HOUSE OF REPRESENTATIVES

Friday, December 04, 2020

The House met at 1.30 p.m.

PRAYERS

[Madam Speaker in the Chair]

LEAVE OF ABSENCE

Madam Speaker: Hon. Members, I have received communication from the following: the hon. Pennelope Beckles, MP, Member for Arima, who has requested leave of absence from today’s sitting. The leave which the Member seeks is granted.

UNANSWERED WRITTEN QUESTION

Madam Speaker: Hon. Members, I am to inform that a letter was sent to the Minister of Works and Transport relating to the unanswered question No. 4, and a response was received on December 01, 2020. The response to the question 4 shall be delivered at the next sitting of this House.

PAPERS LAID

1. Audited Financial Statements of Rural Development Company of Trinidad and Tobago Limited for the financial year ended September 30, 2019. [The Minister of Planning and Development (Hon. Camille Robinson-Regis)]


Papers 1 to 3 to be referred to the Public Accounts (Enterprises) Committee.

UNREvised

To be referred to the Public Accounts Committee.

5. Ministerial Response of the Ministry of National Security to the Fourteenth Report of the Joint Select Committee on Social Services and Public Administration on an Inquiry into the Challenges of Prisoner Re-Entry into Society and Prisoner Reintegration Services in Trinidad and Tobago. [Hon. C. Robinson-Regis]


**URGENT QUESTIONS**

**Atlantic LNG Train 1**

(Measures re Shutdown)

**Mr. David Lee (Pointe-a-Pierre):** Thank you, Madam Speaker. To the Minister of Energy and Energy Industries: Based on a recent report that there is a desperate attempt, and I quote, “…a desperate attempt by the Government and National Gas Company to save Atlantic LNG Train 1 from Shutting down in January”, on January 2021, could the Minister state what specific urgent measures are being undertaken to prevent the mothballing of this plant?

**Madam Speaker:** Minister of Energy and Energy Industries.
The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam Speaker. [Desk thumping] Madam Speaker, Atlantic Train 1 will not be shutting down in January 2021. Train 1 will continue to operate in 2021 and it will be part of wider negotiations, which have been taking place among the Atlantic LNG shareholders to form one unitized facility encompassing all four trains. The NGC acting on behalf of the Government is taking the requisite action to maintain the operability of Train 1 pending the finalization of the negotiations of the structure for the unitized facility. Madam Speaker, only last night the shareholders of Atlantic Train 1 approved the turnaround, commonly known as TAR, in January for the train. This will keep the train in an operations-ready mode for all of 2021 into 2022. I thank you.

Madam Speaker: Supplemental, Member for Pointe-a-Pierre.

Mr. Lee: Thank you, Madam Speaker. Minister, could you then confirm that the shareholders have agreed to supply gas to Train 1, please?

Madam Speaker: The Minister of Energy and Energy Industries.

Sen. The Hon. F. Khan: The issue of the operability of the plant will depend on the TAR. On the gas supply side, we are currently in negotiation to source a continued supply, because this train was normally supplied 100 per cent by BP. BP is saying that they have a shortage and they cannot supply. But BP is not the only supplier of gas in Trinidad. So we are in some sensitive negotiations, and let me make that point, with up-streamers to supply gas to Train 1.

Madam Speaker: Supplemental? Member for Oropouche East.

Former United Nations Ambassador
(Details of Return to New York)

Dr. Roodal Moonilal (Oropouche East): Thank you very much, Madam Speaker. Question No. 2 to the Minister of Foreign and Caricom Affairs. Could the Minister
indicate the concerns in the public interest, which required an unscheduled and urgent return to New York by the former Ambassador to the United Nations?

**The Minister of Planning and Development (Hon. Camille Robinson-Regis):** Thank you very much, Madam Speaker. On behalf of the Minister of Foreign and Caricom Affairs, I am informed that Minister Beckles is currently in New York attending to matters related to her family, and wrapping up her affairs after four years of service as the permanent representative of Trinidad and Tobago to the United Nations. Thank you, Madam Speaker.

**Madam Speaker:** Supplemental.

**Dr. Moonilal:** Would the Member speaking on behalf of the Minister of Foreign and Caricom Affairs confirm or not, whether this matter had to do with taxpayer paying bills after August 10, 2020, in violation of terms and conditions of work of Her Excellency, the Ambassador?

**Madam Speaker:** I will not allow that as a supplemental question.

**Dr. Moonilal:** Thank you.

**Madam Speaker:** Member for Barataria/San Juan.

**Presbyterian School Board**

*(Non-Payment of Salaries/Wages)*

**Mr. Saddam Hosein (Barataria/San Juan):** Thank you very much, Madam Speaker. To the Minister of Education: In light of the recent statement issued by the Presbyterian School Board, concerning the non-payment of salaries/wages of cleaners, could the Minister indicate whether urgent steps are being taken to ensure that cleaners are being paid at the said schools for the months of November and December respectively?

**Madam Speaker:** The Minister of Education.
The Minister of Education (Hon. Dr. Nyan Gadsby-Dolly): Thank you, Madam Speaker. Madam Speaker, this grant to the denominational schools, which is usually paid in the months of October or November, depending on the approval of the national budget, has already been applied for and will short be disbursed to the denominational schools.

Madam Speaker: Supplemental? Member for Couva South.

Mr. Indarsingh: Thank you, Madam Speaker. Minister, could you inform this House if any other denominational boards within the education system has found itself in such a circumstance also?

Madam Speaker: I will not allow that as a supplement question. Member for—one minute. Member for Barataria/San Juan, remember these are urgent questions, you have the prior right. So when you indicated to let somebody else, I took it that you had no other question. So for your further guidance you have the prior right, if you forfeit it, I take it that you do not have any. Member for Barataria/San Juan.

Mr. Hosein: Thank you very much. Could the Minister indicate whether or not these persons who belong to the ancillary staff of the school will be paid before Christmas?

Madam Speaker: Minister of Education.

Hon. Dr. N. Gadsby-Dolly: Thank you, Madam Speaker. Madam Speaker, as I indicated earlier, the request has already been made, and therefore the Ministry of Education will work with the Ministry of Finance to disburse the funding of this grant as soon as possible.

Mr. Hosein: Very good.

Madam Speaker: Member for Couva South.

 untimely Death of Sherise Williams
(Details of)
Mr. Rudranath Indarsingh (Couva South): Thank you, Madam Speaker. Madam Speaker, to the Minister of Health: In light of the untimely death of Sherise Williams who collapsed at the Port of Spain General Hospital after undergoing a caesarean section, could the Minister inform this House if an independent committee has been appointed to conduct an investigation into all the circumstances leading to Ms. Williams’ tragic passing?

Madam Speaker: Minister of Health.

The Minister of Health (Hon. Terrence Deyalsingh): Thank you very much, Madam Speaker. First of all let me express my condolences on behalf of all of us here; our condolences to the family. The Ministry of Health’s adverse event policy is automatically engaged in circumstances like this. One, an autopsy has to be done. I could tell this honourable House, an autopsy has in fact been done, and the results will be shared with the family. Before the autopsy, the North West Regional RHA provides the directorate of Women's Health and the CMO with preliminary findings. That has also been done. Based on these finding, the adverse event policy dictates that the final autopsy results be reviewed by the Chief Medical Officer and the Director of Women’s Health. Pending the results of this examination, they will determine what steps need to be taken, if any, moving forward. I thank you very much, Madam Speaker.

Madam Speaker: Supplemental, Member for Couva South.

Mr. Indarsingh: Thank you, Minister. Based on all that you have outlined, and taking into consideration the Ministry’s policies and so on, if the family, in keeping with all due process, request an independent committee to be established, are you willing to go to that length?

Hon. T. Deyalsingh: Thank you very much, Madam Speaker. Madam Speaker, the establishment of a committee will be guided by the advice given to me as Minister,
by the Director of Women’s Health, the Chief Medical Officer, and of course the family’s wishes will be taken into consideration, as we do counselling for them, and all of those matters will be considered on the way forward, after the report and the autopsy reports have been received. Thank you very much.

**Madam Speaker:** Member for Fyzabad.

**Dr. Bodoe:** Thank you, Minister. Minister, without compromising patient confidentiality or any further investigations that might be necessary, would you be in a position to say whether the opinion has been expressed to you as to whether this death may have been preventable or not preventable?

**Hon. T. Deyalsingh:** Thank you very much. Madam Speaker, I want to be very careful how I answer that question. This country—and this is not to boast, it is a fact. This country has reached its Sustainable Development Goals for 2030 on achieving certain targets on maternal mortality rates. And we achieved those 12 years before 2030. The issue of maternal mortality is one which was a very tragic one for many years.

We have now maintained since 2016, very, very good numbers, but it is still a tragedy for those small numbers that do unfortunately die. But I can tell the Member is that since 2016, when I assumed the position of Director of Women’s Health, before Dr. Sirjusingh came in, those declines were seen by the middle of 2016. And part of the objective was to ensure that maternal deaths, as far as humanly possible, will only occur due to patient factors or what you consider non-preventable measures. And so far to now, I think we have stuck faithfully to that. I can tell this honourable House, that the days when women were dying once a month, are long gone, but every death is a tragedy, this one included. But, we have maintained the fact that we are very concerned about both preventable deaths and non-preventable. But I can tell you again, all of our maternal deaths, as rare as they
are now, are non-preventable due to patient factors. One of the factors is that in the public sector 40 per cent of our women only turn up for screening at the second and third trimester of their pregnancy, as opposed to the private sector where it is the opposite, and all of these factors contribute to it. So thank you very much, Madam Speaker, and I thank the Member for his question. [Desk thumping]

**ORAL ANSWERS TO QUESTIONS**

**Madam Speaker:** Leader of the House.

**The Minister of Planning and Development (Hon. Camille Robinson-Regis):** Thank you very kindly, Madam Speaker. Madam Speaker, there are five questions for oral answer. We will be answering all five. There are no questions for written answer.

**NIPDEC: Invitation to Tender for Face Masks**

**(Details of)**

11. **Mr. Saddam Hosein** *(Barataria/San Juan)* asked the hon. Minister of Health:

   With regard to the Invitation to Tender for face masks by the National Insurance Property Development Company Limited (NIPDEC) in April 2020, could the Minister state:
   
   a) the name of the successful bidders;
   
   b) the amount paid to each bidder; and
   
   c) the number of masks produced by each bidder?

**Mr. Imbert:** I will answer that, Madam Speaker. With your permission I will answer that.

**Madam Speaker:** Minister of Finance.

**The Minister of Finance (Hon. Colm Imbert):** Thank you very much. The Government has advised the general population that to reduce the spread of the
COVID-19 virus, in addition to personal protection measures, individuals should wear a cloth mask once they are out in the public. To assist in the availability and provision of masks, the National Insurance Property Development Company, NIPDEC, was mandated to procure these items from local manufacturers, to distribute to the wider public through non-governmental organizations, Members of Parliament and councillors. The details are as follows:

The successful bidders were a combination of small, micro-, medium-sized sole traders and corporations—medium-sized corporations and large corporations. There are 103 such entities. I shall now read the names of all 103, because that is the question. So, the first successful bidder:

1. Amanda Williams of InnoV Fibre. The amount paid $1,000. Number of masks produced, 100.

And I may say that everybody was paid $10. A flat fee of $10 per mask.

2. Janice John, amount paid $1,000, 100 masks.
3. Jennifer Green, $1,000, 100 masks.
4. Veronica Marceline, $1,000, 100 masks.
5. Maria Lewis, $1,200, 120 masks.
6. Marion A. Joseph-Figuera, $1,500, 150 masks.
7. Damali Phillip, $2,000, 200 masks.
8. Ian H. C. Best, $2,000, 200 masks.
9. Edith Quashie-Naitland, $2,100, 210 masks.
11. Paula M. Garcia, $2,500, 250 masks.
13. Daniel Agard-Williams, $3,000, 300 masks.
15. Makeda Henry, $3,000, 300 masks.
16. Marlene Weatherhead, $3,000, 300 masks.
17. Nickosie Kendall, $3,000, 300 masks.
18. Yvonne John, $3,000, 300 masks.
20. Lauren Jennings-Stoute, $3,500, 350 masks.
22. J. Angelique Clothing, Janelle Forde, $4,000, 400 masks.
23. Pechlin Abdul-Rahaman, $4,000, 400 masks.
24. Wendy Rampaul, $4,000, 400 masks.
27. Beverly Charles, $4,800, 480 masks.
28. Ancil Billy, $5,000, 500 masks.
29. Avionne Thomas, $5,000, 500 masks.
30. Corey Waldron, $5,000, 500 masks.
31. D.T. Custom Made Creations, Dianne Noel, $5,000, 500 masks.
32. Elaine Green-Lisom, $5,000, 500 masks.
33. Felicity Husband-Patrick, $5,000, 500 masks.
34. Michelle Zion, Chazon Ramkissoon, $5,000, 500 masks.
35. Pamela Furnishings and Tailoring, $5,000, 500 masks.
36. Parbatee Pancham-Boyer, $5,000, 500 masks.
37. Liz Fits You Right, Elizabeth Holder, $5,250, 525 masks.
39. Leeta Robinson, $6,000, 600 masks.
40. Richard Harvey Haynes, $6,000, 600 masks.
41. Tricia Lee, $6,300, 630 masks.
42. Krystal Clakoo, $6,500—and I hear sotto voce, I will say, 36 again, Parbatie Pamcham-Boyer, $5,000, 500 masks.
43. Inskip Lewis, $7,000, 700—I cannot help if you are not listening. 43 Inskip Lewis again, $7,000—

Madam Speaker: Minister of Finance.

Hon. C. Imbert: Yes, Madam.

Madam Speaker: Regrettably, your time is now spent. [Desk thumping]

Hon. C. Imbert: I wanted to give all the information. [Desk thumping] I wanted to give information. [Continuous desk thumping]

Madam Speaker: Supplemental, Member for Barataria/San Juan.

Mr. Hosein: Thank you very much, Madam Speaker. Madam Speaker, can the Minister confirm whether or not any of the 113 successful bidders are related to any Members of the Government? [Desk thumping]

Madam Speaker: Minister of Finance.

Hon. C. Imbert: Thank you very much, Madam Speaker. It is in fact 103. And I have no knowledge of that whatsoever. If the Member has a name, tell us. But as far as I know, it is not so. But if you know, tell us. [Desk thumping]

Madam Speaker: Member for Oropouche East, no? Member for Barataria/San Juan.

Mr. Hosein: Can the Minister confirm to date how many masks have been provided under this tender, please?

Madam Speaker: Minister of Finance.

Hon. C. Imbert: Thank you very much, Madam Speaker. For a total cost of $4,364,000, 436,400 masks have been distributed. And I may say, all 14 local government corporations were given masks in this exercise; all 14 corporations.
[Desk thumping] Next supplemental.

**Madam Speaker:** Member for Barataria/San Juan.

**Mr. Hosein:** The headline was right this week.

**Provision of Laptops and Electronic Devices**

(***Measures Taken***)

12. **Mr. Saddam Hosein** (*Barataria/San Juan*) asked the hon. Minister of Education:

   Could the Minister state the measures taken to provide laptops or other electronic devices to facilitate online learning in schools?

**The Minister of Education (Hon. Dr. Nyan Gadsby-Dolly):** Thank you, Madam Speaker. Madam Speaker, since the closure of schools in March 2020, the Ministry of Education has launched a series of initiatives aimed at ensuring continuity of teaching and learning to the nation's children. With respect to laptops and other devices, 11,295 laptops were allocated to children with special needs, primary and secondary school teachers from July 2020 to present. In addition, the Ministry has begun the procurement process for 20,000 laptops through iGov.tt for distribution to students of primary and secondary government and government-assisted schools. Madam Speaker, the Ministry of Education has launched its Adopt-A-School project. It is one of the strategies to mitigate the effects of the COVID-19 pandemic on the continuity of education. Under this project, private sector renovations are encouraged to provide educational resources such as devices to schools directly. To date, pledges from over 50 donors have been received and devices are being distributed upon arrival in the country. In total 21,557 devices have been pledged, including 10,000 from TATT, and 5,520 have been delivered. In total therefore, the MOE has distributed approximately 17,000 devices, in furtherance of online learning, and will in the near future add 36,000 more to that
figure, for a grand total of approximately 53,000 devices.

**Madam Speaker:** Supplemental, Member for Barataria/San Juan.

**Mr. Hosein:** Thank you very much. Madam Speaker, can the Minister indicate to this honourable House how many students are still without devices, because the Ministry would need to know how many more devices they would be required to procure?

**Hon. Dr. N. Gadsby-Dolly:** Thank you, Madam Speaker. We are doing another count on that. The first indication is 65,000, however, we have to figure in what was given through the Adopt-A-School Programme, and also what parents were able to purchase. So we are going to finalize that figure shortly to be published.

**Madam Speaker:** Supplemental, Member for Barataria/San Juan.

**Mr. Hosein:** Thank you very much. Out of the 65,000 devices that the Ministry would have identified previously, can you say how many have been supplied or provided to that 65,000 number?

**Hon. Dr. N. Gadsby-Dolly:** Thank you, Madam Speaker. That is exactly what the survey will determine. We know that through the Adopt-A-School we have given 5,520. We also would have given some to children with special needs. And we have to figure in as well what was privately donated, also what parents would have purchased for their children privately.

**Madam Speaker:** Supplemental, Member for Barataria/San Juan.

**Mr. Hosein:** Can the Minister indicate what criteria is being used for the distribution of the laptops in terms of which schools or which students are being given priority for the distribution of devices?

**Hon. Dr. N. Gadsby-Dolly:** Madam Speaker, through the Adopt-A-School Programme, the donors are given directly to the school of their choice, and based on their determination, and the principals, they are working directly with the
principals to be able to impact those that need it the most.

**Madam Speaker:** Member for Mayaro.

**Universal Telecommunication Fund**

**(Details of)**

26. **Mr. Rushton Paray (Mayaro)** asked the hon. Minister of Public Administration and Digital Transformation:

Could the Minister state:

a) the value of the Universal Telecommunication Fund; and

b) the list of planned projects that will utilize this Fund in fiscal 2021?

**The Minister of Planning and Development (Hon. Camille Robinson-Regis):**

Madam Speaker, on behalf of the Minister of Public Administration and Digital Transformation. The Universal Telecommunication Fund referred to in the question is interpreted as the Universal Service Fund or USF, which was established in July 2004 pursuant to section 28 of the Telecommunications Act 2001, and is managed and regulated by the Telecommunications (Universal Service Regulations) 2015, amended in 2019. The fund is administered by the Telecommunications Authority of Trinidad and Tobago, TATT, and it is funded by contributions from the telecommunications operators and providers as delineated in Schedule 2 of the Universal Service Regulations. The Regulations and the fund are both aligned to international and regulatory best practice, and the main objective is to address affordability and accessibility gaps as it relates to the provision of information and communication technology services in Trinidad and Tobago. The value of the USF as at September 30, 2020, is $111,283,500. The list of planned projects for the USF in fiscal 2021, are as follows:

1. TT Wi-Fi, free public mobile Wi-Fi in libraries, hospitals, health centres, transport hubs within Trinidad and Tobago. Free public
mobile Wi-Fi in buses, water taxis and interisland ferries operating within Trinidad and Tobago. Wi-Fi in designated schools as determined by the Ministry of Education.

2. ICT devices for the Ministry of Education. The supply of 10,000 ICT enabled tablets to the Ministry of Education for schools' online learning.

3. Universal service infrastructure projects in Trinidad and Tobago in the areas of Brasso Venado, Los Atajos and St. John’s Parish.

4. The establishment of community-based ICT access centres in five areas within Trinidad and Tobago: Moruga, Fifth Company, Toco, Roxborough and Lopinot.

5. Subsidized phones for persons with disabilities. That is to say the provision of subsidized smartphones to the hearing impaired and visually impaired.

Thank you, Madam Speaker.

2.00 p.m.

Madam Speaker: Supplemental, Member for Mayaro.

Mr. Paray: Minister, any idea of the timelines for any one of those projects that you have now outlined in fiscal 2021?

Hon. C. Robinson-Regis: Madam Speaker, all of these will be completed within fiscal 2021.

Housing Development Corporation Applications
(Details of)

27. Mr. Rushton Paray (Mayaro) asked the hon. Minister of Housing and Urban Development:
Could the Minister provide the plans, if any, to address the 4000 Trinidad and Tobago Housing Development Corporation applications in the constituency of Mayaro?

The Minister of Planning and Development and Acting Minister of Housing and Urban Development (Hon. Camille Robinson-Regis): Thank you, Madam Speaker. Madam Speaker, as seems to be the custom with questions being asked by those on the other side, as there are not 4,000 persons from Rio Claro/Mayaro requesting housing. As at November 26, 2020, there are 133,691 clients on the entire database of the Housing Development Corporation, of which there are 731 clients and not 4,000 clients who have applied for housing from the Rio Claro/Mayaro constituency. So, once again this question is on an incorrect premise.

Madam Speaker, the HDC continues to identify suitable and available lands to develop for the provision of housing units to the citizens of this country. When a location is identified the requisite requests to the Commissioner of State Lands are submitted for approval. These efforts are not limited to any one specific area but are in fact countrywide. Thank you, Madam Speaker.

Housing Developments in Mayaro

(Status of)

28. Mr. Rushton Paray (Mayaro) asked the hon. Minister of Housing and Urban Development:

Could the Minister advise on the current status of the Mora Height, El Guanapo and Coconut Grove Housing Developments in the Mayaro Constituency with regards to the following:

a) drainage and sewer issues; and

b) final Town and Country approval to enable ownership transfers?
The Minister of Planning and Development and Acting Minister of Housing and Urban Development (Hon. Camille Robinson-Regis): Thank you, Madam Speaker. Madam Speaker, the Mora Heights Housing Development consists of one waste water treatment plant and three external lift stations. One of these stations recently experienced electrical issues, but that has since been rectified. With respect to the drainage at this housing development, the topography of the land and the geology of the area has resulted in minor soil movement during heavy rainfall. This causes temporary blockage of external drains occasionally. However, the Trinidad and Tobago Housing Development Corporation conducts regular drain cleaning exercises in this community during the rainy season.

In 2006 the Water and Sewerage Authority granted approval for the use of septic tanks and soakaways to treat with the domestic waste water of the El Guanapo Housing Development. This housing development also experienced soil movement which causes drain blockages during heavy rainfall. The HDC will continue to monitor and treat with this issue. The waste water treatment plant at the Coconut Grove Housing Development is functional and is designed to discharge effluent that meets the pollution levels for the sensitive area classification. Works are ongoing to seal the sewer collection network and raise the sewer catch pits to a higher level to prevent the entry of flood and surface water. The topography of this housing development as well as its proximity to both the river and the sea, resulted in flooding within the community during heavy rainfall and when the tide is high. However, in 2019, coastline development works were conducted and as a result there has not been any major flooding since.

The Mora Heights, El Guanapo and Coconut Grove Housing Developments have all received final approvals from the Town and Country Planning Division. Thank you, Madam Speaker.
PERSONAL EXPLANATIONS

Member for Barataria/San Juan’s Statements

(Damen Engineers)

The Minister of National Security and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam Speaker. Madam Speaker, I am making this statement under “Personal Explanations” to reiterate what I said in the House previously, as it is accurate, and to protect the public from the attempts by the UNC Opposition and certain elements in the media who are attempting to mislead the population. [Desk thumping] Unfortunately there is a deliberate attempt to ignore what I really said in this House on the 27th of November, 2020, and to weave and create a false and misleading narrative. Madam Speaker, I appreciate the opportunity to provide the following personal explanation.

Yesterday’s Express Newspaper carried a front page and ran a page 3 story, which suggested that two Damen engineers who arrived in Trinidad in October and November 2020 somehow made what I said in Parliament on Friday the 27th of November, 2020, untrue or misleading. This story and the sensational headline on the front of the newspaper were quickly followed by a television talk show host on TV6 yesterday morning and repeated in a rebroadcast last night with the most spurious false allegations and accusations that I, inter alia, misled this House and the population. Not surprisingly this was quickly followed by the Member of Parliament for Barataria/San Juan issuing a misguided press release yesterday.

Madam Speaker, I completely reject any suggestion that on the 27th of November, 2020, I misled this House. [Desk thumping] The facts with respect to what I said about difficulties with Damen, its engineers and the maintenance of the Trinidad and Tobago Coast Guard Damen vessels are as follows:

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1. It must always be appreciated that in dealing with matters of national security the Government must always balance the amount of information that it provides between protecting operational matters associated with national security and providing the public with accountability and transparency.

2. As part of the maintenance of Damen vessels, Damen is required to have at least one engineer here present in Trinidad and Tobago.

3. Just prior to the closure of Trinidad and Tobago’s borders in March 2020 the Damen engineer stationed here in Trinidad and Tobago, due to personal and other concerns related to the effects of the global pandemic, that is COVID-19, departed Trinidad and Tobago.

4. There was no Damen engineer here in Trinidad and Tobago from March to October 2020. This is one of the reasons why I said that Damen engineers who were required to come to Trinidad and Tobago to maintain the Damen vessels were delayed in arriving here due to the global pandemic that is COVID-19. The engineers were not here from March 2020 to late October 2020 due to their concerns associated with COVID-19. These delays in the arrival due to COVID-19 have negatively affected the serviceability of the coast guard’s Damen vessels.

5. The arrival of one engineer in October who was replaced by another in November is not and was not sufficient to carry out the necessary maintenance and works to the Damen vessels.

6. Damen has not shipped the parts for the coast guard vessels that are necessary for their repair and maintenance. This too has negatively
affected the serviceability of the vessels; and

7. There are other engineers who are required to perform specific works on the vessels who have not come to Trinidad and Tobago because of COVID-19.

Madam Speaker, these are the irrefutable facts. [Desk thumping] Accordingly, accordingly, Madam Speaker, I reject the suggestions by certain elements in the media and the UNC Opposition that I have misled the Parliament. That is something that I pride myself I would never intentionally do. As Minister of National Security, I am conscious that I will come under attack from many different quarters, including those who engage in criminality, corruption and self-serving agendas.

Mr. Lee: Madam Speaker, 23, Madam Speaker—

Hon. S. Young: Madam Speaker, I assure the population that I will continue—

Mr. Lee: Madam Speaker—

Hon. S. Young: I assure the pop—

Mr. Lee: Madam Speaker, 23(10)—23(1) please, I want to raise a matter.

Mr. Al-Rawi: What! Make up your mind “nah”.

Madam Speaker: You wish to raise a matter before the Minister is completed—

Mr. Lee: [Inaudible] [Crosstalk]

Madam Speaker: So, you are standing on that Standing Order?

Mr. Lee: Yes.

Madam Speaker: And I overrule.

Mr. Lee: We need your clarity.

Madam Speaker: Please continue.

Hon. S. Young: Thank you very much. Exactly on point, making the point as
Minister of National Security I am conscious that I will come under attack from many different quarters, including those who engage in criminality, corruption and self-serving agendas.

Madam Speaker, through you, I assure the population of Trinidad and Tobago that I will continue to carry out my duties as I have been doing without fear or favour, malice or ill-will. These facts support what I have said and I stand by what I say now and what I have said previously. Thank you very much, Madam Speaker. [Desk thumping]

Madam Speaker: And just for the information of the House, there is no Standing Order 23(10). [Laughter]

PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY (AMDT.) BILL, 2020

A Bill to amend the Public Procurement and Disposal of Public Property Act, No.1 of 2015 [The Minister of Finance]; read the first time.

The Minister of Finance (Hon. Colm Imbert): Thank you very much, Madam Speaker. [Crosstalk] Yes, I am not faint of heart.

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

Question put and agreed to.

Miscellaneous Provisions [2019 Novel Coronavirus (2019-nCoV)] (No. 2) Bill, 2020

A Bill contains 11 clauses and seeks to amend the Cinematograph Act, Chap. 20:10, the Registration of Clubs Act, Chap. 21:01, the Theatres and Dance Halls Act, Chap. 21:03, the Family Law (Guardianship of Minors, Domicile and Maintenance) Act, Chap. 46:08, the Motor Vehicles and Road Traffic Act, Chap. 2020

UNREVISED
Introduction of Bill (cont’d) 2020.12.04

48:50, the Moneylenders Act, Chap. 84:04, the Pawnbrokers Act, Chap. 84:05, the Licensing of Dealers (Precious Metals and Stones) Act, Chap. 84:06 and the Old Metal and Marine Stores Act, Chap. 84:07 in response to the 2019 Novel Coronavirus (2019-nCoV) and for related matters [The Attorney General and Minister of Legal Affairs]; read the first time.

Motion made: That the next stage be taken later in the proceedings. [Hon. F. Al-Rawi]

Question put and agreed to.


A Bill to amend the Mutual Legal Assistance in Criminal Matters Act, Chap. 11:24, the Proceeds of Crime Act, Chap. 11:27, the Anti-Terrorism Act, Chap. 12:07, the Interception of Communications Act, Chap. 15:08, Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01, the Income Tax Act, Chap. 75:01, the Central Bank Act, Chap. 79:02, the Financial Institutions Act, Chap. 79:09, the Companies Act, Chap. 81:01, the Securities Act, Chap. 83:02, and the Non-Profit Organisations Act, No. 7 of 2019 [The Attorney General and Minister of Legal Affairs]; read the first time.

Motion made: That the next stage be taken later in the proceedings. [Hon. F. Al-Rawi]

Question put and agreed to.

Miscellaneous Amendments (Powers of Statutory Authorities and Matters related to certain Boards) Bill, 2020

A Bill to amend the National Lotteries Control Act, Chap. 21:04, the Tobago House of Assembly Act, Chap. 25:03, the National Institute of Higher Education (Research, Science and Technology) Act, Chap. 39:58, the Children’s Authority Act, Chap. 46:10, the Water and Sewerage Authority Act, Chap. 54:40 and the
Introduction of Bill (cont’d) 2020.12.04

Trinidad and Tobago Electricity Commission Act, Chap. 54:70 to provide for amendments to the composition of various boards and the borrowing powers of certain boards and matters connected therewith [The Minister of Finance]; read the first time.

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

Question put and agreed to.

Miscellaneous Provisions (Administration of Justice) Bill, 2020

A Bill to amend the Supreme Court of Judicature Act, Chap. 4:01, the Summary Courts Act, Chap. 4:20, the Coroners Act, Chap. 6:04 and the Sexual Offences Act, Chap. 11:28 to provide for the procedural matters of the Courts and for matters related thereto [The Attorney General and Minister of Legal Affairs]; read the first time.

Motion made: That the next stage be taken later in the proceedings. [Hon. F. Al-Rawi]

Question put and agreed to.

Miscellaneous Provisions (Special Reserve Police and Police Complaints Authority) Bill 2020

A Bill to amend the Special Reserve Police Act, Chap. 15:03 and the Police Complaints Authority Act, Chap. 15:05 to strengthen the operations of the Police Complaints Authority and its relationship with the Special Reserve Police Act and matters related thereto [The Attorney General and Minister of Legal Affairs]; read the first time.

Finance Bill, 2020

A Bill to provide for the variation of certain duties and taxes and to introduce provisions of a fiscal nature and for related matters [The Minister of
Madam Speaker: Member for Barataria/San Juan.

Mr. Saddam Hosein (Barataria/San Juan): Thank you very much, Madam Speaker. I hereby seek your leave in accordance with Standing Order 32(2) to raise a matter directly concerning the privileges of the House of Representatives. During the debate on the Private Members’ Motion piloted by myself on Friday 27 November, 2020, the Member for Port of Spain North/St. Ann’s West boldly represented to the House and made the following statement:

“The Damen vessels that may be down, it is because of COVID that the shipyards in Damen, in Holland and I am going to call in the Ambassador of the Netherlands next week to meet with him, because the Damen persons do not want to fly to this side of the world to do what needs to be done with some of the vessels.”

It was subsequently discovered in the *Trinidad Express* dated Thursday 03 December, 2020, an article titled:

“The Dam(e)n Truth” by Anna Ramdass.

And I quote from an email reference therein and sent from the Embassy of the Kingdom of the Netherlands to Trinidad and Tobago:

“To our knowledge a Damen Shipyard engineer arrived on October 19th, 2020 in Trinidad & Tobago to perform maintenance tasks.”

[Desk thumping]

“He was replaced by another engineer from Netherlands on November 20th, 2020.”
Privilege Matter (cont’d)  
Mr. Hosein (cont’d)

The matter being brought is grounded on the fact that the Member for Port of Spain North/St. Ann’s West deliberately misled this honourable House [Desk thumping] and by extension the viewing citizens of the country as he knew or ought to have known the statement which he made was false and incorrect. [Desk thumping]

According to David McGee’s *Parliamentary Practice in New Zealand*, Third Edition, [Crosstalk] it requires three elements to be established that a Member—

[Madam Speaker stands]

[Crosstalk subsides]

[Madam Speaker sits]

Mr. S. Hosein:—that a Member is in contempt by reason of a statement that he or she has made in the House.

1. The statement must in fact have been misleading.

2. It must be established that the Member making the statement knew or ought to have known at the time that the statement was made it was incorrect and in making the statement the Member must have intended to deliberately mislead the House.

It is submitted that the statement was misleading at the time the Minister knew that the statement was incorrect and the statement could have been made to deliberately mislead the House for the following reasons.

1. The Member as part of his portfolio has responsibility for the Trinidad and Tobago Coast Guard.

2. The Member knew or ought to have known of the contractual arrangements and or other arrangements between Damen Shipyard, Netherlands and Trinidad and Tobago.

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3. He knew or ought to have known when the engineers or persons from Netherland responsible for repairing the TT Damen vessels would arrive in Trinidad and Tobago.

4. The Member is the only person who has the responsibility to grant exemptions to person to enter Trinidad and Tobago as the borders are currently closed and have been closed since March 2020.

5. The Member knew or ought to have known that those engineers were in the country on October 19th and November 20th, 2020 as he is responsible for granting them exemption, and would have granted the exemptions to the engineers to enter Trinidad and Tobago.

The fact that the Member has personal knowledge of the facts and made this statement there is a ready presumption of an intention to mislead the House. Based on the foregoing the Member has deliberately made a misleading statement, [Desk thumping] he has committed a contempt of the Parliament and abuse his privilege as a Member of this esteemed House. As such I submit that the hon. Member has committed a breach of privilege of the House. In this regard, hon. Speaker, I refer this matter for your urgent attention and determination. [Desk thumping]

Madam Speaker: Hon. Members I am prepared to rule on this question of privilege raised by the Member for Barataria/San Juan. The Member alleges that the Member for Port of Spain North/St. Ann’s West and the Minister of National Security deliberately misled this House and in support of that allegation cited the Minister’s statements made on Friday the 27th November, 2020, during the debate on a Private Members’ Motion.

As accurately identified by the Member for Barataria/San Juan the first condition to establish a prima facie case when it is alleged that a Member or
Minister is in contempt on the grounds of misleading the House is that the statement must in fact have been misleading. The Minister of National Security, earlier in today’s proceedings, has explained his statements which he made and which led to this matter of privilege being raised. It is also significant that the Minister sought to make this clarification at the earliest opportunity.

I therefore rule that this matter referred to me by the Member for Barataria/San Juan does not constitute a prima facie of breach of privilege warranting its referral to the Committee of Privileges and I so rule.

MISCELLANEOUS PROVISIONS (2019-nCOV) (NO.2) BILL, 2020

The Attorney General and Minister of Legal Affairs (Hon. Faris Al-Rawi): Madam Speaker, I beg to move:

That a Bill to amend the Cinematograph Act, Chap. 20:10, the Registration of Clubs Act, Chap. 21:01, the Theatres and Dance Halls Act, Chap. 21:03, the Family Law (Guardianship of Minors, Domicile and Maintenance) Act, Chap. 46:08, the Motor Vehicles and Road Traffic Act, Chap. 48:50, the Moneylenders Act, Chap. 84:04, the Pawnbrokers Act, Chap. 84:05 the Licensing of Dealers (Precious Metals and Stones) Act, Chap. 84:06 and the Old Metal and Marine Stores Act, Chap. 84:07 in response to the 2019 Novel Coronavirus (2019-nCoV) and for related matters, be now read a second time.

Madam Speaker, the matter before us is really a very simple matter. The Bill proposes in 11 clauses, including the short title and commencement, an adjustment to time frames and positions introduced firstly by previous legislation contained in Act No. 4 of 2020. Act No. 4 of 2020, which was assented to on the 20th of March, 2020, was the first round of legislation that we brought to the Parliament to adjust
time frames and structures prevailing in the laws of Trinidad and Tobago which could not be complied with on account of the restrictions which were put into place under the Public Health Ordinance Regulations.

As you are aware, Madam Speaker, the Novel Coronavirus was declared a dangerous infectious disease by Her Excellency the President. Pursuant to that the provisions of the Public Health Ordinance took effect and regulations were put into place by the hon. Prime Minister and the Cabinet and we saw a series of application of restrictions into our movement and working conditions effectively causing the public service to have its doors closed in respect of regular matters, such as the obtaining of permits, licences and permissions under several laws that are part of the long title of this particular Bill.

Madam Speaker, it is noteworthy that we were allowed to engage in this form of restriction without the exercise of a state of emergency and the suspension of constitutional rights, nor by the utilization of the Disaster Measures Act which would have involved a declaration of a state of emergency under the disaster measures provisions in Trinidad and Tobago. That application of the Public Health Ordinance worked to Trinidad and Tobago’s sincere benefit and in fact we saw ourselves for a period of time recognized as number one in the world by international rating agencies, including the Oxford University, for our management of the COVID pandemic. It is now par for the course that we stand many regulations later. In fact, Madam Speaker, the last regulation was that of Legal Notice No. 365 on the 22nd of November, 2020, by which we implemented the 32nd regulation issued under the Public Health Ordinance. In the course of exercise of those regulations, Madam Speaker, the public service came back slowly into
operation, the operationalization of electronic admission, electronic filing and appointment systems were applied, but regrettably the appointment systems in the balance between lives and livelihoods have found themselves in complication. That has been exacerbated by the closure of the courts to certain matters where licences are heard and extensions are granted.

Indeed, Madam Speaker, if you look to the Bill before us you will note that clause 3 which deals with the Cinematographic Act; clause 4 which deals with the Registration of Clubs Act; clause 5 which deals with the Theatres and Dance Halls Act; clause 7 which deals with the Motor Vehicles and Road Traffic Act; clause 8 which deals with the Money Lenders Act; clause 9 which deals with the Pawnbrokers Act; clause 10 with the Licensing of Dealers (Precious Metals and Stones) Act and clause 11 with Old Metal and Marine Stores Act, those several clauses take us to two places.

The first occasion as it relates to clauses 3, 4, 5, 7, 8, 9, 10 and 11 we are squarely within the Licensing Committee of the Magistrates’ Court. All of those laws referred to in those clauses require the Licensing Committee to sit and hear extensions of time for the various types of licences granted. As it relates to clause 6 which deals with the family law guardianship of minors I propose to treat with that in a separate measure and as it relates to the second limb that I referred to, which is under clause 7, the Motor Vehicle and Road Traffic Act refers to the place where the Licensing Division of the Motor Vehicle and Road Traffic Authority has the responsibility to renew permits for drivers licences, for transfers, et cetera, all of the provisions contained under the legislation.

Madam Speaker, notwithstanding the opening of the virtual courts and also
the appointment systems at the Licensing Division there has been a delay in the
full accessibility and that delay, Madam Speaker, has, even though it has been
worked out in the best way it is something which causes risk and jeopardy to the
citizens of Trinidad and Tobago and which requires amendment.

2.30 p.m.

We are effectively proposing, Madam Speaker, that the mischief that has
been caused by the lack of full operation due to COVID conditions and restrictions
be cured by extending the period of time originally cast in Act No. 4 of 2020 in the
period 31st July to 31st August, when we thought that there would have been a
validity surely cured by then with the full return to systems. We propose now to
extend the validity of all of the various laws referred to in this Bill to the period 31
December, 2020, but we specifically allow for the use of orders under the hand of
respective Ministers to extend that time to a further period under the hand of the
relevant authority, that is, we use subsidiary legislation to extend the time frame.

I want to point out with respect to the Motor Vehicles and Road Traffic Act
that even though this seems to be a very simple amendment to extend the licensing
time frame and the validity therefore, this runs to the root of lawfulness in Trinidad
and Tobago. If you are driving without a valid driver’s permit and you cannot
extend it, then you are going to be without an active cover for insurance because
you would have vitiated your insurance coverage under the laws of Trinidad and
Tobago. And as simple as that sounds, it attacks, therefore, the ability of persons
who are injured, particularly those who bring death claims against persons who
have been involved in motor vehicle and road traffic accidents—God forbid that is
a feature of regular life—but the reality is that the simple amendment of the time
frame here has significant consequences to the people of Trinidad and Tobago.

Therefore, Madam Speaker, it is necessary for us, in the context of legislative capacity under section 53 of Constitution, to cause these amendments today to the Motor Vehicles and Road Traffic Act as it relates to one aspect and then to the several pieces of law that fall under the licensing committee, as have been referred to earlier. But equally, Madam Speaker, there is another point which I had reserved comment on and which I propose to proceed with now. Clause 6 of the Bill deals with the Family Law (Guardianship of Minors, Domicile and Maintenance) Act, and that, Madam Speaker, is the legislation by which the right of the child is enforced. You see, Madam Speaker, children have rights of access to their parents, not only do parents have rights of access to their children, but the law takes a very serious approach as it relates to the maintenance of children.

The Family Law (Guardianship of Minors, Domicile and Maintenance) Act, Chap. 46:08, which is the parent law that we seek to amend, in section 27, we have the provision that if the payment of a maintenance order or the maintenance in respect of a child is one month in arrears, we provide the power for distress, that is, the levying and taking of goods and selling of goods owned by someone who is made to pay maintenance by way of court order. The court has traditionally adopted a very sacred position that a child has the right to be maintained by his or her parents without regard to gender. And unfortunately, this law is so serious that there is very little room in the COVID pandemic to accept the reality that we are in right now, and that reality is that there are some people, who through no fault of their own, have the disadvantage of being put under a warrant for arrest immediately, let alone distress and exercise upon their goods.
Because, Madam Speaker, even though the court has the ability to exculpate, in part, someone who has not paid maintenance, where there is a demonstration that it was not a wilful position, there is right now in Trinidad and Tobago the exposure to a person under a maintenance order being exposed to the mandatory warrant where the police are out to arrest you. You are then brought before a magistrate or justice of the peace for bail considerations, you may be put into detention in circumstances where you may have lost your job due to the COVID pandemic, things may be hard, we propose today, Madam Speaker, to cause a softening of the law under a sunset period.

Now, one is always extremely cautious to exercise the consideration of a sunset period, particularly under the leadership of the Member for Siparia, because one never knows when you may get that chance to extend the law. But, Madam Speaker, it is clear, as we see in clause 6, as we propose the amendment—we propose that instead of an automatic arrest warrant, we allow the court the discretion to exercise a summons to bring the defaulting maintenance payer before the court, and that that root of the summons have an expiry, specifically set out at subsection (1)(a) in clause 6:

“Subsection (1)(a) would cease to apply on 31st of March, 2021”—it should be, not 2020. We propose to amend that in the Bill as is probably been circulated—“or such later date as the Attorney General may, by Order, specify.”

The Attorney General is simply the functionary for the issuance of matters coming under the connection between the Judiciary referring its matters to the Attorney General. It is no different from the Rules of the Supreme Court in terms of how
they are laid, et cetera, by the Attorney General.

Madam Speaker, permit me to ask now for Members to note that we received a submission coming from the Registrar General that there is a matter exactly associated with the concept of this Bill that we propose to add into the amendment stage within the context of this Bill, and that is a proposal to amend the Bills of Sale Act. In Act No. 4 of 2020, where we amended the exact suite of legislation now being amended, we had an amendment to the Bills of Sale Act. The Bills of Sale Act is proposed at the committee stage to be amended by simply changing the date, exactly in keeping with what we are doing with the feel of this Bill, as it relates to all of the clauses in this Bill which come under the licensing committee. Madam Speaker, in that proposal for amendment, we will be seeking to add the Bills of Sale Act because it falls within the parameters for the considerations of this Parliament, and in it simply to extend the validity period again from the July/August position, which we had in Act No. 4 of 2020, quite simply to the same time formula that we are using in this Bill which is to take it to December or such further date as may be included by way of extension of the Order.

So, Madam Speaker, in summary and in conclusion, I say the matters before us are quite simple and straightforward. They are, of course, of importance insofar as there are significant privileges that are associated with the extension of rights, and licences, and permits. The inclusion at committee stage of the Bills of Sale Act fits within the parameters that we ask the honourable Parliament to consider at committee stage, and in those circumstances, Madam Speaker, I beg to move.

*Question proposed.*
Madam Speaker: Member for Couva South. [Desk thumping]

Mr. Rudranath Indarsingh (Couva South): Thank you, Madam Speaker, as I join this debate to the Miscellaneous Provisions [2019 Novel Coronavirus (2019-nCoV)] (No. 2) Bill, 2020, and I want to make it very clear from the outset, Madam Speaker, that we on this side we are very committed to ensure that the health, safety and security of the people of Trinidad and Tobago is given the number one priority in this very uncertain and unpredictable period in our country. And whilst, Madam Speaker, I cannot recall the exact statistics that prevailed at the time when this issue was dealt with earlier on this year, but the reality of where we are today in terms of Trinidad and Tobago having approximately 6,725 positive cases, and the fact that 37,155 persons have been tested, and there are approximately 743 active cases, and from a global point of view 65,513,016 positive cases, and a global death toll of approximately 1,511,016 persons, it is of paramount importance that we continue to treat with issues that can address the problems that have occurred in our society in meeting and treating with the lives of our citizens on a daily basis.

And as we implement or seek to amend, or continue to implement laws to protect the citizens of our country, we also have to ensure that citizens do not run afoul of the law. Madam Speaker, the Attorney General indicated in his piloting that the matter before us is very simple in terms of adjustment to time frames. And in his presentation, he indicated that this has become necessary because of the adjustments as it relates to the operations of the public service and in relation to the application of the Public Health Ordinance, and this was achieved without the implementation of a state of emergency and the suppression of rights of persons, and so on. But it is important too that, from an Opposition’s point of view, that we
continue to raise some pertinent issues or ask questions that we feel will be of benefit, not only from inside of this House, but outside of this House for the benefit of the people of Trinidad and Tobago.

The Attorney General said that Trinidad and Tobago, historically, was recognized as being No. 1 in the world by international rating agencies, and so on. But based on how we have handled this, for the passage of time, I would want to ask the Attorney General, what would be the rating from the international agencies we, as a country, would receive now based on how the events have unfolded in Trinidad and Tobago? But more importantly, Madam Speaker, he indicated that this seeks to address amendments to Bills that he has presented from the point of view of 11 clauses as it relates to different pieces of legislation from the point of view of the Cinematograph Act, the Registration of Clubs Act, the Theatres and Dance Hall Act, the Family Law (Guardianship of Minors, Domicile and Maintenance) Act, the Children’s Authority Act, the Motor Vehicles and Road Traffic Act, the Moneylenders Act, the Pawnbrokers Act, the Licensing of Dealers (Precious Metals and Stones) Act, in response, as I said, to the 2019 Novel Coronavirus.

Madam Speaker, as I said, we on this side will always be part of a legislative framework that will seek to bring what we would call an ease in terms of inconvenience and suffering, and try to do what is responsible on the part of the Opposition to make sure that persons can continue to operate, not only from an individual point of view but from a business point of view in relation to the economy of this country. In relation to clauses 1, 2, 3, 4 and 5, Madam Speaker, this seems to be very straightforward. But as we go into clause 6 and clause 7, it is
important that I seize the opportunity to raise some of the issues as it relates to clause 7 in relation to the intended amendment, as it relates to the Motor Vehicles and Road Traffic Act, Chap. 48:50; as it relates to section 11, the intended amendment in relation to section 11, by repealing subsection (7) and substituting new subsection which will provide that:

“…notwithstanding any provision to the contrary contained in the Act and subject to the subsection (8), any transfer of registration required to be completed on or before the 31st August, 2020 may be completed on or before the 31st December, 2020…”

And the new subsection would empower the Minister to extend these dates specified in subsection (7) by Order.

Madam Speaker, as it relates to this particular amendment, I want to draw the Attorney General’s sight of an article that was in the Trinidad Express as it relates to the 4th of August, 2020, when scores were made to wait outside of the Licensing Authority in Caroni after failing to follow the COVID-19 guidelines. And in addition to that, the long lines and the commitment on the part of the Government of Trinidad and Tobago to deal with the issues as it relates to licensing, the application for drivers’ permits, the application for provisional permits, regulation examination, driving tests, lost permits, driving permit renewal, endorsements, inspection, transfers, reclassification and so on, the notification of change, taxi badges and school bus services.

Madam Speaker, there was a commitment on the part of the Minister of Works and Transport who, taking into consideration the issues that were experienced by members of the public, indicated that the Ministry of Works and
Transport would respond to the issues through the launch of a mobile unit service. And up till today, if I can recollect, I cannot fathom what is the delay based on the commitment that was given by the Minister of Works and Transport to have this particular launch bear fruition as it relates to dealing with the real issues and adding to a further sense of comfort to citizens in the rural communities of Trinidad and Tobago.

And, Madam Speaker, in addition to that particular issue, I would want to ask the Attorney General if he can provide to us whether this amendment is an attempt to hoodwink the population or fool the population into thinking [Desk thumping] that they are dealing with the massive backlog and complaints which have emerged out the Licensing Authority due to the bungling of the appointment system that they promised from an online point of view as it relates to—they told the population to go on to the portal licensingappointment.mowt.gov.tt. I have continued to interact with persons near the motor vehicles authority, the main office in Caroni because I live within that particular area, and I drive in that particular area also, and I am always faced with long lines of motor vehicles and persons outside of that particular Government institution. And any time people see me, they will always seek to engage and complain in a very bitter manner, in a very real manner of the frustration that they have to encounter at that particular facility. Taking into consideration also, based on the social distancing, the COVID Regulation and so on, at the end of the day, I think there are only two tents outside of the Licensing Authority which continue to add to a further level of frustration, Madam Speaker.

Madam Speaker, we would like also to know from the Attorney General, in
relation to the commitment given from the Minister of Finance—not the Minister of Finance, sorry, but the Minister of Works and Transport via his media release or the Ministry’s media release of Friday, the 2nd of October, 2020, as it relates to the Ministry of Works and Transport, the Motor Vehicles and Road Traffic (Extension of Time for the Validity of Certain Documents) Order, 2020. And, Madam Speaker, on the 14th of September, 2020, the Minister extended and pointed in the direction, as I said, that any of the driver’s permit, taxi badges or taxi driver licensing certificates, and so on, or other document issued by the Licensing Division which would expire on or before the 31st of August, 2020, to be deemed valid until the 31st of December, 2020. But we have also been told—which we have no problem with in principle—that from a ministerial point of view, the ministerial order will be used to deal with the issue of extending all the necessary documentation that is needed from a driving point of view.

That is all fine in relation to what is being contemplated, but at the end of the day, I think that the issues that need to be addressed at the Licensing Division is one, from an IT point of view, because people go on the portal from time to time, they cannot access it, it crashes, it is inaccessible and this continues to add to the frustration of all and sundry in our country. As it relates to the social distancing point of view and the COVID-19 guidelines, and so on, I also think it is incumbent upon the Minister of Works and Transport to address the issue of the provision of a real enabling environment, a real enabling environment within not only the main motor vehicle licensing authority in Caroni, but also, in the respective offices throughout the length and breadth of Trinidad and Tobago if the Government really wants persons to buy-in to what is being contemplated today as it relates to
these amendments which are being tabled by the Attorney General.

And in addition to that, Madam Speaker, we would like the Attorney General to clarify whether drivers will be penalized. Because within recent times as it relates to the operations of the Licensing Authority, I have been privy—and I am sure that Members in this House and persons outside of this House have been privy to the implementation or what has been stated—and it is in the public domain—that there will be a penalty as it relates for late fees and renewals. In fact, it has been indicated that for less than six months renewal, from a driver’s permit point of view, persons would have to be subjected to a penalty of $500 per month; for more than six months and less than three years, $875 per month; more than three years but less than five years, $1,750; and for more than five years, the applicant will be made to re-sit the regulation and the driving test. So I hope that the Attorney General—because when the Attorney General dealt with clause 6 of the Bill, he indicated that the pandemic has impacted upon persons’ ability to earn in Trinidad and Tobago.

It has impacted upon persons’ ability to deal with the whole question of maintenance and so on. He focused on those who would have lost their jobs and so on, and I would want, in the clarification that I am seeking on behalf of those on this side and in addition to the wider citizenry of this country and especially those persons who would have lost their jobs and are struggling from a COVID-19 pandemic point of view to make ends meet on a day-to-day basis, for us to be told in a very precise manner what is the Government’s position in relation to the issues that I have just referred to for the benefit of those because people are fearful that they will be subjected to these penalties, and I think we need to bring clarity to this
particular issue.

As it relates to clause 6 of the Bill and its intention to provide for persons to be brought to court on warrant instead of arrest during this period of pandemic, and the provision relative to a person coming before the court by way of a summons to answer for the breach of order to pay would expire on the 31st of March, 2020, and I think that you clarified, Attorney General, that this would go on to March of 2021. In principle, again, there is nothing wrong or nothing objectionable to this because we have all realized—and I am sure on both sides of the House—that sometimes persons find themselves in relation to paying maintenance cost and maintenance order find themselves on the wrong side of the law, or in instances where they are subjected to police abuse and so on, because for reasons unknown or know to us, because I am sure we all have experiences as Members of Parliament in connecting with the ground and our respective constituents from time to time that sometimes a person breaches a maintenance order and he or she finds himself—well, in most instances, males, they find themselves being arrested by police officers in their respective jurisdictions, and so on, they are taken into custody on a Friday and they find themselves going before the courts on a Monday.

And we have had instances in this very country that—very unfortunate, but I think that I could clearly recollect in one particular instance a person committed suicide in a police station based on the fact that he was taken into custody via what we would call arrest for breach of a maintenance order. And I am sure that from that angle, in terms of providing a soft landing, providing what we would call a conscionable position, we would want to support this in relation to what is intended here this afternoon. But like all things being equal, Attorney General,
through the Speaker, we would want to ensure that while we grant the extension of the guidelines, or support the extension of the deadlines and so on, from a time frame point of view, we will also want the Government to address the real issues that are affecting the persons in our society when they go to the courts, when they go to the licensing office, when they seek to interact with the licensing committees and so on.

We have been hearing of stories where persons, especially from time to time, would have problems in meeting and treating with court officials, justices of the peace and so on and more importantly, members of the licensing committee.

3.00 p.m.

So if this is the real intention of the Government of Trinidad and Tobago to ease the frustration, we on this side, in principle, have no problem in giving that support for the extension from a date point of view. But at the end of the day, as persons continue to interact with Government institutions, I will urge not only the Attorney General but I will urge all line Ministers who have the responsibilities, the respective responsibilities to bring, to drill down and meet with their Permanent Secretaries, to meet with their respective heads of divisions and so on, to drill down to ensure that the pain and suffering that ordinary persons are experiencing in this society from the over 100,000 persons who would have lost their jobs, we really provide a well-intentioned soft landing so that they could continue with their respective lives.

Madam Speaker, I thank you. [Desk thumping]

The Attorney General and Minister of Legal Affairs (Hon. Faris Al-Rawi): Madam Speaker, I thank you for the opportunity to bring conclusion to this
particular debate. I thank my colleague, the Member for Couva South, for putting some very material observations onto the record. Certainly, the law must always be applied and we must always have regard for the people in this structure. Laws are therefore always in the context of living, breathing and doing so for the benefit of the people of Trinidad and Tobago.

It is important, Madam Speaker, just to make mention of a few of the concerns raised by my learned colleague that today’s exercise is squarely intended for a benefit to the people of Trinidad and Tobago. The world itself has been wrestling with the issue of when will the pandemic end and whilst we had high hopes that we could certainly have done that in a faster space, obviously the virology that stands behind the very battle that we look at and face down every day is the determinant factor. We are in very new waters. We are watching the world deal with the rapidity of approvals for vaccination. What normally takes 10 and 15 years to be approved is being done in 10 months.

But, Madam Speaker, my colleague raised the issue of the balancing of interests in Trinidad and Tobago and in particular, he raised the concern to deal with no issues clauses 1, 2, 3, 4, 5 but having issues with respect to clauses 6 and 7 and permit me therefore to address with the required detail in response the matters that my colleague raised.

First of all, with respect to the issues at the motor vehicle and road traffic arena, it is important to note that yes, there have been problems with the attendance and appointment schedule. That is a fact. That is not unique. We have had some instances of that at the Registrar General’s office in respect of access to the registry for searches, et cetera. But, Madam Speaker, what is important is to reject the
submission that this is perhaps a hoodwinking of the people, as my learned
colleague put it, over this issue of appointments. No, Madam Speaker, this is really
to encourage people to have some degree of hope.

Because, Madam Speaker, my friend, the Member for Couva South has been
in this Parliament for a very long time and my friend, the Member for Couva
South, had the responsibility sitting as a Minister in the Ministry of Finance and I
wonder where his passion was to the concept of digitization. Let me say why I
asked that question.

Madam Speaker, it is this Government that introduced the Property and
Business Real Estate Solution at the Registrar General to allow us to have online
searches and filing in electronic fashion. It is this Government that took the
amendments to the Motor Vehicles and Road Traffic Act which we seek to amend
today in this Bill by bringing it into the modern technological parameters of this
country. It is our amendments to the law championed by my colleague now sitting
with us in this House, Mr. Marvin Gonzales as he was then, now Member of
Parliament, sitting as the Legal Advisor in the Ministry of Works and Transport.

[Desk thumping] He can bear testimony and tale to the hard work that we did in
causing three simple amendments to the Motor Vehicles and Road Traffic Act:
clause 20A, clause 20B, clause 20C and there fell the long anguishing journey to
birth a motor vehicle authority by making the conditionality on the roads a demerit
point system in a civil law context as opposed to a criminal offence.

Madam Speaker, do you know that the Office of the Attorney General and
Ministry of Legal Affairs is the first Government Ministry in the entire Caribbean
to have the ability to conduct online payments? Do you know, Madam Speaker,
that that has been taken on board by the Ministry of Works and Transport and motor vehicle Licensing Division? And I wonder where my colleague, Couva South’s passion was when he sat with the opportunity at the turn of the wheel in the Ministry of Finance to drive digitization, to digitize millions of records, to allow an appointment system because you have actually done the work. You see, Madam Speaker, it is one thing to stand up and give us great advice but when you had your turn at the wheel, what did you produce?

We can stand confidently now in the context of clause 6 and say that we have digitized all of the records at the Ministry of Works and Transport, [Desk thumping] all of the motor vehicle and licensing divisions. We have introduced road checking via spot-speed camera, plate recognition, facial recognition, [Desk thumping] millions of documents registered and digitized at the Ministry of Attorney General and Legal Affairs, now Office of the Attorney General and Legal Affairs. And, Madam Speaker, that is what you call delivering reality to the people of Trinidad and Tobago [Desk thumping] and that reality is underscored by the amendments that we made to the Judiciary by removing 104,000 motor vehicle and road traffic matters from the courts [Desk thumping] by turning on the U-turn system on May 26, 2020, as Sen. Rohan Sinanan did.

By making the amendments to make sure that people had no fines and no penalties for the non-payment of their motor vehicle and road traffic tickets, legislatively giving them the relief from that as we legislatively today in clause 6 in particular, give everyone a validation. You see when the Bill gives you a validation of licensing period, there is no need to consider the concept of penalties for late payments “cause yuh not late, yuh valid”. And that, whilst it sounds quite simple,
apparently is a little hard to grasp. I say that in no sense intending to be pejorative to my colleague, the Member for Couva South.

But, Madam Speaker, the point made by my learned colleague that people are being arrested and the horrific story of someone committing suicide in a police station being arrested in the analysis we looked at in clause 7 for maintenance payment, et cetera, Madam Speaker, that was certainly something that took a hold of us all but the hope and deliverance and reality came by the introduction of the amendments to the Family and Children Division Bill in 2016 and the Criminal Division Bill in 2018 where we introduced electronic appearances. Let me repeat that. This Government introduced electronic appearances [Desk thumping] and that has allowed us to have nearly 20,000 virtual appearances.

Madam Speaker, I can tell you as Attorney General that we appear in court on a Sunday night during the night: Friday night, Sunday night, Saturday night. Gone are the days where you have to go and sleep in a cell on a Friday night and find yourself on a Monday morning because you now appear virtually, up to nearly 20,000 appearances. Do not take my word for it, read the annual report of the hon. Chief Justice, delivered this year.

So, Madam Speaker, whilst I appreciate the advocacy that my colleague, the Member for Couva South brought today on behalf of persons who may have asked him to raise certain matters, I would encourage my colleague, the hon. Member, to recall the work that this Parliament has been doing and the work that the last Parliament did because my colleague was there and therefore he is full witness to the eventualities of us being able to deliver to the people results for the benefit of Trinidad and Tobago.
Madam Speaker, with respect to the amendments proposed and in respect of which my colleague has indicated no objection, I understand that amendment, as we dealt with in the piloting of this Bill, is simply with respect to the date for the validity of the mortgage bills of sales. If it is not undertaken, we will find the difficulty with thousands of instruments and therefore thousands of security items being invalid through no fault of persons. It is a very important opportunity for us to make good use of parliamentary time within the parameters of what is permitted in law and, therefore, Madam Speaker, I look forward to the acceptance of that amendment which is being circulated now at committee stage.

Madam Speaker, I understand that my colleague, the Minister of Finance is anxious to begin the next debate so that I now beg to move. [Desk thumping]

Question put and agreed to.
Bill accordingly read a second time.
Bill committed to a committee of the whole House.

Madam Speaker: Has the amendment been circulated? Whip, have you all got the amendment?

Mr. Lee: No. [Crosstalk]

House in committee.

Clause 1.

Question proposed: That clause 1 stand part of the Bill.

Madam Chairman: [Continuous crosstalk] Members—

Dr. Moonilal: Madam Chairman, the Member for Port of Spain North/St. Ann’s West is being extremely disgusting and you may not be hearing it but he is excessively disgusting.
Madam Chairman: All right, so Members, we have a lot of work to do and I believe from something that was said a little earlier that we are all excited about other things to come, so let us focus on what we are doing with all due respect to each other and to the people of Trinidad and Tobago and let us get our work done.

Question put and agreed to.

Clause 1 ordered to stand part of the Bill.

Clause 2.

Question proposed: That clause 2 stand part of the Bill.

Delete and replace with the following:

Commencement (2) This Act shall come into effect on such date as is set by the President by Proclamation.

Mr. Al-Rawi: Madam Chair, thank you. There is what some may refer to as a piddling amendment but it is nonetheless to keep language consistent with previous Acts and therefore, the piddling amendment put before us here is the refashioning of clause 2 as circulated.

Madam Chairman: Whip? [Member nods]

Question put and agreed to.

Clause 2, be amended, ordered to stand part of the Bill.

Madam Chairman: Can we do 3 to 7 en bloc? All right, so we will go to 3 to 11 and then as 7A is a new clause, then we will come back to that. Okay? Thank you.

Clauses 3 to 11 ordered to stand part of the Bill.

New clause 7A.

Insert after clause 7 the following new clause:

“Chap. 82:32
7A. The Bills of Sale Act is amended in –
amended
(a) in section 9A –

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(i) in subsection (1) by-
   (A) deleting the words “31st July, 2020” and substituting the words “31st December, 2020”; and
   (B) deleting the words “31st August, 2020” and substituting the words “31st March, 2021”; and

(ii) in subsection (2) by deleting the words “31st August, 2020” and substituting the words “31st December 2020”;

(a) section 17A by-
   (i) in subsection (1) by-
      (A) deleting the words “31st July, 2020” and substituting the words “31st December, 2020”; and
      (B) deleting the words “31st August, 2020” and substituting the words “31st March, 2021”; and
   (ii) in subsection (3) by deleting the words “31st August, 2020” and
miscellaneous provisions
[2019 novel coronavirus (2019-ncov)]
no. 2 bill, 2020 (cont’d)

substituting the words “31st december 2020”.

new clause 7a read the first time.

question proposed: that the new clause 7a be read a second time.

question put and agreed to.

question proposed: that the new clause 7a be added to the bill.

mr. lee: madam chair, could i seek some clarification before the—

madam chairman: yes, whip.

mr. lee: through you, madam chair, attorney general, why are we doing this amendment to the bill when in october 2nd, using the order by the minister of works had already done that in a previous time up to december 31st? why is it necessary to do it now using this format?

mr. al-rawi: sure. i thank the hon. member, very sensible question. the mischief that this new clause seeks to address in the bills of sale act is the exact mischief that all of the other clauses we just accepted do. what we did is we gave a bucket, we gave a period between april to july for all things which had expired to be valid and we said that they would be valid up to august. we had the power to extend that august date. so what happened is that anything that fell after july was not in the bucket and therefore there are a number of things that fell outside that bucket that we now want to put a bigger bucket for. so we are moving the date from april to december, that is the new bucket, the old bucket was april to july and we are allowing for that december date to be extended.

so regrettably because of how the covid restrictions went into effect, we had the position where whether it was a theatre or a dancehall or a bill of sale, there were those that were validated by the legislation but unfortunately, there were
those that could not meet that bucket because they came after and because of the appointment process, they could not make it in time. So what we are doing consistent with all of the other 11 clauses we just did, from clauses 3 to 11, we are just extending that time frame.

Mr. Lee: So, Madam Chair, so that when the Minister of Works had done it via Order on October 2nd, was that wrong or he had that power?

Mr. Al-Rawi: No, it was perfectly correct. So bucket is you are catching everything in the period April to July. We said that that those things caught would be valid until August; that is the original law. The Minister’s Order said that they would be valid until December. The bucket still only caught those things up to July. So what we are doing is we are putting a larger bucket now, April to December and we are allowing for both posts to be moved in the future in an easier fashion.

Mr. Lee: Can I just ask a follow-up question? AG, I do not know if you could help me explain, when you were piloting the Bill earlier on, you talked about an insurance issue—

Mr. Al-Rawi: Yes.

Mr. Lee:—in relationship to the Motor Vehicles Act—

Mr. Al-Rawi: Yes.

Mr. Lee:—that if your driver’s permit was not valid, how would that have impacted on the insurance validity of individuals.

Madam Chairman: One minute, one minute. What clause we are on?

Mr. Al-Rawi: We passed.

Madam Chairman: I thought that was the new clause 7A.

Mr. Lee: Yeah, but I am just seeking some clarification.
Madam Chairman: And this, as far as I am aware, deals only where bills of sale. We have already dealt with 3 to—well 1, 2 to 11 of the Bill as it stood. Okay, so that I cannot allow us to go back. And though I appreciate what you would like to do, I cannot allow us to do that, we are at the stage of the new clause 7A. Okay? So, Whip, if your questions on the new clause 7A, if they are answered, I would now put the question.

Mr. Al-Rawi: Should it please you.

*Question put and agreed to.*

*New clause 7A added to the Bill.*

Madam Chairman: As a result of the insertion of new clause 7A, there will be a consequential amendment to the long title as circulated.

Long title       The long title is amended by inserting after the words “48:50;” the words “the Bills of Sale Act, Chap. 82:32;”.

Mr. Al-Rawi: Much obliged, Madam Chair.

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

*House resumed.*

Hon. Al-Rawi: Thank you, Madam Speaker. I wish to report that the Miscellaneous Provisions [2019 Novel Coronavirus (2019-nCoV)] (No. 2) Bill, 2020 was considered in committee of the whole and approved with amendments. Madam Speaker, I specifically report that the long title of the Bill was amended to read as follows:

A Bill to amend the Cinematograph Act, Chap. 20:10, the Registration of Clubs Act, Chap. 21:01, the Theatres and Dance Halls Act, Chap. 21:03, the Family Law (Guardianship of Minors, Domicile and Maintenance) Act, Chap. 46:08, the Bills of Sale Act, Chap. 82:32, the Motor Vehicles and Road Traffic
[2019 Novel Coronavirus (2019-nCoV)
No. 2 Bill, 2020 (cont’d)
Hon. F. Al-Rawi (cont’d)

Act, Chap. 48:50, the Moneylenders Act, Chap. 84:04, the Pawnbrokers Act, Chap. 84:05, the Licensing of Dealers (Precious Metals and Stones) Act, Chap. 84:06 and the Old Metal and Marine Stores Act, Chap. 84:07 in response to the 2019 Novel Coronavirus (2019-nCoV) and for related matters.

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

3.30 p.m.

PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY (AMDT.) BILL, 2020

The Minister of Finance (Hon. Colm Imbert): Thank you, Madam Speaker. I beg to move:

That a Bill to amend the Public Procurement and Disposal of Public Property Act, No. 1 of 2015, be now read a second time.

Madam Speaker, the Bill before the House has 10 clauses. The first clause is the standard title. The second clause defines the Act that is being amended, which is the Public Procurement and Disposal of Public Property Act. The third clause is a standard commencement clause which states that:

“This Act will come into effect on Proclamation by the President.”

The fourth clause provides a new definition of the act of bid-rigging. The fifth clause addresses section 7 of the Act and deals with government-to-government contracts and other arrangements with international bodies, and the question of specialist services.

The sixth clause, Madam Speaker, is just a typographical consequential change. The seventh clause gives a specific time frame with respect to entities that can engage in public procurement. The eighth clause gives more time to the Office
of the Procurement Regulator to respond to a submission from a party—an aggrieved party or somebody seeking clarification. The ninth clause inserts the typical definition of a relative, and the 10th clause is simply procedural.

So let me move now to the substantive clauses. Before I do that, Madam Speaker, I took note today in the *Daily Express*, an editorial and really I must say that our media must do better. I have been looking at our media now for 30 years, and I have seen a general deterioration in research, analysis, and—Madam Speaker, I do not know what they are shouting about. Could you protect me please?

**Madam Speaker:** Members. Let us proceed. Minister of Finance, I am sure you have a certain amount of protection in that speaking booth.

**Hon. C. Imbert:** It is just all the grumbling, Madam Speaker. It takes away from the presentation. So, Madam Speaker, as I said, I have been looking at editorials and articles in the media for the last 30 years and I have seen a general deterioration in the level of research, the level of analysis, the level of fact checking and the level of argument. And today’s *Express* editorial is no different. This editorial claims that this Bill will gut the procurement Act. And in the ordinary English meaning of that word, it essentially means reduce it to nothing. So when you gut a building, for example, you take out all the internal parts of the building. This is hyperbole, exaggeration, misdirection and misinformation in the extreme, Madam Speaker.

Because what this Bill seeks to do is simply deal with certain specific matters, and those are the whole question of how this Government would deal with other governments when entering into contractual arrangements with those governments and also how we deal with matters such as specialized legal services...
and medical services, and so on. The rest of the procurement regime, which is the procurement of goods and services for buildings, for infrastructure, for equipment, for services of many different types, which I dare say is over 95 per cent of public procurement, remains intact. And, therefore, it is pure hyperbole and exaggeration for the editorial writer to say that this Bill will gut the Act, in other words reduce it to nothing. That is just ridiculous, Madam Speaker.

And the editorial also goes on to complain that this Bill will remove from the regulator the responsibility for disposal of public property. Again, that demonstrates a lack of research on the part of that particular newspaper because I have in my possession a letter written to me on the 18th of December, 2019, and this letter has already been read out in this Parliament, has been published in the newspapers. It is over a year ago, or a year ago, December 2019. And in that letter, the regulator writing to me said that section 13(1)(o) of the Act prescribes that:

“The functions of the Office are—

(o) to act for, in the name and behalf of the State to dispose of real property owned by the Government in such manner as the Government may consider appropriate and desirable;”

And this is what the regulator had to say to me, which has been said repeatedly in this Parliament over the last 12 months.

The office is of the firm view that despite the mandate of the office to dispose of real property, the office should not—and it is in bold letters underlined—be responsible for direct disposal of any assets inclusive of real property as this will be a direct conflict of interest, as it relates to its regulatory function.

So the regulator wrote to me a year ago and said he should not be responsible for
direct disposal of assets inclusive of real property as that would be a conflict of interest. Yet in today’s editorial, as part of their assault, they complained how disappointed they were that one of the things we were doing was removing from the regulator the responsibility for disposal of public property. And it just goes to show there is no fact-checking, there is no research.

But let us go further, Madam Speaker. I have compiled a list of the government-to-government arrangements entered into by this administration and, Madam Speaker, by the previous administration, Madam Speaker. And I have a very brief list here. Actually I have gone all the way back to 2006. In May of 2006, the Government of Trinidad and Tobago entered into an arrangement with the Government of China for a construction and financing arrangement for the National Academy for the Performing Arts.

In 2011, under the administration of the Member for Siparia, the Government of Trinidad and Tobago entered into a further arrangement with the Government of China for additional work to that NAPA building; that is under the UNC Government. Under the UNC Government, in March of 2013, the Government of the Member for Siparia entered into a government-to-government arrangement with the Government of China for the construction and financing of the Couva children’s hospital.

On March the 15th, 2013, again, under the Government of the Member of Parliament for Siparia, the former UNC Government entered into a government-to-government arrangement for the construction and financing of a number of sporting facilities around Trinidad and Tobago; the aquatic center, the cycling facility, as so on.

And famously, Madam Speaker, just before the general election, the hon.
Member for Siparia, on a visit to China, saw a vessel somewhere and say, “I want one ah dat”. And the Government subsequently entered into an arrangement with the Government of China, that is the UNC Government, for a Chinese long-range patrol vessel.

Similarly, the Government of the Member for Siparia entered into a government-to-government arrangement with the Government of Austria for a design, construction and financing of a hospital in Point Fortin. This Government, Madam Speaker, has entered into an arrangement with the Exim Bank of Australia for the financing of two Cape-Class vessels and there was a video recently and you would see the lean machine that is about to come to Trinidad and Tobago to help us to protect our borders very shortly.

This Government has also entered into an arrangement with the Exim Bank of Australia for the financing of two fast ferries, the APT James and the Buccoo Reef. The APT James, I just checked its position this morning, it is just of the southern coast of Italy on its way to Trinidad and Tobago.

The Government of the hon. Dr. Keith Rowley also entered into an arrangement with Austria following on the previous arrangement for the Point Fortin Hospital, for a new hospital in Sangre Grande.

And finally, the other one that I have to list here today is an arrangement with the Government of China for the construction of an industrial estate, Phoenix Park, in the Couva area.

So, Madam Speaker, there is a long history of government-to-government arrangements. It goes back many, many, many years, and as you have seen, I have listed out all of the government-to-government arrangements between this Government and the prior one, headed by the Member for Siparia.

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And therefore it is political hypocrisy for the UNC to now come and scream that the amendment to the law, the amendment to the law to continue the arrangements that have been in place for more than 10 years, including the five years that they were in Government, should now be taken out and it will gut the procurement Act by doing that. Absolute nonsense, Madam Speaker. What we are saying and what we on this side have been saying for years, and we have not diverted from our position, if it is beneficial to the citizens of Trinidad and Tobago, as it is alleged it was for the construction and financing of the Couva Hospital, if that is considered beneficial to the citizens of Trinidad and Tobago, the Government Trinidad and Tobago should have the flexibility to negotiate that contract with the Government of China or any other sovereign government in the best interests of the people of Trinidad and Tobago; and it is absurd to demand that an arrangement with a foreign government must be administered by a non-elected person.

We are accountable to the Parliament, Madam Speaker, and it is we that will account to the Parliament about government-to-government arrangements, as did the Member for Siparia when she, that hon. Member, was in Government. So I do not think there is much more to say about that. Are you saying that no longer the Government of Trinidad and Tobago must make arrangements with other governments for the provision of things like hospitals and fast patrol vessels and things like that? Are you saying that? I cannot believe that that is what is being presented to us. I really do not think there is anything more to say about that.

Now let us move on. With respect to services, is it really being told to us and to the national community that if the Government of Trinidad and Tobago requires legal services, we must put it out to tender so that Ramdeen and Ramlogan will
win the bid because they will be the lowest bidder? And the Government of Trinidad and Tobago, the PNM Government, must hire Ramdeen and Ramlogan? That is the level of absurdity that you could carry that to. [Desk thumping] That is the level of absurdity. Clearly it is a long established practice in the Republic of Trinidad and Tobago since 1976 and before that in terms of legal services, it must be left up to the Attorney General and the Government to select counsel that they feel will serve their best interest. You cannot tender legal services. That is an absurdity. And that is all I have to say about that.

And with respect to medical services, Madam Speaker, if, heaven forbid, a Member here became ill and needed emergency surgery, are we expected to go and get a quote from St. Clair Medical and quote from Mount Hope and a quote from Southern Medical and a quote from St. Augustine Private Hospital? And then when you get the quotes you evaluate them and you award it to the lowest bidder? “By the time dat happen, we dead”, Madam Speaker. So it is absurd to tell a Government or a Parliament for that matter that we must subject medical services to the lowest tendering procedure. So there is not much to say about that either and the same applies to auditing services, and those are the things that we have pulled out that we said legal services, medical services, accounting and financial services would not be subject to the system that is in the Public Procurement Bill.

And, Madam Speaker, I do not think there is much more in this matter to speak about. All I will say, Madam Speaker, is that people need to understand what is going on here. Because there are a lot of commentators—by the way how much time do I have left Madam Speaker? Madam Speaker, how much more time do I have?

Madam Speaker: 3:59:34 is your full time.
Hon. C. Imbert: Thank you very much, so I have 14 minutes. Thank you very much. Madam Speaker, there is a lot of commentary on procurement in Trinidad and Tobago. But there are not too many people in Trinidad and Tobago who have done research on the matter, who have published papers on the matter, who have lectured on the matter and who have academic qualifications specific to procurement. And therefore, it falls to me, Madam Speaker, to explain to those who do not know, or may pretend not to know, what this public procurement law is all about.

In Trinidad and Tobago at this time, the whole question of competitive tendering by a state enterprise—and that is where most of the competitive tendering is done—there has been a move away from the Central Tenders Board for many, many years now under this administration, under the UNC Government and the NAR Government and before. And in fact there was an amendment to the Central Tenders Board Act and this was many, many years ago, which allows the State to procure goods and services through Nipdec and other state enterprises, and there is a reason for that. The reason was that it was felt at the time when that was done so many years ago that there were issues with respect to efficiency. And I do not think there is any argument with respect to that. So we have a well-developed culture in Trinidad and Tobago now for 25 years or more with respect to the vast majority of procurement being done by state enterprises.

But the law as it currently stands in Trinidad and Tobago, and we have local cases and we have international precedent on this matter. But the law with respect to procurement by state enterprises, Madam Speaker, and I can refer you to a decision given by Justice of Appeal Warner in March of 2006, and that is the law currently in Trinidad and Tobago. And Justice of Appeal Warner, as she was then
at the time, said—and this is the case law, it is supported by well-established case law all over the world but most importantly within the Commonwealth. And the learning comes out of Australia and New Zealand. Justice of Appeal Warner held that:

Judicial review of the decisions of a public body will not be appropriate where:

“(1) The decision is commercial in nature, such as the purchase of goods or services or in consequence of a tendering process.

(2) …its decisions are not subject to duties conferred by statute.

(3) There is no allegation of fraud, corruption or bad faith.”

And in this particular case, it was held that the aggrieved contractor in that particular matter was unable to obtain judicial review of a decision by a state enterprise to award a particular building contract.

There is another case, and this was a case with respect to the aborted attempt to construct an overpass and interchange at the intersection of the Churchill Roosevelt Highway and the Uriah Butler Highway—and this again was under another government. This was not under the PNM Government. It was under the Panday administration when John Humphrey was the Minister of Works and Transport and there was an attempt to build something. I think they called it a golden bridge or something. But it never came off because at the time the contractors challenged the decision of the tender committee to award the contract to a particular entity. The matter went to court and Justice Mohammed rendered—the judicial review application was filed in 2001 and Justice Mohammed rendered his decision, as he was then, in May 2006 and made the same point that although, and in this case it was a UDeCOTT matter, like the other one, although UDeCOTT
was performing public functions when it invited tenders for the interchange project, there was insufficient public flavour in UDeCOTT’s action in the tendering process to render it open for judicial review.

He also went on to say that when UDeCOTT engaged in the tendering process, it was engaged in an activity which was intrinsically commercial and contractual in nature. And the whole point, the learning in all of this, is that unless you can demonstrate that is fraud, or bad faith, or corruption, the decisions of state enterprises with respect to procurement are not amenable to judicial review.

What we are now doing in Trinidad and Tobago, by the Public Procurement and Disposal of Public Property Act is we are now introducing public law elements into public procurement that did not previously exist. And from the time this Act is proclaimed, whereas in the past the courts have chosen not to get involved in procurement matters unless fraud or bad faith can be demonstrated, the court can now be invited from the time this procurement Act is proclaimed, the court can now be invited to review, overturn, repudiate, awards of contract. So I want people to understand exactly what we are doing.

Now for the first time, once this Public Procurement Act is proclaimed, we will be inviting the courts to get involved in public procurement. And what that would mean, and let us go back to the Bill before us, because we have all decided that this is something that we should do. So let us go back to the Bill before us, there is no dispute as to whether we should do that or not. We have decided as a Parliament we will do that. We will introduce public law elements into our procurement process and therefore we will open the door for an aggrieved contractor or supplier to approach the court and ask for a contract. Forget the regulator. The regulator has his statutory function but I am going beyond the
Public Procurement and Disposal of Public Property (Amdt.) Bill, 2020 (cont’d)
Hon. C. Imbert (cont’d)

regulator into the domain of the High Court. We will now be inviting the High Court to determine whether a contract award should continue, overturned, repudiated, varied, as the case may be.

But what that will did if we left the legislation as is would mean that if this Government or any succeeding government would choose to enter into an arrangement with the Government of the United Kingdom, the Government of the United States, the Government of China, the Government of Australia, any government, to procure goods and services for the benefit of the citizens of Trinidad and Tobago, such as that Couva hospital, and that is an important project in the context of what we are discussing, what it would mean is if we leave this Act as is, it means that any government who would choose for the benefit of the citizens of Trinidad and Tobago to enter into an arrangement with another sovereign government, it would mean that an aggrieved person would be able to approach the court and completely repudiate, of course if they have grounds, and completely repudiate that contract and demand that that arrangement with that sovereign government be scrapped and that that project be abandoned.

And certainly I do not think any right-thinking person in Trinidad and Tobago wants to get to the stage where we have that kind of situation. Because the Government simply will not do business with us. Because when you enter into a concessional financing arrangement with another Government, and I am using the Couva hospital as a case in point, because that was financed by way of a concessional loan at an interest rate of 2 per cent and on terms that are very generous for the people of Trinidad and Tobago. It is absurd for anybody to believe that if some person who is not accountable to the Parliament, could interfere with the arrangements with another government, that any government will want to do
business with Trinidad and Tobago again, and that is the practical reality, Madam Speaker.

I just want to tidy up now some matters. There is a lot of misinformation outside there. As I said, that editorial is misinformation. I mean to take out 5 per cent of an Act is certainly not gutting it when you leave the other 95 per cent. But I have in my possession a letter circulating. It was written to the hon. Prime Minister. It is dated the 12th of November, 2020, and that letter to the Prime Minister states that there was a report submitted to the Senate, the other place, on the 30th of September, 2020, and it is written by the President of the Joint Consultative Council for the construction industry and this letter says that:

From this report we have gleaned that the Office of Procurement Regulator last responded to queries from the Finance Minister on the 18th of December, 2019, and subsequently met with the Legislative Review Committee of Cabinet in March of 2020, and it is clarified in the report that the Office of the Procurement Regulator is currently awaiting action from the Minister of Finance.

To be very kind, and charitable and polite, Madam Speaker, that letter is inaccurate. I could have used other language to describe it. But let me tell you what the facts are, Madam Speaker. I asked the Attorney General, who has been working with the Office of the Procurement Regulator for months, including as recently as last month that what are the facts.

On the 8th of April, 2020, so that is after March 2020, the Attorney General wrote the Office of the Procurement Regulator with respect to the Act. There was a virtual meeting with the Office of the Procurement Regulator on the 4th of May, 2020. That is also after March. There was a virtual pre-LRC meeting with the team
from the Office of the Procurement Regulator on the 14th of May, 2020. In July of
2020, after Cabinet had made all its deliberations with respect to the matters
discussed with the regulator in May, the Minister of Finance wrote the Attorney
General submitting the Bill, submitting the draft regulations and asking for the
Legislative Review Committee to attend to this Public Procurement Bill because it
was a matter of grave national importance.

On the 14th of September, of course, we had an election in between. On the
14th of September, 2020, there was a letter to the AG from the Office of the
Procurement Regulator. On the 7th of October, 2020, there was a virtual pre-LRC
meeting between the AG and his team and the team of the Office of the
Procurement Regulator, and on the 13th of October, 2020, less than two months,
draft regulations, revised regulations, were submitted to the Attorney General’s
office for consideration.

So there has been intense debate, meetings, consultation and dialogue
between the Government through the Legislative Review Committee and the
Attorney General with the Procurement Regulator for the last six months, Madam
Speaker. And therefore, Madam Speaker, I just want to put to rest that
correspondence that is in the public domain. It is simply inaccurate. It gives the
impression that we have done nothing since March. It is simply untrue.

And therefore, Madam Speaker, to sum up, we are firm in our belief that it
would be a travesty if we denied Trinidad and Tobago the opportunity to enter into
arrangements with other sovereign governments and we are firm in our belief that
it would be an absurdity if legal and medical services were to be subjected to
tender to be given to the lowest bidder. Madam Speaker, I beg to move.

Question proposed.
Mrs. Kamla Persad-Bissessar SC (Siparia): Thank you very much, Madam Speaker, for allowing me the opportunity to join in this debate and I do not share the cherry mood of the hon. Minister of Finance. In fact, I think today is a very disgraceful and shameful day in this Parliament. \[Desk thumping\] And I say that, not only because of the matter in the present Bill but I say it because on such an important matter there has been no consultation with the stakeholders to arrive at the positions in the amended Bill.

4.00 p.m.

We were given this Bill, I think on Monday night, Monday night, together with four other Bills, all of which are very important Bills to prepare Tuesday, Wednesday, Thursday, to come here to debate all five Bills in one go. I know that you may be trying to keep me here all evening and keep our Members here all evening, but none of that will make a difference on Sunday, we will go brave. \[Desk thumping\]

I would like to remind Members that it was under the Partnership Government which I led, that procurement legislation was actually brought here, debated, and passed by this House. \[Desk thumping\] The other side then in Opposition tried to do everything they could to frustrate that process. They absconded from the JSC, could not get a quorum. The JSC had to change the number to constitute that quorum in order to get the work done. Thereafter, they came to the House and said, yes, we will pass good law. Yes, procurement legislation is very good, but.

And since then, from 2014, ’15 because the Bill came, was passed in late 2014 in December, and became Act 1 of 2015. We partially proclaimed it and put a committee in place to assist with implementation because it is a complex novel
Public Procurement and Disposal of Public Property (Amdt.) Bill, 2020 (cont’d)
Mrs. K. Persad-Bissessar SC

piece of legislation for our jurisdiction. They came in then in later 2015 and when the Minister tells us well six months they have been doing something, talking to each other, talking to each other and sharing letters with each other. It is six years this has been awaiting proclamation and full implementation. [Desk thumping] Six years, Madam Speaker.

So one is not surprised in a sense that they intend to delay. They have delayed it. I believe the delay is deliberate and I will share some points that I have. The delay has been deliberate on their part, in their last term in office of matters that took place. And again, I am very surprised at the hon. Minister of Finance because I know he said people think he is stupid, but I do not think he is stupid. I think he is very disingenuous, very disingenuous. [Desk thumping] That the Minister would come to tell us look we have government to government arrangements agreements going back for decades. But that is the very reason why this piece of law came into force. This is why this piece of law was passed in this Parliament to stop those kinds of arrangements because of the corruption involved. [Desk thumping] So to say, “Well, you know what, Siparia you did it, we did, we did it way back when.” Okay, so it is well fine and good.

That is why, I remember in 2010, Madam Speaker, the JCC and other stakeholders said look we have to bring procurement legislation. We have to deal with the corruption levels. These are some of the proposals. They gave me an entire package, legislative proposals. And I said, yes, we will lay these within 30 days when we form the Government. And so said so done, we laid it. [Desk thumping] Sent to the JSC, sent to a second JSC, and eventually as I say the rest is history, it was passed in 2014.

So that because you have done something the same way for decades for eons
does not mean it is the right thing to do. As time goes, matters arose in several countries where they have brought in their procurement legislation. We looked at the Finland model, we looked at the Singapore model, we looked at Jamaica, we looked at Canada, we looked at the United Kingdom. All these models were looked at to arrive at that Act 1 of 2015.

So it is nonsense in my respectful view to say that because this was done all the time great, great it was done. And hon. Minister of Finance, you say I went to China and saw a vessel, and said “I want that”. Madam Speaker, there was a process that we went through, there was a process. [Desk thumping] Using the armed forces because under that law at that time, under the CTB, NIPDEC or the armed forces had a different process and so it was the armed forces, the coast guard that assisted us in going through a particular process to acquire that vessel.

You see, and the Minister will forget or want us to forget that it was right here in that last Government we saw the fiasco of the Chinese Gezhouba contract—if I pronounce that word correctly—the HDC contract. [Desk thumping] Government to government. Right. Recently US $71 million for phase one, only for phase one. I think it is political hypocrisy to say keep government to government arrangements when we saw the scandal that was. When we saw how disadvantageous it was to the people of Trinidad and Tobago that the same Government had to pull it back. Maybe at a cost, they had to pull that back. Pull it back, that contract government to government.

And so, I say it is political hypocrisy to say because we have done these government to government things for eons, for decades and decades, keep the status quo, no change. We do not agree with that position at all. A lot of work went in to this legislation from all kinds of stakeholders. We do not agree with the hon.
And then, the Minister tells us as well look services, services, Madam Speaker. Exempting services, what you are doing you are setting up a parallel procurement process, a parallel process that will be regulated by the independent office of the Procurement Regulator under this Act. And one, you want to go back to the status quo that will be conducted by the Cabinet, by the Executive, by the politicians. That cannot be right. It cannot be right. And I will tell you why.

We had cause to be written to the Cabinet of the Government of Trinidad and Tobago a freedom of information application. And in that application the question was: Which matters did the hon. Attorney General recuse himself from? And which ones did the Minister of National Security recuse himself from? Now, Madam Speaker, let us understand recusals. They were procurement issues so I am not—this is where the existing procurement matters where it goes to the Cabinet to make a decision. So that this is fact. From the Cabinet we were told by letter dated July 07, 2020, that from 2016 to July 07, 2020, Minster Young recused himself from the Cabinet 57 times.

**Hon. Members:** Oooh!

**Mrs. K. Persad-Bissessar SC:** Minster Stuart Young recused himself from the Cabinet—the hon. Attorney General 38 times, making 95 times that these two Cabinet Ministers left the Cabinet, recused themselves [*Desk thumping*] for procurement issues. Procurement issues, Madam Speaker. And I will not go through all 95 of them today, but I will point out that some matters relating to Minster Young had to do with financial services, had to do with financial services. [*Desk thumping*]

So in 2018 for example, the award of mandate to NCB Global Finance to
arrange a ten-year fixed-rate loan in the amount of TT $180.3 million. That was one—there was a conflict of interest, a relative was involved in that company. The Minister left the Cabinet, yes that is the existing law. But you see under the public procurement law with an independent office it should not be the Cabinet and Cabinet colleagues determining an award going to a relative of a Minster. Some unscrupulous official, hon. Speaker, you know could use this to the hilt.

So we have here 2018 award of contract to NCB Global Finance. We have here in the year 2020 award of a mandate to NCB Global Finance Limited to provide a 125 fixed-rate loan for WASA. This one again, the Minister recused himself because a relative was involved in the company that the contract was given to—the mandate was given to.

Again, in 2020 award of a mandate to NCB Global Finance Limited to provide 125 million fixed-rate loan. Again, the Minster recused himself because a relative was involved in that. So you want to take financial services out of this, put it in a parallel, keep it in the status quo and this is what will happen. That can never ever be right. And that is why the Procurement Act was passed to remove these from the arms reach of the politicians, of the Executive, granting to their colleagues contracts in the Cabinet.

Now, you know, I would like to ask we know of these two because the question was filed—and I will come to the other one with the hon. Attorney General—which other Minster recused himself and for what?

**Madam Speaker:** Members, I am getting a lot of under noise in the Chamber that is making it difficult for me. There is a lot of, you know, talk, please. Member for Siparia.

**Mrs. K. Persad-Bissessar SC:** Thank you very much Madam. We know of these
two because the FOI file gave us these answers. The question then: Are there others that we do not know about who are getting contracts through the Cabinet for friends, relatives? MP Keith Scotland is a brilliant lawyer. Has he recused himself from the Cabinet at any time? MP Hinds is a brilliant Minister, has he recused himself at any time? The question is whether any others have recused themselves and therefore are benefiting? Their family members may benefit from that kind of status quo procurement issue.

The hon. Attorney General you know you talk about—those are financial services—the hon. Attorney General as I said recused himself from the Cabinet, and it had to do with medical services, Madam. So again, this parallel, you are exempting, you are takings these out from the procurement law and leaving it under the existing status quo which allows again, the Cabinet to grant to a relative of colleagues, contracts. So look at the medical ones now, when you take out the medical, look what is happening.

In the year 2018, the hon Attorney General had cause to recuse himself because the matter being considered by Cabinet was a proposal for the continued engagement of private health care institutions for the provision of surgical, radiological, and lab services for patients of the public health care system. Why did the Attorney General recuse himself from these medical services? Why? Is it that he has an interest in this company? Why did he see the need to recuse himself? That is the existing law. He did that. But the point is, that has to change. *Desk thumping* It cannot be. It cannot be that the Cabinet is granting onto other Cabinet colleagues contracts. That cannot be right. Further, in the same year—

**Mr. Deyalsingh:** Madam Speaker, Standing Order 48(6) the Cabinet does not grant contracts to other Cabinet Members.
Madam Speaker: Member, 48(6) will be that it is imputing improper motives and I do not uphold the objection. It would be dealt with in response, please.

Mrs. K. Persad-Bissessar SC: Thank you very much. And again, in 2018 proposal for the continued engagement of private healthcare institutions for provision surgical, radiological, lab services, and so on. Here it is medical services being procured with that existing system which is the parallel system that you want to go back to when you move it out of this particular procurement law, Act 1 of 2015.

But it does not end there, in 2018 the hon Attorney General recused himself when a proposal for the remission of customs duty and vat payable on a PET CT Scan machine imported by Alexandra Imagining Centre was being considered by the Cabinet. Why? What was the conflict of interest? But the point is that it is the existing system and we want to leave it like that. And I say no, we cannot support that. We will not. [Desk thumping]

Retention of customs duty and VAT again on a scan machine in the year 2019. So I do not know if it is the same scan machine, or if it is another scan machine but there are two recusals with respect to the PET CT Scan machine. So what you are going to be doing by removing these services is that you are going to put it back into the old procurement system which is fraught with difficulty. It would take any unscrupulous official to exploit these to the benefit of friends and family—of not friends, family, family.

And therefore you will be running a parallel procurement system which could end up raising serious constitutional issues—and I will come back to that in a moment—but even more dangerous in this amendment, apart from saying moving out the medical, moving out financial services, and the others. You are
saying that the Minister may, by order, remove anything else. Exempt anything else. And that exemption, that order will take effect immediately, it is made. And is subject to negative resolution and that means it will take effect immediately, immediately. And an unscrupulous official, Madam Speaker, can quickly go the Cabinet while it is in effect and remove something else and give themselves the contract and so on. By the time we come to negative the 40 days would have passed. How many contracts would have been awarded? How many things would have happened that that order would be made to exempt persons from it? So that is a cause for grave worry, Madam Speaker. So the services issue we have grave concern, and we cannot support this services issue.

We move to, Madam Speaker, the issue of constitutionality. Now, several people have been talking about the first parent Act was passed by a special majority, and the issue arose as to whether subsequent amending pieces of legislation could be passed with a simple majority. But there are serious constitutional issues and it is not simple to say use Suratt and Barnes, and the others, Northern and so on and talk about proportionality. Because proportionality has to do with a legitimate aim. Is it a legitimate aim to create a parallel procurement system outside the independent office of the Procurement Regulator and put it in the hand of the status quo which is the Executive, the Cabinet? How can that be a legitimate aim? And that can raise issues now having to do with constitutionality, about inequality of treatment, about unfairness, about discrimination, because you are using two different systems. One where you as an Executive sitting making decisions, and then one where the independent office of the Procurement Regulator is being undermined.

The hon. Minister really raised a very confusing issue which I am still
putting my mind to and that is why very clever being disingenuous, when we told us, you know, well, we had tendering under the CTB—that was 1961. I will remind him of that. Thereafter, the law changed to allow the armed forces—that is how you could buy the boats and so on through them, there was an exemption for them from using CTB—and then NIPDEC was introduced by 1993 I believe or the other way around. Up from 1993 to now, there has been no change in procurement law.

The Ministry of Finance created a divestments manual, like rules, does that have the force of law? Just a manual with rules created by the Ministry about how you procure and how you dispose. But here it is now the Minister tells us, well you know state enterprises judgment by Justice Warner and so on, not subject to judicial review. Not subject to judicial review, state enterprises with these contracts and such but that is the reason why you need this procurement law. [Desk thumping] That is why you need it, because you now have scrutiny, you know we have scrutiny under this but no, you do not want that to happen so you say let us go back. You do not want a court to come and overturn that. That is exactly why you need the law. Minster, you are being disingenuous. These are the things that over the years there is a Ballah report, from 1987 I think it is, with all the government to government contracts. All the corruption that went on with the Mtoun Hope Complex, we could name all of them, French company, foreign company, all these government to government contracts riddled with corruption. And that 1987 Ballah report said look get rid of this government to government issue, too much.

Then you have the private-public kinds of partnerships that could be subsumed under these same sections. And we remember the Sandals scandals, where it was a disadvantageous deal to the people. If we had the procurement law
the Government could not go out and sit down at a lunch table and make a deal. That is what we were told by none other than Arthur Lok Jack, that they were eating lunch or dinner and they made that arrangement. That is why we need the procurement legislation, Act 1 of 2015. *[Desk thumping]* That is why we need it.

And you know the Minister started off by “bouffing” the media. Typical kind of reaction, “bouffing” the media for their comments. But I want to share with you the voices of the people on the issue of this procurement legislation. We have the public sector—private sector civil society group saying that they are deeply distressed about amendment to procurement legislation. They talked about the delays and the delays and the promises broken. PNM, “promises never materialize” from since 2015 right down to this year. They talked about it saying that they are deeply concerned and this is signed by Winston Riley, representing the JC AMCHAM, the Chamber, TTMA, Trinidad and Tobago Transparency Institute, Trinidad and Tobago Local Content Chamber, and TTCSI, and they said that all these statements this is still here in limbo and in abeyance. And they were deeply concerned that it had reached where it had reached.

They said they had written to the Prime Minister on November 20th, they issued a press release reminding the Prime Minister of his commitment on September 29, 2020, and of course now the rest is history where we do not have that coming into effect in spite of all the promises.

We also have the JCC which tells us that the proposed amendment to section 7 provides status quo to the Minister of Finance, and for all intents and purposes nullifies the intent of the Act, the substantive intent of the Act. In particular, section 7 of the Act is proposed to be amended to delete “that where there is a treaty...there is an agreement” and so on that this is going to be removed, because
he would have to keep it still within the Act. So the treaty will not prevail above the substantive intent of the Act. And that too, that too, is a serious issue which I raise on constitutionality. It is public funds you are spending. It is taxpayers’ money that is being expended and therefore there must be scrutiny from an independent person.

The Office of Procurement Regulator in an advisory dated 3rd December, 2020, that is yesterday, that is yesterday said. They maintained the position that clause 5 which seeks to amend section 7 of the Act of 2015 1, which is that they do not want it changed. They are saying:

“A thorough consultative process was undertaken between 2018 to present with Stakeholder across various sectors,”—they—“…provided feedback”— from their—“…workshops, 20 workshops, 193…sensitization sessions…webinars held with over 1,400 suppliers/contractors.”—and— “During these consultations, Stakeholders reiterated that there should be no amendment to section 7 as it stands.”

No amendment from the OPR and from all their consultations, no amendment. They:

“…emphasized that section 7 should be given an opportunity to be tested since there is a real possibility that local suppliers/contractors may be deprived of a fair and equitable chance to participate in procurement proceedings.”

And that is the same issue of constitutionality, of equality of opportunity, equitable chance to participate.

They continue:

“Any variation to this provision may undermine the objects of the Act,
Public Procurement and Disposal of Public Property (Amdt.) Bill, 2020 (cont’d)
Mrs. K. Persad-Bissessar SC (cont’d)

namely, Accountability, Integrity, Transparency and Value for Money.
3. At all times stakeholders continue to emphasize that these arrangements under section 7, ultimately will be repaid with public money, and so, these transactions should fall within the ambit of the Act…”—to achieve the objects of the Act—“Additionally, there should be no exclusion from the OPR’s oversight, in respect of the procurement of legal, financial, accounting, auditing, medical and any other service as the Minister may by order determine.”

Should be none, no exemption. This is the procurement office. They have been working since 2018. They have done a lot of work including the prep of the Regulations.

We would have thought you would be coming here to lay the Regulations. [Desk thumping] Instead you come, you come here to gut the Act. Minster said he is not “gutting” anything, what are you doing? You are taking out substance, you are taking out that which is important for the integrity of the process. You are taking out those things that will make a fair procurement and disposal process.

Government is making procurement law toothless. I commend former MP, Bhoendradath Tewarie who was very instrumental together with MP Tim Gopeesingh I believe, and AG Ramlogan who served on the JSC for our side at that time. They did a tremendous job. They met with so many stakeholders. They got advice from the IDB and the World Bank, they met with the equivalent of the procurement regulator for Jamaica. They looked at models all around and came up with Act 1 of 2015, what is now Act 1of 2015.

And then what you are doing by simple majority, you want to dismantle that which was put in place by a special majority. Piece by piece you are dismantling
an independent institution by simple majority, when it had been put in place brick by brick, line by line, provision by provision by a special majority. Dr. Tewarie says:

The net effect of one of the early amendments was to reduce the power of the procurement board and to create a parallel structure of power by the creation of an appeals tribunal.

They also came—his is their third amendment—also came to Parliament in 2017 to set up something that they called disposal of state lands. So they also took disposal of state lands out of the procurement hands, but they also disposal of things from a state enterprise and statutory authorities. So when we are there screaming procurement legislation, Petrotrin could sell out everything, NIPDEC—sorry not Petrotrin the Paria, Guaracara, NP stations, Port of Port of Spain, all that gone, gone, gone, all, all, all gone. [Desk thumping] All gone, and now you are coming to further gut the law. You are further cutting it, gutting it out, ripping the substance out of the law in order to set up a parallel procurement system that unscrupulous individual can use to their benefit.

So it was the Express that said “Gutting the Procurement Act”. It was Mr. Riley who said it was a travesty what is happening. Gutting the procurement Act and that is what we are doing. We are giving up the independent procurement person to keep in place the status quo to allow corruption on the part of unscrupulous individuals to occur. That is what we are doing with this piece of legislation.

So let us just look at what is happening here with us. There is a judgment by Justice Jamadar in the Caribbean Court of Justice in which he talks about the underpinnings of constitutionality. That constitutionality is not just about
breaching sections 4 and 5, there is a foundation that is found in the Preamble of the Constitution. In that case it was the Belize Constitution, we have it here in Trinidad and Tobago in our Constitution. That is the foundation, and when you breach those foundational principles you are into the realm of unconstitutional behaviour and action.

My colleague will probably read some of the paragraphs from the judgment for you from Belize. And that really goes to the whole issue of constitutionality. So it is not just the text he says, it is not just the text it is the whole preamble which sets the stone to go forward, which is the jumping stone, the starting off point. He says so that then, our Constitution demands from us that those principles of fairness and equity, of the rule of law, of transparency, accountability and good governance, that those principles must be enshrined in our law. And that is what this procurement legislation was doing.

So when we come to tamper with it, to dismantle it, to desecrate it, piece by piece, by piece, by taking it out, then we are in fact, Madam Speaker, in a serious constitutional crisis. With those words, I thank you very much. [Desk thumping]

4.30 p.m.

Madam Speaker: Prime Minister. [Desk thumping]

The Prime Minister (Hon. Dr. Keith Rowley): Thank you very much, Madam Speaker. Madam Speaker, I join this debate for many reasons, not the least of which is to defend the reputation of the People’s National Movement. [Desk thumping] I have heard it said by my colleague from Siparia in her cantankerous contribution a moment ago that as far as she is concerned, PNM means “People’s National Movement”, no, it means “promises never kept”. Well, Madam Speaker, that approach by my friend from Siparia symbolizes and summarizes her whole
contribution, because if anybody knows that PNM keeps its promise, it should be the Member for Siparia, because we promised her 11 lickings and all have been delivered. [Desk thumping]

Madam Speaker, this matter, if it is allowed to be addressed in a very sane and sober manner, will not draw the kind of misrepresentation and cantankerous comments as we just heard from the Leader of the Opposition. We will beg to disagree with fellow citizens on this matter but we have to proceed. The Government of Trinidad and Tobago ought not to find itself in a situation where by virtue of the authority being put in somebody else’s hand, that the Government’s position has been stymied in situations where the interests of the people of Trinidad and Tobago are concerned. I simply want to say what my view is—personal view. That of all the people on the Government payroll, of all the people on the Government payroll, the only people who are held accountable in Trinidad and Tobago or who really could be held accountable are Ministers of Government. A Minister of Government is held accountable on a daily basis for matters within his or her portfolio, and other matters. Even in people’s private homes you are held accountable, 24 hours a day. So when the Opposition gets up and makes it look as if a Minister has responsibility, and that is something to cry about and to misrepresent, and that all going to fall down on the country, if the Minister has responsibility for something, I say, Madam Speaker, we disagree, I disagree and we are going to move on from there.

Madam Speaker, the responsibility of the Government is rooted in the Representation of the People Act. We are representing the 1.3 million people out there in the actions we take. And if there are certain responsibilities which devolve to us in our portfolios, who is it saying to us today, let somebody else have that
Public Procurement and Disposal of Public Property (Amdt.) Bill, 2020 (cont’d)
Hon. Dr. K. Rowley (cont’d)

responsibility, not you, who represent the people. Let somebody else—that somebody else who will not be able to, or will not be interested in holding responsible. So we do not want the Government to have any responsibility for government to government relations because it should be done by the regulator. Is that what we are being told? Because if that is what we are being told, then that is a gross misrepresentation of the rule of the regulator. [Desk thumping] The regulator is not to be a procurer. So what is this big thing about if this is taken out of the law, the regulator will not be able to function because the law that created the regulator would have been gutted? They like the phrase, “gutting the law,” “gutting the law,” but when you have nothing to argue, you argue the law.

Madam Speaker, the regulator is not to procure and if you so concerned that the Government should not procure it, the Cabinet should not do it and the Minister must not have responsibility, then tell us who, who, who, tell us who. Because in this country, the country holds its Cabinet responsible for every single governmental action, but what you are saying, put the responsibility in the hands of the Minister and the Government, but put the authority somewhere else by the regulator? The law does not say that. So they write the papers and some uninformed person talks about “gutting the law” and the Leader of the Opposition comes in here, grabs it and swallows it and regurgitates it here today. Absolute poppycock, Madam Speaker. [Desk thumping]

Madam Speaker, there are procurement issues within the Government where the law requires that in every department, you establish a procurement unit and that unit is not the Cabinet. I do not know if members of the media understand that. The law says—and one of the things we have done in the Cabinet in the last many months is to deal with the public service to ensure that this requirement of the law,
to have the public service understand it, prepare for it and now will follow it because procurement will now be done by elements of procurement entities within departments and agencies, Madam Speaker. And let me just tell the country one thing too. When we did not have this, we had a lot of corrupt people interfering with public money and being very corrupt about it.

What the procurement law does, Madam Speaker, is to multiply those opportunities throughout the public service and throughout the country. And we hope and we trust that we have become less corrupt, because now we are going to have more opportunities for many more people to engage themselves in corruption because the law calls for a procurement department in every Department. [Desk thumping] So every Tom, Dick and Harry from tomorrow morning, when it is proclaimed, as it will be proclaimed, all these procurement units will be there and I trust, Madam Speaker, that we have become more honest in Trinidad and Tobago, because more people are now going to be involved in procurement. I hope the country understands that. And, Madam Speaker, what this law did when it was created—in 2015, this law was passed.

The UNC wanted to use it politically, so on the way out of office and on the way out of governance, they hurriedly brought it to the Parliament, they got our support, because procurement legislation, updating the law and so on, and so on, we support that. Those were the days when Opposition supported Government. But the way the law is structured, after we supported the law, it fell to the President to appoint a regulator, who is the linchpin in this legislation. I saw the Government being beaten for not appointing the regulator and all that we could tell our friends in the media who were sharing the licks, it is not for the Government to do, the law gave it to the President.
It was not until 2018 that an appointment was made and I think it was January—

Hon. Member: Twelfth.

Hon. Dr. K. Rowley: January 12, 2018, that that requirement of the law for the appointment of a regulator by the President was done. And then the law also made provision, now that you have a regulator, for the regulator to go and prepare the regulations. And you would have heard the Attorney General or the Minister of Finance tell you how many toing and froing and meetings because the regulator was preparing the regulations. The Attorney General will tell you, if he joins this debate, that it was only in October 2020 that the draft regulations were finalized and made available to him. Up to that point, the Government could not bring this to the Parliament, because it was not for us to do until the regulator had done that and we had settled on the regulations. We have done so and we are here now. But of course, as I said, people who are not aware, not informed, or just have some malice going on, will tell you the Government this and the Government that, and the Opposition Leader is out front, waving a flag, the town crier as usual, trying to give the impression that we have some interest in not procuring the law.

Madam Speaker, these are the facts. October 2020, we had come to a point where the Regulations were settled upon. In developing the Regulations from the law that we have passed, we discovered that there were one or two things that were, what we call, impractical. One is that you wanted to stymie the— it would stymie the Government from having any government to government arrangements. Madam Speaker, as head of this Government, I know that there are different points of views, largely with contractors and their associates who have a problem with that, because their problem is that if you have government to government
Public Procurement and Disposal of Public Property (Amdt.) Bill, 2020 (cont’d)
Hon. Dr. K. Rowley (cont’d)

arrangements, they somehow have been excluded from getting a contract. And they make all kinds of allegations and accusations, much of it not substantiated by facts to be defended in a court of law or in a Parliament, but just throw it out like the Opposition Leader, accuse and accuse and accuse.

We disagree that we should tie the Government’s hand, and I know the reason for that. Had we not been able to approach the Australian Government at the level of Prime Minister to Prime Minister of Australia, we would not have been able to access or pick funding in Australia to buy those two ferries to link Trinidad and Tobago, and the Opposition would have loved that. [Desk thumping] They would have preferred to be able to say that there is no ferry service between Trinidad and Tobago, and the Government incompetent, and Tobago fall down and all fall down, and “all ah we go dead”, that is what they wanted. [Desk thumping] And I make no apologies as Prime Minister of Trinidad and Tobago for using my authority as Prime Minister and approaching the Government of Australia and getting it solved spectacularly. [Desk thumping] The one thing I can tell them, Madam Speaker, they could make all the allegations they want, they will never be able to turn up one iota of fact to support the allegation that there was corruption in it and I done with that. [Desk thumping]

Madam Speaker, they wrote the Australian Opposition, they wrote the Australian Attorney General, trying to imply that there was corruption. They are on their own with that. Madam Speaker, today I heard about the Sandals scandal. What exactly is the Sandals scandal? They chased away the Sandals family from Tobago who did not want any part of them, and that is a scandal. Well, since that was a scandal, go and offer the people in Tobago the alternative. What was the
alternative? Nothing. They believed that it was politically sound for them so today Sandals scandal. They have a right to fear the Cabinet you know, Madam Speaker.

The other few minutes that I have, I will use it to tell you why they fear the Cabinet, and why they fear ministerial authority and why they fear governmental authority. And you know what galls me, Madam Speaker? It is because I know they know what I know. I know they know what I know and when they come here and trying to pretend to be defenders of the public purse, and talking about corruption and have the gall to accuse this Government of corruption, they know that I know what they know. But of course, there are those in the country who have no interest in the facts and will promote them to talk nonsense.

Madam Speaker, to hear the Opposition Leader come here and speak about recusal as the basis for her contribution today—Madam Speaker, why does one recuse oneself in conducting public business in the Cabinet? According to the Opposition Leader, Senior Counsel, it is because you are corrupt and for the last nine months have been beating like a steel band, the names of two Ministers. One who has a brother who works in a bank and the Minister of Finance borrows money by invite—the Ministry of Finance invite banks, all the banks, whenever they need to borrow money to put in bids. And because that Minister’s brother works with a bank, he religiously takes no part in any business at the Ministry of Finance, which comes before the Cabinet, so he recuses himself. So the Minister of Finance goes out to borrow 50-odd times, every time there is a borrowing involving the bank in which his brother works, he recuses himself from the operation. And that is what the Opposition Leader is using as the basis to paint this Government as corrupt. Everybody knows the Attorney General is married to a family that has a lot of property in Port of Spain and from year nought have been
treating with Government rentals. So every time a matter comes up with those families into which he is married, he recuses himself and takes no part. And instead of saying that he has done the right thing, the Opposition Leader pretends she does not know right from wrong, *[Desk thumping]* and is saying that recusal is corruption.

Madam Speaker, let me tell my friend from Siparia what corruption really is and what she should be concerned about. I want to read—how much more time do I have?

**Madam Speaker:** Five minutes.

**Hon. Dr. K. Rowley:** Five minutes? Okay. I want to read, Madam Speaker, with your leave, I want to read extensively from two pages of a document here:

Since September 2015, the Dutch Fiscal Intelligence and Investigation Service, FIOD, is undertaking a criminal investigation into the suspicion of foreign bribery committed by the Damen Shipyards, a large Dutch vessel building and service company based in Gorinchem. The investigation is led by the anti-corruption division of the Dutch national prosecutor’s office for serious fraud, environmental crime and asset confiscation. In 2015—take note of the year—in 2015, the prosecution received various signals from Damen, that Damen was involved in bribery of foreign officials related to vessel building contracts awarded to Damen. These signals came from foreign authorities that were conducting corruption investigation themselves, the World Bank and from Damen’s external accountant, Ernst & Young. The signals involve multiple projects and multiple jurisdictions in South America and Africa and led to the above suspicion.

*4.45 p.m.*
I want to remind you, Madam Speaker, that it was in March 2015 that the Member for Siparia as Prime Minister of Trinidad and Tobago and her Government, the same Cabinet and Minister that she is afraid of, we wake up one morning and heard them telling us that they have ordered 12 vessels from Damen like 12 “loaf bread”. Like they ordered 12 hops from Damen just like that. If you hear them behaving today in response to the reasonable action of this Government, you would not think is it the same people who one morning just announced, “We ordered 12 ships from Damen.” Madam Speaker, the document goes on to say:

In January 2017, based on the suspicion and further investigation the offices of Damen in Gorinchem was raided and so were the offices of Ernst & Young in Rotterdam. A large amount of administration and digital data was seized. The digital data seized at Damen has not yet been made accessible to FIOD due to problems related to the attorney-client privilege contained within the data set. The physical paper administration seized by Damen is available for FIOD which is being investigated.

Madam Speaker, it goes on to say specifically:

Trinidad and Tobago—Trinidad and Tobago Coast Guard contract, March 16, 2015.

The contract entails the construction of 12 vessels. The total contract value is €177 million. The investigation to date has shown that in 2016 NSG, which is a middleman, sent Damen 13 invoices with references to the Trinidad and Tobago project for a total amount of €19 million. Ernst & Young mentions a total commission commitment to NSG and its Trinidad and Tobago’s local partner, Best Marine Limited, and the Saint Lucia affiliate, Ten Degree Services of €23 million. That is $210 million in commission paid for those 12 vessels that were bought
hurriedly by the UNC under my friend from Siparia who now suddenly wake up like Rip Van Winkle and suddenly know about corruption and about procurement and all of that and accusing everybody, left, right and centre. Even those who recused themselves she is accusing them of corruption.

Madam Speaker, I end on the note asking my friend from Siparia that since she is so interested in the interest of Trinidad and Tobago, could you tell us who NSG was? Tell us who got the 210 million? Tell us what procurement process was used and tell us why you should never again be allowed to handle public money in Trinidad and Tobago? [Desk thumping]

Madam Speaker, where you ever hear that you could hire a lawyer on the basis of who gives you the lowest price? Where on earth have you ever heard that you choose a doctor on who gives you the lowest price for medical services? Any of us, God forbid, gets sick, you want to know who is the best doctor in their area, it does not matter. [Desk thumping] You are going to court to face the judge, you want to know who is the lawyer that has the most competence when the State is going, even in a small matter. There are serious consequences. Even on small matters you have to get Queen’s Counsel to go, because if you go and you lose the matter it has big price and big consequences.

You want to come and tell me, “We must choose the lawyer of the lowest price”, and then the former Attorney General trained by her would put in his bid, be the lowest bid and you want to ask this Government, as you are doing in the party and in your Government to hire people who are disgraced, who are appearing before court still and because they win the bid they will go before court; not on your nelly. [Desk thumping] Madam Speaker, we stand by our position because it is reasonable and we can justify it to the people of Trinidad and Tobago and tell
them why we have done, and we do so because we are the representative of the people. [Desk thumping] And if the people do not like what we have done they know what they will do when we go forward because we know that they know that we will do what is in their best interest. So do not come and tell me that we should pass a law that ties the Government’s hands to hire the cheapest lawyer, ties the Government’s hands to hire the cheapest consultant.

Madam Speaker, with respect to why the Government has to have—the Government has to have the flexibility. A while ago we wanted to hire for good reason—as it played out for very good reason, we wanted to hire a consultant in Washington—

Madam Speaker: Prime Minister, your time is now spent.

Hon. Dr. K. Rowley: Thank you, Madam Speaker. I will have a lot more time on the PNM platform. [Desk thumping]

Madam Speaker: Member for Naparima. [Desk thumping]

Mr. Rodney Charles (Naparima): Thank you very much, Madam Speaker. Madam Speaker, today is another dark day in the history of this august body [Desk thumping] when a Prime Minister—and he is leaving—comes in this honourable House to defend the indefensible. [Desk thumping] Madam Speaker, I would commend our Prime Minister, our esteemed Prime Minister to follow linguistically and otherwise his esteemed, erudite and globally respected colleague, the Prime Minister of Barbados, the hon. Mia Mottley. [Desk thumping] The hon. Mia Mottley would not use the words like “poppycock” which I heard coming from my esteemed Prime Minister today. Madam Speaker, we have been summoned here today with three days’ notice from 12.08 a.m. on Tuesday 01st December to today, Friday the 4th to discuss five very important pieces of legislation.

UNREVISED
Madam Speaker, that represents disrespect from the Prime Minister and his Government to the Opposition and the 300,000 people we represent. [Desk thumping] How could you give five pieces of important legislation, including the Public Procurement and Disposal of Public Property and deliberately, mischievously give us less than a half day for each bit of legislation? But the Prime Minister likes to lecture us but he, the Prime Minister, the hon. Prime Minister, and he is my Prime Minister, that the Prime Minister was part of a Cabinet that witnessed 57 recusals from a Cabinet Member and 38 from another and nobody, including the Prime Minister could not pull them aside, pull one aside and say, “Boy ah sorry, fellow Minister, it looking bad. It looking bad.” [Desk thumping] One, two, three, by the 20th and the Prime Minister could come today and tell us that it is because one owns property and the other, it belongs to a family that is involved in business.

But, Madam Speaker, they do not like to hear about Singapore but Singapore—I want to make the point—every aspect of procurement is handled by their legislation, the Singapore Law and Practice.

I quote:

“The government procurement regulations apply to ‘contracting authorities’, which is defined under Section 2 of the Act to include any ministry or department of…government, organs of State”—or also—“statutory”—bodies.

Every man jack in Singapore must abide by the laws and there is no exclusion in the laws such as we have to face today, because it says in Article 1.3, under Type of Contract Subject to Procurement Regulations, it says:
Public Procurement and Disposal of Public Property (Amtd.) Bill, 2020 (cont’d)  
Mr. Charles (cont’d)

“Generally, the regulations apply to a contracting authority’s procurement of goods or services or a combination of goods and services by any contractual means, such as purchase or lease, rental or hire purchase, with or without an option to buy the goods or services or combination of goods and services.”

And it talks about rental—for heaven’s sake, rental, so that if we go to rent a property owned by anybody, including a Minister it comes under the procurement legislation of Singapore. I say no more.

I could go on and on, on that. But the Minister of Finance, bless his soul, came today and sought to lecture the media, in particular the Trinidad Express, but today I think this is one of the first times since I have been in this House that all three newspapers in Trinidad took a stand against what the Government is doing here today. [Desk thumping] The Finance Minister spoke about the Express but the Guardian also, he talks—hear the headline of the Guardian today, Editorial:

“Procurement law delay concerns valid”

Not the Opposition talking, that is the Guardian, which some of us believe has a soft spot for the Government. The Guardian editorial ends:

“It is important to underscore the importance of finally putting into…effect a strong law…”

Strong law, not the weakened nonsense that is before us today:

“…strong law to govern all”—like Singapore—“aspects of the procurement process, ensuring that”—the—“taxpayers get full value for their money.”

And it ends by saying:

“This is long overdue.”

Everybody—what is wrong with this disconnected PNM administration? Every man jack is telling you there is something wrong with what you are doing
today. The *Newsday*—the *Newsday* today, it says:

“Now, the Government has proposed further amendments…so wide as to raise…alarm among civil society…”

And the Opposition Leader herself, it says:

“…will the door remain open for bobol to continue?”

Lord have mercy. They have no shame. They come here and they read things. They are very good at reading, reading inadequate research and not finalized things to say the UNC corrupt, and when you get down to the courts of law and come with an opinion from the courts of law, a judgment, they have none. They are very good at that, very good, and we will not, as I said last week, we will not take any lectures on corruption from that Government. [*Desk thumping*] Callous disregard for the views expressed by the Opposition Leader who has said strongly and firmly that we will support no legislation until the Government operationalizes the Public Procurement and Disposal of Public Property Act No. 1 of 2015.

[MR. DEPUTY SPEAKER in the Chair]

I want to stress the point, this is not bringing wishy-washy legislation as you have done today, you have gutted it, and I make no bones to say you have gutted the legislation by your actions you have taken today. [*Desk thumping*] So we tell you we are not going to give you any support for legislation if you do not operationalize and this is what you bring today, this gutted procurement Act? Well, that will not succeed, that attempt to pull wool over our eyes and pass a fast one with limited time to assess the thing. In management they call this a poison pill, Mr. Deputy Speaker. If you want someone—if there is a business for sale and you do not want someone to buy it, you put a poison pill in it. They know we will not support poor legislation so they have put a poison pill by gutting the legislation of
the thief that it has.

The Prime Minister talks about procurement and corruption that we say—we say that there is a strong nexus and the research says that there is a strong nexus between corruption and limited oversight as would result from this legislation that is before us. I quote from info@spotlightcorruption.org, it says, and I quote:

Corruption is particularly common in public procurement of the foreign bribery cases prosecuted under the OECD Anti-Bribery Convention, 57 per cent involve bribes to obtain public contracts.

So we are talking about a developed country, the developed countries, the OECD, and they are saying 57 per cent involve bribes to obtain public contracts, and 28 per cent of UK companies participating in EU public procurement in 2017 that corruption prevented them from winning a contract. And corruption destroys countries because it ensures that corrupt countries cannot bid for public contracts and that is essential to protect taxpayers’ money and the integrity of public procurement.

There is a tremendous body of research that says if you have weak procurement oversight and weak procurement practices that problems arise. The OECD Foreign Bribery Report 2014 provides additional evidence that public procurement is vulnerable to corruption. So the Prime Minister comes and wants us to believe that they are sanctimonious and everybody else is corrupt and therefore they do not need strong legislation. Well we say, and my political leader has said, “We will not support them at all.” [Desk thumping] We will not support them at all unless they do right by the people of Trinidad and Tobago and taxpayers’ money and that is why we have no shame in saying over and over again, paying 1.6 million in rent is immoral at this time. [Desk thumping] I want to make the point
that the Damen investigation is not about the Government of Trinidad and Tobago; it is not, *[Desk thumping]* and do not play fast and loose with words. If it is the Government call name, call name of the Minister involved. It is about, as far as I am concerned, some—a third-level person in Barbados or Saint Lucia. Let the Lord deal with him but do not come trying to tarnish the name of our Government with information that is not substantiated. *[Desk thumping]*

So, Mr. Deputy Speaker, they forced us to come here today. Last night I did not sleep because, you know, I am trying to understand this thing in the interest of the people who elected me and not having enough time. It was challenging but, you know, they had time. They had time because since 2016 they have been talking about bringing procurement legislation and the regulations to Parliament. In 2016 hear what they say, those who are without sin on that side; they said and I quote:

*This PNM administration will cut out this cancer of corruption and waste as we fulfill our commitment to the people of Trinidad and Tobago to implement a modern, transparent and fair public procurement system in 2016.*

But they are slothful, they are lazy and they are incompetent. *[Desk thumping]* So 2016 nothing happened; 2017, hear them:

*I wish to announce that it is the Government’s intention to fully operationalize the new procurement system in 2017.*

Nothing happened. 2018, quote:

*We envisaged that early 2018 the legislation will be operational.*

2019, it is a shame—2019:

*The new procurement regime utilizing best practice.*
Well, look Singapore different to what that gutted piece of nonsense that we have before us today. They said in 2019:

The new procurement regime utilizing best practice could be in place in the first quarter of calendar 2019.

And in 2020, again:

Procurement regulations are soon to be laid in Parliament. Soon to be laid in Parliament, 2020.

[Madam Speaker in the Chair]

You see, in the Guardian, January 24, 2020, Minister Colm Imbert promised the nation. He said:

“...expected to be...” —

Procurement regulations are—“expected to be implemented by the end of March.

However, while he said it would be introduced in Parliament ‘sometime in February’, it will not be in its current form as the government intends to amend section 7.

...we intend to do...a slight amendment...”

I am quoting the Minister of Finance:

“...a slight amendment to this clause so that if the government of Trinidad and Tobago enters into an arrangement with another government for the supply of goods and services and there is a conflict between our...rules and their procurement rules”—of that country then that of the—“other...state will apply.”

Not Trinidad’s rule you know. The Minister is saying, I quote—either I am not seeing correctly, he says:
If we enter into a Government to a Government arrangement with another Government we do—“a slight amendment to this clause so that if the government…enters into an arrangement with another government for the supply of goods and services and there is a conflict between our procurement rules and their procurement rules, then the procurement rules of the other sovereign state will apply.”

That is unpatriotic. That is immoral. Who do we have making decisions for us?

Madam Speaker, it is a PNM Minister, a former PNM Minister, a former Finance Minister, and she knew finance. She did not have a degree in engineering, she was a finance person. And she said—

Hon. Member: Who is that?

Mr. R. Charles: It is Karen Nunez-Tesheira. And she is saying, and I quote:

She recalled there was an issue last year over a US $71 million deal for a Chinese construction company, China, Gezhouba, to build houses in south Trinidad and she said the terms was so egregious.

That is a PNM talking you know, not somebody on this side:

They were so egregious and not subject to any oversight or tendering procedure.

And it was of course sections 7 and 24 which were not enacted. So you see me, I will not be party to PNM incompetence. I will join my leader and I will not happily support incompetence if you do not bring and operationalize this procurement legislation. You could fool some of the people some of the time but not all the people all the time.

So what are the issues we have with the Bill in the limited time I have, the three-fifths majority we are told is not applicable. My colleagues will present legal

UNREVISED
arguments in that regard. But there is something immoral to a layman when you could pass legislation by a three-fifths majority and then change subsequently amended by a simple majority. That is a way of beating the system. As the guys on the block say, “That is a way of dancing the system.” You would understand what I am saying if you go on the block. It is something immoral, and even if it is possible—even if it is possible you do not do it. There are amendments to section 7 to make the legislation inapplicable in Government to Government contracts, I have spoken about that and that is a Pandora’s box for corruption by future governments and this Government.

Amendment to section 7 of the Act to remove from its scrutiny, legal, financial, accounting, auditing and medical services. Well, what else you leave? Tell me what you leave in the Act that the procurement legislation will be applicable? And here is the crème de la crème in wickedness, it says:

“Such other services as the Minister, may by Order, determine.”

So what going on here? And that is subject to negative resolution, so a Minister could get up a morning, decide that he going to include anything and then the legislation is null and void and of no effect. That is immoral. That is immoral. You know, they feel on that side [Desk thumping] that some of us did not pass for secondary school of our choice. We are not rich. We did not get in on the 20 per cent. We did not get in, we had to work hard. And all of us who stand here today, whether it is Dr. Bodoe or Anita Haynes, a scholarship winner, we have earned our right to be in this Parliament and you will not fool us. [Desk thumping] And Eric Williams said years ago, and this is not a racial comment because he said whenever you use massa, massa it is an attitude and there were black things—but this is a colonial piece of legislation, and I wish to say today and tell the Minister of
Public Procurement and Disposal of Public Property (Amtd.) Bill, 2020 (cont’d)
Mr. Charles (cont’d)

Finance, “massa day done”. [Desk thumping]

So, Madam Speaker, as a patriot—as a patriot, as a citizen of this country, as someone whose education was paid for by the taxpayers of Trinidad and Tobago, I have a duty to tell those on the other side, buck up for God’s sake. Buck up. Do your research. Give us time to analyze. Let us work together so that we could make good legislation. And one thing I would like to be included as an aside to that procurement, there should be a limit on recusals by anybody anywhere who has an input in decision-making on this. [Desk thumping]

Madam Speaker: Okay. Just before I call on the Attorney General, I just want to remind Members that the language we use to describe each other in this House is either by their portfolio or their constituency. So we can say, “the Member for Tabaquite”; we can say “the Member for Fyzabad”. While we are friends, we are not on first name or other name basis. Attorney General. [Desk thumping]

The Attorney General and Minister of Legal Affairs (Hon. Faris Al-Rawi): Madam Speaker, I thank you for this opportunity to join in this debate and I will start by immediately telling of my surprise in listening to the Leader of the Opposition’s contribution. Madam Speaker, I genuinely have to wonder what the purpose of the hon. Member’s contribution was when one has regard to the actual law. The Leader of the Opposition spent a significant amount of time relative to her allegations dealt with in part by the hon. Prime Minister as it concerns my colleague, the Minister of National Security and myself. Indeed, Madam Speaker, being a happily married man I am sometimes surprised at the attention I get from some people on political platforms, but what I will say, Madam Speaker, is that I do not want any of it. And permit me, Madam Speaker, to read into the record a letter dated October 09, 2020, written to me from the Integrity Commission.

UNREVISED
The Integrity Commission wrote to me informing me effectively that a complaint dated March 05, 2020, was brought against me under the provision of section 32 of the Integrity in Public Life Act by one Dr. Emir Crowne acting on behalf of his client, Ms. Suzette Lowe, both known UNC activists. In this letter he stated inter alia, based on information that is in the public domain:

It appears as though the hon. Attorney General benefits from the Government’s leasing of a particular property—et cetera—owned by the Attorney General, 50 per cent.

In addressing the matter the Commission goes on effectively to say that Dr. Crowne was informed that the Commission was satisfied that the relevant criteria and protocols leading up to the Cabinet’s decision for the leasing by the Government of that property had all been met and observed respectively by all persons in public life or exercising public function concerned with.

And it goes on, Madam Speaker, at page 2 to say:

Concerned with the execution of those proceedings and protocols, in other words, the Commission found no evidence of any breach of the Act as regards the processes and protocols followed by which ultimately led to the decision by the Cabinet for the leasing of that property.

Finally—

And I wish to state this in particular for the Member for Barataria/San Juan who has particular fondness of referring to me on public platforms, which fondness I want to reject immediately and say I will have none of it nor am I interested in it. Madam Speaker, the Integrity Commission says:

Finally, he was informed that you had dutifully observed all requirements of section 14(3) of the Act.
And what do they mean? Of the Integrity in Public Life Act.

5.15 p.m.

Madam Speaker, I have started by putting that on the record because the law in Trinidad and Tobago is set out exactly as the law in Singapore is with respect to the Integrity in Public Life Act. That if you perceive you may have a conflict of interest, that you must say so. The law does not say that you cannot be a Member of a Cabinet, because it clearly recognizes that you may have come from a different life. And permit me therefore to say simply to the Member for Siparia, and simply to the Member for Barataria/San Juan: Just stop it; just stop it. Obeying the law is not to be abhorred. Obeying the law is to be complied with and to be complimented. So get over your passions, get over your distractions, and stop it.

Madam Speaker, let us deal with the submission of the Member for Siparia, now absent from the Chamber, as usual. The Member for Siparia and the Member for Naparima both say that they were waiting for six years for the public procurement law. Permit me to refer to the Bill and permit me to refer to the parent law, Act No. 1 of 2015, because neither Naparima nor the Member for Siparia had the courtesy to do that. First of all, the allegation came that this law requires somehow by some magic, a three-fifths majority. It is trite law that a Bill is required to receive a special majority under the Constitution of the Republic of Trinidad and Tobago, pursuant to the Constitution, section 54. There are different degrees of entrenchment. You may have a three-fifths majority, a two-thirds majority, a three-quarters majority, if you offend, quite simply, the separation of powers principle, certain aspects of section 4 and section 5 rights and general other principles of constitutionality.

Act No. 1 of 2015, was passed with a special majority because that Act in
certain sections, in particular sections 42, 43, 46 and 47 of that Act infringed upon rights. They allowed for the seizure of documents. They allowed for the compulsion to give evidence. Therefore, they tripped basic rights and required a three-fifths majority.

The Bill today, number one, clause 4 defines a better version of “bid-rigging”. Who requested that? The Procurement Regulator. Number 2, section 5 treats with government to government and international obligation rules and which will prevail, versus the Public Procurement Act, and also the disapplication for certain services.

Clause 6 recommends the removal of subparagraph (o) of the powers of the Regulator, quite simply, because the Regulator asked for it to be removed on the basis that the Regulator wanted no part of the disposal of state assets, property for and on behalf of the Government. The Leader of the Opposition who, in my respectful view, breached the Integrity in Public Life Act, one can argue, in giving herself silk because she gave herself a benefit, the hon. Member, of extra money as senior counsel—ought to know as senior counsel that when the Regulator says he wants no part of this particular provision for conflict of interest, it must be read in the context of amendments that this Parliament made in 2016.

In 2016, the law was amended to add the fact that the Minister of Finance would produce regulations for the disposal of state lands, including leases. So the Leader of the Opposition, assisted by Barataria/San Juan, cannot read the Act as amended by the 2016 Act, which specifically provides in law the mechanism for the disposal of state lands. No, Madam Speaker, the hon. Member for Siparia cannot do that.

Madam Speaker, the Procurement Regulator in clause 7 asked us to not
debar people from procurement proceedings simply because they had any criminal offence. That could be selling rotten tomatoes under the Municipal Corporations Act, under the Summary Offences Act. The Procurement Regulator asked us for persons involved with fraud for a limit of three years. We disagreed; we said no, we want 10 years. After 10 years your record would be clean.

The Procurement Regulator asked for a further enlargement of time—and I am going to come to that—to deal with enforcement proceedings or objections under the law. The Procurement Regulator asked us to define the definition for a relative within conflict of interest aspects and who is excluded. Lastly, there is an observation because of proclamation as to how we treat with the tenure of people upon proclamation of the Act, assent of the Act versus proclamation of the Act. So permit me to do this.

Madam Speaker, I encourage the media, and especially the Opposition, to simply, in this case the Opposition, read the law. Read Act No. 1 of 2015, as amended by the Minister of Finance twice, and you will firmly understand that procurement is to be undertaken by procurement processes established in entities having procurement units. There is no circumstance where the Cabinet is engaged in procurement. The Cabinet makes decisions which are then actioned in a number of ways, and it is shameful and a betrayal of the holding of a legal degree for the Leader of the Opposition to want to tell us that the Cabinet is procuring in the fashion the hon. Member described.

Madam Speaker, the fact is that the Procurement Regulator is the only person at law who can develop the regulations for submission to the Minister of Finance. Under the Act itself those regulations must come to the affirmative resolution passage in this House and in the Senate. The Public Procurement
Regulator was appointed on the 12th of January, 2018. Madam Speaker, the public Procurement Regulator cannot have an operationalized Act unless the Office of public Procurement Regulator gets on with the production of guidelines, manuals, e-procurement system, hearing rooms, electronic filing, and the host of things set out in the Act. There is no role and responsibility, by way of initiation of decision, in the Minister of Finance or this Government.

Naparima, who has also fled the Chamber, is not able to understand that you could have passed the law six years ago, but it is only when the public Procurement Regulator was installed that the regulations could start. As a matter of record, I received from the public Procurement Regulator’s office on the 13th of October, 2020, the draft public procurement regulations. And on that date, after we had had meetings 12 March, 2020; 08 April, 2020; 04 May, 2020; 14 May, 2020; 22 July, 2020; 14 September, 2020; 07 October, 2020, meetings and exchanges of correspondence respectfully in that basket, the Office of public Procurement Regulator supplied us with regulations which demonstrate that for consultancy services—let me repeat that—in Part VII of the draft regulations, consultancy services, attorneys-at-law, medical services, et cetera, that you would have to engage in a suite of provisions to get there. If you want to engage in public procurement involving consultancy services, you would effectively have to have a choice. You would have to have on the selection of consultants, either technical or commercial proposals, combined in a single or double envelope system. You would have to have a shortlisting of consultants. You would have to have technical and commercial considerations. You would have to effectively use either quality and cost-based selection—quality-based selection, fixed budget, least-cost selection, consultants’ qualifications and, Madam Speaker, you would have to have
at least three shortlisted candidates and go through a public procurement process.

Now, Madam Speaker, in the Office of the Attorney General, Ministry of Legal Affairs and in any Ministry where legal services are required, that methodology simply cannot work. I put on the record now that I spoke with the President of the Law Association, who confirmed that the Office of the public Procurement Regulator met with several members of the association, and all of the members of that association confirmed to the public Procurement Regulator that the retention of legal services under this methodology simply cannot work, and they cannot work because of what the law itself says.

The Public Procurement Act tells us what is to happen as we deal in particular with “Challenge Proceedings” in Part V. Part V of the legislation, sections 49 to 53 deal with the fact that you have to have challenge proceedings. But, Madam Speaker, what the Leader of the Opposition is not telling you, and certainly I am confident that other speakers following me will not, on the Opposition side, is that you have a maximum of 135 days of risk to procurement if we accept the methodology of the public Procurement Regulator, recommended in Part VII of the draft regulations. To use that system, you apply it to the Act where you have public procurement challenge proceedings, here is what happens: The minute somebody is invited to tender all three people and you choose one, you have to tell all three. Those three people then get to put it in a review application. The review application must be heard within seven days, and then after that a decision must be given within 28 days. It is called 20 working days. After the 28 days, you then have 30 days to get the written decision. After 30 written days, you then have 21 days to go before the Public Procurement Review Board. After those 21 days, you have 28 days to go through the process of having a decision. Section
You then have another 21 days, section 51M, to appeal to the High Court.

Madam Speaker, in other words if you want to retain an attorney-at-law on an urgent basis, and you do not abuse the spirit and intent of the law, as set out for emergency provisions, you will expose yourselves, in a Ramlogan/Ramdeen example given by the Minister of Finance, to them being invited, submitting the lowest cost, found out that the Member for Port of Spain South received the brief by public procurement, they would object, and 135 days later the matter still has not started, no lawyers appointed. That, Madam Speaker, in the UNC world is a perfect paradise for obstructionism, because it is the UNC that is currently challenging the Interception of Communications Act. It is the UNC that challenged the revenue authority, elemental pieces built upon valuation of lands and to look at property taxes. It is the UNC who has said that they would challenge every aspect of the law.

You see, when we hear the Member for Naparima say that it is unholy, and that we ought to look to the law of Singapore, where was the Member for Naparima when I pointed out in the law of Singapore possession of a firearm is exposure to the death penalty? Where was the Member when the hon. Member for Naparima and the ridiculous submissions coming from the Leader of the Opposition, that there is no precedent for this type of exception we caused to section 7 of the Act? Permit me to put on record, coming from no less an entity than the public Procurement Regulator himself, the following laws: Jamaica, Public Procurement Act, 2015; Guyana, public Procurement Act; Grenada, Public Procurement and Disposal of Public Property Act; UNCITRAL; Kenya, Public Procurement and Disposal Act; (Caricom Model Public Procurement Bill); Uganda, Public Procurement and Disposal of Public Assets Act; Philippines,
public procurement law; all of which say that the priority is to be given to the
government to government or to the international lenders—all of them. But today
we have to listen to the Member for Siparia and the Member for Naparima tell us
that this is an unholy law.

Madam Speaker, the elemental pieces that cause the operationalization of
this Act require the public Procurement Regulator to also be assisted by the
appointment of the Public Procurement Appeal Panel. Only the President of the
Republic has the opportunity to do that. Until the e-procurement systems are built
in, until the structures are put together, the law cannot be proclaimed. And for the
record, I have no conflict of interest that I have not declared in proper
circumstances. Yes, I come from a business family. Yes, Madam Speaker, I recuse
myself when appropriate to do so in every forum, including where it is I have
investment in medical companies, et cetera, long before I came into public office.
You see, I have declared all of those things to the Integrity Commission as well. I
make no apology for complying with the law.

I confess that I take legal advice on the issues before I engage in
consideration of public procurement, or in consideration of matters of conflict of
interest. And I will not accept, and I reject the Member for Siparia and her
newfound assistant, the Member for Barataria/San Juan, on their fulminations on
public platforms as to what is proper or not proper. Only they wish that we would
be guilty on our side of failing to comply with the law.

Madam Speaker, I thank you for this opportunity.

Mr. Saddam Hosein (Barataria/San Juan): Thank you very much, Madam
Speaker. Thank you for recognizing me to join this debate on a Bill to amend the
Public Procurement and Disposal of Public Property Act, No. 1 of 2015.
After listening to the Attorney General, what I can say is that shouting is not for the Parliament, but for the market, and maybe you should leave the shouting outside and really deal with the issues that are before us.

What I heard was an extremely weak justification, a feeble attempt to justify an amendment to one of the most groundbreaking pieces of law in this country, to water down and remove the teeth of the legislation. [Desk thumping] And they have exposed themselves, because they have indicated the reason why they want the law to remain as it is. Because when one person who sits in the Cabinet, who is the Attorney General, can get $43 million in rental every three years, why would you want the law to change? And when one financial company benefits millions of dollars in interest payments, why would you want the law to change? Why would you want those contracts to be scrutinized by an independent body, the Procurement Regulator? So they have exposed themselves to the reason why they want the law to remain as it is. They want the status quo.

While thousands of our citizens are suffering on the outside, we have a handful of individuals in this country benefiting billions of dollars. And when the Attorney General can receive $43 million in rent, we have persons who are still yet today to receive $1,500.

Mr. Al-Rawi: Madam Speaker, I quickly rise on Standing Orders 48(1), 48(4), 48(6). There is not even one to describe untruthfulness. That is a gross untruth, and I will ask the Member to stop it, just stop it.

Madam Speaker: Attorney General—Attorney General.

Mr. Al-Rawi: I withdraw. Little boy.

Madam Speaker: Yes, please—well, you cannot withdraw by saying it again. So you withdraw?
Mr. Al-Rawi: Yes.

Madam Speaker: Thank you very much. Member, I would ask you to please refrain from that, and continue. Please refrain from that.

Mr. S. Hosein: I will move on, Madam Speaker.

Madam Speaker: Thank you.

Mr. S. Hosein: What we have heard from the Attorney General is a lot of talk about the timelines, the timelines regarding the scrutiny of certain contracts. If we look at the amendment to this legislation at clause 5 which amends section 7, which now removes from the remit and the jurisdiction of the Procurement Regulator, legal services, financial services, accounting and auditing services, medical services, or such other services as the Minister by Order determines, it means that any of these transactions or matters relating under these categories will no longer be captured under the framework that was established by parent Act, which is the Public Procurement Act. The reason why the Government at that time would have passed this law is because they understood that there is a need for good, transparent and proper governance and accountability when dealing with public finances.

Now, I am very disheartened to hear the Attorney General, who is the defender of the public’s interest, come to this Parliament to defend such an egregious amendment that goes directly to the heart of transparency, accountability and good governance. How could you stand as the guardian of the public interest and defend this amendment? This amendment effectively will create room and space for corruption. That is what it will do. This amendment will do that. Because when you have levels of internal controls and accountability, when it comes to legal fees and financial services, accounting, auditing, medical, you would
understand that you need the Procurement Regulator to have some level of control
and jurisdiction over these matters.

I heard the Minister of Finance speak about a letter that was given to him by
the Procurement Regulator, that he is comfortable with the amendment found at
clause 6, which is the removal of paragraph (o) in section 13. But what the
Minister of Finance did not tell us is what was the view of the public Procurement
Regulator with respect to clause 5. He forgot to tell us that, or he deliberately did
not tell us that. Because there is a media release where the public Procurement
Regulator stated that he is totally against clause 5, which amends section 7. He is
totally against it. [Desk thumping] He wants nothing to do with it. The
Procurement Regulator wants to ensure that—

**Mr. Al-Rawi:** Could the Member tell us where that release is so we could deal
with it in debate?

**Mr. S. Hosein:** Yeah. It seems as though the Attorney General is unaware of this
very important release. It is Public Advisory No. 15, 3rd of December, 2020, Office
of Procurement Regulation. So we are bringing to the floor the issues that the
persons, the stakeholders who are in charge of this legislation want, but yet the
Government is going diametrically opposed to this. When this amendment is
passed “is best we change back de name of de legislation” to the Central Tenders
Board, because you are going back to the CTB. [Desk thumping] You are
effectively going back to the CTB, there will be no difference. You have watered
down, you scrapped the legislation. It was passed in 2014. The last Government
tried as much as it could to get this thing working, set up a committee, partially
proclaimed the Act. They came twice already to water down the legislation. One
was the disposal of state lands, the other was to reduce the length of time of the
Procurement Regulator, and now this time to come to exempt important services that should be under the scrutiny of the Regulator? No, Madam Speaker, that cannot happen in this country. We must listen to the voices of the people out there. [Desk thumping]

You have persons from the JCC, the Joint Consultative Council, Afra Raymond. You have all of these other civil society groups shouting at the Government to hold their hand on this amendment, but yet they are going full speed ahead, and we heard the reason why. The Prime Minister stood in this Parliament and said that because we are elected we should be responsible for that. While you are elected, Madam Speaker—[Interruption]

Mr. Al-Rawi: Madam Speaker, I rise on Standing Order 53(1)(b). He is the third speaker to be talking about the same point.

Madam Speaker: So, I will give you a little leeway. Please continue.

Mr. S. Hosein: It seems as though the Attorney General is a little troubled. But, Madam Speaker, the Prime Minister stood and said that because you are a represented person in government, you have the right to deal with the procurement of goods and services. That is what the Prime Minister said. But what the Prime Minister forget to tell the country is that you took an oath of office to uphold the Constitution and the law. You perform a fiduciary duty to the citizens of Trinidad and Tobago. So because you are elected—

Mr. Al-Rawi: Standing Order 48(1) please, Madam Speaker. “Ah cyar even understand” what that is in relation to.

Mr. Imbert: Which law? What is he talking about? [Crosstalk]

Madam Speaker: Please continue.

Mr. S. Hosein: Madam Speaker, I could now understand why the Attorney
General spent so much time in law school. [Laughter] But when you listen to what the Prime Minister has said, the Prime Minister has said that you have to look at government to government contracts. This is also being exempted. I agree that there must be some level of interaction, communication between government to government, but why are you removing from the Regulator that scrutiny? We have not heard a proper reason why at this stage that they are removing that level of scrutiny. Because we can see what happens when there is a level of international and government to government contracts. There are various examples. Right now we are seeing what is happening with the Austal ships in Australia, that the procurement process for that particular deal is still clouded in a level of secrecy. We have seen what happened with Sandals, that that deal had to collapse and the Government said that they are very— [Interruption]

Mr. Al-Rawi: Madam Speaker, Sandals again?

Mr. Imbert: Nonsense.

Madam Speaker: Please continue.

Mr. S. Hosein: Thank you very much, Madam Speaker. When the Government said—and the justification is that they would be held accountable by the Parliament so therefore they can go ahead and exempt these services, what that simply means is that we are passing a piece of legislation to ensure that there is a level of scrutiny. So when you look at the Sandals deal—I am going to give this example—we had filed several questions in this very Parliament and we did not get the answers from the Government. We have tried our best to get the answers, but it is only when we took the matter to the court we were able to see the memorandum of understanding between Sandals and the Government. At that stage we were able to see the amount of concessions, tax breaks that the—
Mr. Al-Rawi: Madam Speaker, I really have to rise on Standing Order 48(1), in all honesty. We are not even amending that section in the law.

Madam Speaker: I do not think anything any Member in here would say, I would consider dishonest. So no need to tell me “in all honesty”. But I will say to you Member for Barataria/San Juan, I have to uphold the Standing Order 48(1) at this point.

Mr. S. Hosein: Madam Speaker, let me address the point that the hon. Minister of Finance had raised. The Minister of Finance had raised the point that one of the other justifications for this particular amendment is that it would cause a level of frustration with respect to the contracts. That if a contract is ongoing, that some person might enter the courthouse and have the contract reviewed via judicial review. So that therefore it may make it a bit difficult, and it will have persons being a little more uncertain to enter into agreements and contracts with the Government because of the uncertainty.

5.45 p.m.

But, Madam Speaker, the reason that we are passing this particular law is to give avenues to those persons who are treated unfairly, because you have to have the playing field levelled. You must have a level playing field when it comes to the procurement of goods and services in this country. Why it is there is only one group of contractors who would be allowed to get contracts when there are other persons who are disenfranchised? That is why, Madam Speaker, you have legislation like this to even the board, because when you do these things you encourage participation from the wider population. So when you exempt all of the services, you will have one particular attorney from the Office of the Attorney General who may be getting all the briefs, and he may be appointed to state
companies, and he may be representing certain Members of the Government. So that is what we are trying to control.

We are trying to control, Madam Speaker, spending by this Government in a more transparent and effective manner because what happens is that when moneys are lost through the corruption it reduces the goods and services of individuals in this country. And I want to go so far, Madam Speaker, and the Leader of the Opposition, who had a very brilliant contribution, [Desk thumping] would have raised the point with respect to the need for a special majority. And, Madam Speaker, the history of this Bill, the parent Act, was passed with a special majority. It required the support of both sides of the Parliament. Now you are bringing this particular Bill that is before us with a simple majority to amend a special majority Bill.

Now the point that I am making, Madam Speaker, is this, is that enshrined in our Constitution is that Trinidad and Tobago is a sovereign democratic State. And what that implies, it implies that you must have the separation of powers, you must also have the rule of law. And the case that the Member for Siparia, the Leader of the Opposition, referred to was Belize International Services Ltd v Attorney General of Belize [2020] CCJ 9, and this is in the appellate jurisdiction of the CCJ. And this case, Madam Speaker, went on to speak about that particular preamble of the Constitution which is very similar to Trinidad and Tobago, that there must be a level of fairness, equality of treatment. We have seen other pieces of legislation being struck down because although it did not infringe a section 4 and 5 right, it may have infringed or run afoil of the separation of powers doctrine, for example, the cause of Khoyratty coming out of Mauritius.

So what this case said essentially, Madam Speaker, is that there is a deep
structure, and the deep structure has the separation of powers, the rule of law and the independence of the Judiciary. So basically what happens is that you have two systems that run, and if you disenfranchise a certain system, then you are going to trip over some rights in terms of the equality of treatment.

Mr. Al-Rawi: Point of order.

Mr. S. Hosein:—the fairness of treatment.

Mr. Al-Rawi: I rise on Standing Order 55(1)(b). This was word for word read out by the Leader of the Opposition, respectful.

Madam Speaker: So again, Member for Barataria/San Juan, I am going to give you a little leeway but all of the contributions thus far is ground that has been traversed extensively by a number of your own speakers. Okay? You yourself referred the Leader of the Opposition. So I am going to give you a little leeway but I am not going to allow you to repeat for the rest of your contribution ground that we have already traversed.

Mr. S. Hosein: Madam Speaker, I take your guidance and I thank you very much for your guidance. And what—the basic point that I am going to just end on this point is that there is a need for a special majority because at the end of the day this particular piece of legislation will cause, it will create a level of discrimination and inequality of treatment to other individuals if it is passed in its current form and it can, in fact, be struck down by the courts.

So, Madam Speaker, I have five, well I believe, four minutes left again to end my contribution. So what I am going to say, Madam Speaker, is that we totally reject this amendment to this particular Bill. What I am saying, Madam Speaker, is that this does not foster good governance at all. This is actually creating the dictatorship we have seen in this country by this present Government with respect
to their legislative agenda. We want to ensure on this side, Madam Speaker, that when we pass laws that a bus shed does not cost $700,000, that one person does not get 43 million in rental, that there is no more fake oil scandals in this country, Madam Speaker. We want to ensure that the persons of Trinidad and Tobago and all of our citizens benefit through good governance, transparency and accountability. And I thank you very much. [Desk thumping]

**Madam Speaker:** Member for Port of Spain North/St. Ann’s West. [Desk thumping]

**The Minister of National Security and Minister in the Office of the Prime Minister (Hon. Stuart Young):** Thank you very much, Madam Speaker. Madam Speaker, I enter this debate today thinking very seriously about what this country has endued in the past few decades when successive governments have had to go through procurement and some have failed to protect the taxpayer willingly, some may argue unwittingly. And I was recalling as I sat there the genesis of this Act, the parent Act that we are seeking to make certain amendments to today via the current Bill. And I was recalling my time when I was given the opportunity to serve as a temporary Opposition Senator and the parent Act was before the Senate at that stage, and these exact points were raised at that stage. The points were raised about having certain exceptions to the need for the procurement that is outlined in the parent legislation, and that is really one of the issues we are dealing here today, to try and bring this debate back to the Bill that is before us. If you would allow me, Madam Speaker, there are a few points I would like to start by making.

The first that has been missed by most is the definition of “bid rigging”. And the new definition that is being proposed for bid rigging is something that should
not be opposed. “Bid rigging” will now mean:

“…collusive price-fixing and anti-competitive behaviour designed to unfairly influence the outcome of a competitive tender process in favour of one or more bidders;”

And as I read this definition it brought home one of the cases that I had referred to in last week’s contribution and the whole EMBD process, and the litigation that is presently before the court on behalf of EMBD and the allegations made in their respect to cartel behaviour and bid rigging. But let us get to the meat of the Bill here before us today, which is what the section 7 amendment that is being proposed.

You see, I have listened carefully to the very weak arguments being made with respect to government-to-government contracts. And I recall in 2014/2015 when we were debating the parent legislation this was a big point at the time. And there may be many voices outside there who are screaming that they do not want government to government arrangements to continue in the manner that they are here—that they have been taking place now for very selfish reasons, and that is something the population and the public must always be aware of. Always listen and try and work out what is the agenda. Is the agenda really the protection of the public interest? Or is the agenda for those who are saying, to subject government to government arrangements to the strictest of sections of this legislation to protect their own turf.

And what I want to tell the population of Trinidad and Tobago here today is that, it would grind to a halt the government to government arrangements that have taken place for decades, and the government to government arrangements that are favourable for the people of Trinidad and Tobago if those arrangements would be
subject of these, this the full gambit of this piece of legislation. So we reject that outright, because what you are basically saying is that you cannot, not only not trust the Government of Trinidad and Tobago but you cannot trust Government of the other country with whom you are entering into an arrangement. And I take offence to one of the brushes being painted here today which is the procurement of the vessels from the Australian people. Because, you see, there is no shroud of secrecy as just suggested by the last speaker. The last speaker unfortunately is getting himself very caught up, I observe, in just making these the wild accusations and statements and the last speaker is now becoming that person that the Opposition pushes out there to throw these wild accusations. There is absolutely nothing secret about the procurement of the Austal vessels and Incat fast ferry, nothing.

The Prime Minister of Australia—the then Prime Minister of Australia, Prime Minister Turnbull in speaking to the Prime Minister of Trinidad and Tobago Dr. Rowley, Dr. Rowley told him, listen, Trinidad has a history of using Australian fast ferries, we are in need of some fast ferries. We also want to increase our border patrol capabilities and the Prime Minister of Australia is the one who said, “Listen, we have just started a new defence fund, come and take a look at it”, and invited the Prime Minister of Trinidad and Tobago to have a working visit in Australia. And I was on that trip, so there is no secrecy. We did not spend a single twenty-four hour period in one place in Australia. We had to literally be on planes every single day moving from meeting to meeting, shipyard to shipyard, with the greatest levels of transparency. Every single day the Prime Minister demanded that we put out a press release showing where we had been, the shipyards we had been to.
When we returned from that trip, the Cabinet appointed a special committee. I chaired that committee but it was not only of Cabinet members, it was of experts from UTT, maritime engineers and experts, attorneys-at-law, and then invited the two ship builders to Trinidad and Tobago to compete for the taxpayers’ money of Trinidad and Tobago. And by doing so we got the best price for the people of Trinidad and Tobago unlike [Desk thumping] stumbling on a dockyard in somewhere in China and saying, “Ah want one of those”. And that is how the Government goes government to government arrangements in a proper manner and we will continue to do so.

So to sit here and listen to, oh, how did you all procure those vessels and there is a shroud of secrecy, it is absolutely untrue. That is the first thing I wanted to deal with. So all of this attempt to mislead the population that there is something surreptitious, something wrong with government to government arrangements and therefore they should be subject to the normal rigours of procurement, it simply does not work that way.

Another benefit of government to government arrangements, Madam Speaker, through you to the population is that you very frequently have the Government the country that you are procuring from making financing arrangements. So built into that financial arrangement system is also oversight. The Minister of Finance talked about EFIC. One of the meetings we had in Australia was with EFIC which is a government bank that is providing the financing for these vessels, and we were able to access those good terms of financing because had serviced all of the loans of the past with EFIC. But what the Opposition and others do not want the population to know is that these financial institutions protect their money. So they have built into the whole financial arrangement ticks and

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boxes that you must go through, hoops that you must go through to make sure things are done properly. So that is built into government to government arrangements.

Now, let us get to the meat of all of the noise, all of the fallacy, all of the misleading commentary that I have been hearing not only here today disappointingly but also on the outside. And you see, Madam Speaker, what I am referring to now is the proposed amendment to sections 7(5) of the Act where we are saying that the Act, meaning the Public Procurement and Disposal of Public Property Act:

“…shall not apply to the following services provided to public bodies or State-controlled enterprises—

(a) legal services;
(b) financial services;
(c) accounting and auditing services;
(d) medical services; or
(e) such other services as the Minister may, by Order, determine.”

Everybody knows, exactly as the Prime Minister said, when it comes to legal services you do not often put people to the rigors of a tender process for legal services. Exactly as the Attorney General said, you may an injunction, you may have something quick that needs to be done now, immediate advice, you must have the ability as the Government to go to the attorney of your choice based on competence, sometimes also based on the confidentiality or the confidence in dealing with the attorney you want to choose. Which Government in the world has their hands tied in being able to choose an attorney? And if there is something wrong, as happened in 2010 to 2015 where unprecedented spending in legal
services took place, there is a forum for that. Madam Speaker, $1.4 million spent in 2010 to 2015 in legal services but that is not a reason to tie the hands of a government from choosing the lawyer that they want.

Now, and I wanted to get to this point. I have avoided the conversation, I have not responded to the attacks but today to sit and listen to once again the Member for Siparia who every week wants to talk about me recusing myself 57 times. Through you, Madam Speaker, I will now place on the *Hansard* for the people of Trinidad and Tobago what that is about. Because, you see, the Member for Siparia would not know about decency in public office and I will come to that. I will provide the evidence to Trinidad and Tobago here today why I say that. But first of all let me explain.

There is nothing wrong with recusing yourself. Recusing yourself by definition is doing what is right, and I make no apologies. I continue to recuse. *[Desk thumping]* But through you, Madam Speaker, and they are trying to cloud it in financial services. Let me explain to the population as quickly as I can. Every single time the Ministry of Finance goes out for financing they invite all of the financial institutions, all of them. The technocrats at the Ministry of Finance, the experts then analyse it, interest rate, tenor, whether it is going to need security, et cetera, et cetera, et cetera. What are the fees being charged, and they then put forward what is the best deal. That will continue to happen. It has happened from 2015 to now and it will continue. So there is a very strict rigour, a test, an analysis being done on every single one of those occasions.

And out of that less than 3 per cent. I think it is 2.7 per cent of the financing for the State between 2015 and 2020 was won by NCB Global Finance, the bank that they all like to scream about. My younger brother is the CEO of NCB Global
Finance. So with all of the decency that I have been brought up with, the understanding of the law, I took the decision from day one, from the time a note comes to Cabinet once it mentions NCBGF, I am not going to participate in the conversation. [Desk thumping] And to hear that I am constantly every week including here today having to be accused of doing something wrong; there is nothing wrong. That bank is not owned by the Young family. My younger brother works for the bank, he is an employee of the bank and they have only won less than 3 per cent, 3 per cent, not even the 10 per cent, the 20 per cent, the 30 per cent kickbacks, we have heard about; 3 per cent. And I took a decision, once that bank is mentioned, I recuse myself. I make no apologies for it, none. [Desk thumping] And I take serious offence to having to sit here and listen as the Young family does what is decent and to be accused of doing something that is wrong. And I am going to read something now into the Hansard.

It is as a result of some forensic work done into a company called GISL, Government Information Services Limited. And you will never find anything like this with a member of the Young’s family name on it. So what I am being accused of wrongdoing is by recusing myself and I reject that. This is an email from somebody called Anthony Dial to Vasant Bharath who is now a pariah, somebody who they do not like in the UNC but he was then a Minister of Government. And CCed in this email is to do government work at GISL, CCed in this email to do with what is being carried out at GISL on the 28th of December, 2014 at 10.46 in the morning a Sunday from Anthony Dial to Vasant Bharath, bharathv@gov.tt. So a Government address. CCed is a Gregory Bissessar, Greg Bissessar, G-R-E-G B-I-S-S-E-S-A-R@gmail.com. So do not sit here, do not stand up on a platform every Monday night and attack when this is what you were a part of. This is what
Public Procurement and Disposal of Public Property (Amdt.) Bill, 2020 (cont’d)
Hon. S. Young (cont’d)

you are encouraging. So a Government Minister from a Government employee of GISL is copying the husband of the then Prime Minister. And I am ashamed that the Member for Siparia is not here to listen to this. And it says:

Subject: Analysis of social media, et cetera, re billboards.

Because, you see, what was going on here is the use of taxpayers’ funds, taxpayers’ money to promote UNC under the Government and the husband of the then Prime Minister is in the centre of it. And the question has never been answered why Gregory Bissessar, Gregbissessar@gmail.com was copied on this. But I must sit and listen when I recuse myself, which is the correct thing to do, not participate in decisions related to finance, as at the result when it comes to Cabinet is it at the end of the competitive tender process.

And let me tell the population:

Subject, analysis social media, et cetera, re billboards.

Minister, this is an analysis still going on based on a trawl of all social media. As you see the positives far outweigh the negatives. There are a lot of neutrals but happened is that many negatives tended to be well known people in the politics. What is clear is that, apart from you and Suruj, the PP support kept their mouth shut and did not support. Interestingly Ministers have rapid responses, et cetera, but do not throw these assets on the side of the party.

So it is an admission that Ministers were using government funds for rapid response teams on this own behalf.

…do not throw their assets on the side of the party or the Prime Minister when needed.

So why was not the Prime Minister copied? Why is her husband being copied?

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Was he a public servant? Was he on a payroll? This—had this happened the initial reaction would have been vastly different.

What I would like you to look at is the mechanism I am using. It could be faster and provide instant reaction to any issue if you wish. It is part of the project icon social media component which I am soft launching in a few days. Of course, this capacity together with another asset that I will have on board will not be public.

So that is surreptitious behaviour:

…but will give us the ability to measure how much closely and influence social media.

Is this the Cambridge Analytica plan?

Also I sent you a preview of what our daily M&E field work will produce. So we will be ready way ahead of anyone else in terms of public opinion research. It is something we will need to discuss on your return. But this report tells the story and it is useful for you to look its potential.

Tony.

**Mr. Lee:** Madam Speaker, 48(1) please.

**Madam Speaker:** Overruled. Please continue.

**Hon. S. Young:** I expect that. Because, you see, for the first time I am placing on the *Hansard* a response to these malicious attacks. *[Desk thumping]* This is a response to the hypocrites, because you will never see an email like that with anybody from my family to do with the Government. And I am being accused of some wrongdoing by recusing myself?

So I say there is nothing with including financial services, accounting and auditing services because the Government and the Ministry of Finance will
continue to do what they are doing. So to keep trying to throw me into this conversation, I reject it, and there is a lot more of this. There is a lot more of it but it is time that the people of Trinidad and Tobago know the hypocrisy.

I just—there is one other thing that would like to respond to because I do not want the population to be misled. I do not want the population to be misled about the last part of the contribution from who I thought was a young lawyer that had a future, the Member for Barataria/San Juan. He just made the most astounding proposition that I have ever heard come from a lawyer in this Chamber. He is saying that this Bill here today requires a special majority. He is saying that simple majority is needed. This is—we have come with a simple majority to amend a special majority Act and there is a need for a special majority. Wrong. The parent legislation was already protected by the Constitution by the parent legislation having the special majority. And what that means in law thereafter, is that amendments can be made, because the whole Bill, an amendment is a change to the exiting Act. And then if the existing Act has something that is changed, it is already captured by the first special majority. So do not attempt to mislead the population. So, Madam Speaker, I see you nodding at me. How much time do I have left?

Madam Speaker: Your time is now spent.

Hon. S. Young: Thank you very much, Madam Speaker. [Desk thumping]

Madam Speaker: Member for Oropouche East. [Desk thumping]

Dr. Roodal Moonilal (Oropouche East): Thank you. Thank you very much, Madam Speaker. Madam Speaker, it gives me no pleasure to intervene at this time on a Bill that we have before us:

“An Act to amend the Public Procurement and Disposal of Public Property
Madam Speaker, I have listened attentively to speakers on both sides of the House and I would just in my few minutes seek to comment on a few of the issues raised. The Minister of Finance, if I can just begin there because we began there, began with his grave difficulty with the newspapers and in his sagely manner decreed that the media was becoming more and more amateurish and unprofessional and lacking in research and lacking in stature and lacking in everything because they disagree with him. But, Madam Speaker, it was both the Express, Guardian and maybe other newspapers that disagreed so vehemently with him.

Madam Speaker, I begin by saying that the Minister of Finance should admit that this amendment was drafted John O’Halloran and Francis Prevatt. [Desk thumping] I think they drafted this amendment Bill from some far unknown place with influence, with might, with an invisible hand, they came into the Ministry of Finance and drafted this amendment Bill, John O’Halloran and Francis Prevatt. The younger folks may not recall but it was Ministers such as these under former PNM administrations that plundered, raided, emptied the Treasury of Trinidad and Tobago so that today when we go to a place called Scarborough in Canada we can see taxpayers’ money 45 storeys high. And they would have brought this amendment because they would have known what they were doing. Today I have no apologies to say that the Ministers and Members on the other side came today to butcher the Bill. [Desk thumping] They are the butchers of Port of Spain when I have read this particular amendment Bill, because the heart of the Bill has been removed.

Madam Speaker, others before me spoke about the December 3rd letter, public advisory from the office of the procurement regulator. I will cite but not get
into it. But I wanted for the record just to place on the record today that the Prime Minister took an approach on the Minister in which they said the Government understands what it is doing. The problem in the society is the American Chamber does not understand. The problem in the society is the Trinidad and Tobago Chamber of Commerce does not understand. The problem here is the Trinidad and Tobago Manufacturers’ Association lacks an understanding. The problem today is the Trinidad and Tobago Transparency Institute do not know what they are saying. The problem today, Madam Speaker, is the Trinidad and Tobago Local Content Chamber is clueless. The problem today according to them is the Joint Consultative Council for the Construction Industry got it wrong. The problem today is everybody got it wrong but they got it right. [Desk thumping] That is their argument.

6.15 p.m.

So, Madam Speaker, it cannot be in a society like this all these institutions got it wrong. Our job today is not to argue who more corrupt than the other or who “tief” more or who “tief” less. I think we turn off the national community with that type of thing. I just think we turn everybody off. Forget who did this and who is trying to change it today. Who is trying to change it for the better to ensure that what has happened before, if you believe it is wrongdoing, does not occur tomorrow and thereafter? That is the challenge here. [Desk thumping] It is not to go backward in the rear-view mirror, and this one did this, this one said that, this email came for that. Email came—this is the tenth time the Minister of National Security raised an email involving the Member of Siparia’s spouse or so. This is not the first time. If there was wrongdoing between 2014 and 2020, but surely the police, the DPP, would investigate and bring those who committed a wrong to
justice. But they come every time, this is the email, and listen to this one. So they are trying to distract.

    All week we had to look at this. The Minister of Finance tell him, distract. The king of distraction. Somebody told him, it is in the papers, he too stupid to be corrupt, and he chased them away, not saying that he had a duty to report them to the police for seeking to bribe a public official. [Desk thumping] And one wonders when he chased them away, whether it was for them to go back and review the figures and come back with a better offer. One wonders. Because had it not been the case, that would have been properly reported to the police. That is an offence against the law to offer a bribe to a public official that way, Madam Speaker. We heard that. Then another one on the other side talked about doubles and so on for the week. Then we had, coming down to the end, distraction after distraction. But what was very instructive this week, Madam Speaker, is that this Bill, the Government gave notice to the Opposition that they are coming today with this Bill. But, Madam Speaker, this Bill, unless I am wrong, was laid in the House today, meaning, it is the first time it became public information. So a matter so controversial, of such weight, you lay it in one day, debate it in one day, seek to pass it in one day. The older heads will remember something called the Industrial Stabilisation Act. This is what they did. They brought it in one day to two Houses of Parliaments. I will not be surprised if later tonight at 11.00 o’clock the Senate is meeting. I would not be surprised. This is their modus operandi.

Madam Speaker, the public at large could not have had sight of this Bill as a public document until a few hours ago, and that is a travesty of justice. [Desk thumping] That is undermining our democratic system. [Desk thumping] This amendment is not to amend some Act to put in, change the number of weeks from
two weeks to three weeks. This is gutting the most critical and revolutionary piece of legislation this country has passed in decades. And no public notice. Do not tell me they had it, because somebody sneaked a copy and gave somebody. It was not made public, Madam Speaker. And the Government stands today exposed on that count. The Prime Minister came, and, Madam Speaker, he jumped high, he jumped low; he went to the left, he went to the right, talking about the Damen shipyard. It was not the first time he did this. We heard that before. It is on public record. The Government of the Netherlands launched an investigation into Damen shipyard and so on, dealing with all their business globally. Not in Trinidad and Tobago alone. [Desk thumping] But the Prime Minister “doh” want to tell us “dey” investigating in Germany, in Barbados, in, I think, Czechoslovakia or Czech Republic. They are investigating in other parts of world. “He doh want to tell us dat.” He want to pin down Trinidad and Tobago because that suits his purpose. Again, we are dealing with three, four years. If anything had happened and persons or institutions have been brought before any court of law, surely you have had time to deal with that.

Today, the Prime Minister, you know, teasing the population, tell me who is this and who is that, and why they got this. And on a related matter, the Prime Minister and the Minister of National Security. I want to ask frontally the Prime Minister and National Security Minister, if in years to come a Prime Minister, hypothetically, named Smith, and a Minister of National Security named James, hypothetically, and Smith and James go to England and they say, we meeting Prime Minister to discuss buying a boat and that means there is no corruption, because the Prime Minister and Minister do it themselves. This is not the Pope and the Dharmacharya. This is not the Imam and the Pundit. These are two politicians.
We are not casting aspersions on their integrity, but we are saying as politicians, you ought not to get involved in procurement. [Desk thumping] And it befuddles me that they do not understand the point.

Their point is, we are honest people so anything we do is good. How you could look at people like Diego Martin West and Port of Spain North and Central and say, we doing anything dishonest? How dare you do that! That is their argument. The argument is not that. The argument is, you cannot go—and we hear about Prime Minister Turnbull, I think it is. Now, I do not know Mr. Turnbull. I do not know where he came from. I “doh” know where he went to. I have respect for Head of State and Head of Government and so on. But, that does not mean you are infallible because you are the Prime Minister. All over the world Heads of Government and Heads of State when they leave the state office they go to the state jail. So saying that two Prime Ministers met in London and said, “I need a boat”. He say, “And you know long time we doing business with you. Come down. Come, come, let’s take a look.” That does not make it right. [Desk thumping] That does not make it right.

The Minister of National Security admits in the most bewildering fashion, I personally went to all these shipyards. I looked at it. It looked good. We get the best price. He is saying trust me because of who I am. The issue is not who you are, is what office you are. [Desk thumping] That is the issue. And the Minister from Diego Martin as well, Minister of Finance, I hear it again. The former Prime Minister, Member for Siparia, went to China and she saw a boat and say “Ah like dat, give me dat. How you know dat?” You went to China? Were you in her handbag? [Desk thumping] Not that you could fit in a handbag. But were you in her handbag that you knew where she want and what she did, and what boat she
pointed to? They announced this with fanfare, as if they were there. And I would not say he is big enough to fit in the handbag, but I am certain—Madam Speaker, I am certain he would have no part around the Member for Siparia. [Interruption]

Madam Speaker, to continue here. So, the issue is the Dutch Government and related agencies are undertaking an investigation. It is a global thing. It is not only Trinidad and Tobago. When and if there are findings, or persons have been accused and charged and so on, come back and tell us that. But do not use that as a sort of thing, you know, to beat the Opposition.

Madam Speaker, the Member for Port of Spain, again, made this point and I just want to touch on it now. This matter of the recusals. Now, the issue is not the recusal as an element of law, because you have to recuse yourself if you are conflicted. The issue is how many times are you conflicted? suggesting that the very position you hold, the very position you hold, brings you into conflict. If it is that 58 times you have to leave a room, that suggests that the position you hold brings you into conflict. It is not an issue of the law. Because you have acted according to law and process and so on, but you are conflicted. Now I want to ask the Minister of National Security a simple question. We are always taking about recusal from Cabinet, but the Member was also chairman of the Finance and General Purposes Committee, and may still be that. Did you recuse yourself from the F&GP as well, and how many times?

You have the powerful position of chairman of F&GP, a position held by Lenny Saith and so on before. Position held generally by a Minister of Finance. In this Government they throw out Diego Martin North/East. So, you have Port of Spain North/St. Ann’s West as chairman of F&GP. It is one of most powerful subcommittee of Cabinet. You exercise influence. Every Minister lobbies you.
When you are F&GP chairman Ministers lobby you to get their Bills. Get my note up. Could you help me with this note? We have to get this note pass. My Ministry needs this. The Ministers are lobbying you. And today you leave the room. You slip out for five minutes and tell the Ministers who need you, “Guys, you all be neutral and independent. Is my family interest.” [Desk thumping] “It doh work like dat. It doh work like dat.”

I tell the Government today, if you had no interest in procurement, because in 2014, let me correct the Prime Minister, the then Opposition in 2014 did not support the procurement law. They abstained. [Desk thumping] So the Prime Minister jump up today, and as he moving from left to right, he said, in those days the Opposition used to support Government. But you did not. You abstained. The record is there. It is there. They did not want it from day one. And today I challenge this Government, have the courage. Have the fortitude. Stand up and repeal completely procurement legislation if you do not want it. [Desk thumping] If you do not want it repeal it. But you come here to butcher it to take the heart out.

Now, the Member for Siparia made that critical argument. The very fact that we called and we passed procurement it was because we felt that even government to government arrangements, financial services, law, all of that need to be covered by regulator. By regulator. The Prime Minister said, and that is the only thing he said, I think correct, that the regulator is not the authority determining a contract. They are the oversight. So anyone, the Cabinet or any other government Ministry favour for this or that, and they go through a process, the regulator is just an oversight. Why do you not want this regulator overseeing a government to government contract? What about that? If the regulator was overseeing it you would not have that half a billion dollars contract with HDC that went up in
smoke. You would not have it. What is wrong with that? And the Prime Minister list all the government to government arrangements; Austria, China, where we were involved in. Of course, we were involved in that. But what is wrong if that goes to the procurement regulator? Then they say legal challenge. But as it is now, people can challenge it legally. As it is now there are elements of government to government contracts, where, if somebody has some—they can file a judicial review, they can go to court on some instrument and deal with it. Why are we afraid in 2020 to say let the chips fall as they may?

But you see, the Minister of National Security is very clever with the point, raising emails of the former—linking to former officials, and come with the whipping horse, EMBDC. And every week we will hear about “dat” from now on. There is no police matter, there is no DPP matter, there is no international criminal court matter, there is no criminal matter involving the EBC and any official of the former administration. [Desk thumping] What they did is to file—they filed a civil action, the EMBDC. They filed a civil action. When I say they I mean the Attorney General. So the Attorney General, and I believe the deputy Attorney General at that time, the junior Attorney General, gone to the courthouse with a set of paper, filed action against everybody, including me, and then stand up in the Parliament, action, action. Their corruption cases. What corruption case? [Interruption] Because those are filing. Those are civil things you put in the court, where a police come by my house is to ask where you living. So, no police involved in that.

There is no DPP involved in that. But they come with this type of, you know, attitude, something wrong, civil actions. These are civil actions they themselves file. Nobody file. “Is them file.” They gone to the courthouse with a suitcase of paper and file “dey” self. That is what they did. [Desk thumping]
Madam Speaker, the Minister would have been—I think I have two or three minutes left. The Minister would have done well to explain why in his Ministry a tender went out, because this is why we must keep this law, eh. This is why we must not amend the procurement law. Why a tender went out for CCTV cameras and invited persons to tender to supply camera and service? When the bids came in the box they closed the box and within minutes announced to all the participants that they are extending the time of the bid. They said they extending the time from September 2019 to January 2020. When January 2020 came, Madam Speaker, they singlehandedly and unilaterally changed the whole system. They said we do not want service equipment and service at the same time. We giving to a Canadian contractor only equipment but not service.

So they changed the rules. They changed the rules of the game in mid-air. And today, a procurement regulator could have inquired into that, 85 million United States dollars. [Desk thumping] And they split it up so that the bidders in the first place were all out, because if you had put in a bid for hardware and software, it is a different thing now if it is just hardware you want. So today, they owe the country an explanation as to why they cancelled that bidding. Why they unilaterally, without any further bidding, took a Canadian contractor only for hardware. But if that was under procurement law in place, those regulators would have asked the right questions. And this is why today they are trying their best, their level best, to destroy, to decimate, to collapse, to gut the procurement legislation, and we will have no part of it. [Desk thumping]

Madam Speaker, I thank you.

Madam Speaker: The Member for Port of Spain South. [Desk thumping]

Mr. Keith Scotland (Port of Spain South): Madam Speaker, the hon. Member for
Oropouche East says that he is not looking back and going back in time to accuse and say who is more corrupt and who is less corrupt. But in the same breath he called the names John O’Halloran and Francis Prevatt. What is he really trying to say? At about eight years I learn that people judge others by their standards. It was a harsh lesson. [Desk thumping]

Madam Speaker, it was a Mother’s Day and all the children in the area were giving their mother’s presents. As a spoil child I did not give my mother any presents. In fact I asked for lunch. And she looked at me very disappointed, and I thought about it and I said, you know, if it was not me you would not be a mother, so on Mother’s Day you must celebrate me. And my mother watched me and say, “Lord I hope everybody is not as low standard as you.” So, what the other side is doing is thinking that this is a section 34 Government, but it is not. [Desk thumping] We are not a section 34 Government. When we bring a Bill to Parliament we advertise it before, we give the other side notice, and we give them an opportunity to come and debate it in the public glare. We do not go in midnight and put far-reaching legislation that affects the nation. And I say then to the Members on the other side, this Bill, and stop—and, Madam Speaker, do you recall the days when you used to have records that would stick? It is like a stuck record every week. The hon. Member for San Fernando West, he making millions of dollars in rent. The hon. Member for Port of Spain North/St. Ann’s East, he own a bank. It is like a stuck record. We are here about an amendment to a Bill, and, Madam Speaker, one of my favourite songs—it is a Friday evening. But I am not tired of working, but I want to do the people’s work. I do not want to hear about some trite existence of some benefit that is not true, that the Integrity Commission cleared the hon. Member of, or a recusal which is in keeping with all principles,
practices of good governance in situations where you must recuse yourself. [Desk thumping] So, what is it really?—that you are damned for doing the correct thing? And the record has been cleared.

What I am here about, Madam Speaker, is a Bill to amend certain sections of Act No. 1 of 2015, the procurement legislation. And let me deal directly with the Office of Procurement. Madam Speaker, what they did not tell you is that what the Office of Procurement said about this Bill is this: That the Office of Procurement Regulation has reviewed the Public Procurement Bill and agrees with all the amendments except, and is one exception, section 7. So what we are to do here, Madam Speaker, is to look at section 7, because we disagree. But he agrees with every other one, so there is no debate on the other sections. And I would now like to focus on that section, and, Madam Speaker, show how that amendment is not an amendment that should be objected to. The history of this Bill and this amendment stems, Madam Speaker, from the commitment made by the Government on the Sixty-sixth Session of the United Nations, where the procurement policy was agreed to by Trinidad and Tobago. And, it was introduced in this House, and yes, Madam Speaker, at that time the Opposition did not support the Bill. But forgive us, we were drunk with deception. We started in section 34. Every time we agree it came back and bit us. So forgive us, if coming in 2015, at the end of the tenure of that Government we did not support anything. And I am now told that we supported it.

So, Madam Speaker, the point I make is this, when we come now to do the amendment, and I do not need to school the hon. Member for Barataria/San Juan in the law of constitutional—the constitutionality of Bills. A Bill or a law could be passed at first with a special majority, and there can be amendments that follow
that do not need a special majority. And this is one such instance, and I think that the hon. Member for Barataria/San Juan knows better and he should apologize to this House for trying to mislead this House. [Desk thumping] If he does not know better, he fell asleep in constitutional law.

Now, when therefore this Bill came, there is a lot of talk, Madam Speaker, but there are no figures. In 2015 when this Bill was first passed it was a different time in the world, and it was a different time in Trinidad and Tobago. The government revenue in that year was 46.5 billion. The government revenue in 2020 is 31.4 billion. And estimated for 2021 to $39.9 billion. It means then that the government revenue is falling and we need to partner with international bodies or private entities that could assist in the running and the development of the country. These amendments are important because we say that they create an atmosphere still under the protection and under the ambit of the Act that would allow the Government to do so in a time of steady declining revenue and in a time of uncertainty, globally and nationally.

Madam Speaker, the proposed amendments, in my respectful view, and I am told, you know, I am not in a courthouse, but it is my respectful view. Well, help us to boost and buttress the existing legislation to bring to this country a procurement legislation that is up to the time. [Desk thumping] Here is the learning on legislation. Madam Speaker, since 1946 there is a case of French church export corporation. And it says that legislation and rules of court are the servants and not the masters of the people. What you are seeing here, is this Government trying to make this legislation work for the people of Trinidad and Tobago. Where is the objection? Madam Speaker, I have heard all—it is over two hours we are here, and not one speaker from the opposite side has drilled down to say, well, this is the
reason why we do not support this amendment and go through the amendment to show what is the damage, what is the mischief that is created by the amendment, and therefore that is leading to their lack of support.

It cannot be, Madam Speaker, that they are objecting to the amendment to the expansion of the definition of bid rigging. Because what this amendment does is that it seeks to give the legislation more teeth, and it targets persons who may have an intention to illegally affect the outcome of a bid. So there will be no accusation, as the Member for Oropouche East has said, about going and open any box. Section 7 seems to be the focus. And remember I say this is on the objection taken by the Office of Procurement. What this section does, Madam Speaker, what this proposed amendment does, is it fixes uncertainty when there is a government to government arrangement, or when there is arrangement with the Government and other entities. And it entrenches the obligations by the Government made with its other contracting parties. Madam Speaker, what is wrong with that? How has the other side criticized that and eroded it? It therefore meets a crucial and it meets a fundamental requirement of international law and international business law, and that fundamental requirement is called certainty. Why does the hon. Member for Barataria/San Juan not read his law? Certainty means that when we contract and we agree on certain provisions there will be nothing to come after that will dislodge that agreement between us. Which international financial institution will enter into agreements with the Government of Trinidad and Tobago when there is uncertainty and their moneys are involved? [Desk thumping]

The Government of Trinidad and Tobago is therefore trying to create a legislative framework that will enable the Government to fulfil its international obligations. But more importantly, Madam Speaker, I did not try to take over the
portfolio of the hon. Minister of Finance when I quoted the figures of our declining revenue. Part of this and a benefit of this amendment, it will enable the Government of Trinidad and Tobago to fully access sources of funding that may be financially beneficial to the country. Therefore, when we cite the global context, we find, Madam Speaker, that this Act is important in that regard. There is a whole hue and cry without any support against this section. But do you know, Madam Speaker, that this amendment finds sibling in similar provisions, in similar wording from the parent Act, which is in the United Nations Commission on Trade, the law model UNCITRAL; and it is Article 3. It is patterned from Article 3. And this amendment then simply provides that when there is an agreement there is certainty in the agreement. The next aspect is services that will be exempted.

Madam Speaker, there is one aspect that is very close to me, legal services. Madam Speaker, one day between, I think it is 2013, I was successful in a matter and I was going to collect my cheque. It was a paltry cheque because it was a sum for cost. So you know when you are collecting a cheque from the Office of the Attorney General you have to sign a book. But, human nature, you know a book has up and down. My name was somewhere in the middle, and you know you must take a peek. I was not primed. So I happy to collect my money, and I looked up and I looked down and I saw names and I saw sums, and I say I have to do a hundred cases before I get the amount of money them people getting. I do have court clothes, but I not calling no names.

Madam Speaker, when I look up, I look up and I look down and it was like a repeat, because the names kept repeating themselves. And just for one cheque, you know. I had to do about “ah” 100 cases to get the amount in one cheque. “Ah call up meh senior, ah not calling any names. Ah say, John, you was an AG before, I
doing something wrong?” He said, “Scotty, you are doing something right, because you are sleeping very well in the night”. [Desk thumping] Madam Speaker, section 29 it is a very—so, what I am trying to say is do not talk to us about legal fees. Do not judge this Government by your standards. [Desk thumping] Madam Speaker, where is the scandal? The scandal is the Member for San Fernando West. Where is the scandal? That he has family home? That is a scandal? Or the hon. Member for St. Ann’s; seriously? That is what we are here about this Friday afternoon? There is none, so you have to manufacture one, and it becomes boring, like that stuck record, Madam Speaker. You know now they play these things with a little—you put it in and you hear it. But, that stuck record used to be very annoying, you know. And then the record used to scratch, “screech, screech”.

6.45 p.m.

We want to move on. Tell us, Madam, when I come I want you to tell me, “Look, we are going wrong here”, so I can focus on where we are going wrong and say, “Well, yes, let us amend this section”, but do not just talk in the air. Madam Speaker, what we say is this. If you look at the amendment, the amendments are not draconian, the amendments are not disproportionate and one amendment that nobody has spoken about is this amendment where, Madam Speaker, we are amending I think section 29(c).

Section 29(c), Madam Speaker, is, if you have a conviction it could be for obscene language. Let us use a more—“aaah”, for using insulting language. And the conviction could be 30 years old, you are debarred from being a part of a procurement process. How could that be fair? What this amendment does, it brings us in line with the cases of nigh, it brings us in line with international practice. It is something that is called spent convictions. After 10 years a conviction is spent.
That is what I come here to debate, you know. I come here to debate serious business—or if you have a minor conviction, for example, loitering, which should really be taken off the books, you are still debarred. What it does it says, no, it narrows it down, corruption and fraud and that relates to procurement. And we still give you a 10-year period and if you have been of a good clean record, you are still allowed to participate. That is the efficacy of this amendment. Where is the objection to that? It brings us within First World countries and over 39 countries from Russia to Ghana.

Madam Speaker, my view is that this Government has demonstrated that it has no part to do with any acts of dishonesty or any acts that will bring into disrepute the procurement legislation that—as it existed. What therefore is the opposition? Is the opposition, supposition? Well, suppose this happens or this may happen or—where is the concrete evidence of any wrongdoing that will set the nation on alert not to support this amendment?

Madam Speaker, every day, every Member of Parliament on this side, every Minister puts one foot behind the next and does his work. We do not complain if we get a Bill the day before. We go on and we do the work. I do not want to tell the hon. Member for Siparia how to distribute her resources, but there is something called division of labour. If there are five Bills and there are 19 of you, divide it. But do not complain. Let us get down and do the work in a serious way. And we are saying that this amendment brings, Madam Speaker, the legislation into alignment with the needs of 2020, 2021 and beyond.

And in closing, in this Government, on this side, there is no section 34, there is no O’Halloran, there is no Resmi. There is just good governance and the right choice. Madam Speaker, I think that I have reached the cusp of my time and this is
my contribution to this Bill. Thank you. [Desk thumping]

Mr. Rushton Paray (Mayaro): Thank you very much, Madam Speaker, for the opportunity to join in this debate at this late hour as we look to amend the Public Procurement and Disposal of Public Property (Amdt.) Bill, 2020. Madam Speaker, I have sat here since 1.30 p.m. and I have listened attentively to all the speakers so far, both on the Government Bench and my colleagues on this side. And I must say that what I have gathered so far, most of the to and froing spoke about this perception and assumption of the ability to corruptly receive money somehow in terms of how contracts are awarded. And the purpose of this piece of legislation is really to prevent that.

But, Madam Speaker, I listened to the Prime Minister, I listened to the Minister of Finance, I listened to the Attorney General and I have now listened to my colleague, the Member for Port of Spain South, and all that was spoken about these issues around contracts and government officials and so on, that is what this legislation is trying to cure. The parent legislation is attempting to cure exactly what the Members are speaking about here today. But, Madam Speaker, the amendment that has come to us and I want to join with my colleagues on this side of the Bench in condemning the Government for this savage butchering of this procurement legislation. Because the purpose is to resolve the mischief that they have been speaking about all day today and now the Government comes to take out those pieces of the legislation that resolve that particular mischief.

Madam Speaker, my colleague from Port of Spain South made some very good arguments but I want to remind him that he spoke about the law and certainty and that we are, the word that he used, “supposition”, that perhaps something may happen and something may not happen. And while certainty is really part of
something in the law that we need, I am certain that when these contracts are given taxpayers’ money has to be paid to these contractors. And the law, the amendments that they have brought today is taking out that certainty because it means that if there is no proper oversight on some of these contractual arrangements, we are certain on this side that taxpayers money can and will be brutalized at the end of the day.

Madam Speaker, my colleague from Port of Spain South also said that no one on our side has discussed the clauses of the Bill in any great detail. But, Madam Speaker, I can tell you there are Trojan horses built into this Bill, into this amendment. There are one or two fine points that make sense and the vast majority of it does not. It is like a poison apple, it is all nice and red and shiny but there are bits and pieces of poison on the inside that I believe if we as an Opposition do not stand firm on and reject this, we will undermine the entire purpose of this piece of legislation, the parent legislation.

Madam Speaker, besides the media, besides the people in this country, I think the world is speaking against this type of butchering of procurement legislation and in my discourse over the next 10/15 minutes, Madam Speaker, I will present that for you. The World Bank in a study in February of 2020, had said that globally 12 per cent of GDP is spent on procurement. And if we were to look at the figures for Trinidad and Tobago in 2018, it is estimated that we spent US $23.81 billion, that works out to about TT $160 billion for our GDP.

Now, if the World Bank is correct and 12 per cent goes to procurement, it means that TT $19.2 billion would have been spent on procurement. Now, Madam Speaker, when the Finance Minister spoke he said that it is only 5 per cent of the legislation that is being routed out and 95 per cent will remain there and remain
strong. But, Madam Speaker, that 5 per cent is worth nearly TT $20 billion that we have a duty to protect as a Parliament, as representatives of the people, we have a duty to protect that. And quite frankly I would like to see this Bill passed in terms of the parent legislation untouched, because every day in the media the perception that politicians are corrupt and “all ah we tief” and all these other things that you hear in the public domain and this legislation is to safeguard us. This legislation in its parent form is to prevent that sort of information, that sort of label from being presented on parliamentarians in the future.

Madam Speaker, over the last five years or so of this administration they have engaged in leasing and purchasing of vessels, construction of buildings. There has been so much of work that has been done without a proper procurement process, this transparent procurement process, which this procurement legislation looks to deliver to the country.

Madam Speaker, when you take a look that the Government basically spends about $442 million a year in buildings and rentals of government space, that is about $36 million a month, but there is not a proper procurement process. And this is all that we are asking, that this procurement legislation will clear up all of those issues so there would be no allegations of impropriety as we go on, so no one has to come here and defend himself or herself of any issues around that, Madam Speaker.

Madam Speaker, the Government even in this COVID-19 response had almost $20 billion at its disposal. Some of the money, the Minister had indicated and he quite clearly stated what went in terms of grants and grant support, but there were billions of dollars in goods and services procured and there has been no explanation, there has been no transparency in terms of how that money was spent.
And this parent legislation it was designed to solve that mischief. And what we are trying to do today is to take out the teeth, take out the toughness of that legislation and leave the interpretation wide open.

Madam Speaker, as you would know and has already been said that this Act was passed in 2014, it was partially proclaimed in 2015, to get the regulator’s office going so regulations could be made, but I do not feel that the Government has ever pursued with interest the required infrastructure to give effect to the law.

Madam Speaker, I have a copy of a letter that was sent under the heading—this is dated January 25, 2016, it is under the letterhead of the Minister of Finance:

Disbanding of the Procurement Implementation Oversight Committee. Madam Speaker, this is dated January 25, 2016, and from the ringing of the bell, from the day this Government took office, that was their intention. They have never had an intention to take public procurement seriously, when the first act that the Finance Minister did was to issue an instruction to disband this procurement implementation oversight committee.

Madam Speaker, it is noteworthy and as was mentioned by the Member for Oropouche West, that the Opposition at that time led by Dr. Rowley, he and the team, they withdrew from the Joint Select Committee that was headed by Dr. Tewarie. The Committee had the active support of all the Independent Senators and they put together a very effective piece of legislation. And as indicated as well in the House of Representatives the PNM Opposition abstained during the vote. So there is no proof, I am not convinced, Madam Speaker, that this Government had any intention or still has any intention of getting good legislation in terms of dealing with public procurement.

Madam Speaker, in 2017, three of our own very prominent citizens, Mr.
Reginald Dumas, Mr. Victor Hart, Mr. Afra Raymond they all wrote to the then President in terms of giving support to the parent legislation and asking the President to hold a hand in terms of the recommendations that were made at that time by the Government.

Now, Madam Speaker, this is the third time that the Government has brought pieces of legislation to amend the parent legislation that are giving the opportunity to keep watering down this Bill, watering it down, watering it down and I think this particular amendment before us today, I think this is the knife, this is the dagger in the heart of the legislation.

Madam Speaker, if I were to take you back to 2009, the Uff Commissioner of Enquiry, which was appointed by the then Prime Minister, Mr. Patrick Manning, after the very same, our current Prime Minister Dr. Rowley, he came to the House of Representatives and made allegations of corruption on government contracts. And these are the same government-to-government contracts that the hon. Prime Minister stood here today and made a rationale why it should not be covered under the terms of reference of our parent legislation. And the Uff Commission, Madam Speaker, they issued on recommendation No. 39 and if you would allow me just to quote recommendation 39:

“The reviewing of tenders and the making of decisions upon the award of contracts should be undertaken in as transparent a manner as possible, including demonstrating clear compliance with procurement rules, so as to allay suspicion of improper actions or potential corrupt influences.”

Madam Speaker, this administration has never implemented any of the recommendations of the Uff Commission and they continue to issue multi-million dollar contracts even without basic transparency.
Clause 5 of the legislation seeks to prevent procurement oversight agreements between government and international and financial organizations. The Government, Madam Speaker, is effectively attempting to remove government to government arrangements and public/private partnerships from the ambit of the legislation. Now, this is happening when the Government has publicly indicated that it plans to privatize the Port of Port of Spain. Madam Speaker, other contracts, most recently, including the construction of the headquarters for the Ministry of Health at a reported cost of $250 million are also being undertaken through a PPP model.

Madam Speaker, with the removal of government to government contracts from the ambit of the law, there could as well be a reoccurrence of this financial scandal involving the Housing Development Corporation and the China Gezhouba Group International Engineering for the construction of 500 homes which the Prime Minister had to personally intervene and stop it because it was not in accordance to what the Cabinet had asked for.

So, Madam Speaker, it is worrying that the Prime Minister and Members of the Government could have adopted that position knowing fully well that if the Procurement Regulator had the power through the parent legislation could have prevented that from happening. And up to today, Madam Speaker, we still do not know, the scrapping of that contract, if the penalty or if there was a penalty that the State had to pay for breaking that contract. Madam Speaker, any part of this watered-down law could cost taxpayers heavy, heavy sums through flawed contracts. On the 19th of January, 2020, the Express newspaper recognized the Government’s attempt to reduce the reach of the law and in its editorial and if I can quote:

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“If this were to happen, the whole point of the Act would be…undone.”

The newspaper told the Government to:

“…abandon any plan to undermine…”—the law.

Madam Speaker, internationally the best practice is that public procurement legislation must govern PPP and government to government arrangements. Major financial institutions such as the World Bank, the Inter-American Development Bank, the European banks, they require transparent competitive bidding processes as a key condition for financing infrastructural projects. So it is a requirement of the very same agencies that the Prime Minister is saying that we will deter them and we will chase them away from funding our projects here, they are the very same ones who are saying this is what we need, this is what we need to ensure that we continue to finance your projects in your country, Madam Speaker.

Madam Speaker, with that in mind, why is the Government seeking to remove these types of contracts from the purview of the legislation? Madam Speaker, in doing a bit of research for this Bill, I stumbled across, there is something called the World Bank Private/Public Partnership Legal Resource Center and in one of the reports under public procurement processes they have written as part of their governance process that by including this in your procurement legislation, in your procurement processes it leads to:

• …greater transparency.
• …a level playing field for bidders.
• Giving a project greater legitimacy…
• Setting out the qualities and experience…”—required for—“…each bidder.”
• And getting—“…value for money…”

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And that is what is important to our taxpayers.

Madam Speaker, what is wrong with the citizens of Trinidad and Tobago wanting this. That is the question that those opposite have not answered. What is wrong with the citizens of this country asking for this to remain in the legislation? Madam Speaker, in 2012, the 37-member Organization for Economic Cooperation and Development recommended and it was accepted as well, that the principles of public governance should cover PPP contracts. Several reasons were advanced, including value for money again. So, Madam Speaker, I fail to understand, I fail to agree with the Government’s position today that they should be removing these two or three clauses in the legislation that weaken and really rip the teeth out of it at the end of the day.

Clause 6, Madam Speaker, takes away the prime responsibility from the Procurement Regulator in terms of the disposal of state assets. Now, I too have seen the document issued yesterday by the Office of the Procurement Regulator where he has said that all except clause 5, I believe it is, that he has no problem with, but, Madam Speaker, while the Regulator’s position is that disposal of state assets, it may in effect compromise their position because now they will now lose that bit of independence because they have to follow instructions from the Government, I can understand where he is coming from. But when you look at comparative legislation worldwide, all of these procurement legislation, it indicates and it includes that the disposal of assets, state assets are a primary function of the regulatory authority.

So I am going to urge the Government to perhaps look at an arm or a branch or something in the Regulator’s office that must be responsible for the disposal of state assets, because worldwide it is part of the process. Madam Speaker, in 2004,
there was a Green Paper on public procurement and disposal of public property in Trinidad by the Ministry of Finance. And in their view they said that there must be transparency of process and increased accountability for asset management. Madam Speaker, that is a PNM administration back in 2004, and today this is another PNM administration that is adopting an opposite approach. Thank you very much, Madam Speaker. [Desk thumping]

The Minister of Planning and Development and Acting Minister of Housing and Urban Development (Hon. Camille Robinson-Regis): Thank you very kindly, Madam Speaker. Madam Speaker, hypocrisy in politics may be the norm for some but those of us on this side do not agree that that is the norm for us. [Desk thumping] Madam Speaker, you cannot show me a corbeau and try to convince me that it is a dove. And, Madam Speaker, I sat here in this House and listened to Member after Member of the Opposition trying to give the impression that what we were doing as they put it, was “gutting the procurement Act”. And in fact, it was quite clear that none of the Members on the other side even understand what are the amendments before us. None of the Members on the other side even understand, I posit, the procurement Act that already exists. They are giving the impression that contracts will be awarded by the Regulator.

Madam Speaker, the Cabinet, because of the constitutional responsibility to the people of Trinidad and Tobago, must remain responsible for certain types of procurement. What the Regulator has to do and what the Regulator has the authority to do is approve the procurement plan and strategies and in reality they cannot, the Regulator cannot be allowed to approve all policy regarding procurement. So, Madam Speaker, I posit that those on the other side are talking nonsense. [Desk thumping]
Madam Speaker, I sat here and heard the Member for Siparia commend the former Member for Caroni Central, Member Bhoe Tewarie. Of all people, who during his time as Minister of Planning and Development moved to dispose of state lands at Invaders Bay, moved to dispose of state lands at Chaguaramas. Madam Speaker, we are still grappling with those issues at Chaguaramas. Madam Speaker, you will recall the fiasco that took place when they wanted to build on the Eddie Hart Ground. Members of the Trincity community had to go to court to stop that, even with Invaders Bay, Afra Raymond and others had to go to court to stop that.

Madam Speaker, I want you to recall the sale of Apsara, the fire truck incident, the purchase of the jail at Santa Rosa. Madam Speaker, I could go on and on and on, and I make this point because even though those opposite us are saying that we did not participate in the Joint Select Committee on the procurement Bill, I want to remind the public that all during that time—and the Member for Siparia made the boast that 30 days after they came into office they laid the procurement Bill. Madam Speaker, they had the requisite majority to pass that piece of legislation without our involvement. Why did they wait until their last few months in office to pass that legislation?

Madam Speaker, I posit it was a pretense to allow them to pretend to the population that they were so interested [Desk thumping] in procurement issues all the while doing the things like disposing of Invaders Bay, disposing of the land at Chaguaramas and several other matters of which we are all familiar.

7.15 p.m.

[MR. DEPUTY SPEAKER in the Chair]

Madam Speaker, I want to bring to the attention of this House the comparison between the Singapore and the Trinidad and Tobago legislation. The
Member for Naparima continuously talks about the fact that we must look at the Singapore model for every single thing, and, Madam Speaker, let me draw it to the attention of this House and the population regarding the comparison between the Singapore procurement legislation and the Trinidad and Tobago legislation, and let me say from the outset that our law compares very favourably with Singapore.

Madam Speaker—Mr. Deputy Speaker, I am sorry, both pieces of legislation have adopted a hybrid model, whereby procedural rules and evaluation criteria are set. We have that, the Singapore legislation has that, and these criteria are set by the Office of the Procurement Regulator. Whilst operational functions and interpretation of rules and awarding of contracts are performed by line agencies, Ministries and state agencies, Singapore—the only difference is that Singapore has greater control by the regulator to set standards and to do investigations and, Mr. Deputy Speaker, these amendments which are before us today do not tamper with that ability.

Mr. Deputy Speaker, what these amendments seek to do is to tighten the gaps in the existing legislation that can have the effect of weakening the original intent of Act No. 1 of 2015, and that intent is to provide for public procurement in accordance with the principles of good governance namely accountability, transparency, integrity and value for money. Mr. Deputy Speaker, we note with interest that none of the Members went into the substance of these amendments.

Mr. Deputy Speaker, accountability is a key pillar in the new procurement regime and provides for stiff penalties for bid rigging. Under clause 60(1)(b) of Act No. 1 of 2015:

“(a)” Anyone—“involved in, or”—who—“participates in bid rigging;

(b) or”—even becomes evident that a public office or anyone even—
Unresolved

"indirectly…influences in any manner any procurement proceedings”—he or she—“is liable to a fine of five million dollars and imprisonment for ten years.”

Mr. Deputy Speaker, one must bear in mind that the new procurement regime, and specifically Part V of Act No. 1 of 2015, allows the supplier or contractor if they feel aggrieved by the outcome of a tender process and has reason to believe that the process was not transparent, they can initiate what is called “challenge proceedings” against participants in the process. Transparency is another key pillar to be upheld in this new dispensation. But what are the implications of this, Mr. Deputy Speaker? The implications are that it must warrant clarity and unambiguity so that such persons can be held accountable. Therefore, the definition of bid rigging must be clear and unambiguous. The definition of bid rigging, therefore, must be robust so that a case may be proven.

In section 4 of the current Act bid rigging is briefly defined as collusion between persons for the purpose of manipulating proceedings. We are of the view that this definition needed strengthening, so the amendment provides a more rigorous definition. It specifies that:

“bid rigging means collusive price-fixing and anti-competitive behaviour designed to unfairly influence the outcome of a competitive tender process in favour of one or more bidders.”

The new definition, Mr. Deputy Speaker, therefore addresses all aspects of bid rigging. It presents a basis for gathering of evidence in a more effective investigation provided for under Part IV of the Act.

Now, Mr. Deputy Speaker, what we did here was strengthen the definition of bid rigging. None of the Members on the opposite side made mention of this, and I
wonder, Mr. Deputy Speaker, if it is because Members on their side may have a problem with the whole issue of bid rigging. And, Mr. Deputy Speaker, I crave your indulgence to refer to a newspaper article: “Why Ram was fired. Cloud over UNC Caroni Central candidate”, *Trinidad Express*, July 30, 2020. And it says:

“Ram’s dismissal involved the handling of a bid for 12 three-ton trucks for TSTT’s use.

David’s letter to Ram stated:”—and David was the HR person at TSTT—

“‘The company (TSTT) views your actions and the findings of guilt made against you by the disciplinary tribunal as serious acts of misconduct which resulted in financial losses to the company in the sum of $3,689,209.36 which includes the losses suffered in making the advance payment to the company’”—and that was the company that supposedly won the bid—“as well as the additional losses to the company (TSTT) incurred in re-doing the entire tender process’.

The dismissal letter was issued subsequent to a disciplinary hearing on the issue, which commenced on September 20, 2017, and concluded on June 14, 2018.

According to the letter”—Ram was negligent in the management of the entire process—“in that he:

- Approving and/or authorised for payment to the successful bidder...an advance payment of 3.3 million or 50 per cent of the down payment for the 12 three-ton trucks...
- Misled and/or...misrepresented to the chief executive officer and the chief financial officer that the Tender Evaluation Report provided as a term of payment an advanced payment...”

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In fact, he did so under false pretences.

“• Failed to notify the executive vice president…”—

Mr. Lee: Standing Order 49. Deputy Speaker—

Mr. Young: As soon as Ram reach you stand up.

Mr. Lee:—Standing Order 49.

Mr. Deputy Speaker: 49 what you said? [Desk thumping and laughter] 49 you said you on? [Desk thumping]

Mr. Lee: Standing Order 49, Deputy Speaker.

Mr. Deputy Speaker: Overruled. [Desk thumping]

Hon. C. Robinson-Regis: Ram was also accused of “lack of due care and attention”, and also was—

Mr. Lee: Standing Order 49, it is in the court.

Hon. Member: It in court?

Hon. Member: And he in Parliament?

Hon. Member: He should recuse himself.

Mr. Deputy Speaker: Again, 49—[Interruption]

Mr. Lee: It is sub judice.

Mr. Deputy Speaker: Hold on, hold on, Chief Whip. According to Standing Order 49(2):

“By alleging that the Member is sub judice a Member shall be confirming to the House that the paragraph (1) is applicable and shall accept responsibility for advising so the House.”

All right. Again, you have made—hold on—your Standing Order point. Right? I overruled based on the information that I have before me. Proceed. [Desk thumping]
Hon. C. Robinson-Regis: “As the head of the Asset Management of the company and a person holding a senior management role, you displayed a clear lack of proper leadership and/or concern for the assets and funds of the company, as well as a lack of due care and attention in ensuring compliance with the company’s…procedures for making payment to suppliers which caused the company…to pay out the sum of 3,307,873…”—

Mr. Ram: Mr. Deputy Speaker, I rise on a point of Standing Order 48—

Mr. Hinds: Mr. Deputy Speaker—

Mr. Deputy Speaker: One second please, Laventille West. I am recognizing the Member. [Crosstalk]

Mr. Ram: “Ah ha” water here, be careful.

Hon Member: What is that?

Mr. Hinds: Mr. Deputy Speaker—

Mr. Ram: Mr. Deputy Speaker, I rise on a point of—

Mr Deputy Speaker: Listen, Members please. First of all, Laventille West please have on your mask. I am recognizing the Member for—

Mr. Hinds: Mr. Deputy Speaker, I feel threatened by the—

Mr. Deputy Speaker: Hold on, one second. I am recognizing the Member for Caroni Central at this time, and then you will have your opportunity—one second—

Mr. Ram: You could have a seat.

Mr. Hinds: Mr. Deputy Speaker, my intention is he ought not to speak in this debate. The Member for Pointe-a-Pierre say he is engaged in this and he is before the court. He should recuse himself from—

Mr. Deputy Speaker: Hold on. Member, he is making a point of order.

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Mr. Ram: It is 95 times. Ninety-five times recusal. You know about recusal.

Mr. Deputy Speaker: Member for Caroni Central, what is your point of order?

Mr. Ram: Mr. Deputy Speaker, I rise on a point of Standing Order 49. This matter is before the courts of Trinidad and Tobago.

Hon. Members: Ooooh.

Hon. Member: And how you reach the Parliament then.

Mr. Deputy Speaker: And again, you are making that assertion and I am saying I have no such information. Overruled. Member proceed. [Desk thumping]

Hon. C. Robinson-Regis: Mr. Deputy Speaker—

Mr. Lee: Deputy Speaker, I seek guidance. If the matter is—[Interruption] No. [Crosstalk]

Hon. C. Robinson-Regis: Mr. Deputy Speaker, thank you. [Desk thumping] Mr. Deputy Speaker, the letter further said that:

“Ram assessed the...company as a supplier that was qualified to supply TSTT with the bucket trucks.

But, the”—

Mr. Deputy Speaker: Members, you all can have the discourse at the back if you all so desire.

Hon. C. Robinson-Regis:—“company was unable to show by its financial information that it had the ability to sustain the services to be offered...”

And TSTT said:

“It had neither the experience... capacity or competence known to TSTT to supply the bucket trucks, had no performance record, track record, historical perspective, quoting sizes and lists of other companies”—

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Mr. Lee: I am standing on 49, Deputy Speaker. She is prejudicing the case.

Hon. Member: What case?

Mr. Deputy Speaker: One second.

Mr. Hinds: He should be the leader of the UNC.

Mr. Deputy Speaker: Members please. And Chief Whip who determines that? That is my simple question. Proceed.

Hon. C. Robinson-Regis: Thank you, Mr. Deputy Speaker. Mr. Deputy Speaker, the letter to Ram also stated:

“...that Ram ‘erroneously determined’ that the mandatory pre-qualification criteria applicable to bidders could be waived on the basis that they were vendors on TSTT’s system, when none of the bidders had ever previously supplied three-ton trucks with aerial lift and accessories to TSTT.”

And, Mr. Deputy Speaker, Ram was then the “chairman of the Tender Assessment Company...stated that all decisions of the”—committee—“were unanimous and he stood by” that decision. And, Mr. Deputy Speaker, the information—

Mr. Deputy Speaker: Member?

Hon. C. Robinson-Regis:—at TSTT showed that it was erroneous—[Desk thumping]

Mr. Deputy Speaker: Member? Member, your time has now elapsed.

Hon. C. Robinson-Regis: Sorry, Sir.

Mr. Deputy Speaker: Your time has now elapsed.

Hon. C. Robinson-Regis: Mr. Deputy Speaker, I think it is highly unfair because half my time was taken up by the other side raising objections. Mr. Deputy Speaker, may I have injury time please?

Mr. Deputy Speaker: Again, hon. Member, at this time I will not be in a position...
because again I do not want to set a precedent. You will have to—again, your time is up.

**Hon. C. Robinson-Regis:** Thank you, Mr. Deputy Speaker. Mr. Deputy Speaker, it seems that the Caroni Central representative has—

**Mr. Deputy Speaker:** Okay Member. [*Desk thumping*] I recognize the Member for Couva South.

**Mr. Rudranath Indarsingh (Couva South):** Thank you, Mr. Deputy Speaker. Mr. Deputy Speaker, what we have just witnessed in this House from the point of view of the Minister of Planning and Development, and the Member for Arouca/Maloney—[*Desk thumping*]

**Mr. Deputy Speaker:** Members! Members! Proceed.

**Mr. R. Indarsingh:**—is what I would call a very unsavoury attack on the Member for Caroni Central knowing fully well that this matter involving the Member for Caroni Central is currently before—

**Mr. Deputy Speaker:** Members! Members! [*Desk thumping*]

**Mr. R. Indarsingh:** This is abuse of the Parliament by—

**Mr. Deputy Speaker:** Members! Member for Couva South. Member for Couva South. [*Crosstalk*] Member for Couva South. Members! Members! Leader—hello. Members! [*Crosstalk*] Members! [*Crosstalk*] First of all, Member for Caroni Central, I do not want you to disturb the session especially when you are not in your actual seat. So could you please get to your actual seat please? [*Inaudible*] Well, you were sitting at that chair just now—right?—but no problem. You decide.

**Mr. Hinds:** He should be in the prison.

**Mr. Deputy Speaker:** Member for Laventille West, could you retract that statement please? Retract please.
Mr. Hinds: Mr. Deputy Speaker, I am sorry.

Mr. Deputy Speaker: Retract that statement that you just made. It reached my ear. Just retract the statement you last made.

Mr. Hinds: I was speaking of someone outside of this House, Mr. Deputy Speaker. [Laughter]

Mr. Deputy Speaker: Retract the statement.

Mr. Hinds: I retract the statement, Mr. Deputy Speaker, for your ease and comfort.

Mr. Deputy Speaker: Thank you. And again also, Leader of Government Business please do not entertain the crosstalk with the Member. Proceed, proceed.

Mr. R. Indarsingh: This is a very important debate as it relates to the people of Trinidad and Tobago, and the conduct we are seeing here really sends a very strong signal about the trivialization of this matter based on the conduct from the Government side. Because you cannot, you cannot use the Parliament to unceremoniously attack a sitting Member of this House knowing fully well what is before the courts of this country, Mr. Deputy Speaker.

Mr. Deputy Speaker, the Member for Arouca/Maloney in her contribution spoke about hypocrisy in politics maybe the norm for some in politics, and you cannot be a “corbeau” and tell me it is a dove. Well what I have seen here really has me thinking about the quotations used by the Member for Arouca/Maloney. And in relation to this piece of legislation, Mr. Deputy Speaker, the Public Procurement and Disposal of Public Property (Amdt.) Bill, 2020, I want to tell the Government that to understand why the Opposition has taken this position in this particular piece of legislation, you have to go back, you have to go back to Lock Joint, and you have to go back to the Mount Hope Medical Sciences Complex and
Sodetec, and you have to go back to the Hall of Justice, and Higgs and Hill, and you have to come to present day as it relates to what transpired as it relates to $100 million and a fiasco at A&V Oil and Gas. These are the things that we on this side are concerned about. And, Mr. Deputy Speaker—

**Mr. Deputy Speaker:** Silence.

**Mr. R. Indarsingh:**—we know about the *Cabo Star*, we know about Bridgeman, and we know why they stopped the *Super Fast Galicia* to facilitate what they wanted to do from a Government’s point of view.

So nobody on that side will stand up here and attempt to be sanctimonious in their conduct in this Parliament. [*Desk thumping*]

**Mr. Young:** Mr. Deputy Speaker, Standing Order 48(4). His mere presence is offensive. [*Laughter*] Offensive language, Sir.

**Mr. Deputy Speaker:** Overruled.

**Mr. R. Indarsingh:** Mr. Deputy Speaker, I am responding to the interventions of speakers on the Government side, and the Member for Arouca/Maloney said that speaker after speaker spoke about the Bill being gutted and those on the Opposition side did not understand the proposed amendments. And she went on—the Member for Arouca/Maloney went on to attack a former colleague of mine from the point of view of Caroni Central as it relates to this particular piece of legislation and also came to the conclusion that the Government at the time, led by the Member for Siparia, did not want to pass the legislation because they only passed it with a couple months to go in office, with our term coming to an end.

But I want, Mr. Deputy Speaker, to quote from an article today, in today’s *Express*, written by the former Member for Caroni Central, Dr. Bhoendradatt Tewarie, a former Minister of Planning and also the Member of Parliament for
Caroni Central, under the headline or under the heading “Creating highways to corruption by making procurement law toothless”. And I want to put this in a historical perspective to also, because, Mr. Deputy Speaker, when the Member for Siparia campaigned to convince the population of this country that the UNC and the partnership needed the support to become the Government of Trinidad and Tobago, Mr. Deputy Speaker, we committed ourselves to facilitating or following through on procurement legislation. The work begun in about 2012 and I want to quote:

Mrs. Kamla Persad-Bissessar as Prime Minister assigned me as a Senator of Planning and Sustainable Development to chair the JSC on procurement to get the job done.

This was 2012 after the committee had already met for one year without making much headway. One year without making such headway so the work begun in 2011.

**Mrs. Robinson-Regis:** Mr. Deputy Speaker, Standing Order 55(1)(b). This has been traversed several times.

**Mr. Deputy Speaker:** All right, Member, I will give you a little leeway, but tie in the point because again we are on almost the 12th speaker and it has been said on numerous occasions. So again tie it in quickly and move on please.

**Mr. R. Indarsingh:** I am guided. I am responding to the Member for Arouca/Maloney, because you see we wanted to move on, we wanted to get on with the work as it relates to the procurement legislation and if you would permit me just one paragraph to tie in the point and embellish the point, Mr. Deputy Speaker.

When in Opposition the Prime Minister Keith Rowley, as Leader of the
Opposition then, who as a Member of the Joint Select Committee blocked and tackled for years, pulled his team from the committee in an attempt to derailed the work of the committee, and because of this act of irresponsibility [Desk thumping] I had to change the structure of the quorum which then required one Member of the Opposition to be present for a quorum, two representations of both Houses of Parliament instead. In order to make derailing and sabotage of the committee’s work continuing impossible, I took the job of getting strong legislation passed by Parliament seriously and in spite of many setbacks got it done. That is the commitment, that is the work of the party that I belong to, the Government which I belong to, and to hear that the Member for Arouca/Maloney stand and say that we did not want to pursue, we did not want to persevere, Mr. Deputy Speaker, it is pure hypocrisy on the part of those on the other side. [Desk thumping]

And, Mr. Deputy Speaker, we must understand you know, and I could understand because you see we all have a responsibility in terms of accountability and transparency in the affairs of the Government of Trinidad and Tobago. We all have that responsibility, and the Opposition is fulfilling its responsibility here this evening. I want to ask Members of the Government—because one of the objectives of the Act is to promote local industry development, sustainable procurement and sustainable development in public procurement and the disposal of public property, and it defines sustainable procurement as a process whereby public bodies must meet your needs for goods, works or services in a way that achieves value for money on a long-term basis in terms of generating benefits not only to the public body but also to the economy and the wider society whilst minimizing damage to the environment.

And, Mr. Deputy Speaker, we have heard about the establishment of the
Office of the Procurement Regulator, we have heard about the hiring of the procurement regulator and the establishment of the public procurement revenue board, and so on, and the procurement depository, and so on, but in proposing the amendments and in piloting the amendments here, Mr. Deputy Speaker, I have not heard what the Government has done to move the implementation of what we would term “sustainable procurement” and this goes beyond process and procedure. It calls for a fundamental change in the thinking and mindset, a fundamental change in culture.

7.45 p.m.

And under the parent legislation, Mr. Deputy Speaker—because during his contribution when the Prime Minister made his intervention, and I am trying to find my notes as it relates to what the Prime Minister said. And the Prime Minister during his contribution indicated that if the Cabinet is not to procure—he bobbed and weaved and was full of a certain deportment and energy to tell us what to do, and the law calls for procurement units in every public body, Government Ministry or department and he hoped that the country will become less corrupt.

Mr. Deputy Speaker, in relation to the parent Act, a public body takes into consideration the Office of the President, the Parliament, the Judiciary, the Ministry or department of a division of a Ministry, the Tobago House of Assembly or a division of the Tobago House of Assembly, a municipal corporation established under the Municipal Corporations Act, a regional health authority established under the regional health authority, a statutory body responsibility—for which is assigned to a Minister of Government, a State-controlled enterprise, a service commission established under the Constitution or any written law. And I could go on and on.
And what is important in terms of—in addition to the proposed amendments, we have not heard the Government speak as it relates to the operationalization of the Bill, of the process. And I ask today and I hope that the Minister of Finance in his winding up to this particular piece of legislation here today could tell us how many Government bodies, state agencies are fully manned with procurement units and the relevant or the accompanying handbooks and so on? How many members of the public service, whether in the established organizational structure or what we would call contract labour, have been properly trained as it relates to what will entail procurement units in the respective Government departments? Not one of them have sought to address that here today, whilst the Prime Minister will tell us that he expects Trinidad and Tobago to be less corrupted based on what the Government is doing. This is a sham. This is a public relations exercise on the part of the Government of Trinidad and Tobago, [Desk thumping] and this is why the Opposition has a responsibility to call them out and to indicate to the national community why the Parliament is being abused.

Mr. Al-Rawi: Thank you, my colleague, for recognizing. I respectfully stand on Standing Order 55(1)(a) and (b).

Mr. Deputy Speaker: Overruled.

Mr. R. Indarsingh: Thank you, Mr. Deputy Speaker. So the Government must walk the talk and this is a reason why we have a responsibility to tell the national community again and again that we cannot trust the Government based on its modus operandi and its intention.

And, Mr. Deputy Speaker, as it relates to the issue of operationalization and regulations and so on, I want to just reflect a bit because the Minister of Finance during his presentation launched, what I would call, a broad-based attack on the
Public Procurement and Disposal of Public Property (Amdt.) Bill, 2020 (cont’d)
Mr. Indarsingh (cont’d)

media of Trinidad and Tobago today. I think this was really a dark day because the media is part of what we would term to be the fourth estate in the country.

Mr. Deputy Speaker: Member, you have two more minutes.

Mr. R. Indarsingh: And the media has a role in preserving the interests of all of citizens of the country, and the Minister for some reason seems to be obsessed with the Express because he took a similar line in 2019 when the Express did an editorial which he termed to be “misleading and uninformed”. And the hon. Minister indicated that he has taken note of the uninformed and misleading editorial in today’s Express, that is the 14th of January, which he claims that having received the draft regulations from the procurement regulator just over one month ago. And he went on to say that section 63 of the Act makes it clear that the public procurement legislation is made by the Minister on the recommendation, and if he believes that they—or if the Express believed that the Minister must be a rubber stamp or a post office box. But the Minister has not demonstrated in any form and fashion his commitment to procurement and moving the process forward and so on. And that is why the Express, like other arms of the media, is concerned about the direction that this Government has taken as it relates to the proposed amendments here today and the billions of dollars of taxpayers’ money. The media has a responsibility to play its role from the point of view of efficiency and accountability in the transparency of taxpayers’ money and also, if the Minister should be willing to answer why has the Trinidad and—

Mr. Deputy Speaker: Hon. Member.

Mr. R. Indarsingh: —Tobago Chamber of Commerce called him out on the proposed amendment to section 7 of the Act. I thank you, Mr. Deputy Speaker. [Desk thumping]
The Minister of Finance (Hon. Colm Imbert): Thank you very much, Mr. Deputy Speaker. Let me just deal with a point made by the last contributor and I would urge all Members of Parliament—we are all parliamentarians here, we all enjoy freedom of speech and I do not think any Member of Parliament, whether on the Government side or the Opposition side should encourage MPs not to speak out. I think it is really unfortunate that a Member of Parliament would seek to imply that the media has some sort of superior right of free speech to Members of Parliament and that really weakens the positions of MPs, [Desk thumping] and you are encouraging the media in their mistaken belief that they, in articulating views and opinions and facts, are superior to Members of Parliament. This is something we as MPs must guard very jealously. [Desk thumping] So that, in my opinion, was an egregious error on the part of the Member of Parliament for Couva South. “Doh encourage them.” We have every right to say what we feel [Desk thumping] and we have every right to state our opinion and we have every right to criticize the media as they criticize us every single day. I have no particular issue with the Express. The Guardian and the Newsday are equally guilty, so I am not singling out anybody and I am not afraid of them. So let me move now to the issues at hand. I took some notes of comments made by the Leader of the Opposition and the Leader of the Opposition told us that the reason why the UNC is opposed to the clause in the Bill which seeks to exclude government–to-government arrangements from the authority of the Office of Procurement Regulation—and I recorded what the Leader of the Opposition said, that there is corruption in government-to-government contracts and that is why these arrangements must be stopped.

So let me go back to my list, Mr. Deputy Speaker. You had under the UNC
a government-to-government arrangement for work on the National Academy for Performing Arts and the Leader said there has been corruption for years in government–to-government arrangement. So is the Leader of the Opposition saying there was corruption in the arrangement for additional work on the National Academy for Performing Arts under the UNC? The Couva children’s hospital, I can remember so well when they opened a non-functional hospital just before the elections, a non-functional hospital. It was still a construction site, still had work to be done. Was that Couva children’s hospital one of those government-to-government contracts which was corrupt? The sporting facilities: the aquatic centre, the cycling centre, done under the UNC in a government–to-government arrangement with China. Is the Leader of the Opposition saying that government-to-government contract was corrupt? And the famous Chinese long-range patrol vessel. And I repeat and I take possession of my words. I am satisfied that it is true that on a visit to China, the then Prime Minister, the Member for Siparia, saw a Chinese vessel and said, “I want one like that.” And I am taking possession of these words, Mr. Deputy Speaker. Let them prove me wrong. Was that government–to-government arrangement for that Chinese vessel corrupt? [Desk thumping]

And you know, we have a lot of political hypocrisy in this Parliament today. I heard the Member for Oropouche East—if there ever was somebody who engages in political hypocrisy, it is him—complaining about government-to-government arrangements and dredging up the ghost of Lockjoint. I happen to know personally, and I am taking responsibility for these words, that the Member for Oropouche East was intimately involved in the negotiations for the government to government contract with the Austrian Government for the Point Fortin Hospital
project, intimately involved and he will come here in this House and be such a
political hypocrite to say that these government-to-government contracts have
corruption. He was involved in the negotiation for the Point Fortin Hospital [*Desk
thumping*] and I say that without any fear of contradiction. Let them prove me
wrong.

So I really would like to know, these one, two, three, four, five and that is
five that are on this list, “ah sure it have more”. These five government-to-
government contracts, were those the ones the Member for Siparia said were
corrupt and that is why we must stop this? It is just words, Mr. Deputy Speaker.
They just throw out words, words that have no meaning. Absolutely no meaning.

And what is disappointing about this debate, Mr. Deputy Speaker, what is
disappointing is that there is a lack of recognition of the fact that the whole
question of procurement is a very complex area of law, it is not for amateurs. I
would not dare to come in here and talk at length about open heart surgery, I know
nothing about that, and I doubt few others in here who are not medical doctors
would dare to venture into the intricacies of open heart surgery. But everybody
and their “nennen” feels they are an expert on procurement, everybody inside of
here thinks they are an expert on procurement. They have no training in the
subject matter, they have no knowledge in the subject matter but they want to talk.

So, Mr. Deputy Speaker, let me just say a few things. I would have expected
one of the luminaries on that side to talk about a concept in procurement that is
called public-public cooperation. Now this has been written on extensively. There
are many books on the subject of public-public cooperation. I would have
expected the luminaries on the other side to do some research into the procurement
rules and regulations in the European Union. It is one of the most advanced areas
in the world as far as public procurement law is concerned. I would have expected the luminaries on the other side, if they really wanted to debate this amendment, to come and explain the rationale behind the exemptions in the European public procurement law and one of the most primary exemptions is the exemption of public-public cooperation. It is in the European law and if contracting states decide to cooperate in the public interest by entering into a contract between themselves—so Germany will want to enter into a contract with France in the public interest—it is exempt from the procurement regulations in the European Union. Standard practice all over the world. Public-public cooperation, that is what it is called. Not one of them bothered to read one single semicolon in the literature with respect to why you exempt public-public cooperation. Instead, they just came, they regurgitated wholly irrelevant things, they repeated themselves and that is why there were so many points of order. All wholly irrelevant. Wholly irrelevant.

It is a feature of world procurement that when sovereign governments seek to contract with the other in the public interest, this contracting is not subject to normal public rules and the operative phrase is, “in the public interest”. So the Couva hospital was in the public interest. The Cape-class vessels from Australia are in the public interest and I reject absolutely the half-baked amateur contributions about what is required in an arrangement between two public authorities in the public interest. And I would urge those who want to talk about these things, do some research, understand procurement law. [Desk thumping] It is embarrassing. Absolutely embarrassing.

And just to answer one of the things that was shouted out by the Member for Oropouche East that he referred to a statement made by me about bribery and he
said, “Ah shoulda take yuh to the police”. Well, for your information I did. There is a written report to the Commissioner of Police about the attempted bribery in respect of a contract in the airport [Desk thumping] and I also put on record that I am on affidavit in a matter dealing with prosecution of international fraud with respect to attempted bribery with respect to that project. “I doh fool around.” The Members opposite just like to talk. I am putting on record, yes, that matter was reported to the police by me and I am on affidavit in respect to that matter. “I doh joke around.” So I just put that into the record to debunk that nonsense.

So let us go now to what we are being told. We are being told that the Office of Procurement Regulation is not in agreement with the amendment to clause 5. And before I go to that, let me just deal with a matter raised by my colleague, the Minister of Planning and Development. And we have indeed made a very sophisticated amendment to the clause and definition that deals with bid rigging. Previously, the clause was a bit weak and it is simply spoke about collusion in the tendering process. We have brought in a definition and this comes straight out of the European Union procurement rules. We have expanded the definition to make it clear what collusion is:

“‘bid-rigging’ means collusive price-fixing and anti-competitive behaviour designed to unfairly influence the outcome of a competitive tender process in favour of one or more bidders;”

And there is a matter before the court, I would not say what it is, but there is a matter before the court—and the Member for Oropouche East always gets very sensitive when that matter is brought up—where there are allegations of collusive price-fixing and anti-competitive behaviour with respect to contracts awarded under the UNC administration. So we are now seeking to tighten that definition so
that will come to an end hopefully. [Desk thumping]

But let me now go, Mr. Deputy Speaker, to the points made by the Office of the Procurement Regulator telling us that we should not amend section 7 of the Act and we should not exempt government-to-government arrangements from the ambit of the procurement regulator. My colleague, the Attorney General, made the point that in a matrix presented to this PNM Government and also presented to others with respect to what is the applicable law in all the other countries that have procurement legislation, that in the majority of countries that have procurement legislation, government to government arrangements are exempt from the normal rules of procurement. That is a fact.

And that brings me now to a matter—again, I am very disappointed in some of the submissions from the persons on the other side who somehow were called to the bar. I still wonder about that how some of these people were called to the bar. But there is an interesting case, Mr. Deputy Speaker, very interesting case which deals with the whole question of the separation of powers and the whole question of section 13 of the Constitution. And in that particular case, Mr. Deputy Speaker, what the court was looking at was the whole question as to how section 13 of the Constitution operates.

And in that matter, Mr. Deputy Speaker, the whole question of what is reasonably justifiable was examined and section 13(1) speaks to what is reasonably justifiable in a society that has a proper respect for the rights and freedoms of individuals. In this particular case, there was discussion of something called the Bereaux approach, and the Bereaux that is being spoken about here is Justice of Appeal Bereaux, and Justice of Appeal Bereaux looked at three cases. He looked at Morgan v the Attorney General, he looked at de Freitas v the Permanent
Secretary of the Ministry of Agriculture and he looked at Attorney General v Northern Construction. And if I were to summarize the discussion of the Bereaux approach, Bereaux—and I am reading now from the judgment:

“Bereaux…went on to state that in deciding whether section 13(1) is breached, in following the Templeton approach…”

—and that is Lord Templeton we are speaking about—

“…which he accepted, the court is entitled to compare the legislation at hand with comparable legislation from other democracies.”

And that is what is important. The fact of the matter is all over the world, government–to-government arrangements are exempt from normal procurement arrangements. It is in legislation and it is in practice.

The reason why I have read this is because I heard that weak amateur attempt to tell us that this legislation requires a special majority because it breaches section 13 of the Constitution. And that is why I have referred to this particular case law where Justice of Appeal Bereaux made the point that the court is entitled to compare the legislation at hand with comparable legislation from other democracies. And if virtually all other democracies exempt government–to-government arrangements from procurement regulation, then I think we on this side will be very safe. The Members opposite are free to go to the court and try and prove that the amendment to section 7 breaches section 13, but I will have a very hard time and I would have hoped that in this discussion, that is the kind of in-depth learning we would have been subjected to. All I just heard was “rah-rah” from the Members on the other side, a set of noise, a set of amateur submissions.

As the Prime Minister has pointed out, we are of the view that it is in the public interest to exempt government–to-government arrangement from oversight
of the procurement regulator and we are firm in this view and we have stated this view over and over and over for years. And the whole point of what we are doing today is we must get on with the job, we need to proclaim the Public Procurement Act, and if we are caught in endless arguments, circular arguments over and over, over this section in which we, the elected officials; we, the accountable people; we, the people who have been elected by citizens to represent them, if we are firm in our view that it is in the public interest to exempt government–to-government arrangements from the oversight of the procurement regulator, then we would be delinquent in our duties to allow this to further delay the proclamation of this Act and we have no intention of doing so.

[MADAM SPEAKER in the Chair]
We believe that we are correct. We believe there is sufficient precedent for this, there is sufficient authority for this and we believe this is the right thing to do. This is why we have brought this matter to the Parliament today and this is why we will ask for this matter to be put to the vote.

The only other thing I would want to say.

PROCEDURAL MOTION

The Minister of Planning and Development and Acting Minister of Housing and Urban Development (Hon. Camille Robinson-Regis): Madam Speaker, I beg to move that this House continue to sit until the conclusion of all the matters before it.

Question put and agreed to.

PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY (AMDT.) BILL, 2020

Hon. C. Imbert: Could you tell me how much more time I have, Madam
Speaker?

Madam Speaker: You have one minute.

Hon. C. Imbert: Right, I was about to wrap up. I simply want to dismiss out of hand as absolutely absurd propositions from the other side that if a Member of Parliament requires surgery to save his life or her life, we need to get three quotes for that and subjected to oversight by the regulator which as the AG has said could take 123 days. I reject that as absurd. And I reject as absurd that when we want legal services, we must put that out for three quotes which could end up with somebody who is in opposition to the Government providing the lowest bid. I beg to move, Madam Speaker. [Desk thumping]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

8.15 p.m.

Madam Chairman: Can we do one to two and then three and then we do the rest en bloc? Okay? Thank you.

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

Clause 3.

Question proposed: That clause 3 stand part of the Bill.

Madam Chairman: Minister of Finance.

Mr. Imbert: Thank you very much Madam Attorney General. Sorry, sorry. I went way back in time, Madam Speaker. I went back about 10 years.

Madam Chairman: It must be something with the Attorney General. I almost called you the Attorney General.
Mr. Imbert: You almost called me that? Okay. An amendment has been circulated. It is really a stylistic approach. This is what has been put to us by the Chief Parliamentary Counsel and I accept the CPC’s learning. So I would just ask Madam Chairman that we amend 3:

Delete and replace with the following:

This Act shall come into effect on such date as is set by the President by Proclamation.


*Question put and agreed to.*

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

*Clauses 4 to 10 ordered to stand part of the Bill.*

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

*House resumed.*

Mrs. Robinson-Regis: Madam Speaker, before we resume may I just point out that the Opposition once again has more Members than are allowed at this time. [Crosstalk] I try my best.

Madam Speaker: Whip, could you just sort that out please? Now Members do appreciate if there is a call for a division, there is an established protocol that we follow. Okay? So unless that occurs, we know our balance will be maintained by our Whips. Thank you.

Madam Speaker: The Minister of Finance.

*Bill reported, with amendment.*

*Question put:* That the Bill be now read a third time.

Mrs. Robinson-Regis: Division.
Madam Speaker: Okay, so Members now that we have called for a division, we all know that Members will be allowed a maximum of three minutes to return to the Chamber before we begin the count. When we begin the count, even though a Member is not in here, the Member would be allowed to vote once we have not announced the numbers. The Marshal and the assistants will call Members in. So we wait three minutes from now.

Madam Speaker: Hon. Members, the division will now commence. Clerk.

The House divided: Ayes 21 Noes 18

AYES
Robinson-Regis, Hon. C.
Rowley, Hon. Dr. K.
Al-Rawi, Hon. F.
Imbert, Hon. C.
Young, Hon. S.
Hinds, Hon. F.
Deyalsingh, Hon. T.
Forde, E.
Webster-Roy, Hon. A.
Cudjoe, Hon. S.
Gadsby-Dolly, Hon. Dr. N.
Gonzales, Hon. M.
Mc Clashie, Hon. S.
Cummings, Hon. F.
Richards, K.
Manning, Hon. B.
Public Procurement and Disposal of Public Property (Amdt.) Bill, 2020 (cont’d)  

Leonce, Hon. A.
Morris-Julian, Hon. L.
De Nobriga, Hon. S.
Scotland, K.
Munroe, R.

NOES

Lee, D.
Persad-Bissessar SC, Mrs. K.
Ameen, Ms. K.
Charles, R.
Moonilal, Dr. R.
Paray, R.
Indarsingh, R.
Bodoe, Dr. L.
Hosein, S.
Padarath, B.
Haynes, Ms. A.
Tanoo, D.
Mohit, Ms. V.
Rambally, D.
Ragbir, Dr. R.
Ram, A.
Seecharan, Dr. R.
Ratiram, R.

Question agreed to.

UNREVISED
Bill accordingly read the third time and passed.

**Madam Speaker:** Minister of Finance.

**MISCELLANEOUS AMENDMENTS**
**POWER OF STATUTORY AUTHORITIES**
**AND MATTERS RELATED TO CERTAIN BOARDS** BILL, 2020

**The Minister of Finance (Hon. Colm Imbert):** Madam Speaker, I beg to move:

That a Bill to amend the National Lotteries Control Act, Chap. 21:04, the Tobago House of Assembly, Chap. 25:03, the National Institute of Higher Education (Research, Science and Technology) Act, Chap. 39:58, the Children’s Authority Act, Chap. 46:10, the Water and Sewerage Authority Act, Chap. 54:40 and the Trinidad and Tobago Electricity Commission Act, Chap. 54:70 to provide for amendments to the composition of various boards and the borrowing powers of certain boards and matters connected therewith, 2020 be now read a second time.

Madam Speaker, the Bill before the House has a few clauses, exactly eight, and I will go through them. The first two clauses are the standard clauses. The first clause is the title. The second clause is the commencement provision.

In the third clause we are amending the National Lotteries Control Act to increase the size of the board. Madam Speaker, this is a very old piece of legislation which has been in effect in Trinidad and Tobago for many, many years, and for some reason, it is quite unusual, the board of the National Lotteries is limited to five persons, a chairman and four others. And this, over the years, has made it difficult for respective governments, whether this Government or the one before, or others before, to appoint persons with the necessary skill set, necessary range of expertise and training and also to allow members of that board to be part
of committees that deal with various matters that would come before the Lotteries Board to function effectively.

With a board of just five people, if two people are absent or three people are absent, it would make it impossible for the board to function. So this very simple amendment is simply deleting the word “for”, as I indicated in section 3(2) of the Act, the chairman plus four. We are now making it the chairman plus eight. And I think Members opposite will understand the practicality of this amendment. It is an anachronism to have a board as important as this limited to just five people.

The next clause in the Bill amends the Tobago House of Assembly Act and it inserts after section 51 in that Act the following section 51A:

The Secretary may, with the approval of the Minister, raise money by the issue of securities for the purposes of meeting any of the obligations and discharging of any of the functions of the Assembly;

The Minister may guarantee the discharge by the Assembly of its obligations in respect of any issuance of securities under this section in such manner and on such conditions as he thinks fit; and

For the purpose of this section, “security” has the meaning assigned to it under the Securities Act.

Again, Madam Speaker, this amendment is borne out of practicality.

Under the previous UNC administration, and actually I have to stop saying that, it is the former, former because we now have won two elections back-to-back. But under the UNC administration of the 2010 to 2015 period, there was a famous case with respect to a building being constructed for the Tobago House of Assembly and a debate as to whether the House of Assembly was empowered to enter into, build/own/lease transfer arrangements with a contractor to construct that
building. That matter is still before the courts, so I would not go into any great detail. It is sub judice. That is a fact, unlike some of the other matters we heard today where no evidence was presented. I do not doubt that it may be so, but no evidence was presented. But I can tell you factually there is a matter before the courts. The House of Assembly won the matter at first instance. The matter went to appeal. It was reversed and it has now gone to the highest court for a final determination. But the dispute in that particular piece of litigation was over the borrowing powers of the Tobago House of Assembly.

Quite recently, in a previous budget statement, I announced that the Tobago House of Assembly would be given authority by the Minister of Finance to enter into loan financing arrangements for development projects in Tobago. The House of Assembly has been engaged for quite some time now in seeking to raise the necessary finance for these development projects, primarily infrastructure projects in Tobago. And that was a decision on the part of the Government to assist the Tobago House of Assembly and by extension the residents of Tobago to get more access to funding to do infrastructure work and development projects in Tobago. And the House of Assembly has run into some difficulty because there is an interpretation of the law that the Minister of Finance can authorize direct borrowing by the House of Assembly from a single financial institution.

But it is the norm in the modern era, Madam Speaker, that quite often when government or quasi-government entities go to market to raise financing, that the financing is done by the way of a syndicated loan arrangement where a number of commercial banks and financial institutions would participate in the financing. So in this particular case, the Tobago House of Assembly went to market and it was difficult for the bank involved to arrange, out of its own resources, the entire
$300 million. The bank had the ability to disburse a smaller amount.

But if it was a syndicated loan arrangement, where a bond would be issued, and this is where the definition in this clause comes into play. That is:

For the purposes of this section “security” has the meaning assigned to it under the Securities Act.

So if the financing could be done, by way of a bond, which is a security, then there was sufficient liquidity in the banking sector to easily raise the $300 million. But one single bank at this time does not have the capacity to give the Tobago House of Assembly the $300 million.

So we are changing the Act, the Tobago House of Assembly Act to allow the Tobago House of Assembly to borrow, either by way of direct loan financing or by way of a security, namely a bond, a syndicated bond with the approval of the Minister of Finance and that is the purpose of this amendment and the protection that is being given here is that it must be done with the approval of the Minister of Finance.

And by the way, just as an aside, the dispute with respect to that other matter, which is before the court still was as to whether the Minister of Finance had given approval or not. That does not apply in this case because we are making it crystal clear that the borrowing must be done with the approval of the Minister of Finance whoever he or she may be.

The fifth clause amends the law, with respect to the National Institute of Higher Education, Research Science and Technology; the acronym is NIHERST for those who may not be aware. And again that Act is an anachronism where it mandates a fixed board comprising 14 persons. And it is even more anachronistic in that it does not specify any specific qualifications and experience for those 14
people. It simply says it must be 14. And again it is difficult to find 14 people who would want to serve on the board of an entity of that nature. So it is simply to make it easier for this Government and any other government that may come afterwards. We are simply reducing it from 14 to seven and we think seven is appropriate for the size of that board of that institution. So there is no mischief in any of this.

And in fact NIHERST has suffered over the years in this Government and other governments, even the UNC Government, in that from time to time there were not 14 members on the board of NIHERST, which rendered the board functus. So we are just clearing that up and now changing it from 14 to seven.

With respect to the Children’s Authority Act, and again the purpose of the amendment to the Children’s Authority Act is quite simple and it changes the age of the person representing youth on the board, from 30 to 35 years.

The next amendment is an amendment to the Water and Sewerage Authority Act and this follows again the amendment we are proposing for the Tobago House of Assembly to allow the Water and Sewerage Authority to borrow, either by way of a direct loan from a single financial institution or by way of a syndicated loan, through a bond issue of security from a series of financial institutions. So it is identical in intent and effect to the amendment to the Tobago House of Assembly Act.

Similarly, Trinidad and Tobago Electricity Commission, we are amending the Act in a similar way by allowing the Electricity Commission to borrow for purposes that the Minister of Finance may approve. Again, that is a very old Act which has limited the Trinidad and Tobago Electricity Commission in its borrowing and we have also included now the definition of “security”. So again,
the Trinidad and Tobago Electricity Commission can borrow for infrastructure needs, for development purposes, for procurement of equipment, for improvement of the electricity supply, by way of a syndicated financing arrangement.

I beg to move, Madam Speaker.

Question proposed.

Mr. Rushton Paray (Mayaro): Thank you, Madam Speaker. Madam Speaker, thank you very much for acknowledging me to join and respond to the Minister of Finance on this very short, but very critical piece of legislation that raises a lot of questions in the public domain.

Madam Speaker, it is really baffling to see that the Government has lumped several distinctive and different pieces of measure into this single catch-all Bill. It is what I refer to it as. This seems to be a legislative shortcut that really is resulting in these very important matters not receiving the sufficiency of consideration during the debate that should happen in this House and in the other place.

Madam Speaker, this Bill that the Government has brought before us today is seeking to grant the authority to three of the most inefficient and poorly-administered public entities to borrow money to continue to run their debt-ridden organizations, Madam Speaker.

Madam Speaker, without any checks and balances, this would almost surely lead to further waste, lack of accountability and efficiency. This Government’s response, Madam Speaker, to waste, disorganization and lack of transparency clearly is to give more money to the current administrators; in other words, throw more money down an ever-deepening hole, Madam Speaker.

Madam Speaker, if we look at the clauses that have been presented by the Minister of Finance before us today. Let us start at clause 3, where the
Government is expanding the board members of the National Lotteries Control Board from four to eight. And Madam Speaker, I would like to ask: What are the skill sets, if any, is the Government seeking to attract by increasing these numbers? What is the position of the board, and what is this new skill set they are bringing on to increase the efficiency of that organization? The Minister has not provided that information, Madam Speaker.

Madam Speaker, is the increase in numbers fixing a legal or an administrative failure of the existing board? The Minister has failed to advise, if that is the case as well.

8.45 p.m.

Madam Speaker, by raising from four to eight, would this lead to greater efficiencies or profitability at the NLCB? Madam Speaker, instead of expanding the number of directors it may have been better judgment to appoint more competent and more knowledgeable directors in the industry to ensure profitability of the organization.

Madam Speaker, if we go on to clause 4 and to me, Madam Speaker, this is probably one of the most potentially dangerous and reckless measures that this Government can take it this time. And I will tell you why. Madam Speaker, this clause is giving the Tobago House of Assembly some powers to borrow money on their own. And all we have to do is to look at the track record of the THA, Madam Speaker. The Tobago House of Assembly has had a long track record of playing fast and loose with the public purse, Madam Speaker. In 2016, if I can take you back to the Auditor General’s Report, Madam Speaker, one example, it revealed that vouchers totaling $500 million were not produced for examination.

Madam Speaker, another report in 2013 of the same Auditor General’s
Report revealed that the THA had exceeded its approved estimates by $23.7 million. In 2013 as well, Madam Speaker, the THA was the only public entity to have overspent. So this is why I am very guarded by this particular measure, Madam Speaker.

The Auditor General has repeatedly reported that the THA was not transparent, accountable, or compliant with tax payer’s dollars. As recently as 2017, Madam Speaker, there was a difference of $703 million between the balance in the cashbook and the sum shown in the bank reconciliation statement.

In 2014, Madam Speaker, my research revealed that the THA breached financial codes and spent an additional $49 million on the URP Programme. Madam Speaker, and it can go on and on and I am very wary that the State, that the Government is allowing this particular enterprise the opportunity to be able to borrow more money on its own, adding to an already overburdened national debt, Madam Speaker.

Madam Speaker, the THA’s financial predicament has a lot to do with mismanagement and the absence of oversight, transparency, and accountability. Granting the THA the additional right to raise funds in its operation is like giving someone the keys to the vault. The Government is simply funding this inefficiency, Madam Speaker.

Madam Speaker, if we look at clause 6 it is a duplication of the power that is going to be given to the Tobago House of Assembly, to the Water and Sewage Authority. Madam Speaker, clause 6(1). I ask the question: What is the intention and the need to increase the number of directors of the Water and Sewerage Authority from nine to 11? Again, the same questions of what is the missing competency? What is the gap that they are trying to fill? The Minister has not
advised this House as to the rationale behind this increase in the board of directors. Is there a particular skill that they are looking for, a skill that the board does not have and they are increasing the numbers to bridge that gap, Madam Speaker?

Madam Speaker, clause 6(2) is another example of again taxpayer’s funds being open to more waste and mismanagement at the end of the day. By the Government’s own admission Madam Speaker, WASA is over-staffed by about 2,000 workers. I believe that this measure is really an attempted sleight of hand by the Government. And I will explain to you why, Madam Speaker.

I recall vividly in the budget presentation of the Minister of Finance he said that the annual subsidy to WASA was being reduced from $1.6 billion to $1 billion. I, like many taxpayers in this country, naturally would have felt that at long last WASA was being made to put into some efficiency system and perhaps get along and pay its own way as you go along. But instead, Madam Speaker, we are seeing here today that WASA is going to be given the ability to borrow money internally. Is that an option where the State does not give them the money, but they can borrow on their own so the net effect remains zero? We end up back in the same position. I am wary of that, Madam Speaker. Perhaps the Minister in his wrapping up, he can identify what was the rationale behind that.

Madam Speaker, what is also more surprising is that this measure concerning WASA is before us today and it is even before the Cabinet sub-appointed—that committee on WASA even submits a report. So, this measure is being taken without the benefit of that report that is supposed to put WASA on a particular track towards efficiency and better service, Madam Speaker. I am surprised that this has come before that.

Madam Speaker, even before the report is presented the Minister of Public
Utilities as well in the public domain has said that there would be an increase in tariffs at some point in time for more efficiency. So again, you have this request for borrowing coming before even that report and having the Minister speak about the increase in tariffs and so on. I find it a bit confusing and a bit surprising that this is before us here today. So what it is telling me, Madam Speaker, with the ability of WASA to borrow customers may be continuing to pay for WASA’s inefficiency without any sort of guarantee of an improvement in supply of water, an improvement in services in general, and, Madam Speaker, you would know the constituency that I represent we are burdened and saddled with issues of water on a continuous basis.

Madam Speaker, if we look at clause 7, clause 7 again it is a replication of the issue with the Tobago House of Assembly with WASA where there is an attempt again to allow a debt strapped enterprise to borrow money on its own. I know the Minister spoke about a specific type of borrowing and so on, but when you look at the debt that has already accumulated in these agencies, Madam Speaker, it worries me that we are giving these agencies free reign to go and borrow more without a serious consideration or a conversation about increasing efficiencies and so on.

So, Madam Speaker, if you look at T&TEC, T&TEC itself currently has a debt of over $4 billion. So I am wary that we are giving them the authority to borrow more money on top of that. Madam Speaker, as with WASA and T&TEC the Government should really insist part of the rationale to allow them to borrow more money is that they must show a clear path to become efficient and be financially solvent within a specific time frame rather than giving them this open cheque book to borrow money.
Madam Speaker, the Government is increasing the debt burden on taxpayers. The national debt including contingent liabilities is more than $125 billion. You know there are many in the country, Madam Speaker, who keep saying that you know we are mortgaging the lives of our children and our grandchildren by adding more debt on to this that we already have. So Madam Speaker, while the Bill seems to be a very simple one with just 8 clauses it speaks to some serious financial ramifications. And the Minister in his opening has not—and I know he had half an hour and he did not use it—I was expecting the Minister to really come and explain in some more detail the rationale behind several of those measures.

So Madam Speaker, I just want to the close by stating that we all in this country understand the state of the economy, the state of the finances of the treasury and we need to be more prudent. We need to let these State organizations be more efficient and put some more controls in terms of how they borrow, what they borrow, when they borrow. So, Madam Speaker, with those few words I want to thank you.

**Madam Speaker:** Member for Fyzabad. [*Interruption*] You will give way? Sorry Prime Minister, I did not see. [*Desk thumping*]

**The Prime Minister (Hon. Dr. Keith Rowley):** Thank you very much, Madam Speaker. My apologies for my late recognition, I thank my colleague from Fyzabad for giving way. [*Desk thumping*]

Madam Speaker, this being a debate, I thought I would join based on what is the flavour of the moment. The Member for Mayaro has represented his party well and for that he should be congratulated. This is not the first time that Tobago is presented in this way Madam Speaker. I simply want to remind my colleagues on the other side, especially the new ones, that the name of this country is Trinidad
and Tobago.  [Desk thumping] And if Tobagonians were as cantankerous and as unreasonable as you are they would ask their representatives in this House—and I am not one of them I am Diego MartinWest—but they would ask their representatives to tell you that if you are not prepared to acknowledge Tobago’s interest in this country then you are not qualified to speak about Tobago.  [Desk thumping]

Yes, this matter has to do with the Tobago House of Assembly and everything that he has said about the Tobago House of Assembly this evening can be easily said and more about the corporations in Trinidad. So to use the Auditor General’s Report to recognize that there is a place called Tobago, is simply trying to place a wedge in a crack that you think you observed.

Madam Speaker, I am not here this evening to defend the Tobago House of Assembly’s record in the Auditor General’s Report because I know how those reports are written and I know how to read them and how to interpret them. The fact that it has been said that $700 million was not seen recorded one way in one book and the other book. I do not jump to the conclusion that somebody has stolen it, or that that should disqualify the Assembly and the people of Tobago from achieving their aspirations of what they seem to think is a raison d’être for their being in this nation. They are fighting and in this very Parliament now they are arguing, and we all are working on it, internal self-government. So an argument that you have a problem with how much they get sends the wrong signal to the people of Tobago.

I have heard it said here in Trinidad recently in this Parliament of Trinidad and Tobago by no less a person than the Leader of the Opposition former Prime Minister, who did a computation that to show that Tobago was getting too much,
because that is their attitude. That is their position about Tobago. Every time we are going to do anything here for Tobago the Opposition comes up and makes an argument about it that they are getting too much, and the mathematics was this, divide the population by the budget and that will determine the size of the allocation for Tobago. And Tobago only has 60,000 people and they are getting $4 billion and that is too much. Madam Speaker, that is not how we are going to run and we will run this country. [Desk thumping]

Madam Speaker, the best representation of what has just been presented there about Tobago from Mayaro, from the Member for Mayaro is that we just had a general election, and if you had all this to say about Tobago, why did you not join the general election and say it in Tobago? [Desk thumping] It would have been the correct opportunity to stand in Tobago with your candidate and defend your record and anybody else’s record, and tell Tobago in Tobago that they are getting too much or they are behaving too badly. But you did not do that. You want to run the country but time and again, you would not even put up a candidate in Tobago.

In a matter of weeks there will be a Tobago House of Assembly election, and Madam Speaker, I will be surprised if they put up a candidate. But they will come to the Parliament today and make an issue where there is none about the Government acceding to the request of the administration in Tobago as part of the national financial and fiscal management to borrow money in an authority that has executive responsibility. The Tobago House of Assembly has executive responsibility. [Desk thumping] And if you have a problem with them borrowing money, you should have a bigger problem with them looking after the children in Tobago, the health system in Tobago, the roads in Tobago, and the people of
Tobago.  [*Desk thumping*] Your argument is without merit, without substance or reason.

Madam Speaker, the fact that the THA is going to be allowed to borrow money with the approval of the Minister of Finance under the country’s Constitution is not open cheque to borrow as he has said. It is not an open cheque. As a matter of fact, I would expect the Tobagonians to say—some of them would say that the Minister of Finance should not have to give permission for the THA to borrow, because it making the THA look like a little boy. But there is responsibility and there are checks and balances.

And if the Tobago House of Assembly in managing its affairs in the national allocation of funds in collaboration with the Ministry of Finance under the authority and responsibility of the Minister of Finance who will be the ultimate person who is responsible for any borrowing that they do. Because if they come to the Minister of Finance and request to borrow over and above their allocation or within their allocation, it then will become the duty and the day work of the Minister of Finance to determine whether or not he approves that borrowing.

And therefore, no Member of this House could come here and sensibly say that by allowing them to borrow so that their cash flow or their development programme could be handled more efficiently, is giving Tobago on open cheque. That is just mischief, Madam Speaker, and it fits in with the negative presentation of the entire national business of my colleagues. They seem to know nothing or want nothing with anything good.  [*Desk thumping*] It matters not what you present in front of them, they will come up with some concern, or some issue to portray to the public as though there should be disquiet.

Imagine my colleague from Mayaro gets up here and makes an issue of the
fact that the Government, in managing the affair of State, this Cabinet, this Cabinet which is running the country’s business properly has a working boards committee and in examining the work that has to be done at WASA, the Cabinet determines that WASA would be better served with a slightly bigger board, so that more skills can be put there, so that more sub-committees of the Cabinet can function because WASA is a major billion-dollar enterprise that requires broader management at the level of the board.  

[Desk thumping] But for him that is a big issue. Adding two persons to the board is a big issue. Madam Speaker, I wonder if he knows the antecedents of the party he is a member of.

I recall, Madam Speaker, when the UNC came into Government the number of members on the Central Bank Board was settled for decades. The UNC wanted to get at individuals on the board and could not in the normal scheme of things. You know what they did? They increased the number of members on the Central Bank Board by X where X is any number. I cannot remember the exact number of persons.  

[Interruption]

Hon. Member: They put in seven.

Hon. Dr. K. Rowley: Oh yes, they added seven persons to the Board of the Central Bank to be able to do what they wanted to do on the Central Bank Board and it was all vindictiveness against an individual. And he has the unmitigated gall to represent them today, to come here and ask me and ask my Government, why we are putting two members on WASA board? We are putting two members on WASA’s board to improve the management of WASA in the public’s interest. 

[Desk thumping]

Madam Speaker, given what we are facing at WASA nobody is happy with the arrangement in that organization, but we are not leaving it so. The signal of
putting two persons on that board should have been clear that the Government intends to take seriously what has to be done there. I mean at a recent board committee meeting a case was made and accepted that given WASA’s role that we expected in treating with ground water as against surface water, we need to get on the board of WASA a geologist, especially one that has some ideas about hydrogeology if he or she is available, because such a person would be valuable on the board. And if we can get one or two more engineers and accountants and by the time you look at the broad spectrum of skills that would be required at WASA, an IT person, a human resource person, if we can get 11 people with those skills then you can have sub-committees for the various aspects of work that has to be done.

And that is why, Madam Speaker, today in the Parliament a simple matter of extending the board to 11 to bring those skills there, and how is it interpreted? With the worst possible complexion, because, Madam Speaker, there are some people who believe that nothing good can happen in this country and there is no honest person in this country. I say to them, Madam Speaker, talk for yourself and your dreams and your own vision. [Desk thumping]

Madam Speaker, the THA gets its money in tranches from the Ministry of Finance. The THA is a body which, once its financial accounts are in order, could and should be able to go to a bank and borrow reasonable sums of money, justifying it first to the bank, and secondly, to the Minister of Finance or vice versa. And is all part of a normal operation, because sometimes, Madam Speaker, cash flow—not having the cash flow could be costly. Even though you would pay eventually and have to pay.

The Member made a big thing implying, inserting into his argument that yes,
the Government is giving WASA all this money and now is going to allow WASA to borrow and of course he adds one plus one equals two, in his kindergarten maths and as far as he knows, WASA is going to get twice as much money to waste.

But instead, Madam Speaker, what is it? It is that the Minister of Finance has to borrow and service everybody who he is servicing in the country under the Government’s responsibility. And if there is an agency that ought to have its accounts in order so as to be able to borrow on its own, that is where you need to be rather than have the Minister of Finance borrow it and then pass it to the agency.

By borrowing at central Government and passing it to the agency, that is not the best management model. The best management model is for the agency to be able to manage its own internal accounts by borrowing and spending and then reporting to the Minister of Finance and dealing with it in that way. That is where we are heading because we are fixing problems in this country. [Desk thumping] And we have to have this constant niggling of the worst by people who are either uninformed because today I will simply say my colleague did not mean harm. He was just uninformed on these matters but being in a group—they say if you with the dogs the fleas will be with you.

Madam Speaker, being in a group that has this thing about Tobago, where as soon as you mention Tobago some of them get up in this House and comparing Tobago with the corporation in Tabaquite/Talparo or in Penal or in Chaguanas. Tobago is not a corporation. Tobago is an integral part of the nation of Trinidad and Tobago. [Desk thumping] The name of this nation is not Trinidad and Chaguanas, or Trinidad and Diego Martin or Trinidad and Point Fortin, it is Trinidad and Tobago. And if you all do not understand that you had better
understand it now or be permanently disqualified [Desk thumping] from leadership in this country. Because you cannot run Trinidad and Tobago by treating Tobago in that way and talking about Tobago in that way, and ignoring Tobago in that way. And if you had any appropriate leadership you would not put yourself in this situation.

I thank you, Madam Speaker. [Desk thumping]

Mr. Rudranath Indarsingh (Couva South): Thank you, Madam Speaker, as I join this debate with what I would call a very brief intervention having listened very attentively to the Prime Minister in his discourse and apparently he seemed to have been fixated with the response of my colleague the Member for Mayaro. And the Member for Mayaro was merely utilizing the opportunity afforded to him in participating in this debate to ask questions or seek some answers from the Government of Trinidad and Tobago, as it relates to the intended amendments of the Miscellaneous (Amd’t.) (Powers of Statutory Authorities and Matters related to certain Boards) Bill, 2020. And in piloting the Bill the Minister of Finance indicated that this was a very simple exercise here this evening, and all my colleague attempted to do, based on his knowledge and his research, and based on wanting the Government to continue to be accountable to the people of Trinidad and Tobago, he posed some simple questions. At no point in time did my colleague from Mayaro give any indication that we are opposed to the whole issue of the union of Trinidad and Tobago, or we want to separate Trinidad and Tobago, or this sense of divisiveness that apparently was portrayed by the Prime Minister of the country. Madam Speaker, it is the responsibility of the Opposition to seek the answers and clause 4 of the Bill simply points in the direction of the Bill would amend the Tobago House of Assembly Act Chap. 25:03 by inserting a new section
51A to empower the Tobago House of Assembly with the approval of the Minister of Finance to raise money by the issue of securities for the purposes of meeting any of its obligations or discharging any of its functions. And this clause would also empower the Minister of Finance to guarantee the borrowings accordingly.

And it is also a similar wording as it relates to clause 6 where it states, paragraph b, I am just read a part of the amendment or the intended amendment, Madam Speaker, as it relates to insert a new 26A to empower the Authority with the approval of the Minister of Finance to “raise money by the issue of securities for the purpose of meeting…”—

Madam Speaker: Okay, just for means of clarification because just so we could get the Hansard correct, are you on clause 6 or on clause 7?

Mr. R. Indarsingh: I was looking at clause 4 and at clause 6 in relation to the issue of raising.

Madam Speaker: Okay, so clause 6 in my version of the Bill is the Children’s Authority Act. I do not know if I have a wrong version, because I observed the same thing with Member for Mayaro.

Mr. R. Indarsingh: Okay, well, Madam Speaker, I am reading from a document that I downloaded from the Parliament. I stand to be corrected and guided, but I was focusing on the issue really as it relates to the amendment to the Water and Sewerage Authority Act Chap. 54:40 as it relates to the intended amendment is to insert a new 26A to empower the authority with the approval of the Minister of Finance to “raise the money by the issue of securities…”—for the purposes of—“…meeting any of its obligations…”—or discharging any of its functions.

And the Member simply wanted or was seeking from someone on the side of the Government and probably in his winding up the Minister of Finance probably
to point in some direction of the sums of moneys and so on.

9.15 p.m.

In terms of governance and accountability and so on it was no way intended to try to project like if the Opposition is seeking based on its answers on behalf of the taxpaying public of this country to drive any wedge between the people of Trinidad and Tobago, or that the United National Congress, from a political point of view, and a party’s point of view, is against the people of Trinidad and Tobago—against the people of Tobago sorry, because I could clearly recollect being part of a Government that was led by the Member for Siparia. The conduct and the work of the Government was always on behalf of the people of Trinidad and Tobago, [Desk thumping] and always promoting the union of Trinidad and Tobago, which has existed from a historical point of view.

And we will continue to fulfill that responsibility because we have a current joint select committee of this Parliament examining the work, working towards what you would call internal self-government, and so on, for the people of Tobago from a legislative point of view and the Opposition has its membership from this House and the other place and we are working side by side with the representatives of the Government in achieving the work of the joint select committee which has been established under your watch, Madam Speaker.

But more importantly, Madam Speaker, with respect to the increase in the number of commissioners at WASA and the board being increased from nine commissioners to 11 commissioners, Madam Speaker, as the Member of Parliament for Couva South, I have a responsibility to ask, in the context of the skills sets that the Government is looking for, or seeking to add to the board, what is the specialty that will be added on that will take WASA in a different direction?
Because, Madam Speaker, only yesterday, I think that it was in the public domain that a new board was appointed at WASA, a board that indicated, from what I read in the public domain, that had brought the tenure of the previous—or the tenure of the previous board came to an end on Monday of this week, and the board, the newly appointed board under commissioner or Chairman Sealy was tasked with the responsibility of the transformation of WASA, by focusing on the following:

1. To build confidence in the operation of the wastewater, or—sorry—of the water sector and the Government’s strategic intent.
2. To cultivate the operational efficiency and customer service.
3. To restructure the water and wastewater section.

And more importantly, I am forced to ask the question: What will two commissioners do to improve, to improve—or an additional two commissioners will do to improve what the customers, or how do they stand to benefit from the addition of these two commissioners, in terms of the customers of the Water and Sewerage Authority? And you may ask, why I am posing this question?

Over the last five years, this is a Government in its second term and I think that this is probably the third board, that which they have appointed. And at no point in time has the water supply, the efficiency of WASA has improved to the constituents of Couva South over the last five years and this is in his sixth year of this Government. And I am forced to ask this question on behalf of all the constituents of Couva South. Only last week, I had to join my colleague the Member of Parliament for Caroni Central in walking to the Freeport waterworks station to get answers from the management of WASA based on the most inefficient water supply that the people of central Trinidad, and not only central,
because somebody might jump up and say that Indarsingh only advocating on behalf of the Constituents of Couva South and central Trinidad.

But I want to say that I read the news and I am in the public domain and it is all over Trinidad and Tobago in terms of the water supply, inconsistent water supply, to the point that even for the Diwali holiday I was bombarded with over 20 calls by constituents who were at what I would call psychological pain and suffering and trauma based on the water supply that they would have not received from WASA, Madam Speaker. And Madam Speaker, in addition to the improvement in the efficiency and what will come, we must never forget Madam Speaker, and we would want to know, and we must be concerned, because are these two commissioners simply going to tow the political line of the existing Government? Because we have been told in the budget presentation of the Minister of Finance, Madam Speaker, that the Cabinet of Trinidad and Tobago has established a sub-committee, a sub-committee that is intended to examine the way forward for WASA and a report was supposed to be handed in by the 30\textsuperscript{th} of November.

Is it a fait accompli now that based on the work of the sub-committee, and this has been handed in, because I have—

**Madam Speaker:**  Member it is a bit late, and I think the ground—I have allowed you a lot of leeway, okay. All of the ground that you have covered thus far has been quite well dealt with by the Member for Mayaro. So I will ask you to go on to some fresh point please.

**Mr. Indarsingh:**  No problem, no problem Madam Speaker. I am guided in relation to what will be the outcome in terms of the future of WASA, we wait with bated breath.
Madam Speaker, as it relates to the amendments to the age of the board of the Children’s Authority, the Government is seeking to change the age of the person serving on the board from 30 to 35. What is this increase in the age seeks to achieve?—because we are focusing or we are being told it was from a youth point of view. And the increase in the age will it widen the options available for the Government in selecting the members of the board. And I think that Madam Speaker, I think that the Minister with responsibility for youth in the Parliament of—sorry, in the Cabinet of Trinidad and Tobago should focus on standardizing the age by which we define youth in the country, taking into consideration Madam Speaker, that the Commonwealth considered youth to be between the ages of 15 and 29. And in terms of the—there is a difference between the United Nations and the Commonwealth in terms of the analysis of what is the age category for youth. And going forward probably it is the responsibility of the Minister of Youth Development and National Services and also the Cabinet to look or examine this issue of defining or standardizing the age category as it relates to youth in Trinidad and Tobago.

And Madam Speaker, on one final issue as it relates to the change from “child psychologist” to “psychologist”. Within recent times, Madam Speaker, we—as a society, we have been littered with a number of issues affecting minors and affecting young children and affecting woman in Trinidad and Tobago. And the Government is seeking to change the wording in the legislation from “child psychologist” to “psychologist”, citing that there is a dearth of child psychologists in the country. I think that the Government has seen the number of issues, from a social point of view, which has been confronting families, confronting the vulnerable people and—throughout the length and breadth of the country. And I
think that it is incumbent upon them, apparently, they have realized now that there is the need to tackle this issue head on, and they are trying to fill this, or try to address the issue of finding the appropriate skill set to deal with this social problem that is afflicting families throughout the length and breadth of the country.

And, Madam Speaker, as I said, with the increase in media reports of sexual abuse, it implies that there is an increasing prevalence of sexual abuse, and therefore increasing vulnerabilities is to be treated. The reason why child psychologists were first identified as essential to the Children’s Authority was because of the demography that the Authority seeks to serve in terms of children. Now I take the opportunity to make that appeal because I think that someone in the Government should attempt to demonstrate to us how the vacancies will be filled, or how they—in addition to appointing someone to the board, where are we going to find the necessary skills set outside of the board to address families and to address those who are in need of the counselling and support and the guidance and so on, Madam Speaker.

So, Madam Speaker, whilst the Government might attempt to want to convince the population here this evening that the amendments from the point of view of the Tobago House of Assembly or the Children’s Authority or the Water and Sewerage Authority, and the Trinidad and Tobago Electricity Commission, and the National Lotteries Control Board, and also at the level of the National Institute of Higher Education and Learning, is a very simplistic exercise because it is one that is simply focusing primarily on increasing the complement of persons who are willing to serve on these institutions, it goes beyond that. Because it takes into consideration hundreds of millions of dollars in terms of expenditure, probably billions of dollars, and I think that that is the direction my colleague from Mayaro
was focusing or focused on when he attempted to seek the answers from the Government of Trinidad and Tobago.

So, Madam Speaker, from where we sit, we will continue to hold the Government accountable. We will continue to ask the question in the interest of transparency and good governance. I thank you. [Desk thumping].

9.30 p.m.

Madam Speaker: Attorney General. [Desk thumping]

The Attorney General and Minister of Legal Affairs (Hon. Faris Al-Rawi): Thank you, Madam Speaker. Madam Speaker, if ever I have seen someone rush to a podium to quickly make apology for a colleague of his own, it is Couva South. I compliment him on being a generous man in attempting to support his colleague, the Member for Mayaro, from the exposure that the Prime Minister made this afternoon in relation to the Opposition’s position on Tobago. More perhaps succinctly put, their position in not being involved in the affairs of Tobago. You see, Madam Speaker, the last person with great passion was the Member for Couva North in the last Parliament. There was no more an active speaker on matters concerning Tobago than Ramona Ramdial, quickly put out to pasture, never to be seen again, following in the footsteps of Christlyn Moore and the Tobago representatives of Delmon Baker and Vernella Alleyne-Toppin. So, hon. Member for Mayaro, through you, Madam Speaker, you may want to be careful in being seen to be the advocate for Tobago in that UNC Opposition, lest you find yourself out to pasture more quickly than not.

Madam Speaker, the Member for Mayaro said that there was no—in fact, the hon. Member was quite bold in his opening to say that he was quite surprised at this Bill. He said that he was in shock because he thought that the Bill needed to
be separated into elemental parts and that he could not figure out what the connection to the various matters in the Bill involved. Madam Speaker, permit me to quickly say, it is divided neatly into two columns. On the left-hand column we are looking at the harmonization of methods of borrowing. On the right-hand column we are looking at the structure of boards. On that left-hand column, Madam Speaker, the borrowing power of the THA, WASA and T&TEC have to be addressed and are plainly connected and obvious. On the right-hand column the composition of the NLCB, NIHERST, WASA and the Children’s Authority are again plainly connected. And permit me to address the two columns in those brackets as they are set out in the clauses of the Bill.

Madam Speaker, the borrowing powers of the three entities that we look at in the Bill, that is the THA in clause 4, WASA in clause 7 and T&TEC in clause 8, this is critical to the modern operation of financing in this country. I have joined this debate in my capacity as the Attorney General and Minister of Legal Affairs specifically because the legal opinions to be rendered in respect of borrowings as they concern guarantees, as they concern bonds, loans, et cetera, comes to the desk of the Attorney General for certification from the Ministry of Finance. When we look at the loops that the Treasury Solicitor has to jump through and that the Solicitor General has to jump through in trying to allow for modern methods of borrowing to prevail, it is immediately apparent that the WASA Act, the THA Act and the T&TEC Act have to be brought into modern form. Why is that, Madam Speaker? Because when we look to the legislation we see that the first thing that jumps out to us is that there is an ambiguity in the law that needs to be dealt with in certain circumstances.

What do I mean? The Interpretation Act sets out the powers in section 37
that happens when a written law is referred to in the establishment of a body corporate. When you establish a body corporate by section 37 of the Interpretation Act, you are vesting in that body, when established, the power to sue, be sued, to contract and to be contracted with. You are also giving it the power to dispose of such property and to regulate own procedure and business. Put that into the context of WASA, T&TEC and the THA and look at the specific renovations that we are proposing in the legislation and you will note, Madam Speaker, that when we look to the Water and Sewerage Authority, when we look to the Tobago House of Assembly and when we look to the T&TEC provisions that we are dealing with archaic language which now puts us in a zone of ambiguity.

The last thing that you want to have in law when you are certifying borrowing is that your capacity to borrow is compromised because of an argument as to whether you are ultra vires or intra vires, the legislation. Put simply in layman language, does the law say clearly that you have the power to do the thing that you want?

So, Madam Speaker, let us look to the Tobago House of Assembly. The Tobago House of Assembly specifically involves an amendment to the law where we are looking at what the THA can do in its structure. And permit me to get you to that clause, Madam Speaker. We are looking at the THA Act in section 51. Section 51 of the THA Act, Madam Speaker—and permit me to get to it specifically. It is a little bit harder on the podium than on a desk spread out.

“The Secretary may—

(a) with the approval of the Assembly, borrow by way of overdraft, such sums as the Assembly considers fit for the discharge of its functions; or

(b) with the approval of the Minister, borrow sums by way of term loans for
the purposes of capital investment.”

The mischief in this law is the reference to “term loans”. When you take the Interpretation Act, section 37, and you look at the power that the Interpretation Act causes, you would have to put yourself in the realm of statutory interpretation on a purposive methodology to imply that modern methods of borrowing, that is securities, bonds, et cetera, in the widest sense as contained in the securities legislation where that term is defined, you would have to stretch the interpretation to allow for borrowing, which is more than term loans, for capital investment. Madam Speaker, therefore it is imperative when we are seeking to amend this legislation that we bring it into modern purpose. The most modern of purposes to be found as to what a definition of a security is, is to be found in the Securities Act where there is a proper set out of the definition of security. It is contained at page 28 of the legislation, Chap. 83:02; that is the Securities Act, and there is a wide definition of security which is purposefully incorporated into this amendment to the law so that there is flexibility going forward. Why is that so? Madam Speaker, the traditional instruments of borrowing have evolved over time. The Minister of Finance has already touched upon that but I wanted for the record to state the reason for that.

It is also the same purpose in the WASA Act. In the Water and Sewerage Authority Act, Madam Speaker, we are looking to the definition in section 26. In section 26 there is a need also to, again, expand the fact that the Minister of Finance may allow for borrowing sums required for meeting any obligations and discharging any functions and that, Madam Speaker, is critical when you are looking at, as the hon. Prime Minister puts it, the cash flow of WASA.

The T&TEC Act was slightly more ahead of the other pieces. When you
look to “Financial Provisions” in Part V at section 21 of the T&TEC Act, the T&TEC Act had one anachronism. It was referenced to President. As Attorney General that sometimes caused confusion for borrowers as to whether that meant President in own discretion or President qua Cabinet, meaning as the Cabinet. It of course means as the Cabinet, but it was important to amend that law to tidy it up, again put the claw back to the definition of security. And, Madam Speaker, that is critical when you are looking at the fact that WASA and T&TEC in Trinidad and Tobago are heavily subsidized industries and authorities, and in one case a commission, and that therefore, the flexibility must be there for terms of borrowing.

Now, to deal with Mayaro’s point that there is somehow no form of check and balance. I would perhaps say that my learned colleague is not aware, certainly attorneys opposite, if they are familiar with this area, ought to know that the Minister of Finance under the exchequer and audit provisions, and where appropriate under external loans or developmental loans, has the oversight as Treasury and has the responsibility at Cabinet to treat with financing, et cetera. There is always oversight. Further, there is oversight in the Constitution by the application of section 116 of the Constitution, that is why we refer the Auditor General and audited accounts to the inspection of the Auditor General and also to the laying of reports which then go to joint select committees which are standing committees in this Parliament. So I wish to simply reject the argument coming from Mayaro that there is no form of oversight and position.

Madam Speaker, the Member for Couva South raised the issue of what can two more Members do on a board, two more commissioners. I would like to point out what you can do with less. Madam Speaker, it is public knowledge, Member
for Siparia ran a Cabinet, if I am not mistaken, of 34 people; 34 Ministries. The hon. Dr. Keith Rowley as Prime Minister, the Member for Diego Martin West cut that down to 23 Ministries and did further cuts again. But, Madam Speaker, we were able in that time to run a country in significantly more difficult circumstances, 95 per cent drop in revenue from an oil and gas perspective, with fewer Ministries and therefore, it is not so much what two people can do or two commissioners can do, but what two competent people can do in that scenario. [Desk thumping]

I would like to say that my colleague, the Minister of Public Utilities, has the watching coordination of the report coming to Cabinet. I am sure the hon. Member, my colleague, would have been eager to join in this debate. We had not anticipated some of these arguments but he is fully prepared to join this debate if given the opportunity. But I would like to say that the hon. Prime Minister hit the nail on the head. It is the fact that in the expansion of capacity, professions and knowledge on the Water and Sewerage Authority that we will get the better skills, particularly when you are looking to water resources and winning.

Madam Speaker, the hon. Member for Couva South also raised the point of saying that Couva South had not seen any water or improvement in the last five years. I would like to just put on the record, the last time I checked the Member for Siparia was serving in the UNC government. The Member for Siparia served in the Basdeo Panday government. The Member for Siparia served as Prime Minister in the PP government as it was called then. Surely this country has not forgotten “Water for all”, the pipe man who had more pipe than not, who was supposed to be laying pipe where, but according to the UNC, when they spent five years between 2010 to 2015, everybody had water. Couva South had water. I find it astronomical
that Couva South would come here today to say that all of a sudden people do not have water when the truth is that instead of addressing the winning of water, reservoir management, the move away from desalination water and into pipe-borne water coming from wells, et cetera, or from distribution ends and mains that were actually working, that what the UNC Government did instead was to put down the Beetham Wastewater Plant. And I certainly can see very little, other than litigation, coming out of that particular billion-dollar project. So I would urge my good friend, the Member for Couva South, take it easy, “doh” take too much basket because this is certainly not a war that can be won.

Permit me to get very quickly, Madam Speaker, to the position of the Children’s Authority, and I would like to publicly compliment my colleague, the Member for Tobago East, the Member with responsibility for children affairs and gender affairs, for taking a serious hands-on approach and working as a team Member with all the rest of us. It is no secret that the Office of the Attorney General did a massive amount of work for children in conjunction with our colleagues, the Minister of National Security, the Member for Tobago East as well. But, Madam Speaker, we have to be careful in taking what other people say. When Couva South tells us the universal age is up to 29—no, Madam Speaker, the age must be looked in the context of the Children’s Authority. And the learning tells us and the experience tells us that you cannot find a graduate in child psychology. In particular, you cannot find a graduate under 30 years old to fit the youth category with certain skill sets and therefore, it is imperative, and it was Tobago East that brought the Note to Cabinet to identify the difficulties in securing a member onto the board of directors of the Children’s Authority. In keeping that watchful eye, it was Tobago East that said, “We have to help our children by

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broadening the age category.”

Madam Speaker, that applies to the very concept of child psychologists. In fact, the issue of whether we have child psychologists is a very real one. There is, in the experience of education in Trinidad and Tobago, psychologists. The subset of child psychology is not in fact taught at master’s level in Trinidad and Tobago. And, yes, we do need to have more dedicated attention in that field but until we do, we have to take a step outside of child psychology and go to the broader elements of psychology. I am not sure if my colleague for Fyzabad is going to speak next. If he is, I can say that we both had a conversation in relation to a few matters which I agree with.

But, Madam Speaker, permit me to end on a very important note, this country needs to publicly acknowledge a servant beyond servants. We lost just this month, just recently, Angela Moore who sat as an expert drafter, a consultant and worked upon the greatest number of laws in Trinidad and Tobago to treat with children. And I wish on behalf of the Government and the entire Parliament [Desk thumping] to publicly salute her memory, to publicly salute her family, to uphold the passion that that honourable lady demonstrated in the umpteen hours that she sat with me as Attorney General in particular, working on the children’s package of laws tirelessly, never with complaint, ad hoc, as we developed laws for Trinidad and Tobago.

Permit me to be so bold, Madam Speaker, to speak on behalf of the entire Parliament when we say a simple thank you to a beautiful daughter [Desk thumping] of Trinidad and Tobago for her work in relation to the children of this country as it is grounded as well in the reflections on the amendments to the Children’s Authority. I know I am out of time, Madam Speaker, may I ask how
much more time I have?

**Madam Speaker:** You have, Attorney General, just about a minute.

**Hon. F. Al-Rawi:** I will take it that I am out of time, and I thank you, Madam Speaker, for the opportunity to contribute to this Bill. And I thank my colleagues for bringing these well-connected matters squarely intent upon developing the interest of the people of Trinidad and Tobago if even it is only that the UNC does not have the courage to even run a representative other than a proxy known as Watson Duke in the island of Tobago. Thank you, Madam Speaker. [Desk thumping]

**Madam Speaker:** Just to inform you, you had 10 more seconds left. I now call upon the Member for—this is Chaguanas—

**Hon. Member:** West.

**Madam Speaker:** West. Thank you. [Desk thumping]

**Mr. Dinesh Rambally (Chaguanas West):** Thank you, Madam Speaker, for giving me the opportunity—allowing me the opportunity to contribute to this important debate. Madam Speaker, as I start, let me first join our hon. Attorney General in extending condolences as he did and also, you know, bringing those sentiments in the House which we wish can somehow bring some reprieve to those who are mourning for one reason or the other. We also want to take this opportunity on this side to say that we are certainly in a state of solemnity when we think of all those who are victims—all those women who are victims of sexual abuse, murders, domestic violence. We would like to say from our side, and I am sure, you know, joining on, on the hon. Attorney General, we really wish to extend our solemnity on this occasion and would wish to offer support in whatever way we can.
That being said, Madam Speaker, it is correct that we have this particular Bill, statutory authorities—Miscellaneous Amendments (Powers of Statutory Authorities Matters related to certain Boards) Bill, 2020. And, yes, it does allow amendments which would give certain powers certainly to have issuance of securities that, you know, would allow borrowing power and what have you. But I want to respond to some of the comments in terms of the hon. Attorney General speaking about the Member for Couva South and the Member for Mayaro, and some of my colleagues on this side, and the point I wish to make is that, Madam Speaker, to paraphrase the words of the Attorney General—I do not like when it is we have to debate and we raise certain concerns, valid concerns about spending moneys and we are talking about accountability even with our twin sister isle that we are pitted as though we are against Tobago. And I want to paraphrase the hon. Attorney General today when he said, “Just stop it”, just stop it. [Desk thumping] It is not our business here to pit one set of Members against, you know, the Tobago population and it is certainly not our intention.

In fact, the Member for Couva South and myself, I know I speak for everyone when we say that we are honoured to sit in the JSC, the Constitution (Amdt.) (Tobago Self-Government) Bill, 2020, and that is something that I know that we do not serve any hidden agendas. We try to contribute in the best way possible on that matter to ensure that you keep a unitary state, Trinidad and Tobago, and to ensure that we get the best for the peoples of Trinidad and Tobago. Madam Speaker, I want to say on a personal note that as far as I could remember I have been going Tobago myself. In fact, the preferred choice of, you know, tourist destination and the preferred choice for us for relaxation is going to Tobago and I have been doing that up to when the pandemic started earlier this year. But
otherwise, Madam Speaker, I really take offence that we are so broad brushed as though we have an agenda against Tobago. It is not so and I want to again say, just stop it. [Desk thumping]

The business of the Opposition is to critique constructively what is being presented in the Parliament, and, Madam Speaker, I dare say that that is what the Member for Mayaro did and as well as my other colleagues who followed. This is what we are about. So to our hon. Prime Minister, I want to say that we are really not against Tobago people. We really want to see that the best laws are implemented, the best policies are implemented so that we can have the best for the peoples of Trinidad and Tobago. [Desk thumping] Now, we want to talk about, Madam Speaker—I know that one of the questions which was posed by the hon. Attorney General, you know, how many members—if you have two more members and what they can do and, Madam Speaker, the point remains this, it is very simple, we have a serious water shortage problem in this country. [Desk thumping]

When you look at memes that pass in social media, the most and by far the most popular meme is that there is an umbrella over all of the water dams in Trinidad and Tobago when there is flooding all over in the constituencies. And there is a reason for that, it is because there is a vast shortage of water. Even Couva South, my colleague, was saying that—Member of Parliament for Couva South—that there are water problems—Member for Couva North. And I myself, Madam Speaker, up to this week, earlier this week I had somebody complaining about how long it is taking to get back the restoration of normal water supply. This continues to plague people and in a pandemic you can imagine a shortage of water. What does it mean for people if it is you have shortage of water?
Now, that is one matter, please, Madam Speaker, but I also want to say that, you know, in fixing the problems of the country this is what we are all here collectively to do and I have looked at this particular Bill and one of the issues that stood out for me, and I know colleagues to follow may take up on this point, is that we are talking about borrowing powers of Tobago—Tobago House of Assembly. Now, the point about it is that they already have borrowing powers, so the question was that, yes, you may have legislation here which will somehow enhance that borrowing power, but to what end? What was the mischief that was intended here? When we talking about delivery to Tobago people and this whole notion, as I say, pitting Trinidad—us on this side against Tobago people as though we only belong to Trinidad, we belong to Tobago as well. We belong to this twin island Republic of Trinidad and Tobago.

I want to say that the records will show that since the first quarter of 2017, Madam Speaker, you had the breakdown in the ferry service. Who spoke out against that? Members on the other side or Members on this side? [Desk thumping] In fact, hoteliers started to close down.

**Mr. Imbert:** Point of order—Standing Order 48(1). This Bill is specific to the borrowing powers of the House of Assembly. It has nothing to do with the ferry service or those other extraneous matters. [Crosstalk]

**Madam Speaker:** One person—[Crosstalk] Yes, I only recognized the Minister of Finance. So, Member for Chaguanas West, I uphold the objection and if, please, you can stick now to the Bill. A lot of the points have been raised already certainly in terms of the explanation of what the Opposition has set out to do by the two previous speakers. So I will ask you, please, to be mindful of Standing Order 48(1) and please try not to repeat the points that have been made already. Thank
Mr. D. Rambally: Yes. Madam Speaker, I am guided and I thank you for that ruling.

Madam Speaker, the simple point that I would want to make is that when you have in a debate which has just occurred—and, Madam Speaker, I do not care to repeat anything that I have said before, but when you have a debate and we on this side are being painted as though we are somehow inherently objecting to anything going towards Tobago, towards the Tobago House of Assembly, I am saying, Madam Speaker, that when you look at the track record of events, public events which have plagued Tobago, we on this side have spoken out. So I was simply referring to one of those matters before and I will say that when matters have arisen traditionally with Tobago people, we on this side continue to speak out on that. When we raised a question about during the pandemic that you are spending $50 million—

Madam Speaker: And I would ask you to move on.

Mr. D. Rambally: Yes, please, I am guided. So, Madam Speaker, one of the things that I want to say is that in terms of the Bill itself—I have asked squarely, Madam Speaker, and I do not wish to rehash it—that when you are talking about enhancing the borrowing power, because this is what you are seeking obviously to do at clause 4 with the Tobago House of Assembly Act, to raise moneys by issuing of securities, in my limited knowledge, Madam Speaker, and I must confess, I hope that the hon. Minister of Finance will give some clarity to this, that the THA is not necessarily like the other categories of entities that we see here. So that when you are adding on this power to issue securities, I am saying that the THA is already—it possesses the power to borrow moneys as it sees fit. And there are certain checks and balances which are in place and therefore, the question is: Why is it
that this clause is coming here at this point in time?

10.00 p.m.

So, Madam Speaker, that is the main point I would want to point out here. My colleagues before have spoken about the increase in the number of the members to the different boards. That is something that I share as well. When we look at the Bill in totality the question is we would like to see that if this is being implemented, some kind of assurance that it is going to bring some kind of effective output that we can see that there is greater delivery of services, as the Member for Couva South has said. Greater services certainly under the utility entities such as WASA and T&TEC.

So, Madam Speaker, with these few words I thank you again, and I wish to thank my colleagues on this side who have risen to support our position on this side in relation to this statutory authorities Bill. Thank you.

The Minister of Sport and Community Development (Hon. Shamfa Cudjoe): Thank you, Madam Speaker. It is a privilege for me to join this debate this afternoon, and I join this afternoon—I was not prepared to speak, but after hearing the contribution of the Member for Mayaro followed by his colleagues, I felt that it was important for me to add my two cents, and to join this debate as a Tobagonian.

I have been in this Parliament for 11 years. This is my 11th year serving in this Parliament, [Desk thumping] and we have consistently heard from the United National Congress and their partners the very worst of Tobago. Every time this Government tries to do something for Tobago, whether it is increasing autonomy or giving some type of assistance to the Tobago economy, and the Tobago people, the Members of the Opposition, Members of the UNC, whether they are in Opposition or in Government, always speak out against it, always saying that

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Tobago is getting too much.

Madam Speaker, I stand here today hurt and disheartened to listen to that contribution from that Member of Parliament from Mayaro. After sitting here for five years, he is no new Member. I stand here today a 38-year-old. The Tobago House of Assembly today celebrates 40 years of existence, [Desk thumping] 40 long, strong years of standing in the gap for the people of Tobago, championing our development, the development of our people, the development of our economy. To be a Tobagonian we have been getting 4 per cent or less of the budget over the years, and for the UNC to stand before us today—we have been arguing, we have been fighting for the ability to borrow so that we can move closer and closer to realizing the dreams and the aspirations of Tobagonians, and fulfilling our development agenda in a more predictable way, in a more effective way; 40 years, Madam Speaker.

It is embarrassing to stand here after 40 years as a 38-year-old to face the Parliament to ask for the ability to borrow, watching state enterprises year after year having the freedom to borrow, and to listen to all these allegations about Tobago having all these issues with the Auditor General and not submitting our financials on time. Over the years, Madam Speaker, yes there have been challenges, but no way in any of these reports could you find any public figure in Tobago stealing money. We cannot say the same for Trinidad. We cannot say the same for many of the Ministries, especially under their watch.

I turn to the report from the Auditor General and the PAC today, for Mayaro, outstanding, for Siparia, all their financials are outstanding over five years, Madam Speaker. I want to give you more direct and detailed information. Siparia has not submitted for 2014, 2015, 2016, 2017, 2018, 2019 or 2020. I turn to
Mayaro—have not submitted financials to the PAC for 2009, ’10, ’11, ’12, ’13, ’14, ’15, ’16, ’17 ’18, ’19, ’20. I turn to Couva/Tabaquite, and they have not submitted financials to the PAC for 2006, ’07, ’08, ’09, ’10, all the way to 2020, and that is based on the information from the PAC of this Parliament. So to stand here to speak down on the Tobago House of Assembly, they should be ashamed.

And after the Member for Mayaro made a mess of it, you have all the other following speakers coming to give us some half-dead apology. As a Tobagonian, a 38-year-old Tobagonian celebrating 40 years of a Tobago House of Assembly where we have been flying the flag of Tobago high, and we become more and more beautiful each and every year despite the allocations from Trinidad, I say keep your sappy, sour, half-dead apology.

So, Madam Speaker, and this UNC that is now trying to give us all this sweet talk, we have been fighting and speaking on behalf of the people of Tobago, trying to get internal self-government, trying to pass this legislation through the Parliament, trying to get their support at the different committee levels. I look forward to your support when we face this Parliament once again.

I have sat here in this Parliament and heard Members of the UNC call the Tobago House of Assembly and call Tobagonians lazy.

**Mr. Indarsingh:** Madam Speaker, 48(1). This debate is about THA’s ability to borrow or internal self-government.

**Ms. Ameen:** 48(6 ) as well, please.

**Madam Speaker:** Member for Tobago West, I uphold 48(1). I ask you to come back. I overrule the 48(6).

**Hon. S. Cudjoe:** I will connect the dots, Madam Speaker. We stand here, asking to borrow not because we feel to borrow. It is to realize our dreams and our
aspirations towards building our economy, towards improving our productivity, towards contributing to the GDP of this country. So to be called lazy and unproductive and that we do not contribute to the national economy of this country, it is a shame.

Mr. Indarsingh: Madam Speaker, 48(6), no one on this side imputed anything about being lazy and so on.

Hon. S. Cudjoe: I am speaking about my experience here, and the reason why we are borrowing.

Madam Speaker: One minute. I cannot see you using 48(6) to say that you did not impute. I would expect you would say 48(6), somebody imputing something against you, so I overrule. Please continue.

Hon. S. Cudjoe: Madam Speaker, we are asking to borrow, I repeat, to utilize these funds to develop Tobago in a more predictable and effective manner so that we can no longer be called lazy by the UNC. We can no longer be called unproductive by the Opposition. We can no longer be called we are sitting there lazy and looking to be rapists and preying on the tourists. We have experienced that as Tobagonians and we want to graduate out of being called that by the Opposition. So I am not surprised by the contributions of those opposite.

Mr. Hosein: Madam Speaker, Standing Order 48(6); 48(6), Madam Speaker, please.

Madam Speaker: I think you are asking me to rule on something that I just ruled before, and I overrule. Please continue.

Hon. S. Cudjoe: Thank you very much, Madam Speaker. They do not like to hear the truth. In 2012, the Tobago House of Assembly faced Moody’s for a credit rating. We received a Moody’s credit rating of Baa1, and that indicated the
outlook. Moody’s would have indicated that our outlook was stable, the Tobago House of Assembly. The ratings given to the Tobago House of Assembly was the first sub-sovereign rating to be issued to an English-speaking Caribbean country. I want to say, this is not me speaking, this is Moody’s saying:

The Tobago House of Assembly financial performance was relatively strong in part due to the institutional constraints regarding debt issuance which included self-imposed limits undertaken by the current administration—that is the PNM administration—based on the prudence of the Tobago House of Assembly managing Tobago people’s financial affairs.

Madam Speaker, the fact that we make this request and this request could be about 40 years old, is in keeping with where we want to go as Tobagonians, our aspirations for our economy and the dreams of our people. I think that this rating over the years has sent a strong signal, in fact, stating about how the Tobago House of Assembly conducts its affairs in keeping with international policies, international procedures and international parameters.

This request to receive this ability to borrow that had been granted only by this administration after decades speaks to us asserting our autonomy towards becoming more self-reliant and self-sufficient. Over the years it has never been about missing funds but about administrative documents that could not have been found at the time; and that could be said for many other Ministries. Later on the research and the investigations would have been done, and we have been able to come up and prove that nobody in the Tobago House of Assembly, no Secretary, no politician, no PNMite, nobody in the Tobago House of Assembly was stealing money from the Tobago House of Assembly. We do not have a LIFEsport project where anybody walked away with any $34 million, or any scandals of that sort
over our years.

So I stand here, Madam Speaker, as a proud Tobagonian, as a proud PNMite, as a proud Member of this Government and this Cabinet, who has made the necessary steps and taken the necessary action, as difficult as they have been, in a time of little, to offer to Tobago the type of financial assistance, the type of financial support that it deserves, bringing Tobago side by side by Trinidad each and every step along the way. We have a long way to go. So I do not even think it is necessary for me to come here and speak; I should not have to. This should be understood by each and every parliamentarian who sit here and watch Tobago get 4 per cent of the budget, while you enjoy 96 per cent of the budget along with the ability to borrow and to pursue your economic goals freely. Here we are still begging a Parliament.

I want to thank the Prime Minister, the Minister of Finance, the Members of the Cabinet who have seen it fit to provide this level of assistance, this level of support. And we are not waiting to get internal self-government, we are taking steps little by little, increasing the autonomy, increasing the autonomy, increasing the authority of the Tobago House of Assembly, granting to Tobagonians the type of life, the type of leadership, the type of management that it deserves in a time of little. When they had the chance to perform and to show this love that they claim for Tobago, they gave us nothing, precious nothing and if you look around Tobago and you make the comparison between their time of leadership and our time of leadership, it is very clear.

So I stand here; I stand here confidently, and I support this Bill to grant Tobago House of Assembly and the people of Tobago the ability to borrow so we can advance our development mandate. With or without the Opposition, this
People’s National Movement is hell-bent about taking Tobagonians to the next level— with or without the Opposition. It is because of that same posture that they have shown over the years for decades they cannot stand in Tobago, they will not get a vote, they cannot vie for a seat. And even as they hide behind other parties, not a single vote for you; not a single vote for you. You came as DAC, NAR, TUF/DAC, TOP, Tobago Forwards, PDP, not a seat for you. So, Madam Speaker—[Interruption]

Mr. Hosein: 48(1), Madam Speaker, what is the relevance of all of this?

Hon. S. Cudjoe:—we stand resoundingly with this Government—

Mr. Hosein: 48(1), Madam Speaker.

Madam Speaker: Please continue.

Hon. S. Cudjoe: We stand resoundingly with this Government, the people of Tobago, the Tobago House of Assembly and we thank you for hearing our cries, for hearing our pleas, and we continue to work hand in hand with this Government as we continue to build Tobago and develop a brighter Tobago for Tobagonians. We will not be fooled. We have seen all we have to see and heard all we have to hear, and we know the UNC and we know what they stand for. The people of Tobago will not be fooled and we will continue to support this Government and the PNM, for that is the only place and the only way we can get development in Tobago.

So I want to thank you, Madam Speaker, and I want to thank this Government and I hope this Bill is passed. Since you love us so much, go ahead and give us that vote. Give us your support. Thank you very much, Madam Speaker

Dr. Lackram Bodoe (Fyzabad): Thank you very much, Madam Speaker, for the
opportunity to make a very brief intervention, and it is really specifically with regard to clause 6, dealing with child psychology, the amendment there. I have a slightly different perspective. I know my colleague for Couva South would have mentioned this before. But before I go there, I just want to reiterate that we on this side have nothing against Tobago. [Desk thumping] In fact, I am speaking so late in this debate because I gave way to the hon. Member for Diego Martin West, the Prime Minister, who I know is from Tobago. So that speaks volumes. I also want to say that during the term of the People’s Partnership Government we completed the Scarborough Hospital. [Desk thumping]

But, Madam Speaker, most importantly I want to say, and this is actually interesting because it connects Tobago and what I want to say about psychology—I just want to say that my daughter spent three months in Tobago doing an internship in her master’s in psychology, by choice. I think the Member for Tobago East would be aware of that, because I would have been travelling back and forth during that time. So that is my connection to Tobago.

But, Madam Speaker, I just wanted to make a few brief comments, and to say that anything that is brought to this Parliament, any measure that is brought to this Parliament in support of the work of the Children’s Authority, we on this side, and I will say right at the onset—that this amendment, I understand the need for this amendment and I am speaking particularly about section 7(2)(b), which is to change a reference from “child psychology” to simply “psychology”. Because as we know the Children’s Authority has had its fair share of challenges. I mean, the reports would indicate that upwards of 4,000 complaints are made to the Children’s Authority on an annual basis.

So the problem here really is that there is a shortage of child psychologists
worldwide and in fact in Trinidad there might just be one child psychologist. So I could understand that finding a suitable member to serve on the board of the Children’s Authority would have been a challenge. I think I can understand why we are in this predicament, and therefore I understand the need for the Government to do this. But I also think it is an opportune time just to have a look at how we will address this problem, and I understand that we are going to replace “child psychologist” by “psychologist”. This is really an opportunity as well to look at the issue of psychology in Trinidad and Tobago.

The first thing I realized in my research in this matter, because I spoke with the President of the Trinidad and Tobago Association of Psychologists, was to try to determine how many psychologists actually practise and work in Trinidad and Tobago. The president of the association could not give me the answer and the reason she could not give me the answer is because the Trinidad and Tobago Association of psychologists, a body incorporated by law in this Parliament in 2000, is just a representative body. It is not a licensing body, or a regulatory body, and this is a very important point. So it means that the psychologists who register with the TTAP do so voluntarily. There is no obligation.

So the president, and I speak with her permission, indicated to me that there is 113 financial members. I believe that there are more psychologists practising in Trinidad and Tobago, but it speaks volumes that we are not able to identify the number of psychologists. And that is another issue, because that in itself is a worrisome thing, because this specialty of psychology is very important.

There is a difference between psychology and psychiatry as I am sure all my colleagues in this House know. A psychiatrist is a medical doctor qualified and so,
Miscellaneous Amendments Bill, 2020 (cont’d)

Dr. Bodoie (cont’d)

and would be governed by the Medical Board Act of Trinidad and Tobago, and registered per se. But psychologists play a very, very important work in terms of supporting the work of psychiatrists, and even avoiding patients having to get, or clients having to get to see a psychiatrist. So they have a very important role.

There are two issues really that need to be addressed. I know this would have come to the attention of the Minister of Health and the Attorney General in submissions and so on. But the issue I really want to raise and to address and to ask us to look at is to look at the issue of regulation regulating the profession of psychology.

Now interestingly, psychiatric social workers who form part of a mental health team are governed by the Act, which is the Professions Related to Medicine Act, but psychologists are not. So the benefits of regulating the profession of psychology are many. Most importantly it would be in the interest of protecting patients. In my own specialty for example, the issue of postpartum psychosis. In fact, I know there was the question raised earlier about a maternal death. I do not want to go there, but just to say that in England, for example, in the UK, European countries, one of the common causes of maternal deaths now is postpartum psychosis leading to suicide, and so on. Those kinds of things can be averted with the intervention of a proper psychologist. For I think it is very important for patient protection to ensure that we have standards, proper standards and so on.

Another important point is that the Insurance Act does not allow for insurance payments when patients visit a psychologist. If they go to a doctor it is different, and therefore that can sometimes deter patients from seeking treatment from psychologists. This is another issue that we can look at. But most importantly it really is to protect the standards of the profession to ensure that the patients are
treated by those who are most qualified and certified and so on, and of course a regulating body would have the power by law to be able to look at any infringements.

Another issue that was raised by the President of the TTAP, Trinidad and Tobago Association of Psychologists, is the fact that there are many psychologists who apparently, because it is not a regulated profession, who are practising out there, Member for Tobago East, and may not necessarily have the qualifications and especially when they are dealing with children, that is very, very important. The basic minimum should be a master’s in clinical psychology, and preferably a doctorate.

I just declare my intention here, Madam Speaker, because I have an interest in this, because my daughter is actually completing a doctorate in psychology at the moment, so I take a very keen interest in this as well.

So I just want to ask the Government and the Attorney General, perhaps the Minister of Health, to look at the whole issue of the regulation of this profession. I know that there is tremendous support from the Trinidad and Tobago Association of Psychologists. I know that they have a document prepared, so it is not going to be very difficult to cross that bridge. I think if there is anything that can come out of this legislation would be—I mean, I will support this amendment, but I think it is also important that, you know, we take the next step and we go forward in terms of the regulation of the practice of psychologists in Trinidad and Tobago.

Madam Speaker, I promised the Minister of Finance I would be brief. I know it is late, and I just want to close by saying that this whole issue of the shortage of psychologists and the issue of mental health has become even more pronounced in the public domain with the COVID-19 crisis. That is another
debate, it is perhaps for another time, but I think it is even more important as part of the whole challenge that we face with COVID-19 now we have the issue of the need for psychological counselling and treatment and so on.

With those few words, Madam Speaker, and I am not want to incur the wrath of the Minister of Finance, I just want to say thank you for the opportunity. Thank you very much, Madam Speaker.

**The Minister of Finance (Hon. Colm Imbert):** Thank you very much, Madam Speaker. The Member of Parliament for Fyzabad went way over the five minutes that he promised me—typical UNC.

So let us deal with some of the points raised. It is really disappointing to participate in a debate, and when one hears the contributions of hon. Members opposite it becomes obvious that they have not read the legislation before us, bothered to understand it or interpret it, or to make any meaningful comment whatsoever. One gets the impression they just decided to get up and talk.

So let me deal first with the whole question of the Tobago House of Assembly’s power to borrow, which we are seeking to amend by way of this Bill. In section 51 of the Tobago House of Assembly Act the Secretary of the Assembly is empowered:

“(a) with the approval of the Assembly, borrow by way of overdraft, such sums as the Assembly considers fit for the discharge of its functions; or.

(b) with the approval of the Minister”—and in this particular case it means Minister of Finance—“borrow sums by way of term loans for the purposes of capital investment.”

I heard the Member for Chaguanas West say that he thought that the THA already

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had the power to borrow so why the need for this legislation. I was really disappointed by that question especially from a legal luminary, because one would think that if one is coming to comment on an amendment Bill one would do the necessary research. The THA is limited in terms of what it can do by the words in that section 51, and in particular the words “term loans”. If hon. Member for Chaguanas West does not know what a term loan is, I would educate him.

A term loan is a loan from a bank for a specific amount that has a specified repayment schedule. In this particular case, we are amending the Act, the Tobago House of Assembly Act, to improve that section 51 and, in particular in the improvement of section 51 of the Tobago House of Assembly Act. We are allowing the Secretary, by way of insertion of a new section 51(a), with the approval of the Minister, to raise money by the issue of securities for the purposes of meeting any of the obligations and discharging any of the functions of the Assembly. In no part of the world, no part of the Commonwealth, no part of the Caribbean and no part of Trinidad and Tobago is a term loan a security.

Again, for the edification of the hon. Member for Chaguanas West, a security, if one goes to the Securities Act is:

“...any document, instrument or writing evidencing ownership of, or any interest in, the capital debt, property, profits, earnings or royalties of any person and without limiting the generality of the foregoing, extends to—

(a) any bond, debenture, note or other evidence of indebtedness;”

A term loan is not a bond, and I was very clear in my introduction of this Bill that the reason why we are doing this is to allow the Tobago House of Assembly to access syndicated financing arrangements, which would be made available by way of a bond instrument. I was clear, and therefore I am just taken aback at the
question as to why we are doing this—very disappointing.

If we go now to a point made by the hon. Member for Tobago West. In her stirring contribution one of the points the hon. Member for Tobago West made is that this amendment, which would improve the House of Assembly’s ability to borrow money by various diverse means, including getting an arranger to arrange a syndicated financing facility, the Member for Tobago West made the point that this is necessary. This amendment that we are making is necessary to give the Tobago House of Assembly the flexibility to access loan financing from the financial market, for the purpose of the development of the island of Tobago and for the benefit of the residents of Tobago.

10.30 p.m.

And just as an aside, I think it is very pertinent because there is absolutely no doubt that we should give the Tobago House of Assembly this flexibility especially because hon. Members opposite for the last six years in the six Standing Finance Committees that this Dr. Keith Rowley administration has overseen, in every single Standing Financial Committee when we deal with the allocations to the Tobago House of Assembly, Members opposite grumble, complain, indicate their displeasure and say that the Tobago House of Assembly is not deserving of the allocations that they are given by way of appropriation.

So we are now avoiding that old talk by giving the Tobago House of Assembly the power to borrow with the approval of the Minister of Finance which will give the requisite oversight for development purposes to avoid that old talk that we have to deal with every Standing Finance Committee. There is absolutely no doubt, there is a theme that comes through that the THA is not deserving of funding by the Government of Trinidad and Tobago.
Let me deal now with the whole question of the laws that we are amending because none of the Members opposite bothered to read the Trinidad and Tobago Electricity Commission Act, the Water and Sewerage Authority Act, the THA Act or the Securities Act, so let me edify Members opposite.

“The”—Water and Sewerage—“Authority shall consist of no fewer than five nor more than nine persons, to be designated Commissioners, appointed by the Minister. Four Commissioners shall be appointed from amongst persons who have special qualifications in, and have had experience of, matters relating to engineering, accountancy, law, economics or business management.”

What this means is that if the full complement of nine persons is appointed, it means that four of them have to have these qualifications and the other five are not limited by these qualifications. And as the hon. Prime Minister has pointed out, we have chosen to appoint a geologist to the board of the Water and Sewerage Authority specifically to deal with the whole question of water resources and the winning of water, the drilling of wells for water to get ground water from aquifers and to look at surface water and that sort of thing. And this is the kind of skill set that we wish to bring to the board of the Water and Sewerage Authority in addition to these matters here which are prescribed “…engineering, accountancy, law, economics or business management”. And we felt it was necessary since we have a policy decision to restructure the Water and Sewerage Authority that we should bring as broad a skill base as possible to bear on the board of the Water and Sewerage Authority because they can then appoint multiple subcommittees and persons who deal with the accounting side of things, the operational side of things, the engineering side of the water resources side can then be put to chair these
various subcommittees. And that is the reason why we are expanding the board of the Water and Sewerage Authority.

With respect to the Trinidad and Tobago Electricity Commission, if you look at section 21 which is being amended by clause 8 of this Bill, it is a very old law, and it used the word “President”:

“The Commission may, with the approval of the President, borrow, secure or raise money…”

But it is a well-known determination that when you look in a law and you see the word “President”, you have to look at how it is used and whether there are words that occur after it such as “in consultation with the Leader of the Opposition and the Prime Minister” and so on. In this particular case, this means Cabinet, and it was thought that that was a bit cumbersome since in terms of all other financing, the Minister of Finance would do the approval after the Cabinet has deliberated upon it, so we are changing “President” to “Minister of Finance” to make it consistent with virtually every other law that gives the power to borrow with the approval of the Minister of Finance.

We are also giving the Trinidad and Tobago Electricity Commission the ability to invest or deal with securities and raise bond issues and so on in keeping with modern financing methods in terms of syndicated financing.

With respect to the Water and Sewerage Authority, similarly we are giving them a similar authority to issue money or to raise money by way of securities. And as I indicated, the definition of “security” in the Securities Act includes a bond.

And, Madam Speaker, that is about it. In terms of the amendment to the Children’s Authority Act I heard one hon. Member over there saying, “Why are
you doing that”; not understanding, of course, I think that was Couva South, not understanding what we are doing is increasing the maximum age of the youth representative on the Children’s Authority, that is all we are doing. Because right now the youth representative on the board of the Children’s Authority is limited to a person who is 30 years of age or less. And we are simply increasing that to 35 to allow the Government some flexibility in terms of selecting an appropriate person to represent youth on the board of the Children’s Authority. If you had bothered to read the Children’s Authority Act you would have understood what this was all about so you would not have to ask that irrelevant question.

And with respect to psychologists, I would caution the Member for Fyzabad, be very careful how you make recommendations in this Parliament because you came across, hon. Member, as if you were pleading your own case. I am not aware that in the Legal Profession Act one has to have a master’s degree or a doctorate. I am not aware that in the medical profession Act in order to be licensed, one has to have a master’s degree or a doctorate. I am not aware in the Dental Profession Act that in order to have a licence you must have a master’s degree or a doctorate. So why on earth would you make a recommendation that we must license psychologists and they should have a master’s degree in clinical psychology and even a doctorate, and then you revealed to all of us that you have a relative who is studying to become a doctor of psychology. I really think that was very unfortunate and I would ask Members opposite, be very careful what you say. These things are not simple and there are many consequences for these kinds of loose utterances. I beg to move, Madam Speaker. [Desk thumping]

Question put and agreed to.

Bill accordingly read a second time.
Bill committed to a committee of the whole House.

House in committee.

Clause 1 ordered to stand part of the Bill.

Clause 2

Question proposed: That clause 2 stand part of the Bill.

Madam Chairman: Minister of Finance.

Mr. Imbert: Madam Chair, an amendment has been circulated to clause 2. And again, this is stylistic and it is what has been recommend by the Chief Parliamentary Counsel as the appropriate form of words for a commencement provision. We have gone through this before today, and I would simply ask that the clause 2 be amended as circulated.

Question put and agreed to.

Clause 2, as amended, ordered to stand part of the Bill.

Clauses 3 to 8 ordered to stand part of the Bill.

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

House resumed.

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

MISCELLANEOUS PROVISIONS

ADMINISTRATION OF JUSTICE BILL, 2020

The Attorney General and Minister of Legal Affairs (Hon. Faris Al-Rawi):

Thank you, Madam Speaker. Madam Speaker, I beg to move:

That a Bill to amend the Supreme Court of Judicature Act, Chap. 4:01, the Summary Courts Act, Chap. 4:20, the Coroners Act, Chap. 6:04 and the Sexual Offences Act, Chap. 11:28 to provide for the procedural matters of the Courts and for matters related thereto, be now read a second time.
Madam Speaker, the Bill before us is of great importance. We seek in six clauses to amend four particular laws. In the first case, Madam Speaker, we are amending the Summary Courts Act. In the second, we are seeking to amend the—sorry. In the first we seek to amend in clause 3 the Supreme Court of Judicature Act. The second law that we seek to amend is the Summary Courts Act in clause 4. We then seek to amend the Coroners Act in clause 5, and we lastly seek to amend the Sexual Offences Act in clause 6.

Permit me to say, Madam Speaker, that we do have a few small amendments to make which we would propose to circulate at committee stage, and they will really not occupy too much of trouble for hon. Members as I explain the purport.

Madam Speaker, the Supreme Court of Judicature Act in clause 3 seeks firstly an amendment for the introduction of a Drug Treatment Court Process. We then seek, Madam Speaker, to allow for the referral to a Drug Treatment Court Process. We also seek, Madam Speaker, to allow the hon. Chief Justice to issue directions with respect to the hearing and taking of evidence in criminal and civil trials.

Madam Speaker, we also propose in the Supreme Court of Judicature Act to treat with the amendments to allow for the move to the perfection of electronic management of records and structures at the Judiciary by allowing for the making of the rules-making capacity and the ability to apply administrative fees in respect of certain matters. Those amendments are with respect to the drug treatment process replicated in clause 4. We will propose to have an amendment to clause 4 where we add the drug treatment process itself into clause 4. We have already the replication of the power of the hon. Chief Justice to treat with virtual hearings and taking of evidence in clause 4. And then the Coroners Act in summary treats with
very important amendments to allow for improvements in the administration of justice as it relates to the Police Complaints Authority. Clause 6 is intended to remove the obstacles to the full operationalization of the sex offenders registry.

So, Madam Speaker, permit me to start with the substance of the amendments to the Supreme Court of Judicature Act. They will obviously apply to what I will say in the Summary Courts Act. So let us get to the mischief that we are looking to solve.

Madam Speaker, you will note at clause 3 and also at clause 4 in the Summary Courts Act, we are proposing the introduction in the definition section of a Drug Treatment Court Process. This process is where a judge, a master or a district court judge, Madam Speaker, you are well aware that we have now merged the jurisdiction of several aspects of the Family and Children Division such that judges may sit in magisterial districts and therefore, it is not uncommon even though it is in the Supreme Court of Judicature to now see reference to a district court judge, as magistrates are now called. Masters, of course, are made reference there too because in the family and children proceedings, the case management of matters whilst they exclusively resided in the Magistrates’ Court before, can now be heard by a judge or a master sitting in the High Court Division. But this introduction of Drug Treatment Court Process, Madam Speaker, specifically contemplates rules to be made by the Rules Committee established under section 76, and those rules made under section 77 of the Supreme Court of Judicature Act. And listen to what it does:

to cause someone to be under—“an intensive treatment and counselling programme and other services that require the person to be monitored by a Judge, Master or District Court Judge and to abandon successfully the use of
the drug or alcohol and to be held accountable by the Judge, Master or District Court Judge for meeting his obligations to the Court, society, himself and his family;”

And we specifically then take a very broad definition of the word “substance”. Substance is meant to be:

“…any dangerous drug as defined in the Dangerous Drugs Act and includes alcohol;”

That amendment, Madam Speaker, flows immediately into clause 3(c) where we propose the introduction of a new section 65R. And this is where the three categories of judicial officers:

“65R. (1) A Judge, Master or District Court Judge may refer a person to a Drug Treatment Court Process, where it is satisfied that the person has a history of alcohol abuse or substance use…”

And this is the category of people we seek to now catch where the person who is referred is a person:

(a) before the Court in any criminal or traffic matter other than a violent offence;”

Secondly, the person is:

“(b) a party to a family matter;”

Madam Speaker, I would remind you that a family matter is defined under the Family and Children Division and therefore, family matter as opposed to child matter is a separate matter standing alone. Or:

(b) a parent, guardian or person with responsibility for a child who has come to the attention of the Children’s Authority as a child at risk;”

Madam Speaker, we then go on:
“(d) with the agreement of the person, a member of the household of—

(i) a child who is convicted of an offence…”

(ii) a child who would be liable…”—et cetera, to the—“…payment of any fine, damages or costs,

if the child is a child at risk and the substance use by the member of the household is negatively affecting the child.”

Madam Speaker, this is squarely rooted in the work which we as a Government implemented in the family and children amendments that we caused in Act No. 6 of 2016. I want to remind that in birthing that law, assented to on the 5th of July, 2016, in section 47 of that ground-breaking piece of law, we introduced the Children Drug Treatment Court Process.

Now, Madam Speaker, this Government and the Judiciary have together made history in the Caricom by introducing the Drug Treatment Court Process. We implemented as a government the salvation by way of anonymity for children who are referred to the courts. We established with the United Nations the anonymization of records for children. We as a country established a robust drug treatment court process and, Madam Speaker, we put that right alongside the Peer Resolution process as you will recall.

Madam Speaker, so ground breaking was this work that the rest of the Caribbean is now applying the same methodology, Barbados, Turks and Caicos, Bermuda, Bahamas are now all in active consultation with Trinidad and Tobago to apply the innovations of process that we have applied. That, of course, came on the back of a diagnostic study of the Trinidad and Tobago drug treatment court, and the hon. Chief Justice, Mr. Justice Ivor Archie is definitely the forerunner in this field in having taken the Judiciary into such a novel process, Madam Speaker.
Madam Speaker, what this amendment allows us to do, both in respect of the Supreme Court of Judicature and the Summary Courts Act, is that it allows us, Madam Speaker, to focus upon children at risk. Madam Speaker, we allow court treatment processes in the plural, not in the singular, so that we can have the family, the entire family, people with responsibility for the child. The child, a person who comes to the attention of the Children’s Authority, that we can have all of these people into family counselling and drug treatment counselling. And, Madam Speaker, we allow it in the broadest concept of application including if you are on community service, if you are before the court. If you are not even before the court and you consent, Madam Speaker, when we focus upon this new terminology of a CHIN, a child in need of care, Madam Speaker.

It runs right alongside with the harmonization of our laws when we introduced the decriminalization of marijuana. It runs right alongside the Children Act, when we see that the exposure to alcohol or dangerous drugs has to be treated by way of avoiding the court and jail and incarceration and taking into an alternative form of salvation where children in need of care are provided with alternative mechanisms. Drug treatment process, child drug treatment process, peer resolution, Madam Speaker, we lift the immense successes in the Family and Children Division into the Supreme Court of Judicature Act and into the Summary Courts Act.

Madam Speaker, similarly in the Bill we seek in the Supreme Court of Judicature Act and in the Summary Courts Act to treat with the process of the Chief Justice issuing directions. Directions to ensure criminal and civil trials are conducted by audio and video link, evidence is taken by audio and video link from a remote point. Why is that necessary in both the Summary Court and in the
Supreme Court, Madam Speaker? Quite simply for two reasons. Even though we have a system of video conferencing and also a virtual appearances anchored in the Family and Children Division, and also in the Criminal Division done in 2016 and in 2018 respectively, there has come to the attention of the jurisdiction to the court in particular the very recent decision arising in the Privy Council which considered the matter of similar issues coming in the Turks and Caicos where there was a challenge to the concept of remote sitting and taking video evidence and audio evidence, and even in that jurisdiction of a judge in Jamaica sitting in the court in Turks and Caicos.

Madam Speaker, the Privy Council put squarely before the world its decision which set out that there is nothing untoward or in terms of taking away of any rights or privileges or even equality of arms to have remote trials, to have video conferencing, to have audio conferencing and that, Madam Speaker, being a decision in November 2020 of the Privy Council, it was important for us to take not only judicial notice but parliamentary notice of the case of the Attorney General of the Turks and Caicos Islands (Respondent) v Misick and Others as (Appellants). And that came before the Privy Council in appeal No. 0072 of 2020, in the Michaelmas term, judgment delivered on 13 November, 2020, before Lady Black, Lord Lloyd-Jones, Lord Briggs, Lord Hamblen and Lord Stephens.

And therefore, Madam Speaker, it is imperative for us taking note of that, taking note of considerations at the local Bar, expressions as to whether jury trials can continue on a virtual platform, considering all of the circumstances now better clarified by the Privy Council, it is important for us in the Supreme Court of Judicature Act to put these provisions in and also in the Summary Courts Act as they appear before you, Madam Speaker. Madam Speaker, may I ask, what time is
full time?

**Madam Chairman:** 11.14:48.

**Hon. F. Al-Rawi:** Much obliged. So, Madam Speaker, I would like to say that whilst you see in clause 3 the reference to the definition of drug treatment court and then you will also see in paragraph (c) the referral to the drug treatment process itself, it is those two items that we will add into at committee stage into the Summary Courts Act in the move to reformat this Bill, regrettably those things fell off, Madam Speaker, between Friday and the day on which it was laid but they caused no injury because the very concept of it has to be in harmony between the Supreme Court and in the Summary Court as well, Madam Speaker.

**11.00 p.m.**

So, Madam Speaker, we would propose to put in similar provisions as appears in clause 3 into clause 4. Madam Speaker, in clause 3 you will see in the amendments that we propose in paragraph (d), that we are allowing for the:

“…making”— of the— “provision for charging of administrative fees by the Supreme Court;”

And you will note, Madam Speaker, that rules are being invoked pursuant to section 76 and section 77 of the Supreme Court of Judicature Act that:

“…the Chief Justice…”— can— “determine cost associated with—

(a) the filing of documents;

(b) the service of documents;

(c) the use of alternative…”— methods.

I would like to point out and specify here:

“(d) the use of mediation;

(e) the use of technology;
Miscellaneous Provisions Bill, 2020 (cont’d)  
Hon. F. Al-Rawi (cont’d)

(f) conveniences;
(g) transactions;
(h) …interpretation… and
(i) any other service…”

Why is this necessary, Madam Speaker? As we have moved to the electronic platform, as we have moved to the electronic payments of moneys into and out of court done by way of legislation in 2018 as well, it is necessary to constantly keep an eye on the law so that whilst the COVID pandemic has allowed a precipitation and catalyzation of precipitate in this pandemic of using now, very frequently, video conferences and remote hearings, and now almost exclusively electronic filings, we have to move away from the concept of cash in a drawer at the register. And therefore, it fits in with the Government’s digitization programme and the move to an e-wallet society, to allow for the payment of services on electronic platform for a multitude type of service, importantly including mediation services, again, with the focus on alternative dispute resolution.

Madam Speaker, I turn to clause 5 of the Coroners Act. I would say that this amendment is very closely related to a Bill which we laid today, and without anticipating that Bill, the Coroners Act is necessary for amendment and the administration of justice itself is importantly improved by removing one of the hurdles that the Police Complaints Authority frequently faced in coroners’ inquests. Now, Madam Speaker, you would know that under the Coroners Act a magistrate sits as a coroner where there is an unnatural death. Unnatural deaths very often include police shootings. When that goes before the coroner, far too frequently and unfortunately, the Police Complaints Authority finds out in arrears or do not know that the matter was proceeding, and the amendments that we cause
here now are firstly, to allow the locus or right of audience for the Police Complaints Authority as an interested party before the coroner, as opposed to having the Police Complaints Authority make itself a party by way of application, and secondly and importantly, that notice of the proceedings before the coroner will be served upon the Police Complaints Authority in circumstances where it is the subject of an investigation, monitored, audited, or carried out by the Police Complaints Authority, and that is specifically obviously rooted into unnatural deaths before a coroner concerning police shootings.

Madam Speaker, the last amendment is to clause 6 of the Bill, proposing the amendment to the Sexual Offences Act. Madam Speaker, I would ask you to take note that the Sexual Offences Act and the very concept of a sex offenders registry, stood on the books of Trinidad and Tobago for nearly 20 years without a single person going onto the register. Why? The law as cast in 1999 was quite simply ridiculous. It required somebody to report to a police station at the same time that the judge was putting them into the jail. And that just simply was a nonsense. There was no process flow as to how somebody came on to the register. And, Madam Speaker, it resulted in this country having a law passed in 1999 without a single person 20 years later on the register. What we have found out in our survey to cause the proclamation and operationalization of this law is that there has been a significant roadblock. And that can be cured by an amendment to section 49 of the Sexual Offences Act where, instead of a mandatory mental assessment report from a psychiatrist where the court, before making a determination to put you on the sex offenders registry shall have that report, we now leave it quite properly within the realm of judicial discretion. We simply changed the word “shall” to “may”. That, in fact, underwrites and reinforces the constitutionality of the law. To say that the
court shall have something and be constrained is to offend the separation of powers principle. “May” leaves it in the court’s discretion, bearing in mind all of the subcategories of gravity, circumstance, protection, and rights of justice, and interest of justice always prevailing.

Madam Speaker, that therefore took us to the amendments to 49(1)(3)(a). And that, Madam Speaker, can finally allow for the population of the sex offenders registry. Why is that important? Madam Speaker, without reviving the last debate, I did hear my colleague say that sexual offences against children are on the rise. Madam Speaker, I dare say, the detection of sexual offences against children are now better recorded. It has always been a feature of this country, regrettably, that our children are being exposed to vulnerabilities. But thankfully, Madam Speaker, because of the hard work of the very many people involved in the protection of children in our country, we are now getting people come before us to report offences against children. Because if we cannot protect the most vulnerable in our society, we are in trouble.

And, Madam Speaker, one of the tools carefully exercised and balanced in protecting our children must reside in the population of a sex offenders registry. That registry is operationalized by the fact that there has been the implementation of the Child Protection Unit, the Gender Affairs unit, the Solicitor General’s Department of child advocates under the Attorney General. My colleague, the Member for Tobago East, pioneering and supervising the work in respect of children at the Ministry that she manages. And therefore, Madam Speaker, this operationalization of the Sexual Offences Act, where we treat with the sex offenders registry, is critical for us all. Madam Speaker, I look forward to the contribution of my learned colleagues in the body of this debate. I think that there
can be very little objection to a law such as this and in those circumstances, I beg to move. [*Desk thumping*]

[**MR. DEPUTY SPEAKER in the Chair**]

*Question proposed.*

**Mr. Deputy Speaker:** I recognize the Member for Chaguanas West. [*Desk thumping*]

**Mr. Dinesh Rambally (Chaguanas West):** Thank you, Mr. Deputy Speaker, and I appreciate the opportunity to contribute to this debate.

Mr. Deputy Speaker, as I start, I want to say that we accept that drug treatment, or I should say drug treatment courts, enable the criminal justice system to move more effectively and to tackle the problem of addiction and the issues that we see in society which are presented by substance abusers. As I start, I want to say that we need to look at this Bill, and what it seeks to do is, you are having amendments to the judicature Act—to the Supreme Court of Judicature Act, so we have to look at the debates through the lens of the definition section in the judicature Act where you are seeking to make certain amendments.

Now, there is a—I would not say it is a saying but some people consider it a rule, that if you have to explain the meaning of a word, you do not use the word in the explanation that you seek to give. And I say that respectfully just simply to say that we have to look at what is being presented in the definition section by virtue of these amendments. Now, let me start off by saying that assuming that facilities, and this is really—I know the learned Attorney General, the hon. Attorney General, will probably give us more information on this, but facilities have been and will be earmarked that, will persons at these designated facilities be trained in physical combat and restraint? And this is a serious issue that has arisen in the past,
and I dare say this question that I am asking is not out of place. There have been incidence of court ordered referrals to St. Ann’s where persons referred have engaged in serious combat with the nurses. And in a Guardian article entitled:

“Violent patient threatens nurses boycott at St. Ann’s”

This is February 27, 2019. It was stated that the Trinidad and Tobago Registered Nurses Association had two recommendations, and one of it was, and I quote:“It wants only one High Court referred patient at the Forensic Division at a time and for there to be a permanent police presence at the facility.”

The article describes the manner, Mr. Deputy Speaker, in which patients/prisoners are dropped off, and this is what it says:

“‘So the police would bring them shackled, handcuffs, each police officer is heavily armed and as they reach on the ward, the police take off the patient’s handcuffs and then they are free to roam within the ward,’”

And as I say, and to learned Attorney General, the hon. Member for San Fernando West, that this is not a criticism on what has been piloted but it is something that we definitely need to look at as we seek to put in these—we are amending the judicature Act to introduce these powers, but also we want to know that in reality that it can work in a safe manner and in a proper system. The question as well that arises: Is there a period of monitoring? And this now goes back, Mr. Deputy Speaker, if we look at the definition that is being sought—this is at clause 3:

“‘A Drug Treatment Court Process’”— and it reads there— “means a process where a person is referred by a Judge…”—et cetera, et cetera—“to an intensive treatment and counselling programme and other services that require the person to be monitored by the Judge…and to abandon successfully the use of the drug or alcohol…”

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Now, when we look at, for example, the Mental Health Act, this is often applicable to substance abusers who suffer impairment of the mind where a judge can order the director of psychiatric hospital to admit a person in those circumstances, such a person cannot be kept for more than 14 days.

And I raise this to say that after which the court can rescind the order or reissue a further order to the hospital director until such time that the director informs the court that further treatment is not necessary. Why do I raise this? It is because this process that we are talking about, question is, is it an open-ended process? And I know there will be the supporting legislation but I have to raise it in as much as we are talking about a definition section.

One aim of the proposed process is for the person to abandon successfully the use of the drug or alcohol and to be held accountable by the judge, et cetera, for meeting its obligation to the court, the society, himself and his family. I want to say that we need to be careful in the definition section when we use that language “abandon”, and when we are talking about asking persons to abandon the use of drug or alcohol. There is a world of difference between use and abuse, and by simply asking persons to give up using their 30 grammes of marijuana, to which they are legally entitled, this is something that will interfere with their habit, it will interfere with their lives, and it also has implications, so that it must be distinguished from asking persons to abandon their abuse. So, there is use as opposed to abuse and this is something that I want to point out when we are looking at the definition section.

Now, Mr. Deputy Speaker, before I get further into the proposed Bill, some of the things that struck me is that you have some practical issues that arise. And I trust that the hon. Attorney General will probably speak to some of these in
winding up. Now—or other Members supporting the Bill—if it is you have in a situation like this where you look at substance and now you are seeking to say:

"'substance’ means any dangerous drug as defined in the Dangerous Drugs Act, and includes alcohol;”

—one of the practical questions that arise is, what would be the scenario in your criminal records? So for someone who actually is convicted of one of these DUIs, you have, you know, a particular reflection on the criminal record. But when you say now:

"'substance’ means any dangerous drug as defined in the Dangerous Drug Act, and”—it—“includes alcohol;”

—the practical effect that we are looking at is that when you have a criminal record, what is reflected there, if it is simply reflected as substance abuse, there is a difference for people if it is they are convicted for a DUI or some related charge, as opposed to substance abuse, you may have cocaine, or you may have other drugs, and that makes a difference.

Where it makes a difference is in as much as the drug treatment process is meant to help with rehabilitation with persons, the criminal record that reflects what they have been charged with also assists people with reintegrating into society in a manner that, you know, is more accommodating. If the record reflects something just simply as substance abuse but there is no determination or no definitive position on whether it is, you know, cocaine usage as opposed to alcohol, then you have employers who may want to take a certain position that, look, this person is somehow guilty of that kind of charge, and they may think twice. I am just saying that is a practical reality that we have to consider. Now, the drug treatment court process, one must always be able to know at any given time
whether it is something that—the process is in conjunction with a good behaviour bond or is it purely penal? And that is something that I did not pick up, hon. Attorney General, in terms of when you are seeking to put in these amendments to the judicature Act, and it is going on to deal with other provisions, amending or giving way to other pieces of legislation.

The other thing is that, Mr. Deputy Speaker, when we are talking about referral to the drug treatment court, the question arises, what if a person is charged for trafficking, but it is not someone who is a user them self? It is something I do not know how they will fit into this definition. What if the offence charged has no element of possession or use, but in the course of giving their defence, so to speak, their defence is that they do not necessarily use, but the excuse for probably stealing or larceny is one that, look, they wanted it so they could buy, you know, some dRug or the other. Do all of these persons fall into the category that you want to now move forward to have them— the benefit of the drug treatment court process? And when we look at some of the other definitions, when you are talking about the history, the question is, that some of these things have to be detailed clearly in the other pieces of legislation. So I just raise that as practical issues that arise and I know that we would probably hear from the Attorney General on some of these things.

Now, Mr. Deputy Speaker, moving on to a more familiar area to myself. If I may say that when we look at clause 3(b)— now this is something that has been—I have to say that you have different positions being taken by practitioners, certainly legal practitioners in the profession, and what basically the section says is that:

“14A. The Chief Justice”— the hon. Chief Justice—“may, when the circumstances warrant, issue directions as deemed necessary to ensure
that—

(a) criminal and civil trials may be conducted by audio and video link;”

Now, in a post-COVID world it is necessary to have an indication of what specific circumstances will warrant the necessity for remote trials. I note from the other side they will say, well, this is up to the discretion of the rules committee and how it is to be implemented. But I think it is our duty to put it on the record that for future purposes that we ought to look at it in this manner that, you know, in the post-COVID world what exactly is going to take—you know, materialize, because during COVID we saw the need for having the video link and for having the virtual hearings. But even during the COVID pandemic, the question did arise in court proceedings, certain court matters, which were published in the public domain that—and you had even Senior Counsel taking the position that you were eroding people’s rights by having the trials done only through virtual hearing.

Now, sources of evidence, we know, can include the observation of the demeanour of witnesses and this ties in to some of the objections that were raised during the pandemic—in the early pandemic, and bearing in mind that during the pandemic we had certain rules that were passed to allow the video link and the virtual hearings. So I am saying that even in that situation you had senior practitioners raising these concerns. And if you break it down, basically when you have the observation of the demeanour of witnesses, the examination of physical exhibits, objects such as weapons and even spent shells, all of these things, the question arises, do you have the equivalent that you would like to—that you are accustomed to in a normal trial? There is the value to meeting or confronting your accuser in court.

I could say that, you know, in Trinidad and Tobago we tend to say we have
our day in court or you hear some people saying, you have—you know, “We have court clothes.” But what do they really means by these things? In England, Lord Denning himself said that the essence of cross-examination is to have the continuous exchange of questions and answers; Jones v the National Coal Board, that is the English common law position. In the United States, there is a Sixth Amendment Constitutional right, that is the right to confront and cross-examine a witness in a criminal action, and this includes the right to be present at the trial and this is even guaranteed by federal rules of criminal procedure.

So, I am saying all of these things, that there is a certain need for deportment, appearances, conduct, eye contact. We even—in law, when you are dealing with evidence of innocence and guilt, you assess and observe body language of the witnesses, you ask questions such as, “Was he showing any remorse or simply smirking?” All of these things the courts take into account. I am simply saying that if we are going in this direction, we have to bear in mind that there is a common law right. If you do not want to elevate it as high as a constitutional right, it is certainly a common law right to have your day in trial, in-person, in court.

So, this is a broad sweeping power and I would say that it does not take into account the views of the parties necessarily who may very well wish to have their day in court. Perhaps it would be more prudent to suggest—and I am suggesting that there should be a reserved power, certainly in a post-COVID environment that to retain as a default position, that if you reach the stage of a trial and you want to have virtual hearing of the trial, have persons’ consent, at least give the option that persons can consent. If they consent then there is no erosion or trampling of their rights and it is their option, it is available. If they take it up, it means they move
along and if they do not, it means that the matter will hold on until such time as it can move on. But it is an option that I think it should be afforded to the parties to choose because it sometimes leads to, you know, a life-defining event, the trial itself.

Now, moving along, Mr. Deputy Speaker. Now, let us just look at the Bill itself, and I know time is limited, but I wanted to point out that when we look at clause 3(c), and I know that amendments have been passed around, but I would want to point out kindly to the hon. Attorney General, that this section 65R(1)(a), (b), (c) and (d)—sorry (a), (b) and (c) reads—in my view, it reads okay. It reads properly. But from (d), there seems to be some problems with the reading. But—[Interruption]—yes, and I am getting to the amendment. The amendment is helpful, but the drafting is something that I think it makes it very difficult to follow when you look at with the agreement of the person. The history of the person that is referred to in the body at section 65R(1), and then when you look at what happens from (d)(i), (ii) and (iii), it creates a little bit of awkward reading. I want to point that out. But particularly at (d)(iii), what you have is—even with the amendment, we have to be careful with this, and I am sure it will be cleared up in the committee stage. You have here:

“if the child is a child at risk…”

And then when you look at the amendment:

“insert before the words ‘if the child’…”

So, I just point it out. I am not splitting hairs. But I think we need to just look at that when we get a little bit further. But my humble opinion is that (d)(i), (ii) and (iii) provides some very difficult reading.

Now, what I want to say is that, certainly, the intention here is that children
who grew up in chaotic homes where alcohol or other drugs are abused, and who experienced abuse and neglect by their parents or others, they are more likely to have problems as adults. And so, whilst this is welcomed, I am just saying that we have to be careful that the interpretation of the sections, you know, it does not lend itself to anomalies. So now is the time to cure if there are any drafting issues.

Now, moving on from that place, Mr. Deputy Speaker, alcohol abuse is an issue looming large and I dare say sometimes larger than life itself. It is imperative that persons are not labelled as an alcohol abuser or even as an alcoholic without due testing by qualified persons in the field. And I did some research, and the reputable medical site WebMD indicates that problems with alcohol use are now officially called “alcohol use disorder”. You will still hear a lot of people talking about alcoholism or alcohol abuse. It is a condition that ranges from mild to moderate to severe, and it is all still problem drinking even if you think it is mild. But herein lies the problem: at what point does alcohol use becomes alcohol abuse? And I am looking at the wording that we are using here. Matters are complicated by something called “high functioning alcoholic”, where you can possibly have a functioning alcoholic who might not act the way you would expect him to act. He might be responsible and productive. He could even be a high achiever or in a position of power. In fact, his success might lead people to overlook his drinking.

So, this is something that we have to bear in mind when we are drafting legislation with clarity and in keeping with—I use that only as reference to say that we keep our drafting—sometimes we are doing it in keeping with international definitions. I know at one point in time there was a committee or a body set up to make sure that all of our offences and even the elements in some cases of our offences matched international, I should acronyms, at the very least. So this is
something that we can start looking at from now. I would not say that necessarily
the section of the legislation is reactionary but what I would say is that we need to
look at some of the statistics and the research in this area when we talk about
alcohol use and alcohol abuse.

In a 2018 article published in the BMC Public Health journal entitled,
“National Alcohol Survey of Households in Trinidad and Tobago… willingness to
support changes in policy, laws and regulations”—this is found—it can be found if
you google it on the website, there was obvious support for fixing alcoholism in a
holistic fashion. And I would urge the Government to take note that in tackling an
agenda to curb abuse before a person so inclined reaches the courts and is subject
to this process, we need to look at the holistic approach how else we can target that
person.

A part of the article addresses what households in Trinidad and Tobago
believed to be issues of importance when you talk alcohol consumption. And these
were the results:

“One thousand six hundred ninety-five…”—households—“responded from
a total of 1837…”— homes—“approached (response rate 92%). In a
national campaign the following proportions of…”— households”—“would
support”—and I say what they are supporting please, Mr. Deputy Speaker—
etting the legal age for drinking at 21 years”—that is—“(82.4%)”—of the
survey saying that; “restricting or banning alcohol advertising on TV and
other media (73.1% and 54.4% respectively)”—said that; “banning all
alcohol advertising at sports and cultural events (64.8%); banning radio
stations playing songs with reference to alcohol use (71.3%); holding sellers
of alcohol responsible for the amount of alcohol sold (79.5%); advocating
that proof of age to be shown by persons buying alcohol…”—you had an
87.4 per cent of the households saying that this is a measure.
I am saying this in the context that all of this, in as much as you are talking about a
drug treatment process, you have to identify ways of treating with persons so that
they not even have to make it to court to have to access this. Placing more
prominent labels on products, placing more prominent warning labels showing
harmful effects, increasing taxes, et cetera, et cetera, supporting restrictions in
density of outlets, all of these were part of the survey.

11.30 p.m.

So I would like to say that in closing, Mr. Deputy Speaker, that we must be
careful that the drafting does not reflect any lack of clarity. We also have to look at
a forward-thinking approach. So whilst I said that it is welcomed and that we
understand that you can have this type of legislation, you want a drug treatment
court process to be able to even help with the judicial system and to help with
dealing with these sorts of offences and matters. We need to be forward thinking.
We do not wish to have any inability on our part even as we legislate. We must
have exactly what it is we want the court process to do and this is why I took the
position—[Crosstalk] this is why I took the position, sorry, of ensuring that we
look at it through the lens of the definition, this is the definition section we are
talking about, from this it would lend itself to interpretation in all pieces of
legislation. We need to properly clarify the parameters of, as I said before, the use
versus abuse and this distinction is necessary to determine if alcohol versus drugs
should be the subject of some of these provisions.

So, Mr. Deputy Speaker, in conclusion I urge the Attorney General to just
review that 65, clause 3(c) which is the section 65R—[Crosstalk] sorry, I am just
concluding, Mr. Deputy Speaker.

Mr. Deputy Speaker: Members, please.

Mr. D. Rambally: Yes, so that I think that—the hon. Attorney General has given me a signal, but I hope that even in looking at 65R(1)(d)(iii), I would like that we can look specifically at 65R(1)(d) (i), (ii ) and (iii). I think it would provide a lot of clarity in the circumstances.

Mr. Deputy Speaker, I know that my colleagues will follow on in terms of our position on this, but I thought in responding to this piece of legislation that we point out some of these areas. And as I said I hope that it is taken on board, that in future even when some of these things, matters are left for the rules committee that they will take our contributions on board. Thank you, Mr. Deputy Speaker.

The Attorney General and the Minister of Legal Affairs (Hon. Faris Al-Rawi): Thank you, Mr. Deputy Speaker. [Mr. Saddam Hosein and Hon. Al-Rawi stand together] Mr. Deputy Speaker—

Mr. Deputy Speaker: One second. I recognize the Attorney General. [Crosstalk]

Hon. F. Al-Rawi: Thank you, Mr. Deputy Speaker. Mr. Deputy Speaker, I wish to thank the hon. Member for Chaguanas West on an excellent contribution which has certainly taken us to a very fulsome place. I wish to say that I agree with the large majority of, the majority of submissions made by my learned colleague. It certainly have taken us to a better place, a lot of which we can deal with at the committee stage. I think the hon. Member is correct in his observation that there is some tweeting necessary to the Bill and the amendments that we are proposing in circulation and quite simply we can take those at committee stage and I beg to move. [Desk thumping]

Question put and agreed to.
Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in Committee.

Mr. Chairman: Hon. Attorney General, are you ready?

Mr. Al-Rawi: Yes, Sir. Apologies. Thank you for the momentary indulgence.

Clause 1 ordered to stand part of the Bill.

Clause 2.

Question proposed: That clause 2 stand part of the Bill.

Delete and replace with the following:

“Commencement 2. This Act shall come into effect on such date as is set by the President by Proclamation.”

Mr. Chairman: Do you have an amendment?

Mr. Al-Rawi: Yes, Sir. The amendment is the amendment as proposed in the circulation. It really is simply stylistic, some could call it piddling, but we are just keeping it with conformity with other laws. It is to just simply reword the way we state it should come into effect, by proclamation.

Question put and agreed to.

Clause 2, as amended, ordered to stand part of the Bill.

Clause 3.

Question proposed: That clause 3 stand part of the Bill.

In proposed section 65R(1)(d)—

(a) in subparagraph (i) delete the words “; or” and replace with the word “;”;

(b) in subparagraph (ii) delete the word “,” and replace the words “; or”, and

(c) insert before the words “if the child” the words “(iii)”.

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Mr. Al-Rawi: Mr. Chair, forgive me. The clause 3 consonant with some observations made by my friend the Member for Chaguanas West. My friend was absolutely correct in his observations that there was some surgery required to the language. And therefore, Mr. Chair, would you permit me to amend what is circulated in clause 3(c) as follows. It would just simply be: (a) and (b) stay as they are, (c) is where I propose that to do some adjustment. And we would say, insert before the word “stay”, if the child stays, the words—okay, so, forgive me, Mr. Chair. Sorry, Mr. Chair.

So if you follow me, and hon. colleagues I apologize for this. So in, what is 3(c) in paragraph (c) in the second column, we would go, insert before the words, “if the child”, the words—you see, Mr. Chair, you see (iii) in brackets, right after (iii) just insert the words, “a child,”. So we are just adding into that sentence in the table, at the very end of 3(c) on the column, before the inverted commas, after (iii), the words, “a child,”. So it reads insert before the words “if the child” the words “(iii) a child,”.

Mr. Rambally: Thank you, Mr. Chair. Hon. Attorney General I know we are looking at the proposed amendment circulated and 3(c) (c). It seems to me that it would read, when you say, insert “a child” before the words, “if the child”—

Mr. Al-Rawi: I can assist this way. If hon. Members would turn over to the second page of circulated amendments and look to what is described as 56A. Clause 56A would be exactly what we are doing here, but you would be able to see it in context. So if we go 56A(1):

“A Judge…may refer a person to a Drug Treatment Court Process where it is satisfied that the person has a history of alcohol abuse…and is—

(d) with the agreement of the person, a member of the household of—

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(iii)” a child—“if the child is a child at risk and the substance use of the member of the household is negatively affecting the child.”

So if you insert just the words “a child” at (iii) there you will get exactly what we are seeing in these amendments.

So if the Member for Chaguanas West would just take a look at that second page, at the (iii), just slip in the words “a child” before “if a child”. So with the agreement of the person a member of the household of a child, “if the child is a child at risk and the substance use of the member of the household is negatively affecting the child”. It is a different category of person. We have a child who is convicted in (i); a child who would be liable in (ii); in (iii) here is where the person agrees, there is a member of the household of a child and the child is at risk and the substance use of the member of the household is negatively affecting the child.

Mr. Rambally: Hon. AG, you would recall that I said in terms of the Bill, and I am referring to the Bill now 65R(d) (i), (ii) and (iii), I find great difficulty in reading that whole provision.

Mr. Al-Rawi: Right.

Mr. Rambally: I am okay with what you have said in terms of the amendment that you have proposed that it can read as the second page, (iii), but I really do have—I am putting that on the record—difficulty in reading that whole clause (d).

Mr. Al-Rawi: Understood. Because and I do not mean this pejoratively at all, but because amendments are not circulated with draft marked up copies of how they look, I can give you the assurance that what 65R would read like is exactly as I have just described with respect to 56A. So 56A(1) is the same as 65R(1). A is a, b is b, c is c, d is d, d (i) is the same, d(ii) is the same, and we are amending d(ii) where the shoes or the chausures, which is the bottom part of the thing on the
bottom of the page, we need to add in (iii) “a child, if the child is a child”. So it reads exactly as 56A(i).

Mr. Chairman: I recognize the Member for Barataria/San Juan.

Mr. Hosein: Sir, I have a comment on clause 3(b). I do not know if you want to entertain it now or do you want us to settle the amendment for 3(c) first and then we could always move on—

Mr. Chairman: AG I believe we have settled on 3(c) in that particular one so we can go on to 3(d) now.

Mr. Al-Rawi: Yes, Sir, as you please.

Mr. Hosein: Thank you. Now I am seeing at 14A, sub (a) now that civil trials are also included in terms of the directions that the Chief Justice will be empowered to make with regard to trials through audio visual means. Under the Civil Proceedings Rules there is also a rule, rule 29.3 that deals with taking evidence via video. Why are you including civil trials in this amendment where we already have rules to cover AV trials through civil means?

Mr. Al-Rawi: Absolutely. Mr. Chair, my colleague is referring to the very debate in the profession. Whether it ought to be in subsidiary legislation, that is, rules issued pursuant to section 77, the Supreme Court of Judicature Act or whether one ought to have it in the parent law, in this case the Supreme Court of Judicature Act and then the Summary Courts Act. Following upon the Privy Council’s decision in the Turks and—Attorney General, Turks and Caicos in November of this year, we thought it prudent to put the legislative spring board in the parent Acts, that is, the Supreme Court of Judicature and Summary Courts Act out of an abundance of caution bearing in mind that there is the potential for litigation on the issue.

In Trinidad we have a well-established practice as we all know of the Civil Proceedings Rules speaking to virtual hearings, we have had the virtual courts for
quite a long time right now in Port of Spain, San Fernando and Tobago. It is tried and tested here, but we are such a litigious society we did not want somebody taking a shot and then have to go all the way to the Privy Council to settle something.

**Mr. Hosein:** You see, AG I am having two issues being raised here. The first being parliamentary oversight. Because under the rules, the CPR, those rules will be subject to negative resolution. Now under your present amendment the Chief Justice would issue a practice direction which would effectively guide the procedure. I know you referred to the Misick case also, the Turks and Caicos case, but that case decided one substantive point which was whether or not the judge who was sitting in Jamaica, whether the regulations would have captured him in terms of him sitting in the Turks and Caicos virtually while he is physically present in Jamaica. The case did not deal specifically with the fairness of the trial because the trial was at a very premature stage. So the Privy Council was very cautious in terms of making any pronouncements with regard to the fairness of an audiovisual trial, criminal that is.

In this case now what I am saying is that you should have some level of Parliament oversight because you will have two sets of rules running now, you will have the practice direction dealing with the trials in terms of taking evidence through electronic means and then you would have the actually rules that would be subject to the rules committee under the CPR. So we are running two parallel streams. Why we just do not put everything under the rules committee for civil trials?

**Mr. Al-Rawi:** Mr. Chair, I read the judgment at least seven times. The judgment actually said a whole lot about virtual hearings. It did not say a little. It also said quite a bit obiter. There can be no clearer purpose in law than section 53 of the
Constitution saying, that Parliament made laws for the piece order and good governance of its country and took the steps to legislatively amend the parent Acts. So we put it in the primary law, Parliament has made the decision to say that virtual hearings in this jurisdiction should stand.

Now, that could be easily proved in a court of law when one have to defend whether it is an equality of treatment and whether you could lead evidence virtually, et cetera, but we want to avoid the risk of somebody taking those points as happened in Turks and Caicos. We want to specifically put it into the parent law and in those circumstances there is in fact oversight. In fact it is ex Sen. Wayne Sturge himself, a member of the UNC, who went to court and challenge the practice directions of the hon. Chief Justice with respect to the Criminal Proceedings Rules and Practice Directions. So there is oversight. What better oversight that the court having to decide that these things were so legitimate and fulsome?

So the Judiciary certainly is of the view that we want to have this in the parent law. As Attorney General I certainly hold the view that we ought to take conscious reflection on the Privy Council’s decision and I would prefer for the removal of argument that we go to the parent law amendment as opposed to relying upon a tackle on subsidiary legislation when neither the Supreme Court of Judicature Act speaks to it openly or the Summary Courts Act.

Mr. Hosein: You see, AG—

Mr. Chairman: One second. Go ahead Member for Barataria/San Juan.

Hon. Member: Port of Spain North—

Mr. Chairman: Port of Spain North/St. Ann’s West, just one second. Go ahead.

Mr. Hosein: AG, I understand the point with putting it in the parent law. The issue I am having is the reason why that case, the Misick case went all the way to the
Privy Council was because of the badly drafted directions that were made, the regulations that were made under the law. And there was a whole discussion regarding the clarity of the law even in the decision the court found that they were looking at, if it was better drafted you could have avoided the entire litigation. So what I am saying is that, why do we not have the civil trials remain under the jurisdiction of the Rules Committee and we leave the criminal part of it under the Practice Direction for the mean while.

Mr. Al-Rawi: Mr. Chair, my friend would be well familiar with what I consider to be the runaway horse of judicial review. In Trinidad and Tobago, and I would say this and I do not mean this pejoratively, I mean this factually, there are no more fulsome practitioners of judicial review on any and everything than people who very often find themselves in the fold of my friends opposite. And therefore we have been warned by the Privy Council and the Judiciary, the DPP has made concerns about the criminal side, but it applies equally to the civil side. Because on the civil side we have massive amount of litigation.

Why would we want to put ourselves in the invidious circumstance of somebody saying, well Parliament saw it fit to amend the criminal law in the parent law but not the civil law, therefore Parliament intended at the civil law could be open to a tackle. We need to harmonize the approach. The issue of evidence is common in both criminal and civil. It is why, for instance, computer admissibility under section 14B of the Evidence Act is in pari materia in topic to section 40 of the Evidence Act because there is admissibility of evidence in both criminal and civil matters. So the policy decision of the Government is parent law, harmonization, avoid risk.

Mr. Young: Thank you very much, Mr. Chair. Mr. Chair, this discourse whilst somewhat interesting I guess to some at this hour, is completely unnecessary,
because anybody worth their weight in law would understand that the parent legislation, there is two pieces of legislation here, the Supreme Court of Judicature Act and they are saying civil and criminal trials be conducted and this is actually giving life to what is already in existence. So it is back filing to use one of the AG’s terms to suggest that we leave it up to the Rules Committee and to accept that both the rules as well as Practice Directions have already been issued.

Just to put on the record, what we are saying here is that the Chief Justice may, when the circumstances warrant, issue directions. That answers it there. So what you are doing now is that you are going to the parent legislation to give the power to say parliament oversight, I cannot understand what further oversight there may be. We as parliamentarians have no oversight over the Rules Committee, over the directions issued by the Chief Justice. What we are doing here is giving him the express power to do what has already been done, is to avoid any defeat of what is already been done via litigation.

**Mr. Chairman:** Right. Member for Barataria/San Juan, again last point and we would just get the response from the AG. Proceed.

**Mr. Hosein:** AG, I am also looking at section 40E of the Evidence Act. That provides for the Rules Committee that makes rules for criminal trial also.

**Mr. Al-Rawi:** 14B is on the criminal side—

**Mr. Hosein:** Correct.

**Mr. Al-Rawi:** And then you have section 40 which is on the civil side.

**Mr. Hosein:** So why we do not use the Rule Committee to make the rules for these trials so that it subject the rule to—

**Mr. Al-Rawi:** With the greatest of respect, sorry to interrupt my colleague.

**Mr. Hosein:** And also—

**Mr. Chairman:** One second. [Crosstalk]

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Mr. Hosein: So the first one is whether or not we make criminal rules via the Rules Committee under the Evidence Act, have it laid in Parliament through negative resolution. That is the first point. And the second point is I am looking at the timing of this legislation. I am just asking the AG to confirm whether or not there is an active case before the court, currently, that is about to decide this exact same point that we are going to pass legislation for. Why we do not let the court make a decision before—

Mr. Al-Rawi: “Oh Lord!” Sorry. Mr. Chair, with the greatest of respect I have been pellucidly clear. The Privy Council has just decided in the Turks and Caicos case, Attorney General of Turks and Caicos, Mr. Chairman. It was the Attorney General of Turks and Caicos versus Misick and Others, on the 13th of November, 2020, we are not even a month away from that date, they have made very important observations in that judgment, all of the judges: Lady Black, Lord Lloyd Jones, Lord Briggs, Lord Hamblen, and Lord Stephens. Why must we wait for a first instance court in some matter which is not what is before me, because then I would be ad hominem, and doing law to catch a case and we all know from the classic case Liyanage that that is not permissible.

So this has nothing to do with a case. It is a general principle of law and we have the opportunity to just cure that now and I will say it this way, the policy of the Government in line with that of the Judiciary and consonant with observations in the legal profession, including from the hon. Director of Public Prosecutions is as follows:

1. We want it in the parent law.
2. Evidence is evidence whether it is in the civil or criminal trial because it runs to the fairness of a trial. Whether it is civil or criminal it is no difference they have different standard, sure and there are different
consequences sure, but it is still a trial. And therefore in those circumstances the policy of the Government is quite simply to amend the Supreme Court of Judicature Act and later you would see, Mr. Chair, the Summary Courts Act so that we settled the law once and for all.

_Question put and agreed to._

_Clause 3, as amended, ordered to stand part of the Bill._

_Clause 4._

_Question proposed: That clause 4 stand part of the Bill._

Delete the words “by inserting after section 57, the following new section” and substitute the following:

“by—

(a) in section 2 by inserting in the appropriate alphabetical sequence, the following new definitions:

“‘A Drug Treatment Court Process” means a process where a person is referred by a Judge, Master or District court Judge in accordance with the Rules made by the Rules Committee established under section 77 of the Supreme Court of Judicature Act, to an intensive treatment and counselling programmed and other services that require the person to be monitored by a Judge, Master or District Court Judge and to abandon successfully the use of the drug or alcohol and to be held accountable by the Judge, Master or District Court Judge for meeting his obligations to

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the Court, society, himself and his family; and

“substance” means any dangerous drug as defined in the

Dangerous Drugs Act and includes alcohol;”;

(b) by inserting after section 56, the following new section:

“Referral of 56A.(1) Judge, Master or
a person to District Court Judge may refer
the Drug a person to a Drug Treatment
Treatment Court Process where it is
Process satisfied that the person has a history
of alcohol abuse or substance use and is—

(a) before the Court in any
criminal or traffic matter
other than a violent
offence;

(b) a party to a family
matter;

(c) a parent, guardian or
person with
responsibility for a child
who has come to the
attention of the
Children’s Authority as a
child at risk; or

(d) with the agreement of the
person, a member of the
household of—

(i) a child who is convicted of an offence which is punishable, in the case of a person eighteen years of age or over, by imprisonment;

(ii) a child who would be liable to be imprisoned, in the case of a person eighteen years of age or over, in default of payment of any fine, damages or costs; or

(iii) if the child is a child at risk and the substance use of the member of the household is negatively affecting the child.

(2) The Court may refer to
the Drug Treatment Court Process, a person who has also been sentenced to Community Service, is on probation, or is on a bond to keep the peace.

(3) The Rules Committee established under section 77 of the Supreme Court of Judicature Act may make Rules prescribing the procedure of Drug Treatment Court Processes for—

(a) persons charged with offences; and

(b) persons other than those charged with offences;”;

and

(c) by inserting after section 57, the following new section:”

Mr. Al-Rawi: Mr. Chair, for the same reason advanced in respect of the amendments to clause 3 of Bill, I ask hon. Members to please consider the proposed amendments as circulated in respect of clause 4, save only on the second page, at the bottom of the page, at (iii) to insert the words “a child,” before the words “if the child”.

Mr. Chairman: The question is, that clause 4 be amended as circulated and further amended by inserting the words “a child,”.

*Question put and agreed to.*

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

Clauses 5 and 6 ordered to stand part of the Bill.

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

House resumed.

Mr. Deputy Speaker: Attorney General.

Hon. Al-Rawi: Good morning, Mr. Deputy Speaker, and to my learned colleagues. How lovely to hear the bells chime at this hour. Mr. Deputy Speaker, I wish to report that the Miscellaneous Provisions (Administration of Justice) Bill, 2020, was considered in committee of the whole and approved with amendments. I now beg to move that the House agree with the committee’s report.

Question put and agreed to.

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

MISCELLANEOUS PROVISIONS (FATF COMPLIANCE) BILL, 2020

Mr. Deputy Speaker: Attorney General.

The Attorney General and Minister of Legal Affairs (Hon. Faris Al-Rawi):

Mr. Deputy Speaker, I beg to move:

That a Bill to amend the Mutual Legal Assistance in Criminal Matters Act, Chap. 11:24, the Proceeds of Crime Act, Chap. 11:27, the Anti-Terrorism Act, Chap. 12:07, the Interception of Communications Act, Chap. 15:08, the Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01, the Income Tax Act, Chap. 75:01, the Central Bank Act, Chap. 79:02, the Financial Institutions Act, Chap. 79:09, the Companies Act, Chap. 81:01, the Securities Act, Chap. 83:02, and the Non-Profit Organisations Act, No. 7 of 2019, be now read a second time.

Mr. Deputy Speaker, I am very pleased to pilot this Bill to amend these 11 pieces
of law. I do so, Mr. Deputy Speaker, in the context of Trinidad and Tobago’s continued work in ensuring compliance with our international obligations. By now, Members will be well familiar with the fact that Trinidad and Tobago underwent review from the Financial Action Task Force, and that following upon our Fourth Round Mutual Evaluation where we performed terribly in January 2015 Trinidad and Tobago was put into enhanced follow-up in the Caribbean Financial Action Task Force and we were also put into grey listing, sometimes confused for blacklisting, by being referred to the International Co-operation Review Group, the ICRG, of the Financial Action Task Force itself.

Because of the size of Trinidad and Tobago’s economy we were singularly named in the International Co-operation Review Group by FATF, meaning that we were obliged to be put upon a mechanism of continuous reporting to the Financial Action Task Force. We had goals to achieve and we had to—in the reporting on your progress in the fourth round mutual evaluation, the Financial Action Task Force is looking at your efficacy, not only the laws that you have. The third round effectively looked at your laws to meet technical compliance, do you have an Anti-terrorism Act, do have a Proceeds of Crime Act, et cetera, but it is in your fourth round they looked to the efficiency of your laws.

I am very pleased to say, Mr. Deputy Speaker, thanks to the hard work of all stakeholders, and permit me at this moment to recognize in particular the Secretariat of the Attorney General led by our Head of Anti-Terrorism Unit, Mrs. Vyana Sharma, the chief drafter for the work at the Financial Action Task Force, the indefatigable Ida Eversley who has worked tirelessly for Trinidad and Tobago, and, of course, all of the hardworking people across the spectrum at the SEC, the Central Bank, the Financial Intelligence Unit, the Financial Investigation Branch,
Customs, et cetera. We managed to do phenomenally well. We succeeded in our third follow-up report and in our final review. We subjected ourselves in January of this year, 2020, to an on-site examination by the joint group of the Americas and we passed with flying colours. In that regard, we were taken out of the assessment routine, we were taken off the negative listing, but we have continuing obligations. There will be a fifth round.

Very importantly, other bodies, the European Council, in particular, the derivative of the European Union, they have their own independent methodologies where they take the FATF listing and they misapply it, and I say that very purposefully here because I have written to the European Commission and indicated Trinidad and Tobago’s thorough dissatisfaction with having been placed upon negative listing by them even though we have come off of the FATF negative listing. And in that regard the European Council in particular has accelerated the consideration of our treatment of two aspects of the FATF methodology: Number one is Recommendation 25 for beneficial ownership and its transparency; and, number two, very importantly in this Bill today are the elemental features of what we call Recommendation 35.

Recommendation 35, which was effectively crystalized in our third follow-up review report in June 2019, had the FATF making the following commentary and that is to be found in that report which is in the public domain. The FATF’s comment was specifically:

On comparison with previous FATF reports where no administrative financial sanctions are in place, no ratings above PC—meaning partial compliant—have been given, we would encourage comparison with the Mutual Evaluation Reports of Switzerland and Norway in this regard.

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The matter was also raised in discussion during the MER, Mutual Evaluation Report of Denmark. We would particularly note that the ECG discussed the issue in the MERs of Switzerland and concluded that whilst administrative financial sanctions should not be regarded as mandatory, in specific circumstances a fine is the only adequate and proportionate sanction available. Therefore, the absence of an ability to levy financial administrative penalties means that on the basis of current precedent and consistency with other reports this rating should remain as PC.

Let us translate that.

The Financial Action Task Force said to Trinidad and Tobago go and install administrative sanctions alongside your criminal sanctions, and specifically, Mr. Deputy Speaker, do that as we have crystalized it in our working groups in the Proceeds of Crime Act, the Anti-Terrorism Act, the Financial Intelligence Unit of Trinidad and Tobago Act, the Income Tax Act, the Central Bank Act, the Financial Institutions Act, the Securities Act, and—sorry, I should not have said the Income Tax Act. Please exclude that, but all others. And therefore, Mr. Deputy Speaker, when one has regard to the fact that under the Proceeds of Crime Act, Anti-Terrorism Act, Financial Intelligence Unit Act, Central Bank Act, the Financial Institutions Act and the Securities Act, coupled with the Financial Obligations Regulations and the Financial Obligations Regulations with respect to terrorist financing, we proposed specifically in this Bill to introduce an alternative approach to criminal sanctions by the introduction of administrative sanctions.

What are administrative sanctions? Administrative are where the regulator has the opportunity to tell a regulated entity or a listed entity as we have in the Proceeds of Crime Act “Listen, you have an option. You can take an administrative
fine which is significantly less than the criminal offence route. If you pay that fine okay, if you agree to. If you do not we will take you to court either on a summary offence or an indictable offence.” And what we propose, Mr. Deputy Speaker, therefore, is that we bring to life this whole concept of administrative penalties. Administrative penalties are put in place where you are dealing with matters that do not involve a mens rea or a mental intention. It is usually an act of failure to file something, a file do something where there was no intention or mental element behind the crime.

So, Mr. Deputy Speaker, we propose specifically in looking at this Bill to do the following: the short title is clause 1; the commencement is clause 2. Clause 3 is the amendment now outside of the Recommendation 35, Administrative Sanctions. We wish to put a secrecy provision inside of the Mutual Assistance in Criminal Matters Act. What is that? The Mutual Assistance in Criminal Matters Act is the legislation which allows us to engage in reciprocity for criminal matters, in Commonwealth and non-commonwealth jurisdictions, and specifically to allow for extradition proceedings.

We are proposing the introduction of a confidentiality of information and that persons who are employed at the central authority—and I should say the Attorney General is the central authority under that, but there is a unit—and who previously were employed are subjected to an offence if they disclose information improperly other than in the course of their employment. This would allow, as we have right now, in significant matters the reciprocity of information, and for our foreign intelligence partners and other jurisdictions to be certain that there will be no leaking of information which would prejudice or tip-off an investigation.

We then propose in clause 4 to amend the Proceeds of Crime Act.
Effectively as I mentioned earlier, we are bringing to life the regime of administrative sanctions. We are proposing, consequent upon the observations of the FATF, that we allow for the springboard for regulations to provide for either breach of regulations amounting to an administrative fine. In default of that payment of fine, you commit an offence or that you go another route which is that you just go summary or indicatable for breach of regulation. We also recognize that there is merit in harmonizing these laws because in the FIA, and we looked at the SEC in particular, CBTT, Central Bank and Trinidad Securities Exchange Commission, there is a progressive sanctioning regime, and therefore, we want to harmonize all of our laws with these administrative sanctions to work in best interest.

Mr. Deputy Speaker, very importantly in the Proceeds of Crime Act we are proposing an amendment to the Seized Asset Fund. We are allowing in the Seized Asset Fund, Mr. Deputy Speaker, the introduction of, in section 58E, another purpose. We are proposing a widening such that:

“The Minister may, by Order, in addition to matters set out”—above—
“determine…the funds…may be used for any other purpose.”

Why? Trinidad and Tobago is at the cusp of the recovery of hundreds of millions of dollars—let me repeat that. We are at the cusp of the recovery of hundreds of millions of dollars and with the amplification of recovery under the unexplained wealth orders and the amendments that this Government has caused to improve the following the money in corruption matters, we want to allow the broadening of the category of matters for which the Seized Asset Funds may be used. This is a direct request of the hon. Prime Minister, Dr. Rowley, in saying that we will treat with these matters in a very careful way to improve our society’s utilization of the
proceeds of crime once recovered. Mr. Deputy Speaker, we in further amendments follow consequential amendments to the Financial Obligations Regulations. This is pursuant to the administrative sanctions being introduced and that is to revise Regulation 42.

Mr. Deputy Speaker, we turn to clause 5 to amend the Anti-Terrorism Act. Specifically, there is a provision for the Attorney General to list terrorist entities pursuant to section 22B of the Anti-Terrorism Act, but we need to seal these records. Again, if we are going to have information given to us by law enforcement authorities in other jurisdictions, we cannot run the risk of having information tip-off criminal investigations, and therefore, we are sealing the record to these matters. That is not to say that the matters would not be heard inter partes amongst related parties, but they will simply stay out of the public domain. This is borrowed from the provisions that we use in the Financial Intelligence Unit legislation, and therefore, it takes us into a better place.

Mr. Deputy Speaker, in the Anti-Terrorism Act, we, of course, bring to life the administrative sanctions route as I have described to meet Recommendation 35 of FATF. Mr. Deputy Speaker, we caused the exception to section 63 of the Interpretation Act so that we are not confined to the very low penalty of $500 for breach of regulations as that Act usually provides. Mr. Deputy Speaker, obviously, the Financial Obligations (Financing of Terrorism) Regulations also have to be amended, and that is again a consequential amendment as a result of the amendment to the parent Act and we will be amending Regulation 8.

We then in clause 6, Mr. Deputy Speaker, move to amend the Interception of Communications Act. Mr. Deputy Speaker, notwithstanding the Opposition’s statement that they intend to tackle this law in the courts and to seek to set it aside,
we intend to proclaim the law. In doing our consultations prior to proclamation, the hon. DPP pointed out that there was an amendment that was required to the Interception of Communications most recent amendments. The hon. DPP asked us to clarify that designated devices would be defined, and that was done by a simple fixed to section 6A(2) by simply adjusting the shoes of the legislation, breaking it apart, such that the Minister will clarify the definition of a designated device.

In other words then, prisoners will be allowed to speak on devices approved by the Minister so that you can preserve legal professional privilege and not breach the law, therefore allowing us to bug the rest of the prison and to record prisoners if they are engaged in illegal activities. Why the Opposition wishes to save prisoners from being bugged and recorded, God alone knows. I cannot understand that. Mr. Deputy Speaker, we also heard from the DPP that we should include stored data into section 18 of the Act. We have taken up that. It was an inadvertent error not to include it when we did the amendments last.

Clause 7 treats with the amendments to the Financial Intelligence Unit Act. A number of amendments are proposed here, from nomenclature by calling the FIU, the Financial Intelligence Unit, the IFUTT, adding Trinidad and Tobago because they are a member of the Egmont Group and everybody has an FIU. It is to allow for us to distinguish the FIUTT from the other FIUs in the Egmont Group when we are disseminating information. We have allowed as for the concept of deregistration by the FIU, ex proprio motu of its own volition, or by way of application for deregistration. We have also allowed for the inclusion of the Police Complaints Authority.

The FIU has to be within the fold of providers of information to the PCA for police misconduct. I can only refer you to recent events in the public domain where
you have seen massive money laundering allegations concerning members of the protective services, and therefore, it is only proper that the FIU provide information to the PCA in lawful circumstances where there are production orders, et cetera. Mr. Deputy Speaker, we also allow for the introduction of administrative penalties meeting the Recommendation 35 observations that I have pointed out before.

Mr. Deputy Speaker, we amend the Income Tax Act, we amend the Central Bank Act, we amend the Financial Institutions Act, we amend the Securities Act to add one common theme. That common theme is to specifically say that a matter which has been the subject of compulsory disclosure by the court, and for which the DPP says there ought to be disclosure, and for which the purpose is the production of a witness statement, that the secrecy provisions in these Acts that I had just mentioned, will be further opened up not only to police officers as I have piloted previously in this Parliament, but now also to the Police Complaints Authority. Why? This is to allow them to pursue police misconduct.

Mr. Deputy Speaker, apart from the commonality in those sections, I can also refer you respectively to the Central Bank Act where we proposed the introduction of the administrative fines in amplification in meeting the Recommendation 35 considerations, and importantly for a small amendment to the tenure of the Governor of the Central Bank allowing for a period of the not less than three years appointment and then not more than five. Why? So that there is not the misfortune of a coterminous appointment at the same time a government is happened to be put into the saddle.

Mr. Deputy Speaker, we amend the Financial Institutions Act as I have described already in common with the PCA amendments. We then proceed in
clause 11 to amend the Companies Act. Mr. Deputy Speaker, we are clarifying amendments that we put into effect already where you surrender your bearer share warrant or your share warrant where you are improving the beneficial ownership or transparency provisions under the Companies Act. We are also ensuring that we capture name, address, email addresses, et cetera, because we are about to launch the fully online suite for the Companies Act where we will effectively abandon paper filings and give you a two-step authentication process. You amend the Companies Act, you get a text message and you get an email saying your form was just filed for the change of directors, your change of address, somebody has attempted to deregister you, whether it is a real time tracking mechanism born on the back of a complete reformation of the Registrar General’s Office undertaken in the last five years I would say under our watch.

Mr. Deputy Speaker, we are making sure that we capture not only companies limited by shares, but we are capturing companies limited by guarantee, because as you know, Mr. Deputy Speaker, companies are of different types. They may be not for profit, they may be externally registered companies, they may be shares limited in liability, they may be companies limited in liability by shares or companies limited in liability by guarantee of its members. Mr. Deputy Speaker, we are also cleaning up some errors which happened way back when the Companies Act was brought into effect, Chap. 81:01, and therefore, we are tidying that up.

Mr. Deputy Speaker, we go to clause 12 which amends the Securities Act. There are a number of things requested by the Securities Exchange Commission. Of course, we are putting in the administrative penalties, and then we are taking care of some market activities where draft submissions were made. And then there
was this whole debate as to whether time started to count on the clock or not, there was the change in nomenclature for the legal officer, there was inadvertent spelling inside of the Act and we have also, very importantly, improved the amendments to the access to information by specifically tidying up the SEC legislation so that you always preserve in clearer form that any information disclosed from the SEC to named bodies will be the subject of a criminal sanction for improper disclosure. And that, Mr. Deputy Speaker, assists us. Further, we have added in, of course, the creature of the Police Complaints Authority as I have identified a little bit earlier. Mr. Deputy Speaker, we treat with some massaging again in practical terms for locally distributed securities and how registrants make notification.

The last clause, clause 13, is where we amend the Non-Profit Organisations Act, No. 7 of 2019. We had referred to the FIU under that Act as the regulator. In fact, the FIU is really a supervising authority, and therefore, we just simply harmonized the term to meet with the better description of what the functions of the FIU are.

Mr. Deputy Speaker, with the passage of these amendments Trinidad and Tobago will be able to advance its removal from the blacklisting by the European Commission, the European Council. Specifically in its further updates, we will be required to proclaim the registry of trusts which we included in the Miscellaneous Provisions (Registrar General, Registration of Deeds, Conveyancing and Law of Property, Real Property, Stamp Duty and Registration of Title to Land) amendment. If we do these administrative sanctions we will take care of Recommendation 35 Observations, and then the European Union, the European Council, will have no choice but to remove us into the clean state and condition that we find ourselves in, in the FATF.
I look forward to the contributions of my learned colleagues and I beg to move. [Desk thumping]

Question proposed.

Mr. Deputy Speaker: I recognize the Member for Barataria/San Juan.

Mr. Saddam Hosein (Barataria/San Juan): Thank you very much, Mr. Deputy Speaker, and thank you for recognizing me this time to join this debate on the Miscellaneous Provisions (FATF Compliance) Bill, 2020. Mr. Deputy Speaker, this piece of legislation that we are contemplating about at 12.27 a.m., Saturday, deals with some very important pieces of law that regulates basically the financial industry to ensure that persons do not engage in money laundering and terrorist financing, and to ensure that Trinidad and Tobago obeys our international obligations when it comes to FATF, CFATF, and also those obligations we would have with the European Union.

And, Mr. Deputy Speaker, one of the things that I observed is that this is a very loaded piece of legislation because we are amending 13 pieces of law, 13 clauses in the Bill, and this omnibus-type legislation really does not augur well especially in this COVID time. And for the record, I would just like to say that as Members of Parliament we only have limited time to speak on certain matters, and Bills such as these which have so much implication and being so loaded we do not really do justice to what is before us especially this being the fifth Bill that we are passing for this particular sitting.

So while there may be some clauses in the Bill that we will agree with, that we will be comfortable with, there are other clauses in the Bill that is very objectionable, and one of those clauses—and I will go through some of the issues that I have with regard to the Bill, and in particular I have seen various clauses that
Miscellaneous Provisions (FATF Compliance) Bill, 2020 (cont’d)
Mr. Hosein (cont’d)

deal particular with the FATF compliance. So we look at the introduction of the administrative sanctions, the amendment to the Non-Profit Organisations Act, we looked at the amendments to the Proceeds of Crime, Anti-Terrorism, the Seized Funds Asset. So those are the things that deal with FATF, but it brings me to the clause that deals with the Interception of Communication. That is found at clause 6, and the amendment reads that we are going to now—and I do not know if the Attorney General made a drafting error here, but when we passed the amendment to the Interception of Communications Act I believed the first part:

“in such places within a prison, as may be specified by the Minister, by Order”
—is already in the amended legislation that we would have passed.

That is the 2020 amendment where you were able to intercept communication from within the prison.

12.30 a.m.

But this is where the issue lies, Mr. Deputy Speaker. At 6(b) where we amend section 18A(1), (2), (6), and (7), and 18A was one of those clauses that was introduced by 2020 amendment to the Interception of Communications Act. Just as a matter of history, you will remember that that particular piece of legislation was introduced in the Senate with a special majority, it was debated in the Eleventh Parliament, the special majority was removed in the Eleventh Parliament in the House and then brought back to the Senate, because we had raised various constitutional issues regarding the amendment to the Interception of Communications Act.

And 18A, Mr. Deputy Speaker, is a very troubling section because we are amending the section to now allow:

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“…a constable to obtain a warrant or production order under any written law for the purpose of obtaining any communications data”—stored data—“or stored communication…”

So you are introducing the ability for a constable to go to the court and get stored data. Now what is troubling about this, Mr. Deputy Speaker, is that one, it is unconstitutional, and I say that because the effect of this amendment will have a retroactive application of the law, meaning that stored data, the constable will be able to get stored data prior to the passage of this Act. So therefore, the retroactive application of the Act in itself is an unconstitutional method because when you are going to pass laws, you pass laws going forward, moving forward, not going backwards. So that is the first point.

The second point is that there were inherent safeguards in the parent Act to the interception of communications law and that is, one, that the persons who were allowed to obtain a warrant to intercept communication would have been the Commissioner of Police—the authorized officer would have been the Commissioner of Police, the Chief of Defence Staff or the head of the SSA. So those are the bodies that would have been able or the offices to get data. Now you are allowing a constable to receive data through a warrant. Now that in itself is troubling.

And then apart from that, that constable can disclose the data to whom? The Commissioner. He can disclose the information in connection with the performance of his duties and lastly, he can disclose the data:

“if the Minister directs such disclosure to a foreign government or agency of such government, where there exists between the State and such foreign government an agreement for the mutual exchange of that kind of
information and the Minister considers it in the public interest that such disclosure be made;…”

So what is happening here is that a Minister, a politician, can now have in his possession intercepted communication from a constable, stored data. Data that we do not know how far back it goes. That in itself, Mr. Deputy Speaker, is unconstitutional and we cannot support that particular amendment. We cannot.

Mr. Deputy Speaker, this particular amendment has nothing to do with FATF. Which one of the recommendations in FATF recommends or tells Trinidad and Tobago that we have to amend the Interception of Communications Act to obtain stored data? Why is it that this Government is continuously whittling away on the rights of our citizens and trampling on enshrined constitutional rights, protections and privileges that we have? This in itself, Mr. Deputy Speaker, is a dangerous, dangerous amendment and we saw that they sneaked in this amendment into this fully-loaded Bill thinking that what? The Opposition would not be able to identify it? Mr. Deputy Speaker, this in itself is disingenuous to call this Bill a FATF Compliance Bill when this particular amendment has nothing to do with FATF. Nothing. Absolutely nothing and we cannot support that. We cannot support that at all.

Now, there are other clauses in the Bill which I would admit we have to deal with, with regard to FATF. I would just like the Attorney General—I looked at the follow-up report, the “3rd Enhanced Follow-Up Report Technical Compliance and Re-Rating” of Trinidad and Tobago when it comes to FATF and they did in fact indicate to Trinidad and Tobago that and I could read from that report at paragraph 100 that:

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“Trinidad and Tobago was rated…”—partially compliant—“with Rec. 35. The technical deficiencies, among others, were that the sanctions to address non-compliance with AML/CFT obligations, in some cases, were not proportionate to the infraction or sufficiently dissuasive to discourage reoccurrence…”—so that is deterrence—“except for TTSEC, there were no monetary administrative penalties for AML/CFT breaches.”

So I can understand that. I can understand the amendments that we are making in order to introduce the administrative sanctions when it comes to various pieces of law such as the Proceeds of Crime, the Anti-Terrorism Act, the FIU, the Central Bank, the Securities Act. I can understand all of that. But what I cannot understand is why you are amending the Interception of Communications Act in a FATF Bill? And the Attorney General will stand up and say well that is because we have to investigate the crimes or whatever. You bring these pieces of law that require a special majority on a separate piece of legislation. [Desk thumping] You are touching fundamental human rights. You are touching it and you are trampling up on those human rights.

Now I looked also at the amendment that deals with the Police Complaints Authority in terms of the witness statements that must be provided. So currently as the law stands is that you can have an employee, for example, if we are looking at the BIR, having to provide a police officer with a witness statement and now they are asking for persons from the Police Complaints Authority to be able to obtain a similar witness statement in certain cases.

So, Mr. Deputy Speaker, in this case, what we are seeing here is that the Police Complaints Authority is an authority with very little cohesive powers. The Police Complaints Authority, according to their Act, when you look at section 30
and section 44—section 30 deals with the preliminary investigation. They are allowed to investigate matters and then refer those matters to the DPP, the Commissioner or the Police Service Commission in certain instances so that follow-up action can be taken. And on the conclusion of that investigation:

“…the Authority shall make an assessment and form an opinion as to whether or not the subject matter of a complaint—
(a) has or may have occurred;
(b) is or may be occurring;
(c) is or may be about to occur; or
(d) is likely to occur.”

So you are going this one step in order to give them the power to now access sensitive information on individuals, mainly the police officers because they have jurisdiction to investigate police officers. But why do you not give them the power that they have been asking for all of time? Because they can conduct an entire investigation but at the end of the day, they can do nothing save and except to refer the matter to the DPP or the Commissioner of Police who will then take action with regard to determining whether or not a prosecution for that matter is warranted.

And I looked, Mr. Deputy Speaker, at what the current statistics are when it comes to police corruption and misbehaviour and this is an article dated the 3rd of October, 2020 and this article was from the Trinidad Newsday and this article related and reported on the PCA annual report and in that report, they talked about—from the period October 01, 2019 to September 25, 2020, there were 394 formal complaints to the authority and between October 01, 2019 and March 31, 2020, the PCA received 209 complaints and out of those complaints, 15 were for
fraud and corruption. And this particular amendment that we are dealing with will deal with those matters relating to fraud and corruption.

So, Mr. Deputy Speaker, I just want to ask the Attorney General when he is winding up, this specific amendment when it comes to the PCA having that power now to obtain witness statements from those statutory bodies or financial institutions, is that also a recommendation of the FATF in terms of whether or not we have to guard the guards because this is essentially what we are doing, we are guarding the guards.

The next issue I have comes with the amendment to the Anti-Terrorism Act and we have done extensive work on this particular piece of legislation, especially the amendments that we made that were subject to a joint select committee and myself and the Attorney General and other Members of the Eleventh Parliament would have served on that Committee where we did some good work. And the amendment that I am seeing to the Anti-Terrorism Act—and I am seeking clarification from the Attorney General on this matter—deals with the procedural issues that we are going to undertake.

So at clause 5, Mr. Deputy Speaker, we are amending in section 22B of the Anti-Terrorism Act to include a new subsection (13) which states that:

“An application under subsection (1A) shall be filed under seal.”

Now that application under subsection (1A) that they are speaking about is a freezing application where the Attorney General has the power to apply to a judge to make an order against a designated entity, an entity who knowingly committed or participated in the commission of a terrorist act or other instances where that person may have benefitted or was in association with a terrorist, terrorist organization or listed entity. So if we are making an ex parte application, I wonder
what is the rationale behind sealing the proceedings.

And then, Mr. Deputy Speaker, through you to the Attorney General, when you look at section 22B(3A) of the Anti-Terrorism Act, it states:

“A person likely to be affected by an order made under subsection (3)…”—shall as far as practicable be served with a copy of the order and may—“within sixty days after the publication of the order under subsection (5), apply to a judge for a review of the order.”

So what that really means is that after a freezing order is made when the Attorney General makes the application to a judge of the High Court, that order shall be served to that person who is affected and then he has 60 days in order to complete a review of that order. Now if we are sealing the proceedings and we are making this order now—I know some of the orders where you cannot find the person, it is published in the newspaper. Will the proceedings now have to be unsealed if those orders have to be made public through advertisement in the newspapers? So that is one of the issues I am looking at whether or not this particular provision is conflicted with other existing provisions in the law as it stands.

And it is important because, Attorney General, you will also remember at (3C), these orders are very extensive because it can apply to a person with the same or similar name to a designated entity and I think I may be captured under that particular provision having a similar name to a notorious individual from the Middle East. So that is one of the issues I would like to look at when it comes to the Anti-Terrorism Act, whether or not the sealing of the proceedings will fall or be inconsistent with other existing provisions at section 22B of the amendment to the Anti-Terrorism Act.

The Seized Assets Fund, that also Attorney General, if we can get some
more information, I know that there is an annual report that has to be done. I know there is a committee that also has to be set up that deals with the Seized Assets Fund. Can you give us some information on what is the value of the funds currently in the Seized Assets Fund? Whether or not we have the committee set up? Because what we are doing now is we are giving power to the Minister to use the funds for other means other than what is prescribed in the existing law. So that is something I would like to get some more information on with respect to the Seized Assets Fund.

So, Mr. Deputy Speaker, when it comes to amendments regarding FATF and our compliance with other international bodies and relations that we may have, for example, the Global Forum, the Opposition has worked with the Government. We have passed the legislation. The Attorney General can boast today that Trinidad and Tobago is in a better place with regard to our rating with FATF. It was a concerted effort by both Benches of the Parliament—Opposition and Government and the Independent Bench in the Senate. We have passed the laws. There is still some more work to be done by evident by this amendment that comes to the House and I continue to reserve my right under this particular Bill that we do not agree at all, we cannot support the amendment at clause 6 which is the amendment to the Interception of Communications Act because in our considered view, Mr. Deputy Speaker, that amendment is in fact unconstitutional and that amendment tramples and infringes on the rights of individuals be their right to privacy and their right to a fair trial and I thank you very much. [Desk thumping]

The Attorney General and Minister of Legal Affairs (Hon. Faris Al-Rawi): Thank you, Mr. Deputy Speaker. It gives me no pleasure to begin the schooling that I must right now.

UNREVISED
Mr. Young: “School him wee.”

Ms. Cudjoe: School him!

Hon. F. Al-Rawi: Mr. Deputy Speaker, I heard the Member for Barataria/San Juan in an earlier debate tell me he wished that I had—now he understands why I spend time at law school. I understand from the hon. Member’s submission why apparently he did not spend enough time at law school and I would like to tell you why and I mean this most sincerely. You see saying something with a sober voice “doh make it sensible you know”.

Ms. Cudjoe: Say that again.

Hon. F. Al-Rawi: Saying something with a sensible voice—

Hon. Members: Sober voice.

Hon. F. Al-Rawi:—does not make it sensible. It could be sober but “it not sensible”. Mr. Deputy Speaker, you know we have an iPad paid for by the taxpayers, we have the laws of Trinidad and Tobago paid for by the taxpayers, the hard volume red book and inserts. We have the Member for Barataria/San Juan standing up to tell people that he understands things about their character. Mr. Deputy Speaker, I want to refer you to a piece of law. It is Chap. 12:01 of the laws of the Republic of Trinidad and Tobago. Chap. 12:01, it is not a recent law, it is a law starting in 1917, and in 1917, a police constable had the authority under section 5 of that law to approach a court and get a warrant for anything. Since 1917. There is another law—“ah doh know how old Barataria/San Juan is”. Surely he is older than 22 years old.

But, Mr. Deputy Speaker, there is another law called the Proceeds of Crime Act and under the Proceeds of Crime Act, one has the ability, again, a police constable, to approach the court to get a production order. But, Mr. Deputy
Speaker, a sober voice coming from the Barataria/San Juan says to us “it is unconstitutional”—these amendments to the Interception of Communications Act. “We cannot support it”—these amendments to the Interception of Communications Act. I mean come on. We have the Interception of Communications Act and it has been amended. The hon. Member says that is it is going to be retroactive, these amendments. What intellectual nonsense, Mr. Deputy Speaker, and let me tell you why.

I go to the Interception of Communications Act, Chap. 15:08 as amended. Section 4A, this Act applies to subsection (3):

“For the avoidance of doubt, all communications data obtained by a constable prior to the coming into force of this Act and lawfully obtained pursuant to sections 32 or 33 of the Proceeds of Crime or section 5 of the Indictable Offences (Preliminary Enquiry) Act shall continue to be admissible in evidence.”

That hon. Member had the audacity to tell the honourable Parliament tonight that this law is unconstitutional and we giving retroactive powers for the first time. [Interruption] Mr. Deputy Speaker, since 1917—

**Mr. Deputy Speaker:** One second, one second, one second. Barataria/San Juan, not this morning. Not this morning, please. Please proceed.

**Hon. F. Al-Rawi:** Mr. Deputy Speaker, “when yuh hear crying and gnashing of teeth and wailing like ah schoolgirl gehing whipped is ah hard thing to listen to you know” because tonight I have had enough of Barataria/San Juan. He betrays the honour and dignity of this Parliament by failing to read the law, [Desk thumping] the 1917 law, the preliminary enquiries legislation, section 5; the 2000 Proceeds of Crime Act, sections 32 and 33.
Shame on you, Barataria/San Juan, coming forward to say that this is law. [Interruption] Is there something that you wish to raise by Standing Order? Is there? I will give way.

**Ms. Cudjoe:** He has nothing to say as usual.

**Hon. F. Al-Rawi:** I have offered to give way to the wailing and gnashing of Barataria/San Juan who cannot explain to this country how the law says that a constable since 1917 could get a warrant to get anything, including stored data, how sections 32 and 33 of the Proceeds of Crime Act allows for production warrants and then the hon. Member has the audacity and the lack of shame to stand up here and say that this law will be unconstitutional. Madam Speaker, “spend ah lil more time in law school.” [Desk thumping] Pick up the books. Take “ah” read. Go to class. [Interruption] [Madam Speaker rises]

**Madam Speaker:** Attorney General.

**Hon. F. Al-Rawi:** Go to class, take some notes. Let us get to 18A of the Interception of Communications Act. Hear the intellectual rubbish that fell from Barataria/San Juan: 18A is new and novel law; 18A is the power to obtain communication data, stored communication, by a search warrant. We are adding in “stored data”. 18A was designed and put into the law to bring constitutionality and to preserve and add the safeguards from the Interception of Communications Act for the first time to put those safeguards on a section 5 warrant for the preliminary enquiries route or sections 32 or 33 production order under POCA.

This hon. Member, the Member for Barataria/San Juan, stands up here to say that this is something new. No, Sir. This is law designed to protect tipping off, for the first time, to add the strictures of sections 13 and 14 of the Interception of Communications Act.
Communications Act. And what are those, sections 13 and 14? Sections 13 and 14 are “Duties of persons providing assistance to telecommunications”; 14, “Confidentiality of intercepted communication”.

You see, Madam Speaker, prior to the amendments brought by this Government in the last Parliament, a section 5 warrant for stored data and a section 32 and 33 warrant under POCA production order had no provisions to safeguard confidentiality, and Baratania/San Juan, intellectually shameless as he is tonight, has the intellectual audacity to tell the country that there is not going to be support because this law is somehow dangerously—

Mr. Ratiram: Standing Order 48(6). Calling the Member shameless.

Madam Speaker: Attorney General.

Hon. F. Al-Rawi: Thank you. Intellectually shameless, [Desk thumping] the hon. Member. Incapable of reading the law as a whole by way of interpretation. Not willing to bother to understand that 18A added protections to improve the constitutionality of the stored data production via the preliminary enquiry route in section 5 or sections 32 and 33 of the Proceeds of Crime Act, production orders. The hon. Member comes to threaten the Government tonight in a sober tone, that the hon. Member says the Opposition is not supporting, he said, almost in a shrill tone, the amendments being proposed by this legislation to add stored data, Madam Speaker, to the protection provision in 18A? “Geez and ages, ah feeling shame”. “Ah feeling shame”, Madam Speaker, that this is the quality of contribution at 12.56.29 a.m. in the morning. “Go and buy ah doubles” and get some nutrition.

Mr. Indarsingh: The Minister of Agriculture may have—

Ms. Ameen: Tell Clarence that.

Hon. F. Al-Rawi: “Clarence Rambharat will help yuh to find ah good doubles
man.” Madam Speaker—

Ms. Ameen: “Ah foreign one or ah local one?”

Hon. F. Al-Rawi: Madam Speaker—

Mr. Ram: “How much cases yuh win?”

Hon. F. Al-Rawi: “You pay yuh rent yet?”

Hon. Members: “Woooo”.

Ms. Ameen: “We pay 23 million in rent—One Alexandra.”

Hon. F. Al-Rawi: For the house, Madam Speaker.

Madam Speaker: Attorney General, please address your comments this way.

Hon. F. Al-Rawi: Thank you, Madam Speaker.

Madam Speaker: Member for St Augustine, I have just come in, this is the second time I have stood up, please contain your cross talk. Attorney General.

Hon. F. Al-Rawi: Yes, Madam Speaker. You see “yuh does geh ah little tired when yuh fed up hear lack ah research in action and not paying dey rent”. Madam Speaker, “not paying dey rent”.

Madam Speaker, contrary to the observations of the Member for Barataria/San Juan, the graduation from the Financial Action Task Force did not involve the UNC’s assistance in large part, save for the Anti-Terrorism disaster in difficult management. Every single other Bill that was passed had to be passed on a simple majority basis including the interception of communications amendments which they have now threatened “they going to court to overturn” so that prisoners could live happily without recording in their cells. Well “ah could tell yuh this”, Madam Speaker, we intend to meet them in court and beat them the same way they get beat in every election, [Desk thumping] left and right and centre. So bad is the beating that I heard the Member for Pointe-a-Pierre the other night on a political
platform—

Mr. Ratiram: 48(4) please.

Hon. F. Al-Rawi:—using a PNM war cry “we go beat yuh in the north, south, east and west”.

Madam Speaker: Member.

Mr. Ratiram: Standing Order 48(4), please.

Madam Speaker: Overruled.

Hon. F. Al-Rawi: I have to confess, when I got the meme of the hon. Member for Pointe-a-Pierre, the one and only MP I know who could campaign in his constituency without being present when the music truck passing. “Ah have to tell yuh voiceover in action. I enjoyed the lil clip, Madam Speaker. Ah still waiting to hear if he know three streets in Pointe-a-Pierre”; but anyway. Madam Speaker, when I heard them say “we go beat them in the north, we go beat them in the south, we will beat them in the east, we go beat them in the west”, all I was waiting to hear is “great is the PNM”. That is all I was waiting to hear, Madam Speaker.

[Desk thumping]

So, Madam Speaker, I would like to most respectfully tell the hon. Members opposite, the country has measured you, marked you and “they marking us too”. We are no strangers to being marked hard.

Madam Speaker, it causes us little concern who has crush on who, who had to call their name whole day and whole night. “Buh when yuh stand up in ah big man name and yuh want tuh pelt big man cuff, doh cry like ah lil girl when yuh get two slap”. That is the advice that we will give certain Members in this House, Madam Speaker.

1.00 a.m.

Hon. F. Al-Rawi: I will rephrase.

Madam Speaker: Please.

Hon. F. Al-Rawi: I will rephrase. I do not want to hurt anybody’s feelings tonight. I will rephrase. There are some soft personalities around and I do not want to be too pejorative. It is nice to flex every now and then and “tuh put ah lil hard lash”.

So, Madam Speaker—

Madam Speaker: I guess you mean intellectual lash.

Hon. F. Al-Rawi: Of course, of course, Madam Speaker.

Madam Speaker: And the other thing I stand on, I have noticed a tendency to speak of girls in a particular way, maybe you have not realized it, and men, in a particular way. I think we need to watch that in 2020. [Desk thumping]

Hon. F. Al-Rawi: Madam Speaker, let me put it this way. As one of Members in this House knows, when nobody stands up for women, I do. There are Members in this House that know that. I have a twin sister born to a powerful mother, a powerful wife as my companion and two powerful daughters. So I respect women wholeheartedly. [Desk thumping]

But, Madam Speaker, the vernacular in Trinidad is sometimes intriguing and useful but I hear you, Madam Speaker. So, Madam Speaker, I would like to simply say to the hon. Members opposite, “doh” come and pretend. Do your homework. Read the law in front “ah yuh”. “Ah” seeing Chaguanas West nearly in tears at the contribution coming from Barataria/San Juan, cringing at the fact that you cannot read section 5 versus section 18A of the Act.

Madam Speaker, we pray for our friends opposite to continue doing exactly
what they are doing. Once they continue doing what they are doing “we good on this side”. [Desk thumping]

Madam Speaker, this is good law before us. There is no sinister purpose. For those who are willing to do comparisons of the real law and bother to know that the law in 1917 permitted something and 2000 permitted something, welcome to the world of research.

In respect of the anti-terrorism amendments and for the sealing of records, Madam Speaker, the hon. Member asked a question, again, betraying any kind of understanding, “Why yuh sealing it if it ex parte?” “Jeezanages”. It has to go inter partes afterwards. Ex parte is followed by inter partes, they are going to serve it. What kind of question is that, seriously, in law? Why seal it if it is ex parte? You have to serve the proceedings. And once you seal the record, the judge will then decide what the circumstance of service, if it is to be publicized, will be. I gave the comparator of the Financial Intelligence Unit. But in today’s world where terrorism is a global phenomenon, as it always was, intelligence reciprocity is bound by the understanding that confidence and confidentiality can be maintained.

So for all of those reasons, Madam Speaker, I simply say, I beg to move. [Desk thumping]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Clause 1 ordered to stand part of the Bill.

Clause 2.

Question proposed: That clause two stand part of the Bill.

UNREVISED
Mr. Al-Rawi: Madam Chair, in the circulated amendments, we inadvertently referred to clause 3, as opposed to clause 2 and it really ought to be that clause 2 be amended as per the circulated draft. Apologies.

Madam Chairman: Whip, okay?

Question put and agreed to.

Clause 2, as amended, ordered to stand part of the Bill.

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

Clause 4.

Question proposed: That clause 4 stand part of the Bill.

“A. In paragraph (a) –

(a) by deleting the word ‘57, by’ and replacing with the words ‘57(1)’;
(b) in subparagraph (i) by inserting before the word “deleting” the words ‘in subsection (1) by’;
(c) in subparagraph (ii) in proposed subsection (1A)–

(i) paragraph (b)(i) delete the words ‘five hundred thousand’ and replace with the words ‘one million’;
(ii) paragraph (b)(ii) delete the word ‘one’ and replace with the word ‘three’;
(iii) paragraph (c)(i) delete the words ‘five hundred thousand’ and replace with the words ‘one million’; and
(iv) paragraph (c)(ii) delete the word ‘one’ and replace with the word ‘three’;

B. In paragraph (c) delete the word ‘(f)’ and substitute the word ‘(e)’.

C. In proposed subsection (1B) in paragraph (a) delete the words ‘five hundred thousand’ and replace with the words ‘one million’; and”

UNREVISED
Mr. Al-Rawi: Madam Chair, the proposed amendments to clause 4, as circulated, come as a result of the consultative input of the National Anti-Money laundering Committee and recommendation coming from all of the stakeholders, Central Bank, TTSEC, FIU, customs, Board of Inland Revenue, FIB, other divisions of TTPS, et cetera is that we ought to raise for consistency the proposed maximum limits from 500,000 to one million, and from one million to three million, as they appear respectively. These are specifically to keep us in common and in conformity with the other administrative fines across the financial suite, in particular the CBTT and the SEC regime.

*Question put and agreed to.*

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

*Clause 5.*

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

“Delete and replace with the following:

‘(b) in section 42-

(i) in paragraph (b), by deleting all the words after the words ‘section 41(2)’ and substituting the following:

‘-

(i) may be liable to the administrative fine set out in Regulations; and

(ii) failing the payment of the administrative fine commits an offence and is liable -

(A) on summary conviction to a fine of one million dollars and to a further fine of
twenty-five thousand dollars for each day that the offence continues; or

(B) on conviction on indictment to a fine of five million dollars and to a further fine of fifty thousand dollars for each day that the offence continues; or

(iii) commits and offence and is liable –

(A) on summary conviction to a fine of one million dollars and to a further fine of twenty-five thousand dollars for each day that the offence continues; or

(B) on conviction on indictment to a fine of three million dollars and to a further fine of fifty thousand dollars for each day that the offence continues. ‘;

Mr. Al-Rawi: Madam Chair, the rationale for the proposed amendments are exactly as in respect of the previous clause. For the consistency of administrative fines, I want to bear in mind that these are just maximum fines. The regulations, when they come before Parliament, will demonstrate what the individual ratios will look like.

Question put.

Mr. Al-Rawi: Madam Chair, there is an amendment to clause 6, just flagging—okay, good.

Madam Speaker: Sorry.

Question put and agreed to.
Clause 5, as amended, order to stand part of the Bill.

Clause 6.

Question proposed: That clause 6 stand part of the Bill.

Mr. Al-Rawi: Madam Chair, as you know, we have been amending laws so frequently that the revised laws have not caught up to us. So this Bill proposed in 6(a)—it proposed something which we had already done by way of legislative input earlier this year. It was specifically on the 13th of April—sorry, Act No. 13 of 2020. By Act No. 13 of 2020, that amendment we proposed in paragraph (a) has already been effected. In those circumstances, we propose to delete paragraph (a) of the Bill, 6(a) and take out off (b). So we are just going to have that as the proposal for 6. In other words then, there is no longer an (a) and (b). There is only that which appears at (b), so we are removing the (b).

Madam Chairman: Okay. So—

Mr. Al-Rawi: So the amendment would be:

Delete paragraph (a) and remove numbering (a).

So, the amendment to clause 6 will be:

Delete paragraph (a) and remove numbering (b).

So just the wording of (b) stands as clause 6.

Madam Chairman: Okay. So, the question—Whip? So the question is that clause 6 be amended as follows:

To delete paragraph (a) and remove (b).

Mr. Al-Rawi: Remove numbering (b). So that the word stays but just the numbering removes.

Madam Chairman: Okay?

Question put and agreed to.
Clause 6, as amended, ordered to stand part of the Bill.

Clause 7.

Question proposed: That clause 7 stand part of the Bill.

“A. In paragraph (h) in proposed section 18I delete proposed paragraph (d) and renumber paragraphs (e) and (f) and (d) and (e);

B. In paragraph (j)(ii)-

(a) in proposed subsection (4)(b) in-

(i) subparagraph (i) delete the words ‘five hundred thousand’ and replace with the words “one million”; and

(ii) subparagraph (ii) delete the word ‘one’ and replace with the word ‘three’;

(b) in proposed subsection (4)(c) in-

(i) subparagraph (i) delete the words ‘five hundred thousand’ and replace with the words ‘one million’; and

(ii) subparagraph (ii) delete the word ‘one’ and replace with the word ‘three’;”

Mr. Al-Rawi: Madam Chair, the amendments to clause 7, again, to harmonize the regime for administrative sanctions and the amendments are for the same reasons referred to previously.

Question put and agreed to.

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

Clause 8 ordered to stand part of the Bill.

Clause 9.

Question proposed: That clause 9 stand part of the Bill.

“A. In paragraph (b) in proposed paragraph (dd) insert after the words
‘supervisory role’ the words ‘or general administration’.

B. In paragraph (c) delete the words “56(2)” and replace with the words ‘56(2A)’.”

**Mr. Al-Rawi:** Madam Chair, we are proposing the amendments as circulated in clause 9 in the list of amendments in paragraph (b) in the proposed (dd). We are inserting after the words “supervisory role”, the words “or general administration.” This is just simply to harmonize the functionality of the CPT because they have a bifurcated function.

**Madam Chairman:** Members, I believe we are all still in the same meeting. Attorney General.

**Mr. Al-Rawi:** Yes, Madam Chair. In so far as (dd) is part of the powers of the Central Bank’s functions, we are amplifying the imposition of administrative fines, as are provided for in any other written law under which the Central Bank has a supervisory role or general administration. because the CBTT acts in multiple capacities, Madam Chair.

The reference to 56(2) should have been 56(2A) and therefore we are just correcting the cross-reference.

*Question put and agreed to.*

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

*Clauses 10 to 12 ordered to stand part of the Bill.*

**Clause 13.**

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

“In paragraph (a) delete the word ‘2’ and replace with the word ‘3’.”

**Mr. Al-Rawi:** Madam Chair, there is a simple cross-referencing to change, the number “2” to “3” in paragraph (a), and therefore we propose the amendment as
circulated.

*Question put and agreed to.*

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

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

*House resumed.*

*Bill reported with amendments.*

*Question put:* That the Bill be now read a third time.

**Mr. Lee:** No. Division.

**Madam Speaker:** Okay. So Members, the announcement will be made. Members will have a three-minute opportunity to get here and, as we said, if the count starts and Members have not arrived they will be allowed to vote once it is before the division is given.

*The House divided:* Ayes 20  Noes 15

**AYES**

Robinson Regis, Hon. C.
Al-Rawi, Hon. F.
Imbert, Hon. C.
Young, Hon. S.
Morris-Julian, Hon. L.
Hinds, Hon. F.
Deyalsingh, Hon. T.
Forde, Hon. E.
Webster-Roy, Hon. A.
Cudjoe, Hon. S.
Miscellaneous Provisions (FATF Compliance) Bill, 2020 (cont’d)

Gadsby-Dolly, Hon. Dr. N.
Gonzales, Hon. M.
Mc Clashie, Hon. S.
Cummings, Hon. F.
Manning, Hon. B.
Leonce, Hon. A.
Richards, Hon. K.
de Nobriga, Hon. S.
Scotland, K.
Munroe, R.

NOES

Lee, D.
Indarsingh, R.
Ameen, Ms. K.
Ratiram, R.
Ram, A.
Paray, R.
Rambally, D.
Bodoe, Dr. L.
Hosein, S.
Padarath, B.
Haynes, Ms. A.
Tancoo, D.
Mohit, Ms. V.
Ragbir, Dr. R.
Seecharan, Dr. R.

Question agreed to.

Bill according read the third time and passed.

ADJOURNMENT

The Minister of Planning and Development and Acting Minister of Housing and Urban Development (Hon. Camille Robinson-Regis): Thank you very much, Madam Speaker. Madam Speaker, I beg to move that this House do now adjourn to Wednesday, the ninth day of December at 1.30 p.m. at which time we will do Motions No. 1 and 2 that are on today’s Order Paper and we will also do the EBC Order. And we will also do the PCA Bill. Sorry, Ma’am. Let me just confirm that. Sorry.

Ma’am, because of the early hour, I would like to repeat. I beg to move that the House do now adjourn to Wednesday the ninth day of December, at 1.30 p.m., at which time we will do Motions one and two that appear on the Order Paper and the EBC Motion. Thank you, Ma’am.

Madam Speaker: Members, before putting the question on the Motion for the adjournment, I wish to advise that there are four matters that qualify be raised on the Motion for the Adjournment of this House. I have been advised by the Whip that the four matters shall be deferred to the next sitting day.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 1.28 a.m.