

Leave of Absence

Friday, June 22, 2012

SENATE

Friday, June 22, 2012

The Senate met at 1.30 p.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Mr. President: Hon. Senators, I have granted leave of absence to Sen. Basharat Ali who is ill.

REVOCAATION OF APPOINTMENT

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

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ George Maxwell Richards
President

TO: MR. DAVID ABDULAH

WHEREAS by the provisions of paragraph (e) of subsection (2) of section 43 of the Constitution of the Republic of Trinidad and Tobago, the President acting in accordance with the advice of the Prime Minister, is empowered to declare the seat of a Senator to be vacant:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by the said paragraph (e) of subsection (2) of section 43 of the Constitution of the Republic of Trinidad and Tobago, do hereby declare the seat of you, MR. DAVID ABDULAH, to be vacant, with effect from 18th June, 2012.

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 20th day of June, 2012.”

Revocation of Appointment

Friday, June 22, 2012

SENATOR'S APPOINTMENT

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

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ George Maxwell Richards
President

TO: MR. JAMES LAMBERT

In exercise of the power vested in me by paragraph (a) of subsection (2) of section 40 of the Constitution of the Republic of Trinidad and Tobago, I, GEORGE MAXWELL RICHARDS, President as aforesaid, acting in accordance with the advice of the Prime Minister, do hereby appoint you, JAMES LAMBERT, a Senator, with immediate effect.

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 20th day of June, 2012.”

OATH OF ALLEGIANCE

Sen. James Lambert took and subscribed the Oath of Allegiance as required by law.

PAPERS LAID

1. Annual administrative report of the Siparia Regional Corporation for the period October 2007 to September 2008. [*The Minister of Public Utilities (Sen. The Hon. Emmanuel George)*]
2. Annual administrative report of the Siparia Regional Corporation for the period October 2008 to September 2009. [*Sen. The Hon. E. George*]
3. Annual administrative report of the Siparia Regional Corporation for the period October 2009 to September 2010. [*Sen. The Hon. E. George*]
4. Annual report of National Entrepreneurship Development Company Limited for the financial years ended September 30, 2007 and 2008. [*Sen. The Hon. E. George*]

5. Annual audited financial statements of the Government Human Resource Services Company Limited for the financial year ended September 30, 2011. [*Sen. The Hon. E. George*]

JOINT SELECT COMMITTEE REPORT

**Legislative Proposals to Provide for Public Procurement
and Disposal of Public Property and the Repeal and
Replacement of the Central Tenders Board Act
(Presentation)**

The Minister of Planning and the Economy (Sen. The Hon. Dr. Bhoendradatt Tewarie): Mr. President, I beg to lay on the Table of this honourable Senate the report of the Joint Select Committee appointed to consider and report to Parliament on the Legislative Proposals to provide for Public Procurement and Disposal of Public Property and the Repeal and Replacement of the Central Tenders Board Act. [Second Session (2011/2012), Tenth Parliament]

Mr. President: Hon. Senators, I have another report, which is due to be laid on the Table by the Minister of National Security. It is not ready at this point and I intend to defer that matter until later in the proceedings.

WRITTEN ANSWER TO QUESTION

The Minister of Public Utilities (Sen. The Hon. Emmanuel George): Mr. President, we would wish to defer all written replies, except the written reply to question No. 83.

**Unemployment Relief Programme
(Funds Expended Monthly
June 2010 to May 2012)**

83. Sen. Pennelope Beckles asked the hon. Minister of Local Government:

Could the Minister inform the Senate of the total amount of funds spent on the Unemployment Relief Programme on a monthly basis for the period June 2010 to May 2012?

Vide end of sitting for answer.

ORAL ANSWERS TO QUESTIONS

The Minister of Public Utilities (Sen. The Hon. Emmanuel George): Mr. President, I have, for oral answer, question No. 89, but will wish to defer all other oral questions for another time.

The following questions stood on the Order Paper:

**Colour Me Orange Programme
(Details of)**

- 78.** With respect to the Colour Me Orange programme, could the hon. Minister of Housing and the Environment please indicate:
- (a) whether the programme has come to an end;
 - (b) whether there is any plan or intention to extend the programme;
 - (c) precisely how much was expended on this programme;
 - (d) the number of jobs created by the programme;
 - (e) what was the Government's rationale for its activation; and
 - (f) did the programme achieve its objective? [*Sen. F. Hinds*]

**Police Complaints Authority
(Details of)**

- 84.** With respect to the Police Complaints Authority, could the hon. Minister of Justice state:
- (i) the number of reports made against police officers for the period January 2009 to March 2012;
 - (ii) the number of resolved matters; and
 - (iii) the number of officers who have been warned, disciplined or fired based on reports made to the Authority? [*Sen. P. Beckles*]

**Multilateral Funding Organizations
(Details of)**

- 86.** A. Would the hon. Minister of Finance inform the Senate whether negotiations are currently being undertaken by the Government with the following multilateral funding organizations:
- (i) World Bank;
 - (ii) Inter-American Development Bank;
 - (iii) European Investment Bank;
 - (iv) Caribbean Development Bank?
- B. If these answers are affirmative, could the Minister state the quantum and purpose of the loans or proposed loans? [*Sen. P. Beckles*]

**Tobago Regional Health Authority
(Delay in Release of Funds)**

- 94.** With respect to the \$100 million from the 2011/2012 budgetary allocation for the Tobago Regional Health Authority, would the hon. Minister of Finance inform the Senate:
- (i) what is the reason for the delay in the release of the funds; and
 - (ii) when would the funds be released to the Tobago House of Assembly?
[*Sen. S. Cudjoe*]

**Laptops in Schools Policy
(Preparation to Implement)**

- 95.** With respect to the Government's laptops in schools policy, would the hon. Minister of Education inform the Senate:
- (i) has the curriculum of all secondary schools in the country been updated to facilitate the effective use of the laptops provided for educational purposes;
 - (ii) of the number of secondary school teachers who have been formally trained under the Government's initiative to utilize the laptops in the classroom for educational purposes; and
 - (iii) the number of schools that are fully equipped with the necessary infrastructure to properly implement the Government's laptop initiative as of April 2012? [*Sen. S. Cudjoe*]

**Free Universal Broadband Internet Access
(Implementation by Government)**

- 96.** In its efforts to improve tourism, business development, and the quality of life for all, would the hon. Minister of Public Utilities inform the Senate as to whether the Government has considered implementing free universal broadband Internet access in Trinidad and Tobago? [*Sen. S. Cudjoe*]

**International Tobago Pro Am Golf Tournament
(Government's Financial Commitment)**

- 101.** (i) Could the hon. Minister of Tourism state whether or not the Tourism Development Company Limited made a financial commitment to the International Tobago Pro Am Golf Tournament held from January 03 to 07, 2012?

- (ii) If the answer to (i) is in the affirmative, could the Minister state:
 - (a) the amount of the financial commitment; and
 - (b) the total financial contribution paid to the tournament? [*Sen. Dr. V. Wheeler*]

Waterfront Project for San Fernando

- 102.** Could the hon. Minister of Planning and the Economy indicate:
- (i) whether the Government has approved a Waterfront Project for San Fernando;
 - (ii) whether Cabinet has appointed a committee to develop a Waterfront Project for San Fernando; and
 - (iii) if the answer to (ii) is in the affirmative, the date the committee was appointed, the names of the members of the committee, the terms of reference of the committee and the remuneration package for the members of the committee? [*Sen. P. Beckles*]

Murders Committed 2007—2012 (Information Related Thereto)

- 103.** Could the hon. Minister of Justice indicate to the Senate:
- (i) the number of murders committed, by district, for the years 2007—2012;
 - (ii) the number of murder cases that have been listed before the Magistrates' Court, by district, during the period 2007—2012;
 - (iii) the number of persons charged with murder for the abovementioned period by gender and age; and
 - (iv) the status of the abovementioned matters, and where the matter was dismissed or discharged, the reason for same? [*Sen. P. Beckles*]

Preparation for Olympics 2012 (Moneys Allocated Thereto)

- 104.** Could the hon. Minister of Sport indicate:
- (i) the amount of moneys allocated to various organizations for preparations for Olympics 2012; and
 - (ii) the amount of money spent generally by the Ministry of Sport for Trinidad and Tobago's preparation for the Olympics 2012? [*Sen. P. Beckles*]

Questions, by leave, deferred.

**Infant/Maternal Mortality Rates
(Details of)**

89. Sen. Penelope Beckles asked the hon. Minister of Health:

Would the Minister provide the Senate with the infant mortality and the maternal mortality rates for Trinidad and Tobago for the past five (5) years?

The Minister of Public Utilities (Sen. The Hon. Emmanuel George): Mr. President, the answer to question No. 89 reads as follows:

The Central Statistical Office, which is the department responsible for collating mortality data, is unable to provide official data for part of the period requested, that is, 2008 to 2011. The most recent data pertaining to both infant mortality and maternal mortality rates is available up to the year 2007.

I also want to say, Mr. President, that over the period this Senate has been in session, in the first session, we have answered 79 of the 85 questions. [*Desk thumping*] You can work out the percentage and the questions withdrawn number four. Two questions lapsed. In the second session, of the 105 questions posed, we answered 72 of them and 12 were withdrawn.

I thank you, Mr. President.

Sen. Beckles: Mr. President, can I therefore ask: of the 16 questions today, how many are you answering?

Sen. The Hon. E. George: I just answered that.

Sen. Al-Rawi: Supplemental question, Mr. President, through you to the hon. Minister. The hon. Minister has stated that the figures for 2008 to 2011 are not available. Hon. Minister, in speaking to the figures from 2007, could you identify the source of that information? In fact, is it the Central Statistical Office?

Sen. The Hon. E. George: I read the answer to the question, Mr. President, and the answer to the question, which I will read again, says, the Central Statistical Office, which is the department responsible for collating mortality data, is unable to provide official data for part of the period requested, that is, 2008 to 2011. The most recent data pertaining to both infant mortality and maternal mortality rates is available up to the year 2007.

Sen. Al-Rawi: A further supplemental, Mr. President. Insofar as it is implied that the CSO is the original source of that information for 2007, could the hon. Minister inform us when that information may be available from the CSO?

Sen. The Hon. E. George: That is a new question and if he wishes he can pose it and I will provide the answer at some further period.

Sen. Al-Rawi: A further supplemental, Mr. President. I would have thought it axiomatic, in obtaining the answer first volunteered to this Parliament, that—

Mr. President: Sorry, Sen. Al-Rawi, we are not about to enter into debate on the question.

Sen. Al-Rawi: I am not, Mr. President.

Mr. President: You may ask a supplemental, but, of course, the Senator has answered the previous question you have asked. [*Desk thumping*]

Sen. Al-Rawi: Mr. President, I was posing a question. I do not know if you have anticipated the fact that I am perhaps not posing one, but I assure you that I am aware that I must pose a question. I do not know what the celebration by the Government drummers across from me about that. My supplemental question resides in whether the CSO is able to provide figures with respect to infant mortality at any particular date going forward. What I am concerned to understand there is the operationality of the CSO in relation to this particular question. I do not see that as a question too far beyond the bounds of that which was originally proposed.

Sen. The Hon. E. George: Mr. President, I do not think that that qualifies as a supplemental question, but if he feels that it does, the goodly Senator can pose it as another question and we would only be too happy to answer.

Sen. Deyalsingh: In light of the fact that the hon. Minister has said that figures are not available from the CSO as regards infant mortality and maternal mortality rates, was any attempt made to extract those figures from the Ministry of Health or the Regional Health Authorities, which may have that type of data? The Attorney General is answering for you, so maybe you can just say what the AG has said.

Sen. The Hon. E. George: No.

Sen. Beckles: Mr. President, can I ask, through you to the hon. Minister, whether the Minister can tell us what sort of challenges exist in the CSO in terms of collecting this data that they are not able to provide us with any information at all?

Sen. The Hon. E. George: Mr. President, I am unable to answer that question at this time.

Sen. Cudjoe: A further supplemental, Mr. President. I recognize that in a Sunday newspaper there is a report coming out of the results of the census. I do not understand why the CSO does not have a report on infant mortality. It reports on how many empty houses there are in Tobago and so on. What is causing this hold-up that we cannot get something as important as infant mortality rates for 2011? We can report on everything else.

Sen. The Hon. E. George: That question was just posed by the hon. Sen. Beckles and I answered.

Sen. Ramlogan SC: “That was since 2008, yuh know; allyuh was in power until 2010.”

Sen. Cudjoe: It is your business to collect it now.

Sen. Ramlogan SC: “We trying.” [*Desk thumping*]

ARRANGEMENT OF BUSINESS

The Minister of Public Utilities (Sen. The Hon. Emmanuel George): Mr. President, I seek the leave of the Senate to debate items (i) and (iii) under Committee Business together because (iii) involves the interim report of the Joint Select Committee on Public Procurement and the other, item (i), deals with the full report. I suggest that they both be debated simultaneously.

Mr. President: I agree that it is appropriate that both those Motions be debated simultaneously.

Sen. Al-Rawi: Mr. President, just for your guidance, whilst I have no objection to the debate of the interim report, regrettably, I have not seen the interim report and I am wondering if we are running afoul of the Standing Orders which require one day’s notice after circulation of the report. I do not have the report. I am perfectly fine with debating it, but I am wondering if we are running afoul of the Standing Orders.

Mr. President: What I am told, Senators, is that the interim report has been already laid. Of course, the final report would incorporate the interim report, hence there is every good reason why both matters should be debated together.

The interim report was not “once more” filed, but it was filed here and laid in this House some time ago.

Agreed to.

1.50 p.m.

JOINT SELECT COMMITTEE REPORT

**Legislative Proposals to Provide for Public Procurement
and Disposal of Public Property and the Repeal and
Replacement of the Central Tenders Board Act
(Adoption)**

The Minister of Planning and the Economy (Sen. The Hon. Dr. Bhoendradatt Tewarie): Mr. President, I begin by indicating my sincere thanks to all members of the committee who contributed so that we could go to the point where we could lay a report before this honourable Senate. [*Desk thumping*]

As you yourself indicated, the interim report was laid some time ago in both Houses, and this report really has taken us to the point where all members sitting on the Joint Select Committee appointed for the purpose were able to reach a consensus on the policy that would inform legislation and procurement in this country.

I want to begin therefore by indicating what the policy is that we have reached consensus on, and what might be the differences between what the Government proposed and the amendments made by members of the Joint Select Committee acting together and collaboratively.

The first proposal of Government for policy was:

- “i. That the procurement regime to be established must deliver goods and services more efficiently, effectively and at higher performance levels than currently exists. The system should take into account clear lines of accountability, ensure transparency and promote ethical conduct;”

The reason for that is evident, which is that procurement has been an issue of controversy for some time, and that in the new policy, which we hope to legislate to support and bring into being, we want it to be clear that these are some of the principles which we want to be included in the legislation.

- “ii. That Framework legislation rather than prescriptive legislation is recommended;”

That matter was proposed because, first of all, there was a feeling in the committee—although this was Government’s proposal for policy, we took that into account—that we did not need to have a situation in which we were bogged down in every detail of everything, and that the legislation would, in fact, provide the framework and then the rules and regulations, and the other institutions that we created would make it very clear how institutions operating autonomously would align to policy for the whole.

“iii. That such Framework legislation should come to Parliament together with the general regulations...”

It was a feeling of Government that we should bring the legislation as well as the regulations together. That is in keeping also with the feeling of members of the committee:

“...and the net coverage of State institutions should be wide, in keeping with the policy pledge to ensure transparency and accountability by all government departments and state enterprises;”

This is very important because when you look at the history of the legislation governing the Central Tenders Board, you would see over time that institutions have been extricated from the jurisdiction and control of the Central Tenders Board. That, in fact, was the pattern which had been followed over many years.

I think what this particular approach to procurement does is basically establish a procurement system that would cover the entire State apparatus, and, therefore, in that sense, it has comprehensive coverage. I do not need to reinforce:

“...the policy pledge to ensure transparency and accountability by all Government departments and state enterprises;

The policy proposals continue:

“iv. That a hybrid model involving a system with centralized as well as decentralized elements would be more practical and would be desirable;”

That is to say, there are agencies which would be centrally managed and administered through this procurement system, but it would leave enough room for individual entities: state enterprises, other entities within the system, local government, et cetera, to be able to conduct their business, but within a general framework in which the guidelines are clear, in which the framework is clear and in which the regulations are very clear, and, in which as you would see later, there is, in fact, a procurement regulator to monitor affairs across the system.

“v. That this hybrid model should result in greater efficiency in public procurement by permitting Government agencies to engage in their own procurement processes”—this might be an elaboration of what I just read and what I just said—“that is within the context of the law, rules and regulations - but still be subject to scrutiny through the oversight of the Procurement Regulator.”

So there is central regulation, there is central monitoring and evaluation, but there is decentralized execution. Most persons agree that procurement is both for development as well as to guard against possible instances of wrongdoing, and therefore both are covered in this document.

“vi. That transparency, accountability, fairness, equity and value for money be regarded as essential to enlightened policy and practice and must inform the legislation;”

So these principles again are established very clearly, but in the amendments made by hon. Senators in the Joint Select Committee added to them were the words “fairness” and “equity”. So vi now reads:

“That transparency, accountability, fairness, equity and value for money be regarded as essential to enlightened policy and practice and must inform the legislation.

vii. That efficiency, effectiveness, ethics and fair dealing should be an important outcome of the legislation;”

So the outcome of the legislation is really to establish a system that is efficient, effective, ethically sound and results in or practises or facilitates fair dealing.

“viii. That a new procurement regime should promote local industry, ensure that ‘local content’ considerations are adequately addressed and that international trade is facilitated;”

This is basically ensuring that a procurement system does not tilt the balance of influence towards companies and vendors, and towards purchased goods that are outside the jurisdiction of the country. Not that it would not be open to that, because it says very clearly that international trade will be facilitated, but it also emphasizes that a new procurement system should promote local industry, because this is one of the objectives of procurement systems and legislation governing these, to help industry within the country to grow; what you might call home grown industries.

“...ensure that ‘local content’ considerations are adequately addressed...”

This is also important, because you can have a procurement system in which everything that is manufactured, that goes into the process, comes from abroad, so that one needs to be addressed.

I already raised the point of open and transparent systems so that you also facilitate international trade, so you can have both local and foreign participation. I think the fairness and equity issue which was added by the honourable Senator—I will not mention any name; I am sure that the hon. Senator will speak to this particular issue—really had to do with the fact of ensuring that that balance you need to facilitate local companies and local content, et cetera, would in fact be facilitated. That is why the issues of fairness and equity were added.

“ix. That the procurement regime also promotes enlightened and progressive environmental practices...”

This is an important thing. One of the submissions we got pointed to the fact that the procurement system could, in fact, facilitate the process of greening the economy. We took that seriously into account and we built it into the policy. This is why that is included there. We also had as Government policy, “Provide opportunities for innovations, human capital development and skills building.” This is very important.

If you have policy, as we say in our Medium-Term Framework, that seeks to drive the economy through innovation—in what we call innovation for lasting prosperity—then you have got to build innovation into the procurement system. If we want to build a knowledge economy, then the human capital development and formation and the skills building process ought to be facilitated and assisted by the procurement system that you establish. That is why these were included.

We thought we had covered the ground, but again hon. Senators and Members of Parliament of the other House who were part of the committee suggested that we also include, “adherence to national labour laws and standards”, so that we take into account the fact that you not only want to build human capital and skills and make sure that you develop the country, the working people and the skills base of the country, but you also ensure that you adhere to national labour laws and standards. I am sure my honourable friend would be happy for the inclusion of this particular phrase in this clause, and I take this opportunity to welcome Sen. Lambert.

“x. That the position of Regulator for Procurement and the Office of the Regulator for Procurement be established;”

This is something that is new and very different.

As you know, Mr. President, we took the opportunity to engage a number of institutions and entities during the process of getting to this point, under the Joint Select Committee. One of the things we did was to have the Contractor General from Jamaica come together with his team and make a presentation. I do not want

to comment on that presentation or to go into any details, but it did raise the question for us as to whether we should not have an independent entity that was free from any kind of ministerial attachment in order to anchor this process, therefore, this clause 10:

“That the position of Regulator for Procurement and the Office of... Regulator...be established;”

That was part of Government’s policy which we brought to the Joint Select Committee, and it was accepted.

“xi. That the Office of the Regulator for Procurement be constituted as a statutory body, independent of any Ministry;”

That again clarifies how that office will function. It is meant to be an independent office that has oversight and, in fact, facilitate management of the regulatory process. In such a situation really what you have is a watchdog built into the system.

“xii. That to oversee the reporting of the Procurement Regulator to Parliament, the Public Accounts Committee be made to perform the oversight function, and that the Procurement Regulator be accountable to the Public Accounts Committee;”

That is an issue of who will guard the guards basically. If you had a procurement regulator who had a certain amount of authority and who could question the dealings of individual entities and bring it to public notice, then we have to create the conditions where that person holding that office would also be accountable to somebody else. We thought that the best place to do it was in Parliament, because in the Public Accounts Committee you have a committee in which all entities of the House are represented, but that particular committee is chaired by a member of the Opposition. So whichever Government is in office, that committee is particularly chaired by a member of the Opposition.

Because of this clause, clause 13 was added. This was added after a lot of discussion. It was a new clause. It did not come as part of the policy that we brought, it was added in by the committee. It was accepted by Government and the committee, and we bring it here. This clause reads:

“xiii. Item (xii) above”—that is to say, the oversight of the Public Accounts Committee for reporting of the Procurement Regulator to Parliament—
“will require the institutionalization of an independent audit process. It will also require an expansion of the remit of the Public Accounts

Committee which may also require a possible amendment to the law governing the Public Accounts Committee. These matters need to be taken into account in the drafting of the legislation;”

This is an important issue, because if we are going to expand the role of the Public Accounts Committee and give it this oversight function over the reports, and over the work as well, through the reports of the procurement regulator, then what this committee can do and how it will do it and the resources it needs to do it need to be expanded. That is why this clause was added to the committee’s report.

“xiv. That this Regulator be responsible for establishing centralized rules and regulations that will generally guide procurement matters at all levels, including e-procurement, within the context of public procurement laws and regulations.

So the Regulator will establish the centralized rules and will guide procurement matters at all levels.

“xv. That this Regulator be responsible for investigating complaints from any party involved in public procurement:”

Why would he be responsible for investigating complaints?

- “a) To ensure that the procurement process at all levels be above reproach at all times
- b) To address complaints in an expeditious manner
- c) To identify matters which may require investigation
- d) To make recommendations to the Minister of Finance for action on any matter where issues of transparency, probity or good governance may be compromised;”

In the committee we then amended this to include the fact that the reporting should be done and the recommendations should be made to the Minister of Finance, because we felt that that was the portfolio in the Government which needed to take into account any recommendations on the basis of complaints made. But we also said if you did that it could compromise the office, perhaps not in reality, but in the eyes of the public.

In order to address that, we added an “e”, and this was agreed by the committee, that such matters as may relate to xv(c), that is to say, matters which require investigation, and (d) above, to say that recommendations made to the Minister of Finance, also be submitted to the Public Accounts Committee.

What that does, Mr. President, hon. Senators, is to ensure that a matter would go in terms of recommending action to the Minister of Finance, but also simultaneously go to the Public Accounts Committee. It would be an automatic check and

balance, because it would then put pressure on whoever is the Minister of Finance, on the Ministry of Finance, to act, because there is always the risk and opportunity of the Public Accounts Committee raising it, if the Minister of Finance or the Ministry of Finance took too long to respond.

This was also added in by the committee making an amendment to Government policy:

“xvi. That this Regulator report to Parliament on an annual basis not later than ninety (90) days...”

Government policy was that the regulator would report to Parliament on an annual basis, but the committee added that this should be done in 90 days:

“following the end of the reporting year and that the regulator submit special investigation reports within thirty (30) days of the initiation of an investigation to the Minister of Finance as well as to Parliament;”—which in this case would be the Public Accounts Committee.

“xvii. That the”—Procurement—“Regulator...be appointed by the President following consultation with the Prime Minister and the Leader of the Opposition;”

That is straightforward. That was the position of Government.

“xviii. That the Procurement Regulator be able to select and appoint the staff of the Office of the Procurement Regulator on a merit basis.”

That is straightforward. It means that everything was done in terms of the policy to keep that office independent.

“xix. That the Procurement Regulator be able to employ alternative dispute resolution and mediation, in the settling of complaints;”

There is a particular issue involved here, and we had history and precedent where objections by contractors could derail a project and basically undermine governmental action. This was included there to ensure that if there was a problem, it could be expeditiously dealt with. That would not deny the right of anybody to take the matter to court at some point in time, but what would happen is that expeditiously the matter would be settled and work would not be stopped, you could proceed with your business.

Again, this was added in by the Joint Select Committee in consultation with one another:

“xx. That a mechanism for expeditious treatment of objections to procurement decisions and/or dispute resolution be established as part of the legislation. An approved list of adjudicators will be compiled to support the function of resolution of disputes.”

So that was added in, as a mechanism for the resolution of disputes. Disputes are to be resolved within a 30-day timeline after referral. So that was an amendment to the original clause in the policy.

Mr. President, I want to again thank all members for their contribution to this, which is essentially a consensus policy of the Joint Select Committee consisting of Members of both Houses of Parliament. The procurement policy is, as I said, very straightforward, because we were very clear about some of the things that we wanted to do. I think the committee also had a certain amount of clarity about what it wanted included in the procurement legislation and also therefore in the policy which preceded it. On the basis of that, we were able to come to this agreement.

The hon. Prime Minister of Trinidad and Tobago, Mrs. Kamla Persad-Bissessar, has gone on record on many public occasions making and giving very clearly her commitment that procurement legislation was high on our agenda and that we were committed to enlightened and improved procurement practices, that we saw it as an opportunity to facilitate development and to ensure that corrupt practices would be hard-pressed to occur under an enlightened system.

She could take such a position because that commitment was made very early in our manifesto. The manifesto on page 61 said—and says, because it is a living document:

“Our policy on infrastructure will be based on ensuring quality, reliability, and maintenance of existing infrastructure while adopting transparent and fair procurement practices.”

That was the commitment that we made in 2010. It goes on to say before that on page 18, we will:

- “Prioritise the passing of procurement legislation and appropriate rules and regulations
- Establish equitable arrangements for an efficient procurement system ensuring transparency and accountability by all government departments and state enterprises.”

That was very clearly articulated very early.

In the Medium-Term Framework, we reinforced this position as follows, page 18:

Priority will also be given to reforming the public procurement process and measures are to be undertaken to give effect to the recommendations contained in the White Paper on reforming the public sector procurement regime.

Then that document on page 74 goes on to say:

Government's policy is to ensure that the quality, reliability and maintenance of existing infrastructure is of the highest standard, while adopting transparent and fair procurement practice.

2.20 p.m.

Mr. President, this policy that the committee has adopted, and which we are asking this honourable Senate to adopt, was a policy which derived out of this commitment by the People's Partnership Government, the stated commitments of the hon. Prime Minister and the work of the committee for just about 18 months or so, I believe, from November of 2011. It might be a little more, maybe 20 months. And we have brought this policy today so that, once adopted, we might expedite the process of bringing the legislation to Parliament, and we give the commitment to do so because it is very high on our agenda.

Mr. President, without much more ado, I want to move that this report be adopted by this honourable Senate.

I beg to move.

Question proposed.

Sen. Faris Al-Rawi: Thank you, Mr. President. Before I begin my contribution I am just wondering whether the hon. Minister should also beg to move in light of the hon. Leader of Government Business' statements; that is item (iii), the interim report as well, you having directed as such.

Sen. Dr. Tewarie: That was already adopted.

Sen. F. Al-Rawi: I see.

Mr. President: It is combined in the report, so I think the debate would proceed on the whole basis in that all together are being moved.

Sen. F. Al-Rawi: Thank you, Mr. President. I just wanted to be sure we do not have to come back to do something which we could have dealt with.

It is my pleasure to rise to contribute on this Motion that the Senate adopt the report of the Joint Select Committee which was appointed to consider and report to Parliament on the legislative proposals, et cetera. I compliment the hon. Sen. Dr. Bhoewar Tevarie—if I may abbreviate his name as he is affectionately known—on a very intellectual contribution here this afternoon. I note that he stayed clear of issues which could, perhaps, raise the temperature in this august Chamber. He did a very good job of circumnavigating some of those difficulties. I, too, would attempt to avoid some of those difficulties.

The report before us, Mr. President, which is the substantive report as well as the interim report, is one in which, by my count, seven members of the Senate have contributed. There are five substantive members now standing; two Members who were changed out, as it were. It is somewhat coincidental that it was on May 17, 2011 that the hon. Sen. Dr. Tewarie joined us in this Senate, and in fact it was that date that I last spoke on the Motion to adopt the second report of the Public Procurement Joint Select Committee. On that day we had noted in the *Hansard* the statement of a vacant seat then of Sen. Mary King and, of course, the appointment of Sen. Dr. Tewarie. Funny it is then that today we also have the vacancy of another seat, and a member who, in fact, gave sterling contributions to this committee's work, and that is Sen. David Abdulah, as he now no longer is. In fact, we have witnessed the joining to the ranks of the hon. Sen. James Lambert, and I welcome him to this august Chamber.

Mr. President, on that note and by way of compliment to Sen. Abdulah, I wish genuinely to say that he provided the committee with excellent contribution. He is a man who gave very good contribution to this Senate. I enjoyed my debates against him. He was one of the more frequent debaters in this Chamber. He is somebody who had no difficulty in speaking his mind and standing his ground, so therefore I wish from this side of the Senate, there having been silence from the other side, to wish him the very best in his endeavours and to thank him, relative to this Motion, for his excellent contribution to the work of the committee. [*Desk thumping*]

On that note if you permit me the short extension, I will say that I am sure that Sen. Lambert would add meaningfully to this Chamber. He has demonstrated in the public domain the thickness of his skin and his resolution. He has demonstrated that he is a gentleman who wears long pants in the game; he can avoid difficult statements made in his direction, even by those who welcome him into the political arena. [*Laughter*]

Mr. President, public procurement has been stated to be a mechanism which can assist in greening the economy. I love that expression by Sen. Dr. Tewarie. He has also said for us, quite properly, that public procurement is something which would assist us in tackling the much hated aspect of corruption or the perception of corruption—if I am to paraphrase him. I want to put out for consideration, insofar as we are speaking by extension to members of the national community, that it is my view that public procurement really stands best as a management tool. It is the mechanism, if implemented properly, which can allow us as citizens to see proper expenditure, value for money and gauging of the way in which our money is spent by any Government from time to time.

The political resolve to deal with public procurement is by no means an easy task. Sen. Dr. Tewarie, in piloting this Motion in the Lower House, when he spoke, noted—and there was some debate over it, some temperatures rose—that it was in the period 2008—2009 that public procurement and issues surrounding it came to a head as he put it, and he was quite right. It was, in fact, and it is still very current in the memory of the population, that Prof. John Uff was appointed and the Uff Commission of Enquiry, having been laudably called by the People's National Movement to inspect the state of public procurement as one of its main targets, went to work in Trinidad and Tobago and recommendations were pronounced by Prof. John Uff.

The legislative proposal which we have before us will, in fact, through the regulations, and the eventual Act which would come into being when the Bill is debated, result in dealing with some of the recommendations, and then there will have to be judicial and other action in relation to other aspects of Prof. John Uff's recommendations. So, this committee's work will see fruit borne in the exercise which the commission of enquiry into the construction sector went to. So, it is quite proper to say that both the last Government and this current Government were very conscious of the issue of public procurement, and in particular that the People's National Movement took very bold steps to deal with it by calling a commission of enquiry to investigate public procurement under its stewardship.

I wish, with your leave, to also explain what is before us. We are dealing with something called a legislative proposal. The genesis of this legislative proposal, which has been under consideration for two years now, if we were to say from June until June—it is true that the work of the committee started in November 2010, but for the two-year period that we have been dealing with this, we started by the laying of two particular items on the Table of the Lower House and also the Senate, and those were two particular items. The first was, and I wish to get it correct for you: the Legislative Proposal for Public Procurement and Disposal of Public Property and the Repeal and Replacement of the Central Tenders Board Act, put in short the 1997 Bill, and then a legislative proposal which we in the committee referred to as the 2006 Bill.

Mr. President, it is important for the national community to understand the difference between prescriptive law and framework law, and the committee's work in the 19 months/20 months of its exercise over the two-year period of considering public procurement under this particular Government has centered around what is the correct approach for development of public procurement regulations and laws. And the observation was made in 2010 in debate on the appointment of the Joint Select Committee and on Motions to adopt the interim reports that the two items put on the table for consideration by the committee were mutually exclusive.

In the first instance, the 1997 Bill prescribed what you would refer to as a centralized system of public procurement, and in the second, the 2006 Bill, it proposed a decentralized system. It was recognized by the committee, and in particular by the Opposition, that those two items being mutually exclusive, that it was imperative for the Government of Trinidad and Tobago, the UNC-led coalition that it is, to state openly its position and policy in relation to public procurement. I wish to compliment, at this stage, Sen. Dr. Bhoendradatt Tewarie for coming up with that policy statement and presenting it to the committee in or around May 28, 2012—just about a month ago.

Mr. President, it is important to recognize that marker, because the minutes and the verbatim reports, which I would not refer to, but the minutes themselves allude to the fact that it has been the constant statement of the members of the committee of the absolute need for the statement by Government as to what its policy is in relation to public procurement. That has been explained by the Government by saying that a consensus policy was sought and that is the representation of the Government. It is entitled to put that position forward. From the Opposition of Trinidad and Tobago I can say that the rationale for the request for the statement of policy is a very simple but yet profound one. The simplicity of it is that it is important in the Westminster style of Government which we engage in to debate policy and therefore to come up—through sometimes an adversarial approach to debate—with a statement of policy that can withstand scrutiny.

The profoundness of it, however, lies in the fact that when you are engaging in as radical a statement of transformation that the law is meant to give, that it is critical for the committee and for the members that comprise the committee to have consultation on policy, and it is on the point of consultation that I wish to explain the item appearing in the report which is before us for adoption and which appears in the interim report as to the Opposition of Trinidad and Tobago's absence from the committee for a period of three months in the period January 16, 2012 to April 17, 2012. And I wish to state that the Opposition's reason for departing the committee's work was very simple.

Our statements were that public procurement in Trinidad and Tobago, being subject to guidance of the existing law, was not being carried out by the Government of Trinidad and Tobago. That appeared in a number of instances which we took strong objection to and which we felt had to be addressed by way of our absence from the committee. So, the protest undertaken by the Opposition of Trinidad and Tobago was intended not only to bring awareness to the

complaints which we had in relation to public procurement under the Government of the day, but also, very importantly, to prompt out of the Government and to crystalize its policy statement in relation to public procurement.

Mr. President, I will, in view of Sen. Dr. Tewarie's civility of tone this afternoon in piloting this Bill, not go in, in any great detail, to the very bitter complaints which we harboured in relation to public procurement under the Government. I would simply ask him if he could, at some point soon, provide explanations in particular for the procurement and disposal of lands in relation to the Invaders Bay project. It is something which I think is deserving of more ventilation. But I would say that the work of the committee is one which was bettered by all members of the committee. The Independents, the Government contributors and the Opposition contributors gave sterling effort in the 17 meetings which we held in the life of the two-year span of the committee. In those 17 meetings there was a lot of work that was done.

I wish to pause to give a very strong compliment to the members who approached us from the private sector, and in particular the JCC. They took pains, not only to approach the committee with detailed submissions in relation to public procurement, but they paid for and produced draft legislation for consideration. That was a very sincere gesture and demonstration of the public sector and private sector approach to the issue of public procurement, to go out not only to say, "we wish the following by way of a wish list", but to pay for draft legislation for consideration, took a lot of the JCC and the members that comprise it—and I wish to publicly compliment them and thank them for their contributions.

On that note I wish to distinguish the committee's resultant policy. And the committee's resultant policy is one which is different from that submitted by the JCC in particular insofar as we have gone for a route which we feel can survive the construct of the systems in Trinidad and Tobago. Let me explain that. The policy statement which is coming out of this committee is one which says, Trinidad and Tobago should be greeted with framework legislation, that is, it does not go into the nitty-gritty details of telling you, you can do this and you can do that, it allows a framework for management of Government's sector, including state enterprises, but it gives them the liberty—through the life of regulations to be pronounced by way of subsidiary legislation—to grow with the system and adjust the system as is necessary. This is something which I can say the Opposition supports absolutely.

Mr. President, it is incumbent upon me to indicate that the Opposition is not able to give its written support for this policy and its positive vote today for reason only of the need to have consultation with the various sectors that we must approach in our consultation process. I wish to lay on the record that this is something that we

have put in the life of the committee in the work of the committee and on the records of the committee. As demonstrated by the verbatim notes, in particular, we have put our position in relation to the need for consultation on policy clearly on the record.

And I do not wish the hon. Minister, Sen. Dr. Tewarie, to take umbrage in the fact that whilst we will not vote against the statement of policy, that we cannot without the consultation process in the mechanism of the People's National Movement, in fact, vote affirmatively for the policy today. And that is something which I am sure that the hon. members of the Government can understand. It took them 20 months, in the span of two years, to state what a policy position by the Government of Trinidad and Tobago is, and, therefore, it cannot be lost upon them the reasonableness of needing a proper and fair opportunity in the period May 28, 2012 to today's date, June 22, 2012, to have our consultation carried out.

Mr. President, that can only redound to the benefit of the citizens of Trinidad and Tobago, because when the legislation is brought to the table for debate, we would then be speaking with the authority of a consultation process properly behind us, as we in the People's National Movement are accustomed to doing. It is fair to say that the PNM has always been proud to state its policy and been able to stand the consequences of it. That, in fact, led to the crushing defeat which we suffered on May 24, 2010. That, in fact, is the reality of life. You must be able to state with certainty your policy, stand by and justify your positions, and do so with the greatest of urgency.

Mr. President, in my contributions on earlier Motions in the Senate, both in the First Session of the Tenth Parliament and now today, I wish to repeat that we have warned continuously of the need for caution in the estimates of time which we say things will happen in or by, and specifically, bearing in mind that we are on record in Motions in this Senate in the First Session and now of saying that the time frame was inadequate for certain events in relation to the life of this committee, that it would be important—and I wish to hold Sen. Dr. Tewarie to his undertaking—that the Government will bring legislation for tabling into this Parliament together with the regulations.

Public procurement is an issue in the construct of the policies recommended by this committee which can have serious consequences. If we were to look to the example in the Jamaican experience, and the work of the Contractor General in Jamaica, it is very plain to see that the Contractor General can be viewed in the independent position that he occupies in Jamaica, which we have considered in the committee, to have caused far-reaching changes in the Jamaican political landscape.

The mechanism which Members of the Opposition have recommended and which appear in the amended policy document before us, of having a bifurcation of reporting, one to the Minister of Finance and the other to the Public Accounts Committee chaired by a Member of the Opposition, is an important one, not only for the balance that Sen. Dr. Tewarie has pointed us to, but for the prospect of fairness and transparency, and that is something, I think, which would redound to the benefit of the citizens of this country.

Mr. President, this aspect of the appointment of the regulator as this framework legislation will suggest, and the office of the regulator, is one which our consultation process is so far suggesting may be in need of a bit of tweaking, and I wish to put the hon. Senator upon notice of that. Whilst it is true that the office of the procurement regulator is going to be one by way of appointment by His Excellency the President, and then in consultation with the Prime Minister and the Leader of the Opposition, we may wish to consider, and perhaps the Government could consider this in the meanwhile, the aspect of having a vetting or approval position similar to that used in the appointing of a Commissioner of Police.

It is some of the recommendations coming out in our consultation at present—it is not certain just yet—and it is one of the reasons we are not able today to vote affirmatively for this, but we can say confidently, as our ideas have been reflected fairly in the amended report laid before this Senate, that we have support for the core policy positions.

Mr. President, I would not be much longer. I wish to say that the issue of public procurement is one which has serious consequences, in particular, in the state of the economy which we are in. You would have noticed that Dr. Shelton Nicholas, I believe is his correct name—

Sen. Deyalsingh: Nicholls.

Sen. F. Al-Rawi: Nicholls, forgive me—of the Central Bank, yesterday made observations of the economy still being in a doldrum.

Sen. Dr. Tewarie, observed quite correctly that the issue of procurement can green the economy. I like the phrase. He is very correct. There is a clarion cry from the citizens of this country for us all to take urgent steps to stimulate the economy, and more particularly to have value for money in the expenditure which we undertake on behalf of the citizens of this country.

The framework legislation which is proposed by this Bill will have, I think, the correct fit that we are looking for. There is a serious caution to be had. And again, I put the hon. Sen. Dr. Tewarie and Members of the Government upon notice that the expansion of the Public Accounts Committee is one, in view of its oversight to

be had in the public procurement process, which will require dedicated resources and funding. The experience observed in New Zealand and in Australia, where there is parliamentary oversight in relation to issues such as public procurement, demonstrates that it is an expensive but necessary process. That being the case, I would hope that the Government is able to hasten the independence of the parliamentary process, in particular—and I wish to put a plug in now for the employees of the Parliament—in the remuneration packages for the staff and Members of the Parliament. [*Desk thumping*]

It is very noteworthy that our Hansard reporters, our very dedicated Hansard reporters, have not received from the relevant authorities, blessings for any overtime for the work that they put in; for any hazard pay for the long sessions that they sit in. It is very noteworthy that Members of Parliament that populate the committees do not have the benefit of support maternity leave, healthcare benefits.

If we are going to inundate the working committees of Parliament, and as vital a committee as the Public Accounts Committee, Parliament needs to have a degree of autonomy in its budget and in its control, and we must seek to incentivize properly the persons who work in the Parliament, and in particular our staff; our SRPs guard us on a daily basis; our clerks and officers of the Senate and House of Representatives; our very abled-bodied Hansard reporters who work diligently for us over and over, sometimes 24 hours a day. [*Interruption*] It important for us to make sure that we look after our own.

Sen. Deyalsingh: And the dining staff.

Sen. F. Al-Rawi: Yes, and our dining staff and service crews, et cetera.

So, Mr. President, I gave an undertaking impliedly to Sen. Dr. Tewarie that we would explain our inability to offer support by way of an affirmative vote for this particular Motion. We are certainly not going to oppose the position. It is incumbent upon us in the PNM, as a responsible Opposition, to seek the views of the citizens of this country and interest groups of this country, and to have our proper consultation, so that we can define our own policy position and articulate it against that offered by the Government.

As I close, noting that there are eight members of the Government now sitting opposite me, I wish to say that I know this afternoon is a difficult, heavy afternoon for the members of the Government, the air is thick and ripe with speculation. Whilst some smile ably now introduced to the Parliament, others sit, perhaps, uncomfortably in the uncertainty of their fate. Whatever the result is, I

wish those Members opposite me the very best in their endeavours. I wish to say that Senator, as he then was, David Abdulah, would be sorely missed. I look forward to engaging comrade, Sen. James Lambert in lively debate in this Senate. I know that he would take no umbrage to the sting of my words on the occasions when I may sting, because he has demonstrated, again, his capability to have sore comments put at him and to smile in the face of it and stand commendably for it.

Mr. President, with those few words, I thank you.

2.50 p.m.

Sen. Helen Drayton: Thank you, Mr. President. I am pleased to say a few words on this report. I am a signatory to that report and let me say that I fully support its contents. [*Desk thumping*] I have been a member of this committee for the past 18 months. First, I want to thank the Senate for giving me the honour of serving on this particular committee. Procurement is a burning national issue and I am very grateful for such an opportunity.

Over that period there were healthy and positive contributions from all members. From time to time we had varying views on thorny issues such as tender dispute resolution, the independence of the regulator and systems for ensuring transparency and accountability, not only in the governance of procurement but the process of procurement. I am satisfied that the committee, after many deliberations, came to consensus on the policy statements in this report and that the report captures the concerns—a number of concerns that I had—and I would just address a few of them in a short while.

I have to say that very frankly if I have one disappointment, that disappointment is the fact that after two years we are discussing a policy statement and not actual legislation. Be that as it may, I think that the policies that are outlined in this report is a major step towards excellent legislation in that, such legislation would now have been informed, not only by a wide cross-section of the society but also other government agencies such as the Ministry of Finance as well as the Opposition and Members of the Independent Bench.

Procurement is a lever for social and economic development, and by that I mean the development of skills, employment opportunities, as well as generating economic activity. Procurement legislation is a very complex matter and over that period we studied numerous submissions, legislation from several other jurisdictions, also the UNCITRAL model and submissions from the World Bank and the Contractor General of Jamaica.

The presentation by the Contractor General of Jamaica, I thought that it was very enlightening, more so at the stage at which that presentation came, in that it certainly helped to clarify a number of issues that were in our minds with respect to the position and the office of the procurement regulator as well as dispute resolution.

I also want to take this opportunity to commend the Joint Consultative Council, the private sector civil group. They were particularly helpful. They took the opportunity at every stage to make very comprehensive proposals, comprehensive legislations, draft legislations as well as answering our questions. They gave excellent service to Trinidad and Tobago, and I commend them heartily for that excellent work and their dedication. I think their work, more than anything else, was central to a lot of the discussions that we had over the 18 months. I can only now hope that the Government, in the next session will submit to Parliament the framework legislation as early as possible.

Now, regarding that legislation, it will be noted that one of the mandates will be that the procurement regulator develop regulations and guidelines for the various government agencies, state enterprises, et cetera, which means that an aspect of the regulations will not be submitted with the framework legislation. However, during our discussion, it was emphasized on a number of occasions that procurement regulations are in effect, the main aspect of procurement, and that substantive rules and regulations emanating from the various policy statements in this document must accompany or must be in the main legislation and that regulations must be subjected to affirmative action of Parliament.

Now, excellent work was done. A very enlightened approach was taken. There were thorny issues; to mention a few: the independent procurement office, local content, promotion of the local industry and adherence to our laws particularly as they relate to labour, health and safety. I have to say that I gave a lot of consideration to that and felt very strongly that even though one takes it for granted that laws—all of our laws—must be obeyed, it is a travesty of justice when you have a situation as occurred or as was in the public's domain a couple years ago where foreign contractors may not have adhered to our local labour, health and safety laws. I do believe that one aspect of the regulations for that procurement regulator would be to make it quite clear—and our legislative guidelines should also make it quite clear—that contractors who do not adhere to our laws must be struck off the list of government suppliers.

I also want to say that in the context of quality, in this document—the policy statement—we have placed a great deal of emphasis on quality. It is grossly unfair if the procurement process weighs criteria in a manner such that it ensures that foreign suppliers get lucrative jobs, and that occurs in a situation where a heavy weighting is placed on price, because a lot of the inputs are imported, a lot of the

materials are imported and international players who are providing services internationally are in a position to achieve excellent economies of scale. There is no way that local contractors could compete with that. And once we are talking about fairness and equity, and it is one of the reasons why I was strong on that aspect of the policy document, a great emphasis must be placed on quality.

Again, where we have experiences with suppliers who, it is either shoddy work and where low prices—they got the job because of a low price, a better price, and that low price equates with the quality of work that we finally get, shoddy work and where there must be a great deal of the taxpayers' money going to correct that work, such suppliers ought to be struck off the list of government suppliers.

With respect to a few policy statements, it was felt strongly that the framework legislation must have a very wide net coverage, and that is, it must apply to all state agencies and government departments. However, it is one of the reasons the committee came to a consensus that there must be a hybrid model, because you cannot treat procurement, let us just say in health or national security or even education, as you would treat it with other arms of government and, therefore, a hybrid model would ensure that there is sufficient flexibility to allow those agencies to operate and get government policies implemented. I have already spoken on the fairness and equity, and also with respect to practices' and adherence to national labour laws.

I thought that the reporting relationship of the procurement regulator to Parliament was excellent. Initially, I had concerns with respect to the Public Accounts Committee in that I felt that such a committee would have been overburdened given the numerous activities and situations which would emanate with respect to procurement. At first I felt that it would be better placed in a special committee of Parliament. However, the fact that the Public Accounts Committee must be restructured and strengthened, I am very satisfied that we have an excellent solution in that regard.

We have also made mention with respect to the independent audit process. This is critical and I do hope that an independent audit process is running parallel to that; that there is a strong risk management process.

The other major issue had to do with dispute resolution, and we were able to come to a consensus on that where the procurement regulator will be responsible in that regard. There would be an approved list of judicators, and also whilst the procurement regulator will report to Parliament three months after the end of a fiscal year, any matter which comes to the fore, such as a dispute complaint, et cetera, the law would require the procurement regulator to issue a report to the Parliament and their accounts committee within 30 days of that issue arising.

Before I close, let me just reaffirm that this policy document captures the significant matters to effectively guide procurement governance and the critical aspect of process. I unequivocally endorse the report. All the concerns that were on the table were resolved. I close by once again thanking you for the opportunity to serve in that regard.

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

Sen. Dr. James Armstrong: Thank you, Mr. President. I also rise in support of this Motion—this document. I was also a member of the Committee, and I must say that it involved a great deal of work, a great deal of research, and I now have quite a few boxes in my library with several documents pertaining to procurement.

Mr. President, this is something that is very, very, long overdue and we must note that it is not something—while we are talking about this having started about 18 months, maybe two years ago, the issue about procurement is really something that successive Governments had been considering since 2005/2006.

We will recall that, in fact, there was a White Paper and several attempts were made to address this problem. To date, we have not been able to resolve it and bring proper legislation to be debated and passed. I am, therefore, hoping that it would not be far off when we are able to have some legislation that would guide procurement and the disposal of public property in this Parliament.

Mr. President, I would like to also recognize the fact that we got some considerable insights from the World Bank, and that, in fact, informed my thinking significantly. I would like to mention some of the observations that they made—that I supported them wholeheartedly. One of the documents that we got is a background document from the World Bank indicating that—and they were citing some of the experiences that they have had—the OECD in 2007 had reported that:

“...public procurement is the government activity most vulnerable to waste, fraud and corruption due to its complexity, the size of the financial flows it generates, and the close interaction between the public and the private sectors”.

They have also looked at what has been happening in this country over the past few years. I sense from the documentation that they have provided—the comments and the presentation that they made—that they were not too impressed. There were also some presentations made by IDB, and that referred to poor governance in procurement, that it invariably reduces development outcomes.

One of the things that struck me is that they also raised in their presentation that in order to draw down on loans that are on consideration—our future loans—their expectation is that we would, in fact, have proper procurement regulations or legislation in place and that concerns me greatly. In fact, I would like to mention that they have also offered a grant of US \$300,000 to assist in moving this process forward.

The IMF in 1998 identified national consequences of poor procurement practices in terms of:

- (i) overspending on capital;
- (ii) underspending on asset management;
- (iii) poor quality infrastructure;

—and I might add, super structure. In fact, some buildings that were constructed not too long ago and are now to be broken down. Perhaps, if we had proper procurement, at that time and proper oversight that would not have been a problem.

- (iv) it also leads to a reduction in Government revenues.

One of the things emphasized had to do with the process, standards and outcomes. It has been emphasized, and I am very happy to see that this has been mentioned in the report and was agreed to by consensus that we need to take into consideration not simply the procedures, processes, with respect to procurement, but also the outcomes of our procurement. What was emphasized is that these outcomes should also enhance social and economic development.

Very often, I see we tend to place the emphasis on the process rather than recognizing that proper procurement procedures should also enhance, as was mentioned, the greening of the economy. I am very pleased that concept was actually introduced and, therefore, any procurement procedure that we have in our legislation in the future would actually lead to the development, not only in a physical sense but in an economic sense as well.

In that context, I would also like to mention something—I always seem to be echoing a point that is usually made by Sen. Al-Rawi—having to do with the Invaders Bay matter. I felt that if we had this legislation in place—if we had legislation in place supported by a policy document such as we have now—the situation with Invaders Bay would not have gone ahead as it did, in that the criteria would have been very different, in that we would have been also looking

at the way in which such a large piece of the only remaining urban land that we have, in my view, does not properly support economic and social development, in the context that the policy is now suggesting. So, if we had this policy in place, that would have been assessed in a different way, in that we would have certainly set different criteria.

I believe that, again, that is a piece of land that should be linked significantly to the outcomes that we want for our economy and for our people. Link it to trying to resolve some of the problems that we are having in Woodbrook; link it to trying to resolve some of the problems that we are having in Morvant/Laventille, in other words, an economic link that would allow for social and economic upliftment, and not simply some grandiose physical development that would simply support a very limited group or sector in the society.

The other thing that I want to emphasize, Mr. President, that I do not think came through in the document that we have mentioned from time to time and, certainly, some of the civil society groups that we actually had presentations from, has to do with the concept of public money. I think the document has emphasized value for money, which I think is very different from public money and as the saying goes, “follow the money, follow the money”. And if we emphasize the concept of public money, I think that would capture a number of agencies—in fact, as Sen. Tewarie indicated, we would like to be all inclusive to embrace those agencies that now, sort of, escape the net.

So that an agency that might, in fact, be raising its own funds—and some agencies do indicate that—and assume that it is money that they are raising on the open market, once that money is, in fact, guaranteed by the State it becomes public money, and it must be accounted for, and such agencies must be covered by this legislation.

So that, as we move ahead, I would like to see much more emphasis placed on the whole matter of public money and that those who undertake or authorize the spending of public money should be accountable. Indeed, this may also require some sort of revision of the definition in the Exchequer and Audit Act, but that is something I think we can also address. It is also something that has been emphasized by the international agencies, and as we move ahead it is something that I would also like to look at again.

In looking at the document itself, Mr. President, I refer specifically to 9.1(e) where it says, “Balancing value for money, transparency and accountability against the need to facilitate development”. I would like us to go back and again think about what we really mean by development in that context, to take into consideration the fact that, as has been indicated, while we need to facilitate international trade the point about local content must be adhered to.

Mr. President, as I have said on occasions, a lot of money has passed through this country. We have awarded contracts for millions and billions, and because we did not have proper legislation in place to really deal with the issue of local content—and not even the legislation but the conscience to deal with local content. As I said some time ago, I do not like the term “local content” because I think the issue really has to do with foreign content. Local content for me should not be an issue. The issue really has to do with foreign content. If you have the capacity and the means here, I think we need to find some are really to recognize that, to support that—our local contactors, consultants, manufacturers, and therefore the debate in my view should be about foreign content.

But it is often cited in the nomenclature as “local content” and what we are doing now in local content and facilitating trade which, in my view, may also allow us to go government-to-government and, again, we really leave out our local expertise, our local manufacturers. I would like us to, as we move ahead, ensure that that is given adequate consideration. There is the talk, Mr. President, about transparency and accountability. In addition to those, I would like us to list, as I said, the social aspects.

The other point that I want to emphasize—I am very pleased that it has found its way in the document—has to do with national labour laws. If we ensure that in the process of internal trade, government-to-government arrangements—if we have to go that way or when we go that way, that those persons with whom we do business, that they must recognize our laws, our local laws. Very often, our contactors are unable to compete because we allow people to come in here and submit proposals, which we know they are able to, very often, under bid because they also do not observe the laws that we have. We have laws here that certainly our contractors and our consultants have to adhere to, and we cannot allow others to come in and ignore those laws and, therefore, give them an unfair advantage.

3.20 p.m.

Civil society—we have had a significant contribution from civil society. I would also like to go on record as thanking—the reports that we got; the contributions that were submitted by the civil society groups, including the JCC and the Chambers which came together to actually make contributions that would enhance, again, local industry. I think that we need to enshrine that in some way in the policy document—or to emphasize it, it should have been—and that in the legislation that follows that we would ensure that it is a continued relationship with civil society in this country, and I think that has not been adequately emphasized.

I strongly support the arrangement for an independent regulator. I have noted the functions. We have revised it a bit to include both regulatory as well as investigative powers and so on. I am in support of that. I indeed had some concerns about the

arrangements for the appointment of the regulator in that I had some preferences, but by way of consensus I agreed, but I certainly would have liked to see, perhaps, an appointment that is truly independent and without really any reference to consultations but by the President in his own capacity.

So that, Mr. President, I can only hope that as we continue this work that I have noted, that the Opposition indicated, that indeed they pressed for a policy document which we now have—it has been indicated that they need to have consultations. I believe that already we have had a significant amount of consultation and I believe that if there is a need for further consultation we need to respect that, but that every effort would be made to really shorten that time so that we can get on with the business of proper procurement legislation, and that we can stop a lot of what I consider to be glaring transgressions with respect to how we spend the people's money.

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

Sen. Terrence Deyalsingh: Thank you, Mr. President, for allowing me to make a contribution on the report of the Joint Select Committee appointed to consider and report to Parliament on the legislative proposals to provide for public procurement and disposal of public property and the repeal and replacement of the Central Tenders Board Act. [Second Session (2011/2012), Tenth Parliament.]

Mr. President, I have noted with approval the civility of tone and softness of voice that all Senators so far have used to contribute and I, too, intend to follow in that stream. However, the civility of tone and softness of voice will not be compromised by the gravity of the two issues I intend to address as they relate to public procurement.

This is a very difficult debate to engage. The air is thick with anticipation. I do not think anybody on the Government side is particularly interested in hearing anything we have to say today. I do not even think members of the media are interested in hearing what we have to say today.

Sen. George: That is generally so, “yuh know”.

Sen. T. Deyalsingh: The members of the media are more interested in matters that will unfold by 6.30 this afternoon. So it is a very sterile atmosphere, thick with anticipation. I see Senators checking their BBMs ever so often, waiting for the call as to who is in and who is out, but that is the nature of politics. Mr. President, regardless of what happens and regardless of the new configuration and which colleagues we face here in the future, let me just say I have come to know all of them—

Sen. St. Rose Greaves: Are you saying goodbye to us? [*Laughter*]

Sen. T. Deyalsingh: No, no, I am not saying goodbye to you. [*Desk thumping*] I have come to know many of you and whether they go back to Covigne, Diego Martin or wherever, we are all honourable people and we need honourable people to volunteer for public life. Public life, Mr. President, is not easy, except for the support that you get from members of your own political party. Those of us who volunteer for public life expose ourselves to all sorts of bad publicity, licks and the vagaries of society. So I just want to commend all of us here for volunteering to serve and wish everyone the best of luck.

Mr. President, I intend to address this issue on public procurement with reference to two state enterprises where I think the public procurement process has left a lot to be desired. I have always said in this Parliament that it is difficult to come here and legislate for every single thing. Having said that, I would think that, as a Government and as a society, we would not make the same errors that may have been made before; we would have learnt.

The first public procurement issue I turn to has to do with Caribbean Airlines. Mr. President, Caribbean Airlines has gone through a lot of turmoil under this administration through various board changes and so on. I am not going to delve into that but I will delve into the material matter of the procurement of nine ATR 72-600 planes at a value of US \$200 million.

CAL committed the Government and, by extension, the people of Trinidad and Tobago, to a US \$200 million investment. We took delivery of two of these planes. What has happened since we have taken delivery of two of these planes? We are not able to take delivery of the rest of the planes. So we have paid for two under the procurement process and we now have, I think, five planes dressed up in Caribbean Airlines colours, resting comfortably in a hangar in Toulouse, France, that we cannot take delivery of.

And, Mr. President, if you would permit me to quote from an article in today's *Newsday*:

“According to the agreement signed in January 2011 for nine aircraft, two of the state-of-the-art turbo prop aircraft were to be delivered in November and December...”

That has been done.

“and the remaining seven aircraft, one every month from January 2012.”

So from January 2012 one aircraft a month until the contract has been perfected:

“The first two aircraft, which according to reports, were fully paid for, each costing (US) \$19 million, arrived pretty much on schedule. But this is where things began to go awry.”

This is when the public procurement process, instituted by Caribbean Airlines under this Government, began to go awry:

“The January delivery was not effected because of CAL’s money woes...”

So we have a state enterprise committing to \$200 million worth of a contract and now the contract cannot be perfected because of money woes. The question is: what is the liability of the Government and, by extension, the people of Trinidad and Tobago because of the inability of the Government to fulfil its contractual obligations for the purchase of the remaining ATR planes? But they are sitting in a hangar in Toulouse, France.

Mr. President, my investigation into these ATR planes which were procured by CAL tell me that the cargo-carrying capacity of these planes do not currently meet the demands of the air bridge, and very often baggage has to be left behind in Trinidad. So we have purchased brand new planes, specked by this Government, but cannot carry the baggage and the cargo capacity.

Sen. George: Mr. President, 35(1), relevance. This is a debate on a report; it is not a debate on CAL’s procurement policies and the aircraft.

Mr. President: Senator, I did wonder whether you would be wandering outside of the context of this debate. On the other hand, I have no problem with your introducing a state enterprise and referring to their procurement practices to demonstrate something about our policy that needs to be addressed, that you consider some shortcomings have occurred, and you may do that by reference to example. However, there are times when you have strayed beyond the ambit of this question for debate and I would just ask you to keep a tight rein on what we have to say in the debate on this matter.

Sen. T. Deyalsingh: Thank you, Mr. President. Mr. President, I did anticipate 35(1) and if I direct the Leader of Government Business to his own document, Appendix I on page 13, I think it allows me the latitude that I have taken. You can correct me if I am wrong. If I read on page 13, Appendix I—

Mr. President: Senator, there is no reason to go into questioning my ruling. I am just asking you to keep within the ambit of the debate and you may proceed.

Sen. T. Deyalsingh: Thank you, Mr. President. The draft document speaks, in Appendix I, to higher levels of performance that currently exist. I am just illustrating what currently exists and the procurement practices that currently exist, which we are seeking to replace and repeal. So if I do stray, it is within the confines, I think, of this. But I am guided by your ruling, Mr. President.

Sen. Ramlogan SC: “Doh stray too far. It have dangerous dogs legislation coming next.” [*Laughter*]

Sen. T. Deyalsingh: So, Mr. President, we have committed ourselves to a deal that we can no longer sustain and the mover of this Motion spoke about transparency; he spoke about accountability. So my question is: where is the accountability for committing the citizens of Trinidad and Tobago to a US \$200 million deal that we now cannot fulfil? What are the costs to Trinidad and Tobago and the citizens? When will be the effect of CAL’s credit rating because of poor performance practices, which should inform this Government’s actions in procurement?

Mr. President, the hon. Minister, in moving this Motion, spoke about the issue of accountability, transparency; he spoke about a process which is free of ministerial attachment. Those were his exact words when he was explaining section 10: a process free of ministerial attachment. If we are going to have legislation that tells us we must be free of ministerial attachment, do we need to pass legislation to do that? Or should we not, by our own volition, appoint boards like we did the previous CAL board which was under the chairmanship of Mr. Arthur Lok Jack, with people like Mr. Gervais Warner of Neal and Massy; Mr. Robert Riley of BPTT and I think Mr. William Lucie-Smith—no political appointees? As a matter of fact, Mr. Lok Jack at the time said this was the first board that was totally devoid of political interference and political appointees.

So we were practising that. There was at least one administration which was practising that and the hon. Minister of Finance, under this Government, in recognizing the need to support Sen. Dr. Tewarie’s claim that it must be free from ministerial attachment, actually wanted to keep that old board in place. He is on record as saying that. But the powers that be did not see that fit.

So we have a board now under the chairmanship of Mr. Rabindra Moonan, Mr. Mohan Jaikaran, and my question is: do we need to have a law to guide Government’s policy on ministerial attachment? Is this board not attached to a Minister, as opposed to the old CAL board under the chairmanship of Mr. Arthur Lok Jack, which included Mr. Gervais Warner and Mr. Robert Riley?

3.35 p.m.

Sen. Ramlogan SC: Is it procurement of directors you are talking about?

Sen. T. Deyalsingh: It is procurement.

Mr. President: I think that you are straying. There is no question in the legislation—as far as I am aware—of procuring directors. We are talking about procuring goods and services. So we need to stick to the debate.

Sen. T. Deyalsingh: Thank you, Mr. President. As far as I know—and I am guided—it is the directors that actually guide the procurement process for goods and services. So the quality of your procurement process, I think, is going to be closely related to the quality of your board. I am guided. But, I would think that the quality of your board will guide your procurement process.

Sen. Ramlogan SC: Move on to a good point.

Sen. T. Deyalsingh:—a good point. So Mr. President, if we are talking about procurement the issue of CAL raises its head again with procurement, how did we go about procuring aircraft for the London route? And again, it is a relevant example because this draft talks about what currently exists so we can learn from the mistakes of the past and the current mistakes.

There is a series of procurement errors with the CAL issue and the London routes with the planes. Again, we are incurring costs which this piece of legislation wants to reduce. This country is going to be saddled with extra costs coming out of the botched attempt to wet lease aircraft to fly the Trinidad/London route and that is a serious procurement issue.

The question is: if CAL is going to be procuring these planes—the ATRs, the London planes—how is CAL doing this procurement, in light of the fact it is a loss-making enterprise? Where is the process that should be guiding this draft? You have a loss-making enterprise on a spending binge incurring more and more debt. That is the question I am posing to the hon. Minister who is not here and to the Government. So I will leave that alone.

Where is the procurement policy that guides Caribbean Airlines? Where is the procurement policy? Because, again, Mr. President, because of the non-policy we are going to end up incurring costs that we will have to bear some time in the future probably for breach of contract for not taking planes and for not taking up the wet lease of the 767 aircraft hangared in a hangar in Mexico.

Sen. Ramlogan SC: What you going and start on, CAL?

Sen. George: Mr. President, Standing Order 35(1) again, we did not come here to debate CAL.

Mr. President: I thought we were about to move on, Sen. Deyalsingh, to another example. As I said, you are entitled to introduce examples about procurement that should be addressed in the policy and in future legislations. But, I would like you to proceed on that basis.

Sen. T. Deyalsingh: Thank you, Mr. President. If we are looking for examples, Mr. President, then we can turn to Petrotrin.

Sen. Ramlogan SC: “The rate you going, you go get reshuffle too, you know.”

Sen. T. Deyalsingh: The questions I would like to ask the Government are as to the procurement of contractual services to recondition what we commonly call the cat cracker. Petrotrin has issued a contract to redo the cat cracker. The upgrade work started in April 2011, a full year and change ago. That contract which was procured by Petrotrin and given to a company called Chicago Bridge and Iron, has not yet been completed, and this country has been importing gas which the public is blissfully unaware of. We are procuring gas from overseas to meet our local demand.

So the uncomfortable questions to be posed to the Government are these: when did we start buying gas from overseas? How long is this going to continue for and what are the losses being incurred by procuring gas from overseas because a contract given to Chicago Bridge and Iron has not yet been properly fulfilled? And the cat cracker is down a year and a quarter later. I just leave that on the table by way of example.

Mr. President, if we seek to repeal the Central Tenders Board Act we have to ask the questions. These current contracts, are we learning anything from the mistakes made under these current contractual arrangements? I would like to pose directly to the Government: tell us what is going on with the cat cracker, tell us what is going on with CAL.

My last bit of inquiry under this piece of legislation has to do with the recent procurement issue of a \$2 million contract given to a company called Sash—is it Sash? Consulting, 2 million to teach manners. Again, we cannot legislate for everything under the sun. The Government, one day, has to act ethically as mentioned in this piece of legislation. [*Desk thumping*] Why is the contract being given to a friend of the Government solely based on that friendship to teach southern hospitality? Is it that we are going to teach our children to say, “Hi y’all. Where are we going y’all?”

Mr. President: Senator, that is really not part of this debate.

Sen. T. Deyalsingh: I am guided, Mr. President.

Sen. Ramlogan SC: “You have gawn off course.”

Sen. T. Deyalsingh: It is not a matter of class.

Hon. Senators:—course. [*Laughter*]

Sen. T. Deyalsingh: You are bringing a \$2 million contract to a company that has no track record. And this is what the hon. Minister is trying to avoid. Where is the fit between intent and action in the award of this \$2 million contract to teach manners? Where is the fit? I understand the intent but the actions do not fit the intent. That is what people are querying with procurement under this Government, that you talk a good talk, you talk a brilliant talk, it sounds nice, it sells, but the actions are found wanting. Mr. President, with those very few words, I thank you.

Sen. Dr. Rolph Balgobin: Thank you, Mr. President. I rise to make a few comments on this report that has been put forward to us and make a few observations which I hope will assist the framers of the legislation to come to present something that is building on what work has been put forward here so far.

I should begin by observing that this report surprised me. I was very, very surprised—pleasantly so—to receive it. It is an extremely difficult, thorny area to contend with. It has been fraught with difficulties from ever since. Indeed the Central Tenders Board has been recognized as largely irrelevant for the last 30 years. So we are witness to a very interesting and severe haircut by my friend and colleague, also, witness to an excellent report put forward by the Joint Select Committee. [*Crosstalk*] I think this is an excellent report and there is very little I can take away from it. I would however, like to offer some comments by way of hopefully improving it and some observations as well.

Picking up from this idea that the Central Tenders Board has been under siege or irrelevant for almost 30 years, I would make the observation that I made when I last spoke here and that is to say as we approach the celebration of 50 years of Independence, of self-government, that every single Government that we have had, every single one, without exception, has been wracked by allegations of corruption—every single one.

In driving here today and listening to Sen. Dr. Tewarie’s opening remarks as he tabled this report, I was minded to wonder whether it is not now engrained in the national consciousness that we call those in Government “thieves” by reflex, because, it appears to be a part of our behaviour that we expect people in government to steal—to “tief” as we say. We expect to be able to call them thieves.

My friend and colleague, Sen. Deyalsingh, has put forward two excellent examples of that.

Sen. Deyalsingh: Ahh!

Sen. Dr. R. Balgobin: One is the ATR purchase and the other has to do with manners. I looked at the headlines with regard to the “manners” contract. I thought that there was an effort being made to create some excitement about this

particular contract—justifiably or not I am not in a position to say. One thing I can and probably would ask here is, how much time does a company need to exist in order for it to qualify for a government contract? I did not see an issue with a company existing for three years being given a contract. There has to be something more in it than that. These things need to be made much more explicit.

Same thing with the ATRs; I am doing some teaching in Tobago and I fly weekly now with the ATR and I find it to be a good plane. I do not have too much difficulty with it. I am surprised to hear people's luggage do not travel with them. This is something my colleagues from Tobago can tell me more about.

But to what extent would you be able to hold everybody involved at a senior level accountable for some of these things is kind of an open question for me. But the issue of procurement and corruption, of course, looms large in the public imagination because the public purse is large. It is very big and growing year on year. There is an established—if unspoken of—nexus between political power and economic power and the economic power that is wielded by those in the political class through the control of state enterprises. So, I thought that this report was a timely intervention and a very tidy piece of work. I join with others who have commended the JCC and Chambers and the members particularly for their pulling this together. [*Desk thumping*]

I should so recognize—because you know leaders often get bypassed in the rush—the work of the last chairman, that is, Dr. Tim Gopeesingh, and the work of the current chair, Sen. Dr. Bhoendradatt Tewarie in pulling this report together, which frankly, as I said, I did not expect and I am even more pleasantly surprised to note the quality of what has come forward, due no doubt in part to the participation of my colleagues from the Independent Bench, I would like to believe. [*Desk thumping*]

So just a few quick observations: the first would be with regards to the procurement regulator. I note that this person will be appointed by the President.

I was hoping that the report would have said appointed by the President in his sole discretion, and that I felt would have, perhaps, depoliticized the role more effectively.

3.50 p.m.

But, I also was minded to wonder about the role of a procurement regulator in relation to the Parliament. I note that the committee had begun to struggle with that thorny issue, and came up with the solution of expanding the role of the Public Accounts Committee of the Parliament—PAC—but the PAC is already very

heavily loaded. I think that the parliamentary system as it stands is very hindsight focused. For today, for example, I have three notes from the Auditor General on state bodies for the Eastern Regional Health Authority for 2007, 2008 and 2009. So, if I were to pick something up of interest by 2012, the horse, of course, has not just bolted but has disappeared into the distance. So, there is something wrong with our parliamentary system. I gathered that the committee would have recognized that and left its resolution to the legislation to come and the regulations.

But, it is an important opportunity for us to improve and increase the degree of oversight that the Parliament exercises over any executive. I note that we keep putting these things out to an independent body, in this instance, the procurement regulator. What is the role of a modern Parliament in overseeing these things? I think that there is a role, and I wonder whether a separate and a special committee could not, and should not, be made up of the members of the Government and Opposition from both Houses, including the Independent Bench, that would pay particular or specific attention and whose specific work would be public procurement given the size of spend, the amount of money, the currency, the speed of it, because at present, the procurement regulator in this report has to submit one report within 30 days of the end of a year.

That is, to my mind, even not timely enough given the speed at which things happen nowadays. So, I wanted to make the suggestion that a separate committee be considered as opposed to a mere expansion of the role of the existing PAC. If we are going to change the Constitution, we might as well change it properly and be done with it.

The other question I had with regard to a procurement regulator had to do with the relationship between the regulator and corporate boards. What are the implications for corporate governance? Sen. Deyalsingh implied that boards are responsible for purchases in state enterprises; unless I misunderstood. However, in many state enterprises, there are a number of things that can be purchased that do not hit a particular threshold. So what you can do is, instead of cheating or stealing with one major transaction, you can have a thousand small transactions where you are actually getting a cut.

In my experience in the state enterprise system, they are very often populated by well-meaning directors; nationals who have been asked to serve and step forward to do so; many of them without political affiliation. You may actually have a fairly hard core, corrupted operation within the guts of the state enterprise. These people are not covered by integrity declarations; they do not have to go

through the level of rigour or scrutiny; and they can do things as simple as influence technical specs, help write terms of reference so that it meets the requirements of a particular or preferred bidder. They can find interesting, or sometimes surreptitious, sometimes very overt, ways of kicking out tenders, legitimate tenders, that are submitted by people, so all these things happen. So, it is not just that a procurement regulator has to examine the behaviour of political appointees; it is not just that.

How does the role of the procurement regulator measure up against the requirements for corporate governance? I say that particularly in relation to the question of a procurement regulator initiating investigations when there are allegations of wrongdoing in a State organization. I am using a state enterprise as an example because I am talking here about corporate governance. Does the state regulator refer that to the board to investigate? Does the state regulator investigate it himself or herself? Because even with the initiation of an investigation, there are reputational hazards for directors who step forward to serve—"I am now being investigated because I have approved in some tenders committee, six months or a month ago, something that we thing—and I am now being investigated by somebody else there." Why would I want to subject myself to that?

A board is supposed to be the highest decision-making body in a corporate structure. Of course, what has happened in the political life of Trinidad and Tobago is that we have basically castrated boards and made them slaves to political influence. But really, the board is supposed to be the ultimate decision-making power. There are exceptions, of course, and various Governments have tried—on occasions—to achieve independence of boards. I would be interested to see how we manage that so that a person does not feel that they are accepting a larger and growing risk if they accept a board appointment for a state enterprise.

The next small point I had is related to local content, or as my friend, Sen. Dr. Armstrong, suggested, foreign content. My response to him on why we do not call it foreign content is because it is all foreign content. [*Laughter*] The reason you say local content is because you hardly ever see it.

Hon. Senator: The exception.

Sen. Dr. R. Balgobin: Yes, you hardly ever see it. I want to make some suggestions in this regard because the report appeared to be somewhat silent. I think local content was implied so I gathered that it was something that the committee would have had to think about. That is to say that I think that the issue

of local content should be explicitly addressed in the legislation and the regulations. The reason for that would be that it is true to say, in many spheres, that foreign produced goods are better; it is true to say that they are of a higher quality; it is true to say that they are often cheaper.

But it is also true to say that they are recipients of subsidies and of support that may be invisible to an eye which lacks sophistication or the capacity to discern, in the midst of that tapestry, what actually may be happening. Why are these people able to produce and sell into countries like Trinidad and Tobago at the price that they do? So, I would say that local businesses need support and I would want to encourage Government to act or behave in a way that is very supportive of local business.

For example, I was talking to a painter this morning—he is painting the inside of my house—and he was telling me that he did some work on the Parliament building. He said, while he was there, he snuck into some room and he saw there—he beheld the largest grapes and apples that he has ever seen which he promptly consumed, [*Laughter*] which earned him the ire of a police officer standing nearby. He then, having been found out, took the remainder, as a mark of protest and flushed it down the toilet which, I assumed, he then clogged. [*Crosstalk*]

Well, I did not know this before he turned up so—but, what was interesting was that there were apples and grapes—no mango, sugar apple, five fingers, you know. We are not producing these things anymore perhaps, but I think that Government functions should emphasize things that are produced locally. We should feel proud about that, and it should be done here too. So, even our behaviour, I think, has to change.

I would really say that I was hoping that the committee would recognize, and I am quite confident that the legislation will recognize, the role of public procurement in developing the competitiveness of Trinidad and Tobago. Because, I think if there are closer ties between Government and the private sector, Government purchasing alone can help to drive the standards of the private sector production up. But there must be that measure of protection, support and engagement between the Government and the private sector where the Government can say to the private sector, “These are the standards that I need and I am prepared to work with you so that you can meet these standards as opposed to just going abroad and just buying it from somebody else.” I think that if we were able to do that, we would achieve an improvement in the competitiveness of Trinidad and Tobago which is what we all want.

Penultimately, Mr. President, I would have hoped that the report would have told us a little bit more about which areas are to be centralized and which are to be decentralized in the new public procurement model. I have recognized the opportunity for a hybrid model and I was hoping that we would have perhaps gotten a little more guidance in terms of Ministries, state enterprises, bodies corporate and quasi-state agencies and so on. I am hopeful that I would get clarification on that sooner rather than later.

The question of supplier blacklists and the dangers of competitive behaviour, I think, should not be ignored. I heard the hon. Minister, Sen. Dr. Tewarie, speak to this, and I think it is very important that we recognize how critical that is. This is a society where we say very, very nasty things about each other. It is one aspect of our behaviour which we must change. We have not been helped by our media in this regard. I could see how someone would seek to stymie the efforts of a competitor by lodging a complaint against them, if, for example, the act of lodging a complaint suspends that supplier from providing goods and services for a period of time while the complaint is being investigated. It occurred to me that there is a growing number of people that you could complain to. Apart from the courts, you could now complain to the procurement regulator, you could complain to the Equal Opportunity Commission, you could complain to the Integrity Commission, you could complain to the FIU, you could complain to many places, and create something of a hairball.

So, I hope that when we are drafting the legislation, we are mindful of the need to streamline this so that we can resolve these things quickly, and ensure that people behave appropriately, and that wild allegations are not supported or permitted to interfere with positive business development which this country sorely needs.

4.05 p.m.

Mr. President, I am hopeful that we can get a little bit ahead of ourselves as we consider this legislation. The report itself, I have just a few comments on, no major difficulties. And, again I thought it was excellent and I commend the chairman and the members of the committee for the very excellent work that has been done.

But, I am also minded to observe that politics pollutes everything and we have to get to a point, I hope, as a society, where it does not. I was disappointed to note that not all members of the committee signed off on the report and I wondered why, since the level of attendance was pretty good, judging by the appendices, and so on. I do not

accept, entirely, the argument that we have to get instructions from somewhere else. I think more than enough time has passed. The Leader of the Opposition was, in fact, on this committee and attended meetings and I think if we have to go forward as a nation, we have to be big-hearted and sign the paper sometimes. I cannot understand what the—[*Desk thumping*—]wickedness would be or what would the mischief be if this report was signed and supported. I do not think it commits anybody to any particular support for a Bill.

So, I am hopeful that we can find some sort of consensus solution that will allow us to go forward, perhaps, more positively and more productively and, in that vein, just to ask the hon. Minister and chairman of the committee, in his winding up, if he would have this information, to suggest to me, and by extension the public, when we might expect to see this legislation. I think that is, for me, a very important aspect. He may have said it and I missed it, but I am hoping to have that refreshed in my own thinking. Again, congratulations to the committee and the chair and thank you, Mr. President.

SELECT COMMITTEE REPORT

Committee of Privileges

(Presentation)

Mr. President: Hon. Senators, you will recall that I deferred one of the reports to be laid before the Senate and at this juncture I wish to invite the Minister of National Security to lay that report before the Senate.

The Minister of National Security (Sen. The Hon. Brig. John Sandy): Thank you, Mr. President. I have the honour to lay on the table the following report as listed on the Supplemental Order Paper in my name:

Report of the Committee of Privileges of the Senate, Second Session (2011-2012), Tenth Parliament.

JOINT SELECT COMMITTEE REPORT

**Legislative Proposals to Provide for Public Procurement
and Disposal of Public Property and the Repeal and
Replacement of the Central Tenders Board Act**

(Adoption)

Mr. President: Thank you, Senator. We will now continue with the debate.

The Minister of Planning and the Economy (Sen. The Hon. Dr. Bhoendradatt Tewarie): Thank you very, very much, Mr. President. I want to begin by thanking all Senators who contributed today and who really contributed in the spirit that we will try to conclude this debate in fairly short order, but also in the spirit of general support for the Bill, although the members of the Opposition have indicated that they will not vote for the Bill.

I want to mention, in passing, that members will note from the reports and from the attendance documents that it really took five sessions to bring this matter to conclusion and it means that the work of the committee, over those five sessions, was very, very pointed. And notwithstanding all the suggestions that it might have taken a long time, in reality, about 18 months, if we go back to the first meeting of the committee under the chairmanship of former chairman from the other House, the Member of Parliament for Caroni East, notwithstanding all of that, in the five sessions that we had, we were able to bring this matter to conclusion.

That was done in a context in which, first of all, the consensus approach that we took actually did not bear fruit. And having not borne fruit, we brought a policy position to the table and we were able to accommodate amendments and different points of view and bring what we have brought here today, which is a consensus document, contributed to by everyone. And this was in spite of the fact, too, that for a significant period of that time in between the five meetings, there was inaction because of the withdrawal of the Opposition's members of the committee.

So, I think the fact that we have been able to get here in what is essentially a short period of time really says a lot about the focus that was brought to this particular report and that is why I am extremely disappointed, and I share the view of Sen. Dr. Balgobin that the Opposition would refuse, at this point, to sign the report and, secondly, take the view, after all of this consultation, that they would want more consultation.

I want to identify some of the consulted entities who contributed to the work of the committee and who helped to shape some of the issues. The Joint Consultative Committee was already mentioned and I too wish to acknowledge their tremendous contribution. Not only did they present to the committee, but there were many emails, there were many submissions of written documents, including draft legislation, and they really made a significant contribution to the process.

But there were others and I do want to mention, because this business of consultation, I do not think that it can be treated as a serious matter. I do not mean that to bring into disrepute any claims by Members of the Opposition. But I do want to say, as I mentioned before, Mr. Greg Christie, Contractor General of Jamaica, made a full presentation and spent beyond a half-day with us; the Inter-American Development Bank; the Ministry of Labour and Small and Micro Enterprise Development; the private sector civil society group in addition to submissions by the Joint Consultative Council; the procurement specialist from the World Bank; and there were others who sent various documents.

So, the consultation process was really quite strong, and I find it very difficult to admit as reasonable any of the following positions or the Opposition: “(1) We will not sign the report, it makes no sense”, especially since you contributed to it and to the policy; “(2) We will not vote for it”, I see no point because it does not bind you, as Sen. Dr. Balgobin mentioned, to any position on the legislation when it comes here because we will go through the entire process.

I want to say that when legislation comes to Parliament, before it is actually debated it is possible to leave time for consultations and contribution. That is a normal process of parliamentary practice. And, in that regard, there is really no reason to vote against it. The third thing is the consultation is not necessary because the consultations have been done to get us to this point and the process of a joint select committee is a consultative process. [*Desk thumping*]

When Sen. Dr. Armstrong spoke about the issue of going out to civil society and perhaps continuing the process, that is to say after legislation has, in fact, been established, I think it really underscores the fact that we have done our work. I really thank hon. Members for doing their work and for making their commitment and making it so pointed. It could not have been completed in five sessions were it not for the seriousness of members of the committee. Therefore, everything that is being done now, in relation to the report being laid in Parliament, belies this seriousness that you have brought to the committee and its work and it really undermines all the work and the significant contribution that you have made.

This is where, again, I want to say, Sen. Dr. Balgobin is correct, politics actually, badly practised as it is in this country, spoils everything. You can have the best that is possible for Trinidad and Tobago, you can do the best that is possible for Trinidad and Tobago and yet, given the nature of this society, politics will pollute the process. And I really do not think that we can go on like this much longer, because I think, quite frankly, the country needs more, the country deserves more and they are already demanding, but I think the time will come when they will demand much more.

I want to move on to answer some of the issues that have been raised here today, in good faith. I want to not forget to name, although I have done it in the other House, and thank all members of the committee.

4.20 p.m.

Those members of the committee were: hon. Dr. Tim Gopeesingh, MP, Member of the other House; hon. Herbert Volney, MP, Member of the other House; Dr. Keith Rowley, MP, Member of the other House; Hon. Prakash Ramadhar, MP, Member of the other House; hon. Collin Partap, MP, Member of the other House; Mr. Colm

Imbert, MP, Member of the other House, and the Senators, and former Senators, who are from this Senate: Sen. The Hon. Anand Ramlogan SC; Sen. Faris Al-Rawi; Sen. Dr. James Armstrong; [*Crosstalk*] Sen. Helen Drayton and Sen. David Abdulah who made his contribution to this procurement document. He attended meetings, made contributions here in the Senate, and I want to thank him for his contributions. [*Desk thumping*] It really is a pity he has taken the position that he has, because from my point of view it really was not necessary.

But I do want take this opportunity to welcome once again our Sen. James Lambert. [*Desk thumping*] I know his own contribution here in the Senate will be sterling and exceptional and rooted in his long history in the trade union movement in this country, and I look forward to his contributions here in this honourable Senate. [*Crosstalk*] I hope nobody is questioning Sen. Abdulah's contribution because really it was genuine.

Sen. Deyalsingh: No.

Sen. Al-Rawi: The crosstalk was not meant to interrupt you, sorry.

Sen. The Hon. Dr. B. Tewarie: I want to say—[*Laughter and crosstalk*]

Hon. Senator: “You cautioning dem?”

Hon. Senator: “Doh geh distracted by Faris.” [*Laughter*]

Hon. Senator: Faris? [*Laughter*]

Hon. Senator: “Yeah, yeah, in his cream suit.”

Sen. The Hon. Dr. B. Tewarie: Now, the question was raised about Invaders Bay and, of course, I would not go into that, Mr. President I have answered it on many occasions and the time will come you know—there will be a full ventilation of all of these things, and the time may well come when I may ventilate some other things as well, but everything in time as they say, and this Invaders Bay matter is something I think will go down in history, once it has come before the public domain. I think it will go down in history as one of the most transparent attempts to monetize Government's property. That is first thing I want to say.

Secondly, it will reveal a lot about the nature of business and business transactions in this country. The third thing it will do is that it will show—if I am able to make the interpretations that are necessary—the hidden connections and dimensions of life in this country. I have a lot of patience, and I can be very passionate and very restrained depending on the occasion, and on this occasion I

choose to be very restrained on that matter, but the time will come when all will be told and all will be said and I may have some passion at that time, I do not know. [*Laughter and crosstalk*] Do not be too anxious, you know. Sometimes when you are too anxious for something—[*Laughter*]

Hon. Senator: “Sip yuh porridge cool.”

Sen. The Hon. Dr. B. Tewarie: I want to also—you know, I mentioned the members of this committee, but I must not forget to mention, I mean, the members of the parliamentary staff who supported us here: Mrs. Lily Broomes, the Secretary; Mr. Julien Ogilvie [*Desk thumping*] and Miss Sheranne Samuel—and I want to say that if anybody ever saw these people work, and saw the extent of productivity and quality, “I do not think” they will ever say a bad word about anybody in the public service, okay.

Sen. Ramlogan SC: “And doh forget de AG staff.”

Sen. The Hon. Dr. B. Tewarie: And, of course, the AG’s staff. [*Crosstalk*] I seem to have a lot of pressure with this procurement legislation, you know. In the House, when I was speaking, it was a difficult situation and I have to wind up very quickly, and it was only because I was provoked in that House that I was prompted to say some of the things I said. The situation here was less provocative, but the AG—[*Interruption*]

Sen. Deyalsingh: Which he now regrets.

Sen. The Hon. Dr. B. Tewarie: No, I have no regrets. I would rather deal under conditions of civility—but the AG is provoking me— [*Laughter and crosstalk*]

Hon. Senator: “Doh be misguided.”

Sen. The Hon. Dr. B. Tewarie:—and asking me to wind up, which I will— [*Laughter and Desk thumping*]

Hon. Senator: Most politely. Most politely. [*Crosstalk and laughter*]

Sen. Ramlogan SC: “He want to procure winding up.”

Sen. Deyalsingh: “He want to procure winding up.”

Hon. Senator: “In ah transparent manner. He walk across.” [*Laughter*]

Sen. Al-Rawi: “In ah transparent manner.”

Sen. The Hon. Dr. B. Tewarie:—because we have some commitments [*Crosstalk*] that we must meet. I do want to mention, as well, Mrs. Claire Blake; Miss Ann Hosein and the members of the AG’s staff, Mrs. Furlong, I think, who— all of them contributed significantly—[*Interruption*]

Sen. Ramlogan SC: Yes!

Sen. The Hon. Dr. B. Tewarie:—and who are all hard workers, all right.

Sen. Deyalsingh: And with those few words. [*Laughter*]

Sen. The Hon. Dr. B. Tewarie: I am not able—if I want to complete by 4.30 p.m., I am not able—[*Laughter*]—I am not able to go into direct responses—

Hon. Senator: “Yuh have time.” “Yuh have time.”

Sen. The Hon. Dr. B. Tewarie:—to all of those issues—[*Crosstalk and laughter*]

Sen. Deyalsingh: “Yuh coulda just stop after “ah not able”, full stop.” [*Laughter*]

Sen. The Hon. Dr. B. Tewarie:—but I do want say some general things, because some general things were said, and they have to do with the nature of governance and Government, and the issue of boards and people in the system and so on. [*Crosstalk and interruption*]

Sen. Deyalsingh: “Divali coming just now yuh know.”

Sen. Ramlogan SC: “He coming with de Ramleela Bill, yuh know? [*Laughter*]

Sen. The Hon. Dr. B. Tewarie: I am glad that we can end on such a jocular note. [*Crosstalk*] But, you know this business—legislation cannot redesign character. All the legislation in the world will not redesign character—[*Interruption*]

Hon. Senator: “Ohhh papa!”

Sen. The Hon. Dr. B. Tewarie:—and legislation cannot change culture. It can create the conditions in which cultural change can be facilitated, but it cannot. [*Interruption*]

Hon. Senator: Two minutes.

Sen. The Hon. Dr. B. Tewarie: But I do want to say that it is important to create institutions in the society that help us to take the culture in a desirable direction and to take the behaviour of people in a desirable direction.

This procurement—this attempt to design a policy and legislation to align with it, in order to do this, is something that is very much needed and something we are proud to bring here to this Parliament. [*Desk thumping*]

The country needs to take a hard look at itself and really decide what kind of country we want to live in, and what kind of institutions we need to create in order to do that. [*Interruption*]

Hon. Senators: One minute. One minute.

Sen. The Hon. Dr. B. Tewarie: And, therefore, it is in that spirit that we bring this legislation. [*Interruption*]

Hon. Senator: “Yeah. Yeah. Yeah.” [*Desk thumping*]

Sen. Deyalsingh: Well done! Well done! Well done!

Sen. The Hon. Dr. B. Tewarie: It is in that spirit that we bring this document here today, which, as you know, is a report from a Joint Select Committee and Mr. President, with your leave, I ask that we adopt this report and I beg to move. [*Desk thumping*]

Question put and agreed to.

Report adopted.

ADJOURNMENT

The Minister of Public Utilities (Sen. The Hon. Emmanuel George): Mr. President, I beg to move that this Senate do now adjourn to Monday, June 25, 2012, at 1.30p.m., when the debate will be that the Senate adopt the second report on the Joint Select Committee on Parliamentary Accommodation. The debate will be led by Sen. Dr. James Armstrong. Thank you very much.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 4.31 p.m.

WRITTEN ANSWER TO QUESTION**Unemployment Relief Programme
(Funds expended monthly
June 2010 to May 2012)**

83. Could the hon. Minister of Local Government inform the Senate of the total amount of funds spent on the Unemployment Relief Programme on a monthly basis for the period June 2010 to May 2012?

The Minister of Local Government (Hon. Dr. Surujrattan Rambachan):
The total amount of funds spent on the Unemployment Relief Programme on a monthly basis for the period June 2010 to April 2012 is given below. Figures for the month of May 2012 as at May 14, 2012 are unavailable, as the month has not yet ended.

Fiscal Year 2009-2010

MONTH/YEAR	AMOUNT (\$)
June 2010	32,229,265.78
July 2010	36,509,052.02
August 2010	30,872,866.76
September 2010	19,464,095.25
Sub Total	\$119,075,279.81

Fiscal Year 2010-2011

MONTH/YEAR	AMOUNT (\$)
October 2010	26,228,428.54
November 2010	30,477,096.37
December 2010	34,252,273.66
January 2011	39,741,052.83
February 2011	33,171,733.33
March 2011	29,152,164.73
April 2011	16,811,959.56
May 2011	19,595,516.29

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June 2011	24,639,226.64
July 2011	32,306,157.55
August 2011	25,135,519.01
September 2011	31,808,273.96
Sub Total	\$343,319,402.47

Fiscal Year 2011-2012

MONTH/YEAR	AMOUNT (\$)
October 2011	21,116,965.38
November 2011	32,158,090.46
December 2011	25,868,376.19
January 2012	32,607,295.73
February 2012	28,933,761.29
March 2012	27,128,384.21
April 2012	24,525,552.24
Sub Total	\$192,338,155.50

Grand Total : \$654,732,837.28