

**SENATE***Tuesday, December 16, 2014*

The Senate met at 11.00 a.m.

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

**Mr. President:** Hon. Senators, I have granted leave of absence to Sen. The Hon. Raziah Ahmed and Sen. Dr. Rolph Balgobin who are both out of the country.

**SENATORS' APPOINTMENT**

**Mr. President:** Hon. Senators, I have received the following correspondence from His Excellency the President, Anthony Thomas Aquinas Carmona, S.C., O.R.T.T.:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ANTHONY THOMAS  
AQUINAS CARMONA, O.R.T.T.,  
S.C., President and Commander-in-  
Chief of the Armed Forces of the  
Republic of Trinidad and Tobago

/s/ Anthony Thomas Aquinas Carmona O.R.T.T. S.C.

President.

TO: MR. LARRY LALLA

WHEREAS Senator the Honourable Raziah Ahmed is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:

**UNREVISED**

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, LARRY LALLA, to be temporarily a member of the Senate, with effect from 16<sup>th</sup> December, 2014 and continuing during the absence from Trinidad and Tobago of the said Senator the Honourable Raziah Ahmed.

Given under my Hand and the Seal of  
the President of the Republic of  
Trinidad and Tobago at the  
Office of the President, St.  
Ann's, this 15<sup>th</sup> day of  
December, 2014.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND  
TOBAGO

By His Excellency ANTHONY THOMAS  
AQUINAS CARMONA, O.R.T.T.,  
S.C., President and Commander-in-  
Chief of the Armed Forces of the  
Republic of Trinidad and Tobago.

/s/ Anthony Thomas Aquinas Carmona O.R.T.T. S.C.  
President.

TO: DR. KRIYAAN SINGH

WHEREAS Senator Dr. Rolph Balgobin is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

**UNREVISED**

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, Kriyaan Singh, to be temporarily a member of the Senate, with effect from 16<sup>th</sup> December, 2014 and continuing during the absence from Trinidad and Tobago of the said Senator Dr. Rolph Balgobin.

Given under my Hand and the Seal of  
the President of the Republic of  
Trinidad and Tobago at the  
Office of the President, St.  
Ann's, this 15<sup>th</sup> day of  
December, 2014.”

### **OATH OF ALLEGIANCE**

*Senators Larry Lalla and Dr. Kriyaan Singh took and subscribed the Oath of Allegiance as required by law.*

### **PAPERS LAID**

1. Annual Audited Financial Statements of Caroni (1975) Limited for the year ended June 30, 2013. [*The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh)*]
2. Consolidated Financial Statements of Caribbean Airlines Limited for the year ended December 31, 2009. [*Sen. The Hon. G. Singh*]
3. Consolidated Financial Statements of Caribbean Airlines Limited for the year ended December 31, 2010. [*Sen. The Hon. G. Singh*]
4. Consolidated Financial Statements of Caribbean Airlines Limited for the year ended December 31, 2011. [*Sen. The Hon. G. Singh*]

**UNREVISED**

5. Sessional Review of the Parliament of the Republic of Trinidad and Tobago for the Session 2013-2014. [*The Vice-President (Sen. James Lambert)*]

## **SELECT COMMITTEE REPORT**

### **Standing Orders**

#### **(Presentation)**

**The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh):** Mr. President, I have the honour to present the following report:

Report of the Standing Orders Committee of the Senate, Fifth Session (2014/2015), Tenth Parliament.

## **ORAL ANSWERS TO QUESTIONS**

*The following questions stood on the Order Paper in the name of Sen. Camille Robinson-Regis:*

### **Siparia Market Facility**

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

13. A. Would the hon. Minister of Local Government indicate whether the new Siparia Market Facility is completed, occupied and/or utilized for the purpose for which it was so developed?
- B. If the answer to A is in the negative, would the Minister indicate the reason(s)?
- C. the date the contract was awarded and the date the work on this project began?
- D. If the answer to (a) is negative, would the hon. Minister indicate the cost of this project to date; and further indicate whether there is to be any additional expenditure; and if so, the amount

anticipated, to bring this project to completion, occupation and use?

- E. Would the Minister indicate what was the Project Manager's projected estimate for this project; the sum of the contract finally awarded to SIS and the amount actually paid to this contractor to date?
- F. Would the Minister indicate whether there were other companies that bid for this project; the names of said companies; and the basis for the award to SIS?
- G. Would the Minister indicate the anticipated date?

### **Santa Rosa Correctional Facility/Prison**

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

- 14.** With respect to the Santa Rosa Correctional Facility/Prison, would the hon. Minister of Justice:
- (a) indicate whether the Facility/Prison is now owned by the Government of Trinidad and Tobago;
  - (b) if the answer to (a) is affirmative, would the Minister say when was it purchased and at what cost;
  - (c) if the answer to (a) is negative, would the Minister indicate the date the facility was commissioned and what is the total amount of rent paid under the lease agreement to date;
  - (d) confirm the amount of money spent on repairs to date and what is the current monthly lease rent in respect of the Facility; and
  - (e) state whether it is the Government's policy to retain the Facility for its current use for the next five (5) years?

**Housing Development Corporation (HDC)  
(Details of Construction)**

**16.** With respect to the Housing Development Corporation (HDC), could the hon. Minister of Housing and Urban Development inform this Senate of:

- (a) the number of houses constructed throughout Trinidad and Tobago for the period May 2010 to August 2014;
- (b) the specific number of houses constructed in each Housing Development; and
- (c) the total cost to build and outfit these houses?

*Questions, by leave, deferred.*

**11.15 a.m.**

**PUBLIC PROCUREMENT AND DISPOSAL  
OF PUBLIC PROPERTY (NO. 2) BILL, 2014**

*Order for second reading read.*

**The Minister of Planning and Sustainable Development (Sen. The Hon. Dr. Bhoendradatt Tewarie):** Thank you, very much, Mr. President. I beg to move:

That a Bill to provide for public procurement, and for the retention and disposal of public property, in accordance with the principles of good governance, namely accountability, transparency, integrity and value for money, the establishment of the Office of Procurement Regulation, the repeal of the Central Tenders Board Act, Chap. 71:91 and related matters, be now read a second time.

Mr. President, the Bill before this honourable Senate is the same Bill which was passed unanimously after extensive committee stage deliberations in

this honourable Senate and which incorporated a significant number of amendments during a committee stage which lasted over 11 hours. I will, therefore, not seek to go through this Bill clause by clause because this entire Senate, at committee stage, did so following three full days of debate, and as I indicated the committee stage was 11 hours and 24 minutes. Every clause in this Bill, which now stands before this honourable Senate for approval, was indeed approved by every Senator in this Senate. [*Desk thumping*]

This Bill is also fully endorsed by the private sector civil society group, consisting of the main business organizations in our country, the major civil society actors concerned with procurement issues, and this has happened over a period of intense differences of opinion that eventually led to collaborative engagement and ultimately led to a mutual agreement on how we were to proceed.

So, we might say, Mr. President, that all the People's Partnership Government Senators have already approved this Bill. The nine Independent Senators approved this Bill and I must say that like the civil society group, the private sector civil society group, the Independent Senators were also at odds with certain issues in the Bill and, again, through a process of collaboration, cooperation and mutual engagement of the issues, we were able to come to compromises that really did not distort the intention of the Bill but, contributed to making this Bill what is really a very progressive piece of legislation in Trinidad and Tobago. [*Desk thumping*]

All the Opposition Senators in this honourable Senate also voted for the Bill. [*Desk thumping*] So the Bill that we are debating, unchanged as it

is, and simply brought back because it lapsed, is the very same Bill that we approved here after due deliberation and debate and after a long and extensive committee stage engagement.

Since then, the Bill as it stands now has been endorsed by the private sector civil society group on the outside. The IDB supports this Bill and this, even after issues were raised by the Opposition primarily that the government-to-government arrangements might in fact cause problems with institutions such as the IDB. But, the IDB has come out in full support of the Bill and has advocated its quick passage.

The European Union would also like to see this Bill passed expeditiously because, based on the EPA Agreements which we have with the European Union, the passage of this Bill offers the promise of transparency and openness in international procurement for goods and services delivered in Trinidad and Tobago.

The UNDP, the United Nations Development Programme, is also anxious to see the passage of this very Bill and they are already working with our Government to put down the infrastructure and systems required to make this piece of legislation, when we pass it, functional at the implementation stage.

I want to let you know that at the Cabinet level, not only have we agreed to conferences on procurement, which have taken place over the last several months, even without the full passage of the Bill, we did one with the IDB and the UNDP. We did one for public servants in the system. There was a recent procurement forum organized by an independent entity in which the Government participated. And with the UNDP, Cabinet has also

agreed that in anticipation of the passage of the Bill, the Government will partner with the UNDP in order to engage in programmes that will strengthen the public sector capability for execution of the Bill. [*Desk thumping*]

And we have already agreed on the number of outputs. I would not mention all of them, but for instance output one is procurement authorities and internal controls, including compliance, monitoring for all procuring entities strengthened. Output two is the provision of support for the development of effective and efficient organizational arrangements for procurement management in Ministries and similar procuring entities. Output three is procurement management capacity and knowledge of the new procurement legislation strengthened.

So that, not only are we serious about passing this Bill, as we have always been, in bringing this to Parliament as early as 2010, but we are proceeding on the assumption that with the goodwill required, this Bill will in fact become law and we can then begin to usher in a new regime of procurement.

The citizens of this country must be tired of hearing about procurement now, and those who understand what this law is about must be wondering what is wrong with us as parliamentarians that we cannot get a simple task such as the passage of this Bill done, and citizens who may not be fully au courant with the issues would still be justified if they were to say: why does the Parliament not just get on with it and pass the Procurement Bill?

Now the Opposition in other place did not vote for what is essentially

a progressive anti-corruption Bill, anti-corruption legislation, and which is also in part essentially progressive developmental legislation, in that it deals with the procurement of goods and services and it addresses local content issues, local industry development issues and it deals with the transparency issues in this process.

Now, I do not understand it, in terms of logic, why the Opposition would not have voted for the Bill in the other place, but I think I understand where they are coming from. And, given how well we work to achieve a consensus in this Senate, I would be intrigued to see where the Opposition Senators will be coming from on this particular Bill.

So, I just want to remind people of what transpired during the debate in this honourable Senate. On May 20, 2014, during the debate, Sen. Dr. Lester Henry, I am sorry that he is not here now but I am not saying anything negative, I am simply quoting what he said. He said:

“We want a good Bill and we would be happy to contribute to passing the legislation if the concerns we have are adequately addressed.

...as we have done in the past, we are willing to cooperate to a certain extent, in terms of getting it right, because we understand the importance of this matter for the country.

...we need to remind the Government that this was one of their platform pillars, that they would have come into Government and bring in procurement legislation.”

And that is true. We did promise and this is part of our commitment. It has taken us longer than we expected, not for want of trying and there have been many setbacks, some of which I will outline. But the point is here was Sen.

Dr. Henry saying that they want to pass a good Bill, and of course, we accommodated that. In my response I said we cannot take every amendment that you put forward, but we will consider every amendment and we will take as many amendments as are necessary that respects the architecture of the Bill and makes it a better Bill, which is what we did over the 11 hours and 24 minutes that we spent in committee here.

Sen. Stewart Young, who was present for this Bill and may have been assigned to the Senate on that occasion to speak particularly on this Bill from a certain perspective, this is what he said:

“This Bill is a dynamic reformation of public procurement for Trinidad and Tobago. This Bill, it is important to note, is the product, as was just suggested, of consultation, but also”—a process involving the joint—“select committee. There was a joint select committee. A joint select committee sat on it and produced a report twice...and, therefore, I endorse the need for this type of reform of the public procurement process.

...We are moving away from the Central Tenders Board, which prior to this Bill and the existing legislation, is one entity trying to do the tendering process for the whole State and that has proved to be very difficult, almost unworkable over the years. So the minds got together...”

I am still quoting from Sen. Young.

“So the minds got together and they have decided, in my view, quite sensibly, to decentralize and to create, as we will come to in a short while, a body to oversee the public procurement process in Trinidad

and Tobago as well as the disposal of public property.”

And he then articulated:

“This party supports the policy of reform of public procurement and disposal of public property. We put that on the table because at the end of the day it is the country’s resources and the country’s Treasury and we must work together to protect it.”

That was his position.

And Sen. Foster Cummings, who I suspect would have been brought in to speak specially on the procurement Bill, this is what he had to say in his presentation.

“...but I think that this legislation is needed. It must be passed. It is absolutely critical in moving us forward as a country....And in this case, I believe that this legislation is something that we need to do, yesterday rather than today. Let us get together, work together, clean up this Bill and get it passed. Thank you very much, Mr. President.”

That was his position.

And Sen. Al-Rawi made a contribution and he said that:

“We are prepared to cooperate to get good law on the books of Trinidad and Tobago.”

And, of course, he indicated after his contribution, which he found to be too short in the one hour time that he had, he said:

I will be back again in committee stage to cause maximum consideration of this Bill as we always do. I thank you.

And so said so done. He participated fully in the committee stage. There were many crossfire arguments back and forth and he played a major role in

making amendments to this Bill. But at the end of the day, we agreed on a Bill. Every single clause of which we agreed is contained in the Bill before this honourable Senate today. And, therefore, I hope that it would be easy passage for this particular Bill.

Now, let me—as I said I would not go into the clauses. We went through this Bill clause by clause in the Senate. It is not necessary. But I do want to give a sense of the timeline for this Bill.

The first joint select committee established during the first Session 2010/2011 of the Tenth Parliament, this was when this process began, because the hon. Prime Minister had promised. We had made a commitment in the manifesto and we established a joint select committee to address the Bill. It was unable to complete the Bill, the joint select committee before prorogation, and the work was referred to a subsequent committee. That committee was chaired by the Hon. Dr. Tim Gopeesingh in the other place, the Member for Caroni East. The second joint select committee was appointed in November 2011, and that particular joint select committee, there were changes to a few members but at the end of the day the chairmanship fell to me.

This joint select committee held its first meeting on December 02, 2011. Subsequent meetings were held on January 06, January 16, April 17, May 28. If you note that meetings might not have been held with regularity after January 16, because from January 16, you did not have a meeting until April 17 and then not until May 28. The meetings were not held with regularity because of the difficulty of achieving a quorum, which was initially decided to be two Members of Government, one Member of the

Opposition and one Independent Member. Because we had come to Government with the spirit of democracy at the heart of everything that we did and we felt that although the quorum stated for a joint select committee was simply Members of both Houses, which would mean at least one Member from each House, that we should have an Independent Member and a Member of the Opposition as part of the quorum. But what happened on that occasion was that Members of the Opposition basically sabotaged the functioning of the committee and it was resolved on April 17 that the quorum would be any four Members as provided for by the Standing Orders, including one from each House and the Chairman and that is how we got it going again.

The committee received input from external sources, from the Contractor General of Jamaica, from the World Bank who provided procurement reform proposals for Trinidad and Tobago. The committee considered in its fifth meeting policy proposals for public procurement and amended them to provide a relevant framework for the drafting of legislation. Policy proposals were unanimously approved by members.

**11.30 a.m.**

I want to say something about the policy issue because it has been raised as an issue for delay. The Government had always held the position that since procurement legislation was so important to the country, and since the main agitators and actors in the process were actually private sector civil society, they wanted procurement reform. Since it was so important and a commitment had been made by the Government to these actors and agitators for the cause, that we should allow the Joint Select Committee to come up

with policy proposals because as you would remember, there was a White Paper in 2005. It was laid in Parliament.

There was a legislative proposal, that is to say, an actual Bill before the House in 2006. So it is not that the Joint Select Committee was starting from scratch. In order to create the conditions for both continuity and creativity, we said, let the Joint Select Committee come up with the policy, and let the Parliament accept the policy, and the Government would abide by the decision of Parliament. The Opposition was not interested in that. They insisted that Government, the Executive branch, that is to say Cabinet, should come to the Joint Select Committee with a policy.

Within a short time, therefore, of this agitation, we brought the policy to the Joint Select Committee. Cabinet agreed on the policy. We brought the policy to the Joint Select Committee; that policy of Cabinet was amended by the Joint Select Committee. It was accepted by Parliament, but notwithstanding that the Members of the Opposition were part and parcel of that Joint Select Committee and agreed on everything in it, when the matter came up for debate, the Opposition in the House of Representatives abstained.

It was difficult to understand the logic, but those are the facts of history, and the facts of the evolution of this piece of legislation. So the JSC report on procurement, outlining policy, unanimously agreed to by the Joint Select Committee, was approved by Parliament, but with the abstention of the Opposition in the House Representatives.

The procurement Bill was first laid in the Senate at the 19<sup>th</sup> sitting of the Fourth Session of the Tenth Parliament on April 02, 2014; the Bill

passed in the Senate in June 2014. The Bill was introduced in the House of Representatives on July 04, 2014, but lapsed. The Bill was reintroduced in the Lower House on August 04, 2014 and was passed on December 05, 2014. While people were marching outside protesting corruption, the Government was in the Parliament doing its work passing anti-corruption legislation. [*Desk thumping*]

I want to say that Caricom countries had been ahead of us. Antigua and Barbuda passed the Procurement and Contract Administration Act in 2011 in the spirit of procurement reform. Dominica passed the Procurement and Contract Administration Act in 2012. Grenada passed the Public Procurement and Contract Administration Act in 2007. St. Kitts and Nevis passed the Procurement and Contract Administration Act in 2012. We have a good opportunity here today to pass this procurement Bill on this day in December 2014. [*Desk thumping*]

Now, one of the important things that exists in this legislation is that it takes the issue of sustainable development seriously. Now, this Government in its manifesto of 2010 established as its framework for development; sustainable development—it was the first time in the history of this country that a Government of Trinidad and Tobago had ever made such a declaration and commitment. Out of the manifesto derived the medium-term framework, again, based on the principle of sustainable development.

For the Rio+20 Conference, we did an entire document, close to 100 pages, on the sustainable development challenges of Trinidad and Tobago, the context in which we were operating as Small Island Developing States, and international agreements that we had, in fact, signed and were adhering

to. We also addressed the issue of what were the major challenges that we had to go forward with, and we identified 10 of them on that occasion. Since then, we have added about four more. So there are about 14 major challenges for Trinidad and Tobago in terms of sustainable development. I want to say that we were well ahead of the world when we declared that we would proceed on the basis of sustainable development in our country.

I have with me here a document called the Synthesis Report of the Secretary-General on the Post-2015 Agenda. It is called the Road to Dignity by 2030: Ending Poverty, Transforming All Lives and Protecting the Planet. I want to indicate that the entire thrust, and the basis of development advocated in this document that focuses on 2030—the next 15 years is—in fact the sustainable development framework. That sustainable development framework is taken into account in this procurement legislation, because we do have a reference at the beginning of the Bill to sustainable procurement. Through sustainable procurement, governments can lead by example and deliver key policy objectives on the environment. Sustainable procurement allows governments to reduce greenhouse gas emissions, improve energy and water efficiency and support recycling strategies.

Positive social results include poverty reduction, improved equity and respect for core labour standards, and from an economic perspective, sustainable procurement can generate income, reduce costs and support the transfer of skills and technologies.

So I want to say, when I say that it is progressive legislation, I want to say that it is in the context of the framework that, we set out for development in the country, in the first place, in 2010. More than that, we were way

ahead in terms of our policy articulations in 2010, compared to even international institutions across the world, because you would remember that the millennium development goals, while they addressed the issues of sustainability, they did not clearly articulate sustainable development as a major developmental goal for the world system.

I want to say for this Post-2015 Agenda that we are embarked on, the two major issues—there are 17 issues identified—the two major issues are poverty eradication and climate change issues. For SIDS such as us, for Small Island Developing States such as us, even as industrialized as Trinidad and Tobago is—as we saw with what happened in Manzanilla recently—it is very important for us to take this sustainable development path.

If you do not have a procurement system that lets the decision-making framework for procurement determine the policy objectives in the context of sustainable development, you are never going to achieve it, because government spending must help to chart that development course and that development framework. This is what we have done in this piece of legislation.

Now, I mentioned that there had been attempts, that there was a White Paper in 2005, and there was a piece of legislation in 2006, which was sent to the Joint Select Committee, which eventually came up with the Bill, which was modified to become the Bill that we are now debating. So attempts to reform the public procurement regime in Trinidad and Tobago are not new. It has long been recognized that the Central Tenders Board Act has long outlived its usefulness, to the extent that special purpose companies became the go-to measure to get around its inflexibility. The Central

Tenders Board Act is actually older than the nation itself, being enacted in 1961, although amended on at least three occasions since then—minor amendments to the Central Tenders Board Act—but that is what we work with.

Some of the previous attempts at procurement reform which were considered, are the draft National Tenders Board Bill of 1997, which was considered by Cabinet, but not introduced in Parliament. Then you had the reform of the public procurement regime, a White Paper as I indicated before, produced by the Ministry of Finance, which was presented to Parliament in 2005. This was followed by the Public Procurement and Disposal of Public Property Bill, 2006, based on the White Paper, but the Bill was never debated.

What has happened in the past is that the issue of procurement reform has been effectively given the attention just bordering above lip service, but well under what can be considered a serious attempt at actually doing something. I want to say that what we have been trying to do from 2010 till now, and we hope that we will be successful today, is to get this procurement Bill done. [*Desk thumping*]

Now, what is difficult to comprehend is, why such little importance has been given to one of the areas of governance that is in most need of attention. Other areas might be cited for consideration such as government waste—you hear a lot about government waste; about overspending, you hear a lot about overspending; about inefficiency and misallocation of resources. But many of these things had their nucleus in the way the Government operates, of which the procurement system is a fundamental

pillar. So if you want to deal with this, you have to deal with the procurement system. This is a country which, no matter which administration, the charges of corruption and the insinuations of corruption and the allegations of corruption never cease.

**11.45 a.m.**

What better way to deal with it than to have effective legislation that may not insulate you completely from it, but at least would offer some protection to the citizen that the system itself has the necessary checks and balances to ensure that taxpayers' money is well spent in the country?

There has been ample time to analyze what is wrong with the procurement system and to make at least an attempt to offer and implement solutions. But we have had in the past many, what I would call—not uncharitably—half-hearted attempts and that ultimately led to the 91 recommendations of the Uff Report when that committee was asked to sit.

I think that what we need is a clear position from the Senate, from the Parliament, about where we want to see the country and where procurement fits in the process, so that the country can understand that we are serious about their money and how we spend it, and we are also serious about bringing transparent government and honest government to Trinidad and Tobago.

I, therefore, simply want to highlight, as I close, Mr. President, some of the aspects of the Bill that are very important. The Bill is committed to transparency and accountability. It is committed to the principle of value for money. It is committed to sustainable procurement, which I mentioned before, and it also offers the opportunity for e-procurement in the system.

So, in transparency and accountability, the regulatory agency, through the regulator, will submit a report to Parliament every year on what procurement has been done in the previous financial year—including value and to whom—and whenever a contract is awarded, the entity which awards the contract has to put all the information on the website for all to see and have access to the information.

Procuring entities will publish in advance all procurement activities they have planned so everybody will know what is coming and when somebody gets it, they will have to put that up as well. Procuring entities will publish what procurement contracts they have engaged in.

In value for money, one of the objects of the Bill in clause 5, it actually defines in the definition what value for money is. That was one of the amendments that we accommodated here in the Senate because it was a good suggestion. The definition is that:

“‘value for money’ includes the value derived from the optimal balance of outcomes and input costs on the basis of the total cost of supply, maintenance and sustainable use.”

I think that amendment was suggested by Independent Senator Helen Drayton and perhaps modified in the process during the committee stage deliberations.

In value for money, local content is an important factor here. Procuring entities can limit bids to local companies. This is a very important thing. I do not know if you are aware, Mr. President, hon. Members, but when we had the Americas Competitiveness Conference here, I told my people in charge of the Secretariat that you can import bags from China; you

can have food at the Hyatt that is based on all imported material and you can do all the planning and development for the conference using foreign talent. But how much better would it be if we had America's Competitiveness Conference here and all the food served by the Hyatt was local—which it was—and everything procured for the conference—because we had 331 foreigners registered for a conference of over 1,000 people—how much better would it be for those 331 people to leave with things all made in Trinidad and Tobago—and we did that. [*Desk thumping*]

So your procurement policy can nurture the development process and the development of the economy and development of industry and it can provoke, you know, impulses to development that might not be there because the market did not exist before. So local content is important.

Local industry development—also one of the objects of the Bill in clause 28—this also applies. Freedom from political interference—Part II establishes the Office of Procurement Regulation; it does not report to any Ministry. It reports to Parliament.

Now, this is something that was strongly objected to in the other place and I could not understand why. Why would you not want an independent regulator? Why would you not want an independent regulation agency free from political interference? And up to now I do not understand what is the thinking behind it because I remember—in the committee stage—we had a situation in which the Jamaican Contractor General had enormously larger powers than this particular regulator and regulatory agency has and it was because of objections to these larger powers that we took the decision not to give such excessive powers to the procurement regulator. But it was clear

that if you wanted to have honest, transparent, accountable procurement that you have to have a strong regulatory system. It is in that context that this issue has been done in this particular Bill.

Sustainable procurement, also in the objects of the Bill, is defined in the Bill and I quote, as a:

“process whereby”—organizations—“meet their needs for goods, works or services in a way that achieves value for money on a”—whole life—“basis in terms of generating benefits not only to the”—organization—“but also to the”—society and the—“economy...whilst minimising damage to the environment.”

There is another clause which indicates that the value for money proposition in relation to sustainable procurement will also be assessed in the context of how much of a dollar remains in Trinidad and Tobago as part of the procurement process. I mentioned e-procurement; clause 38 authorizes procurement by electronic means.

So without much further ado and having simply outlined a kind of framework and context in which this Bill, which was passed by this honourable House and in which every clause was determined collaboratively in this honourable House, I have outlined how we got to this point where we now have the very tremendous opportunity really to take this Bill and to pass it in the Senate so that it becomes law in Trinidad and Tobago. [*Desk thumping*]

Therefore, Mr. President, I have the honour, I think, and a privilege, on behalf of the Government of Trinidad and Tobago, to present to this honourable House:

“An Act to provide for public procurement and for the retention and disposal of public property, in accordance with the principles of good governance, namely accountability, transparency, integrity and value for money, the establishment of the Office of Procurement Regulation, the repeal of the Central Tenders Board Act, Chap. 71:91 and related matters.”

I have the honour of presenting this Bill for passage in this honourable House and I hope that I will have the support of all Senators.

Mr. President, I beg to move.

*Question proposed.*

**Sen. Faris Al-Rawi:** Thank you, Mr. President. Thank you, hon. Members. I rise to join in the contributions in respect of this particular Bill. This is Bill No. 2. This is an Act to provide for public procurement and for the retention and disposal of public property, in accordance with the principles of good governance namely accountability, transparency, integrity and value for money, the establishment of the Office of Procurement Regulation, the repeal of the Central Tenders Board Act, Chap. 71:91 and related matters.

I have started by reading from the Bill itself, first page, the short title, the explanatory note. This is a standard provision in any Bill which tells you, by way of succinct statement, the objects of the legislation.

Public procurement with respect to retention and disposal of public property, point No. 1. Certain principles by which that is to be dealt with, being good governance, accountability, transparency, et cetera, that is point No. 2. The establishment of the office of procurement regulation, that is point No. 3; and the repeal of the Central Tenders Board Act, that is point number 4.

That, in essence, captures what we are doing.

I regret to say that the hon. Minister, in piloting this Bill—I do not think purposefully, but from his point of view—entirely misrepresented the Opposition's position on this matter. [*Desk thumping*] I wish to correct it for the record. We are a bifurcated Parliament. We have the Senate. We have the House of Representatives. We in the Senate are appointed persons nominated by the political parties and His Excellency the President on respective sides: the Government 15, the Opposition 6, the Independents 9; but in the House of Representatives, that is where we have 41 elected Members of Parliament who represent constituents and who face the political axe every five years or, if sooner, when an election is called, being a general election.

We as a Parliament sat and dealt with procurement as a Parliament. We have done this now for five years. We started with the Government saying we are going to give you a manifesto and in that manifesto we are going to commit to public procurement and they laid a Bill for a legislative proposal. What they really did was to lay two old pieces of legislation and they said: let us decide this; and we as a Parliament agreed to sit together and come up with this.

### **12.00 noon**

We did so for five years while this Government added budgetary package, supplementary budgetary package upon package, now nearly to the tune of \$300,000 million, being the equivalent of 15 years, nearly, of all budgets immediately prior to these People's Partnership budgets. That is, this Government has and will, in five years of existence have spent more

than 15 years of any government, added back-to-back prior.

They did so, Mr. President, in particular, in a lower inflationary climate where the purchasing power of a Trinidad and Tobago dollar for steel, for cement, for aggregate is better now in these five years of this Government than certainly it was in eight years prior, when the world was in competition for resources. So, the price of steel per pound cheaper today than it was in 2006, 2008; the price of aggregate cheaper today than it was then.

And so, Mr. President, the people of Trinidad and Tobago now look to us and say: “Well, what do we have for \$300,000 million in this country?” We know what we have is a whole lot of statements by the Government; we have billboards all over Trinidad and Tobago with pictures of the Prime Minister and Government; we have giveaways on a daily basis—  
[*Interruption*]

**Sen. Robinson-Regis:** With pictures of the Prime Minister.

**Sen. F. Al-Rawi:**—with pictures of the Prime Minister; we have statements as to a whole lot of box drains being built in Trinidad and Tobago. This is the Government of box drains, Mr. President—[*Desk thumping*] \$300,000 million, \$300 billion in box drains it seems, because what we know we do not have, we do not have energy and revenue generating assets in the country. There is no big-ticket item for revenue generation in this country. We have a Minister of Energy and Energy Affairs sitting uncomfortably in his seat watching the price of oil fall by the day, because he knows that the price of gas is going to follow.

Now, markets are susceptible to swings. This will not be the first

time, but one is insulated by having a diversified economy, which this Government started in 2010 to sing from the first Motion we did—the first debate we did in June 2010 was on the state of the economy, all about diversification—not a word since then, as the energy plantation model continues to be the sole source of revenue for this country.

The price of oil is significantly lower than that benchmarked in our budget. The price of gas is under competition, because spot trading and markets as we share, diverting cargo can only last for so long. When East Africa and the other areas in the Middle East come up with gas supply, what are we going to do with cargo being diverted to the Far East and to South America?

So, we are in a position where this country has witnessed this Government raise the debt ceiling limits by almost 2,000 per cent, borrow money every single day and engage in procurement of goods and services without any form of accountability to the citizens of this country. [*Desk thumping*] And today we come, and the hon. Minister says: “This Government is committed; we are engaged into procurement; we are finally bringing something; I cannot understand the Opposition’s position on this.” Well, I find it rather curious that someone as well lettered as the hon. Minister cannot understand the very basic causes for concern that the Government has, and that is why I started with stating that we have two Houses of Parliament.

We sat as a Senate, we unanimously dealt with passage of procurement Bill No. 1. No reason has been volunteered by the Government as to why the Bill was allowed to lapse. Let us put that now into the context

of the same history that the Minister supposedly dealt with: Legislative proposal brought onto the Parliament table; joint select committee appointed under the chairmanship of Dr. Tim Gopeesingh, hon. Member of the House of Representatives as he is; that committee after two years collapsed. A new committee was brought about that spent another two years plus dealing with procurement, and then the Bill comes to the Senate, passed unanimously with Opposition support with certain caveats that the hon. Minister has not reflected upon—and I will come to that in a moment—allowed to lapse, goes into the Parliament, laid in August 2014, brought forward and truncated the debate and adjourned, then all of a sudden brought back now we are in December 2014.

We are five months away from this Government full term of five years. They may have a couple months after that to call an election, but this Government has always had the numerical capacity of a special majority. [*Desk thumping*] This is a three-fifths majority Bill. You are required to have three-fifths support. In the House of Representative that equals to 26 Members of the House voting, which the Government has always had even when they had 29 Members, and now that they have 26 Members, they continue to have. In the Senate it requires all of the Government to vote and three Independent Senators. That is all you need. The Opposition, therefore, was a passenger to this exercise if this Government was serious about passing the law.

And, Mr. President, the hon. Minister hides behind the allegation that there was need for consultation, and the players had to be consulted. How does that marry with the mad rush to pass the Constitutional (Amdt.) Bill?

[*Desk thumping*] No consultation; massive protest outside of Parliament; people being called to account for moneys that they supposedly received for sitting on a committee—a member of the committee saying: “I was never on board with what has been put forward now. I have reconsidered the position and I want there to be pause on this Bill”, yet this Government convened Parliament, rushed it through. What about the Municipal Corporations (Amdt.) Bill—the Alderman Bill as people called it—passed by way of so-called consultation. You cannot on the one hand have alleged consultation as the Minister pretends to have on this occasion, and compare it with the actions of the Government on other occasions.

What concerns me is the Opposition’s position is very careful. The hon. Minister read from *Hansard* of the contributions that we collectively made as a Parliament on May 20, 2014. He even read an excerpt from me, probably the first time the Government has ever admitted to something I have said in Parliament, notwithstanding the fact that they have a history of shutting down Bills after the Opposition speaks when we discover how bad they are; [*Desk thumping*] notwithstanding the fact that this particular Government has had the genuinely dedicated attention of an Opposition able to support 94 per cent of the legislation across the Government’s table—94 per cent—after we have done hard work to fix it. [*Desk thumping*]

What happens, Mr. President? The hon. Minister did not reflect upon my own contribution where I made significant observation in respect of three issues:

- (1) the appointment and removal of the Regulator;
- (2) the disposal of lands owned by the Government of Trinidad and

Tobago; and

- (3) the operationality of the legislation.

You see, it is all well and good to have all these fancy laws. They are selling this product of today almost as if: “We are going to have procurement managed and this Government operated with procurement procedures which were transparent and in respect of which there was accountability”, but nothing could be further from the truth.

What we will have is a set of laws to be proclaimed which cannot be operationalized without significant tools and certain amendments to inter-articulating legislation. Let me put that into perspective. Public procurement without:

- (1) operationalization of the Electronic Transactions Act; [*Desk thumping*]
- (2) operationalization of the Data Protection Act to carry out e-procurement;
- (3) amendment to the local government structures for accountability; and
- (4) amendment to the Revenue Authority of Trinidad and Tobago principles, meaning the Ministry of Finance and the Economy needs to reform itself in respect of its Audit and Exchequer functionality where they can be auditing and accounting inside of each Ministry to world-class standards as they do, for instance, in Jamaica.

And I have referred to this time and time again—the Financial Administration Audit Act of Jamaica and the Contractor General Act of

Jamaica, where there is establishment to bring us up to international standard. Without the ability to check what we are doing, we are in trouble.

There is another one I want to add to the list, and that is a joint select committee of the Parliament of Trinidad and Tobago to oversee procurement. And as far as I recall, the list of new committees in the revised Standing Orders of the House of Representatives, soon to be met by the Senate, do not include that particular entity. And so, while this Bill proposes that Parliament have scrutiny: how do we effectively ensure that the Legislature supervises and holds to account the Executive? How do we do that without bringing that to life?

I want to put this on the record. I noticed the hon. Prime Minister having the gall, if I could put it that way, to take paternity or maternity, authorship, of the new Standing Orders. Let me put this squarely on the table. Speaker Barendra Sinanan and Camille Robinson-Regis, in a past incarnation, drafted word for word those new Standing Orders [*Desk thumping*] and they were never brought into life because the UNC refused to amend the Standing Orders. [*Desk thumping*] It was only when a responsible Opposition in the form of the PNM, under Dr. Rowley's leadership, came forward and said we will support all good principles and challenge bad ones, that those came to life.

So, Madam Prime Minister, have the intellectual honesty to admit where this comes from. But, Mr. President, unless we have these pieces of legislation that I have just mentioned and the committee of Parliament brought to life, and the Public Accounts Committee and the Public Accounts (Enterprises) Committee beefed up, we are spinning top in mud.

We have an Integrity Commission in Trinidad and Tobago which is the recipient of \$20 million annually to run everything that it is doing. That is less than the legal fees for one brief paid out of state enterprises, Central Bank or the Ministry of the Attorney General. The entire Integrity Commission operates on the cost of one brief offered by the State. This procurement legislation is to be funded by appropriations from the Parliament, but we do not know how it is going to operate and, more particularly, we now come in the last minute to do as if we have procurement laws in place, but the Minister comes again to this Parliament and no sight of the regulations.

If you are drafting the Bill: why not bring the regulations if you had five years to do it? [*Desk thumping*] I would tell you why I raise the regulations—because it ties in with the three concerns of the Opposition raised in the House of Representatives, and which we would now echo and clarify for the very well-qualified Minister to appreciate today.

Mr. President, in the House of Representatives, the position taken by the PNM was that this is generally law in the right direction. We in the Senate were given the instruction by our Political Leader, Dr. Keith Rowley, to vote for this Bill. I, in my *Hansard* contribution on May 20, 2014, raised specifically the issue of the Regulator, the disposal of land and the functionality and operationalization of the Bill.

**12.15 p.m.**

I have just dealt, a moment ago, with the operationalization, that is, in terms of the ability to finance the commission, the inter-articulating laws, the Data Protection Act has not been fully proclaimed. We dare say it is

unconstitutional. The Electronic Transactions Act has not been fully proclaimed, how are we talking about e-procurement in the absence of that? But, Mr. President, what concerns us are the first two issues, and let me deal with the appointment of the regulator and undust it for this honourable Senate to consider, and then I will deal with the procurement of land.

Number one: the regulator—and the hon. Minister said something which I dare say is a misrepresentation of the Opposition's position—our concern, as particularly stated by Colm Imbert, Member of Parliament for Diego Martin North/East in the House of Representatives, with respect to the regulator, is not that we do not want an independent regulator. How could you come up with that, hon. Minister, from reading the contribution? How could you? I have the contribution right here and that is the furthest thing from the truth: contribution of Colm Imbert, November 07, 2014, Mr. Imbert takes time to go through the position of the Opposition. What we said and what we say now is, as a result of the Minister's statement himself in the House of Representatives, the hon. Minister has confirmed that the procurement regulator can be removed by a decision of the Cabinet. That is what he said on the *Hansard* in his wrap up, Mr. President.

The wrap up of the Minister on the Public Procurement and Disposal of Public Property (No. 2) Bill on December 05, 2014, the hon. Minister said that the Parliament would have to be directed by the Constitution of Trinidad and Tobago and that the regulator can be removed by the advice of Cabinet because His Excellency, the President, must act on the advice of the Cabinet. We have just seen the Airports Authority lose a member in the newspapers—lose a Member—Minister Cadiz will not explain why. The

board says, “Ask the Minister, we are not telling you why”. The Minister says, “Ask the board, I am not telling you why”, and they have lost a member, and the newspapers carry the story that says that the board member appears to have been removed because he voted against the Minister’s instruction to appoint a new manager of the Airports Authority. Gone!

What happens now when we are dealing with the procurement regulator who has to supervise the Government’s PSIP programme, roughly about \$10 billion a year and all state enterprises, or any entity caught in the procurement cycle? What happens if this Cabinet wakes up one morning and says, “You know what, fire that man and hire somebody else”? That is not too far a stretch to consider. I gave you the Airports Authority, let me give you another one. I raised it only last week. We saw the dismissal of Nigel Clement on the advice of Surajdeen Persad, now Assistant Commissioner of Police, with authority for the SSA, the Security Services Agencies, where he wrote to the Prime Minister, bypassing the Commissioner of Police, entirely improperly, and said, “Clement is a PNM man, all of the people listed here need to be fired. I recommend Reshmi Ramnarine to be hired instead”. Whap! Gone! [*Desk thumping*] Families on the breadline.

Reshmi Ramnarine comes up and one nancy story by the Government. Started off with the objections to Reshmi Ramnarine, a misogynistic in origin—“You hate women, how could you say that you do not want a woman?” We were objecting to the fact that the woman was unqualified as a technical operator, telephone operator, to head the agency. We saw big men in the Parliament stand up and say, “Well, it was my fault, I

recommended”. The truth is, Surajdeen Persad [*Desk thumping*] told the Prime Minister to do it and she acted upon it.

So what happens now? Are we going to have the procurement regulator on the Minister’s own *Hansard* saying that the procurement regulator can be dismissed by an instruction to His Excellency, the President, to dismiss the regulator? Are we going to have that now, hon. Minister? Is that not the reason volunteered by the Opposition? Is that not the reason, Mr. President? We said, because you have the capacity to remove this man who is in charge of, in seven years of sitting as the procurement regulator, all of the Government’s procurement cycles, and you can do so capriciously, then we want protection for the regulator. [*Desk thumping*] It is not what the Minister said.

We also said—we raised the counter argument, we said, “What if you have a rogue regulator? That rogue regulator should not be left to fall by Executive decision, as we saw with Nigel Clement and Reshmi Ramnarine enters. We said instead, “Put forward the ability for the Parliament of Trinidad and Tobago to debate a Motion in the full public glare as to why this regulator should be removed, and if there is a unanimous decision of the House of Representatives, the elected Members of Parliament, then that is the manner in which the regulator should be removed.

So how does that add up to the Minister’s statement that the regulator—why would the PNM not want to have an independent regulator? Come on, Mister Minister, you are brighter than that. [*Desk thumping*] That is gross misrepresentation and I take offence to that, Mr. President. I am deeply troubled that the hon. Minister could stand up and say that today,

deeply troubled, because what we are fighting for is the right to have an independent regulator [*Desk thumping*] and we are looking to shore it up, and that is why you have two Houses of Parliament so that when one misses something, as we sit in paternity or maternity, authorship of any piece of law, we get very attached to it. We want to hold on to our intellectual product, we fight for our point of view. It happens with lawyers. I have seen it in the legislative process.

The hon. Minister is feisty when it comes to holding on to what he believes to be a position. I have seen him in committee take on board some good suggestions, but in the Parliament he is a different human being. He may say the same of me, perhaps that is so, but the fact is we want an independent regulator. We believe the independent regulator should be removed by a decision of the Parliament, on a Motion in the Parliament, so that the full population knows why, because this man is too critical a human being—and we said, include into that, the position that the regulator must do nothing else other than: (a) be full-time; and (b) have no relationship with any procuring cycle or any relationship with the State. In other words then, cannot be employed by the State.

So, the regulator, on the PNM's point of view, should be independent. His independence should result—[*Interruption*] Sen. Lambert, you want to contribute now while I am speaking? You are the Vice-President of the Senate. [*Interruption*]

**Sen. Lambert:** I was just saying, why PNM did not introduce this—

**Sen. F. Al-Rawi:** Listen to this, why PNM did not introduce this. Let me press pause on the argument. Sen. Lambert, in his crosstalk contribution

says, “Why did the PNM not introduce it?” Let me tell you why, because we introduced the mechanisms to achieve it in the following way, one: the reform of the entire financial services sector [*Desk thumping*] by introducing the Revenue Authority of Trinidad and Tobago so that you could forensically track every single dollar spent in Trinidad and Tobago; two: by introducing local government reform in a [*Desk thumping*] serious manner so you could track every single dollar; three: by drafting public procurement, White Paper and positions put into the Parliament; [*Desk thumping*] four: by making sure that we better the FIU, the Financial Action Task Force regulations to come in.

So we were serious about operationalizing the law, [*Desk thumping*] “not this five-years wait to bring ah piece ah paper on de table”, no regulations, no funding. Five years later no regulations and Sen. Lambert has the gall to ask me, “Why the PNM did not do something else?” Well, we did better, Sen. Lambert, [*Desk thumping*] because we were serious, but the campaign of frightening public servants and telling them that they would lose their job with the Revenue Authority; why would you do that? “Axe de tax”, now “bring back de tax”, now call “axe de Praks”, in reference to Prakash Ramadhar, hon. Member that he is. That is now the public conversation. People beginning to sweat in Trinidad and Tobago. Where is money coming from in the next five years? How are we going to live?

Back to my point, independent regulator, the mechanism to remove the regulator should be brought on the Parliament floor, the independence of the regulator should be protected, the Executive should have no control over the regulator, he should be elevated into a position of security much like a judge

is elevated because he exercises quasi-judicial functions, and that was brought about, we confess in the Senate, by way of a second look from the House of Representatives, and I can see no reason why the Government should not immediately jump to introduce that. What could the problem be? Why do you want to have the power to fire someone by Cabinet decision?—like you fired Nigel Clement and you brought Reshmi Ramnarine, why do you want to put the procurement regulator in that cycle? Answer that.  
[*Interruption*]

**Sen. Lambert:** Gift was fired by facts. Remember him? Gift. [*Laughter*]

**Hon. Senator:** “Nah”, that was not Gift. That was not Gift.

**Sen. F. Al-Rawi:** Next, Mr. President, let us deal with the issue of disposal of property. I specifically, in my *Hansard* contribution, raised the issue of disposal of public property. I raised it in committee stage, I raised it in the Bill, in the debate; I raised it because I was very concerned that disposal of public property should be included. Mr. President, we were given the line that we should agree to the Bill, “better we have something than nothing” and “we will figure it out as we go along because the regulations will come soon”.

We are a year later, nearly, no regulations, no handbook, no guidelines, why? Then, Mr. President, in respect of—[*Interruption*] You do not need—listen, Sen. Maharaj, he is saying, because you have no commission. So how is it that we were able to bring the regulations for the Planning and Facilitation of Development Bill at the same time before its passage? How, Sen. Maharaj? You could bring it for planning because the PNM introduced a planning Bill which the Government met and worked

upon. Regulations were brought at the same time as the Bill so we could have full line of sight on it. Sen. Maharaj now says, in a bright sense of fashion with his wonderful red bow tie on, which he looks very good in, by the way, not only because it is red but it is different, but, anyway, the fact is Sen. Maharaj, he says, because we did not have a commission. Well, that does not make sense, most respectfully, my good friend.

It makes no sense because you have the ability to bring the regulations now but on the disposal of land a very, very significant event arose that this hon. Minister has refused to deal with for years in the Parliament, and let me tell you what it is. By way of judgement of the High Court of the hon. Mr. Justice Frank Seepersad in CV No. 2012-04538, *The Joint Consultative Council for the Construction Industry v The Minister of Planning and Sustainable Development*, the hon. Bhoendradatt Tewarie, the hon. Judge delivered a judgment on July 14, 2014. Let me remind the nation, through you, Mr. President, when we in the Senate dealt with this: Fourth Session of Tenth Parliament, June 11, 2014, in the Senate, Third Reading and passage.

June 11, the Senate passed, with certain caveats mentioned, by me in particular, with respect to disposal of public property—June 11, 2014, this Bill passes the Senate, word for word, same Bill. The hon. Minister knows because he was the defendant in the matter, ducking, bobbing and weaving in respect of disclosure in the Invader's Bay project. He knows that on July 14 the judge delivered judgement. Now, it is not on appeal, so I am going to put on the record what the honourable judge said. He says page 25 of 28:

“The issue of compliance with the provisions of the Central Tenders Board Act has been the subject of discussion on a national level for

some time. The object and intent of the Act was to insulate the contract award process from the executive, thereby ensuring that there is no political interference with the process so as to give rise to an actual or perceived perception of misappropriation and/or mismanagement of the taxpayers' money or the assets that belong to all citizens.

So the judge says that that is the purpose of the Central Tenders Board Act.

The judge says:

“In the case of *Bland v. Canada (National Capital Commission)* 1991 F.T.R. LEXIS”

The judge quotes from Justice Muldoon, and he says:

“It is always in the public interest to dispel rumours of corruption or just plain mismanagement of...taxpayers' money and property. Naturally, if there has been negligence, somnolence or wrongdoing in the conduct of a government institution's operations it is, by virtual definition, in the public interest to disclose it and not to cover” —it—  
“up in wraps of secrecy.”

### **12.30 p.m.**

Mr. President, the judge goes on at paragraph 82:

“Accountability by a Government for its decision and actions must be cornerstone of the democratic process. The proposed development of Invader's Bay is of national concern and involves pristine and valuable real property which belong to the citizens of Trinidad and Tobago.”

The judge goes on, paragraph 83:

“Notwithstanding the process as outlined under the Central Tenders Board Act, successive governments for many years have not necessarily availed themselves of the protection that the Central Tenders Board Act can afford. It is well entrenched within the public domain that several special interest companies, such as Urban Development Company of Trinidad and Tobago (UDeCott) have been formed to undertake and develop projects that involves substantial financial expenditure. The issue as to whether this course of action has been pursued in pursuit of a desire to effect substantial and rapid infrastructural development so as to achieve developed world status or simply as an avenue to circumvent the provisions of the Central Tenders Board Act and avoid accountability and the strict procedural guidelines that the Act imposes upon executive conduct and control over tender process, is also an issue...

It must always be in the public interest to ensure that the activities and projects undertaken by Government are transparent and all attempts should be made so as to dispel any perception of the misappropriation of public funds and/or financial impropriety...

The nature of the project in this case and the process adopted by the Defendant”—meaning the Minister—“to pursue the Request for Proposals process without regard to the provision of the Central Tenders Board Act, requires disclosure of all the relevant information that was considered before the said decision was taken and the refusal to provide the requested information can create a perception that there may have been misfeasance in the process and any such perception

can result in a loss of public confidence. Every effort therefore ought to be made to avoid such a circumstance and if there is a valid and legally sound rationale for the adoption of the Request for Proposals process, then it must be made in the public interest...”

The judge, in the case against the Minister, brought out after the passage in the Senate.

What does the honourable judge say? I want to flag this point: he is saying—and it is my submission that he is doing this—that the Central Tenders Board Act applies whenever it applies. So if it is to be applied, it is to apply, and the judge said that it can apply in respect of real property.

What does the hon. Minister say in the House of Representatives? The Minister of Planning and Urban Development, Sen. The Hon. Dr. Bhoendradatt Tewarie, said on December 05 the exact opposite. He says here in his unrevised *Hansard* at page 8 that I have:

“So what is clear, is that, remember there is a commissioner for State Lands, and the CTB Act...”—meaning the Central Tenders Board Act—“as I said, cannot be interpreted to cover land, and the real property referred to in the legislation more in the lines of perhaps physical structures owned by the Government but not land, and as I indicated the reference here is to the same things, the very exact same wording of the Central Tenders Board Act.”

So, hon. Minister, you said on the Parliament record, through you Mr. President, that the Central Tenders Board Act does not apply to real property. The judge is saying that it applies to real property. We are saying that issue of what the judge clarified was not before the Senate when we

debated it on June 11, 2014, when it was passed. That judgment had not come out. That judgment stands almost as statutory interpretation or declaration. What the hon. Justice Seepersad is saying is that the Central Tenders Boards Act applies to land, meaning real property. The hon. Minister on *Hansard* said it only applies to physical structures not land. You cannot get clearer than that, as to what he said. Now, before this Senate today, is the issue of the disposal of real property. [*Desk thumping*]

Clause 13 of the Bill deals with the functions of the Office of Procurement in particular, and the hon. Minister pointed to this and perhaps will again. Clause 13(1)(o):

“act for, in the name and on behalf of the State to dispose of real property owned by the Government in such a manner as the Government may consider appropriate and desirable.”

The Central Tenders Board Act, specifically by way of Central Tenders Board inclusion, by way of Legal Notice No. 179 of 1997 says:

The functions and duties of the Central Tenders Board are hereby extended to include the authority to act for and in the name and on behalf of Government to dispose of real property owned by the Government in such a manner as the Government may consider.

This is in the law—law which we are about to repeal, the Central Tenders Board Act, Chap. 71:91 says the Central Tenders Board is to act in respect of real property. Hon. Minister, real property includes everything that is built upon it, “appurtenances and all things thereto belonging” is what we say in law. You know that, Mr. President. “*Quicquid plantatur solo, solo cedit*”, whatever is affixed to the land runs with the land. If you build a

house on land, it becomes part of the land unless it is a chattel. *Mitchell v Cowie*, West Indian Law Reports—basic law.

So we are about to repeal the Central Tenders Board Act, and we are supposed to be comforted by the Bill which says one of the functions in 13(1)(o) is to act for and on behalf of the State to dispose of real property owned, but this can only be brought to life, and comfort can only be taken, when we see regulations in respect of this Bill.

In light of Mr. Justice Frank Seepersad's observation, and it is part of his *ratio*, it is not *obiter dicta*, it is part of the material aspects of his judgment and not an observation in passing. The hon. judge said clearly the opposite of what the Minister says. The hon. judge says that real property is to be dealt with by the Central Tenders Board, if it happens. [*Interruption*]

What is the story of Invaders Bay? [*Interruption*]

**Sen. Dr. Tewarie:** It does not say so in the judgment.

**Sen. F. Al-Rawi:** Sorry?

**Sen. Dr. Tewarie:** That is your interpretation. You mislead at every point.

**Sen. F. Al-Rawi:** Hon. Minister, you have this habit of putting on your microphone in crosstalk. You are not allowed to do that. [*Crosstalk*] The hon. Minister said the judge did not say that. I beg to differ. It is clear; it is unequivocal in the language of the judge, that real property can be dealt with by the Central Tenders Board Act. We are about to repeal it, and we have a circumstance of Invaders Bay \$5.5 billion worth of land, where we have two competing interests.

**Sen. Dr. Tewarie:** Where did you get that figure from?

**Sen. F. Al-Rawi:** By the time it is developed the \$1.3 billion worth of land

will come up to \$5.5 billion worth of investment, from the information in the public domain alone. [*Crosstalk*]

**Sen. Dr. Tewarie:** You are providing part of the propaganda.

**Sen. F. Al-Rawi:** Hold on, hold on. Mr. President, the Minister has a whole hour to wrap up, control him for me please. [*Desk thumping*]

**Mr. President:** Hon. Senators, we will listen to Sen. Al-Rawi in silence. But Sen. Al-Rawi, of course, the interjections from the floor is something you can either respond to or not.

**Sen. F. Al-Rawi:** This is a small Parliament; we are not within two sword lengths as we are supposed to be. The hon. Minister has a habit of doing this, but anyway—Mr. President, the Invaders Bay project involves two competing interests. Legitimate investors have come forward on a request for proposals and have invested millions of dollars of time and effort pursuing a project in respect of which the Government represented that it had the capacity to dispose of lands. So we have their interests. They disclosed their ideas in the public domain. They have spent millions in the procurement cycle and process, plans moving along, et cetera.

The issue which arose was whether the request for proposals coming from the Ministry as it did, the land being vested in the State and not yet in UDeCott—coming from the State, whether the request for proposals under the Central Tenders Board Act, require the CTB to deal with it. It would have been very different if it was vested entirely in UDeCott; in that circumstance UDeCott may have had the ability to dispose of the land. But there being a legitimate question in respect of Invaders Bay, the hon. Minister, every time asked a question, ran away from the disclosure, to the

point of the JCC having to drag him to court to get an award saying that he must disclose the legal advice.

My good friend, the hon. Attorney General, stood in the Parliament and said that it appears to be legal thus far. But are the legitimate investors to lose out in this circumstance? If it happened to be a requirement that the Central Tenders Board governed the process, is it that it must be scrapped? There is a fear and a perception in Trinidad and Tobago of a lack of transparency. That is why we in Trinidad and Tobago have fallen in the rankings of the perception of corruption. We have fallen in the rankings of perception of corruption under this Government. [*Desk thumping*] That is a fact. It is in the newspapers. Trinidad and Tobago Transparency Institute has moved from 83 to 85 in Corruption Perception Index.

**Sen. Ramlogan SC:** Two points? How much it dropped under the PNM?

**Sen. F. Al-Rawi:** It is a whole two points. When we look at Global Competitive Index: 2011/2012, we were at 81; 2012/2013, we dropped down to 84. [*Interruption*]

**Mr. President:** Hon. Senators, the speaking time of Sen. Al-Rawi has expired.

**Sen. Lambert:** Allow him 15 minutes again. [*Laughter*]

*Motion made:* That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. C. Robinson-Regis*]

*Question put and agreed to.*

**Sen. F. Al-Rawi:** Thank you for the charity, hon. Attorney General—Sen. Lambert.

Mr. President, 2012/2013, 84; drop again, 2013/2014, 92. That is

tabled Global Competitive Indices rankings of countries produced by the Global Competitive Index, Looking Beyond Global Economic Crisis. Each year they produce them; dropped successively. Perception of corruption dropped—let me put these things into context now.

One, the PNM wants this Senate to reflect most respectfully upon the independence of the regulator and the insulation from the Executive. Two, we wish for the disposal of real property to be immediately clarified and factored into this Bill. Three, we have concerns as to the operationalization of the legislation and, in particular after five years, not having the benefit of the regulations and handbooks and guidelines.

Mr. President, what is going on in Trinidad and Tobago? Why have we dropped in the perception of corruption? Let me start with a huge procurement issue, leaving Invaders Bay aside, leaving the Minister's ducking and weaving of the Invaders Bay answer aside, compelled by a court to disclose advice nobody has seen yet; laid on the table of this Parliament. Anyway, leaving that aside, let us go now to the highway.

Mr. President, \$8.3 million was the statement last year as expenditure, by Minister of Government—\$8.3 billion. We are closing in on close to \$9 billion as at today's price, cost overruns, et cetera. Listen to this one: *Trinidad and Tobago Express*:

“Minister: \$8.5 billion paid to OAS By Ria Taitt Political Editor  
November 22, 2013”—\$8.5 billion.

The Minister who made those disclosures was Minister of Works and Infrastructure, Dr. Surujrattan Rambachan, in 2013. Let me show you how that figure is going to go up. Let me deal with procurement.

**12.45 p.m.**

The hon. Sen. Vasant Bharath said to the public of Trinidad and Tobago that the project could not have been financed by international lenders because we would not have met the muster of their matrices. We could not achieve it because of the lack of transparency and the manner in which it was procured. So what happened next?

We started building the highway off of the current account of Trinidad and Tobago—meaning we are using our overdraft or whatever funds we have, and we are building it. We are not using international lending with cheap money with a term of repayment over time. We are spending close to \$9 billion—and will tell you how I got to that figure soon—from \$8.5 of 2013 figure by Minister Rambachand's statement. We are now spending \$9 billion. But, Mr. President, something happens there. All around the world we have huge headlines in respect of OAS Construtora. And what happens with OAS Construtora? All around the world right now OAS has been accused of committing administrative irregularities in large urban works—payments to influence politicians for favours; strong allegations of corruption, et cetera.

Brazil, Mr. President, warrants issued for arrests of the head men in OAS Construtora. This company building, in the largest single item of procurement in this country's history, a highway to Point Fortin—\$9 billion, nearly. Not a squeak from the Government. This project, not under the scrutiny of this Bill—let me give you an example of how I got to the \$9 billion. [*Crosstalk*]

Do you remember—I am being disturbed by the mutterings across at

the end. Mr. President, do you remember the opening of the Golconda highway just before the Divali? The Prime Minister, in great fanfare, opened the intersection point of the Golconda highway. I understand, my information is, that that was a request of bring forward of opening. The bring forward of opening was a period of three weeks bring forward. We know that after the opening that same highway stretch collapsed because there was a drain that was not properly carried through and water erosion caused it to collapse. I am advised that the cost of bringing that forward to open it before Divali, for the Prime Minister to celebrate its opening, was \$33 million by the time you factored overtime and payments. \$33 million to open an interchange section at Golconda three weeks before time.

**Sen. Lambert:** You were wrongly advised. [*Crosstalk*]

**Sen. F. Al-Rawi:** Then, Mr. President, the road collapses. [*Crosstalk*] So, you see how \$8.5 billion in 2013 [*Crosstalk*] will easily—Mr. President, the noise is a little loud—how \$8.5 billion in 2013 can run to \$9 billion. But do we have a commission of enquiry into the drain that collapsed the highway? [*Crosstalk*] Is Carson Charles, President of NIDCO, going to be called to account? [*Desk thumping*] Is the Prime Minister going to be called to account for the folly of bringing forward works, by three weeks, at cost of \$33 million? Is that going to happen?

The Prime Minister in question time in November in the House of Representatives was met with a question as to the highway, and in particular OAS Construtora. You know what the transparency PP-style is? Ask Jack. Ask Jack Warner, “doh ask me”. That was the Prime Minister’s answer in question time. Ask Jack. In the old days it used to be—over to you, Jack.

Now it is ask Jack—corruption buster. [*Crosstalk*]

Mr. President, what happens there is that these things cause corruption issues—perceptions. The Prime Minister in her contribution on this Bill went back to Tesoro, went down the line of the PNM supposed ills, jumped over 1995, Piarco Airport scandal never happened. LifeSport never happened—half a billion dollars. The \$34 million to Daniel under the LiveSport programme—never happened.

Today, the Auditor General's observations in relation to the Sport Company of increases of close to 600 per cent. [*Crosstalk*]

**Sen. Hadeed:** That is not true.

**Sen. F. Al-Rawi:** Newspaper, *Newsday* written by no less a person than Andre Bhagoo, Tuesday, December 16, 2014. [*Crosstalk*] Hear the grumbling. Grumble all “yuh” want fellas. Equivalent 223.5 per cent increase. Five hundred and something million, \$677 million increase from a 120 original budget. Mr. President, this is this Government. So, LifeSport never—hear Sen. Hadeed: “da is nonsense”. So what steps is Sen. Hadeed taking to deal with the Auditor General? [*Desk thumping*] He going to deal with the Auditor General? The Auditor General, report laid in the Senate, is nonsense according to Sen. Hadeed. [*Desk thumping*] Listen to what a Minister of Government could say. [*Crosstalk*] That is nonsense. Mr. President, billions of dollars of cost overruns on the highway.

**Sen. Hadeed:** That is nonsense!

**Sen. F. Al-Rawi:** Half a billion dollars on the Sport Company alone. Half a billion dollars on LifeSport programme alone. The talk in Trinidad and Tobago right now is an ex-government official, reported in the newspapers,

supposedly put out a hit on somebody's life. What does that mean?

**Sen. Hadeed:** Look where you gone.

**Sen. F. Al-Rawi:** What does that mean?

**Sen. Robinson-Regis:** We are not making up things you know.

**Sen. F. Al-Rawi:** Mr. President, National Quarries Limited—*[Interruption]*

**Sen. Maharaj:** What is the relevance of—

**Sen. F. Al-Rawi:** You have got to be joking. Sit down quickly. Go ahead and rule.

**Mr. President:** Sen. Al-Rawi, I will over rule Sen. Maharaj, but allow me to do that, thank you.

**Sen. F. Al-Rawi:** Yes, Mr. President. So, you see how quick they jump up when they hear scandal, but Prime Minister “doh” remember none of that. Her contribution in the House—none of that. It never happened.

Mr. President, it is public knowledge that I am half Iraqi, half Trinidadian, and I have spent a lot of time in the Middle East, and you know what I have found quite interesting. In Iraq, under Saddam Hussein, at that point in time in the 1980s there were 16 million Iraqis. There was a joke in Iraq that we have 32 million Iraqis. *[Crosstalk]* Please, Senators, calm down. We had 32 million Iraqis, we used to say from the 16 million. Why? Because we had 16 million pictures of the President everywhere. Kamla Persad-Bissessar getting close up there, you know. There are close to 3 million Trinidadians in Trinidad and Tobago. *[Desk thumping]* Face on mug. Face on billboard. Face on placard. Face in newspaper. Voices—“Government working for you!” Face on voucher. Everywhere, Mr. President. *[Crosstalk]* I am now understanding why my mother and father

met and Trinidad and Iraq collided because there are now similarities—similarities in the head of State—Prime Minister. What going on here, Mr. President? National Quarries Limited [*Crosstalk*] \$8.5 billion in 2013, \$9 billion close to when completion comes. [*Crosstalk*]

Mr. President, the largest procurement cycle in Trinidad and Tobago is the construction of the highway—the largest procurement cycle. That means with all of the aggregate coming from National Quarries Limited principally, that National Quarries Limited should be receiving record profits.

**Sen. G. Singh:** You know the material is coming from Oropouche?

**Sen. F. Al-Rawi:** Mr. President, there should be at least receiving record profits. Right? [*Crosstalk*] I am not saying all of it is coming. I am saying a lot of it is coming. [*Laughter*] I said it is principally coming.

So, Mr. President, record profits—when you look to the balance sheet—at least I “doh talk bout rats, you know, in meh own Government. Ah doh talk bout rats.” Right. Television station shut down for threats. [*Desk thumping*] Sen. Hadeed referred to—Mr. President, you know, I find it incredible, Makandal Daaga could speak about the most corrupt Government he had ever seen—silence. Sen. Gerry Hadeed could stand up and talk about rats in Government—silent now. [*Crosstalk*] Mr. President, we come down not to deal with—[*Crosstalk*]

**Mr. President:** Senators—

**Sen. F. Al-Rawi:** Sen. Hadeed, you are a big man, behave “yuh self nah”.

**Sen. Hadeed:** “I from de Government. I have nutting to hide.”

**Sen. F. Al-Rawi:** “Yuh” listening to him? Perhaps medication is required; I

do not know. [*Crosstalk*]

So, we have now National Quarries Limited ought to have some serious profits rolling into it. But, Mr. President, there is a large red elephant in the room. What is the red elephant?

**Sen. Robinson-Regis:** I hope it not me. [*Laughter*]

**Sen. F. Al-Rawi:** We have assistance of a large red elephant in the National Quarries Limited. What is going on, Mr. President? Not only are they not record levels of opposition, but the illegal quarrying to the tune of hundreds of millions of dollars of state land—nothing being said. Nothing being said. Twenty million dollars of equipment seized—nothing being said. [*Crosstalk*] No commission of enquiry. Minister of Energy and Energy Affairs, stalwart, silent on the issue—missing in action. Nothing. That is procurement. That is taxpayer's dollars. I am told close to \$3 million a night materials moves out of there.

Mr. President, people are murdered in this country on all sorts of issues. Dana Seetahal murdered in Trinidad and Tobago—cannot find anything to deal with that crime.

**Sen. Maharaj:** What is the procurement issue there?

**Sen. F. Al-Rawi:** Procurement issue of legal services. One of our top lawyers missing, killed. What happens next? Juice cans, \$700 million worth of cocaine found in them; cannot find a single soul responsible for it. [*Crosstalk*]

**Mr. President:** You appear to be straying.

**Sen. R. Al-Rawi:** Sure. But what I am dealing with it is that through loose procurement, cracks in the system appear and we get nowhere. What the

PNM is concerned with, why it supported the legislation in the Senate in June 2014—in May and June 2014—we supported something that we felt that we could live with. The observations that came about in the public domain, the message from Justice Mr. Frank Seepersad in respect of real estate, the issues of the insulations of the procurement regulator from Executive interference coming out of the Minister's own mouth—  
[*Interruption*]

**Mr. President:** I need you to wind up now.

**Sen. F. Al-Rawi:**—sure, Mr. President—those things caused a concern—the operationality.

Mr. President, as I wind to a conclusion I wish to say, this Government is a tick-the-box government. [*Desk thumping*] They are passing themselves off as engaging in proper governance. None of the public procurement would have happened under them by way of supervision, accountability or regulation. The Prime Minister says, do as I say, but not as I do. And one small plea by way of measure of austerity as the price of oil continues to plummet, we could do without the pictures of Kamla Persad-Bissessar on everything. [*Crosstalk*] Let us save some money that way, and let us help ourselves out of that dilemma.

Mr. President, I look forward to hearing what the hon. Minister has to say by way of reply, and I hope he will deal with the three issues we have raised, so that we can hear from him as to how we move towards the creation of good law. I thank you. [*Desk thumping*]

**Mr. President:** Hon. Senators, it is now 12.57. I propose to take the lunch break at this point, so the Senate will stand suspended until 2.00 p.m.

**12.57 p.m.:** *Sitting suspended.*

**2.00 p.m.:** *Sitting resumed.*

**Mr. Vice-President:** The sitting has been resumed and we are debating the procurement Bill that is before us. The last person who spoke was Sen. Al-Rawi. Any other Senator desirous of speaking? Sen. Vieira. [*Desk thumping*]

**Sen. Anthony Vieira:** Thank you, Mr. Vice-President. I should very much like see us end this year on a high note, and I think this will occur when this Bill passes and the legislation becomes law. [*Desk thumping*]

Too many have fought too hard and for too long to let this golden opportunity slip by. Our citizens deserve a good procurement regime, one that combines value for money, efficiency and transparency. No legislation is perfect and there will always be room for improvement, but I strongly believe that this legislation offers a public procurement system which, even if not perfect, will go a long way towards our country's effective development.

We had discussed the desirability for a Standing Joint Select Committee of Parliament on Procurement, and I believe that if this also is implemented that too will go a long way towards transparent and effective development. As regards the case cited by the hon. Sen. Al-Rawi, this is the case in the *Joint Consultative Council for the Construction Industry v the Minister of Planning and Sustainable Development*, before the hon. Mr. Justice Frank Seepersad in July this year. I would just point out that the case is about freedom of information and whether legal professional privilege was protected from disclosure. It was about whether the right to rely on legal

professional privilege was waived by the Minister when he answered a particular question in the Senate. But what is instructive about this case is that it shows that even without procurement legislation our courts are prepared to order Government to disclose information, to dispel any perception of the misappropriation of public funds or financial impropriety.

The statement that I think resonated most with me in this case for the purposes of this debate is found at paragraph 84, at page 26, and I quote:

“Recently the issue of procurement legislation has engaged the attention of Parliament, much to the approval of the civil society. After 51 years of Independence, the society must demand transparency and legislative moves in that direction should be welcomed and applauded.”

That was the judge’s view of this legislation. It has been said that democracy is a small hard core of common agreement surrounded by a rich variety of individual differences. I accept that while there may remain a degree of individual differences, it is beyond dispute that there is a core of common agreement among the civil society groups and the population at large, that this legislation is needed and is long overdue. Mr. Vice-President, we cannot fail them.

Thank you. [*Desk thumping*]

**The Minister of Planning and Sustainable Development (Sen. The Hon. Dr. Bhoendradatt Tewarie):** Mr. Vice-President, I thank both hon. Members of the Opposition and the Independent Bench for their contributions here today.

I think that I want to thank Sen. Vieira for his contribution and for his

clarification of the issue before the court, and that I want to say that, as I have said before, the issue of transparency and accountability and provision of information was not an issue that either the Government or myself as Minister was fighting. And that the issue really had to do with a principle which had to do with whether or not there was something called client/lawyer privilege, because the decision on this matter would have implications for a number of issues beyond the immediate matter under consideration, and I reiterate that position now.

But Sen. Al-Rawi in his contribution sought to indicate that I was basically misrepresenting the Opposition's position on procurement, which I did not. I tried very hard in my presentation—besides from time to time making an interpretation of the events to present only the facts about time and dates and what transpired and what did not. I did not in any way misrepresent the Opposition's position, and I do not need to misrepresent the Opposition's position, because the population is an intelligent population and it knows who is skinning teeth and being deceptive, and it also knows who is telling the truth, and it also has a perception of where people stand in relation to the things that they do, and I am prepared to stand by that.

But what he sought to do was to do exactly what his Leader of the Opposition did in the other House, which is to turn the procurement debate into a debate about Invaders Bay and to try to suggest that Invaders Bay represented some kind of malpractice which nullifies the Government's commitment to establishing the procurement Bill as law and to passing that law in this Parliament, and nothing again could be further from the truth.

The matter of Invaders Bay, he hinged not just on his total

misinterpretation and intentional misinterpretation of the judgment of the learned judge. Because, nothing in what he read was close to his interpretation of what he read. And he did not hinge it on that only, he also hinge it on the fact that I made some statements in the other place about the nature of land and the Central Tenders Board Act, and how it falls or does not fall under that jurisdiction, and he then tried to make a false interpretation that basically there were contradictory positions. But I stand by his own words, which is that the learned judge was making an observation, and he did not take any conclusive position on any of these matters. Okay?

What he did come down strong on, was the need for Government to account and the need for transparency in the matters of State which affects the ordinary citizen. And I can read a judgment well enough—even though I am not trained in law—to understand what the English says about what is meant and what is not meant, and therefore the contribution of the hon. Sen. Al-Rawi was not really a truthful representation of what transpired during the course of that judgment.

Now, if I could read again what I did in the other place, and I want to read this. I want to read that there was a Cabinet Note of June 05, 1997, and that Cabinet Minute of that date spoke to the issue of sale of vacant government quarters and those subject to unauthorized tendencies—Central Tenders Board, and it says:

The matter for the consideration of Cabinet is the action necessary to empower the Central Tenders Board to dispose of real property owned by the Government. Cabinet by Minute—so and so—dated February

06, 1997 agreed inter alia, that with the exception of the properties listed at (a) above, all vacant quarters including those that are vandalized as well as those that are subject to unauthorized tendencies should be sold on the open market. The Central Tenders Board disposed of the properties on behalf of Government.

Now these are government properties, these are government quarters. It is not about land. It is government quarters that people either occupy as tenants or they had the opportunity to occupy while they were in office, and the question was, how could they get them sold? Subsequent to Cabinet's aforementioned decision, the Director of Contracts sought the advice of the Permanent Secretary, Ministry of Finance and the Economy, on whether the Central Tenders Board could act under the legislation as directed by Cabinet. The Permanent Secretary referred the matter to the Treasury Solicitor for advice. The Treasury Solicitor advised as follows, and I quote from the Cabinet Minute what the Treasury Solicitor said:

The current provisions of the Central Tenders Board Ordinance, do not permit the Central Tenders Board to dispose of land. However, pursuant to section 4(2) an appropriate order may be made to so empower the board, after which the board may dispose of the properties.

And then they, of course, instructed the Attorney General, et cetera, to do so. And then you have Cabinet Minute 14:12—and this is the decision, Note F 97/140 was considered, cabinet in respect of its decision recorded in Minute 289 of February 06, 1997, relating to the sale of vacant government quarters and those subject to unauthorized tenancies agreed that pursuant to section

4(2) of the Central Tenders Board, the Attorney General was called to prepare the necessary order to empower the Central Tenders Board to dispose of real property owned by the Government in such manner as the Government may consider appropriate and desirable.

I just want to make two simple points. The matter had to do with vacant property owned by the Government, and secondly, the amendment to the Act related to that. But I want to share something else, what is clear from the Central Tenders Board Act in applying to real property, is that it must be owned by Government. That is the Government of Trinidad and Tobago, and the disposal must be in a manner that the Government considers appropriate and desirable. And I want to say, and I know Sen. Al-Rawi is a learned attorney, and I am certainly not going to venture into a quarrelsome engagement over matters of the law about which I wish to admit immediately that I know nothing.

**2.15 p.m.**

But the Government as Government does not own land. So the Act could not be contemplating that. The real property mentioned is more along the lines of the physical structures owned by Government, and that I referred to in the Cabinet Notes that I mentioned. The genesis of the Central Tenders Board Order as being to allow the CTB to sell vacant government headquarters and those subject to unauthorized tenancies. And I want to say as well, that we do have, in fact, a Commissioner of Valuations; that is one thing that addresses issues related to things like property and land, and we do have a commissioner of lands that deals with all state lands falling under the jurisdiction of the commissioner of lands. And Sen. Al-Rawi knows

that, and he knows that very well, and there really is no dispute or reason for dispute except to create an argument that then generates controversy.

The second thing is that, taking this Invader's Bay matter as a major plank of his argument, he then goes on to talk about the fact that our legislation does not include anything about land. Well, let me give you some information which is important. Does UNCITRAL law, the model law of the United Nations on which this was based, at least in part, does that have anything to do with land? No. The UNCITRAL model law on procurement does not cover land. It defines procurement or public procurement as the acquisition of goods, construction or services by a procuring entity. Does other procurement legislation cover land? The Jamaican legislation does not cover land; the Guyanese legislation does not cover land; the Belize legislation does not cover land; the Kenyan legislation does not cover land; the Nigerian legislation does not cover land. And a lot of them are also based on the UNCITRAL model.

So, what is the big requirement that our procurement legislation should cover land? And therefore, when these matters were considered they were considered in reference to legislation that had been done elsewhere. And while it does cover property, and while it does cover government quarters and things like that, the normal things that were covered in the Central Tenders Board Act, which were transferred word to word to this legislation, it cannot be made to cover land just because the hon. Senator feels so or because somebody else feels so. All right? Because it is a failure to appreciate or at least take into account that you have different institutions that are required to do different things.

Now, the other issue that he raised was the fact that we allowed the Bill to lapse when it went to the House before bringing it this last time and passing it on December 05. That is true. We had come to the end of a session and as a result the Bill lapsed. But you would remember that the Bill lapsed when a number of issues were raised by the Opposition. There were three issues raised by the Opposition. One was this issue of land. The other matter was the issue of the power of the Procurement Regulator, and the third matter was the issue of a review capability within the law beyond the existing review in the legislation. And it did have an impact on that and on us, and the hon. Prime Minister and the Leader of the House at that time gave an undertaking that we would look into the matter. And we actually went to caucus, and we sat down and there were heated arguments because the Member for Diego Martin North/East had caused a fair amount of consternation in the minds of people.

He had created the conditions for doubt. And we had to go through some of the clauses, one by one to show people the way the architecture of the legislation was formed and the extent to which these were unnecessary—pieces of amendments which the Bill really did not need. Therefore, out of consideration, having gone back to consider the matter, the time lapsed and the Bill lapsed. So we had to come back.

There was no subterfuge in the matter; there was no attempt to delay, we wanted to pass the legislation, but we wanted to take into account what they were saying. And for you to come now and say that there are new things that have come up which are now asking you to reconsider certain issues, you only raised three. You raised the operability issue, which we went

into in some detail during the committee stage; you raised the land issue which I have just dealt with and you raised the issue of the appointment of the regulator which you say you want an independent regulator.

I am sorry that I did not get the *Hansard* from the House of Representatives in which the Member for Diego Martin North/East made the contribution, but he was basically arguing the case that this man had too much power. That was the position. I remember the lapse into vernacular when he was referring to this particular matter, and the whole idea behind this is that you would have an independent power. The issue that you are raising about Cabinet, et cetera, having this jurisdiction, it is really twisting what the facts are of what I said. I said that at one point we had considered whether the President should have the power in his own discretion to appoint the entire board, and that was the position of the JCC, okay? The JCC wanted that. And there were certain independent members on the committee who wanted that.

I remember Sen. Drayton arguing very strongly for that because she wanted a very strong regulator. And when the contractor general from Jamaica came to Trinidad and he outlined what his powers were, powers for which he got into trouble later with both sides of the political directorate, they had to review the law. They had to contain the powers.

We said, look, the best thing to do is not to give the President absolute discretion, but to create the conditions in which there would be required consultation of the Prime Minister and Leader of the Opposition, and that would basically create the conditions in which, basically, your leadership in the country had had a say in the appointment of the Procurement Regulator,

and, in fact, all members of the board. And that is what we agree on. The Constitution provides for this. And Sen. Al-Rawi knows very well that you cannot, in a context in which the Constitution provides for this, then argue the case for executive arbitrariness if they were to make a recommendation to the President, because that is what the Constitutional allows.

So you cannot have it both ways, and you cannot come with these really contortionist arguments in the Parliament and expect me to not respond to them. You cannot have it both ways, and I want to say something about the system that we operate. Until we change the system constitutionally, the Constitution does provide for executive power, and the President of the country is not an executive President. I want you to appreciate and understand the implications of that. The Parliament of the country subjects the Executive to scrutiny and that is how our system works, just as the judicial system operates independently and outside the system but can pronounce on the laws that are made by Parliament.

So, you have to assume that there is a system, a working workable system and that there are jurisdictions of authority, and on the basis of this you then craft the laws taking these powers into account. I really feel that it is unreasonable to try to make as one of your arguments, that because the Cabinet acting as a Cabinet or acting on information provided by, let us say, the Minister of Finance and the Economy in this instance—who would be the person most responsible in Cabinet Government for the Procurement Regulator—acting on his advice, the Cabinet then takes a decision to write the President.

One has to assume, first of all, that notwithstanding the executive authority

that Cabinet has, that a case would have to be made to the President. And that the President had the capacity to consult on the matter and to exercise discretion and capacity for discrimination in the matter, and more than that, the President in his wisdom, as is provided for by convention in this country, meets with the Prime Minister every week and can call the Leader of the Opposition at any time. So, what I am saying to you is that the constitutional architecture of this country makes the arguments that you have adduced in this Parliament to be totally and absolutely irrelevant. [*Desk thumping*]

Now, I dealt with that matter, so I would not. I want to go back to the *Hansard* of the committee meeting that we had. That is to say, the committee of the Senate that looked at the Bill after the debate was completed. And I looked at all the issues here related to the regulator, on page 226 to—unrevised, is the version that I have—218 to 226, where the particular issue of the regulator and regulatory agencies are concerned. And the only thing that came up here is whether it was four years or seven years, and we agreed to increase it to seven years. I did not want it increased to seven years. I thought it was too long a tenure, quite frankly, but it was the feeling of the House that it should be seven years, and we gave in.

The other issue that came up are issues of numbers of—which constituted the procurement regulatory agency, and they wanted an increase in the numbers—Members wanted an increase in the numbers and we agreed to that, to create the conditions for more civil society representation, and we made a concession on that. There was no issue of power; there was no issue of independence of the regulator; there was no issue of executive authority,

countermanding presidential discretion. None of these issues came up at all. And the only reason the issues came up in the House of Representatives is for the very reason that you have been delaying the procurement regulation all along, which is that you really did not want any procurement regulation at all. [*Desk thumping*] And you talk about regulations.

The hon. Sen. Al-Rawi knows very well that the way this Bill was crafted the regulations are to be brought to the House by the hon. Minister of Finance and the Economy, and basically these are to be provided by the Procurement Regulator and the procurement regulation agency when they are established. But, as I said before, we have not been sleeping, and the Minister of Finance and the Economy to whom all of this will pass on now once we pass the Bill, has taken the initiative, as I told you we had a collaborative engagement with the IDB and we had some training programmes, we had other things, et cetera, but he had taken the initiative now to engage the UNDP, and Cabinet has supported him in this. In all of these I want to mention, I just mentioned three things in the outputs. I mentioned output one, output two and output three which really had to do with capacity building and training and so on.

### **2.30 p.m.**

But, I want to mention what output four is: guidelines, model handbooks and special guidelines consistent with the internal control framework, best practice and legislative requirements drafting.

Output five: effective functional capacity for the Office of Procurement Regulation with special emphasis on the audit and investigations function developed.

Output six: provision of technical support for drafting of regulations addressing bid-challenge, supplier ineligibility and enforcement for the Office of Procurement Regulation.

Output seven: awareness of the implications of the public procurement practice and of the legislation promoted in all procuring entities.

Output eight: customized public procurement certification training to strengthen, et cetera, and monitoring and evaluation.

So, in two elements here—output four and output five—you have the matter of regulations being done in collaboration with the United Nations, so that we can not only get it right, but we can have external expertise to work with, to collaborate with us in order to get it right. And at the end of the day, it is the procurement regulator who is going to have to have oversight over this—him or her—and then, once he or she is satisfied, provide it to the Minister of Finance and the Economy who may then have another eye upon it and bring it to Parliament as the case might be.

So again, here is an argument that is simply being made for argument's sake because the hon. Senator knows better, and it is simply to muddy the waters to confuse people, to make people feel that we are doing something wrong when we are trying to do something right, and they are standing in the way of what we are trying to do, and in order to achieve his ends, he says whatever he feels like saying. It is just not reasonable and it is just not right and he talks about my habit; that is his habit. I protest when people are saying things that they know to be unreasonable and I see them going through as if they think that they are going to get away with it.

So, I do not wish to be long on this, Mr. President. I am more eager to pass the Bill than to talk. I do not know if there are any other issues raised by Sen. Al-Rawi that I did not deal with in the Bill but I think those were the major substantial issues that he raised.

But, I do want to deal with a couple of other things and again, it has to do with—I mean, I do not know which other word but misrepresentation. Again, he talks about the fact that we have spent \$300 billion making the case that we have done all the procurement already and now we are passing the Bill, et cetera, and I want to say to him that—first of all, these figures are wrong. The hon. Minister of Finance and the Economy, on several occasions, has corrected him here because if you take the budgets one by one and you look at the revenue, the expenditure, the deficit stated and what was actual and you add it up, you would find that this is very far from the truth, and he knows that. He knows that. [*Desk thumping*]

The second thing is that he talks about the fact that we had the numerical capacity to pass the Bill. Call me naive, but when I came to the Senate with this Bill, I really thought that we could get the Parliament to rise above the ordinary, and I think that we succeeded in doing that when we had all Independent Senators and all Opposition Senators support the Bill with Government Senators, and we went through such a long process, over 11 hours, as I said, of making the Bill better and making amendments to the Bill and the amendments came from everyone.

The amendments came from the Government side, the amendments came from the Independents, the amendments came from Opposition. And that was so successful in the public imagination that the *Express* wrote an

entire editorial about it commending the Senate. And Miss Cross Fenty from the IDB talked about the process and she was very high in praise of how the consensus process had been built, especially when there were such differences of opinion.

You would remember that we not only had differences of opinion in the Parliament but we had differences of opinion on the outside, and to achieve that kind of consensus was something that I thought, perhaps in my naive way, was desirable for a country that is so prone to disconnectedness and so prone to clashes over small things, and here was a big thing that we could have proceeded to do together. And then the—what can I say?—confusion process was initiated because that was now too good to be true and you have to find—and all the issues, as I said, in the House of Representatives, were red herrings, they were non-issues. The issues were all considered by the committee. They were all considered by the Parliament. I spent a lot of time with the CPC, the Attorney General's office, et cetera, going through some of these issues that were contentious. The review process that was suggested, for instance, we had in the first articulation of the Bill but we took it out because you ended up with four layers and on that basis, we tried to do the best Bill that we can.

On the operationality of the Bill with the other Bills that you mentioned, I do not know enough about the interconnectedness of these Bills to comment on what you said. I am sure that this is something that the Attorney General will look at if there are issues related to that, but we have a little time yet before proclamation of the Bill and I am sure these things can be addressed.

On the issue of the parliamentary oversight, it is very clear in the Bill that there are two areas of parliamentary oversight through committee. One is the Public Accounts Committee dealing with the financial side as they usually do, and the other is the select committee provided for under section 66 of the Constitution, and that was clearly stated during the committee stage. We made it very clear to everybody. So that there will be this oversight of the parliamentary arm of Government through these committees and there are strict reporting conditions for the Procurement Regulatory Agency through the Procurement Regulator.

Mr. President, I would like to close on this Bill by saying that if we pass this Bill today, this would be an historic act by the Parliament of Trinidad and Tobago. [*Desk thumping*] I want to say that it is true that the Opposition brought the 2005 White Paper. It is true that they brought the 2006 legislation, both of which were sent to the Joint Select Committee which, in fact, worked on the first report that led to the creation of this Bill. But all they did during their entire term of office, whenever they were in office, in relation to procurement legislation, was to “galay” and “galay” and “galay”. [*Desk thumping*] They never brought any legislation to the Parliament for debate and for passage, and the only Government that has brought a significant reform Bill of the procurement process in Trinidad and Tobago to this Parliament and taken it to the point of passage is the People’s Partnership Government led by Kamla Persad-Bissessar, Prime Minister. [*Desk thumping*] When we pass this Bill, we can say it is done and if we do not pass this Bill—[*Interruption*]

**Sen. Dr. Henry:** Tick, checkbox!

**Sen. The Hon. Dr. B. Tewarie:**—I think it would be a crying shame if we do not. It is up to you, and the citizens will make their judgment.

I want to say something about this “checkbox” thing. I heard Sen. Dr. Henry just using the checkbox, and I know that it has now become the pattern of the Opposition to say that everything—first of all, they said we had no plan. Now that that has become a blatant untruth and the population knows it, now they say “yuh ticking off the box” because we have achievements. [*Desk thumping*] So you are not allowed to tick off the box for achievements.

I want to say, notwithstanding that his figures were wrong, I want to say that this Government, you could call it “a box drain Government” if you want, but I want to tell you that the people in the areas of rural neglect that you basically put in the bamboo for all of these years see the benefit of box drains in their community. [*Desk thumping*] They see it in the water flowing, [*Desk thumping*] they see it in cleanliness of the drains, they see it in lit up parks and playgrounds [*Desk thumping*] and it is making a big difference. And this is not only in the rural areas because we have done more projects in east Port of Spain in three years than you have probably done in 20 years. [*Desk thumping*] And if you only stretch me on it, I have the list here, I will read it out. [*Laughter*]

**Sen. Al-Rawi:** Read it, man, read it. [*Laughter*]

**Sen. Dr. Henry:** Go ahead, go ahead.

**Sen. Cudjoe:** “We stretching yuh.”

**Sen. The Hon. Dr. B. Tewarie:** I want to say therefore that this Government’s achievements are not tick-in-the-box achievements. When

you move tertiary participation to 65 per cent, that is not a tick-in-the-box achievement. [*Desk thumping*] When you have a significant increase in the quality and the numbers of high performance in the secondary school system, that is not a tick-in-the-box achievement. [*Desk thumping*] When you have \$2.5 billion investment in 2012; \$1.7 billion investment in 2013;—  
[*Interruption*]

**Sen. Robinson-Regis:** In what?

**Sen. The Hon. Dr. B. Tewarie:**—close to \$3 billion in 2014, [*Desk thumping*] that is not a tick-in-the-box achievement. When you have the kind of investment that you have in upstream energy that we have had in the last three years, when you have the investment in downstream as well, that is not “ah tick-in-the-box” achievement. [*Desk thumping*]

I want to say that the Opposition seems to be very happy that the price of oil is falling.

**Hon. Senator:** Really?

**Sen. Robinson-Regis:** Who said that? When we said that?

**Sen. The Hon. Dr. B. Tewarie:** Because they feel that somehow that is going to open the door for them. [*Desk thumping*] But I want to say something to you which is very important to appreciate and understand, and I hope that you will reflect on it, the country always has to make up its mind which is the best—[*Interruption*]

**Sen. Robinson-Regis:** And it will.

**Sen. The Hon. Dr. B. Tewarie:**—which is the Government that it is going to trust in a situation of challenge and difficulty [*Desk thumping*] to lead with the kind of custodianship required to keep the country safe, and they

will know how to choose and they will make a decision about why they are choosing.

**2.45 p.m.**

The other thing that I want to say to you is that I think it is a lucky thing for us that the percentage contribution to the oil barrel, if you want to call it that, the energy barrel of oil in the country is less than 15 per cent and that is a very sobering thought that we need to take into account.

And the second thing is that the Minister of Finance and the Economy was quite prudent in putting the gas price at \$2.75 and it is possible that the price is going to come down and come down at a rate that is even below that. But the truth is the challenge that we will be faced with is the challenge that we were faced with in 2010. It is going to be the same kind of challenge, because when you add up the debt, when you add up the labour cost that we had to meet, when you add up the contractors debt and so on, in 2010, the country was facing the same kind of challenge, the Clico challenge, et cetera. All of this the country was facing and this Government offered the kind of stewardship that got us here. *Desk thumping*] And in the future, we are going to offer the stewardship that is required to get us out of it, because we will.

I notice that the cry, I think I heard Sen. Al-Rawi say it, I do not know, I do not want to misquote him but I think you used the word “austerity”.

**Sen. G. Singh:** Yes, he said it.

**Sen. The Hon. Dr. B. Tewarie:** Did he say the word austerity?

**Sen. G. Singh:** Yes, he did.

**Sen. The Hon. Dr. B. Tewarie:** And I want to say to you, the choice in 2010 was the same choice, prosperity or austerity, and I want to say that these are false choices, absolutely false choices. One has to be prudent. One has to be wise. One has to be serious about development in the country, and what is at stake, therefore, are the choices that we make in the development trajectory going forward, because it is important to continue the momentum of development. It is important to continue the momentum of growth. It is important to continue the momentum of confidence, while understanding that you cannot continue with the same pattern of expenditure. So there has to be some shift in the expenditure pattern of the country, which has been a challenge since we came in 2010, because of the issues that we met there. So I want to say do not laugh about the oil price and do not think that it is going to open any doors for you.

**Sen. Al-Rawi:** Laugh?

**Sen. Robinson-Regis:** “We crying.”

**Sen. Al-Rawi:** “We bawling.”

**Sen. The Hon. Dr. B. Tewarie:** I do not know what you—why are you crying?

**Sen. Al-Rawi:** You are squandering money.

**Sen. Robinson-Regis:** Oil prices falling and you do not know what to do!

**Sen. The Hon. Dr. B. Tewarie:** “Well you could afford to cry because doh have nothing to do except wring your hands. We hah tuh run de country.” [*Desk thumping*] [*Crosstalk*]

All the things that have been achieved, including some of the things I mentioned just now, which you do not wish to acknowledge or to hear, all of

those things have been done. All of these things have been done by bad governance and non-governance right? That is your thinking. That is the logic of your thinking. All these things just happen in spite of the Government or the Government's plans or the Government's strategy or governmental action or ministerial intervention. All of them just happen just so out of the sky. The Government has not been governing for four years. "Since we come in here all yuh say 'all yuh going'. Since we come in here, six months later all yuh ready fuh we tuh go. We still here." [*Desk thumping*] "And yuh want tuh hear something?" We are going to be here for the next five years. [*Desk thumping*] And that is not because I say so. That is because the people are watching and listening and talking with each other and they are looking at what we are, what we have done, including the mistakes and errors that we have made, and they are also looking at what you are and they are making a judgment.

**Mr. President:** Hon. Senators, the speaking time of the hon. Minister of Planning and Sustainable Development has expired.

*Motion made:* That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. F. Karim*]

**Sen. The Hon. Dr. B. Tewarie:** Mr. President, thank you so much, and thank you also hon. Senators, including Senators of the Opposition. All right, I would not talk for 15 minutes and I would not "pong" you so hard anymore. But I do want to close by saying this, this country has been brought to a good place in four and a half years. [*Desk thumping*] And it has been done on the basis of teamwork, leadership and listening to the people.

**Hon. Senator:** And you could say the hon. Kamla Persad-Bissessar.

**Sen. The Hon. Dr. B. Tewarie:** Well I could say that too, Hon. Prime Minister, Kamla Persad-Bissessar. As I have said before, they go crazy when we mention positively the name of the leader of our country and Prime Minister of Trinidad and Tobago and they do not want us to say anything about our achievements. They do not want us to say anything good that we have done and they do not want us to remind them of anything.

So, what I want to do though is that since Sen. Al-Rawi likes to talk so much about good governance and how the party to which he belongs had so much respect for the Central Tenders Board and land, and so on, and since he thinks of Invaders Bay as such a travesty, I want to share with him some information about something called Broadgate. I would not be long on it. But before I do that—[*Interruption*]

**Sen. Al-Rawi:** That is sub judice.

**Sen. The Hon. Dr. B. Tewarie:** Before I do that I want so say that Trinidad and Tobago, if we fell in the rankings on corruption, part of it might have to do with the fact that we did not pass this legislation after having it so long in Parliament.

And the second thing is that on the competitiveness thing, I want to alert him to the fact that for the first time in over a decade—and we have only been in Government for four years—the competitiveness index moved up rather than down. [*Desk thumping*] I want to tell him also that the overpass at Grand Bazaar, although they kicked up a lot of fuss when they were in Opposition, when it was first proposed, when they came into government, they built it with money from the Treasury, just like they are

criticizing us now for doing the highway to Point Fortin. [*Desk thumping*] I want to tell him as well that they took an IDB loan. It might have been for about \$110 million, I think, \$120 million, to build the Scarborough Hospital and before they could get one quarter way, they abandoned the entire loan and I do not want to tell you how much it end up costing at the end of the day.

I am telling you that, not to go back in history and chastise you know, because I do not like you coming here and playing holier than thou and misrepresenting. [*Desk thumping*] All right—and trying to insinuate that we are doing something wrong here or I am doing wrong here, when you, basically—[*Interruption*]

**Sen. Robinson-Regis:** How much the American competitiveness call?

**Sen. The Hon. Dr. B. Tewarie:** We would give a full account. “Doh worry.” We always do. Do you know what I will do? Not only will I give a full account of that, I will also bring Machel Montano’s album which “all yuh say does not exist and give it to all yuh.” [*Desk thumping*]

But let me tell you how they conduct business, this self-righteous Opposition on the other side. This is what the Solicitor General said about Broadgate. The State does not enter into such—[*Interruption*]

**Mr. President:** I understand you to be suggesting that the matter is sub judice. I am not aware of it but—[*Interruption*]

**Sen. Al-Rawi:** Yes it is, Sir. I am intimately aware that it is.

**Mr. President:** Hon. Senators, I will have to take the word of Sen. Al-Rawi on the reference. I am not aware of it myself but if Sen. Al-Rawi, having made that statement and, therefore, we would not be able to enter

into debate on the question of that issue that Sen. Al-Rawi suggests is sub judice.

**Sen. The Hon. Dr. B. Tewarie:** Mr. President, I will leave it alone. But what it says and I just want to point out something simply by that intervention, he stands up here and misrepresents everything on the court case having to do with the information issue with Invaders Bay, which is simply a matter having to do with the client/lawyer privilege but he does not want me to speak about Broadgate, which my acting Permanent Secretary, at the time had to go in the court and speak. She went to the court and spoke in the court of law in this country, in order to make sure that this Government was in a position, because they went and sign away the Government's rights in every matter and we ended up having to foot the Bill.

**Sen. Al-Rawi:** Standing Order 35(2), Mr. President. What is going on?

**Mr. President:** Senator, you would not be able to embark on the facts relating to that matter that is sub judice.

**Sen. The Hon. Dr. B. Tewarie:** All right, I will not go into it. I will just say—*[Interruption]*

**Sen. G. Singh:** That was about land and procurement.

**Sen. The Hon. Dr. B. Tewarie:** Yes, exactly. I would simply say to the population, because I do not think that the Opposition is apologetic for anything that it has done in the past. *[Desk thumping]* And I did not think their behaviour in the future will be any different from how—*[Desk thumping]* and I ask the people of this country to judge that this Government in its years of governance, how it has dealt with the problems, the mistakes, the difficulties and how it has proceeded to govern for who in the society, all

the people of Trinidad and Tobago. [*Desk thumping*]

**3.00 p.m.**

We present before this honourable House a good Bill that is an historic Bill in this country. I ask every Member of the Senate as a citizens of Trinidad and Tobago, and as a person who cares about Trinidad and Tobago, about transparency, accountability, value for money, who want to stop corruption, and who is committed to good governance in this country. I ask that all hon. Senators of that mind, vote for this Bill.

Thank you very much. Mr. President, 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 Senate.*

*Senate in committee.*

*Clauses 1 to 8.*

*Question proposed:* That clauses 1 to 8 stand part of the Bill.

**Sen. Al-Rawi:** Mr. Chairman, if I may, to assist us all in perhaps speeding through this. The Opposition's position is very simple, whether the Government is willing to consider an amendment in particular to clauses 12 and 13 of the Bill. Specifically, we are looking to shore up the appointment for—the removal issue of the regulator. We are suggesting that we borrow specifically the terminology from the Jamaica legislation, to deal with if there is a move to remove the regulator, that it be put to the House of the Parliament, the House of Representatives, and that a Motion be debated to that effect. That in essence is the amendment that we are looking for to

shore up the point of a removal of the regulator—to shore up the point.

The second point that we were looking for is, to include in particular a method of operationalizing clause 13(1)(o) of the legislation to deal with real estate. The function, our concern in relation to the function at 13(1)(o) of the Bill is, that the—whilst it is a function to act for and on behalf of the State to dispose of real estate owned by the Government. We are concerned that there is no way to achieve this purpose, those are our two main planks of concern to be dealt with. So our position is that we are asking the Government to consider appropriate amendments to that. We do not propose to detain the House unduly, if it is not the Government's intention to amend in accordance with our suggestions, then we will adopt a particular course.

**Sen. Dr. Tewarie:** I feel it would be inappropriate to accommodate what you are suggesting for 13(o), although, I mean, I see what your argument is. In the issue of removal of the regulator from office, I think that is something that has received enough airing. I hear the arguments all around and I am satisfied that there is enough in the Bill. We on this side have considered the matter. There is enough in the Bill that allows for independence of the regulator, and that allows for the leadership of both the presidency and the Executive branch and Parliament jurisdiction, in terms of the regulator meeting its accountability requirements to Parliament, that there is enough here contained that I do not want to interfere with it.

**Sen. Al-Rawi:** Thank you, hon. Minister, just to end our position on this. Our concern specifically is the operability of section 80(1) of the Constitution, which permits the Cabinet to direct His Excellency the

President, to remove the holder of the procurement office, the regulator, and in those circumstances we are concerned as to the security of tenure of the regulator. That is what drove our representations in the House and also today.

So we join issue with you. We are very happy as to the appointment of the regulator. We think that that is a very good and workable situation. Our soul concern is the removal of the regulator, and we think that the barn door has been left wide open at the back. So that is what—just for the clarity of the record, that is what is driving our concern in relation to that, that Cabinet may direct His Excellency the President by operationality of the constitutional authority of Cabinet in section 80 of the Constitution, the Minister with responsibility, acting individually or the Cabinet through the Minister, may instruct the President to remove the regulator, and that is our concern. So I just wanted to state that for the record.

**Sen. Dr. Tewarie:** I understand your position. I understood it in your argument.

**Sen. Al-Rawi:** Sure, thank you. Then, lastly, just to mark the spot in relation to the disposal of land, our concern in respect of the disposal of land is that following upon the decision of Mr. Justice Seepersad which we have different perspectives on respectively. Following upon that particular position, we are very concerned by the possibility. If I take my interpretation of your submission, by the possibility that real estate could not be something considered by the old Central Tenders Board and, therefore, potentially by this Bill. Notwithstanding the presence of 13(1)(o) as a function to deal with real estate. We are concerned that real estate in and of

itself, ought to be something which passes through the Central Tenders Board now going to be the procurement office. So to mark the spot, we have a grave concern over that which only really arose after the decision of Mr. Justice Seepersad from our point of view. Save for that, I think that the rest of it is perhaps something that we could live with, in an effort to try and achieve something of the people of Trinidad and Tobago, but these are serious concerns for us. I just wanted to put it on the record.

**Sen. Vieira:** Thank you, Mr. Chairman. With reference to clause 12, while I understand the concern, personally, I do not see the need to change the section, because neither Cabinet nor the President, make that decision in a vacuum. It is within the context of whether he was bankrupt or not? Was he convicted of an offence or not? Was he convicted of an offence under the Integrity in Public Life, or of an offence punishable by imprisonment for a year? These are facts. You do not need to come to Parliament to debate that.

**Sen. Dr. Tewarie:** In any case, a Cabinet would be hard pressed for either a frivolous or a political reason, to try to remove a person in such a capacity.

**Mr. Chairman:** I imagine it is capriciously to remove the regulator, that the President would immediately appoint him back as he has powers to do so.

**Sen. Al-Rawi:** Sure. So, Mr. Chairman, just to warp up on 12(c):

“has neglected his duties or has engaged in conduct that would bring his office into disrepute;”

That is such a wide, nebulous phrase. Our concern is that that can be something which dilutes the security of tenure of the office holder. Our concern is—and we are just putting it on the record. I respectfully disagree

with Sen. Vieira's point of view, but that is what democracy is about.

**Mr. Chairman:** I am saying even in relation to that, I image if the President felt it was done capriciously, he would next day appoint the same person as the regulator as he would have powers to do.

**Sen. Ramlogan SC:** Well, Chairman, more than that. If such a power was to be exercised in a vexatious or frivolous manner, what would happen is that the regulator will sue for judicial review. In fact, that power was, in fact, so exercised arbitrarily under the former administration in a case I did, when they removed the CEO of the Agricultural Development Bank, a man called Seebalack Singh. I fought that matter and what the court ruled was in effect what Sen. Vieira just said. I see Sen. Prescott shaking his head, because he was on the other side in the matter. But essentially what the court ruled was that you have to make out the statutory grounds before you can trigger the dismissal provisions. So it is not in a vacuum at all. So I tend to agree with Sen. Vieira. I think it is trite law and there is also the additional protection of judicial review.

**Sen. Al-Rawi:** I thank the hon. Attorney General. He is correct that it must be taken to court. I too am engaged and I am aware of a number of pieces of litigation against this Government for the same capricious exercise allegation, vast number of cases, but the point is that going to court is an expensive and lengthy process, and can bring a loss of confidence in relation to these positions, Mr. Chairman. So I think we have said enough.  
[Crosstalk]

*Clauses 1 to 8 ordered to stand part of the Bill.*

**Sen. Al-Rawi:** With that said, Mr. Chairman, perhaps you may wish to take

all unless someone else wishes to deal with it.

*Clauses 1 to 70 ordered to stand part of the Bill.*

*First and Second schedules ordered to stand part of the Bill.*

*Preamble approved.*

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

**3.15 p.m.**

*Senate resumed.*

*Bill reported without amendment.*

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

**Mr. President:** This Bill requires a special majority.

*The Senate voted:       Ayes       24*

AYES

Singh, Hon. G.

Coudray, Hon. M.

Ramlogan SC, Hon. A.

Howai, Hon. L.

Griffith, Hon. G.

Hadeed, Hon. G.

George, Hon. E.

Karim, Hon. F.

Tewarie, Hon. Dr. B.

Bharath, Hon. V.

Moheni, Hon. E.

Lambert, J.

Maharaj, Hon. D.

Ramnarine, Hon. K.

Lalla, L.

Drayton, Mrs. H.

Wheeler, Dr. V.

Prescott SC, E.

Mahabir, Dr. D.

Vieira, A.

Small, D.

Abdul-Mohan, Rev. J.

Roach, HRI.

Singh, Dr. K.

*The following Senators abstained:* Mrs. C. Robinson-Regis, F. Al-Rawi, Dr. L. Henry, Mrs. D. Baldeo-Chadeesingh, Miss S. Cudjoe, A. Singh.

*Question agreed to.*

*Bill accordingly read the third time and passed.*

### **CHRISTMAS GREETINGS**

**The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh):** Thank you, Mr. President. I want to thank all Members for their participation on this historic occasion of the passage of the Public Procurement and Disposal of Public Property (No. 2) Bill.

Before I adjourn to a date to be fixed, I want to indicate that since this will be our last meeting prior to the Yuletide holidays, Minister Marlene Coudray will bring greetings on behalf of the Government, and there are others in the Opposition and on the Independent Bench who will do likewise.

**The Minister of Local Government (Sen. The Hon. Marlene Coudray):**

Mr. President, I humbly rise to bring to this Senate Christmas greetings on behalf of the Government Bench. We all know that Christmas marks the celebration of the birth of Christ, some 2,000 years ago, who continues to impact the lives of human beings in a manner not known before or after him. The essence of the Christmas story is a man born into abject poverty, among animals in a manger, who spent his early years working in a carpenter's shop—Mr. George—to be followed by transforming the human race in three short years, as an itinerant preacher, teacher and saviour to those who subscribe to the Christmas faith.

Today his joy still resounds in the hearts of all those who believe in the miracle of his birth and the peace and love that he stood for. We identify with his peace. We identify with his love and we identify with his joy that he has passed on to the human race. We, therefore, wish this Senate and the country at large the conspiracy of love and the joy which the Christmas season stands for.

Regardless of religious persuasion, it cannot be denied that faith and the reason for Christmas make things possible. The hope Christmas has given the world makes things work and the love Christmas transcends makes things beautiful. As we celebrate this Christmas, we in the Government call on the nation to reflect on the values of Christ, his desires, affection and tradition.

We must also call for reflection on the reason for the season, as we say. It is quite easy for us to become so engrossed in the business of living that we forget the important things of life. We spend so much time shopping, making preparation, attending Christmas dinners, lunches—we attend

parang fetes—that we have no time to reflect what we are celebrating.

May I remind all that we are celebrating the Christ child who asked us in his adult life to, and I quote:

“Let the children come to me, and do not hinder them, for the kingdom of heaven belongs to such as these.”

Let us in this season remember—I call on all to remember the children in our country. They are vulnerable just as the Christ child was in his infancy. We remember when King Herod asked the wise men to go and search diligently for the child and “as soon as you find him, report to me, so that I too may go and worship him”. And what was the response of these wise men? They left the country by another route since they knew of Herod’s intent as it was revealed to them in a dream.

Just like Jesus in his infancy needed protection, our children need our protection and let us be like those wise men and protect the children in our nation and the children in our homes.

Mr. President, as I hear my friend say, “true”, we reflect on the joy that our hon. Prime Minister, Mrs. Kamla Persad-Bissessar, is bringing to so many children of our country in the toy drives throughout the country, sharing and caring for those who do not have.

So, may the joy and peace of Christmas be with us all throughout the year, the blessings of peace, the beauty of hope, the spirit of love and the comfort of faith of a brighter economy in the year 2015.

Mr. President, I thank you and I wish this Senate and the nation a merry Christmas on behalf of this Bench and a blessed and peaceful 2015. May the Lord bless and keep us all and walk us safely through any trials and tribulations that may befall us. Merry Christmas to all.

**Sen. Camille Robinson-Regis:** Thank you very much Mr. President. I recall last year the journey that Sen. George took us on, so I will be brief. It was an Easter journey.

**Mr. Al-Rawi:** That reflected on the nativity as well.

**Sen. C. Robinson-Regis:** When I heard my colleague say 2,000 years ago, I was a little nervous. I thought she was going to take us through the 2,000 years.

Mr. President and my colleagues, Christmas is such a happy time in Trinidad and Tobago and I must say, before I get into the meat of my greeting on behalf of the People's National Movement, that it is one of the religious celebrations that is really celebrated by perhaps everybody in Trinidad and Tobago. In fact, on the street where I live, my neighbours opposite are Hindus but they have up more lights than me and that really hit me because it says to me that everybody really shares in the spirit of Christmas and I think it is because of what Christmas means to all of us whether Christian or Hindu or Muslim or Baha'i or Orisha.

Christmas is a very special time of year and in Isaiah 9:6, it says:

For unto us a Child is born, unto us a son is given; and the government shall be upon his shoulder: and he will be called Wonderful, Counsellor, Almighty God, the Everlasting Father, the Prince of Peace.

Those are wonderful words upon which to reflect as a nation. Imagine our Christ being called Counsellor, the Prince of Peace and, particularly, the Prince of Peace; that the Prince of Peace has been born and would come to rest in Trinidad and Tobago as this time approaches.

Each year, we are given the opportunity, as Christians and as others of

other faiths, to reflect upon these words of scripture as the Christmas season unfolds around us. An innocent, meek and lovely child is given, full potential to be revealed in due time. It is indeed a time to look past the daily task, duties, joys and trials and see the bigger reality of our tenure on earth and how much we have made of it, and see how best we can endeavour as individuals and as a nation to shape a better future cooperating with the divine upon whose shoulders really the government rests.

The year 2015 presents us with a favourable juncture to again make the best of life. I pray that we may all have a blessed Christmas season and that we all resolve to make Trinidad and Tobago a most desirable place for all our citizens and, Mr. President, on behalf of the People's National Movement, on behalf of my family and on behalf of the families of all my colleagues of the People's National Movement, I am very pleased to be given this opportunity to wish all of us here in the Senate—you, Mr. President, and your family and my colleague Senators and their families and the members of staff and their families—God's richest blessings for this Christmas season and certainly God's richest blessings for 2015.

Thank you.

**3.30 p.m.**

**Sen. Dr. Victor Wheeler:** Thank you, Mr. President. One of the pleasures of the Christmas season is the opportunity to extend cordial greetings to all of you on behalf of the Independent Bench. I want to agree with Sen. Robinson-Regis that a Trinidad and Tobago Christmas is a unique and wonderful time of the year, especially for the fact that it is celebrated by all people, not just those of the Christian faith.

The Christmas season appears to bring out the best in the average

person. For a few weeks, we seem to want to be better and kinder to others. My wish for the season for the nation is not that of material abundance, but that some of that patience and kindness carries over into our everyday lives and becomes more engrained into our culture. Let our first instinct on a fender bender be to make sure that everyone is physically okay, not just to ascribe blame and anger.

While we eat all the traditional Christmas goodies, let us remember if we are in a position to make a donation to any one of the hard-working charity groups in our country. Let us remember to teach our children that Christmas is not about Santa Claus delivering gifts, but about God loving us and our responsibility to pass that love to the people we meet. It is easy to get carried away in gift-giving without remembering to give of ourselves patience, charity and understanding.

I want to end with Luke, Chapter 2, verses 9 to 11:

“An angel of the Lord appeared to the shepherds and the glory of the Lord shone around them, and they were terrified. But the angel said to them, ‘Do not be afraid. I bring good news of great joy that will be for all the people. Today in the town of David a Saviour has been born to you; he is Christ the Lord.’”

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

**Mr. President:** Hon. Senators, I wish to join with Senators who preceded me in bringing Christmas greetings to the Christian community, but to all men and women of goodwill, in particular, which I take it to be the whole of Trinidad and Tobago.

You know, in the midst of this season of advent as we approach Christmas, one of the things that occurs to me is that it is a season always

that raises new hope; new hope that, you know, for a better life. And as we consider that I think that it is worth looking at, yes the child Jesus comes to us and we remember that at this Christmas time but, of course, he becomes the man Jesus, the Saviour, the Lord and, therefore, by virtue of looking at the scriptures you notice there is that leadership mentoring that I think is vital to his work 2000 years ago, and the work that he continues through us to do.

It is this time that I would like to encourage Members of the Parliament and members of the national wider community that it is a time really for taking to account, more importantly than anybody else, the poor, the disadvantaged, those who are vulnerable in our society and, therefore, it is a time for extending that goodwill to those who are in need, and that is something I would like to see that members take up, and that there is a ripple effect going out to touch all of the communities in our land, because the hope that this brings, this Christmas brings, is there would be transformation and, therefore, something new that comes forth in the New Year.

So, I wish on behalf of the Parliament and all the staff a very happy and holy Christmas to each one of you here, and a happy Christmas to the wider community—all people of goodwill—and to thank the staff, of course, for their role in the Parliament throughout this year that they have, as usual, been stalwarts in helping us in ensuring that this Parliament sits and that it can convene and carry out its business in a seamless fashion. [*Desk thumping*] Sometimes I know that the members of the public do not recognize the machinery of Parliament works because there are many, perhaps, unseen faces that work behind the Parliament in terms of its structure, and so we wish them to a Merry Christmas and thank them for all

their hard work. [*Desk thumping*]

### ADJOURNMENT

**The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh):** Thank you very much, Mr. President. Mr. President, consistent with the yuletide season, I also want to take the opportunity to wish the CPC and members of his staff [*Desk thumping*] Merry Christmas and to give recognition to the yeoman work they did on this procurement legislation.

Mr. President, I can give the assurance that we will not convene the Senate until the end of the yuletide season, which I think is some time on January 06, Rev. Abdul-Mohan? Yes.

**Hon. Senator:** April! [*Laughter*]

**Sen. The Hon. G. Singh:** Consistent with that, Mr. President, I do now adjourn the Senate to a date to be fixed.

**Mr. President:** Hon. Senators, before I do put the question to you—because I did not think that Sen. Ganga Singh meant to adjourn the House. [*Laughter*] He meant that he was going to propose that it be adjourned—we do have some Christmas fare for you after you have risen here [*Desk thumping*] and we do hope, therefore, you would take the opportunity for fellowship after this moment in the spirit of Christmas we could mingle and co-mingle and wish each other a real Trini or Trinbagonian joy.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned 3.36 p.m.*