing with the appointment of a Commissioner of Police who, under the Police Service Act and the Constitution of Trinidad and Tobago, is responsible for preserving peace and maintaining law and order in Trinidad and Tobago.

It is an armed police service and the country depends upon that police service to investigate, detect and prosecute crime. We are not dealing with an ordinary position. The police service is a coercive arm of the State and therefore I would have expected that if the Government were not supporting Mr. Williams' appointment, it would come to this House and give information which the population could assess to see whether it is genuine in its objection or has a particular agenda.

This is important because the population must never believe that the Government wants a particular choice of Commissioner of Police because it has a political agenda. As a matter of fact, in a famous case that went to the Judicial Committee of the Privy Council, *Endell Thomas vs the Attorney General*, the Judicial Committee of the Privy Council said that the safeguards of the Police Service Commission, in

insulating the commission from the process and the appointment of police officers, including the Commissioner of Police, are to ensure that the police service does not become a political arm of the Government.

I will put it this way: The courts have recognized, not only in that matter, but throughout the principles that they had to decide, that where the political arm of government could control an armed police service, it could then become a private army of the political party in government. It is therefore important for the Government not to give wishy-washy reasons, which cannot stand the scrutiny of any reasonable person, to say that it did not achieve the desired objective. Of whom? Of the Government? [*Desk thumping*]

In that case, the Privy Council asked the question: Are there prospects of a police service being converted into the private army of the political party in government if there are no safeguards? We have a service commission and, as you said, an independent service commission, which has made a decision. The question that arises is whether the Government is undermining and subverting the Constitution because we are dealing with a constitutional provision, as amended, to put certain criteria for the appointment of a Commissioner of Police. That was the policy and objective of the Constitution, not seniority. I will read it and put it on the record.

The whole aim of that amendment was to ensure that seniority was not the criteria. If you look at the history of this change in the Constitution, it is one in which there was supposed to be a Police Management Authority through which the Cabinet would have control and the Opposition opposed that, on the basis of what the judges said. There must never be the risk of an armed police service becoming the private army of the political party in government.

We will come to the context again where they said they wanted this law to fight crime, but let us deal with this aspect of it. The Opposition opposed the Police Management Authority on the basis that members of the public and the Police Service Welfare Association were all opposed to it. That is how the Parliament came with this amendment. The input of the Opposition then was very important to flavour the amendment. The amendment was so that the Commissioner of Police would not be chosen on the basis of seniority because it was recognized—and the PNM was saying—that you have to change that because if you do not, you could not fight crime.

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

Therefore, they wanted the law to change so that the commission would be able to appoint someone who can manage the police service. The powers which

were there to be given to the Police Management Authority were then given to the Commissioner of Police. The Commissioner of Police would be a person with managerial skills and the appropriate qualifications, in order to manage the police service, if crime can be effectively fought. That was the position.

As a matter of fact, there is a school of thought—there is a group of lawyers from all walks of life who assists me from time to time—that can even in respect of the acting appointment, it can be made in a way in which it frustrates the criteria for the appointment of the Commissioner of Police, having regard to the provisions of the amendment. If a commissioner of police ought not to function because of the restraints in the Constitution, only on the basis of seniority, is it right that you can have someone carrying on the functions of Commissioner of Police on the basis of seniority? It is inconsistent with the Constitution. There is an elementary principle, any action or law which is inconsistent with the Constitution is null and void. We would come to that. It is the duty of the Government to take action to ensure that the Constitution is respected.

In this debate, at least on this side, I do not propose to deal with individuals. I propose to deal with a principle, an important principle. I do not know Mr. Stephen Williams. I cannot recall having any interaction or contact with him either as a lawyer or politician. I know Mr. Philbert James. I knew him as a lawyer and when I was Attorney General. As a matter of fact, in some of the matters that I had to deal with, matters of great importance as an Attorney General, I knew him. I cannot say anyone of them is a bad police officer. I am not prepared to make a judgment on anyone or them, because the only one I know is Mr. Williams and if I make a judgment on Mr. Philbert I may be accused of discriminating. I can say that, in a matter like this, we cannot determine this issue purely because you know somebody, someone is known to you, or because you have a hunch that somebody may or may not be suitable. We have to determine this matter on what is right, on the basis of what the process is, what the law is and what our duties are as a Parliament.

Our task here has been made very difficult today, because the Government has not given us anything. They have not produced anything that one can say is of any great weight to displace what is called the presumption in law or regularity. Therefore, the question that arises is: What can be the motive of the Government in dealing with an issue like this in such a slipshod manner?

Let us see what are the reasons given by the Government. He started by reading from Legal Notices 165 and 166. The problem of the Government with Legal Notices 165 and 166 is that, first of all, they permit people from all over the world to apply and does not limit it to particular areas of the world, words to that effect.

Secondly, they are convoluted. He goes further to say that the wording of Legal Notice 166 is, to some extent and when you compare it, ambiguous when it deals with consultancy firms. Even assuming what he said is correct, that has no bearing on the matters before this Parliament. The Government of the day was—there is a process which it went through on the basis of these regulations. What he said had no bearing on the particular individual who was nominated, because the particular individual who was nominated is not from all over the world. He is from Trinidad and Tobago. There is no question about the firm. If there was a tendering procedure that was flawed, it does not affect what has happened. As a matter of fact, the delay in the process may be more reasons why the process is probably better, because you do not have a quick process. That is no excuse.

As a matter of fact, the hon. Member for Diego North East knows that the service commission does not do the secretarial services. It is under the Director of Personnel Administration: The Director of Personnel Administration is under the Ministry of Public Administration. When you talk about the Central Tenders Board, that is not the service commission. The secretariat for the service commission—the Director of Personnel Administration saw about the contracts, the consultants and the advertisements. The Government could have influenced any expedition. What does that have to do with the Public Service Commission making a nomination? It has nothing to do with it. It is spurious. *[Interruption]*

**Mr. Imbert:** I thank the Member for giving way. The document I have before me indicates that the Director of Personnel Administration is functioning within the service commission, not the Ministry of Public Administration.

**Mr. R. L. Maharaj SC:** I do not know whether it is written there. In every department, a Minister has to be responsible, even in respect of accounting to the Parliament and the administration of justice.

What is the next reason given by the Government, in respect of a commissioner of police, for not supporting that nomination? It says from April 2007—June 2008, that delay of 10 months is a reason for the process and a reason why it is not going to support this nomination.

Then it talks about the acting appointment. I want to deal with what is the issue. I ask that the Government, in its response, face the issue. The questions which arise in this matter are as a result of what has been stated by the Government. First, what are the policies and objectives of the amended provisions of the Constitution, in relation to the appointment of the Commissioner of Police? The policy and objective is that there are stated criteria which anyone who fulfills those criteria to the satisfaction of the Public Service Commission can be nominated

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by the Police Service Commission to be the Commissioner of Police. The criteria were published in Legal Notice 165. I noticed the Minister refused to read it. Let the people read the criteria. They read parts of it. Let us look at the criteria and we could see that it has nothing to do—the overriding factor is seniority. What we do know is that the Government has not come here and said that Mr. Williams does not satisfy the criteria for nomination. The Government has come here and by its silence has accepted—[*Interruption*]

**Mr. Imbert:** I gave way. What kind of behaviour is that? In my recital of what transpired, I made it very clear that the consulting firm had indicated that the top three, all of them, were suitable and met the criteria. I made that absolutely clear. That is what emerged from the process. The top three candidates, including Mr. Williams, all met the criteria.

**Mr. R. L. Maharaj SC:** Yes, names were sent; three persons. One declined, one failed a lie detector test—If you come into the Parliament, you must tell us that. I have made enquiries. I have nothing against the individual, but that is the fact. You said you came here to state facts. [*Interruption*] No, it is not a rumour! I am telling you and this House—bring me on a Motion to go to the Committee of Privileges—that you knew it. The Minister of National Security knows it; the second person failed the lie detector test. You would not accept it, but it is true. Mr. Speaker, the silence of the Government in respect of Mr. Stephen Williams is admission. What we do know is that there is one nomination from the Police Service Commission and that one nominee has satisfied the criteria for appointment to be the Commissioner of Police. What we want to know from you and what you have to tell us is why we should not vote or support Mr. Williams. You must tell us why. Do not tell us all this nonsense.

Mr. Speaker, the candidate for the office of Commissioner of Police shall have a degree from a university recognized by the Ministry responsible for higher education in any of the following: law, criminal justice, criminology, police service management or any other relevant degree. You talk about no less than 15 years experience, but the candidate must meet the following core criteria:—[*Interruption*] No, Minister.

- leadership skills—which would enable him to motivate, inspire and engender trust and confidence in the members of the police service;
- management skills—which include the ability to plan and organize operations, monitor and implement such plans and identify and rectify the problems;
- communication skills—both written and oral, which enable him to deal effectively with the media and community groups;

- commitment to the cause of the organization;
- requisite vision—which will enable him to guide the police service in the specific direction that will serve the best interest of the organization and the nation; and
- integrity, having the courage of his convictions and known among his peers for doing the right thing, regardless of consequence to self and others.

We have a situation in this Parliament in which the Police Service Commission, in respect of the only nominee, has stated to this Parliament that Mr. Stephen Williams has satisfied these criteria as a fit and proper person to be Commissioner of Police to manage the police service and the Government comes today to say—because it has what it considers to be some inconsistencies or whatever it is in regulations, delays and convoluted matters in regulations—that it is not supporting the appointment. I would be ashamed if I were a Member of that Government.

**3.45 p.m.**

What I do not understand is how you could sit there, and every day people are murdered, raped and kidnapped. What you are playing with is a police service that every individual in Trinidad and Tobago depends upon to protect them and to maintain law and order, and you come with this nonsense today.

**Mrs. Persad-Bissessar:** Convoluted nonsense!

**Mr. R. L. Maharaj SC:** Mr. Speaker, before I deal with some of the points here, I want to announce to this Parliament—I noticed the Government in its typical arrogant and undemocratic way did not consult—in respect of its decision today to come to this Parliament—with the Trinidad and Tobago Police Social and Welfare Association. Did you consult with them? The Opposition did. The position of the association is that it is in total support of the decision of the Police Service Commission for Mr. Stephen Williams to be appointed the Commissioner of Police. The association's view is that any attempt by the authorities to pervert or reverse that process and/or decision would be seen by the association as a clear act of manipulation by the authorities.

**Mrs. Persad-Bissessar:** That would be rebellion on their hands.

**Mr. R. L. Maharaj SC:** Its view is that it is entirely wrong for the Government to be interfering with the decision of the Police Service Commission or to reverse its decision. It has a duty in this matter to support it.

The association said that any delay by the Government or the Parliament not to carry out the decision of the Police Service Commission can cause adverse effects in promotion within the police service.

I also want to put on record that our information—as a matter of fact, this morning, through Sen. Wade Mark, the Opposition met with the Trinidad and Tobago Police Social and Welfare Association. I have seen other publications, and from investigations that we have done and which have been confirmed, I want to get a denial or acceptance.

The Minister of National Security requested Mr. Stephen Williams over the last few days to meet with him. The Minister of National Security then told him that the Prime Minister wanted to meet with Mr. Williams. The meeting took place at about 3.00 p.m. at Whitehall. The conversation to Mr. Williams was: “The Government has a plan that does not include you. You are a young man and the Government may have a plan in the future to include you.”

**Mrs. Persad-Bissessar:** That was reported in the newspaper today.

**Mr. R. L. Maharaj SC:** “We would like you to decline the offer and the decision made by the Police Service Commission.” The response was: “I respect you as Prime Minister, but you must also respect me, Mr. Prime Minister, I decline your offer to step down.” I want to make it clear that I do not know Mr. Williams. I did not have any conversation with him. He has not communicated with me but, I think, the Minister of National Security has a duty to tell this country whether [*Desk thumping*] that conversation or words to that effect took place, because it seems to be a pattern of conduct by this Government. That was the same kind of conversation which the Prime Minister had with the previous Chief Justice, Mr. Satnarine Sharma. [*Desk thumping*]

The Mustill Commission of Enquiry talked about the breaches of the rule of law and the doctrine of the separation of powers in its report. If that is so, the question which arises is: Was it morally proper—forget the legal matter for the time being—and ethically right for the Prime Minister to have done that—interfered and put pressure upon an appointee or a nominee? That is not right. The Prime Minister must resign if that is the case. [*Desk thumping*]

**Mrs. Persad-Bissessar:** That is why he is not here today.

**Mr. R. L. Maharaj SC:** That is why he is all the way in Antigua. He should be here. [*Desk thumping*] He could run but he would not be able to hide. [*Desk thumping*] As a matter of fact, it makes what Mr. Valley said to be true: Beware of a dictator. [*Desk thumping*] As a matter of fact, I do not expect any response from them.

Their colleague, Dr. Rowley, said that this “wajang” behaviour was a lie and all of them sat and did not say anything about it.

**Mr. S. Panday:** They are chickens!

**Mr. R. L. Maharaj SC:** As a matter of fact, Dr. Rowley said that there is a clique in the party that is running the Cabinet, and all of them sat and did not say anything.

**Mr. S. Panday:** They are chickens!

**Mr. R. L. Maharaj SC:** I am asking you today, Minister of National Security—I know you know it and I know you know the truth—Before I go into the depth of my contribution, may I also put on record—*[Interruption]* The journey now start. Mr. Speaker, I am sorry.

Mr. Speaker, the Criminal Bar Association has made a statement and I think it is important. I know sometimes governments do not like lawyers. The association has expressed a deep concern over circumstances surrounding the recommended appointment and the acting appointment to the office of Commissioner of Police. They talked about what has happened with the Police Service Commission in nominating the person as a candidate. They asked, how can the same members of the Police Service Commission who selected Superintendent Stephen Williams—and who, incidentally, did not fail a polygraph—as the person best suited for the commissioner position have now bypassed him as the person best suited to fill the same acting position.

It is to be noted that the amended legislation regarding the selection appointment process for the Commissioner of Police was intended to meet two main objectives: one is to abolish seniority as the major selection criterion and the second is to remove the Prime Minister’s veto power over this appointment.

Mr. Speaker, as an Opposition, our duty is to tell the Government exactly what are the principles of law which circumscribe their powers. We have to also tell them the political damage which could be done in what they seem to be geared to do.

What the Government was given in the Act in section 123 of the Constitution was a discretion whether to support the appointment of the nominee—I concede it as not being automatic—and, similarly, the Opposition was given a discretion. That discretion must not be exercised fancifully or whimsically. That discretion must be exercised in accordance with the law. If it is that the discretion is being exercised to frustrate the policies and objectives of the law then that discretion is

not properly exercised. And, therefore, I just wish to say that what has happened here is that the Government has not given us any facts or anything to show—this is the opening part of the debate—that the Government is exercising its powers fairly, legally and reasonably.

Mr. Speaker, if the object of the law is that person who has to be appointed Commissioner of Police has to satisfy certain criteria, and the Police Service Commission has decided—as the body which has been given that power to make that nomination, the Police Service Commission has made that decision—the principles of law which govern that is that decision is presumed to be lawful, unless the Government can show that it was fraudulent, it was in bad faith or unless it can show that the decision was a corrupt decision.

As a matter of fact, in a well-known case in Trinidad and Tobago, *The Attorney General v K.C. Confectionery Ltd*, the Court of Appeal in several judgments which they quoted in this matter—the reference for the purposes of *Hansard* is (1985) 34 WIR—it stated, quite clearly, in a judgment of a previous Chief Justice Clinton Bernard that it is settled law and that there is a presumption as part of the law of the Republic of Trinidad and Tobago that the decisions of public officials are lawful unless the contrary is established. The contrary that has to be established is that it has to be a decision made in bad faith or it is corrupt or dishonest.

May I read from page 414? It says:

“Public officials, as the term connotes, are people who render public service. They do so for the good and welfare of the country and many of them at great personal sacrifice. It is, in my view, wholly unconscionable to conceive of any principle of law to the contrary, of which I spoke. Small wonder, as I sought to show in the *Lopinot* case by reference to various other jurisdictions, that the presumption is part of the law of those jurisdictions and I made the observation already referred to in the main judgment. In my judgment I reiterate what I said in the *Lopinot* case and would emphasize again that the presumption exists in all cases; and, further, that there is no ground for justifying its removal from the laws of this Republic, or for that matter restricting the sphere of its operation. Indeed, the *Lopinot* case demonstrated that the principle was acknowledged as part of the constitutional law of India, the USA, and the West Indies Associated States...

Having held that the presumption of regularity in the acts of public officials exists in this jurisdiction, I entertain the view that it can only be discharged by proof of mala fides on a balance of probability.”

**4.00 p.m.**

Mr. Speaker, the Government has not produced anything to show that the Police Service Commission acted in bad faith, that they acted dishonestly or fraudulently, they did not even show that there was any problem with the criteria, so therefore, in law—and this Parliament is dealing with law—that decision must be followed by the Government, unless it can show—and it cannot decide that, it has to go to a court. They cannot be judge and jury. So, they have a duty to come here and say that that is the position. If they do not, the only conclusion that the public and we would get, is that they have a particular agenda for the police service to be used as a private army for the party in Government. [*Desk thumping*] That is it! That is it! As a matter of fact, when you look at the sequence of these events, this debate is taking place after the Government knew in June—

**Mr. S. Panday:** June 13.

**Mr. R. L. Maharaj SC:**—on the 15<sup>th</sup>, of this decision. The Government debated a number of measures, we are now—what date are we on?—July 04, and they are debating this when a crisis was created in that a Commissioner of Police, who was given a year's extension [*Interruption*] was supposed to go in November 2008, and suddenly—

**Mrs. Persad-Bissessar:** That is right.

**Mr. R. L. Maharaj SC:**—Mr. Paul decides that he is going and he is going quickly.

**Mrs. Persad-Bissessar:** Was it because of pressure?

**Mr. R. L. Maharaj SC:** So, when you look at the sequence of events—and then the Government which supported this law and said you must not have people performing the duties of Commissioner of Police on the basis of seniority, they are coming here now to say it is okay for someone to perform the duties of Commissioner of Police based on seniority. What! Who they can fool?

**Mr. S. Panday:** Utter nonsense!

**Mr. R. L. Maharaj SC:** As a matter of fact, it is important for us to look at this Act, because in section 123 of the Constitution it talks about the Police Service Commission shall have the power to appoint persons to hold or act in an office of Commissioner of Police.

So, the question is the performing of the functions of Commissioner of Police, so what is the intention of the Constitution? The intention of the Constitution is,

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those who perform the functions of Commissioner of Police must satisfy these criteria; must pass the test of the Police Service Commission with these criteria and be a fit person to be Commissioner of Police. This has nothing to do with the Judiciary. The Judiciary does not have criteria like this.

**Hon. Member:** What do they have?

**Mr. R. L. Maharaj SC:** They do not have criteria like this.

**Mr. Imbert:** They are arbitrary?

**Mr. R. L. Maharaj SC:** I am not saying it is arbitrary, but what I am saying, this was laid in Parliament by the Government, signed by the secretary to the Cabinet. This is the Government's document; the Government prepared this and the Government had this criterion. They laid it in the Parliament. If the Government knew this would have prevented a process from taking place or they wanted to rely upon it they could have changed it. They did not, so they have to accept that decision unless they can show that the Police Service Commission acted in bad faith, fraudulently or corruptly, but they have not shown that. [*Desk thumping*]

They cannot go now and make up, because this debate was opened by the hon. Member for Diego Martin North/East. If they are going to say anything else, the only conclusion is make-up story.

**Hon. Member:** Fabricate.

**Mr. R. L. Maharaj SC:** As a matter of fact, when the Prime Minister saw Mr. Stephen Williams, he did not tell him, "you did not fit the criteria"—Did you not arrange the appointment? The Prime Minister accepted the man, he fit the criteria, he is fit enough to be Commissioner of Police, but he said our plan does not include you, you are too young.

Hon. Minister of National Security, when you get up to talk I want you to tell us what is the plan, but you know we would not believe you. Do you know why? Because all your plans failed.

**Hon. Member:** Bad execution. [*Inaudible*] Who is responsible?

**Mr. R. L. Maharaj SC:** I also want to say, from the information I got, that after Mr. Louis Vega withdrew from the process, in considering the other two nominees or the other two candidates, the lie detector test was not passed by one of the other candidates. I think that the Government—if that is the case—and I am saying that is the case and I am prepared to face the Committee of Privileges because I want to prove that—But if you did not check it, find out and come and

tell us. Write to us and say in what area—it is not fishing—was that test failed. If you are saying it was not failed, you must come and say that what I am saying is untrue.

Mr. Speaker, the context in which this amendment came to this House and what we are dealing with should really be considered, not in great detail, and it must be considered in the context that these provisions of this Constitution to be changed, were regarded by the Prime Minister, Mr. Manning, as being very important for the Government to fight crime and to make a dent on the crime problem.

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

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

*Question put and agreed to.*

**Mr. R. L. Maharaj SC:** I am much obliged. Mr. Speaker, as I was saying, the Prime Minister, Mr. Manning, said that these amendments which had to deal with the management of the police service, having someone who can fit these criteria and who can manage the police service was very important, and we cannot have a person who is really being appointed to perform these functions based on seniority. As a matter of fact the policy and objective for seniority to go was not the overriding factor, it was not even a factor. What was important was that a police officer or someone would be able to manage the police service because of all the problems that have accumulated all the years in all these reports.

The Government took the position that the Opposition would obstruct it and if the Opposition gave it its support the Government could make a dent on the crime problem. I am saying this in the context of the importance of this policy and objective of this measure. Therefore, it is strange that the Government will now want to throw overboard those policies and objectives, and would be prepared to allow this country's police service to be managed by someone in which the criteria are not the factor but seniority.

It must be wrong to the public, it must be that if the Government does that it is going to put the country at greater risk in the fight against crime. It cannot improve the situation; it will make it worse, because if this Parliament decided that for the peace, order and good governance of this country, a Commissioner of Police must be appointed on the basis of these criteria which are statutory, but now you are saying you are not giving any reason, any plausible reason, any

reason of any worth that this man should not be appointed; you are saying you have an acting appointment that is there on seniority so we will amend these regulations and we will go over and start a new process and take some months, waste that money—[*Interruption*—that cannot be correct.

As a matter of fact, I do not want this to be a crime debate because I want us to focus on the issue, and the issue is, and in order to support what I said just now, when the Government wanted this measure in June 2005 the Attorney General of the day, Mr. John Jeremie and the Minister of National Security of the day, were giving the impression that the efforts which were there to fight crime had failed, but that the only thing that was needed and what was needed if the Opposition supported an emergency package of legislation which included these, that there will be a solution to the crime problem. As a matter of fact, the Attorney General on June 07, 2005 reported as what he said in the Parliament:

“The state of affairs that held the country to ransom and had caused the population to be under a seige of terror.”

He said:

“the country was at war; criminals have declared war against the people; there was in effect a de facto state of emergency; what was needed was an emergency package of legislation, that would provide immediate relief.”

He said in this House:

“Mr. Speaker, the Government recognizes that our people have grown tired of plans, talks, discussions of the problem. What is needed was action, and Government plan action, and the action was to have this emergency package of legislation passed by this Parliament. The police service was not up to the task of tackling the criminal elements in the country, the criminal networks and it needed this legislation to cause the police to do this and to do their job.”

That is what this Government said, that that is the kind of Commissioner of Police they want who will satisfy that criterion to manage the police service. He said:

“This legislation would give the Government the power to make positive change. The legislative package would in the short term lead to positive change.”

Well, Mr. Speaker, if the Government wanted this legislation and was saying they wanted this to fight crime; we are not on the issue, they got it and the thing got worse in the sense that because, obviously, they have not implemented it as yet. This is the first time it is to be implemented. But if the Government is saying

that this is what the country needs—Mr. Speaker, if you check the record you would see how many attacks were put on the police service because it did not have a Commissioner of Police who could manage the police service. As a matter of fact, the Prime Minister had said at a public meeting, whatever he has to do he will do it because he was sure that if he got this he could make a dent on the crime problem. Why is it now you have a process which has been followed—yes it has taken some time but there are advantages to that—the Government had the opportunity to complain, they did not complain to the commission. As a matter of fact, I have asked for information from the Government—

**Hon. Member:** From whom?

**Mr. R. L. Maharaj SC:** I do not have to tell you who gave me information—and the Government’s record will show that there were no complaints by the Government to the commission about the delay. As a matter of fact, the commission was complaining to the Government that the secretariat was taking too long with the process. [*Desk thumping*] So, of what merit—this is an A,B,C, politician—is a submission in a matter like this that the delay is in the process? What merit in the question of whether the regulations, apparently, are inconsistent? What merit is that?

Mr. Speaker, you see they are not concerned with justice; they are not concerned with the people who are getting murdered. They have not even apologized to the nation for the crime problem.

**4.15 p.m.**

Mr. Speaker, I know that there are decisions of the courts which have shown what this Government has been doing. This seems to be a pattern of interfering in the activities of commissions and undermining them, and trying to assume power which the Government does not have.

As a matter of fact, in my younger days, I did a lot of constitutional and public law, but there are some young lawyers who are continuing and they are blazing a trail in public and constitutional law. I have a group—[*Interruption*] Anand Ramlogan has been blazing the trail in public law. I spoke to him and I asked him to give me some of the cases that he had done recently, in order to show to the country what the Government has been doing; what the courts have been saying and he has provided me with some of those matters. [*Interruption*]

**Hon. Member:** He working for you now?

**Mr. R. L. Maharaj SC:** That is my business. “Why yuh doh go and help Rowley?” [*Laughter and Desk thumping*] “Ent yuh say you are a lawyer. Yuh said you are a lawyer; help de man, nah man. If yuh doh help him, I will go and help him.”

There was a matter involving a judicial review of Dennis Graham. He is Assistant Commissioner of Police. With your leave, I want to read a passage from what he said in an affidavit. He took a position that the police service should not be taking private donations from private individuals; there should be a procedure for this, because it can give the impression that the police service was under the management of private individuals. He protested and when he protested the next thing he knew, he was transferred from south to north-east. He filed for judicial review and he alleged that the action was illegal and he was a victim of political influence.

He said that: “On or about January 05, Mr. Paul, the Commissioner of Police, telephoned me at my home. He started quarrelling with me in an angry and hostile tone. He accused me of instructing officers to remove the no entry signs, et cetera, on the road, and that if I was trying to get him in trouble with the big people. I informed Mr. Paul that I had no knowledge about this whatsoever, but I did not participate in the project in any way. Mr. Paul shouted at me, and he said that Mr. Artherly was a powerful man in the Government and could get him in all sorts of trouble. I told Mr. Paul that I did not care about Mr. Artherly’s political influence and he angrily replied, ‘When yuh lose your work because you do not want to cooperate with Artherly, doh say ah didn’t warn you.’” It has more, but I would not continue.

**Mr. Imbert:** That is still in court?

**Mr. R. L. Maharaj SC:** I have not got the decision, but I think that he succeeded.

**Mr. Imbert:** [*Inaudible*]

**Mr. R. L. Maharaj SC:** Well, I said I think. Mr. Speaker, there is a decision in a case of Feroza Ramjohn and the Permanent Secretary in the Ministry of Foreign Affairs. That was another case of political interference, and the court ruled that the facts on which the Prime Minister had tried to assume the power to revoke a transfer were illegal and that decision is recorded in paragraph 97. Then you have the Maha Sabha case which went to the Privy Council in London and that is a case again, where it shows that there was political discrimination and political interference.

There is the famous case of Devant Maharaj in which, again, the Prime Minister was at the centre of the case. A decision was given and it was held that the Prime Minister had no power to do what he did, because he wanted to veto an appointment of the gentleman to be in an office as the Deputy Director of the Lotteries Control Board—[*Interruption*]

**Mrs. Persad-Bissessar:** [*Inaudible*]

**Mr. R. L. Maharaj SC:** Yes—and there are many others. It is important for us to understand what is happening here, because what is happening here really concerns the question of democracy and the rule of law.

The Government is not above the law; that is the foundation of the Constitution. The Government is saying that it is strong; it has the power; it can do anything and law is of no consequence. It is saying that although the commission has made this decision, “we are in the Government; we have the power and we disregard the law.” They did this with the Equal Opportunity Act. That injustice could be corrected in some form, but it would not be corrected because this injustice would cause people to be murdered, raped and kidnapped.

**Mr. Imbert:** We only knew yesterday about—[*Inaudible*]

**Mr. R. L. Maharaj SC:** If you want to vote no, you must say and you must give reasons. You cannot come with those flimsy reasons. Mr. Speaker, the whole basis of democratic government—about how many minutes do I have again?

**Mr. Speaker:** Twelve.

**Mr. R. L. Maharaj SC:**—under the Constitution, is that there should not be an accumulation of powers in one individual or in the group of individuals. What there should be is, what is called, the legislature. As a matter of fact, what the legislature does now under the Constitution, if we act contrary to law, the State can be made liable. So every arm of the Government, whether it is the legislature, the Executive or the judicial arm of the State, they are fettered by acting to promote the constitutional rights and to promote the Constitution. The Government is fettered not only by the Constitution, but fettered by the principles of public law, and the principles of public law involve, not only that you must act legally, rationally and fairly—as a matter of fact, I do not want to advise the Government, but If they did not want to support this man, they should have called him and not tell him what they did. They have to give him an opportunity and tell him the reasons they are objecting and not supporting the appointment. They must give him reasons and he must respond. They must consider it genuinely and give him an opportunity to respond.

So, Mr. Speaker, the Government cannot come in this Parliament because it has the majority, but it would find itself in a lot of difficulties—I am warning the Government that it is going to find itself in a lot of difficulties, politically, because this involves the security of the country. [*Desk thumping*] This is not a maxi-taxi situation—[*Interruption*]

**Mrs. Persad-Bissessar:** Water taxi.

**Mr. R. L. Maharaj SC:**—or a water taxi, this is a situation which involves the national security of the country. You cannot treat police officers with that contempt, you have to respect them. [*Desk thumping*]—That is why we want to make a decision in this matter and you have to help us make that decision. If you want us to decide, you have to help us make it and, therefore, what you need to do is, not only to help us make that decision, but satisfy the police officers. You see the people in blue there— [*Member points at gentlemen in the public gallery*]

**Mr. Speaker:** No, no. [*Inaudible*]

**Mr. R. L. Maharaj SC:** Sorry. Okay. You must satisfy the police officers; you must satisfy the members of the public; you must satisfy the country that the reasons, if you are objecting to this appointment, are plausible. You cannot come with that, wishy-washy. [*Interruption*]

**Mr. Imbert:** You are looking for a way out.

**Mr. R. L. Maharaj SC:** Mr. Speaker, as a matter of fact—no, we are not looking for a way out. We want to do the right thing.

**Mr. Imbert:** What is the right thing?

**Mr. R. L. Maharaj SC:** Well, we want you to help us to do the right thing. [*Desk thumping*] You must tell us, give us facts, give us reasons, show us; then you are being of service to the country and to the Parliament.

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

**Mr. R. L. Maharaj SC:** Mr. Speaker, in the Commonwealth now, there is a kind of new dimension to whether a government is democratic or undemocratic. It used to be a situation where the criterion was: is that government having free and fair election? Do people have a constitution which guarantees fundamental rights? The new dimension now is: yes, you can have a country with a Constitution guaranteeing fundamental rights; you can have free and fair elections; you can have freedom of speech; but you can have a government which is abusing and manipulating power.

Mr. Speaker, I want to be careful because I do not want people to think that I am only mentioning one country. If you study the history of Zimbabwe, Sri Lanka or Pakistan, you will see that countries with constitutions, countries which guarantee fundamental rights, countries in which there were problems and in which the governments then went and did certain things which at the time the

population did not object to, but what has happened, they allowed the governments to make all those inroads into democracy, so you have, in effect, dictatorships under the guise of constitutionalism. As a matter of fact, that is what is happening in Zimbabwe, Sri Lanka and several other countries.

Mr. Speaker, this is not simply an issue of approving this matter and coming and saying, yea or nay. This is a matter which the Government and the Opposition must take seriously. We have to consider this very, very seriously, we have to hear what the Government says, and we then have to make a decision.

So far, if I may say, I have not heard anything which is of any substance to say the Public Service Commission's decision has been in any way shown to be wrong. I am not saying that is our position. As a matter of fact, we have an open mind in this matter and we await to hear what the Government says.

**Hon. Members:** Shame, shame!

**Mr. R. L. Maharaj SC:** Thank you very much. Mr. Speaker, I thought my time was up.

**Mr. Speaker:** You have some minutes—

**Mr. R. L. Maharaj SC:** Mr. Speaker, there is a school of thought—if I may deal with the acting appointment positions—and I put it just as a school of thought, I would like the Government to look at it and we ought to make this decision today because the country cannot wait longer. As a matter of fact, I do not understand. The Government is being inconsistent. I take the point that is for the Parliament to approve or not to approve, but the Government has said in its Motion:

*“And Whereas it is expedient to approve the Notification:”* [*Desk thumping*]

Signed by the Leader of the House.

*Whereas* section 123(3) says...

*Whereas* section 123(4) says...

*“And Whereas* the Police Service Commission had submitted...

*And Whereas* the President has on 1<sup>st</sup> day of July, 2008 issued a Notification in respect of the nomination;

*And Whereas* it is expedient to approve the Notification

*Be It Resolved* that this Notification of the President of the nomination by the Police Service Commission of Mr. Stephen Williams to the Office of Commissioner of Police be approved.”

*Police Service Commission Nomination*  
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So, in effect, the Government's position on the Motion is that it would approve it, but when they come here, he still seems not to have made up his mind, and he has shown that he is not supporting it.

**Mr. Speaker:** Hon. Members, the sitting of the House is suspended for tea and will resume at 5.00 p.m.

**4.30 p.m.:** *Sitting suspended.*

**5.00 p.m.:** *Sitting resumed.*

**Mr. R. L. Maharaj SC:** Mr. Speaker, as I was saying on the verge of the suspension, we want to put on record our views about the legal issues regarding the acting appointment, so that history would record that we did bring to the attention of the Government the legal principles they ought to have looked at.

The provisions of section 123 clearly apply to the substantive offices of Commissioner of Police and Deputy Commissioner of Police, but section 123(2) talks about that process in respect of subsection 1(a) of that Act, which applies to Commissioner and Deputy Commissioner, but also relates to what is stated in section 22(1) of the Police Service Act, as amended.

Section 22(1) dealt with employing on contract a commissioner or deputy commissioner of police. It was amended by the 2006 Act to say that process also must be done in accordance with the procedure prescribed, that is to say, to get the approval of the Parliament, and the procedure for the appointment of a commissioner of police.

We have a situation where the nominees for the substantive offices of Commissioner of Police and Deputy Commissioner of Police and the offices of Commissioner of Police and Deputy Commissioner of Police on contract, from persons outside for a specified period, must be brought before the House for approval. It cannot be said that the acting appointments, which are necessarily for a specified or determinable period, fall outside of this scheme.

In construing and interpreting it, in our respectful submission, it must be interpreted in such a way as not to be inconsistent with the Constitution.

Before I pass on, I want to make it quite clear that our submission on the person to act as Commissioner of Police is no reflection of ours on the person who is acting as the Commissioner of Police. *[Interruption]* As a matter of fact, in fairness to Mr. Philbert, I have known him since I was the Attorney General. He was very involved in major cases and he worked with me on particular

matters; I found him to be a very good investigative police officer, so it has nothing to do with anything against the individual.

In conclusion, the world is very well aware of that famous quotation by Lord Acton:

“Power does corrupt and absolute power corrupts absolutely.”

I would like to submit that last quotation from one Yusuf Kanli of the *Turkish Daily News*, in considering this comment. I have found it very helpful and would like to quote it. Stressing that power corrupts and absolute power corrupts absolutely, he said that democracy should not be taken as a rule of the majority; that in democracy the powers of the majority are restricted by law. Law he said was the last refuge of individuals against arbitrary rule and erosion in the belief in law. He warned, “It is the beginning of the end.”

In conclusion, our minds are open; our hands are outstretched. We would like to get information from the Government on this very important issue.

Thank you.

**The Minister of National Security (Sen. The Hon. Martin Joseph):** Mr. Speaker, I am pleased to participate in this debate on the Motion that is before us. In doing so, I would like to put the debate in some kind of context. *[Interruption]*

**Mr. S. Panday:** Could you speak a little louder, please!

**Sen. The Hon. M. Joseph:** Just to remind hon. Members or, in some instances, inform hon. Members; some would be reminded because they would have been aware of the context in which this so-called police reform legislation came to the Parliament. It was as a result of discussions that took place between the Opposition, led by the Leader of the Opposition, the hon. Member for Couva North, Mr. B. Panday; the Member for Siparia, Mrs. Kamla Persad-Bissessar and, at the time, the Member for St. Augustine, the then hon. Mr. Winston Dookeran—*[Interruption]*

**Mr. S. Panday:** The then honourable?

**Sen. The Hon. M. Joseph:** Well, the then Member for St. Augustine; Member for Princes Town North! At the time he was the hon. Winston Dookeran, Member of Parliament for St. Augustine. *[Laughter]* *[Crosstalk]*

At one point in time, I believe—and I may be wrong—in the absence of the Member for Siparia, Sen. Mark participated in one of the talks. On this side we were led by the hon. Prime Minister. *[Interruption]*

**Mr. S. Panday:** “Who run and hide today!”

**Sen. The Hon. M. Joseph:** The then Attorney General, John Jeremie SC; the then Minister of Planning and Development, MP for Arouca South, Camille Robinson-Regis, and yours truly.

Mr. Speaker, the Member for Tabaquite—I almost said the Attorney General—indicated that both Opposition and Government felt that it was necessary for us to take drastic measures, especially legislative measures, to deal with what we considered to have been a key element in any addressing of the unacceptable crime and criminal activity, et cetera, et cetera.

We were saying that, in two instances, the root causes of it was one, our location, because of drugs and guns, and the second was weak law enforcement capability. We were talking about law enforcement capability. The question was how we were going to strengthen law enforcement capability. There were lots of discussions. It was clear, at the time, that it was necessary for the Commissioner of Police to be given authority and responsibility to run the police service.

I recall just before that, former Mayor of New York, Giuliani, came down. I remember that Clico Finance had brought him down to talk to a number of business leaders at the Hilton, to deal with the same question of crime, et cetera. He said, “You could jump high, you could do what you want, until such time as your Commissioner of Police has the responsibility and authority of his police organization, you are wasting time; in my system in New York, I, as mayor, could hire and fire my Commissioner of Police”. In many other jurisdictions in the United States, similar arrangements are in place; legislatively, of course.

So in the discussions, the question of the authority and responsibility of the Commissioner of Police loomed large in any discussion. As a result of that, it was felt that it was necessary for the Government to have a mechanism put in place so that the best commissioner of police could be selected. At the time, it was important that the pool should be from an international consideration. It should come from wherever the best resides; that should be available to us in terms of selection. I would come to the result of that, but there was something else.

It was also felt that the role and responsibility of the Police Service Commission itself also had to change. A new remit was supposed to have been given to it, and that new remit was given, basically, the appointment of Commissioner and Deputy Commissioner; serve as an appellate body to review the decisions of the commissioner and deputy, the leaders of the organization, as it related to promotion, discipline, et cetera for all ranks; from Assistant Commissioner of Police right down to police officers.

It was also felt that, in those circumstances, how we appointed the Police Service Commission also needed to change, because, again, there were debates about the President appointing on the basis of consultation with the Prime Minister and Leader of the Opposition. It was felt that needed to change, and it was changed.

It was also felt that the appointment of the Commissioner and Deputy Commissioner itself also needed to change. In that context, it was necessary for the Prime Minister to give up his veto, as it related to that; but the question was: When would the final decision be made as it related to the Commissioner and Deputy Commissioner?

There was a point of view during the discussions which said, “We should go almost like the American system: congressional hearings.” Let the individuals appear before the Parliament and let the Parliament subject them to questions, et cetera, as in the US system. It was felt that would not be appropriate in our system. As a result, it was felt that the Police Service Commission would make the selection, send it to the President and the President would have it come to the Parliament, so that the Parliament could debate it; so that the Parliament would have the final decision.

I want to underscore that, because if you listen to the Member for Tabaquite he was giving the impression that whatever the Police Service Commission brings to the Parliament, the Parliament has to approve it. [*Crosstalk*] Go to the *Hansard* when this matter was debated on Wednesday, March 15. I am going to try to summarize. I am not going into all the details. Basically, the Member for Couva North, at the time, felt—There was some talk as to whether or not—[*Interruption*]

**Mr. S. Panday:** At that time the Speaker had kicked him out already!

**Sen. The Hon. M. Joseph:**—this should have been a two-thirds majority; should the final decision be made by a two-thirds majority in the Parliament. The Member said no.

**5.15 p.m.**

Let me quote him. This is the Member for Couva North talking. I will quote from *Hansard*.

“I have read certain criticisms on the removal of the veto, coming from politicians, that the Prime Minister still has the power of veto which he can exercise by his majority in Parliament.

Firstly, to insist otherwise than a simple majority—that there be a special majority—would in effect be transferring that veto to the Opposition. The

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Opposition would now be able to veto the Commissioner of Police. I am talking about the positive resolution as opposed to the special majority. We decided against that because the Government has the responsibility to deal with crime and, therefore, it cannot put the responsibility to appoint the commissioner on the Opposition. They must be responsible at every turn. We thought that was a good suggestion, that insisting on a special majority was not the right thing to do.”

The Member for Couva North was saying that in making the decision, it should be the decision of the majority and not the special majority. I am saying this because it underscores—if we listen to you, hon. Member for Tabaquite, you are giving the public the impression that by Government not supporting the recommendation of the President based on the—

**Mr. Speaker:** Not recommendation. Resolution.

**Sen. The Hon. M. Joseph:** Sorry. By not supporting the resolution we are undemocratic; we are doing all kinds of stuff; we have a political agenda and when we finish we would be interfering unnecessarily with the police service. All those issues the Member for Tabaquite was putting into the picture as if not just the Government but Parliament has the final say as it relates to this matter. I am putting it in context.

Do you know what is also important? The then Member for St. Joseph, Mr. Yetming, felt that a select committee of Parliament should be established to consider it. The resolution comes; it is sent to a select committee that considers it and reports back. It is a pity that the hon. Member for Siparia is not here. In her contribution she said, no. Why? Going behind a closed door? If we have to make a decision, let us make a decision in public and open. Why do we have to go behind closed doors to make the decision? I am saying all that to underscore the thinking that went into the matter coming to Parliament and having the final say. I am saying the Parliament having the final say because that was what was agreed to by the legislators at the time.

I could go into some of the final details but I would not go because I want to refute the claim being made by the Member for Tabaquite who gave that impression. He ended up by talking about power corrupts; absolute power corrupts absolutely; the Government is acting in a way which is undemocratic and we are undermining the Constitution. All those things the hon. Member for Tabaquite said in terms of this matter.

Let me come to underscore the point made by the Leader of Government Business in piloting the Bill. The intention of the legislators was that a process

would be put in place to give us the opportunity to appoint the best Commissioner of Police available. The Member for Diego Martin North-East and Leader of Government Business tried to explain, [*Interruption*] explained, not tried. My sincerest apologies.

All the legislators placed their emphasis and hope on the process. It was felt that if the process worked in the way in which it was expected to work, when the name came to Parliament there would be no problem. That is the whole thinking. That was the reason the Prime Minister gave up his veto. We were confident that the process would give us the best Commissioner of Police from wherever that person may come. As the hon. Member indicated, with all due respect to all involved, the process has not done that. The process has not done that.

We do not want to cast any aspersions—we have to be careful—on the Police Service Commission or on the name of the person who has been sent eventually. Because of the convoluted nature of the process people dropped out. It pains me, as the Minister of National Security, to stand here because Mr. Williams is an excellent police officer. There is no question about that. There is a future for Mr. Williams. I can see Mr. Williams as a future commissioner of police. There is no question about that. The process did not give us the best pool from which to choose. We could go into a name, a blame—

**Mr. Maharaj SC:** Hon. Minister, are you saying that the reason that the process did not bring a sufficient pool, is how it was flawed? Am I correct? Not a sufficient pool?

**Sen. The Hon. M. Joseph:** Yes. I have to be careful about what I am saying. Let me just stick to that. We are satisfied that the process did not give us a sufficient pool from which to choose. People dropped out along the way for a number of reasons. How can you start to advertise internationally for a commissioner of police and put in the advertisement, TT \$25,000? I could go here and go over the litany of challenges. I know where I live and the next thing I know in the headline, Minister of National Security criticizes this one or Minister of National Security criticizes or blames—[*Interruption*]

**Mr. Speaker:** Hon. Member for Princes Town North, until the Standing Orders are changed, you cannot sit and contribute. You need to stand.

**Sen. The Hon. M. Joseph:** Mr. Speaker, it seems as if the Member for Tabaquite is more informed about the process than the Government.

**Mr. Maharaj SC:** Do not blame me for that.

**Sen. The Hon. M. Joseph:** I am not getting into any war with him. I have said this on numerous occasions in Parliament. We are doing something new. This is a new arrangement which we are putting in place. It was important to let the process work. You can say that you are putting something new in place and then still behave in the old way. We did not. We chose not to.

Yes, there were challenges with respect to the administrative support for the Police Service Commission in this regard. There were a number of issues. It was necessary to call meetings because the number of players who have been accustomed playing in a particular way, it was necessary for them to play differently, given the new arrangements in place. It was difficult. There is no question about that. There was difficulty. If you look at *Hansard*, a number of persons, for example Gillian Lucky in her contribution was concerned. We know what we want to do; we know the policy and the objectives, but the question she asked was whether the mechanisms were in place to support it.

Eight months later, we find ourselves at a particular juncture, but the Government is satisfied that it is in the country's best interest that the process be cleaned up so that once more an opportunity can be provided. The hon. Member for Tabaquite is so right because of the kind of authority that will be given to the Commissioner of Police to run the affairs. Concerns were raised about political interference. I heard him talking about how we want the police service to be the political arm of the party. Nothing is further from the truth. All this dramatization.

I do not know if the Member for Tabaquite knows what he is saying and how it is likely to impact. I heard him talk about the whole police organization and it would take a particular position. We are acting in the country's best interest in terms of the decision that we are taking and it is extremely painful. At the end of the day, we want an appointment of a commissioner of police, especially one who at this time would be able to treat with the many challenges which we are facing now and are indispensable, to say the least.

I do not want to be very long. I do not need to be very long. Let me indicate what the Executive has been doing in the meantime to support this. It was quite clear that given the new mandate for the Police Service Commission, it needed to be started. Cabinet was approached and as a result of that as early as May 2007, Cabinet approved staffing to support the Police Service Commission. There is another issue. Right now, the first issue is the appointment of a commissioner.

The second issue is the question about the monitoring of the performance of the commissioner, deputy commissioner and, by extension, the police organization to ensure whether or not the mandate is being adhered to, that is also the

responsibility of the Police Service Commission. If the commissioner and by example, his leadership is not performing and living up to the standards, they would be able to take action. Remember we came to amend to ensure that the reporting every six months was clearly put in law and what the Commissioner of Police is required to provide the Police Service Commission, so that they would be in a position to determine whether or not the commissioner and his leadership are discharging their responsibilities and if they are doing it an appropriate way to take the appropriate action.

Some of the positions in the approved staffing are as follows:

- a director of audit, evaluation and education;
- a senior legal officer;
- a legal researcher;
- 1 junior legal research officer;
- 1 retired judge; (for the appeals body)
- 2 senior attorneys;
- 1 associate director audit;
- 1 associate director research and evaluation;
- 1 associate director public education;
- 2 audit analysts;
- 1 financial analyst;
- 1 human resource specialist;
- 2 statistical specialists;
- 1 electronic data processing specialist;
- 2 data processing operators;
- 1 evaluation specialist;
- 1 research specialist;
- 1 public relations specialist;
- 1 website manager;
- 7 business operations assistants;

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4 CAT reporters;

Temporary positions:

1 Human Resource Advisor II;

1 Human Resource Officer I;

1 Case Management Officer V;

1 records keeper;

1 Press Officer II;

1 library assistant;

1 orderly;

2 maids;

1 driver/messenger.

This is the support provided by the Executive to the Police Service Commission so that it can discharge its responsibilities in a manner befitting the new laws.

It was also necessary in the circumstances to provide the Ministry of National Security with certain capabilities that it does not have currently, with respect to its responsibility for reviewing the responsibilities of the Police Service Commission.

**5.30 p.m.**

Mr. Speaker, in order to support the Commissioner of Police, because we recognized that the office of Commissioner of Police needed to be strengthened, we had established a senior reporting group to look at specifically what would be needed to ensure that the new responsibilities of the police could be discharged. As a result of that, we got Cabinet's approval for the establishment of eight senior executive positions in the police service: one Head, Executive Management Service; one Head, Finance and Accounts; one Head, Human Resources; one Director of Planning; one Head, Police Legal Unit; one Head, Information Technology and one Head, Internal Audit.

The positions of Head, Executive Management Services; Head, Administration; Head, Human Resources and Head, Information Technology were filled. We said that, given the fact that there was the expectation that a Commissioner of Police would be coming aboard, we would hold the others so that the Commissioner of Police would have some say in the appointment of these persons. These were civilian positions, so that where in the past uniformed persons occupied these positions, those persons could now be relieved to do more operational work.

In the Ministry of National Security, it was necessary to establish something called the Office of Law Enforcement Policy (OLEP) to discharge the new responsibilities of the Ministry, in keeping with the new governance of the police service. The positions in OLEP were: one director, one associate director, one human resource officer, one legal officer, one finance officer, one programmes officer, one research and evaluation officer, a facilities and technologies officer, an assistant finance officer, an assistant programmes officer, an assistant research and evaluation and one clerical support officer.

It is quite clear that the Government is very serious about making sure that the agencies are responsible for ensuring that there is an improvement in law enforcement. I make the point over and over and I am misunderstood. Some time ago I said that two or three years from now we are not going to be talking about the same issues and it was reported that the Minister said that we should wait two or three years for crime to improve. They know what they are doing. It is deliberate. If we do not put steps in place now, we will continue to talk about the same things over and over.

This Government is very clear—Vision 2020, developed society status on or before 2020; 12 years from now. It is clear that in terms of a developed society, the quality of life and standard of living of citizens in this country do not exist now. We know there is a gap. We know where we need to get. We need to provide a better level of security and safety to the citizens. There is no question about that in terms of the murder rate and the levels of crime and violence. There is a huge gap between where we are and where we need to get to. We are clear about what is necessary to make sure that that level of security and safety that must be provided is provided.

I tell people that long after I am not a Minister of National Security I have to live here. I am going to live in a developed society without moving. I am not going anywhere. So, there is an interest in making sure that the issue that challenges us the most—there is no question that the issue that challenges us the most now is that of crime and violence—we must put mechanisms in place to correct, and the choice of a Commissioner of Police is indispensable in that regard.

With these few words, I thank you very much.

**The Minister of Works and Transport (Hon. Colm Imbert):** Mr. Speaker, it is now my duty to complete the presentation on this matter. I clarify the point the Minister of National Security has made that the reason the Government is

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unable to approve the resolution is that we are of the view that the process did not produce the widest and best pool of candidates. As the Minister has said, quite categorically, and as the Member for Tabaquite has said, this is a very serious matter and the Government has carefully considered the matter.

As the Minister has said, it is no reflection whatsoever on the individual. He did meet the criteria, but that was not sufficient. The Government was of the view that the process itself was flawed. However, it may very well happen that if the process is cleaned up and improved and the Commission is given the ability to advertise and recruit in a much more efficient manner and also given the opportunity, if they think it necessary, to head hunt—I am not prejudging anything; I cannot say what will occur—the same person may find himself again on the order of merit list. But at this point in time we are of the view that the procedure has not given this Parliament the widest pool of candidates to make an informed decision.

Before I conclude, there are some matters raised by the Member for Tabaquite that I would like to clear up. I wish to clarify that at no time did I say that seniority should be the criterion for the permanent position of Commissioner of Police. I was very clear about what I said. In fact, when I used the example of how the President in his wisdom selected the honourable Chief Justice, he did not apply seniority; he looked at the pool of candidates available and selected the person who, in his opinion, was best equipped at this time to be our Chief Justice.

He used a lot of objective criteria. He used merit; he used scholarship. I remember some of the reasons he gave. He said he saw scholarship in the judgments of the person now Chief Justice and he picked a person who was, in effect, a very junior person to the permanent post of Chief Justice.

I have never and will never agree that seniority should be the primary criterion for the selection of the permanent position of Commissioner of Police. I do not subscribe to that view. I believe merit should be the primary criterion. I was merely speaking about the convention as it applies to acting appointments and I used the parallel as to what occurs in the Judiciary in terms of acting appointments. The practice has always been that seniority plays a significant role in decision-making with respect to acting positions, but should not play such a significant role, or a role at all, in terms of permanent positions. That is my position. I just want to clear that up. There is no acrimony here.

With respect to the Director of Public Administration, if one goes to the Constitution, it is crystal clear that the position of Director of Public Administration is

an independent appointment and the functionary of the Public Service Commission and that of the Director of Public Administration do not report to the Minister of Public Administration. He reports to the service commission. That is in the Constitution; it is in the Public Service Commission regulations; it is in the Police Service Commission regulations; it is in the Constitution itself. It makes it crystal clear.

**Mr. Maharaj SC:** Are you saying that the Director of Personnel Administration, who performs as the secretariat for the service commission, that no Minister is accountable to the Parliament for that department?

**Hon. C. Imbert:** I am not saying that at all. What the hon. Member said was that the—I took down your words—Public Service Commission complained to the Government that the secretariat was taking too long. It is their own secretariat they were talking about. The secretariat involved in this exercise for the advertisement, assessment and selection of the candidate is the secretariat of the service commission. So it cannot be that the service commission complained to the Government that its own secretariat, its own Director of Personnel Administration was taking too long. That cannot be.

The DPA is a creature of the Public Service Commission. The process I read headed Director of Public Administration, headed Service Commission Department, at no time in this procedure, which started in August 2007 and ended in June 2008, at no time does the service commission or the Director of Personnel Administration of the service commission indicate any role, involvement, intervention or anything remotely associated with the Government. That is all an internal process of the service commission. Government had no role; it could not say anything. If you could obtain some further elucidation, I would be very happy.

I also want to show hon. Members a copy of the first advertisement for the Commissioner of Police. [*Holds up page*]

**Mrs. Persad-Bissessar:** [*Inaudible*]

**Hon. C. Imbert:** I could not have put it better myself. It was not even a full-page advertisement. It is not even a quarter page. [*Interruption*] I am just making a point and this advertisement of the office of Commissioner of Police was put out by the Director of Personnel Administration, Service Commission Department, Police Service Commission's Secretariat, Cipriani Plaza; not the Government; not the Ministry of Public Administration. There is no Minister of Public Administration involved in this. There is no Government Secretariat. This advertisement was put out by the service commission.

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In this ad—this is why I am showing it to the Parliament—this is Wednesday, August 15, 2007, the *Express*, salary is at the rate of \$25,000 per month; terms and conditions of employment on contract will be negotiated by the Chief Personnel Officer. So the service commission put out an advertisement.

**Mr. Maharaj SC:** I want to get the record clear. Did the Government, at any time during this long process, protest the advertisement in writing?

**Hon. C. Imbert:** Hon. Member for Tabaquite, you would be the first person to bring a constitutional motion against the Government, if it had done any such thing. [*Desk thumping*] Do not try that!

When you are dealing with protest, let me go to the *Hansard*. [*Interruption*] You were not always in this Parliament, Member for Tabaquite, so let me tell you what took place in the Parliament.

On Wednesday, March 15, 2006—I am quoting—the hon. Prime Minister, on the debate on the Constitution (Amdt.) Bill, said the following words:

“Mr. Speaker, I would be less than honest if I did not draw to the attention of hon. Members the fact that this is a process with which Members on this side do not agree.”

**5.45 p.m.**

We do not agree with the process. However, in the spirit of compromise and discussion that took place between the Government and Opposition, we thought it prudent to agree to that formula that now forms part of legislation before this House and to give it a chance to work. That last part, “yuh like dat eh?” Okay, no problem. [*Interruption*] “Doh worry with him.”

Before the Member for Tabaquite gets too excited, I shall now read from the Member for Couva North, the hon. Basdeo Panday. These are the words of the hon. Basdeo Panday on Wednesday, March 15, 2006:

“What the critics missed”—I wonder who he was talking about? In fact he went up at the top—“I have read certain criticisms on the removal of the veto,”—He was talking about the Prime Minister’s veto—“coming from wannabe politicians...”

I could not put it better myself. One of the things about the absent Member for Couva North is that he has a turn of phrase that, I think, is quite remarkable. I want to repeat this:

“I have read certain criticisms on the removal of the veto, coming from wannabe politicians, that the Prime Minister still has the power of veto which

he can exercise by his majority in Parliament. Firstly, to insist otherwise than a simple majority”—listen to this—”that there be a special majority—would in effect be transferring that veto to the Opposition.”

**Mr. Maharaj SC:** He read that already.

**Hon. C. Imbert:** I know, but I am coming to another part.

“The Opposition would now be able to veto the Commissioner of Police. I am talking about the positive resolution as opposed to the special majority. We decided against that because the Government has the responsibility to deal with crime and, therefore, it cannot put the responsibility to appoint the commissioner on the Opposition. They must be responsible at every turn. We thought that was a good suggestion; that insisting on a special majority was not the right thing to do.”—Now, this is the operative part.

“What the critics missed is the fact that the appointments are subject to debate in Parliament. This would give all Members of Parliament the right to comment on the appointments, in addition to the fact that the President makes his list of nominees,...That fact itself gives more credence to the process of consultation because the President now knows that whatever appointment he makes that he is being consulted by the Prime Minister and the Leader of the Opposition. That itself will be the subject of debate when the Parliament comes. It opens up the system. The fact”—this is the part, hon. Member for Tabaquite, I know that you were not around—”that the Parliament may approve the appointment or disapprove it with its majority is not relevant in these circumstances.”

You agree with your leader that the fact that the Parliament may approve or disapprove it with its majority, is not relevant in these circumstances.

“In such circumstances where the matter is subject to debate in Parliament, the chances of having the wrong persons as members of the Police Service Commission or as Commissioner of Police...will surely be minimized. It is on that basis that we are in agreement to support this Bill as it is.”

What the hon. Leader of the Opposition was saying at the time is that he recognized that the Government has a built-in majority in this House. He put the responsibility on the Government to vote with its majority and he therefore accepted the principle that if the Government chooses to exercise its majority, then that is the appropriate thing to do in the circumstances. That is what the Leader of the Opposition was saying. It is crystal clear.

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There are few other little things the Member for Tabaquite said. He exalted Mr. Anand Ramlogan whom he had some horrible things to say about during the last election. I have not yet mastered that technique, to go on a campaign trail and say the most horrible derogatory things about somebody and then come into a Parliament and pretend that I said nothing bad about the person and exalt the person. I have not—I will never master that ability. I do not want that ability to be able to bad-mouth somebody in the election in the most horrible way and then exalt that person in the Parliament, as if I never said anything bad about him.

The Member for Tabaquite raised some very interesting principles of public law. He stretched the concepts of public law to the limits. I would say he stretched the concepts of public law outside of this planet, because he has taken public law to a place where he is telling us today that the court has the power to order the Members on this side to vote yes or no. That is what you are saying. You are saying that we must give reasons and that if we cannot prove—I took down what you said—[*Interruption*] Yes, we would be coming to that. You said that we must show, in order for this vote that we are about to take today—because we are talking about a vote, where the Member would vote yes or no. You said that the Government must show, in its vote, that the Public Service Commission acted in bad faith, was corrupt, otherwise the recommendation of the Public Service Commission must be followed.

You quoted a case related to KC Confectionary. I submit that the hon. Member opposite completely mixed up the concept of the behaviour of a public authority, when making a decision, and the inherent power of the Parliament to exercise the jurisdiction conferred upon it by the Constitution. You got completely mixed up, hon. Member for Tabaquite. This Parliament, by virtue of Act No. 6 of 2006, has been given the power to approve or disapprove the notification sent by the President and your leader, the hon. Member for Couva North, said so, because he is clearly a little more versed in public law than you are, clearly. He understood that the principles of judicial review cannot apply to a Member in this Parliament exercising his constitutional right to vote yes or to vote no. Is the Member saying that the court is going to order me to vote yes? Which court, in which democratic country, can order a Member of Parliament to vote yes or no on a resolution or a matter before the House? It is nonsensical. [*Interruption*]

We have given you the reason. We have indicated that the procedure that is in Legal Notice 165 and Legal Notice 166 does not and did not result in the best and widest pool of candidates from which to choose a commissioner of police. That is our reason.

**Mr. Maharaj SC:** Nonsense!

**Hon. C. Imbert:** There is no court that can interfere in the behaviour of the Parliament. *[Interruption]* You cannot. You are wasting time. You very well know. Mr. Speaker, through you, the Member very well knows that public authorities are required to act in accordance with the intention of the Legislature in conferring powers upon them. You know that. You know that a public authority can only use the powers that have been given. This Parliament gave the Members of this House the power to decide whether it will support the nomination or not, you know that. You know that by statute, Act No. 6 of 2006, we have been given the power, by this Legislature, to decide whether we would approve the nomination or not. You know that is the basic underpinning of judicial review. You know that. You know that you are not going to any court to challenge anything. You very well know that.

Mr. Speaker, I wish to conclude by stating that the Government regrets that it is unable to support the nomination. We cast no aspersions whatsoever on the candidate. As the Minister of National Security indicated, the person met the criteria, but we just feel that we needed a wider pool of candidates from which to choose. As the Minister of National Security has pointed out, the gentleman's credentials indicate that he could be Commissioner of Police in the future, he could be. We on this side believe that this is too important a matter to leave to chance, as the Minister of National Security has pointed out. *[Interruption]* No, no, I want to deal with that too.

The Government is going to call upon the Opposition, I am sure they would assist us and respond positively, to assist the Parliament because we are all Members of Parliament. This law that was passed, the Constitution (Amdt.) Bill, with the support of all Members of this honourable House and we are going to ask the Opposition to assist the Parliament, in improving the selection process and improving selection criteria—*[Interruption]*

**Mr. S. Panday:** You spoke about wanting us to assist you in drafting the regulations, will the Government then give the Opposition resources so that we can carry out research on the nominees that would come to the Parliament?

**Hon. C. Imbert:** Actually, that is a very good point, the Member for Princes Town North has made. We have the cut and thrust of politics. *[Interruption]* I am not patronizing anybody except that I might patronize you. I am not patronizing the hon. Member for Princes Town North because I think he has some very useful suggestions with respect to how we can improve the process.

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The point that needs to be made is that one of the suggestions/proposals that I have heard coming is that when the Police Service Commission makes its nomination—this is a clear flaw in the process and the Member for Tabaquite knows this—it should give a background on the person, give some particulars of the process and some justification for the nomination to assist hon. Members. Certainly one of the improvements—[*Interruption*]

**Mr. S. Panday:** I do not know if you spoke with the Prime Minister or not, but do you know that the Prime Minister said nothing for us because we want to run the Government from the Opposition?

**Hon. C. Imbert:** I am not going to get into any cantankerous to and fro with the Member for Princes Town North. I know he means well. It is all right. You can gallery all you want, but I know you mean well. I know that when we come to look at those Legal Notices, I am sure we can count on the assistance of the Members for Princes Town North, Tabaquite and Siparia and other legal experts on the other side. When we look to improve the process, we can look at the commission giving a dossier to the House, not just sending a name. When you look at it, all that happens is that a name comes here. The Member for Siparia has made a very valid point that all you get is a name. The Member for Siparia has asked publicly for resources to investigate the persons. [*Interruption*] No, not in this debate. The Member for Siparia has made the point that all you get is a name and that you do not get any explanation why they picked the person, who were the other persons considered and where did that person come in the ranking.

The Member for Princes Town North has gone further to write a letter, I have seen it. You sent me a copy, where you asked for resources so that you can do background research on the candidates, in order to satisfy yourself and the Opposition that the best candidate has been proposed. These are the kinds of—[*Interruption*]

**Mr. S. Panday:** And the Prime Minister said no.

**Hon. C. Imbert:** No, no. These are the kinds of reforms we are looking at to call upon the commission, in the law, that when it makes the nomination, it provides backup and supporting documentation, so that Members opposite and Members on this side would have a much better idea. I know that I can count on the support of the Opposition to assist us to improve this process, and with those few words, I beg to move.

**6.00 p.m.***Question put.*

*The House divided:* Ayes 10                      Noes 22

AYES

Maharaj, SC, R. L.

Persad-Bissessar, Mrs. K.

Moonilal, Dr. R.

Gopeesingh, Dr. T.

Bharath, V.

Panday, S.

Panday, Miss M.

Sharma, C.

Partap, H.

Baksh, N.

NOES

Imbert, Hon. C.

Nunez-Tesheira, Hon. K.

Kangaloo, Hon. C.

Abdul-Hamid, Hon. M.

Dumas, Hon. R.

Ross, Hon. J.

Taylor, Hon. P.

Swaratsingh, Hon. K.

Parsanlal, Hon. N.

Beckles, Miss P.

Mc Donald, Hon. M.

Hunt, Hon. G.

Le Gendre, Hon. E.  
Browne, Hon. Dr. A.  
Callender, Hon. S.  
Cox, Hon. D.  
Hospedales, Hon. A.  
Joseph, R.  
Hypolite, N.  
Regrello, J.  
Roberts, A.  
Ojah-Maharaj, Mrs. I.  
*Motion negatived.*

#### **TREASURY BONDS BILL**

**The Minister of Finance (Hon. Karen Nunez-Tesheira):** Mr. Speaker, I beg to move,

That a Bill to authorise the Minister to issue Treasury Bonds for the purpose of liquidity management, be now read a second time.

The object of this Bill is to authorize the use of Treasury Bonds, as an additional instrument to complement the Treasury Notes and Treasury Bills that are currently available for use in open market operations.

Open market operations involve the issuance of special debt instruments by the Central Bank of Trinidad and Tobago on behalf of the Government of Trinidad and Tobago, the proceeds of which are sterilized in a blocked account with the Central Bank.

This sterilization is the mechanism by which excess liquidity in the system is absorbed. Treasury Bonds will represent a third category of these special debt instruments that will now be available for liquidity absorption via the conduct of open market operations.

Mr. Speaker, the gross domestic product (GDP) growth over the past five years has averaged 9.2 per cent. The average annual GDP growth is 6.32 per cent for the

non-energy sector. This growth has driven unemployment down to a historically low level of 4.5 per cent at the end of 2007. The foreign exchange reserves have exceeded over US \$6 billion equivalent to over nine months of import cover.

Our macroeconomic indicators are excellent, but the main macroeconomic challenge for Trinidad and Tobago continues to be that of inflation, and it is in this context that the Government proposes the introduction of Treasury Bonds as another instrument to provide the Central Bank with the wherewithal to undertake more intensive open market operations and, therefore, more effective control of inflation.

Mr. Speaker, inflation is everywhere. That is the chorus from leading commentators voicing concerns regarding the rapid rise in commodity prices, particularly in oil, energy, metals and agricultural commodities and the prospect of global inflation is becoming increasingly deafening. They are pointing to the incidence of inflation in an increasing number of economic jurisdictions.

Indeed, not only inflation is rising in many advanced economies and emerging market economies, but there are signs of a likely economic contraction in many advanced economies, including the United States of America, the United Kingdom, Spain, Ireland, Italy, Portugal and Japan. It begs the question: Is stagflation to make a comeback?

So far, in emerging market economies, the rise in inflation has been associated with rapid economic growth and economic overheating. The Government expects that inflationary pressures will persist in the Trinidad and Tobago economy in the face of emerging supply constraints, continuing credit expansion and rising imported inflation.

The Government, however, is acting proactively to mitigate the inflationary challenge emerging, not only for Trinidad and Tobago, but which also looms as a serious problem for the wider global economy. This Government is not prepared to let inflation in Trinidad and Tobago get out of control and, in so doing, run the risk of losing out on the considerable gains that we have already made.

This Bill for the creation of Treasury Bonds provides the Government with the wherewithal to confront and subdue inflation wherever and whenever it emerges as an unacceptable cost to realizing our aspirations for broad-based, sustainable and long-term growth.

Mr. Speaker, the introduction of this Bill is entirely consistent with Government's stated commitment to employing more aggressive approaches to liquidity management.

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It is in this context that the Government is providing the Central Bank of Trinidad and Tobago with additional flexibility to conduct its open market operations above and beyond the Treasury Notes and Treasury Bills currently used to supplement existing instruments for open market operations in Trinidad and Tobago.

The Treasury Bonds Bill is a most important addition to the arsenal of tools available for the effective management of inflation in Trinidad and Tobago. This new instrument strengthens Government's ability to manage and control the inflation scourge that is threatening to engulf the entire global economy. It is yet another salvo by Government in its assault on inflation and signals Government's increasingly aggressive approach to minimizing the extent to which liquidity expansion fuels inflationary pressures in Trinidad and Tobago.

The addition of the proposed Treasury Bonds Bill to the existing Treasury Bills and Treasury Notes to quote: "kills many birds with the proverbial single stone". The new instrument not only provides significant incremental flexibility for the conduct of open market operations, but also adds considerable impetus to the ongoing development of the secondary bond market in Trinidad and Tobago.

The proposed Treasury Bonds will be available at tenors of between 5.5 to 10 years and will, therefore, bring additional choice to the secondary bond market and with it the associated opportunities for price discovery. The Treasury Bonds will represent an additional instrument for investors to expand trading activity and diversify their portfolios. This increased trading activity will facilitate more efficient pricing of Government securities and the clarification of a yield curve for the Trinidad and Tobago market.

Mr. Speaker, I turn now to the highlights of the provisions of the Treasury Bonds Bill. Clause 3(1) of the Bill before this honourable House provides for the Minister of Finance, on behalf of the Government and on the written advice of the Central Bank, to borrow money by the issue of bonds for the specific purpose of managing liquidity in Trinidad and Tobago.

Clause 3(2) of the Bill provides for the principal and interest payable on bonds issued to be made at such time or times as the Minister shall determine pursuant to section 10, but so that the principal shall not be paid earlier than five and one-half years nor later than 10 years from the date of issue of the bonds. So the tenor of the proposed bonds shall be between five and one-half years and 10 years.

Mr. Speaker, clause 4(1) of the Bill provides for all moneys raised by the issue of bonds to be paid into a blocked account in the Exchequer account and shall

form part of the Consolidated Fund. Clause 2 of the Bill provides the definition of a “blocked account”.

“blocked account means a separate account into which moneys raised under this Act are deposited and from which withdrawals, transfers or any other transactions are prohibited except as required under this Act.”

Clause 4(2) of the Bill provides that:

“No moneys paid into the blocked account referred to in subsection (1) may be withdrawn or otherwise dealt with except for the purpose of paying the principal sum under section 7.”

This is the mechanism through which the proceeds from the issue of Treasury Bonds are absorbed from the financial system.

Clause 5 of the Bill provides that:

“The principal and interest of all Bonds issued under this Act shall be a charge on the Consolidated Fund.”

Clause 8 provides that the bonds issued under this Bill are exempt from stamp duty.

Mr. Speaker, clause 10 of the Bill also provides for the Minister of Finance, on the advice of the Central Bank, to determine the form for the issue and recording of bonds; the currency of issue; the denomination of bonds; the rate of interest; the method of payment of interest and principal; method of redemption and the transferability and negotiability of bonds.

With respect to the reporting requirements, clause 11 provides that the Minister is to report to Parliament semi-annually.

In closing, it is our considered view that this proposed sterilization mechanism through the issuance of bonds under this Bill will significantly dampen inflationary pressures exacerbated by excess liquidity in the system. Once again, this demonstrates this Government’s prudent and responsible management of the economy of Trinidad and Tobago.

Mr. Speaker, I beg to move.

*Question proposed.*

#### ADJOURNMENT

**The Minister of Works and Transport (Hon. Colm Imbert):** Mr. Speaker, I beg to move that this House do now adjourn to Monday, July 07, 2008 at 1.30

*Adjournment*

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p.m. at which time we will do the Municipal Corporations (Amdt.) Bill to completion, and when we are finished we will complete the Treasury Bonds Bill. I just want to serve notice that it is important that we complete the Treasury Bonds Bill on Monday.

I beg to move.

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 6.17 p.m.*

**WRITTEN ANSWER TO QUESTION**

*The following question was asked by Dr. Roodal Moonilal (Oropouche East):*

**Rural Development Company—Penal/Debe Projects  
(Details of)**

- 90.** With respect to the Rural Development Company, could the hon. Minister of Local Government state:
- (a) the number and type of projects undertaken in the Penal/Debe area between January 01, 2006 and December 31, 2007;
  - (b) the total expenditure on each of these projects;
  - (c) the names of all contractors employed to undertake these said projects in the Penal/Debe area;
  - (d) the status of these projects; and
  - (e) what new projects are being proposed in the Penal/Debe area and when are they scheduled to commence?

**The Minister of Local Government (Sen. The Hon. Hazel Manning):** For the period January 1, 2006 and December 31, 2007, the following nine (9) projects were undertaken in the Penal/Debe area by the Rural Development Company of Trinidad and Tobago Limited (RDC), with a total expenditure of \$1,076,850.70.

<b>Project</b>	<b>Expenditure (VAT inclusive)</b>	<b>Status</b>
1. 1,010m of Drainage Upgrade Works on Church Street, La Romain	\$259,655.82	15% completed

<b>Project</b>	<b>Expenditure (VAT inclusive)</b>	<b>Status</b>
2. 921m of Drainage Upgrade Works in the vicinity of Gail Street/Claude Street Extension	\$143,963.23	15% completed
3. 165m of Drainage Upgrade Works on Pond Trace	\$41,139.47	70% completed
4. 160m of Drainage Upgrade Works on Derrick Road	\$52,193.72	73% completed
5. Raising of 1,500m of sidewalk on Picton Street	\$224,288.12	99% completed
6. 460m of Drainage Upgrade Works on the M2 Ring Road	\$160,849.66	15% completed
7. 150m of Drainage Upgrade Works on Ciperro Road, from LP No. 271 to LP No. 277	\$97,109.09	100% completed
8. 200m of Drainage Upgrade Works on Ciperro Road from Lot #654 to Lot #666	\$25,904.80	100% completed
9. Drainage Upgrade Works to Ciperro Road from LP No. 226 (Cane Station Road) to LP No. 239 (Woodland Extension Road)	\$71,746.80	100% completed
<b>Total</b>	<b>\$1,076,850.70</b>	

Ashana Civil Mechanical Contractors and Imcon Enterprises Limited were the two (2) Contractors employed to undertake works in the Penal/Debe area. They were selected through a competitive process in which Tenders were invited from at least six (6) firms deemed capable of undertaking the necessary works. The Tenders received were then evaluated by RDC's Tenders Evaluation Committee. The Committee made recommendations to the Tenders Committee (Sub-

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Committee of the Board), for the above mentioned two (2) firms to be awarded contracts, since they submitted the lowest eligible Tender.

The Tenders Committee, having been delegated the power to award contracts less than two (2) million before VAT, reviewed and accepted the recommendations of the Tenders Evaluation Committee.

RDC has indicated that no new projects were proposed for fiscal 2008 for the Penal/Debe area, since it was felt that it was necessary to complete projects that had already started and were not yet complete before moving on to other projects.