

SENATE*Tuesday, June 07, 2016*

The Senate met at 1.30 p.m.

PRAYERS[MADAM PRESIDENT *in the Chair*]**LEAVE OF ABSENCE**

Madam President: Hon. Senators, I have granted leave of absence to Sen. The Hon. Jennifer Baptiste-Primus, Sen. Dr. Lester Henry and Sen. Gerald Hadeed, who are all out of the country, and to Senators Paul Richards and H.R. Ian Roach who are both ill.

SENATOR'S APPOINTMENT

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

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

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

President

TO: MR. ROHAN SINANAN

WHEREAS Senator Jennifer Baptiste-Primus is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:

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NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, ROHAN SINANAN to be temporarily a member of the Senate, with effect from 7th June, 2016 and continuing during the absence from Trinidad and Tobago of the said Senator Jennifer Baptiste-Primus.

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 6th day of
June, 2016."

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND
TOBAGO

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

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

President

TO: MR. RONALD HUGGINS

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

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me

by section 44(1)(a) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, RONALD HUGGINS to be temporarily a member of the Senate, with effect from 7th June, 2016 and continuing during the absence from Trinidad and Tobago of the said Senator Dr. Lester Henry.

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 6th day of
June, 2016."

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND
TOBAGO

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

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

President

TO: PASTOR CLIVE DOTTIN

WHEREAS Senator Paul Richards is incapable of performing his duties as a Senator by reason of his illness.

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(b) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, PASTOR CLIVE

DOTTIN to be temporarily a member of the Senate, with effect from 7th June, 2016 and continuing during the absence of Senator Paul Richards by reason of illness.

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 6th day of
June, 2016."

Madam President: Hon. Senators, we are to receive two further instruments of appointment. So later on in the proceedings we will have the swearing in of those two Senators.

OATH OF ALLEGIANCE

The following Senators took and subscribed the Oath of Allegiance as required by law:

Rohan Sinanan, Ronald Huggins and Pastor Clive Dottin.

TRIBUTE

(MR. CLIVE SPENCER)

Madam President: Hon. Senators, as you aware, former Senator Clive Spencer passed away on June 02, 2016. I now invite you to offer your tributes.

The Minister of Rural Development and Local Government (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. On behalf of the Government of Trinidad and Tobago and on this Bench, I want to pay tribute to the passing of a former Independent Senator, Clive Randolph Winston Spencer, born August 10, 1936. I see from the records here that he was appointed a Senator, an Independent Senator in 1966, in those days at a very tender age of 30. So while the trend now is to appoint fairly young Senators, in the 1960s that was not the case.

Tribute
(Mr. Clive Spencer)
Sen. The Hon. F. Khan

2016.06.07

So in that sense, obviously, he had something special about him

I do not know the gentleman personally, so I cannot speak in that capacity, but what I have noticed, Madam President, is that we are fast losing an entire generation of our immediate post-Independence leaders. These were gentlemen of stature and women of stature. This was the era when country was put before selves, and in a very, very serious way.

I think we have lost our moorings as a nation when it come to that, and there is a lot we can learn, if we study the lives and accomplishments of the people who led this country during the '60s and '70s.

From the records, I see here, that he spanned the entire spectrum of the Port Authority of Trinidad and Tobago, another unique accomplishment of this distinguished gentleman. He was President General of the Seamen and Waterfront Workers Trade Union, from 1965—1970. He was also President of the Trinidad and Tobago Labour Congress, now defunct. Following his career carefully, he became General Manager and Chief Executive Officer of the Port Authority of Trinidad and Tobago from 1992—1997. Then he went on to become the Chairman of the Port Authority in the year 2011.

So in a seamless transition, he moved from President General of the Seaman and Waterfront Workers Trade Union and President of the Trinidad and Tobago Labour Congress, to Chief Executive Officer of the Port Authority, and then onwards to Chairman of the Port Authority, in a seamless transition from labour to management, to Board. I hope I do not get in problems for saying this, but the situation you see now, is where a labour representative seemed to be a career position, and what we want to see is that you can come from labour, you come from the bowels of labour, go on to management, because if you love the

Tribute
(Mr. Clive Spencer)
Sen. The Hon. F. Khan

2016.06.07

institution in which you work for, there is nothing wrong in moving from the labour movement into senior management.

Sen. Spencer accomplished a lot. He was very instrumental in establishing the system of National Awards in Trinidad, the Prime Minister's Export Promotion. He was also instrumental in forming the National Insurance Scheme in Trinidad and Tobago, and also the Workers' Bank of Trinidad and Tobago. Not very well known in the national community as we speak, but obviously a man of distinction, a man who has served this country extremely well.

On behalf of the Government of Trinidad and Tobago, on behalf of my party, the People's National Movement, we want to offer our deepest condolences to his family, and to hope and to pray, that his soul rests in eternal peace.

I thank you, Madam President.

Sen. Wade Mark: Thank you very much, Madam President. On behalf of the Senate Opposition Bench, I rise to pay tribute to former Independent Senator, Mr. Clive Winston Spencer, who passed on June 02, 2016. Mr. Spencer was born on August 10, 1936 and served in the Senate from November 19, 1966—October 01, 1970.

1.45 p.m.

During his tenure as an Independent Senator, Mr. Clive Spencer was the youngest member in the Senate, and his youthful exuberance in contributing to the development of the nation can be seen by his active participation in debates and the Regulations Committee. Mr. Spencer came from a family aligned to serving people, as his father was a public officer in the postal service and his mother a seamstress, and so he continued in this mould during his professional career.

Mr. Spencer served on such an extensive list of committees, clubs and

Tribute
(Mr. Clive Spencer)
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associations in his professional career that if I were to attempt to name them all, my tribute will never end today. Most notably, Madam President, he was the President General of that very powerful trade union, the Seamen and Waterfront Workers Trade Union, President of the Trinidad and Tobago Labour Congress, Chairman of the Committee for the Establishment of the Workers' Bank of Trinidad and Tobago, General Manager and Chief Executive Officer of the Port Authority between 1992 and 1997 and, as my colleague said, he was also Chairman of the Port Authority of T&T in 2011 or from 2011.

During his period of service at the Port Authority, it was noted that Mr. Spencer was dedicated to his job around the clock. This resulted in productivity increasing tremendously, and the port being developed during his period of service than any other. Mr. Spencer was also a man of the people and involved workers in the decision-making process.

Clive Spencer's service to the trade union movement was nationally recognized early in his career as he was awarded, Madam President, the Chaconia Medal Silver in 1970. Clive Spencer was fearless, motivated, honest, independent and extremely hard-working. He was an individual who led from the front and was never arrogant in dealing with people.

In their time of grief, I would like to express on behalf of the Opposition Bench our sincere condolences to his wife, his three offsprings: Leslie, Annalisa and Clive, his brother, Mr. Trevor Spencer, and his grandchild. The nation as a whole owes a debt of gratitude to Mr. Spencer for his invaluable contribution to the development of our nation during the period that he commanded space on this earth.

May the Lord of the universe richly bless him even in death and may his

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Tribute
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soul rest in peace.

Sen. Dr. Dhanayshar Mahabir: Thank you very much, Madam President. On behalf of the Independent Bench of the Parliament, I too would like to pay tribute to our former Independent Senator, Sen. Clive Spencer. Sen. Spencer would have entered this Parliament in 1966 appointed by then Governor General, Sir Solomon Hochoy, a full decade before we achieved Republican status. At the age of 30, Madam President, he would have distinguished himself in such a manner that he would have been asked to serve on the Independent Bench of our Parliament. When one looks at his record, one sees a continuing seam of the service that he offered to the country through the Parliament of Trinidad and Tobago.

Examining his professional career, I saw that he was on the committee which contemplated the introduction of the National Insurance Board of Trinidad and Tobago. We now take it for granted that we are entitled to some NIS payments when we have made a certain 750 contributions, but prior to the establishment of the NIB in the early '70s, you would have had background work pioneered by people like Clive Spencer and others but, certainly, Sen. Clive Spencer in establishing the National Insurance Board.

Mr. Spencer also, on behalf of the working class of Trinidad and Tobago, sat on the committee to establish the Workers' Bank of Trinidad and Tobago so that the working class of this country can obtain for themselves a certain amount of savings, not only at pensions for NIB, but also during their working career they would have been able to access loans at the Workers' Bank and also be able to accumulate their own capital.

Our colleague, Clive Spencer, was an active trade unionist. He worked on the tripartite committee on vocational training. He also sat on the committee for the

Tribute
(Mr. Clive Spencer)
Sen. Dr. Mahabir

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establishment of the Cipriani Labour College and also on the committee for the establishment of National Awards. These are institutions, Madam President, which now form part of the landscape of Trinidad and Tobago.

As citizens of the Republic we all benefit from the work all of these committees do. We benefit from the organizations that former Senator Spencer assisted in building. These are the institutions which are now critical for improving the quality of life of people in this country who, before the organizations were established, did not have the mechanism to improve their own welfare. When one examines the list of committees on which he sat in the Parliament, one saw that there was indeed a tremendous amount of respect by the Government of the day, the Williams administration, for the abilities and the commitment of Sen. Spencer to the national good. The record he has left is an indication to all of us on this Independent Bench that the Independent Senators of the past can provide for us, and will continue to provide inspiration for us in the type of service we can perform for and on behalf of the people of the Republic.

For this Bench, we have lost a pioneer. We have lost someone who has established a noble and distinguished tradition in public service. We applaud his contribution to the national community. We applaud his contribution to the Parliament of Trinidad and Tobago, and we mourn his loss as members of the Independent Bench.

To his family, Madam President, I say deepest condolences, and to those immediate relatives closest to him, who would feel the pain the greatest, I say the pain is personal, but really the loss is a loss to the country, and we express deepest sympathies and condolences, but let us celebrate his life. It was indeed a very distinguished career. I thank you, Madam President.

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Tribute
(Mr. Clive Spencer)
Madam President (cont'd)

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Madam President: Hon. Senators, permit me to endorse all that has just been said about former Senator, Clive Winston Spencer. As we have heard, he served in the Second Independent Parliament between 1966 to 1971. That hon. Senators was a period of change and challenge for our country and our fledgling democracy. It was a time when as a people we had to steer our way safely through new waters. Former Senator Spencer, therefore, was one of those who helped lay down the anchor of our democratic principles, practices and conventions. We are grateful for his service.

Hon. Senators, I will instruct the Clerk to convey to his beloved family your deep condolences and our kind sentiments.

Hon. Senators, we would now stand and observe a minute's silence.

The Senate stood.

PAPERS LAID

Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Penal/Debe Regional Corporation for the year ended September 30, 2005. [*The Minister of Finance (Hon. Colm Imbert)*]

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Chaguanas Borough Corporation for the year ended September 30, 2010. [*Hon. C. Imbert*]
2. Second Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Diego Martin Regional Corporation for the year ended September 30, 2003. [*Hon. C. Imbert*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Diego Martin Regional Corporation for the year ended September 30, 2004. [*Hon. C. Imbert*]

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4. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Diego Martin Regional Corporation for the year ended September 30, 2005. [*Hon. C. Imbert*]
5. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Diego Martin Regional Corporation for the year ended September 30, 2006. [*Hon. C. Imbert*]
6. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Diego Martin Regional Corporation for the year ended September 30, 2007. [*Hon. C. Imbert*]
7. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Diego Martin Regional Corporation for the year ended September 30, 2008. [*Hon. C. Imbert*]
8. Annual Audited Financial Statements of the Telecommunications Services of Trinidad and Tobago Limited for the financial year ended March 31, 2013. [*Hon. C. Imbert*]
9. Annual Audited Financial Statements of the Telecommunications Services of Trinidad and Tobago Limited for the financial year ended March 31, 2014. [*Hon. C. Imbert*]
10. Annual Audited Financial Statements of the Telecommunications Services of Trinidad and Tobago Limited for the financial year ended March 31, 2015. [*Hon. C. Imbert*]
11. Annual Audited Financial Statements of Caroni (1975) Limited for the year ended June 30, 2014. [*Hon. C. Imbert*]
12. Annual Audited Financial Statements of Caroni (1975) Limited for the year ended June 30, 2015. [*Hon. C. Imbert*]
13. Annual Report of the Trinidad and Tobago Securities and Exchange

Commission for the year 2015. [*Hon. C. Imbert*]

14. Annual Administrative Report of the Sports Company of Trinidad and Tobago (SPORTT) for the period October, 2012 to September, 2013. [*The Minister of Rural Development and Local Government (Sen. The Hon. Franklin Khan)*]
15. Annual Administrative Report of the Sports Company of Trinidad and Tobago (SPORTT) for the period October, 2013 to September, 2014. [*Sen. The Hon. F. Khan*]
16. Annual Administrative Report of the National Commission for Self-Help Limited for the period October 2014 to September 2015. [*Sen. The Hon. F. Khan*]

2.00 p.m.

URGENT QUESTIONS

Heritage and Stabilisation Fund

(Government's Reasons for Withdrawal)

Madam President: Sen. Mark.

Sen. Wade Mark: Thank you, Madam President. To the hon. Minister of Finance: With regard to the Government's withdrawal of \$2.5 billion from the Heritage and Stabilisation Fund, can the Minister state the reasons for the withdrawal and the immediate measures to be taken to replenish these funds?

The Minister of Finance (Hon. Colm Imbert): Thank you, Madam President. Financing of the service of Trinidad and Tobago for the year 2016.

Sen. Mark: I cannot understand that. I did not hear what he said, Madam President.

Madam President: Minister, repeat the answer, please. Yes, it was very short so repeat it, please.

Hon. C. Imbert: This is a new thing, financing of the service of Trinidad and Tobago for the year 2016.

Sen. Mark: Madam President, could the hon. Minister of Finance provide this honourable Senate with a detailed breakdown of that financing mechanism for the service of Trinidad and Tobago?

Hon. C. Imbert: I cannot see how that flows from the question, the question was: what is the reason, and the reason is to finance the service of Trinidad and Tobago for this fiscal year.

Sen. Mark: Madam President, could I ask the hon. Minister to indicate to this honourable Senate how he intends to replenish the funds that he has withdrawn from the people's savings?

Hon. C. Imbert: Certainly, as the hon. Senator will know, the deposits into the Heritage and Stabilisation Fund are made by way of a statutory instrument which is called the Heritage and Stabilisation Fund Act of Trinidad and Tobago, and in every fiscal year an estimate is made of the revenues from petroleum for that fiscal year based on the estimates for the price of the basket of crude in Trinidad and Tobago and the price of natural gas obtained for our natural gas produced in Trinidad and Tobago, used both here and exported in the form of liquefied natural gas. And if the actual revenues from petroleum exceed the estimates then 60 per cent of the surplus is deposited into the Fund and 40 per cent can be retained for Government expenditure. Therefore, in order to replenish any funds withdrawn from the Stabilisation Fund we would have to have an excess of petroleum revenues exceeding the estimates of revenue from petroleum for the fiscal year.

Madam President: Sen. Mark.

**Removal of Port of Spain Prison Keys
(Measures to Prevent Recurrence)**

Sen. Wade Mark: To the hon. Minister of National Security: Given the recent removal of a set of keys from the Port of Spain Prison, can the Minister state what measures are being taken to prevent a recurrence of such a situation?

The Minister of National Security (Hon. Maj. Gen. Edmund Dillon): Thank you very much, Madam President. In light of the recent removal of keys from the Port of Spain prison the following enhanced and robust measures have already been implemented to avoid such reoccurrence. These strengthened measures include the following:

- effective monitoring and full compliance of the proper handling of keys and, in fact, handing over of keys to only senior officers of the rank of Prison Officer II and above;
- efficient mastering of all cell gates at night;
- enhanced security of all locked down areas;
- ensuring that the handover of keys is undertaken by senior officers with proper scrutiny and revised methods of checking.

Only the supervisor will handle the master key for all cell gates. The Commissioner of Prisons has in fact appointed acting Assistant Commissioner of Prisons, Mr. Dennis Pulchan, to enquire into the full circumstances concerning this matter with a mandate to review the processes and to make recommendations for the improvement, Madam President. [*Desk thumping*]

Sen. Mark: Madam President, could the hon. Minister of National Security tell this Senate whether protocols were in place at the prisons to avoid such an incident that occurred recently?

Hon. Maj. Gen. E. Dillon: Madam President, there are Prisons Regulations which speak to the handling of keys within the prisons.

Sen. Mark: Madam President, is the Minister indicating that those regulations that

deal with the handling of keys were violated by the prisons authorities that resulted in this incident and embarrassment to national security?

Hon. Maj. Gen. E. Dillon: Madam President, there is an ongoing investigation to determine the circumstances under which the keys were removed from the prison.

Madam President: Sen. Mark.

Sen. Mark: I am finishing too early.

Madam President: Next question, Sen. Mark.

Discovery of Grenade in Port Fortin

(Measures to Protect Citizens)

Sen. Wade Mark: To the hon. Minister of National Security: Given the discovery earlier today of a grenade near a school in your constituency of Point Fortin, what immediate measures are being taken to protect the citizens of such dangerous devices?

The Minister of National Security (Hon. Maj. Gen. Edmund Dillon): Madam President, I first put on the records that the alleged device that was found at a school near Point Fortin—in fact it was about a quarter mile away from the Point Fortin RC School—based on information from the Commissioner of Police was in fact a hoax, it was not a real device. It turned out to be a cigarette lighter in the shape of a hand grenade, Madam President.

Madam President, but I also want to take this opportunity to compliment the resident of Point Fortin for his, what I call, patriotism for understanding and taking the message that we have been sending from the Ministry of National Security, if you see it report it. So I want to compliment that citizen, that resident of Point Fortin [*Desk thumping*] for in fact reporting what he thought or believed to be a device. Madam President, I want to also assure the citizens of Trinidad and Tobago that the security forces are doing all that is required to prevent, one, hand grenades

and other illicit weapons and arms and ammunition from coming into Trinidad and Tobago, but we also ask the citizens to follow from this example that if you see it report it, because we depend on every citizen to contribute or to participate in security measures in Trinidad and Tobago, Madam President. [*Desk thumping*]

Sen. Mark: Madam President, whilst this one might have been a hoax, the question here is what steps are you taking as the Minister of National Security to ensure that grenades do not enter this country and end up in the hands of the wrong persons?

Madam President: Sen. Mark, I will not allow that as a supplemental question.

Sen. Mark: I do not know what he is muttering about, you are in charge.

Madam President: Sen. Mark, any further supplementals?

Sen. Mark: With your leave, I will rest. [*Laughter*]

ANSWERS TO QUESTIONS

Madam President: Leader of Government Business.

The Minister of Rural Development and Local Government (Sen. The Hon. Franklin Khan): Madam President, I crave your indulgence to indicate that the Government is seeking a deferral of Question No. 57 for two weeks, and we will be answering—sorry, we will be answering all questions today. [*Desk thumping*]

ORAL ANSWERS TO QUESTIONS

Integrity Commission

(Planned Remedial Action)

57. Sen. Wade Mark asked the hon. Prime Minister:

Is the Government planning any remedial action, with respect to the Integrity Commission, given the recent sentiments of the Prime Minister on his lack of faith in the credibility of same?

The Minister in the Office of the Attorney General and Legal Affairs and

Minister in the Office of the Prime Minister (Hon. Stuart Young): With your leave, Madam President, the answer to Question No. 57, respectfully, is, no.

Sen. Mark: Madam President, is the hon. Minister saying that the criticism levelled against the Integrity Commission by the Prime Minister was reckless and irresponsible?

Madam President: That does not fall as a supplemental question.

Sen. Mark: Oh, that is not a supplemental. Could the hon. Prime Minister indicate when the Government intends to take measures, that is the Office of the Prime Minister, to revise the Integrity in Public Life Act?

Madam President: But, Sen. Mark, that was the question posed and the Minister answered.

Sen. Mark: I will proceed.

Criminal Injuries Compensation Act

(Amendment of)

58. Sen. Wade Mark asked the hon. Minister of National Security:

Given the rise in the number of officers in the protective services who have been slain during the course of duty, does the Government intend to amend the Criminal Injuries Compensation Act to pay \$1 million compensation to their families?

The Minister of National Security (Hon. Maj. Gen. Edmund Dillon): Thank you very much, Madam President. Hon. Members, there are several pieces of legislation which provide compensation for members of the protective services who were killed in the line of duty. These include, but are not limited to, the Criminal Injuries Compensation Act, Chap. 5:31, and the Protective Services (Compensation) Act, Chap. 23:60. The Criminal Injuries Compensation Act provides general compensation for victims who suffer criminal injuries or are

killed by criminal acts or omissions of other persons. These victims include protective services personnel. The maximum compensation amount payable under this Act is \$25,000, which may, by the order of the Minister of National Security, be increased up to \$50,000.

The Protective Services (Compensation) Act, however, has specific provisions for police officers, fire officers and prison officers. Section 3 of the Act states that:

“Where an officer-

suffers personal injury;

dies instantly; or

dies as a result of personal injury sustained, in circumstances arising out of and in the course of his employment with the State, the State shall be liable to pay compensation in accordance with this Act.”

Further, subsection (a), (i) and (ii) of the Second Schedule states that:

“Compensation for death arising out of and in the course of employment”—will equate to—“An amount equal to three years gross salary at the date of death; and

Such entitlement as is provided under the Police Service Act, the Fire Service Act, the Prison Service Act and the Pensions Act or any other relevant legislation.”

Members should also be aware that in addition to the Protective Services (Compensation) Act, other benefits and/or pensions to widows and/or dependents of officers who perish in the course of duties are outlined in section 76, the Police Service Act, Chap. 15:01; section 9 of the Fire Service Act, Chap. 35:50; and section 11 of the Prison Service Act, Chap. 13:02. It is clear, therefore, that several avenues already exist towards the families of officers in our protective services

who die in the line of duty receive compensation.

The Minister of National Security held a general meeting with representatives of the Police Service Social and Welfare Association, the Prison Officers' Association, the Fire Service Association at which the matter regarding compensation to the families of officers killed in the line of duty was raised. In September 2014, Madam President, in the budget statement of that year, the previous Minister of Finance, Sen. Larry Howai, made a public pronouncement on the payment of the Trinidad and Tobago \$1 million compensation to members of the defence force and protective services who are killed in the performance of their duties. This, however, Madam President, was not followed up with an implementation plan. In other words, Madam President, the necessary administrative work was not done to allow payment to be made. For example, there was no definition of the phrase, "in the line of duty"; there was no definition with respect to the next of kin, nor were there any systems to determine who the beneficiary to receive the compensation is.

This Government, Madam President, which recognizes the sacrifices of members of the services, that members of the services are called to make in the performance of their duties, is committed to putting the necessary mechanism in place to create a compensation to affected members of the services, Madam President. [*Desk thumping*]

Sen. Mark: Madam President, could the hon. Minister of National Security tell the Senate what steps have been taken to establish the implementation plan that you referred to a short while ago? And when will it be effected and operationalized?

Hon. Maj. Gen. E. Dillon: Madam President, the matter is currently before the Cabinet, and it is intended to deal with this matter in the shortest possible time, in fact, by the end of June 2016, Madam President. [*Desk thumping*]

Sen. Mark: Madam President, through you, could the hon. Minister of National Security give this Senate the undertaking that by June 30, 2016, this particular matter that has been outstanding will be completed, will be effected, and the families of those officers who have died in the line of duty will receive their \$1 million compensation? Could the hon. Minister give this undertaking to this honourable House?

2.15 p.m.

Madam President: Sen. Mark, I would not allow that as a supplemental. I listened to what the Minister said in his response, and what you are asking now does not really come from that to ask for an undertaking. So, no, I would not allow that.

Sen. Mark: Well, Madam President, I am asking the hon. Minister whether, at the end of June of 2016, the implementation plan that he mentioned to effect the changes of \$1 million will be effected properly and efficiently. That is the question I am putting to the hon. Minister.

Hon. Maj. Gen. E. Dillon: Madam President, the implementation plan that the last Government failed to do, and they simply made an announcement, will be treated with based on the Cabinet decision as early as the end of June.

Madam President: Sen. Mark.

Sen. Mark: You spoke to me?

Madam President: Sen. Mark.

Sen. Mark: No, I thought she was muttering.

Madam President: I am speaking to you, Senator.

Escalating Murder Rate

(Plans to Address)

59. Sen. Wade Mark asked the hon. Minister of National Security:

What action is being taken by the Government to address the escalating murder rate which stands at over 110 for the year, thus far?

The Minister of National Security (Hon. Maj. Gen. Edmund Dillon): Thank you, Madam President. Hon. Members, as Minister of National Security, I am deeply concerned about the crime rate facing this country, and in particular the current murder rate. I would like to take this opportunity to reiterate the fact that crime is everybody's business, and that each citizen has a role to play in reducing the crime rate in this country. The fact is that previous administrations have all struggled to keep the crime rate under control. It is imperative that all citizens be the eyes and ears of the law enforcement authorities, so that pre-emptive actions can be taken. We must all be vigilant and work alongside the law enforcement agencies to arrest this scourge on our society. The law enforcement agencies cannot do it alone.

The Trinidad and Tobago Police Service which is the State's primary agency responsible for law enforcement has put several measures in place to deal with the current murder rate in this country. These include and are not limited to, an intensified drive to remove illegal firearms and ammunition throughout the country. In Trinidad and Tobago, approximately 80 per cent of the murders are committed with the use of firearms. And it is common knowledge that arms and ammunition are not manufactured in this country but, along with narcotics, enter our shores through illegal ports of entry primarily in the southern areas. In 2010, the previous administration blocked the purchase of critical naval assets which were procured to secure the nation's borders. Since then, Madam President, the country has been reeling under a scourge of illegal arms and ammunition. Over the last five years approximately 2,000 firearms and 30,000 rounds of ammunition were seized. During the period January to March this year, Trinidad

and Tobago police took a total of 229 firearms, 2,600 rounds of ammunition off the streets. The Trinidad and Tobago Police Service has also implemented more extensive patrols along the coastal areas together with the defence force in divisions where there is high probability for the importation of illegal arms and ammunition. The Commissioner and Deputy Commissioner of Police are now providing direct additional support to areas that have been highlighted, such as the southern divisions and the northern divisions, which have high levels of murders.

Collaboration between the Trinidad and Tobago Police Service and other law enforcement agencies has been strengthened to foster a more integrated approach in intelligence gathering and sharing. These agencies include the Strategic Services Agency, the Trinidad and Tobago Defence Force, the Customs and Excise Division, the Port Authority of Trinidad and Tobago, Trinidad and Tobago Immigration Division and Trinidad and Tobago Prison Service.

There has also been increased collaborations with communities throughout town meetings. The idea behind these meetings is to facilitate greater dialogue between the Trinidad and Tobago Police Service and the public. There has been collaboration with the residents where persons can raise their concerns openly with police officers with respect to safety and security concerns. Such engagements allow for an exchange of ideas and engender a greater sense of trust in the police service by members of the public. There is also an increase in people-centred foot and mobile patrols throughout the country which have been intensified in areas considered to be hotspots.

In addition to these measures, Madam President, there are other measures implemented by the Trinidad and Tobago Police Service; the Ministry of National Security has implemented several other measures to arrest the current crime situation. These include the following: the restructuring of the Strategic Services

Agency, which now includes the National Operations Centre and the National Security Training Institute. Intelligence gathering is a critical component in the national security apparatus of any country in the fight against crime. The reconfiguration of this important intelligence agency will facilitate enhanced intelligence gathering and dissemination to the relevant national security agencies for operations.

There has also been a major increase in the number of CCTV cameras installed. In December 2015, the Ministry of National Security operationalized 800 additional closed circuit television cameras across the country. The total number of CCTV cameras in operation now stands at 1,800. It is envisaged that the installation of these cameras will not only act as a deterrent to the commission of crime, but also provide vital information that will assist in boosting the detection rate.

Another measure, Madam President, is that the process of the appointment of the Commissioner of Police has been initiated in accordance with Legal Notices 218 and 219. It is anticipated that this appointment will have a positive impact on the morale of members of the police service and ultimately on the crime-fighting efforts. It is envisaged that the various measures outlined would be instrumental in stemming the amount of serious crime, and in particular the current murder rate which now confronts the country. However, it is equally important for all citizens to work together with the law enforcement agencies to ensure a safer country for all of us. [*Desk thumping*]

Sen. Mark: Madam President, may I ask the hon. Minister, on the issue of collaboration not only at the community level, but in an effort to stem the flow of weapons into Trinidad and Tobago, since we do not manufacture those weapons, could you share with this Senate what measures are being taken between

Venezuela and the Republic of Trinidad and Tobago through their respective Ministers of National Security, to stem the flow of illegal weapons, arms and ammunition and the dangerous weapons into our country? Through you, Madam President.

Hon. Maj. Gen. E. Dillon: Madam President, I wish to assure this House and the members of the public that we continue to engage the authorities in Venezuela with respect to collaboration and cooperation to deal with issues that confront us on both sides of our borders, especially with respect to the illegal movements and trafficking of arms, ammunition, and of course the movement of people. As to spell out the detail as to what measures, they would in fact put our security measures open in public, and I wish not to do so at this point in time.

Sen. Mark: Madam President, may I ask the hon. Minister, I do not know if it slipped him or if I missed it, but are there regular army and police patrols throughout the country, given your outline of the measures that you have taken to stem the rising tide of criminality and violence? And are you satisfied that the joint patrols are having the kind of efficacy on the objectives that you are seeking to accomplish?

Hon. Maj. Gen. E. Dillon: Thank you, Madam President. There continues to be joint army and police patrols both within the domestic environment, but also along our coastal areas. There is a combination of not only our joint police and army patrols, but in fact also in our maritime security environment where the coast guard also plays a presence. These patrols will continue because there is a need for both the military—the defence force—and the police to work collaboratively and/or cooperatively to ensure that we deal with the security issues that confront us. With respect to the question, if I am satisfied; there is always room for improvement, and therefore we continue to see where the gaps are, to see where the deficiencies

are, and build and strengthen the capacities where they are required, Madam President.

Sen. Mark: Madam President, central Trinidad has now become a hotspot for criminal activities and violence, could the hon. Minister indicate to this Senate what steps he has taken to address the rise in criminality and violence in Central Trinidad, particularly through the avenue of joint patrols, army and police?

[Cell phone rings]

Sen. Mark: Who is playing music? Well, switch off, switch off.

Madam President: I do not know how many times I have to remind Members about turning off their cellular phones.

Hon. Maj. Gen. E. Dillon: Madam President, Central Division like all other divisions in Trinidad and Tobago are the focus of all joint army patrols and Trinidad and Tobago police measures to deal with the issue of crime and criminality. So they will continue to be vigilant, there will continue to be measures adopted by the security forces in dealing with issues throughout Trinidad and Tobago. The needs of any one area is based on the situation and security forces will respond accordingly, Madam President.

WRITTEN ANSWER TO QUESTION

Local Mining Sector

(Strengthening of Revenue Collection Systems)

76. Sen. Wade Mark asked the hon. Minister of Energy and Energy Industries:
In light of the worsening revenue situation being faced by the Government, could the Minister provide the Senate with the precise measures and timelines for the strengthening of revenue collection systems in the local mining sector?

Vide end of sitting for written answer.

Definite Urgent Matter
Heritage and Stabilisation Fund
(Withdrawal from)
Sen Mark (cont'd)

DEFINITE URGENT MATTER

Heritage and Stabilisation Fund (Withdrawal from)

Sen. Wade Mark: Thank you, Madam President. In accordance with Standing Order 16, I seek your leave to move the adjournment of the Senate for the purpose of discussing a definite matter of urgent public importance; that is, the decision by the Government to withdraw approximately \$2.5 billion from the Heritage and Stabilisation Fund.

The matter is definite as it refers to the withdrawal of money from the fund established in law to save and invest any surplus of petroleum revenues. The matter is urgent because the issue was only made public in the Prime Minister's confirmation of the withdrawal from the fund via the media on June 05, 2016. The matter is of public importance because of the failure of the Government to detail its decision to the public prior to the Prime Minister's confirmation; the need for the public to be informed of the proposed uses for the money withdrawn; and, finally, Madam President, the rational expectation that the money be used to safeguard a heritage for future generations during the current period of revenue downturn.

I thank you, Madam President.

Madam President: Hon. Senators, I am not satisfied that this matter qualifies under this Standing Order. I do wish to point out that an urgent question on this issue was allowed and raised earlier in the proceedings.

ARRANGEMENT OF BUSINESS

Madam President: Hon. Senators, before we move on to Public Business, I did indicate that we were awaiting two instruments of appointment, so that I am now in receipt of those instruments, and we will proceed accordingly.

SENATORS' APPOINTMENT

Madam President: Hon. Senators:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

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

President

TO: MR. WAYNE ANTHONY MUNRO

WHEREAS Senator Gerald Hadeed is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(b) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, WAYNE ANTHONY MUNRO, to be temporarily a member of the Senate, with effect from 3rd June, 2016 and continuing during the absence from Trinidad and Tobago of the said Senator Gerald Hadeed.

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 7th day of
June, 2016.”

UNREVISED

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

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

President

TO: MR. ALBERT WILLIAM BENEDICT SYDNEY

WHEREAS Senator Hugh Russell Ian Roach is incapable of performing his duties as a Senator by reason of his illness:

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(b) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, ALBERT WILLIAM BENEDICT SYDNEY, to be temporarily a member of the Senate with effect from 7th June, 2016 and continuing during the absence of Senator Hugh Russell Ian Roach by reason of his illness.

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 7th day of
June, 2016.”

OATH OF ALLEGIANCE

Senators Wayne Anthony Munro and Albert William Benedict Sydney took and subscribed the Oath of Allegiance as required by law.

UNREVISED

2.30 p.m.

**PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY
(AMDT.) BILL, 2015**

Order for second reading read.

The Minister of Finance (Hon. Colm Imbert): [*Desk thumping*] Thank you, Madam President. I beg to move:

That a Bill to amend the Public Procurement and Disposal of Public Property Act, 2015, be now read a second time.

Madam President, the Bill before the Senate was the subject of deliberations of a Joint Select Committee of Parliament. The committee comprised myself as Chairman, Mrs. Cherie-Ann Crichlow-Cockburn, Mr. Adrian Leonce, Dr. Bhoendradatt Tewarie, Mr. Franklin Khan, Mrs. Paula Gopee-Scoon, Mr. Wayne Sturge and Mr. David Small. We had five meetings between December 2015 and February 2016 and the report of the committee which includes amendments to the Bill was laid in the Parliament shortly thereafter.

Most members of the committee had the time to attend meetings. Mr. Khan attended all but one, he was excused; Mrs. Gopee-Scoon attended all five meetings; Mr. Sturge missed all five meetings, he was absent with excuses on all five occasions; Mr. Small was present at all meetings; I was present, obviously; Mrs. Crichlow-Cockburn missed one; Mr. Leonce was present at all and Dr. Tewarie missed two with excuses.

So the majority of members were there for all of the meetings or most of the meetings. We had very frank and fruitful discussions and we went through the various clauses in the legislation. If I go to the legislation itself and I presume, Madam President, I am dealing with the Bill that came from the House, but I

would have to give some history on what happened to the original Bill.

Now, the original Bill had not many clauses, had seven clauses and in the original Bill clause 3 dealt with a procedure to remove the Procurement Regulator from office if he traded with the Government without approval of the Parliament. Clause 2 in the original Bill was that the reports of the Procurement Regulator would be sent to the Public Accounts Committee. Clause 5 was to tidy up a matter dealing with the suspension of procurement proceedings after a decision made by the Office of the Procurement Regulator. Clause 6 sought to establish a public procurement review board as an intermediate non-judicial tribunal before aggrieved parties found themselves in litigation before the High Court and clause 7 included for the first time the disposal of state lands within the ambit of the Office of the Procurement Regulator.

Now, Madam President, the Act, the parent Act, Act No. 1 of 2015:

“An Act to provide for public procurement, and for the retention and disposal of public property...”—was assented to on January 14, 2015.

This was under the former administration.

It was passed with a three-fifths majority in both the House of Representatives and the Senate because it was felt that certain provisions of the Act were inconsistent with sections 4 and 5 of the Constitution dealing with fundamental rights. And this Act had a long history. It started off in its original form. It was, I think they called them documents, legal legislative documents were laid in the other place shortly after the May 2010 general election. A committee of both Houses was appointed under the chairmanship of Dr. Gopeesingh. That committee functioned for approximately one year, was not able to complete its work and then lapsed. Subsequently another committee was appointed under the

chairmanship of Dr. Tewarie and eventually after a lot of work, the Act, No.1 of 2015, was presented to the Parliament and passed by both Houses, by a special majority.

However, during that entire process we on this side, we were in the Opposition then, we were of the view that there were certain aspects of the legislation that needed to be dealt with in order to make it effective. And I would start with the last section first and that is the disposal of state lands. And in the original legislation or in the Act as it now stands, the Act was silent on the disposal of state lands and the disposal of property owned by the Government or state enterprises or statutory authorities. At the time there was a huge controversy, it has become somewhat muted now because the persons involved in that controversy now find themselves in the Opposition, over the disposal of the lands at Invaders Bay.

There was a huge controversy over this project of the previous Government where there was a belief that the Ministry of Planning and Sustainable Development and the Minister of Planning and Sustainable Development at the time, I think he was called economic development, if I am not wrong, but that was Dr. Tewarie. There was a belief, widely held belief among the population, among the interest groups, such as, the Joint Consultative Council and other persons involved in procurement and disposal of property, that the Central Tenders Board Act had been breached by the attempts of the then Government to dispose of the lands at Invaders Bay without following the required procedures outlined in the Central Tenders Board Act.

What had happened is that the Ministry of Planning and Sustainable Development had on its own, of its own volition, proceeded to attempt to dispose

of these lands and had argued at the time, the then Minister of Planning and Sustainable Development at the time had argued that leasing of state lands is not disposal of state lands. We did not agree. I do not think anybody in Trinidad and Tobago agreed. In fact, I think the only person who agreed was the former Minister of Planning and Sustainable Development that leasing of state lands is not disposal of the state lands. We certainly did not agree with that. The JCC did not agree and a member of the JCC took it to court, that is Mr. Raymond. And that matter is still in court and it falls to us now, the PNM Government to deal with that court matter and Mr. Young I am sure will give us an update if he is so minded on this matter. But the bottom line is that there was a view, and we hold this view, that it was ultra vires and illegal of the then Minister of Planning and Sustainable Development to attempt to dispose of the Invaders Bay lands.

So it became an argument in the context of the Public Procurement and Disposal of Public Property Bill. It became a contentious and argumentative point in the deliberations of the Joint Select Committee whether the disposal of state lands, the disposal of public property, should be under the remit of the Office of the Procurement Regulator. We felt it should, the former Government did not.

In fact, they were so adamant in it that when the Bill came for the final debate, after they have gone through all the stages and the deliberations and the various committees and so on and it came to the Parliament for final debate the Minister said he is entertaining no amendments. And it is true he did not entertain any. So that at the time we submitted an amendment that would allow state lands and public property, real property owned by the Government and by state controlled enterprises, statutory authorities responsible to a Minister, that these lands would come within the ambit of the public procurement and disposal of

public property legislation and we have put that into this amendment Bill and it is now here in new section 57A of the Act.

2.45 p.m.

So this is a new section that is going to be added to the Public Procurement Act and it reads as follows:

“Notwithstanding the State Lands Act and any other written law to the contrary, the Ministry may make Regulations in respect of the disposal of—

- (a) State Lands;
- (b) real property owned by the Government;
- (c) real property owned by the State-controlled enterprises; ...
- (d) real property owned by a statutory body, responsibility for which is assigned to a Minister of Government.”

And we did it in this way because there would be certain state lands that are disposed of under other regulations like agricultural land, for example. The Commissioner of State Lands would give leases according to a prescribed procedure prescribed in the State Lands Act with respect to disposal of lands for agriculture purposes and so on.

So what we were trying to capture and what we will capture are the lands like the lands at Invaders Bay and so on, that do not fall within any existing legislation, and therefore, would allow a Minister to escape the framework of any existing law and dispose of state land whether by lease or by sale to the private sector. So we have put it in this way so that henceforth once this legislation is approved by this honourable Senate, that state lands, real property owned by the Government, state enterprises or statutory authorities will now fall within the ambit of the Office of the Procurement Regulator so that there will be proper oversight

and no giveaways of state lands or irregularities in the disposal of state lands. So that is one of the first changes that we sought to make to the Act. We think this is very important.

With respect to another change—I will deal with the Review Board last. Let me go to the other changes. The Act was silent on what happens to the reports of the Procurement Regulator when they are laid on the table in Parliament and we felt it should not be silent. There should be a statement; it should be a statutory requirement. So what we have done is that in the amendment Bill we have stated at clause 4, actually—which amends section 24 of the parent Act—that section 24(4) of the Act is amended by inserting after the word “respectively” in the second place where it occurs, the words “and the report shall be referred forthwith to the Public Accounts Committee”. That is a select committee comprising Members of the House of Representatives and the Senate, chaired by a Member of the Opposition. So matters that relate to Government procurement will be referred to the Public Accounts Committee for them to examine and to deal with.

The tidying up I spoke about is with respect to suspension of proceedings. Under the existing law there is a power of the regulator to suspend procurement proceedings and we found the Act was a bit untidy as to what happens after the Procurement Regulator has made a decision. We found that it was not sufficiently tight so we felt we needed to tighten it up and we put in this amendment Bill—it deals with section 50 of the parent Act—and we have added in a clause that after the decision is rendered by the Procurement Regulator under subsection (11) of section 50, that:

“The suspension of...proceedings under subsection (4)(a)”—well that is the operative section that allows the regulator to suspend procurement

proceedings if he or she finds that something is wrong—“shall be lifted immediately upon the issuance of the decision of the Office under subsection (11).”

So we just wanted to make that clear, that if a decision is made, the suspension is lifted. That does not mean to say that the decision would not be against the procurement. It could be that the regulator may make a decision to quash a procurement proceeding, or they may decide to approve it and then the suspension is automatically lifted. So that is just a tidying up clause.

With respect to the last item—now there was an item before where we found that the wording was a bit convoluted or a bit complicated, where if the regulator traded with the Government, we felt that that would be a serious breach, and trading with the Government is defined to mean—and we have extended it also beyond the actual regulator himself or herself to all members of the Procurement Board or the Office of the Procurement Regulator or everybody that:

“...a member trades with the Government if, while holding office, he becomes a party to, or is a partner in a firm or a director or manager of a company which to his knowledge becomes a party to any contract with the Government for or on behalf of the public service.”

We felt that this was so important that if the Procurement Regulator or a member of the Procurement Board entered into a contract with any Government Department to do anything, to provide goods and services, we felt that it was sufficient reason for them to be removed because it would make it totally complicated. Even if they disclose their interest and they did not participate in decision-making, we felt it was just too complicated.

So that we felt that if somebody wants to participate in trading with the

Government, if they have a business and they want to sell services or goods to the Government but they also want to be a member of this procurement entity, that they would have to get prior approval of the Minister of Finance. So they would have to apply to the Minister of Finance for permission to trade with the Government and also be a member of the procurement regulatory body. Of course, the Minister would look at the circumstances, look and see whether there is a danger of a conflict of interest to any kind of bias, whether apparent or potential bias could arise and make a decision as to whether the person would be allowed to enter into a contract with a government entity or not. And, of course, if the answer is no, then that person would not be eligible to be a member of the procurement entity, and if they did not disclose this and they went ahead and they entered into a contract with a state entity while being a member of the procurement entity, we felt that that was sufficient reason to fire them, to get rid of them.

So we have added that in because these things can happen in Trinidad and Tobago. It is commonplace and you know you have so many arguments about whether the persons have disclosed their interest, whether the persons have recused themselves, whether they should recuse themselves. So we felt this is so important that they need to get permission first, and if they do not get it they gone. Okay? So that is what we call improvement to the legislation that we came up with.

The final improvement, and this is based on experience where procurement is such a contentious matter and it is so complicated that public procurement could be stalled for years if it reaches the High Court and I will give a particular example. In 2000 or 2001—I cannot recall the exact year, but I know it was under the Panday administration—the then Minister of Infrastructure I believe he was, or Housing, I am not sure—it was John Humphrey was a Minister in the Panday

administration—he had got involved in the award of a contract for the construction of an interchange at the intersection of the Uriah Butler Highway and the Churchill-Roosevelt Highway and there were two parties involved. One was Pres-T-Con—I believe was one—and the other party was Century Eslon, and both of them had tendered for this project which was to build something a little different to what is there now, but it would have ended up in a great separated interchange. There was a dispute and one of the parties, I believe it was Century Eslon, took the matter to court and the judge at that time—he is now a Justice of Appeal. It was Judge Mark Mohammed and the decision was not rendered until 2006, and as a result that procurement process was stalled for five years and it was not appealed. If it was appealed it could have taken another five years.

So for 10 years that procurement related to the construction of a very important project, the construction of an interchange at the intersection of the two busiest roads in Trinidad and Tobago, could have been stalled for 10 years. It was in fact stalled for five. In fact, there was a sum of money allocated for the project which was eventually vired, when the PNM Government came into office. The money was allocated in the expectation that the court matter would be disposed of quickly. It was not. It took about five or six years, and that sum of money was eventually vired out of the Ministry responsible for the entity at the time—I believe it was Planning and Development at the time—and used for the construction of public housing. So the money could not even be used because the money had been appropriated for the purpose of that project, and because it was stuck and because the procurement could not proceed the money eventually was redirected and use for another purpose for Government housing. But the whole point is that that project was stalled there for five or six years.

There is another famous case and that is *NH International v UDeCOTT* and that was over the construction of the customs building, which again was stalled for many years while that matter was being resolved. NH International had a view at the time that the decision of UDeCOTT to award that contract to Hafeez Karamath was wrong and that they were of the view that they should have been awarded the contract instead. So they took the matter to court and that got stuck in court as well. In fact, that decision, that *NH International v UDeCOTT* decision is the law in Trinidad and Tobago right now. It went to the High Court. It was Justice Stollmeyer in the High Court, and then it went to the Court of Appeal. It was Margo Warner, Kangaloo and Sharma who rendered the Court of Appeal decision. A two to one decision in the Court of Appeal.

But be that as it may, it was a majority decision and is now the law of Trinidad and Tobago which is that public bodies are commercial entities and they are allowed to exercise their best judgment with respect to procurement and award of contracts, and that their decisions cannot be overturned or substituted unless fraud or some gross irrationality is discovered, and that was the crux of the matter in that particular case. The claimants were unable to prove fraud or irrationalities to the extent that it would have undermine the decision making, and the decision of UDeCOTT at the time to award the contract to Karamath was upheld and was based on a number of decisions all throughout the English Commonwealth, especially based on decisions in Australia.

And in New Zealand, in particular, a famous case of *Pratt Contractors v Transit New Zealand* where the same argument was levelled at Transit New Zealand which was a public authority in New Zealand—similar I guess to our PTSC or some other similar transportation entity in Trinidad and Tobago—they

had awarded a contract to a particular contractor and Pratt Contractors objected on the grounds again that they should have been given the contract. The decision of the Privy Council in that particular case was unless you can prove fraud or unless there are sufficient public law elements in the matter the court was not allowed to substitute itself for the decision makers who would be reviewing the tenders and doing an evaluation and making a decision with respect to the procurement.

That ruling has been followed in many other jurisdictions and, in fact, Mark Mohammed that I just referred to, he used two Canadian decisions along the same lines that public authorities are commercial entities and unless you can establish fraud or public law elements, you cannot interfere with the decision of a public authority with respect to the award of a contract.

3.00 p.m.

Now, this is very important to what we are doing here in this Senate here today because the public law element is the legislation of tender rules. We have a Central Tenders Board Act and there are rules associated with that Central Tenders Board Act, and once you fall within the framework of the Central Tenders Board Act, an aggrieved person can approach the High Court and ask the High Court to look at the decisions made by the Central Tenders Board with respect to an award of contract. That is the public law element in it, the Act itself, the Central Tenders Board Act. But for state enterprises, these enterprises are exempt from the provisions of the Central Tenders Board Act and therefore do not fall within that body of public law.

What we are doing with this Public Procurement and Disposal of Public Property Act is we are now legalizing or legislating the incorporation of the tender rules of state enterprises and other government entities within the ambit of this

legislation and therefore bringing them within public law. So once we finish here and once this Act is fully proclaimed, because it is only partially proclaimed, any aggrieved person will be able to challenge any decision made by any state enterprise with respect to the award of a contract for goods and services.

It is a fundamental shift in the way we do business here in Trinidad and Tobago because this will be for the first time where a contractor or any other claimant will be able to challenge the award of a contract made by an entity like Petrotrin or NIDCO, for example, with respect to who should get the contract and it would not be limited to fraud or gross irregularity. The court could now look into the evaluation process and the reasons given for the award of contract, discourse and the various points given for elements like price and technical competence and so on, of the various tenderers and the court will now be able to get involved in determining whether a contract should stand or whether a contract should fall.

In that context and in the experience of the interchange project which was delayed for six years and the customs building which was also delayed for several years, although those cases were unsuccessful because of the absence of a public law element, there will now be a public law element and therefore the court will be able to provide injunctive relief. Somebody could apply to restrain an entity from awarding a contract. That can now happen with this public procurement legislation.

We felt, because of the experience in Trinidad because things move very, very, very slowly in Trinidad and Tobago and anybody who thinks otherwise, I mean you have to add some decisions made recently which are not really relevant to this, but within the wider judicial system where things have been in the pipeline for 10 and 11 years and you probably have to start all over again from scratch, and it may take 22 years. So we felt that in that context of the slow pace at which

litigation progresses in Trinidad and Tobago—for whatever reason it is, I am not casting any aspersions here, I am just dealing with facts—that we felt we should have an intermediate stage in the process of a challenge of a decision made.

So as it now stands, an aggrieved person can apply to the Procurement Regulator to examine an award of a contract by a state enterprise as the procurement Act now stands, although it is not fully proclaimed, and the Procurement Regulator would render a decision and, as is customary, the person can ask the Procurement Regulator to take another look at it, you know, take a second look at it. They can query it or ask them to review their own decision and after that, if the Procurement Regulator confirms their decision, the only place the aggrieved party has to go is to the court.

So we felt—and this is emerging best practice all over the world—that we should have a non-judicial body, a review board, which would have very strict time frames to examine what the Procurement Regulator does and render a decision within a short period of time and the time frames given to the Review Board, when they get a request to review, the request itself must be made within 21 days of the decision of the procurement office and the Review Board must conduct a review within 21 days of receiving the request, and they must complete it within 28 days of receiving the request for the review. So that when you introduce this Review Board now, they must complete their work within 28 days of receiving a request for a review of a decision of the procurement office.

Now, it is very similar to what takes place in the United Kingdom. There is something called an adjudication system in the United Kingdom where you have persons who are not judges but they are experienced practitioners in the construction industry. They could be quantity surveyors or other persons who have

the necessary qualifications and experience. And if there is a dispute with respect to a construction project in the UK, the aggrieved person can apply to the adjudication board who will then appoint an adjudicator, an experienced person, who must render a decision within 28 days and that decision stands until it is overturned by a court.

The reason why they came up with that system in the United Kingdom is that it is based on a decision from a famous judge, Lord Denning—and funny enough, this decision was overturned but his view was that money is the lifeblood of the construction industry. If you stop a project, you create problems because the contractor cannot get cash flow and if a contractor cannot get cash flow, then the whole thing just comes tumbling down. So the view was you need to have quick decision-making with respect to these matters. You have to move fast. It is either you agree with the contractor or you do not agree, but you need to tell them so that they can make arrangements as their next step with respect to a project. And that is why the adjudication system in UK determines that you must make a decision in 28 days. So a person makes a complaint, you must say 28 days later whether the person is right or whether they are wrong and as I said, that decision stands.

So we felt that we would borrow that experience out of the UK and compel the Review Board to make its decision within 28 days and to make sure you have the proper competence in this Review Board, the composition of the board is a retired judge who shall be the chairman, a registered engineer with at least 10 years' experience in matters relating to procurement and a chartered accountant or quantity surveyor with at least 10 years' experience in matters relating to procurement. So we felt we would give the Review Board certain skillset and they have their 28 days to look at it.

And what we felt will be the beneficial outcome of this is that if a person, an aggrieved contractor complains to the Procurement Regulator that they are not satisfied with a decision, and their complaint is dismissed or rejected, then they go to the Review Board and the Review Board, again, looks at it and within 28 days, will say we uphold the decision of the regulator. So they have had two passes now through serious competent tribunals. They go first through the Office of the Procurement Regulator who says your complaint is not justified and then secondly through the office of the Review Board who would say again, your complaint is not justified. We felt that the vast majority of complainants would stop at that point in time because you have gone through two and now four people—three from the Review Board and one from the Procurement Regulator, have told you that your complaint is not justified. And now if you decide to go to court, well you have a long haul in front of you and a lot of people would stop at that stage, and they would decide they would not go forward to litigation.

And we felt that this would improve the system considerably, reduce cost and reduce time, reduce disputes and put some order into the system. It is all in keeping with the overriding objective of the Civil Proceedings Rules which is to avoid litigation. That is the overriding objective. I am not sure if that objective is achieved, but that is the objective in Trinidad and Tobago. That you try to get mediation, conciliation, out-of-court settlements, before the matter finds its way into the court system and once it is in, it is very hard to come back out without somebody having to pay something to somebody. So we felt this Review Board was an improvement and it is in fact in place in another country. In fact, it was borrowed from that country, from Kenya and they have a well-functioning review board in that jurisdiction and we felt that this was an improvement to the system.

Now, I must say, I want to thank everybody who participated in the deliberations of the Joint Select Committee. We had some very fruitful and very exhaustive deliberations. I want to especially thank Sen. Small for his attendance at all the meetings and his vigorous participation in the deliberations of the committee. I think there was one item that was not agreed to by the Opposition Member who attended the meetings, that was Dr. Tewarie, and that was the Review Board but I felt there was a philosophical point. I felt that the arguments were not persuasive in terms of not creating a review board and every other member of the committee agreed that we should have this interim body to avoid litigation and that is basically it.

I want to say I did not come here to buss any mark. I think this is a very serious matter. I think we need to get on with it. This thing is waiting, the industry is waiting and with the leave of the Senate, I would ask hon. Members to approve this legislation. It has gone through a joint select committee. There was only one dissenting voice, everybody else was in agreement and we are ready to implement the new procurement system and we are ready—it is going to be quite a challenge because what you have to do is to create an entity in each state entity now.

So you have to create a procurement office in each entity and all these procurement offices have to report to the Procurement Regulator who has the power to come in, to stop a procurement process, to overturn a decision, to suspend a process. It is going to be quite a challenge and as I said, we are now making this part of our law so that it will also mean that the courts are now going to be allowed to get involved in public procurement.

This is going to affect public procurement in a profound manner in Trinidad and Tobago but I think in the interest of transparency, accountability, even though

it may slow us down a little bit because it will, there is no two ways about it. Once claimants can now go through all these various stages and these bodies will have the power to suspend proceedings, it is going to slow us down, it is going to happen, but we think that whatever delay there may be—and I mean that is just a view, it may not be so at all—we believe it is worth it because we have contentious arguments in this country all the time about who tief what, from who, when, where and how. Once you have this system in place, you would have a far more—
[*Interruption*]

Madam President: Hon. Minister, you have five more minutes.

Hon. C. Imbert: Sure, I am nearly done. You are going to have a far more open system so that the public will understand what is going on, people will see and the court can get involved and deal with abuse of office by persons who are involved in the award of contracts.

So with those few words, Madam President, I beg to move. [*Desk thumping*]

Question proposed.

3.15 p.m.

Sen. Wade Mark: Thank you very much, Madam President. We are very happy to join this debate on a Bill to amend the Public Procurement and Disposal of Public Property, Act 2015. We on this side are very happy to be associated with being the lead pioneers, with the support of others, of course, in bringing to this Parliament and to the Republic of Trinidad and Tobago genuine procurement reform, and by passing good and effective law with strong sanctions and with clear procedures. And this is what the parent Act, called Act No. 1 of 2015, is about.

No other party has been able to do it. Fifty-five years, the Central Tenders Board Act, 1961. Even whilst we were in the grips of colonialism and British rule,

we were governed by the Central Tenders Board Act. There were a number of refinements to that Act, when special purpose companies were introduced and many of them: UDeCOTT, MTS, Nipdec, bypassed the Central Tenders Board. But that was all part of the journey as amendments were brought to the Central Tenders Board Act of 1961.

I want to say, Madam President, that this amendment and the parent Act in particular was the subject of an elaborate process of consultation and consensus-building, prior to passage in both Houses. The Act, which is now in place, was endorsed by the UNDP, by the European Union, by the IADB. I understand it was also endorsed by the World Bank and many other international bodies and agencies.

So it was all part of a suite of legislation brought by the then People's Partnership administration to improve governance in Trinidad and Tobago. This legislation, Madam President, which is the parent one, Act No. 1 of 2015, if you look, I think, at section 5, if I am not mistaken, it deals with the objects of the Act in section 5, where we speak to the issue of the principles of accountability and integrity and transparency and value for money. There is even a definition of what is meant by value for money in the interpretation section of the Act.

It also dealt with efficiency and fairness and equity and public confidence, and it dealt with industry development, sustainable procurement and sustainable development. We have just signed off on the sustainable development goals, 17 of them, on 25th September, 2015, and procurement cannot be seen in isolation from this thrust to promote sustainable development in our country.

It is designed to promote, Madam President, local content, local industry, local labour, sustainable development practices, fair competition and, as I said,

transparency and accountability.

But most importantly, as the hon. Minister said, and there are many instances in this country of the citizens not getting value for their money, where there are several instances of irregularities, financial mismanagement, nepotism and corruption.

This Act and its amendment which we are dealing with today, Madam President, seeks to address the issue of corruption, and it does that in section 9 of the parent Act, with the establishment of the procurement regulation.

The Office of Procurement Regulation is an independent, autonomous transparent body where political interference has been avoided or every attempt has been made to avoid political interference. And that has been done through the appointment of the procurement regulator by the President of the Republic appointing, after consultation with the Prime Minister and the Leader of the Opposition, all in an effort to lift that veil of political intrusion and interference.

The procurement regulation is about scrutiny, because the parent Act, along with the amendment, deals with a system of centralization and decentralization at the same time. Public entities and public bodies that use public moneys are going to continue to carry on their business. They are going to continue to award contracts but they would be guided by manuals, guidelines, issued by procurement regulation and the chief there, the Procurement Regulator.

So we need to understand that the procurement office or the procurement regulation is about scrutinizing matters, awards of contracts, that would come before it. The procurement legislation and the Procurement Regulator do not determine contracts. That must be made abundantly clear. That is done by the public entities. It does not matter which one, NP, Petrotrin, NGC, MTS. They

would do their own thing. And, Madam President, they will then send their awards if they have to post on their website all the information, and the public body that is going to scrutinize those awards to determine that everything is above board would be the public regulation office, which is above the political cut and thrust of the hustings. So that office has the power to investigate and to enforce. They have the power to impose heavy fines on any organization and office that violates or contravenes the legislation.

But I want to say that we have a fundamental philosophical difference with the Government's position as manifested in this report that is before us. We do not believe, Madam President, in duplication. [*Desk thumping*] We do not believe that we should be promoting inefficiency and ineffectiveness in the operations of the procurement regulation office [*Desk thumping*] or the Procurement Regulator. And no politician, either on this side or on the other side, should do anything to contaminate, pollute or undermine the Office of the Procurement Regulator. [*Desk thumping*] And as I said, Madam President, we have a philosophical difference. So we do not support, let me make it abundantly clear, a review board. We will show and demonstrate that the review of contracts and awards are in the current parent legislation. [*Desk thumping*]

So why do you want to create a second layer, when it is already in the parent legislation? And my hon. colleague from Diego Martin North/East, the Minister of Finance, spoke about Kenya. I have a manual here, Madam President, which was circulated about what is taking place in that country. It is a very convoluted process in Kenya. Our legislation is much more progressive and much more efficient than that of Kenya. [*Desk thumping*] This is 21st Century procurement legislation that can become a model of many countries today. So we do not have to take anything

from Kenya. In fact, the evidence will show, Madam President, that if we go along with the Minister's Review Board, it will take 44 days before a decision is taken by the Review Board. Whereas in our legislation, currently constructed, it will take 20 days. So what are we trying to achieve? What is the objective? Madam President, we have some reservations and there is politics contaminating this process here. *[Desk thumping]*

The Minister seems to want to be involved in the review process and we do not want the Minister of Finance or any of his colleagues to be involved in the review process in whatever way. *[Desk thumping]* If you want a review board and you want us to compromise with you, give the Review Board the same status as the procurement regulation office. *[Desk thumping]* We want autonomy. We want independence. We want transparency, and we want publicity in any matter where there is a challenge. *[Desk thumping]* We do not belong to the lodges, so we do not operate in secrecy. We allow the sunshine of the—we allow the rays, I should say, of the sunshine to penetrate the walls of this Chamber and this country. That is what we are committed to achieving.

We do not like darkness. Darkness cannot drive out darkness. Only light can do it. *[Desk thumping]* And, therefore, we are about light. We are about shining. That is why we have the rising sun. You get the rays of the sun every morning. No matter what you do, when you rise in the morning, the sun rises in the morning with you. So the glow is always there, not the balisier with snake. It is not about balisier and snake. Madam President, it is about the rising sun.

3.30 p.m.

So, Madam President, as I said, this process went through so many incarnations, two joint select committees. The Senate, including Sen. Stuart

Young, who is now the Attorney General of this country.

Hon. Senator: Acting.

Sen. W. Mark: Well, Acting, but “ah know he want to take over”. [*Desk thumping*] But, Madam President, you know what? It went through many incarnations and the record would show that Sen. Stuart Young, in another incarnation, was in total support of this measure until—[*Interruption*]

Madam President: Sen. Mark, please refer to Members by their designation. The hon. Stuart Young—[*Interruption*]

Sen. W. Mark: Oh, yes, I apologise.

Madam President:—is no longer a Senator.

Sen. W. Mark: He is the Member of Parliament for?

Sen. Solomon: Port of Spain North/St. Ann’s West.

Sen. W. Mark: Port of Spain North—only temporarily; temporarily. So, Madam President—[*Interruption*]

Madam President: He is also Minister in the Office of the Attorney General—[*Interruption*]

Sen. W. Mark: Well, I thought it was either one.

Madam President: No, we refer—when Members are Ministers, we refer to them by their designation.

Sen. W. Mark: Oh, I see. The hon. Acting Attorney General. Do I say that, Ma’am?

[*Assent indicated*]

Sen. W. Mark: Okay. [*Interruption*] I think so.

Hon. Senator: Acting Attorney General.

Sen. W. Mark: So, Madam President, I said, we have a problem, a fundamental

difference with the PNM administration, as it relates to the Review Board. So we want that to be noted very early. We are prepared to generate and circulate amendments [*Interruption*] to that but, as I said, I do not want the Minister of Finance to disturb me, whilst I am speaking. [*Laughter*]

Hon. Senator: “Da’is leprechaun behaviour man.”

Sen. W. Mark: Madam President, what I am saying is that, as far as we are concerned, we would want to ensure that if the Minister of Finance is inclined to step down from that tall ladder that he is on, [*Laughter*] and become a little more compromising and accommodating, we are prepared to accommodate a review board. But I am saying on the condition, that the Review Board must have the same independence, autonomy and authority as the Procurement Regulation Office. [*Desk thumping*] If you are not prepared to give that, we are not prepared to support your measure.

So we are very flexible, and we want to compromise, because we all are committed to the establishment of procurement legislation in this country, because we want procurement legislation in this land. We want to eliminate corruption, because there is plenty going on in this country and especially in Tobago. I want to tell the people of Tobago, and we are going to be shouting from the roof top, at the appropriate time. There will be no accountability. There will be no autonomy, until there is proper accountability for Tobago. [*Desk thumping*]

We are going to ensure that there is proper accountability in Tobago, before you talk about autonomy. And the amount of corruption I have before me in terms of what is taking place in Tobago, it will make any entity in Trinidad and Tobago look like child’s play. Is madness!—but I would not detain you at this time on this matter. [*Laughter*] It is bundles and bundles, you know, all “kinda tings”.

As I am on my legs, I know that there is—they gave contracts out to someone, “dey say in de Senate” right now, to repair community centres and schools and so on, worth tens of millions of dollars, without any tendering process, I understand. I will not call names at this time.

Madam President: Sen. Mark, are you imputing improper motives to a Member of the Senate?

Sen. W. Mark: I am saying that the people of Tobago are saying that there are people—*[Interruption]*

Madam President: Well, if the people of Tobago are saying through you, then you are saying it, Sen. Mark. So if you are referring to a Member of the Senate, please do not impute improper motives?

Sen. W. Mark: Well, I am not imputing it yet.

Hon. Senator: What!

Sen. W. Mark: No, no, no, I will bring the evidence. No, I say, I will bring the evidence, *[Desk thumping]* and when “ah bring de” substantive evidence through a substantive Motion, you will know exactly who I am speaking about, *[Desk thumping]* but, for the time being, I hold back; hold back. I hold back. Look, listen you—*[Interruption]*

Madam President: Sen. Mark—*[Interruption]*

Sen. W. Mark: Why is he disturbing us?

Madam President:—please. Sen. Mark? Sen. Mark? Please, restrict yourself to the matters that are before us, please.

Sen. W. Mark: But I am.

Madam President: Sen. Mark, please? I know—please, you respond to what the Minister of Finance has said without speaking to the Minister of Finance.

Sen. W. Mark: I am not speaking to him. I dare not speak to him. I speak to you.

Madam President: Thank you.

Sen. W. Mark: I always look at you.

Madam President: Thank you.

Sen. W. Mark: I will not speak to him. [*Laughter*]

Madam President, what we are saying here, is that we are committed to supporting the hon. Minister on the Review Board question, but it must be along the lines that I am going to suggest. We looked at the legislation in the amended form that is before us, and we are asking, why, for instance, if we go to the legislation directly, go to clause 3, and go to (c), (3)(c)(h). I have no problem, and we have no problem with the procurement regulator being told, “You cannot trade”. We have no problem with that. We support that, but why must he get the prior approval of the Minister? How “de Minister got into dis ting”, Madam President? We are saying, leave the Minister out. The Minister has no business in that. [*Desk thumping*] Is the Minister trying to worm his way into this body to influence outcomes? I do not know? It is possible, and we have to protect the interest of the nation, and this is why, Madam President, we are saying, it should be the approval of the Parliament. Get the Parliament involved.

“Yuh withdraw money from de Heritage and Stabilisation Fund. Yuh came here today, give us ah non-answer to de people’s questions and concerns.” But you know what? “Yuh will” have to bring legislation here, you know, one day. And one of the things “dat yuh have to do”, is to ensure that any future withdrawal from the people’s national savings, “yuh must” have parliamentary approval. [*Desk thumping*] Right now you could do anything, and come here and show contempt towards the people, as if “da’is” your personal account.

Madam President: Sen. Mark—[*Interruption*]

Sen. W. Mark: Not you, Madam President.

Madam President: Sen. Mark, please, just get back to what you are debating, all right; and forget about those extra comments that you are making?

Sen. W. Mark: “What yuh say?”

Madam President: Sen. Mark—[*Interruption*]

Sen. W. Mark: What is he saying?

Madam President: I do not know, because I am listening to you, Sen. Mark. Please have a seat. It is either, Sen. Mark, you want to contribute to the debate and speak to me, and address the Presiding Officer, or you want to chat with the Minister of Finance outside the Chamber.

Sen. W. Mark: I prefer to chat with you. [*Laughter*]

Madam President: Thank you.

Sen. W. Mark: Not with him at all. I do not chat with men. [*Laughter*] Chat with you. I have no business with the Minister of Finance, none, except to get him out office as quickly as I can. [*Desk thumping*]

Anyway, Madam President, let me turn to you, because you are more amenable—

Hon. Senator: Easy on the eye.

Sen. W. Mark: —and easy on the eye, too. [*Laughter and crosstalk*]

Madam President,—about you. [*Crosstalk*]

Madam President: Sen. Mark, please? I know this—a lot of levity, but really that is an improper, even if it is said in—I know in the spirit, but let us be professional in the Chamber.

Thank you.

Sen. W. Mark: I withdraw it if it hurts anyone. Anyone it harmed, please forgive me. [*Laughter*]

What is the Minister of Finance doing in this section of the legislation? We are saying, the Minister of Finance has no business in this matter. And under clause 3, we are saying, if these people cannot trade, the Minister has no authority to give them approval to trade. The only body that can give them approval to trade, is the Parliament, and we are proposing a change to ensure that the Parliament is responsible for what is going on at that level. That is what we are saying—not the Minister; the Minister might have his own objective. Not this one “yuh know”. It might be me, because I am replacing him very shortly. They are only there temporarily, wasting time. “People fed up with dem. Call ah election now, dey gone; afraid to call it.” [*Desk thumping*]

So, Madam President, let us go to this particular matter again, and we are saying that in terms of trade, we have no problem with that. We believe that it is a very eminently reasonable proposal that these people, who are members of the board, ought not to be involved in trade. So we have no problem with that whatsoever.

We have a problem—I come back to the Review Board. The Review Board, it seems to us, will be looking at matters that are brought before it, three of them: a judge, an engineer, a Quantity Surveyor or an accountant or a combination of three of them, with the judge being chairman. But the judge that is going to be chairman, along with his two members, are going to be deliberating on matters in secret. I want the Minister of Finance to tell us if, for instance, public hearings on the matters that are going before those gentlemen and/or ladies called the Review Board or the Procurement Review Board, Madam President, whether that is going

to be held like a lodge in secret? Or whether it will have the transparency of the procurement regulation office, because the procurement regulation office will be holding its hearings in public? So if the Minister can clarify for us, Madam President, whether the Review Board is going to be in secret, or whether it is going to be in public? We await his comments on this matter.

I see something very strange here in 51F, where the Minister—where is the Minister going? Why does he want to intrude in procurement business? We want the regulation office to be responsible for procurement. Madam President, may I inform you, with this convoluted kind of system, this new layer of bureaucracy, this undermining and watering down of the procurement regulation, and procurement regulator, the Minister is not telling us, that in 51F, he will have the responsibility to make regulations. And you know what? He is going to have it on a negative basis. We “doh want it on ah negative basis”, if he decides to listen to us. We want it on an affirmative basis, and we will be so advising him through an amendment.

In addition, with respect to staffing, remuneration, funding, and other operation matters of the Review Board.

So the Minister, Madam President, after someone has appealed the decision of the procurement regulation office, and the procurement office and regulator, they will now be able to go before the Review Board. But you know who is going to determine the staffing there? The politician.

3.45 p.m.

Why is the Minister getting involved in procurement business? We do not want the Minister to be involved and, therefore, we are proposing an amendment to allow the Office of Procurement Regulation to be in charge of the appointment of

staff in this instance. We want them to appoint staff. Let them determine, with the Cabinet or the Salaries Review Commission, remuneration. The Minister must provide funding. That is what he must provide.

This thing about the matter of the sale of land, I think this is a matter that we could quibble over, but we are also convinced that this is a matter that the Minister should leave, Madam President, alone. The Minister should not be involved in this matter.

So under new section 57A, we see where the Minister may make regulations in respect of the disposal of lands, and these regulations are going to be subject to negative resolution, why is the Minister being allowed to make regulations and subject those regulations to a negative resolution dealing with the sale of land? Madam President, we would prefer the Office of Procurement—and even if we were to compromise and say the Minister, even if we were supposed to, if we decide, Madam President, we are saying that it must be subject to an affirmative resolution of the Parliament.

So we are very clear that there are several amendments that we are going to be circulating for the consideration of this Parliament in order to ensure, Madam President, that this particular piece of legislation is not polluted, is not contaminated by the PNM, because we are seeing certain things happening, and we are going to be watching with hawk eyes how these things are unfolding.

When I occupied another incarnation, I was in charge of the Red House and the restoration of the Red House and any project surrounding the Red House. Whether it involves hundreds of millions, we were in charge, the Parliament was in charge. There was a separation of powers. Today, we understand that the Prime Minister's office is now in charge of the project for the restoration of the Red

House. We ask the question why? Why is the Minister of Finance so silent on this matter? He was the first one to jump up when he heard about some event that was unfolding and said: “Who wants to take over this project? He will not stand for it.” The Parliament was in charge. Today the Parliament is not in charge. We ask why? But we are looking. We want to know if there is a particular contractor who they want to give that contract to. We are looking, we are watching and we are determining at the appropriate time. [*Crosstalk*] What?

Sen. Khan: That is procurement legislation.

Sen. W. Mark: Yes. That is why you have the Review Board, and that is why we do not want it, because the Review Board could give the possibility of the Minister—I am not saying this Minister. I do not accuse him of anything. He is a decent individual.

Hon. Imbert: You mean that? [*Laughter*]

Sen. W. Mark: He is a decent individual, so I am not against the Minister. [*Laughter*] I have nothing against the Minister, nothing against the Minister. All I am saying is any Minister, Madam President, if you do not curb their power and their influence, they can corrupt the process and that is what I am concerned about. We are concerned about the corruption of the process to give your friends and your family the contract. That is what we are concerned about.

So, Madam President, this—[*Interruption*]

Madam President: You have five more minutes.

Sen. W. Mark: Madam President, only? [*Laughter*] Madam President, you know, time rushes on very quickly in this Parliament I realize. [*Crosstalk*] That is why we need to increase it again. Madam President, we feel that the matters before us require some compromises. We are prepared to meet with the hon. Minister and his

team to bring about some compromises, because we are all committed to procurement legislation. This is our law. We brought it, we are proud of it and we will support changes to make it stronger. So we are not against our own legislation. We are in support of our legislation.

Madam President, we want this thing overnight, because if this was enforced today, we would have known why we must go and launch a band called Yuma from Miami to Bahamas costing \$450,000. [*Desk thumping*] And I hope what I am hearing is not true. The son of Yuma, the son of the bandleader of Yuma is a party financier of the ruling party. That is what I understand. Somebody could deny that. Mr. Huggins, you are the PRO, you know about money, so you might tell us. The leader of the band, the leader of Yuma, is the son of a PNM financier.

Hon. Imbert: No, the other way around.

Sen. W. Mark: So, Madam President, we had asked the hon. Minister and we had brought an amendment when he came to raise \$50 billion. We brought an amendment saying do not raise any money until procurement legislation was passed in its fullest form. We ask the Minister today: How many contracts have been issued that you are aware of under your watch since September 07th? We are now going, Madam President, into almost eight months since this committee work had started, and we are debating it in the eight month going into the ninth month, and we have not gotten from the Minister—all we heard from him this evening is that he would like to implement this measure quickly but you know, Madam President, we have not gotten a time schedule.

I challenge the Minister today to provide this Parliament with a schedule, a time schedule, as to when this legislation will become law in its totality. We want a schedule of implementation. We want to operationalize this law. We want this law

to come into effect, Madam President, by a certain date. We feel, Madam President, this law should be effected no later than December 31st. [*Desk thumping*]
Madam President, this law should be operationalized by December 31st of this year.

But we are getting the impression from the Minister, based on submissions made to him as chairman of the committee, Joint Select Committee, that more amendments are coming, because the Board of Permanent Secretaries does not like this, and this one do not like that. He is on record as saying they may have to go to the parent legislation, because what they were advancing were not pertinent to what was before him. So the question must be asked: are we to expect further amendments in the coming months? That is something that you must clear up.

But, Madam President, we are all for procurement. We support procurement. We brought this legislation. There were a lot of challenges but we fought. There were challenges and battles and we are here today, and we want to work with the Government with a view to having a unanimous decision today. We would like this legislation to be unanimously approved, but there must be give and take. There must be negotiations. There must be compromises in order for us, Madam President, to get the best package for the citizens of Trinidad and Tobago. We want the best package for the people of this country. There are many issues that are disturbing us.

I want to say, Madam President, in closing, I serve notice that in due course or in short order, I have been approached by the people of Tobago—

Madam President: Sen. Mark, your time is up.

Sen. W. Mark: Thank you. [*Desk thumping*]

Sen. David Small: Thank you very much, Madam President, for giving me the

opportunity to join in this debate. After the usually spirited performance by our colleague from the Opposition Bench, I could only hope to try to bring some sanity to the proceedings.

Madam President, I want to start off today by extending my appreciation to the team of people who worked on the Joint Select Committee. I sat as part of that process. As the chairman of that process, the Minister of Finance, I think he managed the meetings very well. Many times the discussions were very spirited, but I felt it was also conducted in a very positive manner.

I think the support of the team from the CPC, especially for someone like me who was actually the first time dealing with a Bill in the Joint Select Committee, I think that that helped me to understand a lot of the things that perhaps were not very clear to everyone. My own view, respectfully, Madam President, is that we have an excellent set of amendments here inside of this Bill and I think [*Desk thumping*] that the issue for me is that we are here to deal with an issue that is long overdue. We are here to try and see how we could plug the gaps and get this amendment Bill through and get the actual parent Act fully operationalized.

Madam President, I am on record in this Parliament as saying, on many occasions, no legislation would ever be perfect. It will never be perfect, and I have also said I am willing to accept a 70 or 80 per cent solution, because we need to get something in place. As far as the issue of corruption which does not exist, I am going to deal with that later on. It does not exist, because I would come to that, Madam President.

Madam President, as the hon. Minister of Finance is here, he should feel comforted that today I am not going to talk about the FCB IPO. [*Laughter*] I am not going to be talking about the people and them who are in the Clico, FCU, why

no one as yet made a jail. Why nobody has been arrested and charged. I am not going to be talking about the tax-free Savings Bonds that I am yet to see what is happening to help the citizens of this country. I am not going to be talking about those things. So the Minister of Finance can relax.

I am not going to be talking about the bank fees, the atrocious—I mean atrocious bank fees, Madam President. I am not going to talk about the fact that one of the regally named banks in this country ask you when you are travelling overseas, please give us your itinerary, exactly where you will be, and we will make sure your card is working, and when I travelled recently I called them, I do everything, and then my card does not work. I called them, I emailed them, they never responded. Luckily, I thank God for FCB and Scotiabank. Yeah. These are issues that, Madam President, the regular citizen in this country is facing and when people want to apply fees and then cannot deliver the service, something has to be done.

Madam President, when we talk about procurement in this country, I think that public procurement is a huge slice of the economic activity in this country. When I looked at the *Draft Estimates of Revenue* I recognize that over 120 state agencies, authorities, Ministries spend over \$15 billion a year. That is a huge amount of money in terms of expenditure on procurement and in terms of things of transport, waste management, social protection, health, education services. The public authorities are the principal buyers in this economy, and we need to have a system to monitor that and deal with that properly.

Madam President, the history of public procurement has seen the questioning of many and several transactions that have come into question in the public domain. I think that it is very likely that the transactions that have been

flagged and deemed impacted by corruption, whatever that is, is actually very likely to be a small percentage of the things that have fallen under the bus in terms of having an appropriate procedure and having the correct things done. I believe, Madam President, that grand corruption is being perpetuated in this country at an alarming rate and with petty corruption becoming endemic, and it is almost impossible to stop.

Madam President, I also want to say that when I looked around, the Minister in his contribution spoke about the system in the UK, but I also looked at the US system and they have something called a centralized system for award management. When I looked at it, one of the very interesting factors or operational factors inside of there is that they have a list of something called the excluded parties.

4.00 p.m.

This is a public register of persons and organizations who are excluded from receiving federal contracts, and this is where they have recognized that people who have been party—have done things that are not correct—are excluded from future consideration. And that lends a level of rigidity to the system that if you know that you have been involved in something shady and that will impact your future ability to get work then you would not do something shady and try keep your stuff on track. Perhaps when we look at the future and in the way in which we do things that is something we have to think about, because you keep hearing about the same parties allegedly involved in activities and then they get other contracts. So something has to be done. We have to find a way to treat with that because it just does not make sense, accusing someone of wrongdoing and then right after they are bidding and getting further contracts; it is not logical to me.

Madam President, I want to say something here and the relevance of it will evolve as I talk about the Review Board. I want to talk about jumping to conclusions, Madam President. Jumping to conclusions is where you attach an assumption to an untested belief and then you bend the narrative to support that assumption. Madam President is smiling. I think Madam President understands very well where I am going. [*Interruption*]

Hon. Senator: We know you are a philosopher.

Sen. D. Small: Yeah. Madam President, I refer back to the Standing Orders, 46(6), and it is interesting for me, it says that:

“No Senator shall make an imputation of improper motives against any Member, an offensive reference to a Member’s private affairs, a personal reflection against a Member or allegations of bribery or corruption.”

So that Members are not allowed to do that but what about other parties aligned to the State? I am going to deal with that comprehensively today because it is not to be tolerated. It is not to be tolerated under any circumstances.

Madam President, as we saw earlier today, Members come here and swear on the *Bible* or the *Bhagavad Gita*, and they swear to perform this work conscientiously and impartially. Anybody willing to challenge that, that I stood there and I swore on the *Bible*, and I swear to do that and you want to challenge me on that, I take umbrage.

Madam President, the key amendment—for me, I am going to start with the review board, because I believe that for me is something that we have spoken about. I believe that the Review Board is actually a second level of oversight, and I agree with everybody, all the views that it adds another layer of bureaucracy. That is completely correct, but here is what it also does, for the person or the party who

is bent on doing something untoward, they recognize if I am in an entity and we are doing a procurement it is going to have to go to the procurement agency and then it is going to have to likely go to the Review Board. So that starts to lock you in, perhaps I may have to try to do this thing correctly. So you have another layer. So while I agree that it is another layer of bureaucracy, and it actually may make some of the processes a bit longer, but I think we need some of that because too many people are able to get away with things unscathed.

Madam President, I want to share with Members here, in my role as random citizen yesterday afternoon, I am going into a supermarket, and I am stopped by a well-attired young gentleman, “Senator, can I have a word with you?” I am like, “Certainly”. And he goes on to describe to me how he is in a particular position in a state entity and the things that he is seeing he is not happy with, and every time he has spoken about it he has gotten tapped up. Now, that person could be just a random person who is aggrieved for whatever reason, but when people approach you like that you have to try to figure out—and I am having a 20-minute conversation with this young professional and he is laying out to me some issues that I would not repeat, but it helps me to understand that we have a real problem with procurement, a real, real problem.

Madam President, my recent experience of the arrogance and disrespect for parliamentary committees by state entities who seem to think that they are not bound to provide information and to fully account for their activities, further buttresses the need for a review board. These arrogant actions in one case have descended to the level of personal accusations that have zero basis, and it seems to be purely aimed at trying to intimidate me in the performance of the work that I have sworn on the *Bible* to perform in this House, and I take umbrage to it. For the

record, Madam President, I refuse to be intimidated by any person, group, or organization in carrying out the responsibility for which I have sworn an oath. I take it very seriously.

I take challenges to my professionalism very seriously; that is the basis upon how I work. I do not know how to do anything else other than be professional. People seem to have given zero consideration to the fact that as a professional I am able to compartmentalize my various responsibilities and deal with them in its own way. All I have been advocating, Madam President, is that all state agencies must understand that they are and must be fully accountable for state funds and all their actions. That is it. That is all I have been advocating. The procurement body is not immune from this requirement, and, in my respectful view, the review board will help to ensure that there is a subjudicial avenue to settle disagreements.

Madam President, review of actions of agencies is absolutely critical. It is now part of the permanent record of the Parliament that a state entity has made accusations against a Member of Parliament, of this Parliament, on the basis that they sought to have this Member expelled from a public hearing. Madam President, through you, I am saying to the citizens of Trinidad and Tobago, you have a state entity who, for their own reasons, is levelling accusations that have no basis and are trying to enforce action against the Parliament. That is not to be tolerated. Insofar as they had the gall to do this, Madam President, not at all. I am coming—[*Interruption*]

Madam President: Sen. Small, let me just caution you a little bit. I think you may be referring to matters before a joint select committee?

Sen. D. Small: No, Madam President.

Madam President: No. All right. Because I just want to caution that we be very

circumspect before matters are dealt with with a final report about what we say, all right?—because you have the in camera proceedings and then you have the public proceedings.

Sen. D. Small: Thank you, Madam President, and I appreciate your guidance because these are issues that require specific action, and insofar as I am a Member of this Parliament, and I take this responsibility seriously, I believe that if someone has a challenge, there is a route. For the avoidance of doubt, Madam President, I am willing to put this matter to rest. I am just making sure that my views on the matter are clearly understood. I hold no grudges, I just believe that when we do things we should try to do things in a proper way, and if you want to engage with people do it in an appropriate manner.

Madam President, in the words of the great Mahatma Gandhi, “The weak can never forgive, forgiveness is the attribute of the strong”. There is a particular quote that I have actually stuck up over my computer at home that I use all the time because I have faced many challenges in my few short years on this planet, and the great Mahatma Gandhi said, when you are dealing with how he as an individual dealt with challenges and he persisted, he said and I quote, “First they ignore you, then they laugh at you, then they fight you, and then you win”.

Madam President, in the same way that the proposed Review Board has the power to rescind decisions of the procurement agencies, perhaps it is time for us to consider that the committee system here is given some additional authority to have sanctions. I am saying that deliberately because I think that where we are the Review Board allows for a higher level, an additional level of oversight, but it also has the authority to review, rescind contracts. And that is huge, because parties who are starting a process here have to understand it has to go to the Procurement

Regulator but it also has to go to the review board. So that what you know is that even if you are bent on doing something wrong you have two levels that you have to go through that very likely if you are doing something that is not correct you could be caught.

Madam President, I believe that procurement challenges exist as it is right now. Many state entities are facing issues with how they manage procurement. One of the issues that I have asked, Madam President, and I have stated it publicly, we need to probably look at something called value-for-money audits. Many entities are not entities that are designed to earn profits, they are there to provide services to the citizens of the country, but it does not mean that we cannot make an assessment as to whether or not the moneys that have been applied by that agency, and, in terms of procurement, to ensure the Government and the people of Trinidad and Tobago get value for money.

But another issue, Madam President, in public procurement that has come up is what I call contract management issues—you end up signing contracts with parties and then when those contracts, for whatever reason parties are in disagreement, you find that the contracts many times are adverse to the state agency, and the State ends up with a situation where it almost has no recourse but to pay. I think that there needs to be a harder look at, what I term it, contract management issues. So those are issues that I think that require some looking at, and I am sure the procurement agency would look at those things but I want the flag those things.

The other issue, Madam President, I want to talk about is something called bid rigging. I noted in the other place that it was stated that bid rigging is now an offence, and perhaps I have actually had experience seeing what I see as bid

rigging. I have sat in agencies and seen tenders come and if, let us say the in-house estimate is \$5 million, a bidder bids \$4,990,000, but you sit in the agency and you are like, they meet all the technical requirements and they are below the in-house estimate, and they are also the lowest bid; you struggle. But the problem is you cannot finger who else is to blame other than it seems as if there is some level of collusion between parties in the organization and the parties who are making the bidding. So that bid rigging is very, very prevalent in my own respectful view.

Also, Madam President, as we look forward I also want us, in the discussion that will ensue once the Procurement Regulator begins operating and the office is fully operational, the issue of when we look at how to treat with parties who have run afoul of the system, for want of a better phrase, that as part of the penalty we have to examine the issue of civil asset forfeiture, because at the end of the day people engage in these activities, not for the money itself, for what the money could buy. At the end of the day people want to have things that money can buy, and the issue of civil asset forfeiture is a discussion that I believe is time that that discussion begins, that that is something that we really need to look at. So while we are within the arm of procurement we have to understand that the reason why we are having challenges with procurement is because people are seeing the opportunity to enrich themselves, and in enriching themselves they have things. And if they recognize that there is, perhaps in the future, someone is going to say, well, the Government can take away those things, that is a discussion that I would like to be part of going forward.

Madam President, when the committee met, as I indicated earlier, I think we had very, very focused discussions. They were very, very intense at times. One of the issues that we discussed that took up a lot of time was the issue of the members

being able to trade with the Government, and I think that that is something that is adequately treated with inside of the amendment, and it has my fullest support. I believe that when we looked at that we recognized that that was something that needed some tightening up, and the committee, with the support of the really excellent team from the CPC, I think that even someone like me when we looked at it, and I am like, okay, I am trying to understand what it means, I think that the process was a process that allowed for a lot of clarity, and I am fully supportive of this particular measure.

Madam President, regarding the issue of the making of regulations by the Minister of Finance in relation to the remuneration, I see no bugs in there, Madam President. That is part of the normal way in which things work, and everyone is entitled to their opinion, and my opinion is that there are no devils inside of this. I believe this is a standard, relatively usual provision, and I do not see any issue, and it says the Minister, but it is just the Minister. At the end of the day, there has to be a party authorizing the expenditure of government moneys and that person just happens to be the Minister, and so be it. So on that issue, Madam President, I have no objection whatsoever; again, I believe this is a strong amendment and adds a lot of credibility to the Bill.

One of the other issues, Madam President, is the procedure for making regulations in relation to the disposal of state lands. Again, this was something that engaged a lot of discussion because it seemed to have slipped in the parent Act, and I think that this particular amendment is critical because I am an energy person and I understand that the Ministry of Energy and Energy Industries at times would do, what is called bidding rounds, both onshore and offshore, and would allow for the provision, providing acreage under licence to various parties. And if you are

trying to suggest that giving someone a lease on acreage is not disposal, that for me I understood it better following the discussion, during the discussion, and with the support of the CPC team, and I believe that what we have done is plugged a major gap.

We have plugged a major gap with this amendment that it also says now effectively, anything that is not covered under a specific piece of legislation, anything to do with the disposal of land where there is actual sale or lease, is actually captured here now by the Office of the Procurement Regulator. That will allow or stop parties from making any creative, or trying to be creative with state assets or state lands.

4.15 p.m.

Madam President, I want to go on, I am trying to keep on time. The public procurement, however, in Trinidad and Tobago continues, I believe, to abdicate part of its responsibility in supporting sustainable and inclusive growth while ensuring the most efficient use of funds. I hope that with these amendments that are being proposed today and the full proclamation of the Act, that we will see an increase in the efficiency of public spending, facilitating in particular, in my view, the participation of small and medium sized enterprises in public procurement, thus enabling this critical part of our economic system.

Every economic system—the SMEs are the bedrock—has large enterprises but you need to try to have a system that encourages and supports the smaller and medium sized enterprises, because they are the ones who actually have systems that allow for real employment generation that allow for people who may not have all of the skills required to be able to get jobs. You know, you have the big formal organizations, it is a whole long process to be able to get into one of those places to

get a job. The small and medium enterprises you find they are much more flexible and it has a very, very great impact on the economic system. And public procurement has a role in that. And I believe that because of the way in which it evolves, for some services in this country there are surely one or two contractors, it is everybody just gotten very huge, and then the other smaller ones you do not even hear about them, you do not even know about them.

Madam President, transparent, fair, and competitive public procurement generates business opportunities, drives economic growth and creates jobs. By rethinking the entire approach to purchasing, and what I would say is not an English word, but professionalizing the buying of services. So, you are bringing a professional element to purchasing of services. As it is now, if you engage in the average Ministry or department you have somebody— an AO II or somebody— buying, looking, and while they are doing the job and they are doing the best that they could within the existing CTB rules, we are applying a level of professionalism to public buying. You can actually go and learn procurement, you can get a degree and a masters in procurement. It is a specific area of study.

So that while all along we have gone along and we have done okay, I believe that one of the critical things that this does is allow to have a level of professionalism in terms of how we approach the spending of Government money for services. I believe it would end up cutting red tape. We will certainly benefit from what is called the digital revolution, e-procurement, it is something I am sure we are going to be seeing a lot of. I believe it will lead to improved governance, simplification of procedures, and the greater use of electronic tools in public procurement.

And, Madam President, that point is important, because as you start to use

more and more electronic tools, you start to reduce the opportunity for the low level types of corruption that we see in the country. Because as you automate a system you get some guys who become talented at finding ways to break your system. But at least the random—the type of some of the things that we are seeing in the system now you eliminate the opportunity or significantly reduce the opportunity for those types of activities.

Madam President, as the biggest single spender in the local economy, the State has the opportunity and the public sector buying fraternity has the opportunity to use procurement strategically to drive horizontal policies such as those that are aimed at creating more innovative, competitive, less corrupt and creating a more, what I would call a socially inclusive economy.

Madam President, if I sound Utopian with these last comments, I beg your indulgence, because I genuinely believe that we have the opportunity to fix the ills in this country. If I did not believe that I would have been doing something else. Today I believe procurement in Trinidad and Tobago begins a new era. We may finally be getting the opportunity to take a big swing at that little thing called corruption. Of course, it is my personal, probably facetious, belief that there is no such thing as corruption in Trinidad and Tobago. Why, you may ask? Because, to date, no one has been charged, much less convicted, or ever spent a day at the luxurious accommodations at the Golden Grove Prison. So, do we wonder why things are the way they are?

Every day I wake up and I give thanks to the father, and I thank him for the ability to be able to see another day. I say that I am thankful for my family, and I say that I will try to go and do the best that I can do on every given day. Madam President, at 1 Peter 3:16, and I quote. It goes:

“Having a good conscience; so that, when you are slandered, those who revile your good behaviour in Christ may be put to shame.”

At Psalm 37:28 the *Bible* says:

“For the Lord loves the just and will not forsake his faithful ones. Wrongdoers will be completely destroyed; the offspring of the wicked will perish.”

Madam President, part of the job of the procurement body is to ensure that the resources of the State are properly and efficiently managed by the respective custodians. The resources that the custodians manage do not belong to them. They must understand that they are custodians, and they must give an unfettered accounting of all their actions in regard to those resources. Custodians should not be giving instructions about how to respond or how not to respond. Custodians have to do their job understanding that they have a duty to account fully, and we have a challenge with that, Madam President. Custodians have to understand that they have to account.

Madam President, the amendments proposed in this Bill are intended to provide additional oversight; cut down on potential litigation; regulations for disposal of state lands; it allows for closing of a big loophole, and the terms and conditions for the positions, that is a normal procedure, and the Minister has full say on that, and I have no challenge with that. Someone once told me that haters will see you walk on water and they will say is because you cannot swim.

Madam President, as I begin to wrap up—[*Laughter*—you brought out the preacher in me. Madam President, as you know, I am a humble soul. I have one peeve: I try my best every day to do the right thing. I try! I work hard and I try to do the right thing. It is in me. I do not know how to do anything else, and that is

why when I am challenged on that, I take it really, really seriously.

Madam President, permit me to digress. You know we are in a country, we have a lot of negative news. I just want to say a word of thanks to the officers of the Central Police Station in Port of Spain. You may be aware, a very close family member of mine required the attention of the police, and I was not there. But, they went to the station last Friday and they were given an appropriate response. They did not call my name, just said they went there. They wanted to report this—wanted this dealt with—and they were very courteous and professional. Listen, we all hear the negative stuff, and all I am saying is that in between there, there is good stuff, and we should probably give a little note of the good stuff. [*Desk thumping*]

So, forgive me for digressing on that, because I believe while we are talking procurement, perhaps when I eventually got there I think the procurement people probably need to help the guys with some new furniture and stuff. But, I think we have to understand that Trinidad is a country where we have so many good things going on, and we are in a place where we are trying to fix one of the biggest and major problems that has affected this country for many, many years—public procurement. Public procurement has been allowed or has been perverted by the deliberate actions of many and several parties for the sole purpose of personal enrichment, removing food, literally removing food from the plates of the citizens of this country, and that has to stop, or it has to begin to stop.

Madam President, I also want to share that the hon. Minister of Foreign Affairs could tell you the last time he and I had a discussion we were in the same room with Heads of State, and with the United States Secretary of State, John Kerry in the room, and we were all in the same room—and the hon. Minister of

Foreign Affairs is right here—and the opportunity to be in those rooms allows me to be able to share with people my views on matters, to hear their views, and when we talk about professionalism, and talk about people having respect for you, that is where— to be in that room, you had to be invited. And I was not part of the Government delegation, for the record. I was there on my own devices. And I share that because we are in a country where we often under-value what we have. We have to understand that the state resources have to be applied in a way that the citizens, the majority of the citizens get the benefit of those state resources, and try to avoid a situation where you have a small group, or probably now it is a wider, a bigger group seeming to be enjoying the fabulous life, living this wonderful life, and then you have people who are not—And I do not know how else to put it—they are not; they are struggling.

Two days ago—I will share again—I am in my regular supermarket, my neighbour here will tell you, and every time I go and I see this happen, it is happening more and more. I am there with my basket of goods and a lady and her son and daughter they are there and every item that cashier cashes she is looking to see the total, and when she cashes the big bottle of oil, she told the boy to go back and—you know, we do not understand how a lot of people are living on the edge. They are living on the edge, and then you have people taking state resources and enriching themselves, they are effectively taking food off the plate of the citizens of this country.

So, you see this legislation begins to open a door for us to try to stop that, and to allow for a more even spread of the state resources so that those who really need it can have it. And that pains me. It pains me, because I am able to do what I have to do, but I recognize, I see it more and more, and you have to be patient

because you are in the line and you want to go, but you have to be patient because people have a finite amount of money. And these things get to me because I recognize that—as I always say I am a normal person. I live in a normal regular area, I interact with normal regular people, and people approach me, if they want to talk, I talk with them.

sAnd life in Trinidad and Tobago could be a lot better if when we put this legislation into place and it is properly proclaimed and fully enacted, and fully enforced, those who want to steal—and I am using that word—from the public purse will have to understand that there are penalties for that, and that going through the Procurement Regulator and then the Review Board, you will be caught.

And, Madam President, as I close I want to say that I fully support the amendments presented here today. I think the amendments are solid, they are strong, they improve on the parent legislation, but I am also of the view that right now we need to get the parent legislation, everything fully proclaimed and going. I think that is where we are. I accept that there are parties who submitted something we may want to look at, but let us look at that down the road. My focus now is, I am supporting this, and getting this passed, and once we get this passed and we start to put it in place, perhaps it could lead to a day when the citizens of this country could feel that perhaps public procurement is finally doing the job that it is supposed to do, and serving all of the people of Trinidad and Tobago in the same way.

Madam President, with those few words, I thank you. [*Desk thumping*]

Madam President: Hon. Senators, at this time I think we will take the tea break. So, we will suspend and return at 5.00 p.m.

4.29 p.m.: *Sitting suspended.*

5.00p.m.: *Sitting resumed.*

Madam President: Hon. Senators, I have given leave to Sen. Sturge to raise a Motion. So we will now proceed with that Motion. Sen. Sturge. [*Desk thumping*]

SENATE PRIVILEGES

(DR. KEITH ROWLEY)

Sen. Wayne Sturge: Madam President, in accordance with Standing Order 30(2) of the Senate, I seek your leave to raise a matter concerning the privileges of this Senate. The matter is in respect of statements made on Wednesday, May 25, 2016 at a post-Cabinet media briefing where the Prime Minister on the issue of the SSA. These statements were broadcast live on television and reported in the media and broadcast on social media, YouTube.

In his statements, the hon. Prime Minister made damaging, disparaging and negative reflections and imputations upon a member and/or members of this Senate. The Prime Minister, inter alia, reflected on a member or members of this Senate and (a) asserted that:

1. Independent Senators were organizing themselves as a political party in the Parliament to obstruct the Government's process;
2. A Member or Members engaged in unsuccessful nefarious actions;
3. A Member or Members were so hell-bent on instructing our fight against the criminal element;
4. Members were ill-informed or persons who are obstructing or being obstructive or downright mischievous or worse, who would like the country to remain without the necessary information to respond effectively to the criminal element;

5. A member was or were fishing for all kinds of issues to raise on this matter;
6. On several occasions referred to Members as obstructionist and/or obstructing the Government;
7. Accused the Opposition of unsuccessfully attempting to obstruct the Government and imputed that Members' conduct amounted to attempts to distract the Government and that Members had attempted to mislead the public and asserted that the Opposition was questioning the Member to the point of infringing the privilege of the Member of the House.

Madam President, parliamentary privilege is a hallmark of parliamentary practice, offering protection from interference from whatever source and safeguarding the freedom, authority and dignity of the Houses of Parliament. The Constitution of Trinidad and Tobago, the Standing Orders of the Senate and May's *Parliamentary Practice* provide guidance as to the law, practice and usage with respect to parliamentary privilege.

May's on parliamentary privilege also speaks to constructive contempt as including reflections on the House and upon Members even though the particular individuals are not named or otherwise indicated and states that constructive contempt also includes molestation. With respect to freedom of speech in debate, May's explains same at page 222. In addition to cases referred to in May's there are cases in our jurisdiction and one would recall in 2009 UDeCOTT was sanctioned for a publication of a statement concerning a Member of the Parliament.

Madam President, our very existence here in this Chamber is by way of constitutional mandate. While my colleagues on the Independent Bench may

confer on procedural matters, such as committee representation and speaker order in debate, they constitutionally hold no collective conscience. Each Independent Senator speaks and votes according to his or her own volition. The allegation therefore of Independent Senators organizing themselves as a political party in the Parliament to obstruct the Government's progress, most certainly, reflects on the character and conduct of Members in such a manner that may bring this Senate into odium and ridicule.

The Prime Minister also reflects upon the constitutional presence and conduct of Members in this House and may in itself be a contempt and that may in itself be a contempt with respect to the constitutional role and/or conduct of Members in our parliamentary democracy. The reflections referred to above from May's and that in our own jurisdiction amounting to contempts, are analogous to those made by the Prime Minister and whether or not the particular Members are named or otherwise indicated does not matter.

In the context in which the statements were made, it is clear that the conduct of a Member and/or Members of this House is being reflected upon. Indeed, given the questions that the Prime Minister was responding to, it is clear that part of his response was in respect of words spoken in the Senate which therefore had the protection of the privilege of freedom of speech by Sen. Shrikissoon. In the premises the question arises as to whether the Prime Minister's said reflections in his statements made on May 25, 2016 amount to a breach of the privilege of freedom of speech and/or are contempts of this Senate and I therefore request that this matter be referred to the Committee of Privileges. [*Desk thumping*]

Madam President: Hon. Senators, I will give my ruling on this matter at a later stage of the proceedings. Hon. Acting Attorney General. [*Desk thumping*]

**PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY
(AMDT.) BILL, 2015**

The Acting Attorney General, Minister in the Office of the Attorney General and Legal Affairs and Minister in the Office of the Prime Minister and Acting Attorney General (Hon. Stuart Young): Good afternoon, Madam President, Members of the Senate. It is indeed always a pleasure to join you all in debate in the Senate, this being the place where I started not so long ago. Coming on the heels of the contribution of Independent Sen. Small, it indeed, his contribution falls on fertile ground when it comes to this Government and what we are trying to achieve. And I would like to start with your leave, Madam President, to just outline to the right-thinking citizens of Trinidad and Tobago and to the independent minds in this House and in this Senate, of the importance of this piece of legislation. This is merely one arm of what this Government has set about doing since coming into office in September of last year. It was identified “early o’clock” as being an important part in the fight against corruption along with whistle-blowing legislation, campaign finance reform and other measures.

The amendments that have found themselves before the Senate, which have already been dealt with in the other place, are found in the report of the Joint Select Committee on Public Procurement and Disposal of Public Property (Amdt.) Bill, 2015. And if I may, Madam President, outline very briefly some of the important parts.

First of all, a lot of weather was made about whether this legislation would be proclaimed and, in fact, Sen. Mark asked that it be proclaimed by December 2016. I would like to start by putting on record that the parent legislation, after substantial debate as he pointed out and reminded me whilst I was a Senator, we debated it in the Senate and actually agreed to it, this is the parent legislation,

which is Act No. 1 of 2015. I would like to put on public record that this Act was assented to on January 14, 2015. And in fact all the way up to July 2015, when those in Opposition were actually then those in Government, there was no proclamation of the Act. So it falls to be at minimum, ironic to hear falling now from the lips of Sen. Mark a suggestion that we must move with haste to have this proclaimed. And in fact what was proclaimed in July 2015 was of absolutely no significance I say respectfully.

So the question that we ask ourselves is after taking so long to bring a necessary—and I had described it previously as an admirable and a very dynamic piece of legislation and a change to the Central Tenders Board Ordinance—why did it take so long, one, to bring it and then two, it was never proclaimed? And I believe that in the few months that we have been in office, we have been unearthing and finding reasons that substantiate the reason why it was not proclaimed. And in fact, not given the life that it should have been given.

There are two parts of this legislation that is now before the Senate that have very far-reaching and wide-ranging effects and I would like to start by going, as it was pointed out by Sen. Small, to the parent legislation. There is now a definition of something called “big rigging” and it is found at section 4:

“‘bid rigging’ means collusion between persons for the purpose of manipulating the proceedings;”

And, of course, when one turns to section 60 of the parent legislation, there is an offence involving collusion which is the bid rigging offence. And it says at 60(1):

“A person who—

(a) is involved in, or participates in bid rigging; or

- (b) directly or indirectly influences in any manner or attempts to influence in any manner any procurement proceedings in order to obtain an unfair advantage in the award of a procurement contract,
commits an offence and is liable to a fine of five million dollars and imprisonment for ten years.”

So for the first time, Madam President, in Trinidad and Tobago we have created an express offence, statutory offence, criminal offence of bid rigging.

Corruption is a scourge on society and a scourge especially on the poorer elements of our society. And as Sen. Small pointed out, he says he feels it when he goes to the grocery and he sees persons who are unable to afford what they may need or what they may want in one go at the grocery. Those of us who represent persons of Trinidad and Tobago and constituencies see it all the time when you walk in the constituency, when you are interacting with persons.

And every time I do that, as I did this weekend, and you see those in our society who are less fortunate and then you are faced with, on the face of it, evidence of elements of bid rigging to the tune of hundreds of millions of dollars, it does break your heart. And I am glad that for the first time we are moving, and I say all too late, to have an official express offence of big rigging in the laws of Trinidad and Tobago. And I question myself: If this Act was assented to in January 2015 and there were—the Parliament sat all the way up to, I believe it was June of 2015 or July 2015—why did the former Government not proclaim this legislation and in proclamation ensure that section 60, in particular, was proclaimed to make it a criminal offence of bid rigging?

Another element that is before us here this evening is to have for the first

time any disposal of state lands that it will be governed by a procurement process. Of course procurement processes, Madam President, are done to protect the patrimony, the heritage, the future generations of Trinidad and Tobago. Again, I have heard suggestions from the Opposition here this evening that there is a great need to protect the heritage and the future generations of Trinidad and Tobago. So one again asks the question and it is right to ask the question and the right-thinking citizens of Trinidad and Tobago and the Independent Senators of the Bench on the other side should ask themselves, why would you not want to include protection with respect to the disposal of state lands? Because, of course, state lands are a finite resource. state lands are not the resource of a government, but it is really of every citizen of Trinidad and Tobago; and as we know and as I said, it being finite, there are limited amounts of state lands that can be disposed of.

So why should there be any opposition with respect to the disposal of state lands which is something that we had raised when we were in Opposition and it was blocked and it was not taken on. The suggestion was not—it found no fertile ground and we come here now today, Madam President, to include it and to include it as an amendment to the parent legislation to protect that heritage, that patrimony, the future generations of Trinidad and Tobago.

So if we focus on bid rigging and we focus on the disposal of state lands and we question as an independent people and as right-thinking citizens, why should people not want this to be included in our legislation? I would like to draw a few examples from some of the material that we have managed to uncover, unfortunately that we are seeing and that has fallen on our laps to look at. I will use the example this afternoon with your leave, Madam President, of some transactions we found and we unearthed and it is of great concern to us that will be passed on to

the authorities, and it is with respect to the Chaguaramas Development Authority.

5.15 p.m.

Madam President, unfortunately, the Chaguaramas Development Authority provides us with some good examples of exactly these two scourges on society. The first one is land grabbing and there is on record, and irrefutable land grabbing took place through the CDA at Chaguaramas in the year 2015 with peppercorn leases being given for very prime parcels of land that fall under the purview and authority of the CDA, Chaguaramas Development Authority. Just as an example to the citizens of Trinidad and Tobago and how these state lands were disposed of, we found evidence of peppercorn leases being granted on September 02, 2015; September 06, 2015; May 22, 2015; March 18, 2015; August 26, 2015.

Persons would recognize that some of these dates were actually on the weekend before the general election, which was held on September 07th, which was a Monday. How could it be right that you are disposing of state lands at peppercorn rates and at undervalued leases on September 06th, which I think the calendar reflects, Madam President, is the Sunday before election? We found approvals and leases being granted and executed on Sunday 06 September, 2015 with the CDA for very prime parcels of land in very unfavourable terms and what we would deem to be not value for money. Funny enough, if we go back to the parent legislation, which is the Public Procurement and Disposal of Public Property Act, we will see—and I think it was pointed again by the Sen. Mark—that for the first time we have a definition in this legislation of “value for money”.

Value for money, Madam President, is defined as:

“...includes the value derived from the optimal balance of outcomes and input costs on the basis of the total cost of supply, maintenance and

sustainable use;”

What we have uncovered and what has been confirmed by independent valuers is that the leases that were granted, some of these leases to which I have referred, were granted at great, great undervalues despite there being on record values from independent valuers at the time. So one must question and one must ask for an explanation as to why this was done. One example that I will give here this afternoon, Madam President, through you, is that we have found a particular instance where there is a lease rental of \$1 being paid annually for 1.62 hectare acres of land for the construction of a car park. So the persons to whom this land was granted by the CDA are only paying the CDA \$1 per year for 1.6 hectare acres of land.

It gets worse, Madam President. The agreement goes on to state that the CDA will then pay to the persons to whom this lease has been granted, \$898,000 a month. So they are paying a dollar a year for the land, but now the CDA must pay them almost \$2.00 short of \$900,000 a month—not per annum—for a car park that is to be built. When you look at it—and this was a 30-year lease granted. Thirty-year lease at \$898,000 a month, multiplied by 12 months for a year, the CDA is now to pay this entity \$323,280,000 of taxpayers’ money for exchange of a rent that they are paying to the CDA of \$1 per year. So for \$30 a year we will pay them as taxpayers \$323,280,000 for the return of \$30 a year as a financial basis. Well, \$1 a year multiplied by 30 years, \$30. When one looks at the assumptions that were used to justify this—and there is suggestion that no, you will make the money over time, it is a multi-storey car park—the plans down in Chaguaramas, what the plans actually reflect are not supported of these figures.

First of all, when you use the square footage, Madam President, you only

come up with 742 vehicles being able to fit there. Their assumption suggests that it is 1,500 vehicles. So less than half of the number of vehicles they use for the assumption can actually be fitted in the square footage that they expect to build. Of course, when you look at it further—and we have had this quantified by independent valuers—the amount that they estimated and they told the CDA it would cost to build the car park is actually overstated by \$55 million. So all of their assumptions are wrong. There is overstatement of the valuations used, overstatement of the assumptions, taxpayers must now pay \$323.2 million over 30 years to these people for return of \$30, and they are telling Chaguaramas Development Authority that do not worry, a thousand cars or 1,500 cars will park there on a daily basis and that is how you will make back your money.

When we discovered this, Madam President, in our haste and in an effort to ensure that the taxpayers of Trinidad and Tobago were fleeced or continuingly fleeced, we immediately instructed that these persons be told that this deal is not on. How could we as a responsible Government coming upon these facts? I speak to the Independent Bench and the right-thinking citizens of Trinidad and Tobago, when you are faced now with a situation of a peppercorn rent of 30 years at \$30 and the CDA, which as you all know the only revenue the CDA has is from rental. So you are getting a rental of \$30 over 30 years, but you are being committed by the CDA to pay \$323.2 million in return for a car park that they are saying will be utilized every day of the week to make back your money. Madam President, with the greatest of respect, that is undeniably, unarguably, impossible to take place. So what we have said is this cannot proceed, this cannot go on. [*Desk thumping*]

Madam President, unfortunately that is but one of the examples that we have found. There are more, but I would not get into the further examples—

[Interruption]

Madam President: The noise level is rising. Please, could we listen to the hon. Acting Attorney General in silence?

Hon. S. Young: Thank you very much, Madam President. So this is why we as the Government moved immediately to make amendments to the Public Procurement and Disposal of Public Property Act to include the disposal of state land within the ambit when it had been resisted by my friends on the other side when they were in Government. I think the answer is a rhetoric one to the hon. Sen. Wade Mark, well to Sen. Wade Mark, when he asked about the proclamation of the legislation. Unfortunately it fell a deaf ears at a time when it could have saved the taxpayers of Trinidad and Tobago hundreds of millions of dollars.

The other matter that we have found evidence of is with respect to bid rigging. Now I was being asked a short while ago to explain bid rigging. We heard from Sen. Small some of the examples he has experienced through his career I assumed, the career in the public service as well as your interaction whenever there is a procurement process, et cetera. It saddened me to listen to him and to know that it has only gotten worse, where we have found evidence, for example, of what is supposed to be a competitive procurement process, where four entities have come forward to enter what should be a competitive tendering process, and we have found evidence that two out of those four entities when you go behind the corporate veil are actually owned by the same shareholders and on some occasions have the same directors.

So they set it that it appears as though there are four persons competing for whatever is the outcome of the procurement process, but in fact it is not really four separate entities. We have found instances of 10 contracts to be awarded, and out

of the 10 contracts to be awarded, the same four entitles have competed for all 10 contracts—*[Interruption]*

Hon. Imbert: With coincidence.

Hon. S. Young:—with coincidently I am facetiously told and, of course, those entities, one of them comes in as Sen. Small has rightly identified, a few dollars or cents short of the engineers' estimate on one occasion. On the next occasion, that same entity is tens of millions of dollars above, and it just continues to go around in this rotational process. And then what we have found and we have now sent in the—and you talked about the value for money and the value audits which are being conducted. So I can tell the persons of Trinidad and Tobago we have a number of value audits taking place, when on the face of it the documentation looks to be contracts that were seriously overinflated, we found on those value audits—we have a great example of one that I gave.—less than one kilometre of road, rural road, a contract awarded for 900 metres of rural road, Madam President, for \$10 million. And, of course, now when we send the value auditors in the form of quantity surveyors, engineers, auditors, et cetera, they are coming back and telling us exactly we suspected. Pavilions that were paid \$8 million paid, only \$1.5 million worth of value of work done.

So, Madam President, what we propose with this legislation and these amendments here before this Senate, is that these are some of the necessary elements that must be put into law and expressly placed in law to ensure that this does not happen again. I sat here and I listened, and I listened to some of the attacks on these very simple but effective, and useful, and necessary—*[Interruption]* I think Sen. Mark wants to say something.

Sen. Mark: Sorry.

Hon. S. Young: So, Madam President, what we have found is that the instances that we are uncovering and unfortunately, it is not limited to Chaguaramas Development Authority alone, call for a very quick implementation of this public procurement legislation, but also unnecessarily so. What is being proposed by the Joint Select Committee because it is a joint select committee report and we have heard that only one person objected to the content of the report, another one from the Opposition unfortunately did not participate I am told. What we are being told is that they as the persons charged by this Parliament, with the expertise of coming back to the Senate to say what are the necessary amendments to be made to the parent Act of Public Procurement Disposal of Public Property Act, they have come up with these amendments as being the necessary amendments that need to make it an effective new procurement regime.

So as we sit here, I want the people of Trinidad and Tobago to understand that all of the hype that was made in 2014 when we debated this, and then it was assented to in early January 2015, and nothing became of the legislation, it is becoming very apparent, and it should become apparent to the Independents and become apparent to anybody who is interested in the welfare of the future generations of Trinidad and Tobago why this legislation was not proclaimed.

If I may just touch briefly now, Madam President, on some of the proposed amendments to the parent Act. What we start off with as was pointed out by the hon. Minister of Finance, what we have start off with is at section 12, we are adding now to make it a cause for termination that if a member of office is trading with the Government without prior approval of the Minister, he or she may be removed, and we define what it is we mean by trading with the Government. And it is:

“For the purposes of this section, a member trades with the Government if, while holding office, he becomes a party to, or is a partner in a firm or a director or manager of a company which to his knowledge becomes a party to any contract with the Government for or on behalf of the public service.”

I heard the hon. Minister of Finance say, you never know this may be a possibility. And again I sat down crescent in my seat and I stand here and rise to tell the nation of Trinidad and Tobago, through you, Madam President, that that is in fact a reality. We have found instances where the managing director of a state enterprise set up companies where he is the incorporator. He was initially the director whilst being the managing director of the state enterprise and his family now are the directors. He was the shareholder and director of the state enterprise and awarding contracts from the state enterprise through the procurement system of the state enterprise to his company that he then says is the family's. That person has now been removed from office.

5.30 p.m.

We have another instance unfortunately with a statutory body, I saw it reflected in the newspapers over the weekend where we have the director of a statutory body who is answerable to the Statutory Authorities Service Commission being a participant, an active participant in incorporating a company. That statutory authority body now awards a contract to the entity that she has incorporated and she is a director of and to make it worse, after they award this sponsorship contract, her signature, a name is then reflected on the approval documents for the cheques. If that is not bad enough, she has signed the cheques herself for the entity and when this is reported to the Statutory Authorities Service Commission, we are still

waiting on them to take action and we hope that they will. The action at this stage being suggested is to just suspend the person and allow a proper audit to take place. So unfortunately, I rise here today, Madam President, to tell the hon. Minister of Finance and the citizens of Trinidad and Tobago that this is a necessary amendment and it is not for hypotheticals. There is evidence of it actually taking place.

We go on with some of the other proposed amendments and it is really for the reports to be laid in the House and then to be referred immediately, forthwith to a Public Accounts Committee. Of course, it still comes before both Houses of the Parliament, and then we go to the challenging of proceedings and the suspension of procurement proceedings, and this is now a proposal to section 50—to add in a section 50, subsection (3) which is to suspend the procurement proceedings—and if there has been a suspension of procurement proceedings rather—sorry, Madam President. Once there has been an outcome of those investigations, it could be lifted and proceed as soon as possible.

And then we go to the sections that we are now proposing, a Public Procurement Review Board and without taking up much more time, I think the hon. Senator David Small articulated very eloquently exactly the reasons why such a review board are necessary in our opinion. We are happy that he supports it and we know that it is being supported because it is what is right and every right-thinking citizen would support the idea and the concept of a review board. And if we can just go briefly to the proposed section 51A:

“The Public Procurement Review Board, hereinafter referred to as the “Review Board” is established to review decisions made by the Office.”

So it is a further review process of decisions made by the office in an

inexpensive way as opposed to going to the High Court but it can also be challenged in the High Court. And importantly, this is a specialist body that is being set up so:

“The Review Board shall comprise—

- (a) a retired judge, who shall be chairman;
- (b) a registered engineer with at least ten years’ experience in matters relating to procurement; and
- (c) a chartered accountant or quantity surveyor with at least ten years’ experience in matters relating to procurement.”

Madam President, through the few examples, the handful of examples that provided to the Senate here this evening, it can be immediately seen that the review board has been very, very carefully populated by those persons who would do exactly the type of work that is being conducted now, that value for work audit, the review of contract-type of work through a retired judge, a registered engineer, et cetera.

Importantly and this was missed out by Sen. Mark, it is 51C, it is not the Minister and, in this case, the hon. Minister of Finance who appoints the review board. Section 51C(1) says:

“The members of the Review Board shall be appointed by the President, after consultation with the Prime Minister and the Leader of the Opposition, for a period of three years.”

So once again, a most unfortunate attempt to mislead the population because now the Review Board is being appointed by the President after consultation with the Prime Minister and the Leader of the Opposition, and anybody with any constitutional knowledge would know that is something that then falls within the

President's discretion and it is not susceptible to the politicians.

It goes on to say how a member of the Review Board may resign by office, how the President may remove a member of the Review Board upon being satisfied of a number of things. And all it is, is the Minister making regulations because as we all know as legislators, Madam President, in instances such as this, it is really the Minister who is in charge. But of course, the Minister is not going to draft the regulations himself, the Minister will, of course, consult with the regulators and with those who are charged with the responsibility of procurement, take that on board, it must then come through the Cabinet process before it is laid in Parliament subject to negative resolution.

I think enough has been said about the justification for a review board. I think anyone with any knowledge and any experience in this area would immediately appreciate, I respectfully say, the benefits that a review board brings. Anyone who is participating in a public procurement process will appreciate and understand that one of the things you want done is an expeditious process, but secondly, you want a transparent process and thirdly, you want to a fair and open process which is what this review board seeks to do.

I have already referred to respectfully, Madam President, the proposed new 57A and I cannot over or under emphasize the need for this legislation to take hold of the disposal of state lands and to bring it under the ambit of this body. So what it says is:

“Notwithstanding the State Lands Act and any other written law to the contrary, the Minister may make Regulations in respect of the disposal of—

- (a) State Lands;
- (b) real property owned by the Government;

- (c) real property owned by State-controlled enterprises; and
- (d) real property owned by a statutory body, responsibility for which is assigned to a Minister...”

If this was in place, Madam President, as it should have been, prior to September 07, 2015, the future generations of Trinidad and Tobago may have had more state assets to their names, peppercorn rents would not have been granted, and what appears to be on the face of it, wanton and dishonest corruption with respect to the disposal of prime state lands, may have been prevented.

So, Madam President, these are some of the ills that we are seeking to correct [*Interruption*] and these are the some of the ills that we are looking to correct and for the first time, looking to have bid rigging and I wish that this bid-rigging offence could have had retroactive ability in law all the way back.

Sen. Mark: Yeah, I agree. 1946.

Madam President: Sen. Mark.

Sen. Mark: Oh sorry, Ma'am.

Hon. Senator: Cannot help it, eh.

Hon. S. Young: And if I may just in wrapping up please, Madam President, I join with Sen. Small when we talked about contract management, aspects of bid rigging is what I spoke about; the value for money audits, always necessary, unfortunately after the fact but now that we have worked in value for money into the legislation, it should provide guidance.

Civil asset forfeiture, it would be remiss of me if I did not use the opportunity to add to the call for civil asset forfeiture. This Government intends to bring civil asset forfeiture legislation. We are hoping for the support and I would like to put on record, at this stage, for the public of Trinidad and Tobago and every

right-thinking citizen of Trinidad and Tobago to look on carefully. When the civil asset forfeiture legislation is brought to Parliament, look very carefully and make a note of who objects to civil asset forfeiture legislation. The only reason a person would object to civil asset forfeiture legislation is if they have something to hide.

Furthermore, the type of civil asset forfeiture legislation that we are intending to bring is something called Explain Your Wealth. If you are a public officer earning a salary of \$50,000 to \$60,000 a month and you have built mansions in excess of tens and twenties of millions of dollars, you can be called upon once this legislation is in place to explain your wealth and if that satisfactory explanation is not given, it will be forfeited to the State. So I put down the challenge and the gauntlet here, Madam President, through you and I tell the citizens of Trinidad and Tobago that it is this Government's intention to bring this type of far-reaching legislation as a serious tooth in the fight against corruption, and those who opposed it must tell the citizens of Trinidad and Tobago on what basis do you oppose it. Do you have something to hide? Are you fearful of the far-reaching effects of this type of legislation? E-procurement, the use of technology to fight corruption, 100 per cent correct. It is a very important element, we are talking about it. We are talking about what we intend to introduce with respect to motor vehicles, driver's permits, et cetera, and the use of technology, again, to fight and combat corruption.

Sen. Small said regulations on the sale of state lands is a big loophole that needs plugging. We agree with you and we endorse that, hence the reason it is before us. People living on the edge, those who need it can really have it. Again, we join with that and as I gave the experience, Madam President, through you, of those who are less fortunate that I see in the constituency, and then having seen

state lands being given away for \$30 over 30 years but the state must pay \$323.2 million over the same 30-year period. Explanation should be given for that.

So, Madam President, through you, I commend the Minister of Finance and those who supported these necessary amendments to the legislation on the Joint Select Committee. I tell the public of Trinidad and Tobago, we will be coming with the civil asset forfeiture legislation, the Explain Your Wealth provisions and other pieces of legislation which we believe will help in the fight against corruption.

Madam President, I support wholeheartedly and I ask those who really believe in Trinidad and Tobago and who really have the future generations of Trinidad and Tobago, and have their interests at heart to support this legislation. Why would you not support an overarching reach over the disposal of state lands, a review board and the other simple but effective proposals and amendments that are before you here today?

With those few words, Madam President, I take my seat. [*Desk thumping*]

Madam President: Sen. Munro. Before Sen. Munro begins his contribution, I just want to indicate that he did seek my leave to use the lectern for his contribution.

Sen. Wayne Munro: Good afternoon. Thank you, Madam President, for having me come to this House to make a contribution as it relates to the Bill, “An Act to amend the Public Procurement and Disposal of Public Procurement Act 2015”.

I sat on this side and I listened to the Members on the Bench opposite and I took copious notes of their contributions. The first contribution I will talk about is the presentation from the Minister of Finance. When the Minister of Finance was bringing forward his presentation, what I gained specifically from his presentation is that he identified several amendments to this honourable House. He went

through amendment one, he went through amendment two, three, four, five. He spent more time at amendment six and then he went through amendment seven. Madam President, we on this side, we are very logical in our approach and the way in which we do and conduct debates. After the Minister of Finance spoke about the appeal board, in a run-up like a relay, I expected the hon. Acting Attorney General to come to this House to give justification to the hon. Minister of Finance. But instead, what I heard is popcorn—was it rent?

Hon. Senator: Peppercorn.

Sen. W. Munro: Peppercorn. All I heard was just peppercorn and peppercorn and was not speaking specifically to—to the what?—amendment number six. What I realized is that there is some level of what? In my interpretation, the argument put forward by the hon. Acting Attorney General was lacking in terms of support to the Bill at hand and the Bill speaks specifically to “An Act to amend the Public Procurement and Disposal of Public Property Act, 2015”.

5.45p.m.

Furthermore, Madam President, what the hon. Acting Attorney General came to this Senate and presented was a list of things that they plan to do and things that they plan to do to run this Government, without realizing that—which I will come to. I will come back to the popcorn in a while.

Hon. Senators: Peppercorn.

Sen. W. Munro: I will come back to the peppercorn in a while. Madam President, the Bill to amend the Public Procurement and Disposal of Public Property Act, 2015, Act No. 1 of 2015, research has shown that a direct relationship exists between good legislation in public procurement and reduction in corruption and collusion within the procurement process.

Madam President, I expected the Acting Attorney General to come here with research work from different jurisprudence, different disciplines, and explain us to that relationship. But instead, he spoke about peppercorn to this honourable Senate, no justification to item No. 6.

Madam President, I can go further to say that in my research I realize a number of countries that had proper procurement legislation could indicate that levels of corruption in those countries have been reduced because of good legislation. Some of these countries, not limited to, I can talk about Nigeria, because I have first-hand information. I can talk about Kenya. I could even go as far as what, Australia, as to the way in which they have put forward proper or good procurement legislation to achieve a reduction in corruption in those particular countries.

Madam President, I think Senators opposite need to be informed. In order to make good procurement legislation, you must know the steps involved in the procurement process. And in those countries they identified six aspects in which corruption has been reduced. Aspect No.1 in the identification and in the analysis of project works especially as relates to government projects and government distribution of projects.

The second aspect, or the second stage, Madam President, deals particularly with the market profiling of the industry, in which they have to extract persons to deliver goods for service.

Madam President, the third stage of the cycle deals with the RFP and you know what that is, Madam President. "I see yuh shaking yuh head, good." The other aspect deals with the market engagement strategies in the procurement process. And the final stage deals with the contract implementation, to ensure that

contracts are completed on time and within budget.

Madam President, if one wants to speak about good procurement legislation, it should be noted that under the People's Partnership Government, headed by the hon. Kamla Persad-Bissessar, that this country was exposed to what is called good procurement legislation. [*Desk thumping*]

Madam President, in keeping with international standards the country knew, or had in the parent legislation being put forward, what constitutes good procurement legislation, in other words, an Act to amend the Public Procurement and Disposal of Public Property, Act 2015. Today we are here. But why are we here today? We are here today because of the achievements of the People's Partnership Government in bringing good legislation to this honourable Senate.

Madam President, when you think about good procurement legislation, we need to go back a bit. Why we need to go back a bit? Because the other contributors, they spoke about the existing procurement legislation before us. Right? And they said it was good. So I am emphasizing why it is good. Madam President, once you have good procurement legislation, it means that the Government had a focus on the concept of what you call good governance. The People's Partnership Government had a focus on what is good governance. Once you have good procurement legislation, it also indicates that the involvement of civil society was a path in the making of what you call good procurement legislation.

And I heard other speakers on both sides. They spoke about value for money; the value for money proposition. When you talk about public funds and the spending of public funds, it is important to get value for money. Value for money means putting the right people in the right jobs. It also means that there should be

no square pegs in round holes, as well as you must have qualified persons within the procurement process.

Madam President, there must be a major focus on accountability, because you are dealing with public funds and once you are dealing with public funds it means that you need to be cautious as to the way in which you are effective and efficient in the execution of the final project.

Madam President, the People's Partnership was also focused on creating this good procurement legislation in the spirit of inclusion such that local contractors would have an input, in that they can develop their new skills. There could be a transfer of knowledge from foreign companies to local companies and they could also enhance new skills within the country.

Madam President, the People's Partnership Government brought something to this House known as good procurement legislation because we put people first. Because of good procurement regulation, it means that a country could embark on a path of growth, on a path of development, a path of employment, a path of stability despite being in an environment of decreasing oil and gas prices.

Madam President, once you have good procurement legislation, it means that money could be spent in a cost-effective and efficient manner. Thereby, Madam President, the children of this country, your children, my children, the children of those persons opposite, would also benefit because there will be a reduction of waste and squandermania as a result of good procurement legislation. It means that households and firms will also benefit and that is what the People's Partnership Government brought to this House, something called good legislation.

Madam President, prior to 2015, there was no specific legislation to address good procurement legislation in Trinidad and Tobago. Madam President, history

would have shown that there has been a number of iterations of the PNM in this country. There has been a number of iterations of different political parties, but none of them had the vision to bring to this honourable Senate something known as good procurement legislation. The PNM did not have good procurement legislation in mind. They did not have the good procurement legislation principles. They did not know how to bring it to this honourable Senate. Madam President, the PNM had no dream, at that point in time, of what good procurement legislation was.

Madam President, I can go further to say that the PNM always make a statement—just in passing, in relation to public procurement—that the PNM is red and ready. Madam President, when the hon. Kamla Persad-Bissessar was running this country she was red, she was white and she was black. She was ready to serve everybody in Trinidad and Tobago. She was not only ready to serve only the red side, but the white side, the black side. Everybody was able to get good service as it relates to procurement and procurement legislation in Trinidad and Tobago.

I am coming to the peppercorn now, Madam President. "Ah see yuh asking for it."

Madam President: Sen. Munro, please take your seat. I am not asking for anything, but for debates to be conducted according to the Standing Orders. So do not bring the Presiding Officer into the debate at all. And let us just move ahead, okay?

Sen. W. Munro: Okay, thank you, Madam President. I apologize for bringing you into the debate. Prior to 2010, Madan President, the country was amazed, the country was surprised, as to what was unfolding in what you call the Uff Commission report. It is within that report that people were taken aback as to the extent of corruption that existed in Trinidad and Tobago.

Madam President, I remember the live broadcast on TV where a number of cases, more than a peppercorn, were identified in the Uff Commission. Madam President, the country saw, under the Uff Commission report, a number of discrepancies were highlighted and among the things that were highlighted in the Uff report is that the report showed that in Trinidad and Tobago there was no accountability in the reporting lines. Before good procurement regulations there was no transparency, in that decisions were made within closed doors, as it relates to procurement and procurement regulations. There was no integrity in the process of procurement. There was no fairness. There was no value for money. There was no equity in the system within the procurement process, Madam President. There was no public confidence in the procurement system after the Uff Commission of Enquiry.

Madam President, civil society called out for public procurement legislation to be enacted as a result of what happened, what went on, prior to 2009/2010. In other words, the people in this country wanted good procurement regulations in order to move forward.

Madam President, the Uff report identified a number of recommendations. One of the recommendations, recommendation No. 1, is that money assigned to public construction projects should not be removed to other places. I am not going to go into that detail because it identified what happened with a number of institutions more than peppercorn. They were actually moving moneys and moving materials all through Trinidad and Tobago.

The second recommendation of the Uff Commission is that the management must be experienced in the procurement process and the execution of project activity. They must be positive and proactive in order to have good results coming

out of the procurement process.

The last report coming out of the Uff report is that there must be a reserved quota for local contractors, for consultants, in order to have an infant industry argument to exist, in order to ensure that the skills and capabilities remain in Trinidad and Tobago.

Madam President, once a country is on the road for development they must engage the private sector to contribute towards the development of a country, and such contribution towards development comes about even better when you have good procurement regulations.

In other words, Madam President, public money must be transferred from the public sector to the private sector in a cost-efficient and cost-effective manner such that we get value for money along the value chain within the procurement aspects.

Madam President, under the People's Partnership watch, what we saw? We saw little to no cost overruns in Trinidad and Tobago. We saw that projects were completed within timelines. We saw—*[Interruption]* Madam President, I am being disturbed on that side.

Madam President: Hon. Senators, could we listen to Sen. Munro in silence, please?

6.00 p.m.

Thank you for your protection, Madam President. The quality of work delivered by contractors were up to local, regional and international standards. There was little to no environmental impact of the projects selected. In other words, the county got what you call good value for money.

Madam President, I wonder if the amendments put forward by the hon.

Minister of Finance, especially amendment No. 6, would take into account the issue of transparency, would take into account the issue of efficiency in the public procurement process. I wondered if the amendment put forward would even put probity in the procurement process. That is the question we all need to get answers to tonight.

For a procurement process to work efficiently, we have something that is working. We have something that is working fine. Before us, we have good procurement legislation, and I am asking the question whether the amendment put forward by the hon. Minister of Finance at this point, will it infringe on the rights of citizens? Will it be in violation to section 4 of the Constitution?

[MR. VICE-PRESIDENT *in the Chair*]

Will amendment No. 6, will it frustrate contractors, with unnecessary bureaucracy? Would it penalize contractors for seeking redress? Will it put several levels of stoppages to development works? Will it complicate the judicial process? And my answer to this question is that the amendments put forward, I cannot see it addressing these particular issues, Mr. Vice-President. How does amendment No. 6—and I need explanation—stop overpricing? How amendment No. 6 would prevent elements of collusion? How amendment No. 6 will bring transparency to the table? How will amendment No. 6 remove the red tape in the system? In fact, I think it will add red tape in the system, and will not lead to fast economic growth.

If we consider a process where a contractor goes to the regulator, the regulator upholds the decision of the contractor. The contractor gets an appeal, a public appeal of the decision, and after getting the public appeal of the decision now, the Review Board comes in. Once the Review Board comes in now, the Review Board upholds the decision. It means that, within the system there are high

levels of red tape, there is a high level of cost incurred by the contractor, as they go through the process.

In other words, it can even, what? Lead to the whole system, Mr. Vice-President, it could lead to a system whereby—additional costs. So it acts as a disincentive to continue. The Review Board, it also would indicate to me that there is a parallel system in operation. Once you have a parallel system in operation, it will mean that there will be—it will impact upon the confidence of the working of that body.

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

Sen. Dr. Dhanayshar Mahabir: [*Desk thumping*] Thank you very much, Mr. Vice-President, for inviting me to join in this debate. The parent Act, Public Procurement and Disposal of Public Property, was assented to on January 14, 2015. Today, we are amending this Act, but it has not yet been proclaimed. We understand parts of it have been proclaimed, but it has not yet been proclaimed. The implications, Mr. Vice-President, is—there are implications, and if I may read from the introduction to this Act, it says—that is the introduction to the parent Act:

“AN ACT to provide for public procurement, and...the retention and disposal of public property...”

And it goes on:

“...the establishment of the Office of Procurement Regulation, the repeal of the Central Tenders Board Act, Chap. 71:91...”

So that insofar, Mr. Vice-President, as this current Public Procurement Act has not been fully proclaimed, the Central Tenders Board Act is still enforced and remains the law of the land, and while we are waiting for the full proclamation, a year and a half has elapsed, with the Central Tenders Board Act being the law of the land, and

the query we have is, how long will it take for us to fully proclaim this piece of legislation?—because according to the Central Tenders Board Act, let us quote 20A(1)(c):

(1) “Notwithstanding the provisions of section 20(1), the Government may act on its own behalf where—

(c) it enters into a contract with the National Insurance Property Development Company Limited or a company which is wholly owned by the State, for the supply of articles or for the undertaking of works or services in connection therewith;”

What it means, Mr. Vice-President, is that in the interregnum, in the interim, the Central Tenders Board Act is the guide for public procurement, and since we are in the process of repealing the Central Tenders Board Act, one imagines that the Central Tenders Board as an institution, is not growing. It may be in decline, and there are certain exit clauses in Central Tenders Board, which can be used by Government, to enter into procurement without the necessary oversight.

What we saw recently with the procurement of services for the recruitment of a Police Commissioner, which was approved by this honourable Senate, is that the Government did, in fact, invoke 20A(1)(c), with respect to bypassing regular tendering proceedings. My concern, therefore, is this, and I am sure the Minister of Finance shares the concern as well, that a year and a half has elapsed without proper regulation of tendering, and if we were to wait for an extended period of time, then we are talking about billions and billions of dollars’ worth of goods and service supplied to the State, which would escape public scrutiny.

Sen. Small indicated in his earlier contribution, that the quantum of procurement on an annual basis amounts to some \$15 billion. I estimated it at a

little bit less, but then I am looking only at central government. Sen. Small is looking at the whole state apparatus. If, in fact, central government—and in the past, and I am hoping the Minister of Finance will ask his officers to provide breakdowns of expenditures, as they did in the past, on wages and salaries, interest on the debt, goods and services, purchases, so we get a broad figure from central government purchasing.

If in fact, annually, we purchase some \$8 billion at the level of central government only. For a year and a half, \$12 billion of procurement would have been undertaken without scrutiny, because a central tenders board is largely ineffective. If we were to wait for another year and a half, we are talking about \$25 billion, and therefore, I share the concern of the Minister of Finance, that we need to have this legislation enacted as soon as possible, and proclaimed and operational. More on that a little bit later.

But the issue for me, therefore, is that currently, we do not have a proper regulatory mechanism for public procurement in Trinidad and Tobago. And that is unfortunate, Mr. Vice-President, because when I look at section 4 of the Central Tenders Board Act of 1965, this country has had procurement regulation for 50 years, but I want to emphasize a point made repeatedly by Sen. Shrikissoon on institutions. Fifty years of experience in procurement. What does the Central Tenders Board do? What was it established in 1965 to do? It was established to act for the Government, in inviting—let us see what the Central Tenders Board was supposed to do:

- “(a) ...in inviting, considering and accepting or rejecting offers for the supply of articles or for the undertaking of works or any services in connection therewith, necessary for carrying out the functions of the

Government or any of the statutory bodies.”

And:

“(b) to dispose of surplus or unserviceable articles belonging to the Government or any of the statutory bodies.”

—disposal of public property; procurement and disposal.

I want to reiterate a point, that this country has a plethora of excellent laws, but what we have failed to do, Mr. Vice-President, is really to build the institutions of the State, which the managers of the State in their wisdom 50 years ago in 1965, saw it fit to introduce. So we are on the way to dissolving the Central Tenders Board—and I am sure the Minister in winding up will let us know what the status of that organization is—and we are replacing it with an entity. All I will hope for is that, the institutional memory, the expertise that that board would have accumulated over the past half a century, will not be lost. In conclusion, I will explain why, but that is with respect to the Central Tenders Board.

Let me, Mr. Vice-President, focus on the amendments themselves, and the amendments proposed by the hon. Minister, are rather benign. I am in agreement with them in spirit. I do have some issues for recommendation only, for him to consider with respect to rewriting. There is one concern I have which I am sure he will clarify. With respect to the amendments, I focus on the amendments to section 12 of the Act as amended. It says:

“For the purposes of this section, a member trades with the Government if, while holding office, he...”

And it says:

“...becomes a party to, or is a partner in a firm or a director or manager of a company, which to his knowledge becomes a party to any contract with the

Government...”

Could we, hon. Minister, through you, Mr. Vice-President, simply say that:

For the purposes of the section, a member trades with the Government if, while holding office, he acquires a beneficial interest to any contract with the Government for or on behalf of the public service.

I mean, that is for the drafting people. We eliminate about 22 words and we simply put:

...acquires a beneficial interest.

But that is pure stylistic, because it does not change the substance of what the Minister is seeking approval for. However, there is an area of confusion, and the confusion is that it says—and I want repeat this again:

“...if, while holding office, he becomes a party to, or is a partner in a firm or a director or manager of a company...

...or manager of a company which to his knowledge becomes a party to any contact with the Government...”

Now, I could understand that a member could be a partner in a firm and he is a member of the regulatory board, or the procurement board. I could understand he is a shareholder, but I do not see how the Procurement Regulator himself, could be a manager of a company at the same time, because you see what it says, Mr. Vice-President, is that:

“For the purposes of this section, a member trades with the Government if, while holding office, he becomes a party to...”

But when we look at section 10 of the parent Act, what it says is the following:

“The Office shall be governed by a Board which shall be appointed by the President after consultation with the Prime Minister and the Leader of the

Opposition and shall comprise no less than eight and no more than eleven members as follows:

- (a) the Procurement Regulator...who shall be the Chairman and who shall have at least ten years' experience..."

6.15 p.m.

So the members, the Procurement Regulator himself is a member and according to the amendment:

"For the purposes of this section, a member"—that includes the Regulator himself—"trades with the Government if, while holding office, he...a party to, or is a partner...or manager of a company..."

Now, I am sure the intent of the legislation is to allow for full disclosure, and you must seek the approval of the Minister before you trade with the Government. However, I cannot see how the Procurement Regulator himself could be in a full-time position, also be a manager of a firm, which also requires full-time attention, because when we talk about "member", the "member" here includes the Regulator. So I am sure the Minister will clarify. I do not know if the Minister has it in his opinion that the Regulator can be a part-time Regulator, and that he could be a manager of a firm. He could be a manager if he gets the approval of the Minister.

Hon. Imbert: Thank you very much. The way clause 12 is worded, it says:

"The President may remove a member...from office."

That is any member. So it is an omnibus clause, and it is an omnibus amendment to cover any possible eventuality. That is the only reason.

Sen. Dr. D. Mahabir: Okay. But I am looking, Mr. Vice-President, at (2). You see a member trades with the Government if he is a manager. So I think I have gotten the assurance that the Regulator himself cannot be a full-time manager elsewhere.

Hon. Imbert: Very unlikely.

Sen. Dr. D. Mahabir: Now, unlikely is not acceptable. It has to be, Mr. Vice-President that—and I hope the Minister would interrupt me again—the Regulator, the Regulator is a full-time job. He has a seven-year contract. It could be renewed, and I imagine he would be someone like the Governor of a Central Bank—he is the regulator of an agency like that—and he has to perform his duties solely for the regulatory office of procurement. He cannot with the approval of the Minister, because you see it is only if he does not have the approval of the Minister, he cannot be a manager. But according to how it is written here, if he gets the approval of the Minister, he could be a manager. Yes, again, I give way to the Minister.

Hon. Imbert: In the parent Act, the wonderful parent Act, there is no requirement that he does not engage in any other business in the wonderful parent Act. So I have taken your point under consideration, and at some point in the future that can be an amendment. But I can assure you that this Minister will not approve the Regulator trading with the Government.

Sen. Dr. D. Mahabir: Thank you very much, hon. Minister, thank you, Mr. Vice-President. You see, this is the law, and when we are dealing with the law, there are these loopholes. Currently, Mr. Minister, I do have some expertise as the Minister has some expertise. I have some expertise in reading these things, and there is an opportunity now for the Regulator to be a manager of an agency as long as he gets the approval of the Minister and, at the same time, to be the Regulator himself. I think since we are not dealing with that, it may warrant some amendment in the future, because we could get a Regulator who has a deal with some Minister 30 years from now to say, “Well, the law says as long as I get your approval, I could

be the manager of my own firm. I could be the manager of a bank and I could be the Regulator at the same time.” We do not want that.

Mr. Vice-President, hon. Minister, I am glad to get the assurance from the hon. Minister of Finance that while the law, in fact, currently, even with this amendment, does permit the Regulator himself, the big man, to be a manager, a full-time employee elsewhere, in the spirit of the law he is going to be full-time and, of course, it gives the opportunities to the members to have their occupations, their professions and to be managers elsewhere with the approval of the Minister. So that now that we have clarified that I am hoping that at some time in the future we will tighten that up.

Hon. Imbert: We will.

Sen. Dr. D. Mahabir: Thank you, hon. Minister of Finance.

Let us, Mr. Vice-President, again, look at 51E as advanced by the Minister for amendment. It says under 51E:

“The President may remove a member of the Review Board from office upon being satisfied that the member—”

And we have the standard stock phrases:

- “(a) is declared to be bankrupt;
- (b) is incapable of performing the duties...”

And so on. When I look at the list of reasons for the removal of a member of the Review Board, I saw it is exactly, again, what exists in section 12 of the parent Act. Exactly! There is absolutely no change. Maybe it is the old schoolmaster coming out of me correcting essays and so on, but I am seeing in 51E and in section 12 of the parent, the same thing. I put it out to the hon. Minister and to his drafting team, of course, could we not say, in the interest of producing very

meticulously written laws for consideration only, hon. Minister:

The President may remove a member of the Review Board from office for the same reasons outlined in section 12 which pertain to the removal of a member from office.

I think as long as it is satisfactory to the drafting team, I do not see that it is in fact elegant for us to repeat in section 51E what is already contained in totality in section 12 of the same Act. If, in fact, we were bringing a different piece of legislation for the Review Board, and it would have a different Act number, then, of course, one understands the relevance of 51E, but again this is for the consideration of the Minister.

There is, if I may refer again, to the parent Act, Mr. Vice-President, I want to read in the parent Act, again what I consider to be a bit of repetition. And if I may quote section 17 of the parent Act:

“A member of the Board or a committee who has a direct or indirect interest in a matter under consideration by the Board or committee shall disclose the fact of his interest at the earliest opportunity and shall not participate in the consideration of, or vote on, any question relating to the matter.”

But this, to me, this conflict of interest appears, Mr. Vice-President and hon. Minister, very similar to what you are intending in section 12(2) where all these members must inform the Minister.

So in section 12 you are saying you have to inform the Minister if you trade and then in section 17, we are looking at now a conflict of interest, not necessarily trading with the Government, but a conflict of interest in general between the matter that is before them and an interest they may have in a contract. I am just wondering whether we could look at 12 and 17 and merge them, because they both

refer to conflict of interest—one, conflict of interest with the Government, others conflict of interest in general. But that again is for the hon. Minister to consider. Again, nothing substantive, only wording, but in order to tighten up the legislation and to make sure that there are no loopholes in there for anyone to exploit, I wish if the Minister could look at 17 and 12 together to see whether there is overlap and whether we could simply merge 17 and 12 together.

Finally, with respect to the amendments, I look at 51G. 51G says:

“A procuring entity or any other person who is entitled to be given an opportunity to make representations under section 50(1) or 51(1), may request the Review Board to review...”

Why do we, hon. Minister not say—may request that the Review Board review the order. It is more elegant: may request that the review board review the order.

It is law. This is law. I have come, Mr. Vice-President, to understand that in law every word matters, and you do not use more words than you have to and you do not use a “to” where you could strike it out and put in an “and”, a “that”. So, hon. Minister, again I would recommend if you were to read 51G after “51(1)” you say “may request that the Review Board review the order or decision of the Office made under section 50(4)”, purely for your drafting team to consider. Mr. Vice-President, those are the old lecturing days coming out where you try to tighten up things to get them in order. It is going to be the law of the land.

I see absolutely no harm in having a Review Board. I think because, you see, anyone who feels aggrieved before going to the High Court and spending moneys there, which may or may not be returned, you do have an appeal process. We do have an opportunity to give an aggrieved person or someone who feels he has been wronged, an opportunity without going through the legal system and clogging up

the legal system, an opportunity to be heard so that he can seek redress in a least cost economic manner, and I support the position there. The concern I have with the entire process, Mr. Vice-President, is this. The Central Tenders Board is on its way out. We have 50 years of expertise lying there that we would lose. It is going to take quite a while, as hard as we try, to have this agency operational. I speak from experience, Mr. Vice-President.

In an early incarnation, 20 years ago, I was chairman of the Public Utilities Commission that lost all its staff. When I inherited it in 1996, there was an executive director, an administrative assistant, a security guard and I think a cleaner, and that was the Public Utilities Commission. Here was Dr. Mahabir at the time, charged with adjudicating a rate increase on industrial customers by T&TEC and I had to appear before, of all people—the now sitting Attorney General of our country appeared before me in one of his first cases.

It is not easy to operate in that environment where there is absolutely no functioning entity, and you must regulate—because the Public Utilities Commission was a regulatory arm similar to this agency we are talking about—in the public interest. It took a year and a half to staff the agency, get individuals au courant with how an agency functions in that way. One simply does not go within Trinidad and Tobago, put out advertisements and say: “We need people with experience in procurement regulations.” You have to take brilliant people and train them and use regional expertise, international expertise, to get them current with what the process is about.

The regulation of public utilities is technical. It differs from electricity, telephone and water. Similarly, the regulation of procurement is a very, very technical exercise. We are procuring things as small as uniforms for police

officers, or we are procuring a highway, a huge mega project, all of these would require a different bit of expertise.

I, therefore, would support the amendments. I have given some considerations for the drafting team to make the legislation a bit tighter so that we would be able to cover some of the gaps which currently exist. But it is very important having assented to this Act on January 14th, a year and a half later, we have wasted a year and a half. We are going to spend some time maybe another year and a half before this agency is really able to discharge its functions in the public interest so that the population, the taxpayers, will pay for goods and services procured by the Government something that is close to cost plus fair profit. This is what the function of the Regulator is. So that the Minister of Finance, when he has to write a cheque to all the agencies selling goods and services to the Government, knows that what he is writing represents the cost of service plus fair profit, and the Regulator is going to ensure that this happens.

6.30p.m.

The lower amount we could spend on goods and services by fair pricing— Sen. Small is right—the more we have to give to the poor and underprivileged and the needy in this country, resources which are getting scarcer and scarcer at this time. So we need this agency critically now to be running and functioning, and I am hoping that we use the expertise of the Central Tenders Board and really be committed to building up an institution in this country which has expertise and which is able, Mr. Vice-President, to discharge its functions to the people at large.

But there is another reason for expediting the proclamation of this Act and the establishment of the agency; and that is, when we look at section 20 of the parent Act, and, incidentally, Mr. Vice-President, I want to express my gratitude to

the Parliament staff for giving me a hard copy of the parent Act. The reason is just when I tried to access on the iPad the electronic version of this Act, the iPad froze on me, so there is some benefit to good old-fashioned paper, and I will dutifully pass it on to a Senator who has asked for it, this is a parent Act.

So, again, gratitude to the Parliament staff for giving it to me in such a speedy manner. I want to refer to section 20 of the parent Act. According to section 20 it says:

“The Office shall, within five years of the date of assent of this Act, establish a pension fund plan.”

So it is incumbent upon the Minister to—it means he would be breaking the law if within five years we do not establish a pension fund plan.

Hon. Imbert: I would not be breaking the law.

Sen. Dr. D. Mahabir: [*Laughter*] You would not be breaking the law, okay, the Minister would not be breaking the law. Somebody else would be breaking the law, because on January 15, 2020, five years after this Act has been assented to, by law there has to be a pension fund. So if in fact there is no office we would be, all of us, in violation of the law because the law stipulates that by January 15, 2020, there must be a pension fund plan. You cannot have a pension fund plan if you have no employees or if you have no one engaged in the agency. We have lost a year and a half, we have three and a half years therefore to get everything in order, and this therefore means that we should now be working with the clock.

Finally, Mr. Vice-President, it states in the parent Act that the cost of the regulatory body, the procurement and public disposal property regulatory agency, the cost of financing this agency will be a charge on the Consolidated Fund. Now, when a Minister of Finance is spending \$62 billion and he is earning \$38 billion, I

am of the view that any extra charge on the Consolidated Fund ought to be looked at very, very carefully. While we will be approving the charge on the Consolidated Fund, I want to put for the recommendation of the hon. Minister that the trend over the last decade has always been for regulatory agencies to finance themselves.

A regulatory industry commission or a public utilities commission—with which I have had familiarity because as a chairman there—as part of the license agreement for a telephone, water, electricity utility, you simply levy on them a certain small percentage of their annual revenue on an annual basis as assessed which will be sent to the regulatory agency for its financing. So the regulated firms themselves are the ones responsible for financing the regulation of the industry. The same can be done for an SEC, for a securities and exchange commission, where we levy a charge on all the firms, the brokers, and so on, in that business so that they will finance the regulation of the securities industry.

And for the recommendation of the Minister, since I would imagine we will have to be returning time and time again, after all it was only yesterday I debated this particular Act in the Parliament in the last session, and I am sure as we are now moving into the new regime of procurement, we will be looking at areas for amending further the legislation, to make it more current with the environment. At some time I am putting it out for the Minister, as a matter of policy, whether a regulatory agency, such as the procurement regulatory agency, should not also levy a charge on those who have won contracts with the State, so as a percentage of the contract to be sent to the office of procurement to finance the agency, and, therefore, it will ease the burden that he will have, or future Ministers will have, in financing this regulatory agency.

What that does, Mr. Vice-President, hon. Minister, is that if the agency

wishing to perform research in a number of complex areas so that you have a unique area of procurement of—I do not know, military hardware, or something like that—and you need expertise in the agency, the agency will not be starved for funds if the Minister of Finance is not able to finance it because of a tight budgetary constraint. But if the regulatory agency, with the permission of the Minister of course, through their regulations, is able to levy a charge on all the contracts, the \$8 billion or so, a fraction of a fraction of a per cent to be sent to the regulatory agency, and any surplus of course at the end of a year being sent to the Consolidated Fund, I think that may be a way in these difficult times for us to have a properly functioning agency that is fully funded, funded by those who are seeking to do business with the State, and in that way we build institutions as we go along.

Mr. Vice-President, I would just like to conclude by saying that I support the amendments. The Minister, I know, has always given consideration to what I have said, has not always agreed with what I have said, but he always gives consideration, and I want to support the amendments, and I do hope that we establish this agency in less time. I thank you, Mr. Vice-President. [*Desk thumping*]

Mr. Vice-President: The Minister of Rural Development and Local Government.

The Minister of Rural Development and Local Government (Sen. The Hon.

Franklin Khan): Mr. Vice-President, it is a pleasure for me to join this debate on a Bill to amend the Public Procurement and Disposal of Public Property Act, 2015. Mr. Vice-President, these amendments reflect proposals that the PNM made while it was in Opposition when this Bill was in committee stage in 2005. All these amendments were made by the now hon. Minister of Finance—[*Interruption*]

Sen. Sturge: And rejected by the Independents at the time.

Sen. The Hon. F. Khan:—and, you know, there is something called destiny, so the very person who proposed the amendments, as the Opposition Member of Parliament for the constituency of Diego Martin North/East, now has the responsibility.

Hon. Imbert: It is ironic.

Sen. The Hon. F. Khan: It is ironic, and I will speak to Pastor Dottin there, there is a God, because it only goes to show that what goes around comes around.

So we now take this opportunity, Mr. Vice-President, to include these amendments, almost verbatim, from what was proposed by the hon. Member of Parliament for Diego Martin North/East into these amendments which are now before this honourable Senate for its consideration. This shows the commitment by which we stand; we are the same in Opposition as we are in Government. [*Desk thumping*] We do not flip-flop on policy because policy is ubiquitous, and when you stand for something you stand for it whether you are in Opposition or whether you are in Government. [*Desk thumping*]

Mr. Vice-President, these are very short amendments, clause 1 of the Bill cites the short title, clause 2 defines the terms in the Bill, clause 3 establishes the fact of the regulator trading with the State, clause 4 includes the forwarding of the reports of the procurement agency to the Public Accounts Committee, clause 5 amends section 50 of the Act to provide for the lifting of the suspension which is just an administrative aspect. The most important part of this Bill is really clause 6, which has been dealt with extensively by the Minister of Finance on the Public Procurement Review Board, and clause 7 deals with the disposal of state lands.

But, Mr. Vice-President, I just want to put a different spin on this piece of

legislation, and let me put this Bill in context. The world is changing. The world has changed; we are now in the 21st Century, a century ago it would have been 1916, World War I had already started. The Ottoman Empire was being broken up in Turkey and the formation of the new Middle East, but in the 21st Century in 2016 we are not talking about building empires and we are not talking about changing geographic boundaries in the context of the nation state, but what the world is demanding is issues of governance. They have accepted the nation state as it is with minor boundary changes over the last 40 or 50 years, but the world is now demanding more equitable distribution of income and development.

The world is demanding eradication of poverty and, in particular, extreme poverty. It is demanding greater transparency and accountability. It is demanding an end to discrimination in all forms and fashion. It is demanding a new concept—not a new concept, but getting more ubiquitous in the world something called the public interest, and not secular interest, and not the interest of specific families and dynasties and royal families; it is something called the public interest. The environmental agenda has come on the landscape, and, most importantly, in the context of this debate, the world is demanding a reduction in or, possibly, the elimination of state corruption.

In that context I will go to familiar document which everybody is seized of but I will just review it very shortly; it is the Perception of Corruption Index. One hundred and sixty-seven countries; at the top, which is the least corrupt country in the world, is Denmark, followed by Finland, Sweden, New Zealand, Netherlands, Norway, Switzerland; most of the western European countries fall in the top group there.

To the bottom are countries that border on failed states, like Somalia,

Afghanistan, Sudan, South Sudan, Angola; most of these are saddled with civil wars, and what have you. Trinidad and Tobago ranks 72, we are just about in the middle, but we are a maturing democracy and we have come from a tradition of the Westminster system, so, on that principle only, I think we are ranked extremely low. I just want to draw the attention of this Senate that countries that rank higher than Trinidad, ranking as high as 44, we are ranked 72, is Rwanda. Rwanda suffered genocide a decade and a half ago.

Sen. Sturge: “Well, dey doh ha time tuh tief, dey killin each other.”

Sen. The Hon. F. Khan: They were virtually a failed state—that is an unkind statement. They are a failed state; all their institutions were destroyed and look where Rwanda has rebounded.

There are always articles on them on *The Economist* magazine, how they have transformed their governance structure to be the least-corrupt, in this index, country in Africa.

Ghana is ranked 56. The Prime Minister was on a visit to Ghana. Lesotho, which is a Bantustan in the heart of South Africa that two decades ago was extremely poor and a country without any administrative infrastructure at all, is now ranked 61st, and so on, and so on. So there is the perception that Africa is a corrupt continent but here we have significant improvement in the African continent with regard to the corruption index. I draw this point because I went to Frequently Asked Questions on this, and here is what it says: Is the country or territory with the lowest score, the world’s most corrupt nation? And this is the answer: no.

The PCI is an indicator of perception of public sector corruption, public sector corruption; that is, administrative and political corruption.

It is not a verdict on the level of corruption of the entire nation or society, or of their policies, or of the activities of their private sector.

So you may have—you may be rated low down on the Perception of Corruption Index but your private sector may be clean, because the private sector knows how it does its business. What we are dealing with here is state and state-sponsored corruption, and that is where legislation like this comes in.

6.45 p.m.

I just want to make the point that as a political party, which I always have to say, the honour of which I have to chair, we in our manifesto—and I bring out my Bible again [*Holds up document*]*—it is out of print, you can get it on the Net, but it is here. We were very, very particular in purporting a governance structure when we fought the election, and I quote from page 15. We will be introducing three basic pieces of legislation that if implemented properly, and proclaimed, and effected, and administered, will clearly improve us significantly from the 72nd position that we have on this list, and these are, and I quote from the manifesto, whistle-blower legislation, the manifesto states:*

“Introduce, as a priority, whistleblower protection legislation, to allow exposure of corrupt activities.”

As we speak the whistle-blower legislation has been drafted and it is now before a joint select committee of this Parliament, and hopefully, we will debate that in the coming months.

Secondly, procurement reform, and I quote here again from the manifesto. It is a little political because it is a political document:

“The UNC-Government has spent 5 years avoiding the implementation of a modern, transparent, fair and equitable public procurement system. In its

dying days”—listen to this—“merely as a public relations exercise, it has partially proclaimed certain sections of the Public Procurement and Disposal of Public Property Act, which are just symbolic in nature and of no real effect.

The PNM will waste no time addressing this very important issue. We will move swiftly to make the necessary improvements to the Public Procurement Act, in order to remove loopholes, limitations and weakness that currently exist in the legislation, and, in consultation with all stakeholders, establish and implement a realistic timetable for the full implementation of the Act.”

Public procurement, it is here before us today.

We spoke about whistle-blower. This is our first year, you know. We are now approaching nine months. We have whistle-blower legislation drafted, and with a joint select committee, we are debating the amendments to the procurement Act. And finally, campaign finance reform.

“As an urgent priority, and to put an end to the pernicious scourge of ‘political investors’, once and for all, the PNM will draft, enact and implement appropriate campaign finance legislation, drawing on the experience of models successfully in use in developed countries such as the UK and the USA, before the next General Election.”

I am pleased to announce, and I see the Acting Attorney General has left for a while, but he had started this process, there was a forum on campaign finance reform held on May 18th and 19th, some of the Senators were there, and we had resource personnel, in particular Sir Eric Pickles, the Chairman of the Conservative Party of Britain, Member of Parliament, the United Kingdom and Great Britain and

Northern Ireland; there were resource personnel from the Commonwealth Secretariat, from the UNDP, from the OAS, plus other agencies.

So, we have started the issue of campaign finance reform; we have brought the legislation on the procurement amendments; and we have the whistle-blower legislation before a joint select committee. Because it is only with this tripod of legislation that you can deal with the issue of corruption and perceived corruption. A classic example came about when we had the seminar on campaign finance reform, and the key point was made, strangely enough, by the Member for St. Augustine, the hon. Prakash Ramadhar, former leader—the key word there is “former” leader of the COP.

And what he said, Mr. Vice-President, is that if companies or persons of means make contributions to political organizations who assist in the financing of political campaign, nothing is fundamentally wrong with that based on the legislation. But where the population and the society watches you with a hawk eye, you finance my campaign and they are watching to see how much contracts you are getting after as a payout, or a perceived payout. But if you have proper procurement legislation, that accusation could no longer be levelled against you, because even though you finance a campaign and you get a state contract, you have gotten it with a very robust procedure that is enacted in law.

So, it makes the whole process of campaign financing reform better; your procurement legislation in place; and in the event things untoward still occur—things underhand will always occur because we are human beings, and there is always the sense of corruption, probably—you will have the whistle-blower legislation which will be the great equalizer there, so if people see things happening they can always report it. So, this is what we call the tripod of

transparency and integrity in public affairs. And the word “integrity in public affairs” was coined by the hon. founder of the People’s National Movement, Dr. Eric Williams, and it is enshrined in the preamble of the constitution of the People’s National Movement, integrity in public affairs, and that is the tripod in which we analyze this situation. [*Desk thumping*]

Mr. Vice-President, let me now go on to just make some rebuttals on what was said. I have quite a lot to make on Sen. Mark, but I will start with the easy ones first. Sen. Munro, I do not know whether to laugh or to cry, you know, because somehow—I consider myself an intelligent person, and I have done exceedingly well academically, but somehow or the other I cannot follow you at all. [*Laughter*] I mean, you are just not cohesive, you do not have an ordered contribution, and you just move from point to point, so, just like the Minister of Finance say, “your sheet blank”, [*Laughter*] so I have no rebuttal.

Sen. Sturge: Look you have writing on it.

Sen. The Hon. F. Khan: No, no, that is from the Attorney General I made those points. Sen. Munro, your sheet blank, all you said, good procurement legislation came from the hon. Kamla Persad-Bissessar, and that is an oxymoron, so I say no more on that. [*Laughter*] But, I guess if they appoint you in a temporary capacity more regularly, I will probably start to understand that.

Sen. Mark raised a series of points, and he was misleading the Senate when he spoke about the Review Board. He said the purpose of the Review Board is for the Minister to interfere with the procurement process. That is farthest from the truth. He did not even read the amendment. The Review Board is appointed by the President, and we spoke about this in the SSA Bill. It is not appointed by the President on the advice of the Cabinet, you know; the Review Board is appointed

by the President at his own discretion, in consultation with the Prime Minister and the Leader of the Opposition. So, the appointment of the Review Board has absolutely nothing to do with the hon. Minister. But, obviously, the staff has to be appointed somewhere in the public service. The President does not appoint staff, the Parliament cannot appoint staff.

We make legislation and you must have an administration, and that is where I come to the other point where he was talking about the negative resolution as different from positive resolution. And I want to warn the hon. Senator—he is not here at this point in time. But the Parliament has to understand that its prime responsibility is legislative; it is not administrative. We make the laws and we have to hand it over to other arms of the State for its implementation. Okay? And whether it is the Public Service Commission, whether it is these special state agencies or institutions that we set up, but we cannot keep the child forever. We conceptualize the legal framework; we debate the legal framework; we pass the laws; but the implementation of the laws comes through the public service. It is something we have to affect. We cannot hold on to that. And you cannot say you do not trust this one, you do not trust that one, or you do not trust the other one. You have to have faith in your people, you have to have faith in the institutions that you have set up and let them run, and then you should have some form of recourse.

The other thing is, he spoke about the Review Board having another layer of bureaucracy, and they were doing the same work of the procurement agency. Mr. Vice-President, the key concept behind this is that, as the Minister of Finance indicated, the Civil Proceeding Rules try to stay away from litigation, and what this Review Board will do, it will help the smaller contractors more than the larger

contractor, you know. Because, check all the precedent you have with litigation going to the court—is NH Construction, is Hafeez Karamath, is people who have means and resources that they could put in the \$3 million or \$4 million to take a matter to the High Court and take it to the Appeal Court. But what recourse does a small contractor who tenders for a contract of say \$500,000, sees something fishy happening, loses the contract and he feels that he was treated unfairly? He goes to the Procurement Regulator, files his complaint, at no cost. It takes him 21 days to get a response. I am sure the tender award took more than 21 days. Most of these tenders take three months.

So, in 21 days according to law he can now get some recourse with the Procurement Regulator. And then if he is not pleased with that and the Procurement Regulator rules in favour of the procuring entity, he still has his own Appeal Court, at no cost. He goes to the Review Board, and in 28 days he can have justice. And if the Review Board in its wisdom—because if you check the appointments of the Review Board: a judge, a quantity surveyor, or an engineer of 10 years' experience and an accountant of 10 years' experience—and if the Review Board in its own judgment and its wisdom says, “Sir, you still doh have a case”, he now has to say, “Well, listen, possibly I really do not have a case”.

And that is a process that is virtually free of charge, and a process that will take place in less than two months. What other system—I know of no legislation in the world can give you that type of recourse in terms of a quasi-judicial process in two months' time. At absolutely no cost, except the cost of preparing your case and submitting your documents, and the travel expenses if you are coming from Penal to Port of Spain. That is assuming, that is assuming, that the Office of the Procurement Regulator will be in Port of Spain.

So, in that context I think I would want to urge the Opposition to rethink their position on that, and there is nothing sinister about the Review Board. Again, it was discussed at length at a joint select committee, and I did not see my friend there, Mr. Wayne Sturge. I know you have a lot of briefs.

Sen. Sturge: I was in court. I had conflict with other commitments.

Sen. The Hon. F. Khan: Okay. But you were well represented by your other Members, and the Joint Select Committee in its wisdom adjudicated on the matter.

Mr. Vice-President, to continue, I just want to repeat two basic concepts that were covered by the Minister of Finance, but just for the sake of repetition, and, you know, repetition brings greater clarity to issues. It is the whole concept of this legislation, and the concept of it is basically that the law as it now stands does not allow the court to review the procurement decision of state enterprises or similar body unless gross irrationality or fraud can be proven. Okay.

And the court will not intervene unless what is called sufficient public law element in the process. And this is what we are providing now, public law.

7.00 p.m.

So that is what led the construction sector to call for procurement legislation because this was the ruling in the NH Construction and in the Hafeez Karamath construction matter. So they called the JCC and the construction sector to say hey, the time is now ripe for procurement legislation. And procurement legislation concept started in the administration of Patrick Manning; it went across into the administration of Kamla Persad-Bissessar and it is now in the hands of the Dr. Keith Rowley administration for its implementation. And Members of the Senate through you, Mr. Vice-President, implementation is what counts.

And the second—and this Bill here also, let me just make this point, this Bill

will now for the first time introduce public law element into the procurement process where the Procurement Regulator will publish tender rules into the law books of Trinidad and Tobago. And the second concept I want to clear up here, not so much for hon. Senators but to the national community, is that the Procurement Regulator does not award contracts. You know that, I say I am speaking to the general public because there is the perception out there that this man will be the great distributor of contracts and everybody should seek him if they want contracts. He has absolutely no power in the award of contracts. The award of contracts will still be under the domain of the procuring entity, whether it is Petrotrin, whether it is UDeCOTT, whether it is NIPDEC, whether it is NIDCO, whether it is PSAEL, whether it is whatever state enterprise or the Ministries themselves through their own procurement system. He is a regulator, one level of regulations and then a Review Board and then if you want or so desire, if you have the resources you can go to the High Court, the Appeal Court and you can go to the Privy Council.

So the system of governance is there. The challenge we face as a nation, through you, Mr. Vice-President, and Sen. Dr. Dhanayshar Mahabir said it quite succinctly you know. We have some of the best structured laws in Trinidad, okay, but how we implement it. The classic example of what we struggle to implement was the Children's Authority. That was passed into law many years ago and it is only now starting to get some teeth thanks to the work of people like Stephanie Daly and others. And we are now starting to get a feel that you have a working institution. And we have to be careful that we do not pass laws that are unimplementable.

I want to go on record here today, Mr. Vice-President, as saying that, one of the most unimplementable pieces of legislation—I am now responsible for it as the

Minister of Rural Development and Local Government—is the Dangerous Dogs Bill piloted and engineered by one former Attorney General, Anand Ramlogan. It is an unimplementable piece of legislation. But, it is in the law books, I will try my best to see what I can do and to have it in effect. So the issue of Procurement Regulator, as I said, he is not an awarder of contracts, he is just a regulator of the system.

Now let me just deal very briefly with the issue of the Review Board. Mr. Vice-President, the Review Board is a well thought-out strategy and a well thought-out administrative structure in this whole exercise.

“51C. (1) The Members of the board shall be appointed by the President after consultation with the Prime Minister and Leader of the Opposition, for a period of three years.”

I dealt with that already. It is not the type of appointment that the President does on the advice of the Cabinet. This is like appointing the Integrity Commission. And we have a serious President, we have a serious Prime Minister and I assume we have a serious Leader of the Opposition, so I guess in that context I expect some very good appointments to be made here.

And Sen. Mark spoke about the Review Board having no authority. The Review Board has authority because they are reviewing decisions of the Procurement Regulator. That is like the Appeal Court and the Procurement Regulator is like the High Court. Because:

“51L. Upon completing a review, the Review Board may—

(a) confirm, vary or overturn the decision of the Office;”

“The Review Board can confirm, vary or overturn the decision of the Office”—of the Procurement Regulator. And secondly:

“(b) order the payment of costs as between parties to the review.”

So you have the system, the Procurement Regulator adjudicates, it goes to the Review Board, but what the Review Board says, supersedes what the Procurement Regulator does. And the only person who can override the decision of the Review Board is a High Court of Trinidad and Tobago.

So the legislation is extremely well put together. The amendments in particular and I made the point that all these amendments were made in the committee stage by the hon. Member for Diego Martin North/East when he was an Opposition MP and today he has the honour of piloting these amendments here in this honourable Senate.

And finally, Mr. Vice-President, let us deal with section 57A. It states:

“Notwithstanding the State Lands Act and any other written law to the contrary, the Minister may make Regulations in respect of the disposal of—

- (a) State Lands;
- (b) real property owned by the Government;
- (c) real property owned by State-controlled enterprises; and
- (d) real property owned by a statutory body, responsibility for which is assigned to a Minister of Government.”

Mr. Vice-President, sometime I do not really like to talk about this aspect because there is the perception out there that when corruption takes place it comes through contract award. But some of the most significant acts of impropriety, and in particular in the last administration, occurred with the distribution of state lands. The hon. Minister of Agriculture, Land and Fisheries is here and hopefully if he speaks later in the debate he can elaborate on it. And the disposal of state lands was never seen as something that the Parliament or even the Cabinet had oversight of.

The hierarchy of the ownership of land in Trinidad is as follows: the largest land owner in Trinidad is the State, the original definition of the State. Then came Caroni (1975) Limited, with 77,000 acres of land. When PNM closed down the sugar industry, the lands of Caroni in the vesting order was vested with the State and then the State revised its own legislation to appoint a Commissioner of State Lands.

After the State and let us just use “Caroni”, the “State Caroni”. The next largest land owner is a company called PSAEL, Palo Seco Agricultural Enterprises Limited, the land managers of all the assets of the former TEXACO, Tesoro and TRINTOC lands. And you will be surprised to know that PSAEL now falls under the Ministry of Rural Development and Local Government. I have asked for a report for all the land transactions over the last five years and Minister Young told you what happened with the CDA, coming attractions, what is happening with the PSAEL. But that is not for today. I come like Jack Warner, that is not for today. We will deal with that at another point in time.

PSAEL, CDA already dealt with by the hon. Acting Attorney General. It became so obscene under the last administration and Sen. Samuel you were there and I do not want to cast aspersions, but the UNC licked their lips so much on state lands that for the first time in the history of Trinidad and Tobago since 1956 to present they had a Ministry entirely dedicated to lands. The Minister was the Member of Parliament for La Horquetta/Talparo and I would not call him by name. Lands was always a part of the Ministry of Agriculture from since Dr. Williams in 1956; from since ANR Robinson in 1986; from since Patrick Manning in 1991; from Basdeo Panday in 1995; again Patrick Manning in 2001 and then all of a sudden SIS getting 30 acres, this one getting so much of acres, hundred acres and

you will hear stories of how the State's assets were plundered, to friends, families and associates of the last administration. Land is wealth, and especially in a small island state, land is the ultimate wealth.

When you go to the State of Montana in the United States of America and the State of Texas a small ranch is 3,000 acres. A fella say he has a small ranch, it is only 3,000 acres. Fellas have 50,000 and 60,000 acres of cattle ranches in Texas and Montana. We are a small island state and land is the ultimate wealth and when the state agencies play loose with the people's land, something is fundamentally wrong with the governance of Trinidad and Tobago.

Mr. Vice-President, this legislation will bring an end to that. This legislation will bring all the state enterprises in line. WASA has a lot of state assets. WASA has some lands down, just before Westmoorings there, opposite West Mall. Imagine two state agencies fought a court battle to say who owns the land, the Port of Spain City Corporation and WASA. Foolishness. Two state agencies in court spending state money to fight each other from the same Exchequer Account the money coming from, you know. Dr. Rowley have a saying these days, just tell us, "masa bull-masa cow". What is the sense? Why should one state agency fight against the other state agency? Sit down and talk it through, you understand? Why go through litigation and the City of Port of Spain put WASA in court—

Hon. Senator: "Dais PNM put WASA in court."

Sen. The Hon. F. Khan: It does not matter, I am telling you now this is a new administration. We are in the Cabinet and we are dealing with things like that, "masa bull-masa cow". You cannot spend state money in an agency to fight against another state agency. All that foolishness will stop. PSAEL—*[Interruption]*

Mr. Vice-President: Senator, Minister, you have five more minutes again.

Sen. The Hon. F. Khan: Five minutes, yeah. PSAEL, Petrotrin lands, I have said that, coming attractions, stay tuned you will hear more about that just as how you heard from the CDA lands, from the hon. Acting Attorney General.

Mr. Vice-President, I now close very briefly, because I think I would not do this debate justice if I do not talk about these two things. Lack of procurement legislation.

“Stop \$1b DEAL

Rowley alerts President Carmona to Beetham wastewater contract to SIS.”

Mr. Vice-President, a contract was awarded after they did bid rigging eh, and they disqualified 14 out of the 17 contractors who were interested, most of them internationally reputable firms, to build a plant of that nature. The contract was awarded to SIS who bid TT \$400 million more than the other contractor. Both of them had passed the technical qualification for the job.

Let me speak to, if I could talk to Pastor Clive Dottin because I like to hear you on the TV you know, Sir. Okay, and you do make some good points. I want to bring this to your attention and I am seeing you in this Senate here for the first time. A state agency, two contractors qualified for a job and gives it to the contractor that bid TT \$400million more than the other contractor. Today, the contract has to be terminated. He has migrated to Panama.

Hon. Imbert: No extradition treaty.

Sen. The Hon. F. Khan: No extradition treaty in Panama and we at a problem now. And you know what is happening now, they cannot even get the water to Point Lisas and they did not even have a sales contract for the water with the Point Lisas Industrial Estate. And the pipeline is stranded somewhere in the Caroni Swamp. And they cannot even determine under the contract whether the pipeline

should have been above ground or below ground. Good? All that is UNC, you know. And the other contract I want to bring to your attention, just for the records, is the construction of the Motor Vehicle Authority building at Fredrick Settlement in Caroni. Who do you think is the contractor, Pastor Dottin? SIS, the same contractor who bid TT \$400 million more and got it, he gets the contract to build the Motor Vehicle Authority in Fredrick Settlement. He was the highest bidder. Contract started at \$45 million and we are not sure how much is completed, but the talk is, well we are still auditing the figures. It is over \$400million.

7.15 p.m.

It is a nice building you know. If you go to Frederick Settlement you will see it, but for heaven's sake, \$400 million for a simple square building, five storey, originally carded for \$45 million. Good? Ten times the price. That is the wanton wastage that went on with the last administration, Mr. Vice-President. No wonder that they did not want to proclaim the legislation after they did what we call in the PNM manifesto, a PR gimmick coming down to the end of the term to say that they pass procurement legislation. We are serious. As I said, we are serious because we have a tripod of legislation: campaign finance reform, whistle-blower and procurement legislation.

Mr. Vice-President, I think the resources of the country and, in particular, the finances of the country are now in safe hands, and I thank you very much for giving me the opportunity to make this contribution. [*Desk thumping*]

Sen. Khadijah Ameen: Mr. Vice-President, I want to thank you for this opportunity to contribute to the debate on a Bill entitled an Act to amend the Public Procurement and Disposal of Public Property Act, 2015.

Mr. Vice-President, I want to begin by reminding the Members of this

Senate that in this country, at this time, there is a certain amount of disdain and cynicism by the citizens based on the behaviour of Members of Parliament. Our present parliamentary system by its very nature is adversary, and the present political culture in our country is one where you see one side propose and the other oppose. You see attack, attack, attack; you see attempts to build and you see attempts to break down by people who each claim, and political parties who each claim, to be representing the best interests of the people of this country.

Mr. Vice-President, I listened to Members on the other side. Perhaps because I do not want to suggest that they would deliberately mislead the Senate, I must assume that they did not have all the information when they speak half-truths. I listened to the acting Attorney General and I congratulated him on acting in that esteemed position. I listened to what were half-truths uttered by him. I heard him making aspersions along political lines, and I heard him giving indications that when he spoke—and he spoke about procurement, he spoke about corruption and former administration and the former administration, and I am very sure that if the new acting Attorney General, a young aspiring politician who was newly elected in the last election—[*Interruption*]

Well he is not well established. He is new to the elected politics, but I think he missed the opportunity, Mr. Vice-President, to raise the level of debate on this Bill. He missed the opportunity to bring to the table a holistic picture in terms of the steps that are required, or the steps that his own Government plans to take in terms of your proposals, your legislative agenda to deal not only with procurement but accountability, maximizing state resources, improving efficiency, financial integrity and good governance, and he failed in that aspect because he chose to use the opportunity rather to go into the attack, attack behaviour that many politicians

feel that is all it is about.

Mr. Vice-President, I want to say today something that I have always said in my time in public life, whether it is as a local government councillor or wherever I have served, that very often for political purposes members of one political party throw attacks at members of the other political party about corruption. But if you really intend to deal with corruption, we will remind ourselves that as much as any person who holds political office has any intent to participate in any corrupt behaviour, whether it is procurement or any other area, the guardian of the state resources, through the public service and other public officers who are not elected, must also play a role somewhere along the line, and it speaks to the whole culture of corruption in our society. And when I hear a Minister of Works and Transport encouraging the public to come forward and give information if they know of licensing officers who are corrupt, or persons within the licensing department who are corrupt, you know, I shake my head and I really— I mean, it is really such an empty utterance because the fact is that many people, many citizens, participate in corrupt practices because they see no other alternative, and by saying well come and tell me “nah”, you will come and report it to me, really is not getting to the root of the problem. The legislation that is in front of us, the Bill that is in front of us, is in fact a product of progressive governance, of continuity, and we must take note of that in the interest of the citizens of this nation.

Mr. Vice-President, all political parties somewhere along the line, even if they have opposing views, must acknowledge that the other party would have done some good along the way even if you do not agree with them. The good things that were done under one political administration that benefited the people must be allowed to continue. Progressive governance would open a children’s hospital built

by a previous government and not punish the people of the country. [*Desk thumping*] Progressive governance would not put a halt to the development of the Maracas Beach facility [*Desk thumping*] and jeopardize the health and well-being of bathers, of workers, of persons involved in trade and provide a risk to the citizens.

Mr. Vice-President, good progressive governance, when an aquatic centre is opened, or tested out, and there is no mention of the vision that brought such a top-class facility to this country, coming from the former Prime Minister Kamla Persad-Bissessar. Then I see Government officials posting kudos to themselves via social media and it is laughable. I mean, why put yourself in such a position for people to make fun of you? I mean, the next thing he might do is put on swim trunks and jump in. I mean, when you have good things that are done by one Government the people of this country deserve to have those things continue. Another example is the Point Fortin highway where the people of this country are being punished. I mention those projects to remind all of us, all Members here, of the importance of continuity and progressive governance.

Mr. Vice-President, and for that reason, you know, I saw some parts of the Acting Attorney General's speech as equated to a sort of a robbertalk. I am happy to hear that you mentioned a number of things that you intend to crack down on and break down on and so on, and if you want to give any warning, any meaningful warnings to politicians on corruption, I suggest you start in 1956 and you can come all the way up to One Alexandra, very recently at \$98 million of Trinidad and Tobago's money so far. The building is still unoccupied, and perhaps the Acting Attorney General can ask the sitting Attorney General about procurement procedure when it comes to One Alexandra. [*Desk thumping*] So, to

hear the talk is just—I trust that those who believe in you will not be disappointed.

Mr. Vice-President, Act 1 of 2015 is a result of careful planning and the political will of the People's Partnership to ensure that procurement legislation became a reality. The Minister of Rural Development and Local Government is quite right that a lot of work was done by technocrats under the previous PNM administration, and it was never brought to Parliament and it never became a reality. [*Desk thumping*]

When Kamla Persad-Bissessar became Prime Minister, Dr. Bhoendradatt Tewarie eventually became the chairman of the committee, and amongst the reports that were considered would have been the reports from the previous committee. The Uff Commission report which was discussed in the public domain in a big way; the drafts that came from the technocrats, the legislators and so on. Many of those reports and those drafts existed under the Patrick Manning administration, but they never were brought to Parliament, and in that regard Mr. Minister, through you, Mr. Vice-President, that previous PNM Government failed. So all talk and no action really is just talk.

Today I hear the present Government speak as though it is the light in the darkness, as though they are coming to save Trinidad and Tobago by bringing these amendments. The fact is that the parent Act, Act 1 of 2015, is a result of collaboration, and the fact is that as time progresses and as our culture evolves you will have need for amendments along the way. So if the Government is truthful to itself and to the people of this country in its commitment to bring transparency and so on through procurement procedures, you would not have the need to make this or attempt to make this into some political game, because the fact that we have come so far and the fact that we have had this legislation in 2015 is as a result of

collaboration and the political will of the previous Government under Kamla Persad-Bissessar. [*Desk thumping*]

Mr. Vice-President, I also took note during the contribution of the Minister of Rural Development and Local Government where he read excerpts of the PNM's manifesto.

And quite frankly, Mr. Vice-President, that manifesto is a public relations document and it does have a political bias, you are correct Minister. And I am saying political bias to be kind, but quite frankly it can also be called propaganda, it can also be called masking untruths, it can also be called giving flowery language to things that really have no meaning. But I wonder if the Members who spoke know of the record of the work of the last Joint Select Committee.

7.30 p.m.

That the last Joint Select Committee, which was chaired by Dr. Bhoewarrie at the time, almost collapsed due to the non-attendance of two Members of the then Opposition and those two Members hold significant positions in the present Government and they are Mr. Faris Al-Rawi, now Attorney General and Dr. Keith Rowley, now Prime Minister.

Those two Members, at the time Members of the Opposition, because of their lack of attendance, in fact, caused the quorum of the committee to be changed. There was cause for the quorum to be changed. With the spirit of democracy in mind, there was an approach to have a quorum always include at least one Member of the Government, one Member of the Opposition and one Member of the Independent Bench and for a number of occasions, when the committee met, they could not proceed because of the absence of those Members and I did not hear mention that that delayed the work of the committee

significantly. So when the Acting Attorney General mentions that it was only in 2015, the legislation was proclaimed, you should consider that that was part of the reason for the delay in the work of the committee and you may want to talk to your boss about that.

But the work that went into that 2015, Act No. 1 of 2015, when I hear Members disagreeing, or criticizing rather, the work of the former Government, the People's Partnership Government, I also wish to remind the House and for those who may not have known that the previous Senate, the Bill came to—the report of the Joint Select Committee and so on, came to the Senate first and the previous Senate deliberated for two days. A total, I understand, of 11 hours and 24 minutes of good time and it was passed unanimously.

A Member of the Opposition Bench at that time is now the Attorney General, Faris Al-Rawi—*[Interruption]* and I do not know why the Acting Attorney General is banging his desk. It is not a compliment to the former Attorney General in any way. But the collaboration and the eventual unanimous vote for the legislation at that time speak volumes. When it went to the House of Representatives, the now Minister of Finance, then Opposition MP, the Member for Diego Martin North/East, made recommendations for amendments and because those amendments were not included, the Opposition at that time did not vote for it in the Lower House and Act No. 1 of 2015 became law anyway.

But based on the history, there is obviously poor communication between the Opposition in both Houses. In one case, the Opposition Senators voting in favour and in the Lower House, perhaps, politics getting the better of them, to vote along political lines rather than in the interest of the country. And poor communication from the Members of the Joint Select Committee who were hardly

there anyway but who may have failed to communicate to the Members of the Lower House, the work that would have gone in and the collaboration that the Bill really was a product of. Even then the Opposition PNM's discomfort with the procurement legislation and the source of the amendments is today still the one issue that even those in the public domain and Members of the House presently, have a lot of difference of opinions over and that is the issue of a review board.

Mr. Vice-President, I noted that every Member of the Government who spoke so far spoke about the importance of the review and having this opportunity for persons to get another opinion. I am reminded that not too long ago, in this House, we had a debate on the SSA and the Opposition put forward numerous amendments and the bulk of those amendments had to do with implementing a review committee or a review body for the same purpose of accountability and giving the citizens an opportunity for protection.

Mr. Vice-President, the very nature of the entire legislation, taking the parent Act into consideration, you are right, Minister of Rural Development and Local Government, to remind the population that the Procurement Regulator does not issue contracts. For the benefit of the listening public, each state agency, each Ministry, will have their own procurement officer and each procurement officer will submit regular reports to the Procurement Regulator for review and for their information. Where a dispute arises, the regulator is a review body. That is the first review. The review committee, as recommended in the amendments, is a duplication of that.

And I heard the argument of the Members of the Government with regard to the review committee offering greater transparency and more opportunities for people to object or be fairly heard, and I wonder if you considered those same

arguments when you brought the SSA amendments before this House. At present, because of the nature of our Parliament and where the majority vote went, that legislation that has serious impact on people's privacy, people's basic fundamental human rights, now has gone forward without the same review and accountability that you talk about today. That is hypocrisy.

Mr. Vice-President, I really think that the review—and the duplication I will speak about a little bit later—but for one of the contentions is that you have the Procurement Regulator and you have between 9 or 12 persons who have a function and who have control of their staff and their operations. However, when you come to the review body, you have three persons and it is clearly outlined here in the amendments, but they do not have charge over the operational aspect of their body and that is a bone of contention. Not only with us in the Opposition but even with persons in civil society who are concerned that the Minister has the power to make regulations for operation of the review board.

PROCEDURAL MOTION

The Minister of Rural Development and Local Government (Sen. The Hon. Franklin Khan): Mr. Vice-President, in accordance with Standing Order 14(5), I beg to move that the Senate continues to sit until the completion of the business at hand inclusive of the matters on the adjournment.

Question put and agreed to.

PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY (AMDT.) BILL, 2015

Sen. K. Ameen: Thank you very much, Mr. Vice-President. The fact that a Minister—I want to just go right into where I stopped off there. Clause 6 of the Bill presently before us where the Public Procurement Review Board is established

where the appointment of members of the Review Board, first of all, I want to say that I feel that the establishment of this Review Board which is a review to a review—because the Procurement Regulator, by its very nature, is a review body—it does add another layer of bureaucracy.

And I also want to move to the other section. I have no objection to the composition of the Review Board if you must have a review board; and the appointment of the members, I also have no problem with that. I feel that just as the Opposition made recommendations for, for instance, the Director of the SSA to be appointed by the President in consultation with the Prime Minister and the Leader of the Opposition, again, this is one of the ways where you insulate the officer from political influence, and that is what the Opposition—this very principle is what the Opposition brought forward when we made recommendations on the appointment of the Director of the SSA.

And I see you putting forward those principles here now ironically. So I am in agreement with that but I also want to indicate that when it comes—the issue really comes to giving the Minister the power over the operations of the board, and the Minister of Rural Development and Local Government may have been a bit misguided when he spoke on the contribution of my colleague, Sen. Wade Mark, where he mentioned his criticism on this particular issue. And I want to say that I do share the views of Sen. Mark and I will repeat them so for clarity of Members opposite as well as those from the public.

The whole gist of getting this Procurement Regulator and a review body is to insulate the procurement process in all state agencies from political influence and other influences. Bringing a review body that is operationalized with respect to staffing remuneration, funding and operational matters by the Minister defeats that

purpose. The independence of the organization comes into question and I believe that there are a number of independent bodies that operate in our democracy where the remuneration, for example, is treated with, for example, by the Salaries Review Commission and that was mentioned by Sen. Mark. The staffing could also be treated with either by the body itself or by the Service Commissions that deal with staffing of public agencies and the appointment of staff could be treated with there. And the Minister's only role, in my opinion, is to insulate the organization from political interference, whether it is by this present Minister or any Minister in the future; the only role of the Minister should be to provide funding as is done by the annual budget which is passed in Parliament.

7.45p.m.

So I would like—that is my contention with this particular clause and I think if the Minister in the Government is true to ensuring transparency and lack of political influence, you would reconsider that particular matter.

Mr. Vice-President, I want to speak to implementation. One of the speakers from the Government Bench mentioned that Act No. 1 of 2015 was partially proclaimed, and I want to explain why. I want to explain that you yourself as a Government will find yourself in the same position.

Under the previous Government, there was a consultant from the UNDP working with the Government with regard to putting the infrastructure in place to make this legislation a reality, and it would be irresponsible of any government to proclaim legislation where the infrastructure does not exist. You open yourself up to litigation. You open up yourself to really rubbing your citizens the wrong way, denying them due process and so on. And for this reason I want to say that I trust that this Government will move with expediency in continuing to work, whether it

is with the same consultant from the UNDP or any other mechanism, to ensure that the setting up of the infrastructure to make this procurement legislation a reality, to proclaim in a well-scheduled manner, as the infrastructure is put in place, so that you will not necessarily wake up one morning and decide you are going to proclaim everything and then you cannot implement it.

So, for the Members on the other side who criticized the partial proclamation, I want to put on record that the People's Partnership, the previous Government, was very serious about implementing this procurement legislation and that is why the Act was partially proclaimed, so that you could work and put things in place and then proclaim more of it and continue until it is fully proclaimed and fully implemented. To do otherwise would be irresponsible.

Mr. Vice-President, I want to mention my own experience in local government. I have had the privilege, in my short life, to work in the administrative side, to be an elected councillor and then to be the chairman of a regional corporation. Regional corporations are very reflective of other state agencies where poor procurement practices become rampant over time, and it is because of lack of governance structures. And there is a need for more accountability and so on, yes.

And when I hear the present Minister of Rural Development and Local Government talk about moving local government more towards the THA model, his Government may want to reconsider that, considering the hot water that THA is in over these very same procurement matters, over lack of accountability, over wastage. Throughout all of our state enterprises and all of our government Ministries, a lot of the wastage that takes place, a lot of the corruption that could be mentioned, it takes place on a daily basis, and very often politicians, over various administrations, cannot get to the root of it in one term. So, if you are serious about

getting rid of corruption, about getting good governance practices and procurement in place, you would stop playing the political games and get down to work.

Mr. Vice-President, as I close I want to indicate the Opposition's support for good governance. I want to indicate the UNC's support for greater accountability and transparency. But, Mr. Vice-President, we must balance that by not overburdening our system and our citizens with more and more useless bureaucracy. There are aspects of this that we are prepared to support but there are some parts of it that I feel are just too burdensome. But I also want to see the Government be very serious about the implementation of this Act. Mr. Vice-President, I want to thank you for this opportunity to contribute. [*Desk thumping*]

Sen. Taurel Shrikissoon: Thank you, Mr. Vice-President, for granting me the privilege of entering into this very interesting debate at this late hour and I know it is going to be a later night, though.

But what I would like to say today, in the context of procurement legislation, that is the amendment to the procurement legislation, I think at this point in time it is very important and very timely and very relevant to the advancement of our country. But I also want to say this, and I am saying this very guardedly by saying if individuals in a country who occupy public office who act in the best interest of Trinidad and Tobago, procurement legislation would not be necessary. If leaders and individuals of our land who occupy public office act in the best interest of the country, procurement legislation would not be required.

As a citizen today, I am saying that I am burdened that the leaders and the Government and regimes of governance of our land have to spend time on legislation like this if we as individuals and leaders just act in the best interest of our country and discharge our responsibilities in line with the oath of office that we

would have taken and that is why I am thinking that Trinidad and Tobago, although requiring procurement legislation, when we have to legislate on how public officers' conduct themselves in public offices, with public resources and public funds, I think we as a country really not advancing forward. And this is not only an issue with government and government officials, but every single individual of our land, in whatever capacity they serve, as an employee, as a lower level employee, as a manager, management, chairmen of all state enterprises and institutions should really undertake their responsibility and their discharge with a full obligation to the advancement of country and not at all themselves.

So, Mr. Vice-President, I am saying today that the primary objective of any government is to manage the resources of a country in such a way to maximize, one, social impact and, two, sustainable economic development and it is a government, whichever party they may come from at a particular point in time, is responsible for the national development of a country and it is that group or that governing group who has the responsibility for the use and allocation of public resources.

Today I would learn, as Sen. Khan pointed out, that the issues of mismanagement of resources are not only resident in procurement but also via the disposal of state lands and because of that I am saying, Trinidad and Tobago, you know there is a challenge before us and we really need to address it and address it quickly. So as a government embarks on the national agenda for the development of Trinidad and Tobago, I think this legislation is quite critical to it.

Sen. Khan also, in his contribution pointed out that Trinidad and Tobago ranks 72nd in the corruption index and I think it is out of 165 countries. And while he gave the rank, our score on that same index is 39, with zero being totally corrupt

and 100 being very clean. So we are closer to the zero margin in the first half, which is saying that as a nation there is the perception that we are corrupt and this is the world looking in at our country. If you look at our score in 2012 and 2013 it was just about 38. So, over that period we have just moved one point, which is 39. So while it is an upward trend, we are still in an area of being viewed as very, very, very corrupt as a country. Now that report represents the same findings of the report, the Global Competitiveness Report and that is a report that I always refer to in this House. And it is very alarming that corruption is deemed as one of the most problematic factors in doing business in Trinidad and Tobago. Corruption is deemed as one of the most problematic factors. So much so it is No. 2 in that report, second only to our poor work ethic. And not only in 2015 was that ranked second, but it also gave a weighted average score of the respondents.

In 2007, that score was 13.2, corrupt activity or corruption as it affects doing business in Trinidad and Tobago. But by 2009, it was 9.1. We saw over that three-year period a reduction, from 13.2 to 9.1 but by the time we hit 2014, that weighted score went to 18.4, almost a doubling. So we are seeing here, at this point in time, as Trinidad and Tobago goes over time, our score on corruption, the way the world is viewing us, the way people are seeing business activities being conducted in Trinidad and Tobago, is worsening and I am not a happy citizen of Trinidad and Tobago when I could stand here and say that and support it with statistics.

So I must commend the current Opposition, the last Government, for at least bringing procurement legislation to this House. I must do so. [*Desk thumping*] And bringing it to the House signalled that they had great intentions for Trinidad and Tobago. However, they brought it at the end of their term and it was at the end of their term that the corruption indices for Trinidad and Tobago was shooting

through the roof. And, therefore, while the intention was good, Trinidad and Tobago did not have the time to benefit from the legislation at that time.

I would like to say to this administration, I am pleased as a citizen to see that you have brought it in your first year and more so, I stand to be corrected here, but before any real significant mega projects are undertaken or disbursed. And that is why I am saying although it is in the first year, it is eight or nine months into your office but it is just before you would expend on capital projects.

So once the Office of Procurement Regulation could be operationalized, Trinidad and Tobago could actually start seeing the benefits of it quite early in your administration. And so the point here, having brought the legislation is not only getting the legislation passed but getting the legislation operationalized and implemented. So that is the goal here. From here forward, that is the way we are going forward.

And I want to say this, that everyone knows when I stand here to speak I must say something about institutions. No matter what happens, I will speak on institutions. I want to refer to that same report, the Global Competitiveness Report of 2015/2016 which ranked Trinidad and Tobago 89th, in terms of our competitiveness. But one pillar that was used to arrive at that score is that of institutions and our institutional score is 108.

So while we are ranked 89th, our institutional ranking is 108, which, because it is lower than 89, it is pulling our ranking downwards. And if we are to improve, which is the challenge I placed before the current Government in my maiden contribution for the budget debate, let us try and at least, during your tenure, let us see if we can get Trinidad and Tobago into the first half, which is 72, just before 72 in that ranking and that would at least signal the right direction.

8.00 p.m.

Why am I saying this? Because when they measure institutions in our country, when they measure institutions, this is what they look at. We have a ranking here—diversion of public funds—that is a metric that is used to measure institutions:

- Public trust in politicians;
- Irregular payments and bribes;
- Favouritism in decisions of Government officials;
- Wastefulness of Government spending;
- Efficiency of legal framework; and
- Transparency of Government policymaking.

So while these are being measured in terms of giving us our institutional ranking, I am seeing here, that with the implementation of this procurement legislation, it can address directly the metrics that are being used to measure institutions. So once implemented, I can see that the institutional ranking of Trinidad and Tobago will improve, will increase, and therefore, the overall competitiveness of our country will also increase.

So I really want to say because of that, and I know that Sen. Gopee-Scoon, Minister, in her last contribution, did give a commitment to at least attempt to try to rebuild institutions. Just as Sen. Khan was able to context this legislation with his manifesto, I am saying, while I rise to speak on institutions a lot of times, this piece of legislation speaks directly to the possibility of improving the institutions of Trinidad and Tobago. And, therefore, I have a great tendency, and I want to support the legislation that is before us, because I am seeing a direct correlation, direct impact with institutional strengthening and this piece of legislation. [*Desk*

thumping] So now that I have placed that in the context, my contribution in that context, I just want to look at the amendments before us.

I will not be long because I know there are still speakers to come, but I just want to make these couple points. Sen. Mahabir in his contribution, referred to his style as being the old school master and lecturer, and going through the legislation and pointing out what he may say, in some areas that he wanted correction on; clarification could also be. I too did the same, but I am not the old school master. [*Laughter*] So although the approach might be similar, it is not because of our training.

Just to put on the record here, given the amendment before us, I noticed on the Joint Select Committee Report, that the hon. Minister referred to on page 5, it says:

“The process for the removal of the Procurement Regulator in relation to Trading with the Government.”

In its conclusion, part of it, that part of it, that point, it says:

“However during its deliberations, the Committee was satisfied that the provisions of the parent Act were sufficiently addressed.”

So that the tribunal issue was removed, but just on a point to note, that clause 3 on the Explanatory Note of the Bill says:

“Clause 3 of the Bill amends the Act by inserting a new section to make provision for the President to establish a tribunal...”

So I am seeing that there is probably an error here. Although it is under Explanatory Notes, it should be corrected. Thank you.

The second point that I want to raise, and it is very close to Sen. Mahabir's point, almost overlapping, it is with respect to the removal from the Review Board.

We have seen here that in an earlier piece of legislation, an amendment, that special care and attention was used to prevent the regulator from trading with the Government—not only the regulator, but the regulator and any member of the Board.

In 51A of the amendment which deals with the challenge of the challenging proceedings, we have also formed a board or a group of three people. In keeping with Sen. Mahabir's thrust, I am saying the same elements or the same conditions of appointing the board of the OPR, or the Officer of Procurement Regulator, should apply to that same board and, therefore, members of that board should also be prevented from trading with the Government.

So that if we adopt Sen. Mahabir's contribution or point, where we link the criteria for selection as well as dismissal, we would realize that the overlapping benefit, is that all constituents of both boards would be subjected to the same thing. That would also tie in with my second point, which ties in with Sen. Mahabir's own as well, on clause 17 of disclosure. So that the members of the Review Board will also be required to disclose their interest. So those are two areas that I would like to see strengthen and brought into the Review Board.

Now, there is another part of this, that really, I think, I understand that a piece of legislation before us may not able to be fool-proof, in terms of 100 per cent accurate, but it is just a point that I would like to note, and if at some point in time it could be addressed. Section 51G of the amendment says:

“A procuring entity or any other person who is entitled to be given an opportunity to make representations...may request the Review Board to review the order...”

It goes on to say that anyone challenging or has a problem with the decision of the

office of the regulator can do so within 21 days of notice. And then, the Review Board has 28 days to deal with that challenge. So that brings it down, that brings a total. Let us just say worse-case scenario, you have 21 days first, and 28 days later bringing a decision or delaying a decision by some 49 days. But just want to pay attention to 35(2) of the parent legislation which says:

“(2) A procuring entity shall promptly notify each supplier or contractor who presented submissions of its decision to accept the successful submission at the end of the standstill period.

“standstill period” means the period from the dispatch of a notice as required by section 35(2), during which a procuring entity cannot accept the successful submission and suppliers or contractors can challenge the decision...”

Section 35(4) of that says, well. the standstill period, to summarise, does not apply to projects of urgent public importance.

So if a project is deemed as having urgent, public importance, then the standstill period is not required to allow for a greater efficiency and execution of the contract. But if a project is classified as urgent public interest as at 35(4), then we have a situation with the Review Board, being notified 21 days and taking 28 days to make a decision, which is 49, and then it has the possibility if it is still being challenged, to go to the Appeal Court.

So the question that really boggled me when I read that, was that if a project is deemed in terms of urgent public interest and challenged, then, how are we going to respond if it goes all the way? And as I saw that, I said, I will say it, and ask for consideration at some point in time, if it could be addressed. So that was the third point.

Then with respect to another point here, we are seeing under:

“51F The Minister may make Regulations, subject to negative resolution of Parliament, with respect to staffing, remuneration, funding and other operation matters of the Review Board.”

Sen. Mark in some way addressed or raise that issue that I have a concern with, and it says here:

“The Minister may make Regulations, subject to negative resolution of Parliament with respect to staffing, remuneration...”

Now, the Office of Procurement Regulator is an independent autonomous entity, and it says here, according to the parent Act. It shall:

“(b) not be subject to the direction or control of any other person or authority in the performance of its functions, but shall be accountable to the Parliament.”

And it is also outlining the functions of the Office of Procurement Regulator.

Now, we are having a Review Board, and the Review Board can review the decision of the Office of the Procurement Regulator, and the Minister has the power [*Desk thumping*] to be able to review, or be able to craft the regulation of this body that is really reviewing the initial one.

Now, while I have a challenge with that, I still think that it could work, but if it was subjected to the affirmative resolution of Parliament, rather than a negative resolution of Parliament. So that while the negative resolution of Parliament allows it to be laid in Parliament, the affirmative resolution allows it to be debated and allows Parliament, both Houses, to engage in the process [*Desk thumping*] of just approving the regulations, while the Minister still has the responsibility or the

capacity to craft the regulations. I am saying this in the context, that when we had the presentation by Prof. Stapenhurst in January of this year, brought forward through the President of this honourable House and the Speaker of the House. In his presentation he said:

“Over the past decade there has been a substantial amount of research has shown that parliaments matter. It is now fully recognized that effective parliaments are a critical element of good governance, and perform the essential functions of enacting legislation, representing citizens and governments to account.

The latter function, holding governments to account, is conducted through oversight.”

So I am saying here, that if the regulation is crafted through the affirmative resolution of Parliament, then we would all be involved. And, as Sen. Khan said in his contribution, and I particularly liked it, he says the primary role of the Parliament is legislative.

Therefore, if we marry the two concepts of oversight and a legislative objective, we would be able to at least affirm the regulations that the Minister is proposing—not this Minister in person, but any Minister who subsequently occupies the office at a later point in time; any Minister. So it has nothing to do with the gentleman, the Minister who sits across from me, for whom I have much respect and great relations with—with respect. [*Interruption*] I stand corrected, respect. So this has nothing to do with the hon. Minister in person, but in terms of strengthening the oversight and legislative capacity of the regulations, that can be used to regulate this new board that is being proposed.

Now, here is the challenge, I know that there are some that may disagree

with my logic and, as Sen. Khan sometimes tells me that, “Senator, you need to reconcile yuh logic”. I just want to refer to the parent Act here in this case. And it says here under the parent Act:

“The Minister may...”

63(1) of the parent Act:

“The Minister may, on the recommendation of the Office, make regulations to give effect to the provisions of this Act, including regulations with respect to—

(a) the conduct of challenge proceedings under Part V;”

Which is where the Review Board fits, but (3) under 63 says:

“Regulations made under this section shall be subject to affirmative resolution of Parliament.”

So the parent Act is saying, with respect to challenge proceedings, these regulations as crafted by the Minister, shall be subjected to the affirmative resolution of Parliament. But here we are seeing in the amendment:

“...that the Minister shall make regulations subject to the negative resolution of Parliament.”

—and this regulation pertains to challenge proceedings which is addressed in section 63. So I want to believe that there is—and I stand to be corrected because there are many experts in law in this House, right?

Hon. Imbert: You will be corrected.

Sen. T. Shrikissoon: That whether or not 51F is in contravention of the parent legislation. Just asking for that clarity given that it says:

“the conduct of challenge proceedings under Part V;
...shall be subject to affirmative resolution of Parliament.”

And this section under it, and also, in keeping with that affirmative resolution, I have also noted that in section 57A of the amendment, new section 57A, it also says that:

“Notwithstanding the State Lands Act and any other written law to the contrary, the Minister may make Regulations...”

And point 2 under 57A, it also says:

“...subject to negative resolution of Parliament.”

8.15 p.m.

Now, again, I would like to see it, if possible, be considered via an affirmative resolution. When I looked at the proceedings as to what occurred at the Joint Select Committee it says here, via the contribution—and this is the verbatim notes of Mr. Riley at that Joint Select Committee, I think it was meeting four—he says that the proposal that they would like, it says:

“Notwithstanding the State Lands Act and other written law to the contrary, the disposal of Public Property shall be subject to regulations made under section 63 (1) which shall specify that each such disposal shall be subject to negative approval...”.

So he is saying here that the regulations are subjected to the affirmative, but the disposal, negative. So he was saying this, and when I read it I thought the same thing and, I said, I would have preferred to see “affirmative” rather than “negative”.

And so, on the summary on the Joint Select Committee on that day, in Appendix 2, they also said that the committee would consider the clause by saying the same exact thing:

“notwithstanding the State Lands Act and other written law to the contrary,

the disposal of Public Property shall be subject to regulations made under section 63 (1)—which is affirmative—“which shall specify that each such disposal shall be subject to negative...”

And that I want to agree with, the wording of it, but in the Joint Select Committee on the fifth meeting, it says here, it indicated, the committee agreed to the amendments attached except with respect to this clause and it says:

...the Regulations made under this section shall be subject to affirmative resolution of Parliament.

And it goes on to say:

...affirmative should be removed and replaced with negative.

So it is saying here that at the Joint Select Committee level, a decision was made, although the recommendation—and I think it is quite good and quite strong in terms of strengthening the regulations for the affirmative—in the fifth meeting that resolution was moved from “affirmative” to “negative” and I was unable to find out the reason or the rationale why, because the Joint Select Committee notes did not permit me to do so.

In so doing, I would still like to see—until I am so guided and informed—that this regulation still be made through the positive resolution of Parliament as this would give both Houses the opportunity to know exactly what the regulations are, and our input into it which would guide the operations of the Review Board, and not just the Minister being able to craft it, and the Parliament not having an involvement for the purposes of oversight and stronger legislation.

So with these comments, Mr. Vice-President, I would just like to say, to recap, that we would like to see—I would like to see in terms of the Review Board, the same conditions being attached to the Regulator and members of the board of

the Office of the Procurement Regulator also be the same of the Review Board.

I would also like to say or to repeat or to summarize that I had a concern with projects that are deemed “of urgent public interest” and ask that when a project is deemed “of urgent public interest”, should it go to the Review Board and should it be appealed, then what happens at that time? Should a country and its members or its citizens be exposed to any element of discomfort or suffering during that time?—and we know that if it goes to the Appeal Court it would be quite a long time as the Minister was saying very early in his contribution of the delays that could occur. [*Crosstalk*] No, I am saying, as you were saying, when in your opening presentation, how the judicial system in this country delays—

Hon. Imbert: The court.

Sen. T. Shrikissoon: Yes, when it goes to court. Right. Yes. So should the project end up there through the appeal process, then what would happen to the projects that are deemed “of urgent public interest”?

And last, on two points on the amendment 51F and 57A, I would have preferred to see that the regulations of the Minister be subjected to the affirmative resolution of Parliament rather than negative. But my comments here today are meant to just strengthen, if possible, the legislation and notify.

There is one more thing that I wanted to say that I forgot to say, and it pertains to amendment 51J:

“The parties to a review shall be—

- (a) the person who requests the review;
- (b) the relevant procuring entity; and
- (c) such other person who has an interest...”

But if someone has an issue with the challenge, I am saying more than likely it

may be a company or an entity and not just a person. So that the parties to a review shall be, in my view, the person, company or entity who requests the review, because more than likely, especially in large projects or projects with a large dollar value, it will not just be a person, but it would be a company or entity, and a person may represent the company or entity, but 51J just talks about the person who requests the review. So if consideration could be given to the inclusion of company or entity that would also be appreciated, 51J(a):

“The parties to a review shall be—

(a) the person who requests the review;...”

I am asking to replace the word “person” and use additional, “person, company or entity” that requests the review, because of the dollar value of the project, very often it would be a company and not a person requesting the review.

So with these few words and the opportunity to contribute, Mr. Vice-President, I thank you for the time, and I know that my points or that my contribution to this debate is just meant in an attempt, if possible, to strengthen the legislation and not oppose it in any way. I thank you. [*Desk thumping*]

Sen. Stephen Creese: Thank you, Mr. Vice-President. I would like to begin my contribution with a quote from a recent book launch, at the end of which I would give the date, place, name of the book and, of course, the guest speaker from whom I am quoting. It begins:

“You will be amazed at the breadth of information and the shame we experienced as a nation even in *Rowley’s Crown of Thorns* where Kamla permitted the worst abuse in the history of our Parliament. But what is frightening Rhona is that the Fall, you have documented does not even contain a microcosm of the ills that have our society as it is today.”

The speech continues:

“The ill-gotten wealth of politicians must be documented, the hatched plot to destroy the COP must be known, the plan to pauperize the East West Corridor is still to be exposed and the urbanization of UNC constituencies over other geographic spaces should not just remain in the minds of the knowers.” And the final piece:

“Rhona’s **Fall From Grace** is a bold and a brave step and you must be applauded. No future is assured if our history is not clearly understood and documented. You embarked upon the path of assuring our future by giving us an understanding of our most recent history and for that we must all be thankful. My only wish is that there would not be a ** Fall From Grace Part Two** but a text with another title such as **A Saviour Has Emerged** to complete what would be a trilogy in the writings of Rhona Simone Baptiste.”

This is the book launch for *Fall From Grace*, which was the sequel to *Kamla: Ascent of a Woman*. The venue was NALIS, April 21, 2016.

I think it is a fitting start to my contribution because when Sen. Small raised the issue about the question of the CEO—the chief officer of the procurement agency being involved in any other activity—I think, or was it Sen. Mahabir? Sen. Mahabir, right—we received the assurance from the Minister of Finance that under his watch no such thing would happen.

I have no reason to doubt, cast any kind of aspersions on the Minister of Finance’s integrity, but the question still arises: what guarantees we have that he would be in office tomorrow, a week from now, a month from now, a year from now, all of the remaining four to five years of this present administration, but even

more than that: who would be in office? Which party would be in office at the end of this present administration's term, because the legislation would still be in effect?

If our recent experience, especially this Parliament's recent experience with clause 34, where assurances were given as to when action would be taken as per legislation passed by this esteemed House and the other place, and those assurances were not kept, and the particular Bill was passed and assented to, and then clause 34. So I think it would be very remiss of us, as parliamentarians, after such a shocking experience that embarrassed the State that we should rely purely on assurances. That would really be negligence in public office to do that. I say this not to impute anything against the hon. Minister, but to deal with the realities of life. Any unfinished work of our Parliament is simply that, unfinished work. A job of this importance cannot be left to chance lest there be another *Fall From Grace*.

There was also a reference to the excesses exposed by the Acting Attorney General with regard to the Chaguaramas Development Authority, and I found the response of Sen. Munro to be inappropriate to say the least, in the sense that I found that it took away in a cheap sort of manner from the validity of what was being drawn to our attention by the Acting Attorney General—\$30 for some \$300 million; \$30 they would pay in rental fees for 30 years in exchange for which they will access \$300 million.

When you add to that the information supplied in this very House—I think it might have been Minister Khan—with regard to what SIS was able to access from the previous administration through land arrangements as well, I think the response was most inappropriate, because I think the Acting Attorney General brought to our attention the makings of something we should all roundly and soundly

condemn, and be grateful to the present administration for the legislation they have brought to this House.

Notwithstanding how we may wish to tweak some of the amendments, lest I be misunderstood, I have absolutely no objection to the legislation being proclaimed as swiftly as possible. With whatever flaws we may now see in it, I think we should ensure that when we leave here tonight that this legislation—whatever amendments we could work out before the night is through—should be on our law books. I say that because I have had the experience as a public servant with One Alexandra.

8.30 p.m.

I remember before the 2010 election, working then in the Ministry of Local Government, the then Minister of Local Government was pilloried for non-occupation of One Alexandra for some two and a half years of rents being paid and the building not being occupied. I retired, went on preretirement leave in 2013, effectively retiring in, you know, some six months or so later, and I note that when the election took place in 2015, five years after, Minister Hazel Manning was hung out to dry for One Alexandra that the building was still empty and unoccupied. So that the question of procurement is a critical one, and I do not know whether I am comfortable with the notion that if there were issues that took three years and then there was a change of Government whether these issues should have been allowed to drag out for five more years.

So that in fairness to the present administration, again, bringing this legislation and straightening out the whole procurement scenario, I think, you know, commendation is due to them and that it should be the business of this House to finalize this thing tonight at all costs. But having said that, there was

something that I would have liked the Attorney General, or any of the other Ministers present, to clarify for me because I think I am correct in citing Sen. Small as expressing a concern as to whether small contractors, small operators would not be excluded or, you know, pushed into the recesses because the legislation before us does not cater for the problems of size, the problems of emerging businessmen.

I remember at one stage there was the notion of fair share, good, and I think it was a PNM administration that had put that on the agenda, and in looking at the substantive legislation I was hoping that the Attorney General, if not any of the other two Ministers present, would indicate whether section 28 is really a reflection of the question of fair share; if that is what is implied there. I am of the view there is need, perhaps, either by way of amendment or by way of policy statement, but I would prefer law rather than policy, that fair share be more specifically addressed, but section 28, if I am correct:

“A procuring entity may limit participation in procurement proceedings to promote local industry development and local content.”

So I am taking this to be that kind of provision which allows the particular state entity or Ministry to cater for facilitating new entrants and smaller operators.

The other issue which I am a bit cloudy on is the question of evidence gathering. I think it was Sen. Shrikissoon who was dealing with the question of the Act being tight, and if the Act is to be tight I was wondering whether that legislation which was passed by this House recently dealing with certain types of crime, and whether crime as described in this Act would be subject to interventions by agencies like the SSA, because we are talking here about the rape of the Treasury. We are talking about hundreds of millions of dollars. I think it was

Minister Khan who pointed out to us that at Mosquito Creek, at the sea wall, all those tons and tons of gravel were not properly compressed and they have to be dug up and relayed. You are talking about a mile or two of what should have been the substructure of the new highway, good, and from passing there it is at least about sixfeet high, six feet of gravel to be dug up and relayed because it was not properly compacted.

So we are talking here in these big contracts about millions of dollars, if any hanky-panky—billions of dollars and then the hanky-panky goes wrong, and therefore whether we would not want those powers we have now granted to the SSA to be available in tracking, what may go wrong with tendering procedures and contracts, and the ill-gotten gains from such contracts. So I am pleased with the offer made by the Acting Attorney General that the whole question of—what was the legislation you referred to?

Hon. Senator: Forfeiture.

Sen. S. Creese: Oh, right, yeah, forfeiture, good, is going to be coming, asset forfeiture, that people are going to have to explain why they have what they have, because I remember for years as a child I used to watch Untouchables with Eliot Ness, and I always thought he was a bad cop in the sense of being, you know, a regular state police. It was years later I grew to understand that he was not that kind of a police; that, actually, he was an enforcement agent for the Inland Revenue Service. So that he was really going after people who could not explain their gains, or who, given their obvious wealth, could not explain their source of income, or certainly was not paying taxes to Inland Revenue, whatever, the source of their income. So that I look forward to that legislation because I see it as a partner legislation to this, that if we are going to treat with this issue we to have to

come at it from all angles, and that is why, quite frankly, I am inclined to support it.

In that context, I draw the Vice-President's attention to section 40 of the substantive legislation, because I think it is at section 40 the whistle-blower implications are clearly outlined, and, just for the record, section 40 offers some amount of protection, I believe:

“A person shall not be dismissed, suspended, demoted, disciplined, harassed, denied a benefit or otherwise negatively affected because—

(a) he, acting in good faith and on the basis of a reasonable belief, has—

(i) notified the Director of Public Prosecutions, the Police, the Integrity Commission or the Office that his employer or any other person has contravened or is about to contravene this Act;”

So this of itself is whistle-blower legislation because this offers protection to those who would squeal, to use an unfortunate term. So that there is something on the current legislation which affords protection to those who would say what they see, or what they heard, or what they know of, to the relevant authorities.

So the legislation as it stands is not without substantive merit. The other thing I wanted to draw to the attention of the House was the broader issue of containing the potential for corruption, and this relates to ensuring that even within the existing entities, whether it be Ministries, whether it be state departments, that we need to be assured that there are two kinds of audits. Yes, the conventional audit that the Auditor General does is important, but value-for-money audits, and I think Sen. Mahabir has consistently referred to that, needs to be a part of our

standing operational procedures process approach. Because as it stands, and I looked at the Order Paper, and it is very instructive, eh, and I want to quote here what is up for review by the Parliament:

“SUPPLEMENTAL ORDER PAPER
TWENTIETH SITTING, FIRST SESSION (2015/2016)
ELEVENTH PARLIAMENT
Tuesday June 07, 2016 at 1.30 p.m.

6. Papers

- (xv) The Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Penal/Debe Regional Corporation for the year ended September 30, 2005.”

September 30, 2005, that is almost 11 years ago.

Now let me see if I could remember who was the CEO at Penal/Debe around that time. [*Interruption*]

Hon. Imbert: Must be you, or it was not you?

Sen. S. Creese: Never worked there, Sir. [*Laughter*] That was the first thing I checked. Never worked there, Sir. [*Interruption*]

Hon. Imbert: I could be right.

Sen. S. Creese: But it had me worried because I say, “ay”. The last time I worked in a corporation was 2008; 2008 I left Siparia to go to the Ministry as Deputy PS, good. So I have my eye out to see if anything coming from Siparia from 2008 and before, but the thing about it is, I mean, this is ridiculous because whoever would have appeared before whatever committee, right—now, for 2005, I am sure whoever was the CEO then or the accountant then is no longer at Penal/Debe, right. I am not even sure if the chairman is still there.

So, you know, this cannot be effective oversight, good, and if inside of that there are any improprieties discovered with regard to contract procedures, contract monitoring, contract, you know, any contract activity whatsoever, 2005, this is now before the House today. I mean, the only thing worse than that would be a report coming for San Juan/Laventille and Harvey Boris has to answer. *[Laughter]*
[Interruption]

Hon. Senator: “Look him behind yuh.”

Sen. S. Creese: Oh, he is here. If I knew he was here I would not have said that.
[Laughter]

8.45 p.m.

Because I left San Juan/Laventille in 2002. But I am sure if it was on the Order Paper for 2002 Mr. Boris would not come. We have to deal with this, you know, because no amount of procurement legislation, if at the end of the day the ultimate court of justice is the Parliament in any country. And if it is going to take 11 years for the Parliament to be able to act and intervene, I mean, the people seated here might not even relate to either party; given the average age of the senior Ministers, they may very well no longer be in office.

So, something has to be done in terms of how speedy, how quick, information pertaining to the entities over which we have claimed oversight, arises before this esteemed House; 11 years. If I had gone some place abroad at some international parliamentary conference and cited this, the local press here would have said Creese gone to bad-talk the country abroad, and that could never be true, so I am going to frame this *[Holds up document]* because it is true. I was given this in this House. I have a soft copy on my laptop and so on, but I have the hard copy here—11 years later, folks. And I raise this because this too is another reason why

I have no choice but to support this legislation, and make sure that before I leave here tonight something is in place.

Because we cannot wait on this House to do this, because the other part of this is that when these things reach here we note them and we put them aside. I have been here now quite a few months, and we have not, since I have arrived here, debated any of these; scrutinized any of these. Not a single one. Not a single one of these. So that for all the work that our Auditor General does, it ends up nowhere. So, I have to say to my friends at the Auditor General, you know, you all ripping off the Treasury, because you all are being paid and nobody is listening.

But, what is even more worrisome is the message we are sending to the people who may be castigated in some of these reports. The message we are sending to them is fear not. All you have to worry about is the harsh looks, and the cold looks that the Auditor General staff may give you the next time they come, because they know you for who or what you are. But that is as far as it is going to go. You really do not have to worry about that fancy word “accountability”, because there is nobody coming after you. Yes, there is this embarrassing report that is laid somewhere in a file in the Auditor General’s office in a cabinet there collecting dust. Because since I have been here there have been quite a few of these and I have been looking to make sure none “eh” come up for Siparia 2002 to 2008, or San Juan/Laventille [*Laughs*] in a prior era.

But this is outrageous, and I think we should ask the Minister of Finance to look, since the Auditor General in his broad ambit, to look into why is it taking so long for some of these reports to reach? Is the fault with the corporations in that they are not completing their annual accounts on time? And what steps must be taken to make sure they do that? If that is the cause of the problem, or is it that the

Auditor General has so much work to do and he is understaffed, and he in turn—or is it a combination of both? But whatever it is, no wonder we are—what on the corruption index?

Sen. Khan: Seventy-second.

Sen. S. Creese: Good. We earned that place because we have no oversight capability. That is what this really says. So, like I say, this adds to my stock of reasons as to why this would be a long night, and this is the price that I am going to have to pay for the salary for June month, because this is the month we are going to all have to earn our keep.

Finally, I want to share a short anecdote as to what happens when there is this lapse between oversight and the actual activity, and the challenges that face public servants daily. I remember signing a development programme request for a market for \$6 million, as the CEO, and then the Ministry raised some queries and the figure went up to \$8 million a year later, and in the conversation between ourselves—the Ministry, and the Ministry of Works who had some oversight on the technical aspects—the figure climbed to \$10 million. And by the time I got to the Ministry as Deputy Permanent Secretary I saw a document passing through around \$14 million.

And I worked at Siparia from 2002 to 2008, and by the time the contract was awarded it was \$56 million; I am talking about the Siparia market. You could check your records. The figure came in at the end at \$56 million, and the amusing anecdote with regard to that was that there was supposed to be a relocation site. And I got a call to be at the relocation site where we were going to relocate the market while the market was being built at its existing site. And the building there was a building owned by the State which was part of the process involved in

setting up the court. They were rebuilding the Siparia court. So this structure was acquired so that the Siparia court could be relocated while the Siparia court was being rebuilt.

And if you think the time line I give you with the Siparia market impossible, it stretched from 2002 to 2014 and so on. The Siparia court still functions where it is, eh. No guess that there. And I went and made six years in the Ministry. But, to return to my substantive story, so we got permission to use that building as our relocation site. So, I was called out to go and have a look at—you know, a site visit to Siparia market to see what it is like on a Sunday morning, to make sure all the things in the brief are right. When I got there I was told, well, listen, let us go across and have a look at the relocation site. It was just a mere hundred yards away. So, we walked across to the relocation site, and to my surprise, work was going on apace on this three-storey building. On each floor work was happening. The basement work was happening. They were about to install a 16-foot-wide steel stairwell to the mezzanine floor and so on of that building. And I was standing there, and the Minister was a tall person too, and the ceiling was just two inches above my head, and I wondering, how this building get passed in the first instance, boy?

So, first chance I got I called the building inspector to find out what was happening here, I mean—he say, “Well, I thought is all yuh who doin dat”. I say, “Doing what?” He said he thought “all yuh” retrofitting the building because I know that is the relocation site. I say, “No, we have not okayed any such work.” The long and short of it was, somebody ordered the contractor to start work, and the contractor started to work. What I neglected to tell the gentleman who would have ordered me to be there—at the time I was acting PS—was that the Friday

evening after he had left, the Head of the Public Service had called and said that a new substantive PS was appointed and would be coming from the Wednesday.

So when I discovered what I discovered on Sunday, I was a happy man. I was introduced to the contractor, and he was told in my presence to make sure you send in your bill when you are finished. He said he will be finished by Monday. I was happy. He said, well, he would send in his bill on Tuesday. So when I got back to the office I contacted the project manager which was PSAEL and asked them—they were the ones who send in, and they said no. I said, “Okay, well, send me your estimate for the job”, and the man was supposed to send in his bill. So, the estimate arrived for \$100,000, and the bill arrived for nine hundred and ninety-something thousand dollars. You see, a PS estimate is a million.

So, you see the relevance of all of this to procurement and the nonsense that goes on with procurement. So there, I presented the new PS, when she arrived on Wednesday, with an estimate to approach Finance for \$100,000, and a bill for the job completed for \$1 million. And so my little short story ends.

So, I am saying this by way of saying, in all that we do these are the gaps that we have to plug, and sometimes the problem is not the public servants, sometimes it is; sometimes it is the contractor, sometimes it is not; sometimes it is a mix of all of that; but that was how the Siparia market was relocated. Of course, the bill was never paid. The PS who arrived was a no-nonsense PS, and she never paid the bill.

Mr. Vice-President: Senator, you have five minutes.

Sen. S. Creese: She never paid that bill, but I was advised as to what the bill for the market was. So, nine-hundred-and-something thousand dollars; \$56 million, I leave it to you to guess if the bill was paid.

So we need to understand in all of this that we have to move quickly to get to a point where whatever happens tomorrow, we here could say that we put something in place that would ensure that these kinds of things do not happen again. And that, yes there may be some i's for us to dot, t's to be crossed, but we need to proceed quickly because there is much to be lost. And it would be remiss of me if I did not in closing, just take the opportunity to indicate to the public that as far as I am aware there is no Independent Party. I do not know. I was told this when the other morning I came out of my garden too late to get the newspaper, and people were saying to me, "The paper say all yuh form a party, and it is two small man; one is de chairman and de next one is de chief whip." [Laughter] So I just want to assure this House that I am not in any party, thank God, and I was even told that—

Sen. Dr. Mahabir: You would get an invite. [Laughter]

Sen. S. Creese:—the party wants to make sure they win, so they bring a pastor in to dot the i's and t's in the manifesto. So, I am a little concerned when I see a pastor has joined the ranks. [Laughter]

I thank you, Mr. Vice-President.

9.00 a.m.

Sen. Daniel Solomon: Mr. Vice-President, I thank you for the opportunity to submit on this debate. I had not previously anticipated that I would be speaking today, but I feel compelled following the vicious attacks made by the Acting Attorney General on the CDA. Myself being previously the chairman of the CDA, I feel compelled to defend and explain and perhaps elucidate on the allegations made against the CDA.

Mr. Vice-President, the CDA has the mandate to develop the lands of the

northwest peninsula, 14,000 acres and has the charge of making sure that we maximize the benefit of those lands for the people of Trinidad and Tobago. Now the CDA in undergoing that had a vision which was implemented, a strategic plan which was also implemented in conjunction with a number of experts, environmentalists, engineers, planners and this was the first time since 1974, some forty-something years ago when a strategic plan was actually implemented.

So the previous administrations had developed CDA by “vaps”. There was no policy, there was no leasing policy, there was nothing in place to say how people got lands, how they inherited the lands, what structure was in place, some leases applied to certain people, some special leases applied to others. We found situations where there were grandfather leases where people were paying \$2 a year in rent. These were not being addressed whatsoever. So just as an opening ambit I wanted to explain to the people of Trinidad and Tobago and this August Chamber what the CDA’s mandate was and how the CDA went about implementing that mandate? So it was to move away from a dependency on the Government. By previous administrations, the CDA would just depend on subventions from the Government to sustain itself. And a lot of the development, as I say, by “vaps”.

Now, if it is that our Government, the Partnership Government had to make this entity and other entities self-sustainable, move away from dependence on the Government giving the CDA and other entities money and you had to use the assets of what you had, which is the land, in order to make the development happened. CDA itself did not get a large amount of money. I think it was \$23 million for development projects and I think in 2015, from memory, and I am a bit disadvantaged because I do not have the documents, was \$50 million.

So, there was a situation where it was required that there was development

happening, there were a number of projects aimed at diversification, tourism, creating job employment, creating profits for the tenants and for the people of Trinidad and Tobago over the short-term, the medium-term and the long-term across all the strata of society. You had the vendor booths on the boardwalk where the small man, he can then start to ply his trade and for the first time ever you could get a shark and bake on the boardwalk in Chaguaramas and this developed jobs. Jobs were created by the development of the boardwalk.

Then you had situations where the boardwalk which was initially a model, where it cost \$6 million for phase one. As I said, the CDA had little money. And the model that was adopted by the CDA was that this would repay itself in three years by rentals to the small man through the vendor booths and create traffic that would come through the CDA. Now this will then repay itself within three years thus keeping with the self-sustainable mandate which was under the Kamla Persad-Bissessar Government.

Now I do not think that much of this had happened ever previously under the PNM administration. So this requires a bit of intellectual application which clearly is lacking. [*Crosstalk*] Now to come here in this Chamber and start to say, to start to make allegations of CDA land-grabbers, \$1 rent, it shows that they on the other side are prepared to tell half a story in order to grab a headline. [*Crosstalk and desk thumping*]

Mr. Vice-President: Hon. Senators. [*Crosstalk*] Senators, I remind you that I am on my feet and the Standing Orders require that there be silence when I am on my feet. Secondary to that, may we have some silence in the Senate while the hon. Senator is making his contribution.

Sen. D. Solomon: I am much obliged, Mr. Vice-President. Yes, I was talking

about the joint venture agreement and that the CDA would have to use its assets, namely its land, in order to attract investment, in order to succeed in development on implementing the strategic plan. So a number of projects were put out in the public domain. People answered, investors answered, they showed interest. CDA went back to 2008 for previous applications. A number of small, medium and large-scale projects, starting with the small which created the initial small traffic and then it graduated to the more medium-sized enterprises which then saw that when the traffic and the business started to thrive and people began to recognize the boardwalk as a part now of the national activities of the country they said, “wow”, this is a viable place. And for the first time ever we attracted large-scale investment.

Now that is, large-scale investment can go anywhere in the world. You have to give the investors an incentive to want to invest. Now, many things were working against the CDA, its location, there is one way in one way out; it had a history of failed projects and lack of governance. So it was a situation of courting the investors and selling the vision of the CDA of where this could go, having succeeded and attracting these investments. The traffic was overwhelming and I think it was well recognized in the public domain. Not only as a result of the CDA but people were coming to the CDA for what. They never came before, they were coming now because of the attractions and what happened was, there was a lack of car park facilities.

So in order to address the car park situation CDA had no money. We had \$23million in capital development. We sought advice from independent consultants on how we could make this happen. We were committed to make a thousand car park spaces to service the area, to ease that awful traffic congestion

that was suffering the public.

Also the present car park was wholly unacceptable because it was just opposite to the boardwalk so people would cross from the boardwalk to go to the car park and there were three terrible, almost fatal vehicular accidents. So it was an imperative need for the CDA to have this car park constructed. So we were faced with the dilemma, we have the land but we do not have the finances and we need to have the car park. PricewaterhouseCoopers made a recommendation and said, okay, well we can come up with a financing model where a developer would actually come and you lease the lands to the developer and this is the part where we are not being told, \$120million was invested and committed to the financing and developing and the building of that car park. And that would then produce a thousand cars, 1,250 car park spaces, but I am doing this from memory, hopefully I will be able to have the documents at some point and the rationale would be, that, yes, CDA will initially rent that for a dollar for the development phase and \$120million finance and a car park will be built and CDA would operate the car park and then pay back that loan over the period and make a profit out of it.

So it is a joint venture agreement and after attaining the profit and the profit was large, the opportunity cost for that land was \$4.5 million. That means that CDA could have realized \$4.5 million for it. But in fact, the actual profit forecast was \$28.5 million. So the people of Trinidad and Tobago would not have lost money, but would have gained \$28.5million from that land. [*Desk thumping*] So to say that this is giving away the land for a dollar is a complete misrepresentation to the truth. [*Desk thumping*] The first year that that car park would have been operational, CDA would have had a revenue of \$11.4 million, the first year. [*Desk thumping*] Not by me, not said by me, said by professional consultants who do this

for a living and we sought the advice on how this would work. CDA does not enter into things flippantly. The Partnership did not enter into these kind of arrangements, it was to maximize the profits for the people of Trinidad and Tobago. [*Desk thumping*]

By the second year, from memory, I think it was \$14.3 million surplus revenue, CDA would have gotten. Now granted that CDA would have had to be paying rent for that. Now you could imagine how quickly that \$120 million loan would have been paid off. Now what is the alternative? Do nothing, provide no facilities for the projects that are ongoing, have an intolerable traffic situation for the people of Trinidad and Tobago, let the land lie fallow as it has been under previous administrations when absolutely nothing was done; nothing was done.

Mr. Vice-President, you have to create jobs, create projects, create energy, vision, strategic plans, implement them; create investment. You need a plan. Those on the other side do not have a plan. So all they can do is criticize and propagandize and victimize and pretend as though that have thing in it. Well come up with a plan. From what I understand CDA has done nothing since they have been instituted. In fact, I have had reports that the entire peninsula is going downward. The boardwalk is dilapidated, the toilets are not functioning, people are completely disenchanted—[*Crosstalk*]

Now this is the part that is so telling, is that, and once I was told, you know, they are going to come and try and discredit what you have done. The good work of CDA is going to be discredited—

Hon. Imbert: Point of order, 46(1).

Sen. Mark: Sit down. Continue.

Mr. Vice-President: Take your seat, take your seat. On the point of order raised

by the hon. Minister of Finance, I am going to rule that it does have merit. I have been waiting for at least two more minutes because I was giving you 15 minutes into your contribution to really tie it in to the Bill that is before us. Understandably so, hon. Acting Attorney General would have raised this particular issue in his contribution and as much as you are responding to that issue what I am hoping is that your entire contribution does not take on an argument regarding the CDA alone because we are really dealing with a procurement Bill and the amendment Bill before us. So if you can respond to the comments that he is making in his contribution, but really bring it in with regard to the amendment Bill before us then that would be best. So with regard to the point of order I rule that it has merit and to really, really, tighten it up and bring it in.

Sen. D. Solomon: I am guided, Mr. Vice-President.

[MADAM PRESIDENT *in the Chair*]

I am discussing the car park and the allegations that this car park and this land was rented for \$1. I am trying to explain to this august Senate and the people of Trinidad and Tobago the true nature of the arrangement was to the benefit of the people of Trinidad and Tobago.

9.15 p.m.

In fact, what would have been land worth \$4.5 million in fact was going to be worth \$28.5 million, and after the period we would have had a situation where the CDA would have been generating \$11.4 million to \$14 million, to \$16 million a year in profits, from nothing. [*Desk thumping*] The safety of the people crossing the road would have been solved because now they would have had a safe place to park. It would have serviced the water park development, the boardwalk development, the vendor booths, the zip line. All of these were planned to be

serviced by the said car park.

In furtherance to the allegation made in relation to a number of leases that were purportedly executed near to the election time—Madam President, welcome back—there is a clear misunderstanding and misrepresentation. Because what the Acting Attorney General is trying to make—*[Interruption]*

Hon. Imbert: A point of order, 46(1). The Member was given two minutes to return to the Bill. Two minutes have elapsed.

Sen. D. Solomon: I am responding to an allegation.

Madam President: Sen. Solomon, I have taken note of all that has transpired with your contribution. You need to bring back your contribution to what is before this Chamber.

Sen. D. Solomon: Madam President, there was an allegation that several contracts were executed—*[Crosstalk]*

Madam President: Oooh! Have a seat, Sen. Solomon. Have a seat. Sen. Ameen!

Sen. Ameen: My apologies.

Madam President: Thank you. Members on the Government Bench, could I hear what Sen. Solomon has to say and I will rule on its relevance or not. Okay? Sen. Solomon. *[Desk thumping]*

Sen. D. Solomon: Much obliged. Madam President, there was an allegation of land-grabbing and allegations that a number of leases were purportedly signed close to the election period, giving the nuance or the distinct impression that this was done in some sort of mad rush to seal deals before the election. An absolute misrepresentation of the truth, and the CDA categorically denies that this occurred. Leases do not appear overnight. These leases that are mentioned would have been negotiated and agreed upon, and appointed up to a year prior to the actual

execution. And that is what I have to say to that.

In terms of leases being done at peppercorn rent, which was a further allegation made, the only leases that were done at peppercorn rent was prior to the CDA to our dispensation of Partnership Government in CDA. We all know about Pier 1, where you have \$14,000 a month paid in rent and usage that is far exceeding that. That is peppercorn rent.

Madam President: Sen. Solomon, I think you have answered. You have spent a lot of time on your contribution in dealing with what was stated before. It is now time for you to talk about what is before us.

Sen. D. Solomon: Madam President, the—*[Interruption]*

Hon. Senator: The Review Board.

Sen. D. Solomon:—Review Board. *[Laughter]* I think my colleagues have dealt with the Review Board. I was here to deal with other matters, and therefore, I rest.

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

Sen. Melissa Ramkissoon: Thank you, Madam President. Well, laughter is good for the soul I must say.

Madam President: Let me hear Sen. Ramkissoon, please.

Sen. M. Ramkissoon: Thank you, Madam President. So we are going to talk about procurement and what is the purpose of procurement. To have public procurement legislation is to curb corruption, and we all know by this point that less corruption means more economic growth for our country. When we think of procurement, we think of three points: transparency, accountability and value for money. These are three main points, and when we think of procurement that can be an engineer's best friend and also your worst nightmare.

So when we speak about transparency we speak about the allocation of

resources, and it is a very key element where you want to have a full access to the project information such as the procurement requirements, the rules, decision-making for the criteria on which you are going to choose. So it is a fair selection process you want for all. So when you speak about transparency that is what you mean. When you speak about accountability that is when you involve persons at all the different stages of the process, and you expect the signing authority to be upheld and they will have consequences for your actions. When we speak of value for money, we speak of the achievement of the best combination of price and quality to meet the particular needs of the organization within an acceptable time. So, Madam President, procurement is simply about obtaining the right to enter into a business relationship for the delivery of goods and/or services for a price during a particular period of time, and at a particular pre-determined quality and cost.

Now today's debate is about the amendments to the Public Procurement and Disposal of Public Property Bill, 2015, and we cannot ignore how procurement has evolved in Trinidad and Tobago from our independence. It is noted in the Joint Select Committee Report where recommendations were made on the parent Act which was not in the remit of the Committee. I do hope that those recommendations, as it was listed, will be considered because, yes, it was not in the remit because we are dealing with the amendments, but it does not say that we do not look at it and consider it because we always think about the best for our country. When we acknowledge people is because they are first in their class, they get an award. We always speak about the best foot forward. So we want to ensure that for our society we look at every angle and we take it into consideration regardless of the time. I really do hope it is not a race against time, that we do have

the time to look at these particular issues raised and covered in the Joint Select Committee Report that can be considered in the parent Act.

I spoke about the evolution of the public procurement, and when you look at the Central Tenders Board Ordinance Act which governs Ministries, regional and municipal corporations and the THA, it also talks about the 14 stages of the procurement cycle and this can be found in the Central Tenders Board booklet for information. It is quite an interesting cycle where you have your scope of work, you go into your selection of your tenders, your bids, evaluation and growth processes. It has 14 clear steps.

Now some entities such as the statutory commissions, the authorities and some corporations have power to establish their own tender rules without reference to the Parliament. It is also known that the companies incorporated under the Companies Act, 1995, which was also amended in 1997, have the power to create their own tender rules. Example, UDeCOTT and Education Facilities Company Limited have their right under this companies incorporated Act to make their own tender rules.

So it shows in our history that we have a decentralization of our procurement in Trinidad and Tobago. So I feel this is why we as a country have decided to adopt a principal model, and we are talking about decentralization and the overarching of our procurement system. This should be for both the public and private sector, but we are focusing today on the public sector. We should know that the private sector is not shielded from corruption, Madam President, and I will discuss this a little later. So, we know that an effective procurement regulatory system is made up of a comprehensive framework of rules, regulations and policy guidelines, and public procurement processes.

After gaining some experience in serving on a Parliament committee, I noted that even though we have a history of procurement and we have Acts in place, it was noted from public hearings on the Parliamentary Oversight Committee that some Ministries do not have procurement policies, and this was quite surprising for me to learn because you are dealing with public money. Ministries have to handle over \$1 million projects and they are not held accountable for what is going through. And what was even more surprising, Madam President, is that there was no system in place in these Ministries to look at value for money, because when you look at the function, or if you look at the structure of the Ministries you will be noticing that they did not have the job portfolio to handle such remits as value for money. You did not see that they did not have the sufficient staff to deal with handling such because of the large number of projects they may be going through on a monthly basis. So after learning this, I do hope that the regulations of this particular procurement Bill—as I have noted that it has not been written yet—deal or address such concerns because it is quite interesting to know how we intend to ensure that these Ministries do have or are held accountable for what they are involved with, and we would like full compliance into the procurement policy.

So, Madam President, it is the decision of the Government to look at the amendments at this point. So, one of the main points that has been debated today is the inclusion of the Review Board as an additional independent body, which is to empower, to provide effective resolutions to complaints, disputes by suppliers or contractors. The Review Board is comprised of a retired judge who will be the chairman, a registered engineer and a chartered accountant or quantity surveyor with at least 10 years' experience in matters related to procurement.

Now, I am one of these Senators who always speak of using our local talent,

always looking at using our specialized skill sets within our country. It was noted when I read of the retired judge it reminded me of a present situation that I was briefed on and when we are looking at retired workers, we always encourage senior citizens to continue to contribute to the wealth of our country. We want to hear your experience, we want to know what you have been through so we can learn from your lessons. I never really think of retirees going into full-time jobs because we as a country have decided that 60 is the age that you would retire, and there is a reason we probably chose 60 and not 30 and there have to be reasons.

9.30 p.m.

So when I heard of an incident that was happening in the state enterprises where retirees were given two-year contracts but all other new contracts were given six months, I could not understand the logic. So I was wondering if this new system is now an indirect way of saying that we are going to look at retirement age and change it from 60 to something else because I could not understand that logic. You are giving retirees who you are saying we are not out because it is part of affecting succession planning on your companies. That was just a side note as I was thinking about it and I heard of this incident and if anyone has enlightenment on this topic, it definitely would be invited because enlightenment is always a good thing.

So I looked at the amendment to include the Review Board and from my research—and I even requested the assistance of the Parliament to assist in the research on which countries had such review board and also a Procurement Regulator office. From their research and my research, we were only able to find one country which was Kenya and Kenya was the only country that had both. Now, if any other Member of Parliament has more information to say there is

another country, I open such. But Kenya was my case study to look at how—well, we want to introduce this new Review Board and we want to have the Procurement Regulator so let us look at a case study which already has that. So Kenya has introduced this in 2015 which was only last year. So I decided to look at it and see, okay, why would we consider Kenya, so I looked a little closer at Kenya.

Now, Madam President, Kenya is 44 times our population size so they have approximately 44.35 million persons with a little difference. Then I looked at the Transparency International Corruption Perception Index 2015—and you can find that information on the transparency.org website—and the Corruption Perception Index for 2015 showed that Trinidad and Tobago—and other Senators referred to it today—scored 39, which means that zero is highly corrupted and 100 is very clean. So if we are 39, we are very close to the very corrupted stage and we ranked as the 72nd country of the 168 countries that were looked at in 2015.

So I said, okay, in this case study, we looked at that, so let us look at Kenya. Kenya was seen to be worse than Trinidad and Tobago in corruption and they ranked at a score of 25, where zero, again, is very corrupted and they ranked 139th of the 168 countries. So I was, okay, well, they are more corrupted than us, let us look again at the actual Kenya procurement Bill. So I looked at their review board and their review board was asking to comprise of 15 members who shall be appointed by the Cabinet Secretary, taking into account the regional balance and gender. So there were some differences because they asked for three from law and they asked for some arbitrators to be on the particular review board.

So then I looked at the Procurement Regulator and there was one particular section that I really like in the Kenya 2015 legislation, and I would like to share with all. It was on section 9. One of the functions of the authority shall be:

- “(m) create a central...or database that includes—
- (i) complaints made on procuring entities ;
 - (ii) a record of those prohibited from participating in tenders or those debarred;
 - (iii) market prices of goods, services and works;
 - (iv) benchmarked prices;”

And I felt this was very important because, you know, you are learning from your lessons. So you have a case where a contractor has done poor work or they have done a “disjustice”, this goes into a database and all businesses throughout Trinidad and Tobago will know of that particular case and they can learn from it, and they themselves can learn from it and correct and try to build their reputation. But I thought this was very important and I did not see it included in our legislation so I do not know if there is a particular reason for that.

But Madam President, I must say also, after looking at the case study and listed what I have listed and only knowing that one year has passed, it does not really give you or any person enough data to say if this Review Board is good or is going to be a success or is going to fail. There is not enough reviews online or locally or in Kenya that can say that this works. So we all can agree that we want an independent route of appeal. It is important that any administrative penalty system where decisions are made by public officials carries with it the necessary protection for any person or any business served with a penalty notice, so you want fairness for all. You want an area where when you have been given a notice of penalty, you can appeal it.

Having access to an effective and a quick appeal route is an absolute necessity when referring to administrative financial penalties. Where mistakes

occur, we are entitled to complain and to have mistakes resolved with minimum difficulty and short period of resolution. So it holds the regulators accountable for the imposition of an administrative sanction and ensures that regulators follow their own enforcement policies and procedures when imposing sanctions. So it is quite important to note, yes, we want this but is this the way we want to go.

And I did a very interesting course at the University of the West Indies, I did my Masters there and they had a very nice programme on Procurement Management, Logistics and Contracting and this is offered in the Faculty of Civil Engineering. When I was there, they were speaking of alternatives and I always like, when I stand here, to give another idea. I always like to give something new. It could be agreed on but it will definitely invoke critical thinking, if this can work or this cannot work. So I stand to share with all an alternative to the Review Board that exists within our present lower system so it is already set up and it can be served to audit the Procurement Regulator. That is the Trinidad and Tobago Transparency Institute which was formed in 1998 and registered under the Trinidad and Tobago Companies Act 1995 and it is governed by a board of directors dedicated to increasing transparency, accountability and curbing both international and national corruption.

And I am saying that this can be an option that we could explore where the TTTI should closely monitor the Procurement Regulator under this legislation to ensure transparency and accountability as a duty of interest to the public, and this is already set up so we do not have to go about in setting up the review and getting persons and these things like that. So it could be an option to look at. If it can work, I am not sure. This is where the Ministry can do their evaluation.

I want to speak about the amendment section 24(4) which speaks about the

amendment to passing the regulator's reports to Parliament and then passing it—after being laid in Parliament, it goes to the PAC. I have no issue with this as the regulator is appointed by the President in his own discretion and reports only to Parliament. So I have no concern with that as being a means. We want to have an audit of the Procurement Regulator to reduce the risk of having a corrupt regulator. That is why we would want to do that. We want to make sure that he is not expected to have political influence or any sort of thing so that is what we want to prevent. So again, we must always learn from our country's history. That is why we are here, that is why we have a history and we are very proud of our history.

So if we look at our Central Tenders Board cost accounting unit which was set up to monitor them and we learnt that it failed and we can learn now from the lessons learnt from that particular Central Tenders Board cost accounting unit, that we do not repeat such when we are trying to have the success of the Procurement Regulator. And one of the reasons we can ensure that it is successful from learning from a lesson is that the public needs to be aware of the guidelines, procedures and regulations prepared by the Procurement Regulator to ensure operationalization, accountability and transparency.

Now, we are giving a lot of responsibility to the Office of the Procurement Regulator, and as he or she has to look at merit contracts, emergency work contracts, all different selection process. So I do support Sen. Shrikissoon's points on when you are bringing the regulations to Parliament, we should be able to debate it in both Houses and then pass it. It should not just be left like that so I do support that point.

Now, after sharing under the TTTI, I do have one concern in relation to the Review Board and my concern is as per section 50(11) and this might be a known

comment that came up before and it is just for a simple solution. It takes 20 working days to make an appeal for the Procurement Regulator. In relation to terminating projects, when you do not want to continue work with this particular supplier or contractor because of dissatisfaction, you have to now wait 20 days for this appeal. Then after the 20 days, if the supplier or contractor is unhappy with the ruling, he or she can now go to the review board which is a next 28 days to make a decision.

What I would like to know from the Minister, is it that if I am the company who is carrying out the—who wants the service or the job or the project completed, do I now stop or put my project on hold and wait for the appeal decision or can I terminate within a time and then deal with it after that 48 days. I hope that is clear. So I want to know if I have to terminate, do I have to wait until we have a ruling in 48 days or can I do that because your project is now in a kind of standstill and resources are wasting so you want to know.

Madam President, I would like to also talk about the communication of the procurement information and require procuring entities to maintain detailed records of the procurement proceedings as in the cases. I did not see any provision. I saw a database but I do not know if that would be included in the legislation or the regulations.

Also, I wanted to speak briefly on the choice of procurement methodology and when you have different levels of approval and I really think this will be dealt with in the regulations, and I hope it will be dealt with, and it really deals with when you have small projects, and I am thinking less than \$50,000, less than half a million dollars. For example, you have this Parliament building. I know it is late so I am going to use an example that we can all see right now. We have a light

switch—a light that is not coming on. Okay, fine, well, I will use something more—like in a roof, we have a leak to the back of the Chamber and it is leaking. Now do you just call Melissa and say you would like to plug the leak and you would put a cold patch on it and it is going to fix? That is not the way that we do things. We have a process. We have to look at it. We have to write a scope of works. We have to call in some selective or contractors that we know that deals with fixing roofs and we now look at them. We ask them to make—they come and do a site visit, they do a price evaluation. They then—all this time, please note that the roof is still leaking. And now they will give you a price, you have to do a Parliament estimate of what you think it will cost and then you look at their submissions and then you select and it goes through. And no, well, somebody will have to be approving this process step by step by step.

9.45p.m.

What I want to know is, for a project like that, what is the highest level of approval that would be needed? Because approvals take time and we do not want to have, when they are ready to start the project, to fix the leak or plug it, the whole section needs to be changed, the carpet needs to be changed, the walls need to be painted from stains and now the project cost has gone up, there is now a variation and do we go over the whole process.

Now, Sen. Khan spoke about this. He alluded to it by saying that things take three months, some take six months. So we want to know if there will be limit. Are we putting any limits in place so less than \$1 million, we will deal with it at this level? The Minister may not have to sign off but you will have your PS sign off or something like that. So I just want to know if we are taking

that into consideration.

I hope your stare of intent means well. We are talking about the amendments. Well it can be considered, Madam President, through you. We always tend to leave you out in the crosstalk. I do apologize. Through you, the reason I am raising this is because I know the challenges of dealing with procurement and when you have an amendment, now we have not written the regulations as yet and I want to make sure that this is in there. Now we do not have it before us and we do not have the regulations coming to Parliament even to be passed or looked at. It can just go through and be laid. So I want to make sure, when we take this into consideration we have this in our mind that this can happen. Okay.

All right, so I also looked at, Madam President, the amendment for the database, in relation to registry of contractors, consultants and suppliers and there needs to be identification for our local market. Who are they? What can they do? And where can we find them? And there is no system in place right now to provide the public with the status of bids, awards and the progress of major projects such as the President's House. We do not know what the status of that is.

So I do not know how much time I have left.

Madam President: Could I just ask you, are you dealing with the amendment Bill or talking about sections in the parent Act? If you are talking about sections in the parent Act, it really should be sections that the Bill is seeking to amend. Okay? You have gone off a little bit. I am just trying to get a little more focused.

Sen. M. Ramkissoon: Okay, thank you, Madam President. Let us move from

that then. Okay, so we would look at something differently. We can look at—let me go to this. Okay, maybe we can use an example. Right? Every single day I pass by the Point Fortin Highway. Sen. Khan speaks about it very passionately, that it needs to start. So it is lack of continuity right now with the procurement/tendering of the Point Fortin Highway. We see right now wastage. It is just like, product wastage. Unfortunately, members of the public, taxpayers feel that it is their duty to take some of the material on the side of the road. Unfortunately and please appeal to them, Madam President, do not. But anyway, it is happening because they feel that they are entitled and because it is just wasting. We need to ensure, when we have a procurement process in place, even when we are amending it, the amendments cover such to ensure that this does not repeat or does not happen again. Because I cannot tell anyone what is the structural integrity of the bridge on the Mosquito Creek. Because there is a new one but it is not in place yet; well a new one to be built.

So we have persons using it, members of the public but we have nothing in place, Madam President, to say that the public is aware of this project, the process and the progress of the project. So, I think that is important, and if we are going to go through open tendering, Madam President, and we call for fairness, accountability, transparency and value for money, it is going to take a long process and it is very important to know if we are going to leave all this for the Office of the Procurement Regulator to pull all these things in his regulations, which is not drafted right now, we need to be mindful that that really needs to come to Parliament and we need to look at it and we should have a voice and say what we think is missing, because we do not want to have repeat

or repetition. We need to learn from our mistakes and go forward.

As I said in my opening, it can be your best friend and it could be your worst nightmare. We as a public or we as taxpayers always ask our public sector we want accountability, we want transparency, we want value for money and that takes time, unlike the private sector that does not have these long bureaucracy and red tape of getting projects done. We have this disbarment. I made the simple example of the Parliament roof to show how a simple project that can take one day or a few hours can take weeks.

So, it is—I do not know how much more time I have but I do not intend to take—[*Interruption*]

Madam President: You have nine more minutes.

Sen. M. Ramkissoon: Okay, I have nine more minutes. I do not intend to take a lot of time with this. Because I did explain my stance on the Review Board, which was heavily debated, the consent to having the Procurement Regulator lay reports in Parliament and they being passed to the PAC. I have no issue with that.

Let me see if—I do have a challenge, Madam President, for the Government on transferring of knowledge. And it is really for the Government. Well, I am not sure if it is in your manifesto, correct, but Sen. Khan would be sure to tell me if it is. It is for the Government to devise a plan for the transfer of technology and building skills from foreign contractors to local contractors. For example, we have the aquatic and the velodrome system which was built by foreign contractors. It will be good if our local contractors can do the same. So, again, we need to figure out how we can have that transfer of knowledge.

Again, all of this is in the procurement Act but not everything can be written in the legislation. So it is very important when you have the Ministries who are responsible, take this into consideration. So that is a challenge. I do not know how you all are going to do it, but I look forward to hearing how you are going to do it.

So, Madam President, I thank you and I do look forward to hearing about the regulations. Thank you.

Sen. Clive Dottin: Thank you very much, Madam President. Well, the Minister of Rural Development and Local Government, Mr. Khan, called my name very often but I did not know I would graduate to become the chaplain of the new party on this Bench. That aside, I am happy to be here and I must confess that it is my first time in this august Chamber and I do not think that there is any malice expressed here. Some are a little more dynamic than others. I listened to my dear friend, Sen. Mark, who is anxious, should I say to replace the balisier.

I listened to all the sides and I believe what I sense here is a genuineness about procurement legislation. To my mind, it is needed. Some people say we are a very corrupt country. It did not start yesterday. It did not start 10 years ago. It started a long time. And, therefore, you know in theology there are two concepts in the Greek, one is *chronos*, which is day by day time, the flow of time, and the other is *kairos*, which is a special moment in history not controlled by humanity. It is like what we would call it, as believers, divine intervention.

To my mind there comes a special moment in history, a kairotic moment, where whoever is in power has an enormous responsibility to fix what took place, the problems of decades. To my mind, whoever happens to be in charge

now, this is a kairotic moment and why I say that and I say that with love for all and malice to none, why I say that is because, wherever we have reached as a country, it is either we fix this problem or the whole society implodes.

To my mind, we have no choice, whether or not the Government wish to do it, whether or not they are genuine about it. To my mind that is not the issue right now. The issue right now is that you have a last moment in this historic period of Trinidad and Tobago to get it right.

I am just amazed at where corruption has gone, and it is not just political corruption. I have suggested that, and I heard somebody say it is about the private sector. I know families right now who are victims of corruption and you have millionaires and billionaires oppressing them and using their connections, their aristocratic connections, to just have these people consistently disadvantaged. This is taking place in the country right now.

George Orwell made a statement. He said that the further a society drifts from the truth, the more it hates those who speak it. That, to my mind, is a very vital statement. And I will come to the Bill in a short while and link what I am saying here. I just want to warn all of us that we have plenty Bills and we have plenty laws but apart from the Bill, we must have the will to implement.

I would suggest to you, and I looked at the parent Bill and I looked at the daughter Bill and I saw where private hearings will be only in public if you have no security threat. Mr. Minister, I thought about that seriously, because I was on a service commission once, appointed by Mr. Manning. There was an allegation about the police force and drug dealing. I remember the day we had to carry the report to the then President that no other member of the commission wanted to

go. They were so scared, and I am talking about more than a decade ago. Nobody. I mean, I had to go with the Chairman, Mr. Warner, to the President's House at the time, and there is a certain kind of intimidation when you want to fix problems like these and where you have millions of dollars. I want to warn all of us, whichever political party is serious about this, and all the parties should be serious, and really want to implement it and go after the untouchables in this society, who have been untouchables for a long time, your life would be threatened. I mean, I have been through this over and over and I just want to say this. In fact, the Parliament itself might be threatened because of where corruption has gone in this society.

When it comes to the issue of procurement legislation and disposal of land, Madam President, a lot of the untouchables in the drug trade they launder their money through real estate. So when I heard about this, and I am backing this Bill. I want you to know that. I am backing this Bill, because if we do not do it now we rob our children of their future, of their destiny, of having a fair chance in this society, of being able to come from Laventille and Embacadere in San Fernando and having an equal opportunity.

I was looking at procurement legislation in the UK and it spoke about four principles: competitiveness, you know; cost effectiveness; fairness; and transparency. Those four principles, and as I check South Africa's legislation and other countries, those four principles are the drivers; those four values are the drivers for the legislation.

10.00p.m.

So I want to compliment both the former Government, I think the Bill you

produced is an excellent Bill, and to the present Government, who would like to make it happen, to my mind, I believe you are very genuine about this, as quickly as possible, and it has to happen as quickly as possible. I heard one of the Independent Senators talking about a potential timeline of about the next six months, and I hope we do it a lot faster than that, because every day that we take, I mean, it is just now—forgive me for saying this, but I have said in the past that I do not see a political instrument or party in the country, that really has, not just, you know, the desire, but the courage to implement this kind of legislation, you know? Okay, I hear you, Madam Minister of Foreign Affairs.

But the issue of implementing it, and going after folks—and I listened to Sen. Khan and Sen. Young, and I am hearing now that campaign finance reform is coming, and I feel close on the heels of this legislation, must be campaign finance reform, because there is a nexus between both of them. It calls upon all our major and minor parties to be able to discipline their own financiers, and tell them goodbye too, because there are some financiers, I tell you, as I watch this country for the past three decades, they remain financiers, and they cream off, you know, the benefits. Some people just do not have a chance, you know.

I have heard contractors complain. One day a contractor told me, he said, “Pastor, the certain political group sent workers on the job, and I could tell you the place where it was. It was in Diego Martin, where I live”. And he said, “The guys would come for salary on Friday, but they were political guys. They were sent there by their party.” He told them one Friday, “But yuh doh feel ashamed, yuh not working? Yuh just coming here the day for pay? Yuh not doing one thing? It does not do something to yuh psyche?” And he said from that moment on, the boy started to produce. But it appears to me, we have nourished and fed this baby that

has become a big adult, a goliath now in this society, and it is strangling us. Therefore, I am one that will support any legislation, if even you have an incremental improvement at first, and you move on from there, it is important.

So I am saying, you know, there must be the will in addition to the Bill, because we are not dealing with something—you know what I see in the road now? A lawless and indisciplined nation cannot fight crime, cannot fight corruption. But what I see now, is that people practise boldfaced corruption, and they break the law the same way, because once you have amorality, you are going to have criminality. It is as simple as that.

What you see now is that people are mad when you do not cooperate with them, to go along, you know, with corrupt practices they are angry with you. I want all and sundry to know that if there is a political party in this country that is really going after those who enslave us, and re-enact, and reincarnate the plantation economy, all right, if you have that instrument, you might even have a division among your ranks. There might be a falling away, and Dietrich Bonhoeffer that great Dutch theologian made a statement. He said:

“When Christ calls a man, he bids him come and die.”

I want us to understand, that if we are fighting corruption where it has reached in this country, we have to be prepared to be endangered and to pay the ultimate price. That is where it has reached, and I just want to suggest that it will require all the parties coming together, and all the cultures coming together, and the religious groups.

I mean, somebody mentioned “early o’clock” about the issue of Central, but there is even corruption in religion, my profession, because “how yuh could have crime” in areas, and two gangs fighting and both “ah dem” come from religious

groups? I mean, “dai’s talkin’ about”, you know, Muslims fighting Rastas. So that we who should be the salt of the earth and the light of the world, we are part of the problem, and we in religion must not escape that. I feel there are some things that are not the political domain, it must be religious domain; the issue of values. I heard somebody mentioned about the education, but to deal with the corruption issue, you have to look at it from a high moral and spiritual plane, and the issue of communicating values in the society; that is important.

Now, I saw here—I just want to deal with two issues in the Bill. In the parent Act I looked at the Office of Procurement Regulation. Madam President, that could be a Ministry by itself, and obviously, when I looked at the Act, just from memory, because God gave me a good one. Just from memory, it is policy, it is procedure regulation, is keeping up with the technology, is having a database, is having arbitration, and you have about 25 functions, alright? Most of it monitoring, evaluation, procedural stuff, policy stuff, you know, formulating. So that you have a lot of stuff there in the parent Act, alright?

Now, the regulator to my mind, what is required of that regulator, “yuh really” have to have checks and balances, because this guy has to be God’s assistant. [*Laughter*] I mean, have you seen the responsibility of the regulator in the parent Act? I mean, that by itself, is a major challenge. And, therefore, I know we will have proper guidelines on how we select, you know, this person. Of course, I buy the point that he has to be insulated from political interference. So every time parliamentarians, from time to time, no law is perfect in its inception, its embryonic stage, there will have to be proper monitoring and evaluation of this individual, and how even we choose him, because a lot depends on how he guides the board.

Now, when I got the legislation. I only got it this morning, eh? When I got the legislation this morning and I watched at it, the Review Board jumped at me. The first thing that jumped at me that came late in the debate, was the issue of how you are selecting the Review Board. I was very comforted when I saw the President, acting in concert with the Prime Minister and Leader of the Opposition. That allayed a lot of my fears. I must tell you, it allayed a lot of my fears. And I see for the management board of the—you know, the office of procurement, I see the same process is followed. So I agree with Sen. Young, in terms of the way the folks are chosen for the Review Board, to my mind, it gives it a lot of credibility. So I am there with that.

However, I would just like to suggest that one or two Senators have mentioned and I agree. My experience and serving on service commissions and thing, I never favour the negative resolution. Especially in whole, you know, something that is so comprehensive, that is so broad-based. So I would like to recommend that, you know, as some others have done, that we move from the negative resolution to the affirmative resolution. I think, get a lot more done, a lot more involvement. It will democratize the process of procurement some more, and so I want to go along with that recommendation. That is one I am mentioning there. There other situation that I want to look at, Madam President, is Part VIA and amendment 57A:

“Notwithstanding the State Lands Act and any other written law to the contrary, the Minister may make Regulations in respect of the disposal of—
State lands;”

Now, Madam President, there is something I am looking at here, and I do not know if I am in place, but I just want to mention it. When I see the awesome

responsibilities of the office of, you know, procurement—the board, and I look at the role of the Minister, then I look at the role of the Review Board, because I see in the parent legislation there is an issue involving dispute resolution and arbitration. I see that. So apparently there is a triangulation between the Minister, the Review Board and the board of management of the office of procurement manager.

So that to my mind, that has to be carefully managed. What you do not want to have happening is that these three entities, you know, having a problem and there is the independence of one or two of these entities being corroded. That is what you do not want to have and therefore I buy the point mentioned by one of the Senators here, about lifting the issue of how you monitor, how you manage the Review Board. What are the guidelines for its operations, alright? Where is the accountability level? I think that part that deals with 51J will have to be looked at. I think, when I saw one of the Senators mentioned it, I think one of the Independent Senators, I think I saw, you know, a positive response from the Minister of Finance, in terms of that, okay? So I want to endorse what was mentioned there, in terms of how you operate with the review.

I think, clearly, that since you have such great responsibility in terms of the board of management, “yuh cyar have himself to himself”. So the Review Board plays—and I must tell you, I buy the Government’s point wholesale about, instead of going to the High Court, the Review Board offers an option. I appreciate that, because when you go the courts now, and we hope much would not go to the courts, because to have the Review Board, and people still going to the courts, after 21 days or 28 days, or whatever period of time, it means it could defeat the ethos of this legislation, the intent of the legislation. So I favour the Review Board

especially as an alternative to a long drawn-out process in the courts, ladies and gentlemen.

I want to say that, I believe all of us are responsible beings. We see where the country is. We see where we operate and the Perception of Corruption Index. That has been a point beaten almost to a pulp here, and also outside of this House. I think there are lot of genuine citizens who are concerned about where we are going as a nation, and the need to fix this problem.

Just before I sit, I want to say that there is an issue of divine accountability missing in the society. People operate as if they are a law unto themselves. They do not care. Nobody is arrested. The untouchables remain untouchables for 50 years. Campaign finance, people, they do not care about campaign finance reform. They believe they can manipulate the system, and get away at any time. Therefore, whenever we pass this legislation, we must be serious. We must have the courage. You know, Norman Cousins made a statement. He is the most famous heart patient in the world. He says:

“Death is not the greatest loss in life. The greatest loss is what dies inside us while we live.”

I think hope is dying within the society. Courage is dying. If I mention those two values and, therefore, when we leave this House tonight, and apparently we are going to the end, Praise the Lord! I should say. [*Laughter*] I mean, I am a preacher, you understand? We are going to the end, that we must leave here, you know, understanding the principle of divine accountability. The nation is looking at the Parliament now, you know. To my mind, this body, the Senate, my opinion of the Senate is always seasoned with class and dignity, and there is a certain level of the conversation here that does not obtain, perhaps, in the other place. People

expect a lot from this august body. I am saying that when we leave here, it must not be an issue of mamaguying the people. It must be an issue that we are serious, and each of us will do our best, you know, to see that this legislation is enacted for the best of this country.

You know Amos 5:24—I was a little peeved just now when I saw Sen. Small quoting so many *Bible* text. He is making me redundant here, [*Laughter*] but anyway, Amos 5—[*Interruption*]—I am finishing. I am finishing.

Sen. Small: It was not intentional, Sir.

Sen. C. Dottin: Yes, Amos 5:24 has a text, and I think it is a text that could go for all religious groups when it says:

“...let justice run down as waters, and righteousness as a mighty stream.”

And God even tells believers, “I doh want yuh offerings. I doh want” any favour from you. Madam President, I just want you to treat the oppressed and disadvantaged properly. That is what I want. I think we have to look out for individuals, who, for years have felt aggrieved because of this, you know, multi-headed monster of corruption that seems to dog every administration for the past 40 years.

Therefore, I want to appeal to us, you know, to be sincere, to be consistent and no one party could deal with the corruption menace. And I just thought I should mention this, [*Puts down his script*] I am not throwing it on the desk, but I just want for impact to have my hands free. When I hear about One Alexandra Place, a building where rent is being paid and not being occupied for years. I say we should stop Parliament, and make sure we fix that before we continue, you know. [*Continuous desk thumping*]

When I hear—“okay, doh clap away mih time”. [*Laughter*] When I hear

about a guy in LifeSport getting \$34 million for nothing, [*Desk thumping and interruption*] you know, for absolutely nothing, and then, Madam President, saying, that he is not giving back a dime, and did nothing, then it means that there is enough blame to share around. When you could say that, and you are spitting in the population's face. I mean, that has to be a form of psychosis, you know. It is just crazy stuff.

And we have lots of other examples all over, in terms of how people in this country have—you know Trinidad is “ah great place? If Trinidad was not a resilient place, we would have several revolutions in this country, because we have had politicians and public officials who take the people for granted, abuse the population, and then come back and say, “Vote for me”. So that, and I mean, I am telling you, I am aware of situations right now, in this country, where people “doh know” who to turn to, and sometimes they are scared to go, and this corruption beast, you know, is well networked, you know.

10.15 p.m.

I have told folks before behind every corrupt state official in security—whether it is a soldier or a police officer—you are an attorney, a politician and a businessman. So people affirm each other in this. I want to appeal—this is endangered species business, this fight against corruption.

I am supporting the Bill. There is a lot of good in it. I am saying we could make a few changes and we have recommended a few. I want to say I have a lot of hope leaving here this evening, because I feel on both sides of the divide, we have a commitment to making a change and we should have a commitment to making a change. If sometimes we have to go our own party, because of our conscience—I feel one thing in this country we should do is have people vote according to your

conscience and not according to their party whip. That is my conviction. If we want to move this parliamentary process forward, we want to deal with the critical problems, we must have a system that allows us to have our conscience reflected in our vote and not follow a party line. That is my conviction.

Madam President, I thank you and I thank this Senate. It was a privilege to be here and may God bless all of us. [*Desk thumping*]

Madam President: May I congratulate Sen. Dottin on his maiden contribution. [*Desk thumping*]

Sen. Wayne Sturge: Good night, Madam President. It is 10.16 so I hope to be finished by 10.20 so we could leave here quickly, but because of a few misstatements, I believe I might be a bit longer. Madam President, I heard the Acting Attorney General say today in his contribution that bid rigging is now an offence, thanks to the Bill that is before this Senate. That was a repeat of the Minister of Finance when he piloted this Bill in the other place, and I heard him say with my own ears, and I saw his lips moving with my own eyes, when he said bid rigging, because of this Bill, is now an offence.

I do not know if, Madam President, you read *Gulliver's Travels*, but that was a liar of Brobdingnagian proportions. That was a very big falsehood, and let me tell you why; because bid rigging in section 60 of the parent Act—big rigging was made an offence in section 60 of the parent Act. [*Desk thumping*] So to come to the Parliament and say—[*Interruption*]

Hon. Imbert: On a point of order please, 46(6), he used the word “lie”.

Sen. W. Sturge: I am so sorry.

Madam President: Sen. Sturge, yes, could you not use such unparliamentary language.

Sen. W. Sturge: I am sorry, I would use a synonym. It was a blatant untruth. It cannot be true. If you see here, section 60(1) of the parent Act stating, well creating the offence of bid rigging and section 60(1) makes reference back to section 4, which is the interpretation section where bid rigging is defined and it is defined as:

“‘bid rigging’ means collusion between persons for the purpose of manipulating the proceedings;”

So that is the only negative note, so to speak, that I would raise in this debate. It is unfortunate. So let me not say it is a lie. It is unfortunate that the Minister of Finance who has some legal training and the Acting Attorney General will come and tell the Parliament that bid rigging, because of this Bill is now an offence when it was created as an offence in the parent legislation.

Now, I say created as an offence, but really I should say put on statutory footing, because the truth is bid rigging has always been an offence contrary to common law. It in essence took two forms. It is either conspiracy to cheat—and I am sure, Madam President, long ago when you were at law school, one had to go to the old book Russell on Crime, so one would recall the offence of conspiracy to cheat, which deals with this sort of activity. And when public officials are involved—because conspiracy to cheat may net both public officials and private persons who are involved in the conspiracy—so there is conspiracy to cheat. And where the only evidence you can obtain is evidence against the public official, then bid rigging is covered by the offence which the English called misconduct in public office, but which we in Trinidad and Tobago refer to as misbehaviour in public office. So this has always been an offence contrary to common law.

I did not intend to respond to what was said by the Minister of Finance about

my attendance or lack of attendance at the JSC meetings, but I am told at least I should give an explanation, because the public is looking on. I raised it with both the political leader and the Leader of Opposition Business in the Senate. There were five meetings, and I recall specifically for two of the meetings there were clashes with other JSC meetings, joint select committee meetings. In fact, the last meeting which I assured my colleague—I do not know—which constituency is that?

Sen. Ameen: Caroni Central.

Sen. W. Sturge: Caroni Central—Dr. Tewarie, I made every effort to attend, at the last minute I found out that we were having our first public meeting of the Joint Select Committee on Finance and Legal Affairs, and because we had on that day the Commissioner of Prisons, and I was the only one with extensive experience in the criminal jurisdiction of the High Court, that I should give preference to that committee. So in those circumstances I missed that one, but I missed the JSC with respect to procurement. But there was another clash and there are other clashes taking place now, when I am required in two places at the same time. Now, the only place I can appear in two places at the same time would be the High Court, where I just recently managed and continue to manage two trials at the same time, where I can run from Vindra Naipaul and into Phillip Boodram and back, but it is impossible to do that in the Parliament. So that would give an explanation for two of the sittings that I did not attend.

The other three, I was absent with excuses, because most of the time the sittings would take place when the High Court is actually sitting. So I cannot tell a High Court Judge, “Well, I have to deal with something about procurement. Let the accused hang.” That, unfortunately, was the situation, but I did confer with Dr.

Tewarie and I will raise my concerns today.

Let me start off by saying that one should not undeservedly take credit for things that—maybe I should not say it in full, but just in the same way that credit was taken for the Aquatic Centre quite recently by the Member for Diego Martin West when that was really a project of the People's Partnership, [*Desk thumping*] then one should not take credit for bringing procurement legislation to Parliament.

We all remember how this started. This started in 2008, 2009 thereabouts when someone was unceremoniously removed from Cabinet, and stood up in the Parliament and spoke about bid rigging going on in UDeCOTT since 2003 and so on and so on, and after that there was a commission of enquiry, the Uff Commission of Enquiry into the construction sector. I do not know if it dealt with Landate, but there was an enquiry and then the enquiry made recommendations you would recall, Madam President.

When the People's Partnership was ushered into Government in 2010, shortly after they set off to bring this procurement legislation to fruition and started out with the JSC taking on board the recommendations of the Uff Commission of Enquiry. Since we are on the topic of who was absent, when the JSC started out there was a requirement that the JSC on procurement would not sit or there would be no quorum unless there was at least one Member of the Opposition present. The first two meetings were attended by the Member for Diego Martin West who is now the Prime Minister, and after the first two meetings he was never to be seen from or heard from again for a considerable period of time, and following closely in his footsteps in terms of suddenly deciding to absent himself was the Member who is now the Member for San Fernando West and who is now the Attorney General. All of a sudden he disappeared. So the JSC could not function because the

rules were to have a quorum, you needed at least one Opposition Member.

So, Dr. Tewarie explained to me that he came to Parliament to deal with changing the rules with respect to the quorum, and only at that last minute they asked: “Do not embarrass us publicly, we will come back” and that is how the work was done and it was brought to the Senate. From my recollection, the Bill started in the Senate. The Independent Bench got an opportunity to make suggestions and so on and to bring strength to the Bill, and only when it went back to the other place, we heard from the Minister of Finance who was then—I think he was also then the Member for Diego Martin North/East, making the same suggestions he suddenly brought back in this Bill.

Now, before I go through the Bill, there is something absent in the Bill because I do not want to blame someone wrongfully. I wrongfully said he was lying. So I am prepared to give way and give him an opportunity to tell me where in this Bill that bid rigging is now an offence, because he said in the other place and the acting Attorney General said today, because of this Bill, bid rigging is now an offence. So I am prepared—and I see there is no interjection coming from the Minister of Finance, but the minute he interjects to tell me where in this Bill bid rigging is now being created as an offence, I will take my seat, and the clock ticks on. [*Desk thumping*]

Now, I have a few issues with respect to the Bill that I will raise for the Minister’s consideration—where is my copy?—with a view simply to strengthening the Bill, because I am not saying I am opposed to the legislation. Anything that strengthens procurement legislation is to be welcomed but, in doing so, we must be mindful of certain shortcomings, and we hope unlike what transpired with the SSA Bill when they abandoned the motto “Let’s do this

together”, I hope tonight that the Minister can, perhaps, take on board a few suggestions.

Well, two speakers from the Independent Bench already made reference to the dichotomy between affirmative resolutions and negative resolutions, and it would be unfortunate if there is that inconsistency remaining in the Bill. So if we can have some consistency on that matter.

Now, the first thing, I see in clause 6 of the Bill which amends 51B, it says:

“The Review Board shall comprise—

(a) a retired judge, who shall be the chairman;”

Now, I am not going to be overly critical. For my part, I imagine it would be a retired High Court judge, but that is open to interpretation, because there are judges of the Industrial Court and there are Judges of the EOC and so on and so on. There are other bodies where persons are referred to as judges.

10.30 p.m.

So I think we should make it very plain that the person referred to here is a retired judge of the High Court. And if we can make it even “more plain” we can say, a retired judge of the civil jurisdiction of the High Court, least a judge of the criminal jurisdiction ends up here and does not know his hind from his elbow. There is 51F, which I see in bold, Minister to make regulations for operation of the Review Board. Before I deal with that, because I tend to forget rather quickly, there is an issue I wish to raise about how this Review Board functions. I recall reading in the parent Act that proceedings before the Procurement Regulator, and so on, when you have a grievance, or something of the sort, that the proceedings, in essence, are heard publicly, so there is an element of transparency, but there is nowhere in the Bill that seeks to amend the parent Act; the bill which then

introduces a review board which is quasi-judicial in nature. There is nowhere which mandates the requirement of a public hearing.

Now that is something that should be left for interpretation or regulations. [*Desk thumping*] You have to thump louder than that, “man”. It is 10.31 we need to wake ourselves up. If in the parent Act the proceedings dealing with settling grievances before the Procurement Regulator, if those matters are heard in public, and made in public, and heard in public, not by virtue of regulations made under the Act but, specifically, because it is mentioned in the body of the Act, then there is no reasons why the proceedings of the quasi-judicial board, review board, should not also be heard in public.

Now there is another issue where, it is 51F, says, the Minister may make regulations subject to negative resolution. Well, we dealt with the negative resolution thing with respect to staffing, remuneration, funding, and other operational matters. Now the first thing is this, since you say quasi-judicial board, then judicial bodies, at least for the sake of perception, ought to be seen as impartial and independent. I am not going to impute any sort of sinister motives, or anything like that on the Minister, I am just saying, as they say in Trinidadian parlance, “how it guh look”. Is that how you say it?

Hon. Senator: Yeah.

Sen. W. Sturge: How it “guh” look if the Minister is the one who making regulations with respect to how the judicial body is running? Now, how it “guh” look if he is providing for their remuneration? And how it “guh” look if he is providing for how this review body operates?—the operational matters. And how it “guh” look in the context that he may be, not necessarily a party but allegations may be levelled against him or his Ministry, or the Cabinet, because quite clearly it

is not the Procurement Regulator who is picking anybody, it is a Ministry or whatever body is selecting the contractor, and so on.

But an aggrieved contractor may say, well, I get the “zepo” that the Minister of Finance, and this is just an example, say to the man, the procurement officer in the Ministry, to give he the contract and not me, and, therefore, he is making an allegation against the particular politician Minister who is responsible for remuneration and regulations for funding and operational matters, and so on so. So it is simply a “how it guh look” situation. So what I want to say is this—and they are free to ignore me, and they always do. In fact, when I sit down he will say, “When I listen to Sen. Sturge’s contribution, oh, the paper is blank”, as he would normally say—because I heard one Independent Senator say, well, nothing is wrong with that, that is how it is normally done. That is not true. How it is normally done is this, take the Judiciary for instance, it is not the Attorney General who picks the staff for the Judiciary or tells the Judiciary how to run its affairs and its operations, and so on. No, that is not how it is done.

So my suggestion is this, how about if you let this little body of three, initially, set up some sort of little management committee to deal with the operations, perhaps give them a fund, as Sen. Mahabir suggested—well, let me do not go too deep into it, but the short point is, in terms of the staffing how about if we allow the Service Commissions to get involved to appoint the staff. Why should the Minister have that sort of power where he picks or may have the ability to influence who works with the Review Board? That should not fly. That should not be allowed to fly. I think I am almost close to the end, thankfully. Yes, I think that is pretty much it.

I wanted to ask what the point of certain bids is. I see there is a 51—what

comes before H?—what letter in the alphabet? M? There is a 51G(4), oh yeah, G comes before H, and it says:

“The right to request a review under this section is in addition to any other legal remedy available to a person.”

This being a public body, Madam President, then the proceedings or the process for reviewing the decisions obviously will be judicial review. So I want to ask what is the point of keeping section 51G(4) when one takes into account the prerequisites for bringing actions for judicial review, because to bring an action for judicial review you are not going to be successful at the leave stage if there are alternative remedies, if there are other avenues for adhering. So if you are not happy with the ruling of the Procurement Regulator you cannot say, “Look, forget about the board”, or, “Yes, I am going to take my chances with the board but I am also going to go for judicial review”.

The law of judicial review says, in essence, you cannot come to the court for judicial review if you have some sort of other avenue, and the other avenue is the Review Board. So if this avenue exists, and this must be taken in the context of what my learned friend—sorry, the Ministry of Finance, because I would not want to refer to him as my learned friend—[*Interruption*] Yes, you are not learned and you are not my friend, [*Laughter*—but it is taken in the context of trying to minimize the amount of litigation that goes to the courts, and so on. But we ought not to make legislation in a vacuum where this amounts to mere surplusage. In fact, it is totally useless a clause, when one takes into account the law and procedure with respect to judicial review.

I wish I could find something else to say, somebody did not dot an “i” or cross a “t”? But I think that is pretty much it. I think everyone else made

suggestions, and I look forward to hearing what the Minister of Finance has to say in terms of taking some of them on board. But, in principle, I am not averse to supporting legislation that strengthens laws dealing with public procurement, but I am afraid that there are some issues that are so very important that I have not yet made up my mind if I will abstain or vote against and ignore the whip. But, in essence, I am very hopeful, Madam President, that when we get to committee stage that some of the suggestions I made in terms of the independence of the review board and the staffing, and so on, if that will be taken on board by the Minister of Finance. So at least if we get a reasonable explanation as to why they are not prepared to accept it. In those circumstances, with your leave, that is my contribution on this Bill. Sixteen minus 39 is how much? Well, that is it. [*Desk thumping*]

Madam President: Hon. Minister of Finance. [*Desk thumping*]

The Minister of Finance (Hon. Colm Imbert): Thank you, Madam President. Madam President, I wish to assure Sen. Sturge that I took some notes [*Laughter*] so that there is no need to, as Sen. Small pointed out, jump to conclusions which are not based on facts. [*Interruption*]

Sen. Sturge: But you have to apologize for your absence.

Hon. C. Imbert: Madam President, since Sen. Sturge insists on engaging me, let us deal with the facts. I was very clear to say that Sen. Sturge did not attend any meetings but had an excuse on each occasion. I said that. I do not understand why the hon. Senator is complaining, and he told us he was absent because of clashes on two occasions, and absent on three occasions because he had to be in court. I would only say to Sen. Sturge, through you, that he needs to manage his business better because he is an appointed Member of Parliament, and subcommittee

meetings and Joint Select Committee meetings are held during the morning, during the week, so we have sittings of the Senate on Tuesday and sittings of the House on Friday, and we normally arrange our business in this place and the other place to have JSC meetings on Tuesday morning, Wednesday morning, et cetera.

So, if, Madam President, through you, if a Senator is going to be in court every Tuesday morning and every Wednesday morning because he has to deal with the judge then he should not accept the nomination to sit on a Joint Select Committee. Those are my facts. Now, let me go back to the beginning—
[*Interruption*]

Sen. Sturge: Bid rigging.

Hon. C. Imbert: I will deal with that later. I will come to you at the end. Now let us go straight back to Sen. Mark, and I also took notes, Sen. Mark. I was very intrigued that a comment made by Sen. Dottin that this is a place of, you know, higher learning, if you want to call it that, and of class, and so on; well, all I can say is that I am not certain that Sen. Dottin was listening to Sen. Mark because he has a particular approach when he is dealing with debates whether here or elsewhere. [*Interruption*]

Hon. Senator: He never sat elsewhere.

Hon. C. Imbert: Well, he was in another place, and he has a particular approach.

But let me just say, I need to speak about the Uff Commission of Enquiry, it is very important, that was mentioned by several people. Now, whenever Members opposite on the Lower Bench speak about the Uff Commission of Enquiry they miss a void, omit to mention a very salient fact, the Uff Commission of Enquiry was appointed by a sitting PNM Government to enquire into itself, no other Government has ever had the courage to do that. [*Desk thumping*] The UNC has

never appointed a commission of enquiry to enquire into itself. So understand that, that we decided to have a commission of enquiry into the construction industry.

[*Interruption*]

Sen. Mark: You were forced to.

Hon. C. Imbert: Nobody is forced to do anything. We chose to do so. Madam President, the Uff Commission of Enquiry made a number of recommendations with respect to public procurement, none of which was acted upon or implemented by the previous administration.

10.45 p.m.

And, there is a particular fallacy that I need to deal with. Sen. Ameen referred to it, Sen. Sturge referred to it, and that is the question of the non-attendance of members of the PNM on the Joint Select Committee that looked at the Procurement and Disposal of Public Property Bill. And, in the other place I made the point, that if one goes to a report in the *Express* newspaper dated March 9, 2012, an extremely accurate report which quoted the then Minister of Planning and Development, Dr. Tewarie, with respect to the Opposition's non-attendance at the Joint Select Committee proceedings on the public procurement Bill. That newspaper report, accurately reported that the Opposition absented itself for a total of five weeks. However, the procurement documents were laid in this Parliament in June 2010, and between June 2010 and September 2015, I counted, there were 231 weeks. So that the Government delayed the implementation of procurement legislation for 226 weeks, and the Opposition delayed it for five weeks, and that is only in theory.

So, the Opposition theoretically delayed the legislation for 2 per cent of the time, and the Government delayed it for 98 per cent of the time. But, that is only in

theory. Because, the point that was made was that it required 22 votes, and at the time the Government had 29 votes. In fact, when they demitted office they still had 27 votes. So at any point in time between June 2010 and June 2015, the Government could have passed procurement legislation. It did not require Opposition votes. But, for some reason they decided to defer the implementation of procurement legislation for 231 weeks, and they have come with this straw man—you know, they erect a straw man and then you knock it down. This straw man that it took them five years to get basically nowhere because of the Opposition refusing to attend meetings of the procurement committee.

We refused to attend for five weeks. We had a point to make. And the point was, the chairman of that committee, Dr. Tewarie, was embroiled in a controversy with respect to the disposal of the lands at Invaders Bay, was accused of breaching the Central Tenders Board Act, and found himself in court having to answer questions about the propriety of his actions with respect to disposal of lands at Invaders Bay. Classic procurement, and yet wanted us to sit down with him to discuss procurement. We objected on principle. We made our point for five weeks, and they delayed it for 231 weeks.

So, that is in response to comments made by Members opposite, that it was the Opposition that was responsible for the five-year delay in the passage of the procurement legislation. It is simply not true. And every time hon. Members opposite make that false allegation, I will state these facts. We did not attend for five weeks. They delayed it for five years. Those are the facts.

Now, I was quite taken aback also at comments made by Sen. Munro that under the previous UNC Government which, as far as I know, was voted out under a cloud of allegations of corruption. That is my memory, and I am sure that is the

memory of a lot of people. That is why the last Government was voted out of office, because they were accused of corruption. *[Interruption]* Yes, a cloud of allegations, that is what I said. *[Interruption]* The population came to the conclusion that the allegations of corruption had merit, and they were voted out of office. *[Desk thumping]*

And I have to come to this Parliament today to hear Sen. Munro tell me that the UNC Government was committed to transparency, value for money, *[Laughter]* completed its projects on time and within budget. I have to listen to that. Let us take the Point Fortin Highway project—just one project—which was listed by Sen. Ameen as a project that should be lifted up as a pillar of integrity. The Point Fortin Highway project, the cost has gone from \$5 billion to \$10 billion, the scope has been reduced by the removal of overpasses and interchanges; the size of the highway has been reduced from four lanes to two lanes. All of that done, and the project is only 50 per cent complete in terms of its construction, and it is five years behind schedule. And I have to hear Sen. Munro tell me that under the UNC, transparency, value for money, completion of projects on time and within budget. Please! Please! *[Laughter]* That is exactly why we are here today, and we have to implement this procurement legislation. *[Desk thumping]* Put an end to that. Put an end to that, those flights of fancy.

Now, let us go to Sen. Mahabir. Sen Mahabir asked about the status of the Central Tenders Board. The Central Tenders Board will remain until that section of the Act that repeals the CTB Act is proclaimed.

Sen. Sturge: When is that? When is that? Tell me?

Hon. C. Imbert: Madam President, I am speaking to you. *[Laughter]* I will ignore the crosstalk.

Sen. Mark: We want a time schedule.

Hon. C. Imbert: I know that you believe that you behave well, but I can assure you, you behave badly. [*Laughter*] The CTB will go out as soon as the Office of the Procurement Regulator and procurement entities are established in all of the Ministries and the agencies, and so on. And Sen. Mahabir also referred to a particular clause in the amendment Bill—

Sen. Mark: What is the point there?

Madam President: Sen. Mark.

Hon. C. Imbert: Madam President, look, I seek your protection.

Madam President: Sen. Mark, allow the Minister to finish his winding up, please.

Hon. C. Imbert: You know, and he was the Speaker of the House!

Sen. Mark: That was a long time ago.

Hon. C. Imbert: “Do so doh say so”, you know. Whatever.

Madam President: Continue.

Hon. C. Imbert: Yes. Thank you, Madam President. It is just shocking to me—his behaviour. Now, Sen. Mahabir, he looked at clause 3 and he was a bit concerned about the repetition and duplication of words, and he said perhaps we should replace the words: “a member trades with the Government if while holding office, he becomes a party towards or a director of a firm”, et cetera, “...would acquire a beneficial interest.”

Now, it is a bit more than that, eh. When you have conflict of interest or insider trading, or improper undue influence, it is not simply the person who has the beneficial interest who you want to target. Because, while, if you use these words, “acquires a beneficial interest, a member of the office of the Procurement Regulator acquires a beneficial interest”, that captures that person. It does not

capture their friends and their family. So, that is why you widening it to a firm, a director, or manager in a company, because you want to be more all-encompassing. So even though I appreciate your efforts to make the legislation concise, I think it is better to spell it out like this: “a party to a contract, a partner in a firm, a director or manager of a company which to his knowledge becomes a party to any contract”—I think it is better, spell it out so there is no mistake. You know, you are in a company, the manager of a company, or the director of a company, and that company gets a contract from the State, that has to be a problem that we would want to associate with a member of the procurement board. And, he raised a very important point: can the regulator be a manager in a company? Well, that is a defect in the parent Act, and I will talk about that in more detail as it applies to comments made by the contribution from Sen. Ramkissoon and so on.

One of things that we were confronted with in the Joint Select Committee, and I will tell you what it was. We were looking at the tenure of the Procurement Regulator. Now, the Bill prescribes a period of seven years. The President is appointed for five years. The Parliament has a life of five years. And, as Sen. Mahabir told me off camera, the Governor of the Central Bank is appointed for five years, why should the Procurement Regulator be appointed for seven years? And we actually had a discussion about this in the committee and we agreed, and even Dr. Tewarie who was objecting to other things, agreed that the tenure should be reduced to five years. But when we sought to make that amendment we were told that the powers of the Joint Select Committee were circumscribed and only applied to the clauses that were associated with the amendment Bill or affected by the amendment Bill, so that it was ultra vires. We could not go outside of the items covered by the amendment Bill, and make a series of amendments to other clauses

in the parent Act, that did not form any part of the amendment Bill.

So, unfortunately, we could not put into this committee report that amendment. It would have been a new clause that will have no connection whatsoever to the principles of the amendment Bill. And that is one of the problems with a Joint Select Committee. You have to be very, very careful when you go on a Joint Select Committee, you cannot assume you have a very expansive and a very broad mandate, because you do not. You have to deal with what is before you, and that is why in this debate when Sen. Ramkissoon was talking about amendments to a number of areas in the parent Act, that is not within the ambit of this amendment Bill. What I have decided to do, however, I have taken note of all of the things said, and what I will do is as we come to this Parliament, for example, it is my hope and my plan to come to the Parliament before the end of this month, or at the end of this month, to deal with the Finance Bill (No. 2), which is omnibus legislation, which will be amending a series of existing laws, such as the property tax law, the laws dealing with taxes on hybrid vehicles, electric vehicles, and a number of things that are due to be completed before the end of this fiscal year, and before the end of this parliamentary session.

In that Finance Bill (No. 2), I will bring an amendment to that section in the procurement Act that deals with the tenure of the regulator, and bring it down from seven to five, and, of course, that can be debated at that time during that omnibus debate. And I will also at the time see however many of the suggestions and proposals coming from Members opposite that could be incorporated in that omnibus legislation, which, as I say, I am hopeful we will debate towards the end of this month, and that is how we will address that. But, within the context of this debate, I am told by no less a person than the Clerk of the other place, that I am

circumscribed by the rules of the Parliament. I cannot go outside of the—and I see Sen. Mark is putting on another personality and agreeing with me [*Laughs*] from another place, and he has now become very congenial and learning. I wish he would be like that all the time. But anyhow, the whole point is, Madam President, we cannot go outside our remit and outside our mandate. But I am listening to what everybody is saying, and I will deal with that in due course.

Now, Madam President, Sen. Mahabir asked if there was overlap between section 17 and section 12—[*Interruption*]—well, I already said that, trading is a direct action, but conflict can be indirect. It could be associated with friends and family. And Sen. Mahabir made the very important point, the Act was assented to in January 2014, 18 months have elapsed and we still do not have procurement legislation in Trinidad and Tobago that is operational. A number of Senators made the point, we need to act with urgency. We need to. And I will come to Sen. Dottin's remarks now, which were straight and to the point, they were certainly not irrelevant as were some of the comments made by Sen. Solomon. And Sen. Dottin made the point—I took notes—that, if we do not do it now, we rob our children of their future. It is absolutely right. The time is now, we have to do this now.

11.00p.m.

There may be flaws in this legislation. There are flaws in the legislation—would not say may be, there are, but we need to act now, the time is now. [*Desk thumping*] We need to get on with this because the point that Sen. Dr. Mahabir made about 18 months have been wasted and we do not want to waste another 18 months. That is a very, very, important point and we really need to get on with this.

At this juncture, before I go any further—[*Crosstalk*] Madam President, I do not know if you could tell Sen. Sturge I am not talking to him. I am talking to you.

So, Madam President, through you, what I want to appeal to Senators opposite, is let us pass this amendment Bill tonight. I have listened to everybody and a lot of the points made have merit and, as I said, as we continue along our journey in this Eleventh Parliament we will systematically address all of these points.

A very good idea came from Sen. Dr. Mahabir, before I close off on him, about assess or a tax, it would have to be on the firms involved in public procurement which would provide a source of funding for the Office of the Procurement Regulator. I think that is an excellent idea. The Regulated Industries Commission is funded in that way as you said and the Ministry of Energy and Energy Industries is funded through the petroleum levy which is a levy on the oil companies, it is a tax that is used to fund and finance the Ministry of Energy and Energy Industries and there are many other examples. I think it is an excellent idea. There is a hotel tax, there is an insurance tax, and so on, and all of these things are intended to finance certain aspects of public enterprise.

So I think that is something that could be seriously considered as an amendment to the legislation going forward. It would put the office of the Procurement Regulator on a very strong footing, would allow some independence from the Treasury and give them the wherewithal that they would need to establish this giant organization, as Sen. Dottin has pointed out. It is a huge undertaking. There is no two ways about it. To me, it might be bigger than a Ministry when we finish with this thing and this deals with a point Sen. Ramkissoon made.

I think the message I got from Sen. Ramkissoon is, what do you do when you have the need for speed? I think that is the point the hon. Senator was making, when you have the need for speed. You have a problem, the roof is leaking, you have to deal with it now, but somebody could stop the process of procurement by

invoking the Procurement Act. That is a fact, but all over the world progressive countries have recognized they need to do this. The European Union has been doing it for years. If there is a complaint about corruption or irregularity in a procurement process by law, in European law, you have to stop. You just automatically cease, there is a standstill period and you have to let the process work its way through. It is just too bad, because what is the alternative? You say, all right, it is urgent, matter of public interest, emergency, and then you forget about propriety and integrity and you just do it, because it has to be done. So the roof is leaking, you have to fix it. So you go and you hire Sen. Sturge to fix the roof—this is hypothetical, okay—and you pay him \$100 million to fix a leak in the roof that should cost \$5.00.

So, I am sorry, you cannot be half pregnant. Mr. Basdeo Panday used to say that. Is either we want procurement legislation and we want modern progressive procurement regime or we do not. So, I am sorry if there is a complaint of corruption, whatever it is, you have to stop, but there are processes to accelerate the review in the case of something that is of public importance. The parent Act is designed to deal with that.

With respect to the amount of money spent, Sen. Dr. Mahabir, it is not just the \$7.6 billion allocated for goods and services. You have to also count the \$7 billion for the PSIP, which is all procurement. So you are really looking at about \$14 billion. It is a lot of money that is spent on procurement. So I thank Sen. Dr. Mahabir for his contributions.

With respect to Sen. Small, well he said it all. I do not really have to repeat what he said. He was a member of the committee. I really appreciated his interventions. As he said, a lot of the things were not easy to understand at first

blush but the CPC, the staff from the AG's office and so on were there to explain certain things. We did a lot of toing and froing and redrafting and so on of the amendments and I really appreciated it Sen. Small's contribution and he made a very important point that, yes, the Review Board is a layer of bureaucracy but it is also another check and balance and it would act as a deterrent against corrupt practices.

So people know that you have to pass through the Office of the Procurement Regulator and then you have to face the Review Board as well before you find yourself in the court. So it is, in my view, innovative. And Sen. Ramkissoon by the way, I do not know who did your research for you, but I think they misled you terribly. The Procurement Review Board in Kenya has been in existence since 2001, not 2015. I do not know who did that research for you but if you go into the documentation you will see that. There are two different bodies in Kenya that perhaps maybe the person who did the research for you got a little mixed up. There is the Procurement Oversight Authority and there is the Public Procurement Advisory Board and the Public Procurement Advisory Board is a continuation of another entity called the Public Procurement Complaints Review and Appeals Board of the public procurement system in Kenya and that has been in existence since 2001. It was replaced by the Public Procurement Advisory Board in 2006. So it has really been running now for 15 years. So it is not 2015. So I just wanted to let you know that that Kenya has a very long experience with this procurement board.

With respect to a point made by several members as to why should the Minister be making regulations with respect to staffing of the Review Board and the allegations made by some Senators that this has no parallel in the existing

legislation a point that was contested correctly by Sen. Small that this a normal feature of legislation. I would simply draw members on the lower opposite bench to the Tax Appeal Board legislation which in section 4 states that the terms and conditions of the members of the Tax Appeal Board, except the President of the board itself or Chairman of the board, are determined by the Cabinet. So for something as serious as the Tax Appeal Board—

Sen. Sturge: It is not serious.

Hon. C. Imbert: The Tax Appeal Board is not serious? Well, you might find yourself there at one point in time. But, Madam President, for something as serious as the Tax Appeal Board the terms and conditions of members and staff and so on are set by the Cabinet. The Elections and Boundaries Commission has to depend on Parliament and the Ministry of Finance for appropriation and allocations, has to depend on the public service for staffing and the salaries of the staff in the Elections and Boundaries Commission are set by the Chief Personnel Officer who reports to the Minister of Finance. So there are many parallels, many, many, parallels in our current laws—

Sen. Sturge: Would you give way?

Hon. C. Imbert: No. There are many, many parallels in our current laws where staffing and things of that nature are prescribed by regulations made by the President, which means the Cabinet, or by a Minister. And let me deal now with the whole question of affirmative and negative resolution. There is a total misunderstanding of this process.

I have been in this place, in this year 2016 and I have debated the Value Added Tax Order which was subject to negative resolution. But we debated it inside of here. We debated every word inside of there because a member of the

Opposition filed a Motion to negative the VAT Order, 2016. It is a complete misunderstanding, whether it is by negative resolution or by affirmative resolution there is a process for the Parliament, whether it is this place or the other place, to debate the merits—I see you nodding your head again.

Sen. Mark: No, we prefer the—

Hon. C. Imbert:—to debate the merits of the Order or the regulation. Now, I want to go to the House of Commons, Madam President. And I want to give some information. In the House of Commons the most common form of control is the negative resolution procedure. The affirmative resolution and I am reading:

“Statutory instruments”—this is a House of Commons paper that I am reading—“Statutory instruments which are subject to affirmative resolution are less common, making up about 10% of the total in the House of Commons. This is the more stringent form of parliamentary control as it requires positive approval, rather than the absence of a decision to annul...it is used where the delegated legislation may be more controversial.”

And that is the difference.

If you put affirmative resolution for everything, then what you are going to be doing is you are going to be tying up parliamentary time, because there may be regulations where there may be no requirement or need to debate them. So something like regulations regarding the staffing, we are not talking about the members of the Review Board, you know, they are appointed by the President in his own discretion after consulting with the Prime Minister and the Leader of the Opposition. We are talking about the secretary, we are talking about the driver. Why should regulations with respect to support staff have to be debated in this Parliament? That is a matter for members of this place to decide. So that when you

make it negative resolution, any Senator can choose to file a Motion to negative those regulations and then you have a debate. So that affirmative is used for very controversial things and negative still gives the opportunity to Members of this place and the other place to cause a debate to happen and to a full ventilation an argument of the matter at hand.

So that I hope that has cleared it up. The things that we are subjecting to negative resolution, in my opinion, are administrative and I do not think a Parliament should be debating how you employ a driver or a secretary for the Review Board. [*Desk thumping*] That is my opinion. If others have a contrary opinion then when the regulations are laid, just like I did with the VAT Order, we will come here and we will debate them and we will have a vote on them and we will listen to arguments back and forth and the Senate or the other place will make a decision on this.

But with respect to the challenge proceedings, that requires, in my respectful opinion, affirmative resolution, because that could be controversial. Because that is the conduct of the proceedings of a hearing before the Office of the Procurement Regulator, the taking of evidence, oral arguments, the various procedural matters with respect to a challenge proceedings. Very important stuff which I think we need to debate here. So that is the distinction between why in a particular piece of legislation you would have, some things would be subject to affirmative because we consider them to be crucial, important and controversial and others negative because we do not consider them to be controversial, but any Member is free to file a Motion to negative. And that is the distinction between affirmative and negative and that is why there are many examples in the same piece of legislation where some things are subject to affirmative and some things are subject to negative. So I

hope I have addressed that matter satisfactorily, at least for the time being.

Now, Madam President, how much more time do I have?

Madam President: Till 11.25 p.m. So you have 11 minutes.

Hon. C. Imbert: So I have about 11 minutes.

Madam President: Yes.

Hon. C. Imbert: All right. Sen. Ameen complained that we did not open the Couva Hospital. Well there is no staff and it is still under construction. So you cannot open a project for which there is no staff and it is incomplete. The hon. Senator complained that we did not complete the Maracas beach project—behind schedule, issues with compliance and quality; complained that we opened the Aquatic Centre but did not give the former Prime Minister credit for that—okay, you want credit, all the instructions are in Chinese. [*Laughter*] You want credit for that? Nothing in English. You have to go and get an English translation now to turn on the light switch in the Aquatic Centre. You could take credit for that.

11.15 p.m.

Point Fortin highway, well I spoke about that already. Three billion dollars over budget, downgrading of specifications, years behind schedule. Well, the Senator also spoke about the Joint Select Committee and procurement collapsing because of the Opposition, and I made the point we were responsible for five weeks, they were responsible for 231 weeks.

The other problem I have is these wide wild statements. Sen. Ameen telling us that persons in civil society are opposed to the amendments. If you read the verbatim notes when the Joint Consultative Council, representing all the representative organizations involved in construction and procurement in this country, they agreed with every single amendment. I mean, if what I am saying is

not true, I want somebody who was present, who came, to say it is not true—who was there. But I can tell you that every single member of the JCC who was there agreed with our amendments. So what civil society you are talking about when you make these wild statements that the civil society is opposed to the amendments? Sen. Ameen also said that she wants the Government to be serious about the implementation of the Act. Well, we are serious. We want to pass this tonight with the support of hon. Members.

Sen. Shrikissoon said if leaders act in the public interest procurement legislation would not be necessary. Well I am sorry. I am not the resident pastor here tonight. That honour will always go to Pastor Dottin, but—[*Interruption*]

Sen. Sturge: So what happen to Rodger Samuel?

Hon. C. Imbert: No, no, I am talking about—anyhow, let me not go there. Let me not go there. [*Laughter*] I am talking about a real pastor. So I am not the resident pastor here. I mean, from time immemorial, look at the story of Cain and Abel in the *Bible*. You need laws to regulate human behaviour because of original sin. You need laws to regulate human behaviour. [*Desk thumping*] I said I was not the resident pastor, but I know a few things. I nearly did a degree in theology at the University of London [*Laughter*] and not some fly-by-night place. Anyway, let us move on.

I thank Sen. Shrikissoon for complimenting us for bringing this Bill within eight months, and we do need to get on with the job. It is a fact. No two ways about it. There is a fact that there is a link between this Bill and institutional strengthening. You are right about the Explanatory Note, but it does not form part of the Bill and will not form part of the Act, but the Parliament has to deal with that. It is a typographical error and they need to resolve that because the tribunal is

gone, the one that dealt with trading and so on.

I agree with you on the disclosure of interest. All of these things are features of progressive procurement legislation—recusal, disclosure of interest. As we go along, the point is there are flaws in this legislation, but we need to deal with it. We cannot continue—I am not going to say nitpick because it is not nitpicking—but we cannot continue to try and tweak and tweak and tweak. We will never finish with this thing. We need to get moving. *[Interruption]*

Sen. Sturge: Bid rigging is now an offence. You know that one? Deal with that one, please.

Hon. C. Imbert: Madam President, could I beg you to beg Sen. Sturge to stop mumbling about bid rigging. I will come to that. I will come to that, relax.

Sen. Creese said what guarantees do we have that the regulator will be prohibited from trading, or that the legislation will be adjusted. Well, what I am telling you is that it will be dealt with in the omnibus legislation in the Finance Bill (No. 2), which I will bring by the end of this month. If it is not there, I am sure you will let me know and we will deal with it on the floor because it will not be a committee report so we will be able to make that amendment right there and then. Okay? But I can assure you it will be there.

With respect to One Alexandra Place, I think we really need to put perspective into this. Ninety-eight million dollars was spent on that building between December 2009 and September 2015.

Madam President: Minister, you have five more minutes.

Hon. C. Imbert: Sure. Of that \$98 million, \$4 million was spent by the PNM and \$94 million was spent by the UNC. The original lease was in 2009. It was renewed by the UNC in 2012 and in 2015 by them. The delay was caused by a corrupt

procurement of an outfitting contract, where the successor to Sen. Creese in the Ministry of Local Government refused to pay the payment request coming in from the contractor because it was inflated by over 100 per cent, Madam President. That is what tied up that whole building and that is why that building could not be occupied, and while that corruption was taking place the UNC spent \$94 million out of \$98 million on the rental of an unoccupied building.

We need to put these facts into the record. It is a tragedy when a building is rented and not occupied. Any Government that does that should be condemned for renting a building and not occupying it. It does not matter which Government it is, but in this case \$94 million out of the \$98 million was spent by the UNC, renewing the lease twice and coming in this Parliament to pretend that they had nothing to do with it. I really think we need to put that on the public record.

Hon. Senator: They knew that.

Hon. C. Imbert: Yes, so why did you pay the rent? Why did you renew it? Why did you outfit the building?

Sen. Sturge: Why did the owner recommend that we rent it from his father-in-law? That is what you have to put on the record.

Madam President: Why are both of you speaking to each other? [*Laughter and desk thumping*]

Hon. C. Imbert: There were so many points made by Sen. Creese that had so much merit, I am afraid I just do not have the time. But, I mean, your story about the estimate from that project that you were called upon to look at it, the Siparia market, where the cost was estimated at a hundred thousand and the bill arrived for \$1 million is more and more reason why we need to deal with this thing tonight. We need to put an end to that.

Sen. Solomon. I do not know why Sen. Solomon entered the debate because at no time did he explain to us what legal procurement procedure was used by the CDA to lease a parcel of land, its own land, on a sole selective basis for \$300 million that it had rented to the same person for \$1. He did not tell us what legal—*[Interruption]*—you did not! He did not, Madam President, tell us what legal tender rule, what procurement process was used to rent a piece of land for a dollar and then rent it back for \$300 million. Not one word came out of Sen. Solomon's mouth about what procurement procedure he used, and we are talking about procurement tonight. I do not know why he entered the debate. “Yuh shoulda tell us dat”—what tender rule you used, what procurement you used to give a sole selective \$300 million award for something that you rent to a man for \$1.

Now, let me go to the end in the few minutes left to me. Sen. Sturge is obsessed with this bid rigging thing and made an allegation false that I said—I do not know how he could say I said that because he was not present—that because of this Bill bid rigging is now an offence. That is just not true. You see, what has happened is that there is a particular Member in the other place who consistently misconstrues, misquotes, mishears, misspeaks with respect to statements made by the Government. What we said is that because of the tabling of the amendment to the procurement legislation, because of the completion of the work of the Joint Select Committee, and because of the passage of the amendment to the procurement Act in the other place, and because the PNM Government is going to move post-haste to bring it to the Senate, and because as soon as we pass this in this honourable Senate tonight with the support of hon. Members, and we implement the Office of the Procurement Regulator, bid rigging will be an offence in Trinidad and Tobago.

[Desk thumping]

But the problem with hon. Members opposite on the lower bench, they just take basket. At no time—and Sen. Sturge cannot find this in my *Hansard*—can he point to a statement made by me that, contained in the amendment Bill, that bid rigging is an offence and that is part of the amendment Bill. I did not say it in the other place, I did not say it here tonight, neither did the hon. Acting Attorney General. What he said is because of the actions of the PNM Government in bringing this matter to closure, to concluding this whole question of legislation on procurement, setting the stage for the appointment of a regulator and the implementation of a new procurement regime in Trinidad and Tobago, big rigging will be a thing of the past and will be an offence, Madam President.

So, Madam President, I trust that hon. Members will support this legislation. I trust they will support it. I ask them to support it. Any issues that you have I can assure you the technocrats in the Ministry of Finance will take the verbatim report from the proceedings tonight, we will go through everything, all comments made, even comments made by the UNC Opposition, even they may have had something to say—

Madam President: Minister, you have to wind up now.

Hon. C. Imbert:—and we will deal with it progressively as we go along. We will incrementally improve the legislation and I wish to thank hon. Senators in advance for their support.

I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

11.30 p.m.

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

Clause 3.

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

Sen. Mark: Madam Chair, through you, to the hon. Minister, I believe given the amendment that we are suggesting, we could look at it in two ways. A Minister of Finance should never be given the authority or the flexibility to determine whether a procurement regulator should trade or not trade with Government. And this statement, this phrase, “without the prior approval of the Minister”, is absolutely dangerous because we are establishing in principle that there should be no trade whatsoever once you occupy office as the Procurement Regulator nor any member of that office.

Why are we qualifying this matter? Suppose we have another Minister of Finance in office and he wants to corrupt the Procurement Regulator and the office, Madam Chair, what can he do? You know what he could do? They could approach him and say, listen, I want to trade with Government or I want to be a director of my company to trade with the Government. Then the Minister, if he is corrupt, can say go ahead, you trade, but you know what, when awards come before you, you organize it in such a way for me. That is dangerous and I am suggesting to the hon. Minister, we should delete—it should simply be “has traded with the Government”, full stop. There should be no trade and the Minister should never compromise himself in this manner to tell these people, the regulator, that listen, I will have to grant you permission to trade. That should not be there.

Madam Chair, I would ask the hon. Minister to consider this and I am saying if he does not even want to go that route, which I find is very dangerous to

maintain, do not compromise the Minister of Finance. Let the President deal with that. The President is appointing these people so if they want to trade, let the President give them permission to trade but do not compromise the Minister of Finance in this situation. So there are two options available to us: we go with the President and we remove the Minister, or we could put a full stop after Government and end the matter. I would like the Minister to consider this very seriously.

Madam Chairman: Minister of Finance, anything you want to say briefly?

Mr. Imbert: I think I should be allowed the same amount of time like Sen. Mark. *[Laughter]* I can only deal with an amendment that is before me.

Madam Chairman: Yes, I am allowing some—

Mr. Imbert: I do not understand this full stop thing; that is not here on this piece of paper. So why are you talking about it? *[Interruption]* But there is no amendment like that before me. And I would also say, Madam Chairman, that if I did this, all this would mean is that it would be subject to the approval of Cabinet. That is all that would happen. If I replace Minister with President, it would mean Cabinet.

Sen. Mark: No, when I say President—

Mr. Imbert: Well, it is not what you think, you know, it is what you write on this piece of paper.

Sen. Mark: No, well, I did not want to say—Madam Chair, just to clarify. I did not want to say the President of the Republic but if it is that, for instance, I have say to President of the Republic, that is what I would say.

Mr. Imbert: Well, you should have said that.

Sen. Mark: No, when I said President, Madam Chair, I was referring to the person

who appoints the Regulator and that is the President of the Republic, not the President in terms of the Cabinet.

Mr. Imbert: And I will say why I do not agree with that for exactly the same reasons that the Senator has introduced. The President should not be involved in matters of an operational nature that you would compromise the President if the President has to make a decision as to whether a member of the Office of the Procurement Regulator should be allowed to trade or not. What criteria would the President use? The actions of the President are not subject to challenge in any court of law. But if I, as Minister, allow a member of the procurement office to trade, that is subject to judicial review, that is subject to an investigation by the Parliament, that is subject to examination by the Public Accounts Committee. So that it is far better to allow the Minister to do it knowing fully well that we have checks and balances in the system that would allow that decision of the Minister to be scrutinized and overturned in the case of a judicial review action.

But you cannot file judicial review against the President of the Republic. We do not want to start that. So I am afraid, I cannot accept, well-meaning as it is. I hope I have explained to you why it is better to allow the Minister to do it because the actions of a Minister, being a public authority, are subject to review by the courts and can be quashed, varied, overturned, negatived and so on by a judge. So let us leave it so. Okay?

Sen. Mark: Am—

Madam Chairman: No. Sen. Mark, you want to say something briefly because you have already laid out—

Sen. Mark: No, no, Madam Chair, with the greatest respect, we have amendments here.

Madam Chairman: Yes.

Sen. Mark: And I think that you should allow flexibility.

Madam Chairman: Oh, I am allowing that. Lots of flexibility.

Mr. Imbert: Extremely. [*Laughter*]

Sen. Mark: Yeah, but I only spoke once, I now have a chance to—

Madam Chairman: No, and therefore, I am asking you now, Sen. Mark, to respond briefly to what the Minister has said.

Sen. Mark: But when you say briefly, you are curtailing my right to speak.

Madam Chairman: I could curtail your right to speak, you know, but let us deal with briefly.

Sen. Mark: No, I do not think so, I have freedom of speech. Anyway, I understand what you are saying.

Madam Chairman: Yeah, thank you.

Sen. Mark: But I may not agree, eh. Let me just indicate, Madam Chair, Minister, would you want to possibly consider putting that power into the hands of the Public Accounts Committee?

Mr. Imbert: Noooo, that is a not a public authority. You see, by definition, a public authority is a Minister, a statutory authority; the Public Accounts Committee is not a public authority and in any event, its only function is to examine and report to the Parliament. You have to get this person captured within the judicial review legislation. So the only person you could put there is a Minister.

Sen. Mark: Madam Chairman, if I may? Our reservation about this is the ability of not this Minister but another Minister to compromise the process in terms of the regulator and I am trying to work out how best we can safeguard the system without compromising it.

Mr. Imbert: Just for the civility, I assure you, there are many things that Ministers can do. The legislation is replete with examples. Ministers could do all sorts of things. I can waive taxes, I can do that. The legislation allows me to do that but my actions will be subject to the judicial review if I do that and you have to allow the system to work. We have a judicial review framework which it provides for precisely the problem that you are talking about—if an errant Minister or a corrupt Minister were to try to manipulate a procurement process, that is what JR is for. I really do not have any more to say on this you know.

Sen. Mark: Yeah, I know. Madam Chair, may I ask, through you, would the Minister be taking this decision unilaterally or would the Minister have to take a Note to Cabinet?

Mr. Imbert: Well, the practice, Madam Chair, as the Senator well knows because at one point in time, he was a Cabinet Minister.

Sen. Mark: We have delegated it.

Mr. Imbert: I said at one point in time. There are some things that are delegated by way of a Cabinet decision but there are things, and this would certainly be one of them, that would require a submission to Cabinet and approval by the Cabinet. Even though in the legislation, it would say Minister, the practice is that matters of this nature would go to Cabinet; otherwise the Minister might find himself out of a job. So I think we should just leave it because it is better to have the Minister doing it and then you can subject the Minister to review by a judge and scrutiny by the Parliament. It is better to do it so.

Sen. Mark: Madam Chair, one final point. If we insert the word “President” in the context of your interpretation in terms of the Cabinet and you remove Minister and put President, would that be able to bring about that safety valve?

Mr. Imbert: I do not think it should change anything. I mean, that is still a body of politicians making a decision, whether a member of the procurement office should trade or not. But I also want to say something. I have listened intently to everything people have said. This legislation is evolving. This was first laid in the Parliament by the former administration—well, the intent to do this—by the former administration in June or July of 2010, we are in 2016. I have listened to everything Members have said but I believe I can address the issues raised by incremental amendments as we go along in 2016 and 2017.

You see, if we make a change here, this has to go back to the House, you know, and we delay again you know, so I really want to make an appeal tonight. I have heard everything. A lot of what has being said has merit. Some of the things are misunderstandings. For example, a person under the Interpretation Act involves an incorporated body or an incorporated group of people so it covers companies as well. I forgot to mention that point. But there are things that were said tonight that are misunderstandings, there are things said tonight that have complete merit.

I will make my best effort in this year, if not in this year, next year, to incrementally improve this legislation, but I really would not, unless it is compelling, seek to amend anything tonight because we will have to go back to the House, and that is argument again inside of there. More and more delays. This thing has been delayed for 18 months as Senator—we could tweak this thing forever you know but I will prefer not to do that tonight.

Sen. Mark: Well, I do not agree with you that it will have any argument and so on.

Madam Chairman: I think Sen. Mahabir wants to say something.

Sen. Dr. Mahabir: Yes. Madam Chairman, I need clarification from the hon. Minister, again, on clause 3 and I have no issue at all with having “traded with the

Government without the prior approval of the Minister”; however the concern I have, and I raised it in my debate, is with respect to his removal. If he trades with the Government without the approval of the Minister, he can be removed by the President. However, for consistency, when I look at section 17 of the parent Act, I see a clause there which says that:

“A member of the Board or committee who knowingly or wilfully fails to disclose his interest in accordance with subsection (1) commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars and imprisonment for one year.”

You see, what I see in clause 3 under the addition to section 12 is that if the member—he could be the regulator or a member—simply fails to inform the Minister, he could be removed, but my reading of 17 is that if he fails to inform his colleagues in the regulatory commission, then he is liable to a fine of \$500,000 and imprisonment for one year. The question I have is, if he trades with the Government and he fails to inform the Minister because it says:

“For the purposes of this section, a member trades with the Government if, while holding office, he...becomes a party to any contract with the Government for or on behalf of the public service.”

When you read that, it means that he has simply failed to declare his interest to the Minister. What I need in the interest of equity, because on the one hand, failing to declare the Minister means he can simply be removed and on the other hand, under section 17 of the parent, if he fails to disclose to his colleagues, he faces a draconian fine of \$500,000 and imprisonment for one year. I am simply enquiring of whether having failed to inform the Minister, whether automatically section 17 of the parent Act kicks in and the individual is also liable to imprisonment for a

year and a fine of \$500,000.

11.45p.m.

Mr. Imbert: There are several elements of law involved here. The person is subject to double jeopardy, because both the amended section 12 and section 17 will be in operation, both, at the same time. Both section 12 and section 17 will be in operation but these are separate offences as well. One of them, the person may have entered into a contract with the Government and thereby is guilty of trading and has not informed the Minister or got the approval of the Minister.

But in section 17, it is if you have a direct or indirect interest in a matter that is under consideration by the office of the Procurement Regulator. So that means you are sitting down to make a determination on a contract in which you have a direct or indirect interest. And if you are doing such a thing and you do not disclose, well then you are getting the imprisonment and the fine. But if you trade, it means that you may not have been considering any matter in which you have an interest. You could be a consultant in finance, but you are looking at a matter to acquire a photocopying machine and there is no nexus between—you understand? So that the two of them are different and they both operate together.

Sen. Dr. Mahabir: Madam Chairman, as long as the draftsmen are satisfied that the 12 and 17 are separate. I saw them going together.

Mr. Imbert: No. The person is subject to both of them and they are different.

Sen. Dr. Mahabir: Okay.

Mr. Imbert: One is potential and one is actual.

Sen. Dr. Mahabir: Okay, thank you, accepted.

Question, on amendment, put and negatived.

Sen. Dr. Mahabir: Madam Chairman, I was supposed to vote no on the last one. I

was voting with the Minister on the last one.

Madam Chairman: Okay.

Question put and agreed to.

Clause 3 ordered to stand part of the Bill.

Clauses 4 and 5 ordered to stand part of the Bill.

Clause 6.

Question proposed: That clause 6 stand part of the Bill.

Madam Chairman: Sen. Mark, you have circulated an amendment?

Sen. Mark: Yeah. Madam Chair, we did indicate that this is a provision that is going to create a parallel body to what is already in existence in the parent legislation and we do not see the need for this new bureaucratic layer that is being established here and the ability of the Minister to get involved in this matter here again. We feel that it is going to be contaminating and polluting the entire process, which is supposed to be one of independence, autonomy and transparency.

We did also advise that if the Minister was willing, even though we have circulated an amendment to delete this entire clause 6, we are prepared, if the Minister is so minded, to retain this provision but to have the regulation, that is the procurement regulation office appoint the staff and not the Minister. And if the Minister is so minded, we are prepared to go along with the existing provision with the amendment as we have proposed. So where the Minister is the person who will be promoting regulations subject to a negative resolution, we would simply ask the Minister to consider that that be allowed to be done by the procurement regulation office and it be subject to an affirmative resolution of the Parliament. That is what we would like to ask the Minister to consider.

Mr. Imbert: Thank you. I am glad that the hon. Senator is making an effort at a

compromise, because I think it is, the vast majority of persons who have looked at this matter from this House and the other House are of the view that this is a necessary entity, the review board. I think that is the general view. I know the Opposition has a contrary view but I think you are outnumbered on this one, both here and in the other place.

But be that as it may, there is a misunderstanding. The Minister is not appointing the staff. All the Minister is doing is presenting regulations to Parliament for the appointment of the staff. Staff would not be appointed by me. It would be—the regulations could be that they would be public officers appointed by the Public Service Commission or that they would be contract officers appointed by the review board and that if you want to pay any member of staff in excess of \$150,000 a year, it would be subject to approval. I would not be appointing the staff. The amendment does not say so. It simply says the Minister may make regulations, subject to negative resolution, with respect to staffing. It does not say I will do it. So that is a misunderstanding. I hope I have cleared that up.

Let me make a point. Only Ministers can make regulations. You need parliamentary action for regulations to be made. No other person can make regulations, because regulations have to be laid in Parliament, subject to an Order made by a Minister. Understand that. Nobody else can make regulations, only Ministers can, and I hope that clears up the other point about the suggestion that regulations be made by the office.

I am anticipating. But the whole question of the Office of the Procurement Regulator deciding on who should staff the Review Board, that is unconscionable. Because the Review Board has to review what the Office of the Procurement

Regulator is doing and if it is selecting the staff for the review board, then it has some measure of control over the Review Board. So that is out.

I want to give you the assurance that no Minister, this Minister, would not bring any regulations to give himself or herself the power to appoint staff for this Review Board. That is not going to happen, and when they come they would subject to debate if you decide to file a Motion to negative that.

Sen. Mark: I do not believe in framework legislation. I want to make that very clear. I like primary legislation. Because you are being ambushed, as we have been, with the value added tax legislation. If we did not see that in time it would have passed us. Madam Chair, that is why I am insisting that we have an affirmative rather than a negative.

Mr. Imbert: That is not in this you know. You are asking to delete the whole clause.

Sen. Mark: No, I am suggesting that since I am outnumbered, you have made that very clear. I am suggesting, Madam Chairman, that the Parliament should have an oversight of these regulations that are going to deal with staffing. So before you talk about negative and we are to go and look to see when those regulations are going to be laid, via legal notices in the *Gazette*, we are saying that the Minister would have an obligation to bring those regulations, have them tabled in the Parliament, and it will be subject to positive resolution, via debate. That is the point I am making, because this is too important a matter.

Mr. Imbert: That amendment is not before us.

Madam Chairman: Sen. Mark we have a list.

Sen. Mark: I am just trying to exercise the mind of the Minister in the context of—

Madam Chairman: I think the exercise has taken place.

Sen. Mark: It has been unsuccessful.

Question, on amendment, put.

Sen. Dr. Mahabir: Madam Chairman, before you put the question, I do have a concern on clause 6.

Madam Chairman: I am sorry, but I have put the question. Let us—it is something that, perhaps, you can—

Sen. Mark: No, but we could reopen, Madam Chairman.

Sen. Dr. Mahabir: We could reopen. Madam Chairman, I feel I must raise it. I know the drafting team would have seen much more law than I have seen. But really, it is the first time I have seen a piece of legislation where section 51E is the exact replication of a former clause in the parent Act, section 12. I do not know if that is a tradition, or whether, in fact, they are going to conform with convention and simply amend section 51E to say it is simply a replication of what is contained in clause 12.

Mr. Imbert: Yeah, but you see if we do that, while it may, and I say may, reduce the number of words in the legislation, this is not an offensive statement I am about to make, it adds nothing to the operation of the Bill. And, therefore, you are asking for an amendment that does not affect corruption or impropriety or anything like that. But I have to go back to the other place. If I go along with what you are saying, I would have to go back to the other place with that and it does not add anything, in terms of the operation. It is simply the elegance of the language. So I would ask you tonight, rather than, we could leave elegance for another time. If it is a matter that is fundamentally affecting and profoundly affecting the operation of the Bill, then, you know, we could look at it.

Sen. Mark: So what is the purpose of this exercise? It is a waste of time.

Mr. Imbert: No, I am answering his question.

Sen. Dr. Mahabir: Just one point. Madam Chairman, the objective of the committee stage is simply to ensure also that we produce the best possible law that, as the Chamber of sober second thought, we could offer to the country. And it does included aesthetics as well. Now I understand the predicament of the Minister in that he has to return to the other place.

But really for consideration at some subsequent time, since I suspect we will have to return again for further amendments, if he and his drafting team can give consideration to some of the elegance of the law. And also we are on this particular clause 6, on 51G, simple expression. We cannot allow sentences that are not flowing. For example, the penultimate line, as I indicated:

“A procuring entity or any other person who is entitled to be given an opportunity to make representations under section 50(1) or 51(1), may request”—that the Review Board review the order...

When we say “may request the Review Board to review the order”, nothing is wrong in law, but certainly with respect to sentence structure, which is what legal drafting is about and we are writing for the citizens, we should look at some of those things and when we are returning—and I want to put my position on the record—hopefully at some subsequent occasion, we will do the necessary tidying up, so that in the Senate we try to produce the best law that we possibly can.

Mr. Imbert: No problem at all. But could you just clarify the point you are making there with the language? I did not really catch the point.

Sen. Dr. Mahabir: It says “may request the Review Board to review”. Now if you say “may request that the Review Board review the order”, it reads a little bit

Public Procurement And Disposal
Of Public Property (Amdt.) Bill, 2015 (cont'd)
Committee Stage (cont'd)

better. It flows a little bit better and it certainly gives you a better sentence, in terms of clarity of what you are doing.

Mr. Imbert: You are saying “may request that the Review Board review”?

Sen. Dr. Mahabir: Review the order.

Mr. Imbert: Rather than “may request the Review Board...”

Sen. Dr. Mahabir:—“to review”. Yes.

Mr. Imbert: I will have to be advised on that. Because, you know, there are books on the meaning of a word, and this meaning is clear. Even though you might find it inelegant, it is clear. So I would prefer, if it is not fatal, let us leave it for now. Okay? But I take note of the point you are making.

Question, on amendment, negatived.

Question put and agreed to.

Clause 6 ordered to stand part of the Bill.

12.00 midnight

Clause 7.

Question proposed: That clause 7 stand part of the Bill.

Madam Chairman: Sen. Mark, you have an amendment?

Sen. Mark: Yeah. Madam Chairman, it seems like it is only when we require three-fifths or two-thirds or a three-quarters majority, that we will be taken seriously. When you want a simple majority is old talk and promises, but when “yuh” want a special constitutional majority, then you will hear us, not here, you know? In the House of Representatives.

Madam Chairman: Sen. Mark, could you go into your amendments?

Sen. Mark: Okay, okay. Madam, no problem. I see it is a pattern emerging of arrogance.

Madam Chairman: Sen. Mark, please! Please!

Hon Senator: There is only one arrogant person here and it is not on this side.

Madam Chairman: Hon. Minister. Sen. Mark, you have—

Sen. Mark: Madam, I am going to deal with my clause.

Madam Chairman: Yes, but could we deal with it, please?

Sen. Mark: I am, but you are not allowing me.

Hon. Senator: You are being very arrogant.

Sen. Mark: I am being elegant.

Madam Chairman: Sen. Mark, could you please move on?

Sen. Mark: Yes Ma'am, you are not allowing me. I am going on now. Madam Chair, we have—this matter of the sale of land which, again, we saw as a duplication, but in an effort to strike a compromise, we said, “Listen, put this in the hands of the office of the regulator, not in the office of the Minister”.

We also indicated, Madam Chair, that we would like this matter to be subject to an affirmative resolution of our Parliament. I do not want to be, as I said, hustling down the *Gazette* or legal notices, to deal with the sales of land and government property. I want the Government to bring it to the Parliament. If the Minister would argue that only him can do so, and not the Procurement Regulator, we would argue it should be subject to an affirmative resolution.

And I would ask the hon. Minister, seeing that he was so vociferous about Invaders Bay and the sale of land and the arguments and all kinds of things he has raised. Here it is we are going to be regulating, establishing a regime for the sale of land, Madam Chairman, and real property, and we will now have to go and look for that notice if we are unhappy, to come and debate here. We are asking the Minister to give this thing an affirmative resolution. You are dealing with the sale

of land and real property. Let us not monkey around with that.

Mr. Imbert: Madam Chairman, a lot of the things the Senator has said are just not correct. In the first place, it is a fact that only a Minister can make regulations. That is not a theory. That is not an opinion. That is not a view. That is a fact and, therefore, this proposed amendment that we have changed “Minister” to “offices”, ultra vires the Constitution of the Republic of Trinidad and Tobago, and as a former Speaker, you should know that.

Secondly, the fact is, that I am certain that when the regulations are laid with respect to the disposal of state lands, and they are not simply gazetted, they are laid. When you see them, I am sure you are going to file a Motion to negative them. So I am certain, based on the sentiments expressed by the hon. Senator, that he will file a Motion to negative them, and we can debate them then.

Sen. Mark: Madam Chair, if I may? I want to remind this hon. Minister that we never saw in this Parliament, the laying of the Value Added Tax Order. It was never laid in this Parliament. It came subsequent to the Parliament.

Mr. Imbert: That is impossible.

Sen. Mark: So when you tell us, when it is laid in Parliament—no!

Mr. Imbert: That is impossible. That is not true.

Sen. Mark: We got it subsequent. It was about two day before the expiration, we saw this thing here.

Madam Chairman: Sen. Mark—

Mr. Imbert: That is not true.

Madam Chairman: Hon. Minister, have you finished your response?

Mr. Imbert: Madam Chairman, I just want to put on the record, what the Senator said was not true. You cannot file a Motion to negative something that has not

been laid in the Parliament.

Sen. Mark: Madam Chairman, this Government is not prepared to compromise on anything. It is clear to us.

Mr. Imbert: But speak the truth.

Sen. Mark: When we have a special constitutional majority, and you have to deal with the House of Representatives—not here you know, but down there—then we will talk a different language. Madam, I rest my case. The Government can have their way. They have the majority. “Do wha dey want.”

Sen. Mark: “We eh even say dat.” [*Laughter*]

Question, on amendment, put and negatived.

Question put and agreed to.

Clause 7 ordered to stand part of the Bill.

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

Senate resumed.

Bill reported, without amendment, read the third time and passed.

ADJOURNMENT

The Minister of Rural Development and Local Government (Sen. The Hon. Franklin Khan): Madam President, I beg to move that this Senate—
[*Interruption*]

PRIVILEGE RULING

Madam President: Leader of Government, before you move the Motion, there was a ruling that I was to give on the Motion raised by Sen. Sturge earlier in the proceedings. I now am prepared to give the ruling.

Hon. Senators, earlier in today's sitting, Sen. Sturge raised a Motion of Privilege in relation to statements made by the hon. Prime Minister at a press conference held on Wednesday, May 25, 2016, about Independent Senators as a group, and about Opposition Senators as a group.

I have carefully considered the Motion that has been presented. The facts are that the hon. Prime Minister is reported to have made certain statements in relation to Independent Senators and Opposition Senators. In my ruling, I propose to treat with these groups of Senators separately.

First, to deal with Independent Senators. Independent Senators are, as we well know, appointed by the President, and operate independently of each other, so much so that such independence is so imprinted on the public's consciousness that they are sometimes colloquially referred to as "the nine Republics".

The unique position of Independent Senators means that in dealing with the Motion presented today, precedents obtained from other jurisdictions are not always easy to apply to such Members. Other jurisdictions do not have Independent Senators, such as obtains here in Trinidad and Tobago.

Nevertheless, I find helpful the following learning: In the year 2000, Speaker Hunt of the New Zealand House of Representatives ruled as follows, and I quote:

For a statement to constitute a contempt by reflecting on members it would have to allege corruption or impropriety on the part of the members in their capacity as members.

...hard-hitting and contentious statements to which members might well object...fall within the boundaries of acceptable political interchange.

In coming to my decision, insofar as it concerns Independent Senators, I have also considered recent media reports, and intense public commentary relating

to how these nine Republics should relate to one another, and to this honourable House.

I am of the view that applying the learning above, while the statements attributed to the hon. Prime Minister might be statements to which hon. Members might well object, such statements taken as a whole, do not amount to a prima facie breach of privilege.

I will, nevertheless, urge all parties concerned to observe, adhere to, and respect by their conduct and words, the independence of the nine Independent Senators, and the critical role they play in this House, independent of political persuasion and independent of each other.

In respect of the comments attributed to the hon. Prime Minister, in relation to Opposition Senators, I find the learning quoted above to be equally helpful and as applicable. I also find to be helpful and applicable when in his text on parliamentary privilege, JP Joseph Maingot QC stated as follows, and I quote:

“Before the Speaker gives precedence to a motion dealing with alleged contemptuous reflections, he must attempt to strike a proper balance between the following two principles: the principle that Parliament should be protected from improper obstruction of its functions and the principle of freedom of speech of the citizen to criticize the institutions or membership of Parliament.”

I am satisfied that although the comments complained of in relation to the Opposition as a group might well be considered hard-hitting and contentious, they do not go beyond the realm of robust criticism. It is for these reasons that I also find no prima facie breach of privilege warranting the attention of this House.

12.15 a.m.

ADJOURNMENT

UNREVISED

The Minister of Rural Development and Local Government (Sen. The Hon. Franklin Khan): Madam President, I beg to move that this Senate do now adjourn to Tuesday 14th of June, 2016 at 1.30 p.m.

Madam President: Hon. Senators, before I put the question on the adjournment, leave has been granted for a matter to be raised on the Motion for the adjournment of the Senate. Sen. Mark.

**Commercial Banks
(Increases in Bank Fees)**

Sen. Wade Mark: Thank you very much, Madam President. Madam President, people are now of the view that bank robbery has been reversed. In the past people were the bandits robbing the banks. Today, people are of the view that the banks are the ones robbing the people. [*Desk thumping*]

Banks exist with the primary objective of realizing profits for their shareholders. These institutions are not in the business of providing social goals and/or services. They are in the business of making profits. To the best of our knowledge, there is no legislation prohibiting the banks from establishing and implementing these new fees and related charges. What additional benefits are to be experienced by the customers that is of commensurate value to the additional fees and charges, and it is zilch, nil, nada, zero, nothing.

Hon. Imbert: Nought.

Sen. W. Mark: Madam President, are banks digging deeper into the pockets and into the accounts of consumers in order to maintain their profit levels? We are all aware that the country has been in a recession for at least six months, and the economic situation is worsening under this Minister of Finance and the Government.

Madam President, make no mistake about the intelligence of bank executives.

Adjournment
Commercial Banks
(Increases in Bank Fees) (cont'd)
Sen. Mark (cont'd)

They are well-trained and brilliant at what they do, and it appears to us that they are aware that this Minister of Finance and this Government cannot restore economic confidence, does not have a viable plan to deal with the economic challenges, and it is further taking the country into the economic abyss. The banks foresee declining revenues due to declining economic conditions, thus increasing their fees to offset declining revenues in other areas. Maybe that is the reason, Madam President.

We are not here chastising the banks. They have their business to run, but what we would like to make the people aware of is the existence of choices among the banks. Madam President, there are other options including credit unions and cooperatives that the people should consider if they are dissatisfied with these increases in bank fees and related charges. Go back to sou-sou! Go back to the credit union movement!

This development, Madam President, is another wake up call to the working class and the small savers to begin to take responsibility for their financial affairs, and not leave it to the banks, especially in an environment that is controlled by an incompetent and intellectually incapacitated Minister of Finance and Government.

Madam President: No, Sen. Mark.

Sen. W. Mark: What?

Madam President: Pardon me? Have a seat, please. Have a seat. Please, Sen. Mark, you know very well that you have infringed on, I do not know how many Standing Orders there. So can you withdraw what you just said and apologize to the Minister as well.

Sen. W. Mark: No, once I withdraw I apologize. I withdraw.

Adjournment
Commercial Banks
(Increases in Bank Fees) (cont'd)
Sen. Mark (cont'd)

Hon. Imbert: And apologize.

Sen. W. Mark: No, you cannot tell me nothing. No, no, you are telling me—
[*Interruption*]

Madam President: Sen. Mark. Sen. Mark, please sit. Please.

Hon. Imbert: “Yuh deaf?”

Sen. W. Mark: “No ah think ah deaf.”

Madam President: While the hon. Minister of Finance cannot tell you anything, I can. Withdraw and apologize. [*Interruption*] No. Sen. Mark, please, have a seat again. Do not gesticulate towards me. Sen. Mark? Sen. Mark?

Sen. W. Mark: I withdraw and I wish to apologize. Okay? Let me continue, “nah”.

Madam President: Sen. Mark, you have four minutes.

Sen. W. Mark: Madam President, the economic cycle of a country is like a roller coaster. It goes up with economic growth and it goes down when there is a recession. Unfortunately, we have entered the beginning of a recession, which has the potential to remain long and socially disruptive under the stewardship of this administration. Madam President, after nine months in power, what have we in this country? Everyone is worse off and we are paying a heavy price. The banks are taking advantage of us, because of the incompetence of this administration.

So, Madam President, let me close, with your leave. All these increases in bank fees and related charges for the small man is as a result of a national crisis coming out of this situation in T&T, and we are in difficulty, difficult waters and I do not know what the Minister of Finance can do about these increases.

All I say, Madam President, in closing, is that the working people and the small

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Sen. Mark (cont'd)

people of this country must take responsibility, take their own responsibility for their financial affairs: join credit unions, join cooperatives, start back the sou-sou, fight this thing on your own, do not depend on this Government. This Government cannot help you, we must get rid of them. Thank you very much. [*Desk thumping*]

The Minister of Finance (Hon. Colm Imbert): Thank you, Madam President. I would have thought that the hon. Senator, having brought a Motion like this, would produce some facts. All the Senator has done is made wild statements and utter insulting and offensive remarks across the table. What are the bank fees that the hon. Senator is talking about? Which bank, increase which fee, by how much? I would have expected that, because when I look at the matter on the adjournment it says, the increases in bank fees and related charges by the commercial banks and the negative impact of such increases on the national community. What increases is the hon. Senator talking about? How does one respond to that barrage of insults that came across the floor? No information!

Now, I have done my own research, Madam President, and it is my understanding that RBC has raised its fees in three main areas namely, the fees for standing orders, wire transfers and for savings accounts, Madam President. I am told that the fee for wire transfers was raised from \$55 to \$65; the fees for savings accounts under a certain minimum balance from \$10 to \$15 per month and the fees on ATM usage were reduced by the bank.

It is common knowledge that banks review their fees periodically, usually annually. I did not hear a single word fall from Sen. Mark's mouth in the five years that the UNC was in Government when every single year banks adjusted bank fees. I did not hear him scream about these wicked banks and exhort people to take their

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money out of these banks and put them in credit unions. Not a word. I did not hear a single member, not one of his colleagues in this place or the other place, utter a word in those five years about the periodic increases in bank fees that took place between 2010 and 2015. I would have expected, rather than this pious display tonight, that we get some facts. Now let me deal with the facts.

The Central Bank Act, Chap. 79:02, allows the Central Bank and the Minister some leeway in terms of intervention with respect to fees and charges and section 44A of the Central Bank Act states as follows:

“The Bank may fix the maximum and minimum interest rates payable on deposits received, and may fix the maximum and minimum interest rates, fees and charges to be charged on loans, advances or other credit facilities, by a financial institution.”

What this essentially says is that the Central Bank can intervene and can fix the fees and charges charged on loans, advances and other credit facilities by a financial institution. I am aware that the Central Bank is already in discussion with the commercial banks, at my request, as Minister of Finance, not only with respect to fees and charges on loans and credit facilities, but also with respect to interest rates payable on deposits and loans, Madam President. The Government is also looking very closely at this Central Bank Act which the former Government failed to address in its period in office. It did nothing about the powers of the bank and the powers of the Minister with respect to the fees and charges charged by commercial banks.

We, this PNM Government, despite all the screaming of Sen. Mark, will be looking very seriously as to whether we should amend section 44 of the Central

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Hon. C. Imbert (cont'd)

Bank Act to give the bank the power to look at fees and charges with respect to other transactions, Madam President, such as ATM withdrawals, ATM transactions, statements, wire transfers and other transactions in commercial banks. We intend to do that because we are a serious Government, Madam President. [*Desk thumping*]

So despite all that screaming and carrying on, all that ranting and raving, they did nothing, but this PNM Government intends to deal proactively, positively, equitably and professionally with this entire matter which we know is of great concern to the public of Trinidad and Tobago. We would first start with dialogue. We would start with discussion with the commercial banks, because we need to consult with them about this matter. We would see if it can reach consensus.

We will ask the Central Bank—well, I have already asked the Central Bank to start talking to them. We will use moral suasion. We will see if we can get them to come around in terms of the fees and charges that they charge. And if after all those efforts at dialogue, conciliation, mediation and all similar progressive measures of treating with the problem fail, then we will seriously consider coming to this Parliament to adjust the Central Bank Act to give the Central Bank the power to deal with all fees and charges charged by commercial banks with respect to all manner of transactions. That is what this PNM Government intends to do, because we are a serious Government. We do not get involved in screaming, shouting, ranting and waving and pious sanctimonious platitudes.

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

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 12.28 a.m.