

**HOUSE OF REPRESENTATIVES***Friday, January 14, 2022*

The House met at 1.30 p.m.

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

**Mr. Deputy Speaker:** Hon. Members, I have received communication from Dr. Lackram Bodoë MP, Member for Fyzabad who has requested leave of absence from today's sitting of the House. The leave which the Member seeks is granted. Leader of the House.

**CONDOLENCES****(DR. REEZA MOHAMMED)**

**Mr. Deputy Speaker:** Hon. Members, as you may be aware, Dr. Reeza Mohammed, former Member of Parliament, passed away on January 08, 2022. Dr. Mohammed served as the Member of Parliament for Princes Town during the Fifth Republican Parliament 1995 to 2000. During the period November 27, 1995 to October 21, 1999, Dr. Mohammed served as Minister of Agriculture, Land and Marine Resources, and during the period October 22, 1999, to December 11, 2000, he served as Minister of the Environment.

I will now invite hon. Members to pay their respective tributes to Dr. Mohammed. I will call on the Member for Arouca/Maloney.

**The Minister of Planning and Development (Hon. Camille Robinson-Regis):** Thank you very much, Mr. Deputy Speaker. Mr. Deputy Speaker, it is without doubt that we are always saddened at the passing of one of our former colleagues. I served in the Parliament in the House of Representatives with Reeza Mohammed during the period that he was in the House of Representatives from 1995 to 2000 and we always had a very cordial relationship. He was what we would call an

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academic who became a consummate politician, in that he worked assiduously for his constituents to ensure that they got that to which they were entitled. He also made every effort to ensure that in his ministerial portfolio he achieved those aspects of his portfolio that were entrusted to him, and which were in the best interest of the people of Trinidad and Tobago.

Versed in French, he continued even after he left active politics, to work in the interest of the people of Trinidad and Tobago as he served during the period 2016 to 2020 as the President—in fact to today, if he were alive—as the President of the Trinidad and Tobago Assembly of Hunting Associations and during the period 2018 to 2020 as a Member of the Cabinet-appointed Wildlife Conservation Committee.

Mr. Deputy Speaker, there is no gainsaying that when anyone extends themselves to the point where they serve the public, whether in a representational capacity or any other capacity of public service, we must pay homage to such a person. And today, on behalf of the People's National Movement, on behalf of the Government of Trinidad and Tobago, we pay homage to Reeza Mohammed. We extend our sympathy to his wife Joan and his four children, and we ask that his soul will rest in peace and rise in glory. Thank you very much, Mr. Deputy Speaker.

**Hon. Members:** [*Desk thumping*]

**Mr. Deputy Speaker:** I will now call on the Member for Oropouche East.

**Dr. Roodal Moonilal** (*Oropouche East*): Thank you very much, Mr. Deputy Speaker. Mr. Deputy Speaker, we would like also to join the Members of the Government in extending our deepest condolences to the family and friends and the community of Princes Town on the passing of a former Member of Parliament, Dr. Reeza Mohammed. Dr. Mohammed served in the Fifth Republican Parliament

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between November 1995 and November 2000, served in the Minister of Agriculture, Land and Marine Resources and later as the Minister of the Environment.

Mr. Deputy Speaker, I had the distinct pleasure of working and interfacing with Dr. Mohammed while I worked at the Office of the Prime Minister during this period. I later had a great opportunity to work with Dr. Mohammed and to share his views and received his ideas when I also served as Minister of Housing and the Environment. Dr. Mohammed was a very combative yet gentle soul. He had a great passion for the environment and for the agriculture sector that saw Dr. Mohammed raising very pertinent and, at times, very novel and radical ideas. In fact, I think a defining feature of his political intervention was the creative ideas and new policy initiatives that he implemented and later spoke so much about. He was well known as one of those politicians full of new and fresh ideas.

In fact, during the time I served in Government and Cabinet I had the honour of receiving him on several occasions to discuss some of his ideas as they relate to the environment and land and marine resources. He took a great interest, a particular interest in the work of the Institute of Marine Affairs as well.

He also had as politicians need to have to endure, he also had a good sense of humour and got along very well with his colleagues and the leadership of the United National Congress. He remained until the end to be a proud member of the United National Congress, a patriot, and a great contributor to the people of Princes Town who he served so well during that time.

On this occasion, Mr. Deputy Speaker, and on behalf of the Leader of the Opposition, Mrs. Kamla Persad-Bissessar, on behalf of the United National Congress Members and activists, the people of Princes Town, we wish to extend to his wife, and children, and relatives, and friends, our deepest condolences on his

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passing and to assure them of our support and strength during this sad period. We wish that they would have the comfort and strength to endure the sadness of this time. But we will remember his good work and we are grateful for his service to Trinidad and Tobago. We are extremely grateful and thankful that he had the opportunity to come to this place and make such a sterling contribution to the people of Princes Town and the Republic of Trinidad and Tobago. Thank you.

**Hon. Members:** [*Desk thumping*]

**Mr. Deputy Speaker:** During his tenure in this House, Dr. Mohammed contributed to many debates in this House and served his constituents well. I am advised that Dr. Mohammed was a very kind, witty, thoughtful, and assiduous individual. His life was certainly one of exceptional service to his country. I take this opportunity to express my deepest condolences to the Mohammed family during this time of mourning. And I pray that the Almighty grants them the comfort and strength needed in this time of bereavement.

I now ask that we stand and observe a minute of silence as a mark of respect.

*The House of Representatives stood.*

**Mr. Deputy Speaker:** May his soul rest in peace. Hon. Members, I have directed the Clerk to send a letter conveying our condolences to the family of the late Dr. Reeza Mohammed.

#### **PAPERS LAID**

1. Annual Audited Financial Statements of the National Training Agency for the financial year ended September 30, 2012. [*The Minister of Finance (Hon. Colm Imbert)*]
2. Annual Audited Financial Statements of the National Information and Communication Technology Company Limited (iGovTT) for the financial year ended September 30, 2020. [*Hon. C. Imbert*]

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3. Audited Financial Statements of Caroni (1975) Limited for the financial year ended June 30, 2020. [*Hon. C. Imbert*]  
*Papers 1 to 3 to be referred to the Public Accounts (Enterprises) Committee.*
4. Report of the Auditor General of the Republic of Trinidad and Tobago on the Consolidated Financial Statements of the Trinidad and Tobago Unit Trust Corporation for the year ended December 31, 2020. [*Hon. C. Imbert*]  
*To be referred to the Public Accounts Committee.*
5. Ministerial Response from the Ministry of Finance to the Fourth Report of the Public Accounts (Enterprises) Committee on the Examination of the Audited Financial Statements of the National Information and Communication Technology Company Limited (iGovTT) for the financial years 2015 to 2019. [*Hon. C. Imbert*]
6. Annual Report of the Financial Intelligence Unit of Trinidad and Tobago for the year ended September 30, 2021. [*Hon. C. Imbert*]
7. Annual Administrative Report of the Trinidad and Tobago Solid Waste Management Company Limited (SWMCOL) for the period October 01, 2015 to September 30, 2016. [*The Minister of Planning and Development (Hon. Camille Robinson-Regis)*]
8. Annual Administrative Report of the Power Generation Company of Trinidad and Tobago Limited for the year ended 2008. [*The Minister of Energy and Energy Industries (Hon. Stuart Young)*]
9. Annual Administrative Report of the Power Generation Company of Trinidad and Tobago Limited for the year ended 2009. [*Hon. S. Young*]
10. Annual Administrative Report of the Power Generation Company of Trinidad and Tobago Limited for the year ended 2010. [*Hon. S. Young*]

11. Annual Administrative Report of the Power Generation Company of Trinidad and Tobago Limited for the year ended 2011. [*Hon. S. Young*]
12. Annual Administrative Report of the Power Generation Company of Trinidad and Tobago Limited for the year ended 2012. [*Hon. S. Young*]
13. Annual Administrative Report of the Power Generation Company of Trinidad and Tobago Limited for the year ended 2013. [*Hon. S. Young*]
14. Administrative Report of the Accreditation Council of Trinidad and Tobago for the fiscal year 2015/2016. [*Hon. C. Robinson-Regis*]
15. Administrative Report of the Accreditation Council of Trinidad and Tobago for the fiscal year 2018/2019. [*Hon. C. Robinson-Regis*]
16. Response of the Auditor General to the Third Report of the Public Administration and Appropriation Committee on the implementation of the recommendations of the Twenty-Fourth Report of the Public Administration and Appropriations Committee (PAAC) on the examination into the Processing of the payment of Pensions and Gratuities of Retired Public Officers and Contracted Employees. [*Hon. C. Robinson-Regis*]
17. Annual Report of the Police Service Commission for the period January 01, 2020 to December 31, 2020. [*Hon. C. Robinson-Regis*]
18. Annual Report of the Trinidad and Tobago Civil Aviation Authority for the financial year ended September 30, 2021. [*Hon. C. Robinson-Regis*]

**1.45 p.m.**

### **URGENT QUESTIONS**

#### **Government's Policy for Public Sector Workplaces (Confirmation of Implementation)**

**Dr. Rishad Seecheran** (*Caroni East*): Thank you very much, Mr. Deputy Speaker. Will the Minister confirm that the Government's "quasi safe zone" policy for public sector workplaces will be implemented on Monday January 17, 2022?

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**The Minister of Health (Hon. Terrence Deyalsingh):** Thank you very much, Mr. Deputy Speaker, and may I say Happy New Year to you and all Members of this honourable Chamber. As has been publicly stated, the hon. Prime Minister would address this issue in the shortest possible space of time.

**Mr. Deputy Speaker:** Supplemental, Member for Couva South.

**Mr. Indarsingh:** Minister, can you inform this House if unvaccinated employees will be locked out from their respected workplaces effective the 17<sup>th</sup> of January, 2022?

**Hon. Members:** [*Desk thumping*]

**Hon. T. Deyalsingh:** That question does not arise at this point in time.

**Mr. Deputy Speaker:** Supplemental.

**Mr. Indarsingh:** Minister, could you confirm if the circular to all Permanent Secretaries and Heads of Department dated the 31<sup>st</sup> of December, 2021, under the hand of the Acting Permanent Secretary, Claudelle McKellar, has been revoked as it relates to public service and public sector vaccination programme?

**Hon. T. Deyalsingh:** That matter would be dealt with by the appropriate Minister and the appropriate persons. That is not a matter for the Minister of Health but all these things would be clarified in the shortest space of time.

#### **Side effects after taking Pfizer Vaccine (Investigation into Reports)**

**Dr. Rishad Seecheran:** (*Caroni East*): Thank you very much, Mr. Deputy Speaker. Will the Minister indicate whether his Ministry has to date launched an investigation into the reports by named young persons at the recent Tuesday 11 January, 2022, NATUC press conference of developing serious side effects after taking the Pfizer vaccine?

**The Minister of Health (Hon. Terrence Deyalsingh):** Yes, thank you and the answer is yes, and two lines of enquiry are currently being pursued. One, we are

checking our vaccine databases to see if those persons were in fact vaccinated. Once that is determined the information would be sent to the Chief Medical Officer for a clinical review. We are also reviewing the RHA system to see if these persons presented to any of our facilities. So the answer is yes, two lines of enquires and we are happy to get to the bottom of this issue.

**Mr. Deputy Speaker:** Supplemental, Member for Caroni East.

**Dr. Seecheran:** Thank you, Minister, are you aware that the FDA has recently advised that the Johnson&Johnson vaccine has a higher risk for immune thrombocytopenia up to 42 days after vaccination and are any efforts being made to safeguard persons with low platelet counts?

**Mr. Deputy Speaker:** Hon. Member, in terms of the relevance based on the initial question, I would not be able to entertain that question.

**Dr. Seecheran:** Okay.

**Mr. Deputy Speaker:** Supplemental again?

**Dr. Seecheran:** Yes.

**Mr. Deputy Speaker:** Proceed.

**Dr. Seecheran:** Minister, what additional steps would be taken to treat these persons should it be found that they suffered an adverse effect from the Pfizer vaccine?

**Hon. T. Deyalsingh:** Yes, so all medical—

**Mr. Deputy Speaker:** Minister.

**Hon. T. Deyalsingh:**—sorry, yes thanks. So all medical protocols will be followed. First of all we have to find out their vaccination status. Two, we have to find out if in fact the effects noted were in fact due to vaccine or any other purpose or any other reason, either patient centered or external. Based on that then the appropriate treatment plan will be implemented.



**Mr. Deputy Speaker:** Member for Caroni East, next question.

**Dr. Seecheran:** Minister, should an adverse effect be found, would this be reported—

**Mr. Deputy Speaker:** Member, another supplemental you have?

**Dr. Seecheran:** I was going to do another supplemental, yes.

**Mr. Deputy Speaker:** Okay, proceed.

**Dr. Seecheran:** Minister, should an adverse effect be found, would this be reported to the WHO?

**Hon. T. Deyalsingh:** Yes, so as per protocol, all vaccine and drug manufacturers put out their clinical guidelines in their dossiers. What is reported up to WHO is any adverse event not listed as a known adverse event. So if it is an adverse event not listed on the literature for the particular vaccine or drug we always report it up the chain of command to PAHO and WHO.

**Pfizer's Anti-Viral COVID-19 Drug  
(Status of Procurement)**

**Mr. Deputy Speaker:** Next question, Caroni East.

**Dr. Rishad Seecheran** (*Caroni East*): Thank you, Deputy Speaker. To the Minister of Health: Will the Minister inform this House as to the status of the Government's procurement of Pfizer's antiviral COVID-19 drug thus far?

**Mr. Deputy Speaker:** Minister.

**The Minister of Health (Hon. Terrence Deyalsingh):** Yes, thank you. The name of the drug is called Paxlovid. As I stated publicly, we are in negotiations with Pfizer. We have signed a non-disclosure agreement. It must also be noted, hon. Member, that Paxlovid is currently in short supply even in the United States. They do not have enough for their home market, short by hundreds of millions of doses, so we are in the market for it. I may also say, WHO recently approved two other drugs from Eli Lilly, an oral immunosuppressant called Baricitinib but this is for

severely ill persons who are critically ill. They have also approved one by GlaxoSmithKline, sotrovimab, which is a monoclonal antibody preparation to be administered intravenously, for those at high risk of hospitalizations. The point I am trying to make with all these therapies, they are not for garden variety COVID infection. There are protocols for its use. The reason I am saying that I do not want the population to get a false sense of security that this is a substitute for vaccinations. The drugs are currently in short supply, even in their home countries and there are specific criteria for their use. So at the end of the day, we are in the marketplace for all of these therapies. But at the end of the day, they are used to treat persons rather than being vaccinated, which could help you prevent from being infected. Thank you very much.

**Mr. Deputy Speaker:** Supplemental, Member for Caroni East.

**Dr. Seecheran:** Thank you. Minister, has the Government also been—has the Government made a pre-order of the antiviral drug produced by Merck?

**Hon. T. Deyalsingh:** We have been in the talks with all manufacturers and yes we have placed orders, but the non-disclosure agreements that we have prevents me from discussing any details of those potential purchases.

**Mr. Deputy Speaker:** Supplemental?

**Dr. Seecheran:** Yes, supplemental.

**Mr. Deputy Speaker:** Proceed.

**Dr. Seecheran:** Minister, so to the public is there any time frame in which we can possible get any of these drugs into our public health care system?

**Hon. T. Deyalsingh:** Time frames are difficult to give right now. I just indicated that Paxlovid is even short supply in the United States. They cannot supply their own home market. None of the companies so far can give us assurances that drugs can be supplied by x, y and z date. We are in the market with all of these

manufacturers, as I have always said, and as soon as the drugs are either registered, preregistered and available for export to this market, we are doing our best to secure them.

**Mr. Deputy Speaker:** Member for Naparima.

**COVID-19 Mortality Figures  
(Steps Taken to Address)**

**Mr. Rodney Charles** (*Naparima*): Will the Minister provide reasons for Trinidad and Tobago's high mortality figures and the urgent steps being taken to address them, given our current position on the Worldometer's global COVID-19 database?

**The Minister of Health (Hon. Terrence Deyalsingh):** Thank you very much. So hon. Member, and through you, Mr. Deputy Speaker, high is a relative term. We are currently number 30 out of 190 countries, so there are a 160 countries below us. Other countries that are more resourced and I would not call them, are 25 higher than us, 19, 31 higher than us. What we do is calculate our case fatality ratios which is the number of deaths over the number of positive cases.

In phase one when we had eight deaths, our CFR was 6.2. That later dropped to one, because at 6.2 it was eight deaths out of a very small number of positive cases. So it is a skewed number. Then it dropped to one. At this point in time, at this point in time in the highest peak of our pandemic our case fatality ratio is around three, the global average is between two and three. But I know the UNC waste no time in painting Trinidad and Tobago in the worst possible light. What we are doing? We are looking at hospital care versus home care. You would have seen Dr. Arun Narinesingh confirming what I said that people are coming too late using ivermectin. Three, we rely on the public health measures. We are also relying on persons getting vaccinated that would help us significantly and one of the four things that we have to do is combat misinformation and we all know the

sources of the misinformation.

**Mr. Deputy Speaker:** Please, Members, questions are asked and we have to abide by the answers based on the decorum of the House. You have a supplemental, Member for Naparima? Okay, you gave way to Caroni East.

**Dr. Seecheran:** Thank you, Deputy Speaker. Minister, would the Ministry of Health be in the market for attracting any additional senior medical consultants to assist in the management of COVID-19 patients given the severe deaths that we are currently experiencing in Trinidad and Tobago?

**Hon. T. Deyalsingh:** Again, trying to paint Trinidad and Tobago in the worst possible light. Our case fatality ratio—

**Mr. Deputy Speaker:** One second, one second, Member. Again, Members, listen. [*Inaudible*] The opportunity to have a supplemental question. Proceed.

**Hon. T. Deyalsingh:** Let me repeat. We are number 30 out of 190 countries. Two, our case fatality ratio is within global average. Three, health care professionals around the world are in short supply to be physically here but we have always relied on expert advice from CARPHA which advises Caricom Governments, PAHO, WHO and the medical team and research teams at the University of the West Indies and their foreign institutions.

**Mr. Deputy Speaker:** Supplemental?

**Dr. Seecheran:** Thank you.

**Mr. Deputy Speaker:** Caroni East.

**Dr. Seecheran:** Minister, between December the 15<sup>th</sup> and December the 28<sup>th</sup> of 2021, John Hopkins University has shown that this country has consistently been in the top spot globally in daily confirm deaths per million. Can you ascertain if this data is correct?

**Hon. T. Deyalsingh:** Yes, and we have addressed that very often, there are

different measures that different bodies use. What we use is case fatality ratio and we have been consistent. Our case fatality ratio was at a low of one, a high of 6.2 and it is currently around three. The global average per case fatality ratio is between two and three and we have consistently use the same metric all through the pandemic.

### **ANSWERS TO QUESTIONS**

**Mr. Deputy Speaker:** Leader of the House.

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

### **ORAL ANSWERS TO QUESTIONS**

**Mr. Deputy Speaker:** Just for the records, Members, question No. 36 has been withdrawn by the Member for Naparima. Member for Pointe-a-Pierre.

#### **Murder Rate (Government's Plan for)**

**36. Mr. Rodney Charles (Naparima)** asked the hon. Minister of National Security:

Will the Minister state the Government's plan to ensure the murder rate does not exceed 500 in 2022?

*Question, by leave, withdrawn.*

#### **NGC Loans (Details of)**

**34. Mr. David Lee (Pointe-a-Pierre)** asked the hon. Minister of Energy and Energy Industries:

Will the Minister state how much the NGC has borrowed in the past 12 months, from which entities and the terms of the loans?

**The Minister of Energy and Energy Industries and Minister in the Office of the Prime Minister (Hon. Stuart Young):** Thank you very much. Mr. Deputy Speaker, NGC has not borrowed any money in the past 12 months.

**Mr. Deputy Speaker:** Member for Naparima? We go on to question No. 37.

**Mr. Charles:** [*Inaudible*]

**Mr. Deputy Speaker:** Oh, sorry, Member for Pointe-a-Pierre, No. 35.

**Gas Production for Fiscal 2021  
(Details of)**

**35. Mr. David Lee** (*Pointe-a-Pierre*) asked the hon. Minister of Energy and Energy Industries:

Will the Minister provide the average gas production for the fiscal year 2021?

**The Minister of Energy and Energy Industries and Minister in the Office of the Prime Minister (Hon. Stuart Young):** Thank you very much. Mr. Deputy Speaker, the average estimated gas production for the fiscal year 2021 which is between the period October 2020 to September 2021 was 2.574 MMcF per day, sorry 2,574 MMcF per day. It is expected that there will be an improvement in gas production in fiscal year 2022 as new projects such as Shell's Block 5C, BHP's Ruby Delaware, and BPTT's Matapal ramp up production and new projects such as Shell's Colibri Project, BPTT's Cassia Project come on stream. We are also hoping in a short time frame to start getting some onshore gas from Touchstone.

**Mr. Deputy Speaker:** Supplemental, Member for Pointe-a-Pierre.

**Mr. Lee:** Thank you, Deputy Speaker. Thank you, Minister, for your response. You stated the average has been 2.574, I think, but the Minister of Finance in his Budget Statement 2022 quoted the average gas production of 2.77. Minister, could you state why there is that discrepancy between the Ministries?

**Hon. S. Young:** Thank you very much. At the time when the Minister of Finance

was using those figures, it could have been that they were still projections in the preparation of the budget. What we are giving you now is an accurate figure that has been averaged over the period of time.

**EU Non-Cooperative Jurisdictions for Tax Purposes List  
(Status of Trinidad and Tobago on)**

**37. Mr. Rodney Charles** (*Naparima*) asked the hon. Minister of Finance:

Will the Minister state why Trinidad and Tobago is the only Caricom country on the current European Union list of non-cooperative jurisdictions for tax purposes?

**The Minister of Finance (Hon. Colm Imbert):** Thank you, Mr. Deputy Speaker. The Minister of Finance and the Attorney General continue to work aggressively towards resolving all outstanding legal, administrative and operational issues regarding the European list of non-cooperative list of jurisdictions for tax purposes. In this context, the Attorney General, in November 2021, held meetings with our European counterparts on this issue. We are working closely with the support and guidance of the Organization for Economic Cooperation and Development (OECD), their Global Forum, and the Base Erosion and Profit Sharing (BEPS) inclusive framework and the European Union's Code of Conduct group to ensure compliance with all standards and subsequent removal from the European list in the soonest possible time frame. We are in regular communication with these bodies and are working assiduously with a view to being moved to the grey list in 2022, with the ultimate objective of being deemed to be fully compliant as soon as possible.

**Mr. Deputy Speaker:** Supplemental, Member for Naparima.

**Mr. Charles:** Is the Minister aware that an EU Minister from Denmark, the Minister of Taxation Morten Bodskov described Trinidad and Tobago as belonging and I quote; "in the corner or nook of shame", and Denmark has terminated its

double taxation agreement with Trinidad and Tobago as a result of our blacklisted position.

**Mr. Deputy Speaker:** Question, the question is?

**Mr. Charles:** Yeah, is he aware?

**Hon. C. Imbert:** Yes, I am aware.

**Mr. Deputy Speaker:** Minister of Finance.

**Hon. C. Imbert:** Yes, Mr. Deputy Speaker, I am aware, that this is as a result of the failure of your Government to do what it was supposed to do.

**Mr. Deputy Speaker:** Supplemental, Member for Naparima.

**Mr. Charles:** Is the Minister aware that repeatedly your Government has promised us to get off the blacklist and have failed from 2017 to date?

**Hon. Members:** [*Desk thumping*]

**Hon. C. Imbert:** I am well aware of that and just this week, I wrote the European Union, in furtherance of our objective to move to the grey list in 2022.

**Hits called within Prison Walls  
(Electronic Prevention Measures)**

**38. Mr. Rodney Charles** (*Naparima*) asked the hon. Minister of National Security:

In light of reports of inmates “calling hits” from within prison walls, will the Minister state what electronic measures are in place to prevent this?

**The Minister of National Security (Hon. Fitzgerald Hinds):** Thank you very much. Mr. Deputy Speaker, in an attempt to detect and prevent cell phones from entering the nation's prisons, the Trinidad and Tobago Prison Service currently utilizes handheld metal detectors at all nine prison institutions. The Trinidad and Tobago Prison Service also receives support with electronic measures from the primary intelligence agency, the Strategic Services Agency, which provides technological support to all relevant law enforcement agencies in keeping with the



SSA Act and the Interception of Communications Act. Notwithstanding this, Mr. Deputy Speaker, and given the sensitive nature of some of these issues and the measures and their implications for National Security, it will be inimical to the interest of National Security to publicly disclose more than I just have, Mr. Deputy Speaker, I thank you.

**Mr. Deputy Speaker:** Supplemental, Member for Naparima.

**Mr. Charles:** Minister, why are we not using technology used in the Federal Correctional Complex in the United States, where surveillance cameras have a 360-degree view, motion detection sensors and face detection technology located all over the prison to help in identifying inmates and those who—and therefore reduce opportunities for inmates to make hits from the prisons?

**Hon. F. Hinds:** Mr. Deputy Speaker, in respect of the specific issue of facial recognition techniques, the Member for Naparima should recall that we had put a system in place to use that technology in this country and he and his friends of the UNC as a government dismantled every element of it.

**Hon. Members:** [*Desk thumping*]

**Hon. F. Hinds:** And, Mr. Deputy Speaker, in respect of his more general question, I do not know particularly where he went, but I know we use—

**Mr. Deputy Speaker:** One second, Member, can you address the Member properly please?

**Hon. F. Hinds:** The Member for Naparima. We use technologies, some of which he has just mentioned and that which is available to the Government and people for our protection in Trinidad and Tobago and as I said and I repeat, Mr. Deputy Speaker, there are some elements of what we do, that it would be inimical to hear expressed which is his intention to expose what we are doing to certain people, undesirables in the society.

**Mr. Charles:** [*Inaudible*]—imputing improper motives.

**Mr. Deputy Speaker:** Supplemental, Member for Naparima.

**Mr. Charles:** Yes.

**Mr. Deputy Speaker:** Supplemental, Member.

**Mr. Charles:** Can I not raise 48(6)? He has imputed improper motives indicating that I want criminals—

**Hon. Members:** [*Desk thumping*]

**Mr. Charles:**—to learn about our technology. That is wicked, that is wicked.

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

**Mr. Deputy Speaker:** Okay, Member, Member.

**Mr. Charles:** Yes, Sir.

**Mr. Deputy Speaker:** As a result of the desk thumping, I have not heard you clearly. Could you repeat?

**Mr. Charles:** The minute—I am quoting—the minute—48(6). imputing improper motives. He has—the hon. Member has indicated that I maliciously trying to get criminals to learn about the detection surveillance equipment in our prisons. I have no such objective and it is wicked and malicious.

**Mr. Deputy Speaker:** Okay, okay thank you, Member, thank you. Overruled, proceed.

**Ms. Ameen:** What?

**Mr. Charles:** I expected that.

**Ms. Ameen:** How the Speaker overruling so?

**Hon. Members:** [*Crosstalk*]

**Mr. Charles:** Supplemental, have a supplemental here, further supplemental and the further supplemental is, has the relationship with the Prison Officers

Association changed given that two months ago its president indicated that it had lost all faith in National Security to address the issue of it?

**Hon. F. Hinds:** The relationship between the Member of Parliament for Laventille West, the Minister of National Security and the Prison Service Association has changed, it continues to get better in the public interest and in the interest of the Trinidad and Tobago Prison Service.

**Hon. Member:** [*Desk thumping*]

### STATEMENT BY MINISTER

#### Annual Report of the Financial Intelligence Unit, 2021

**The Minister of Finance (Hon. Colm Imbert):** Thank you Mr. Deputy Speaker. I am authorized by Cabinet to make the following statement and I thank you for the opportunity to deliver this statement on the Annual Report of the Financial Intelligence Unit of Trinidad and Tobago for the year ended September the 30<sup>th</sup>, 2021. In accordance with section 18 of the Financial Intelligence Unit of Trinidad and Tobago Act, the director of the FIUTT submitted to the Minister its annual report for the year ended September 30 2021, which has been laid in Parliament, today, I believe. Today, I would like to outline to this House of some of the main highlights of this report.

In the area of combating money laundering and the financing of terrorism, the following legislative actions were undertaken. Firstly, in December 2020, the Miscellaneous Provisions Financial Action Task Force Compliance Act, No. 25 of 2020 was enacted to, inter alia, fortify the anti-money laundering, counter financing of terrorism, counter proliferation financing, also known as AML/CFT/CPF regime in Trinidad and Tobago by amending the Financial Intelligence Unit of Trinidad and Tobago Act, the Proceeds of Crime Act, also known as POCA and the Anti-Terrorism Act.

Secondly, during the period under review, other legislative actions were taken to bolster the AML/CFT/CPF regime. These include the assent of the Miscellaneous Provisions FATF Compliant Act 2020 on December 18, 2020, which amended the Central Bank Act, to, inter alia, empower the bank to administer—administrative fines under any written law, under which it has a supervisory role or general administration. Additionally, the assent of the Evidence Amendment Act, 2021, on February 25, 2021, which amended the second schedule of the Evidence Act to include the words “Financial Intelligence Unit of Trinidad and Tobago”, thus making it possible that the FIU documents may be received in evidence in the courts of Trinidad and Tobago and all legal proceedings once certified by the director and, the assent of the Gambling, Gaming and Betting Control Act on July 12, 2021, which ensures that the FIU continues to be the supervisory authority responsible for the AML/CFT/CPF supervision of gambling establishments and thereby requiring new establishments to apply for registration with the FIU within five business days of obtaining the licence to operate.

Mr. Deputy Speaker, in the area of fostering a culture of compliance over the period October 2020 to September 30, 2021, the FIU continued to adapt and adopt procedures to overcome the challenges experienced as a result of the COVID-19 pandemic. In so doing, the FIU encouraged and accepted electronic submissions of completed FIU registration forms such as the form RG1, along with all supporting documents via email. Accordingly, Mr. Deputy Speaker, for this reporting period, 506 entities registered with the FIU bringing the total number of registrants to 3,766 as at September 30, 2021. This represented a 54 per cent increase, 54 per cent increase, from the previous reporting period. The continued compliance of supervised entities to register with the FIU within three months of commencing business activity, or incorporation as a company in accordance with Regulation

28:1 is attributed to the realignment of the FIU strategies in response to the changing business environment, the electronic registration I just spoke of. Notwithstanding the challenges of the pandemic restrictions, the FIU also continued to receive risk assessment questionnaires from the Registrar General's Department in accordance with the Non-profit Organisations Act of 2019. As a result, there was a 128 per cent increase in these submissions from 1,411 non-profit organizations as they sought to meet the extended deadline of January 2022.

**2.15 p.m.**

The FIU was also amended—the Act that is—during the reporting period to include section 18A which treats with the deregistration of a supervised entity. Businesses and individuals that no longer perform functions of a supervised entity may apply for deregistration in accordance with this amendment. Accordingly, 37 entities deregistered over the period. With respect to the supervised entities obligation to appoint suitably qualified candidates to perform the roles of Compliance Officer and Alternate Compliance Officer, the FIU took a proactive approach and adopted measures to ensure compliance with this obligation. As a result, the FIU observed an increase in the submission of Compliance Officer fit and proper questionnaires during the period.

In terms of terrorist property reports, procedures to facilitate the secure electronic submission of quarterly property terrorist reports were implemented by the FIU. This measure resulted in more timely submissions from financial institutions and allowed for faster review of by QTRs by the FIU. Also, with regard to internal controls, independent testing was conducted by competent professionals to assess the adequacy of the AML/CFT/CPF policies and procedures implemented by supervised entities. Though this is a legal obligation it is also a compliance tool beneficial for both the entity and the FIU.

A total of 1,041 AML/CFT/CPF compliance examinations were also conducted on 972 supervised entities in the period. Meanwhile, 88 per cent of non-regulated financial institutions, such as credit unions, building societies and money or value transfer services registered with the FIU were tested for compliance. The FIU's outreach and awareness efforts to the NPO sector also expanded by 33 per cent during the period due to the conduct of 12 virtual and outreach awareness sessions. The FIU further embarked on a digital outreach initiative of development videos to widen its engagement of supervised entities, stakeholders and the public.

Mr. Deputy Speaker, in the area of financial analysis, during the reporting period the FIU received 1,638 suspicious transaction reports for suspicious activity reports, representing a decrease of 11 per cent compared to the previous period. Of these 1,593 were submitted via FIUConnect and the other 69 were received via manual submissions. The banking subsector submitted 82 per cent of the STRs or SARs followed by the MVTs accounting for 7 per cent. During the reporting period submissions from insurance companies, investment companies, mortgage companies, jewellers, private members' clubs all decreased over the period. This can be attributed to the restrictions in the operations of these businesses as a result of COVID-19. Of the 1,638 STRs/SARs received, 16 per cent, 262 reports were associated with the demonetization of the cotton-based \$100-bill. Of these 24 reports were submitted under section 52 of the POCA.

The total monetary value of the 1,638 STRs/SARs received amounted to \$3,177,713,721 of which \$2,086,588,624 were completed transactions, and \$1,091,125,097 were attempted transactions. This represents a 136 per cent increase in completed transactions and a 96 per cent decrease in attempted transactions when compared to the previous period. Suspected tax evasion ranked

the highest among the five most common reasons for the submission of STRs or SARs, representing 534 persons. This was followed by money laundering, 477 persons; suspicious financial activity, 290 persons; fraud, 231 persons, and breach of exchange control, 40 persons. These five suspected criminal conducts accounted for 96 per cent of the total number of STRs and SARs and 98 per cent of the total monetary value of all combined.

With regard to the financing of terrorism the FIU received eight STRs/SARs on suspected financing of terrorism compared to 12 in the previous period. This represented a 33 per cent decrease of financing of terrorism-related STRs/SARs, maybe attributable to the apparent collapse of the Islamic State of Iraq and Syria, ISIS. Overall, seven intelligence reports were disseminated to local and foreign law enforcement agencies and foreign FIUs. The FIU took note of the change in administration in the Islamic Republic of Afghanistan. This change has caused the Egmont Group to disconnect the Financial Transactions and Reports Analysis Center of Afghanistan, their FIU from the Egmont secure website. FATF also expressed its concern about the current and evolving money laundering, financing of terrorism risk environment in Afghanistan.

In the area of Strategic Alliances: Co-operation and Collaboration, the FIU received 11 requests from foreign authorities representing a 50 per cent decrease compared to the previous period. These requests featured a total of 26 subjects in contrast to the 204 in the previous year. The suspected criminal conduct in the majority of cases was corruption, with six requests comprising 14 subjects. In the area of Resources and Infrastructure, 18 contract vacancies were filled, while three staff members exited for other opportunities and one staff member passed away. Attracting and retaining staff to the FIU continues to be a challenge, however in collaboration with the HR Department of the Ministry of Finance, the FIU has

commenced the recruitment of persons to fill vacant positions.

In terms of its strategic priorities for 2022 the FIU will continue the recruitment and training of staff. Additionally, measures will be undertaken to ensure the safety and well-being of staff. The FIU will also continue its digitalization initiatives in keeping with Government's thrust for digital transformation and a digital public service. Further, legislative amendments will be introduced in areas such as the extension of the range of sanctions to include administrative fines; provisions of a clear understanding of CFT/CPF obligations for NPOs, amendments to the Act and the inclusion of the regulation, supervision and monitoring of FinTech's virtual assets and virtual asset service providers for AML/CFT/CPF.

Finally, Mr. Deputy Speaker, the FIU intends to take a proactive approach to continually meeting and surpassing FATF Recommendations 29 and Immediate Outcome 6, in particular. There will be specific focus on the continued provision of timely reports on existing and emerging trends, patterns and red flag alerts of a financial crimes affecting stakeholders in Trinidad and Tobago, continued provision of operational and strategic analysis products to LEAs and competent authorities, active promotion of AML/CFT/CPF compliance, awareness, supervision and enforcement, to supervise entities, NPOs, and electronic money issuers; continued implementation of IT solutions, to improve the supervision process, strengthening the cooperation and collaboration with our domestic and international stakeholders, to further improve our analysis products in the fight against money laundering, financing of terrorism and PF, and seeking to further obtain and have access to the widest possible range of financial, administrative, law enforcement and commercially-held data to effectively and efficiently perform its functions. I thank you. [*Desk thumping*]



**MISCELLANEOUS PROVISIONS  
(TESTING AND IDENTIFICATION) BILL, 2022**

Bill to amend the Judicial and Legal Service Act, Chap. 6:01, the Prison Service Act, Chap. 13:02, the Defence Act, Chap. 14:01, the Police Service Act, Chap. 15:01, the Civil Service Act, Chap. 23:01, the Fire Service Act, Chap. 35:50 and the Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01 to provide a regulatory framework for polygraph and drug testing and biometric identification for members of the Protective Services and certain offices in the Judicial and Legal Service and the Civil Service and for other related matters [*The Attorney General*]; read the first time.

**WHISTLEBLOWER PROTECTION BILL, 2022**

Bill to combat corruption and other wrongdoings by encouraging and facilitating disclosures of improper conduct in the public and private sector, to protect persons making those disclosures from detrimental action, to regulate the receiving, investigating or otherwise dealing with disclosures of improper conduct and to provide for other matters connected therewith [*The Minister of National Security*]; read the first time.

**JOINT SELECT COMMITTEES  
(APPOINTMENT OF)**

**Fisheries Management (No. 2) Bill, 2020**

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

Thank you very much, Mr. Deputy Speaker. Mr. Deputy Speaker, having regard to the decision of the Senate to establish the Joint Select Committee to establish an—sorry—to consider and report on the Fisheries Management (No. 2) Bill, 2020, I beg to move that the following six Members be appointed to serve with an equal number from the Senate as follows:

Ms. Shamfa Cudjoe                      Member

Mr. Brian Manning	Member
Mr. Stephen Mc Clashie	Member
Mr. Kennedy Richards	Member
Mr. Rushton Paray	Member
Mr. Ravi Ratiram	Member

Thank you, Mr. Deputy Speaker.

*Question put and agreed to.*

### **Shipping Bill, 2020**

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

Thank you, Mr. Deputy Speaker. Mr. Deputy Speaker, having regard to the decision of the Senate to establish the Joint Select Committee to consider and report on the Shipping Bill, 2020, I beg to move that the following six Members be appointed to serve with an equal number from the Senate as follows:

Mrs. Penelope Beckles-Robinson	Member
Mr. Marvin Gonzales	Member
Mrs. Lisa Morris-Julian	Member
Mr. Keith Scotland	Member
Mr. Davendranath Tancoo	Member
Mr. Dinesh Rambally	Member

Thank you, Mr. Deputy Speaker.

*Question put and agreed to.*

### **Representation of the People (Amdt.) (No. 2) Bill, 2020**

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

Thank you, Mr. Deputy Speaker. Mr. Deputy Speaker, having regard to the decision of the House made pursuant to Standing Order 79(3), I beg to move that the Representation of the People (Amdt.) (No. 2) Bill, 2020, be referred to a Joint

Select Committee hereby established.

*Be it resolved* that this Committee be mandated to adopt the work of the Joint Select Committee in the First Session and report by April 30<sup>th</sup>, 2022.

*And be it further resolved* that subject to the concurrence of the Senate on the establishment of the Joint Select Committee on the Representation of the People (Amdt.) (No. 2) Bill, 2020, that this House appoint the following six Members to sit with an equal number from the Senate on this Committee:

Mrs. Camille Robinson-Regis	Member
Mr. Colm Imbert	Member
Mr. Fitzgerald Hinds	Member
Ms. Shamfa Cudjoe	Member
Mr. Saddam Hosein	Member
Mr. Davendranath Tancoo	Member

Thank you, Mr. Deputy Speaker.

*Question put and agreed to.*

#### **CHANGE IN SPEAKING TIME**

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

Thank you, Mr. Deputy Speaker. Mr. Deputy Speaker, notwithstanding the resolution of the House on Wednesday, September 15, 2021, in relation to the speaking time during the period of the COVID-19 pandemic, I beg to move that for the debate on the Motion, Public Procurement and Disposal of Public Property (No. 2) Regulations only, that the speaking time be as follows: the Minister of Finance, 45 minutes; the first responder, 45 minutes; all other speakers, 20 minutes; and the mover in reply, 20 minutes, all with no extension. Thank you very much, Mr. Deputy Speaker.

*Question put and agreed to.*

**Mr. Deputy Speaker:** The Minister of Finance.

**Hon. Members:** [*Desk thumping*]

**Mr. Deputy Speaker:** And it is 45 minutes, Minister of Finance.

### **RELATED MOTIONS**

**The Minister of Finance (Hon. Colm Imbert):** Thank you very much, Mr. Deputy Speaker, and I thank the House for allowing the short increase in speaking time. This matter that we are about today—but before I go into that, Mr. Deputy Speaker, I beg to move Motion No. 1 standing in my name. And in moving this Motion, Mr. Deputy Speaker, I seek the leave of the House in accordance with Standing Order 50(1) to debate along with this matter Motions Nos. 2 to 10 inclusive on the Order Paper which relate to the same subject.

*Assent indicated.*

**Mr. Deputy Speaker:** Proceed.

### **PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY (RECORD OF PROCUREMENT PROCEEDINGS) (NO. 2) REGULATIONS, 2021**

**The Minister of Finance (Hon. Colm Imbert):** I also wish to thank hon. Members opposite for their consideration. So, Mr. Deputy Speaker, this matter that we are about—and I will read the Motion:

*Whereas* it is provided by section 63 of the Public Procurement and Disposal of Public Property Act, 2015 (hereinafter referred to as “the Act”) that the Minister, on the recommendation of the Office of Procurement Regulation, may make Regulations to give effect to the provisions of the Act;

*And whereas* it is provided by section 63(3), that Regulations made under the Act shall be subject to affirmative resolution of Parliament;

*And whereas* the Minister of Finance, on the recommendation of the Office of Procurement Regulation, caused the Public Procurement and Disposal of

Public Property (Record of Procurement Proceedings) (No. 2) Regulations, 2021 to be prepared;

*And whereas* the Public Procurement and Disposal of Public Property (Record of Procurement Proceedings) (No. 2) Regulations, 2021 were laid in the House of Representatives on the 13<sup>th</sup> day of December, 2021;

*And whereas* it is expedient that the Public Procurement and Disposal of Public Property (Record of Procurement Proceedings) (No. 2) Regulations, 2021 now be affirmed:

*Be it resolved* that the Public Procurement and Disposal of Public Property (Record of Procurement Proceedings) (No. 2) Regulations, 2021 be approved.

As I was saying, Mr. Deputy Speaker—I am sorry.

**Mr. Deputy Speaker:** Hon. Members, I will now propose the question for debate—Proceed Member.

**Hon. C. Imbert:** Thank you very much. We have been at this matter as a Parliament for quite a while. With respect to the Regulations that we are dealing with today, these were first laid in this House in July of 2021, just before we went on the recess and a suitable period was given for public comment. We received quite significant public comment and re-laid the Regulations in September of 2021, just before the budget exercise; again, we allowed further public comment and in the months of September, October, November, I can say, safely say, we received 43 pages. Not 43 comments, Mr. Deputy Speaker, 43 pages of comments sent to us by the Office of Procurement Regulation which on enquiry was a collation of comments sent to that office by stakeholders and would also have included some comments from the Office of Procurement Regulation itself.

This is a very, very complex matter and the Ministry of Finance was fortunate to be able to identify a very experienced attorney, experienced in the area of public procurement because it is a specialist area. And with the assistance of that attorney and the staff at the Ministry, including the Minister in the Ministry, Mr. Manning, who I wish to compliment for having assisted me substantially in getting this matter to where it is today—

**Hon. Members:** [*Desk thumping*]

**Hon. C. Imbert:**—and the Treasury Solicitor's Department as well, our legal unit in the Ministry, and our expert consultant. We were able to review, in fairly short order, the voluminous nature of the comments made on the regulations that had been laid in July and in September. We were then able, just before we broke for the Christmas period, to lay the final version of the Public Procurement Regulations on the 13<sup>th</sup> of December and this is the matter that we are about today.

I have been in touch with the office of the Procurement Regulator and the comment that came back from that office is that they can work with these Regulations that are before us today. Let me also put some context into this matter. It is not very well known that there has been a plethora of decisions in the courts over the years as to the extent to which a court can get involved in the award of contracts, particularly within the public sector. And the effect of all of the decisions which go way, way back many, many years and include two decisions in Trinidad and Tobago, two quite well-known decisions; one of them was the case of *NH International v UDeCOTT* and the other was a case involving Spancrete and again UDeCOTT. The first case was over the construction of a building, now the award of a contract for the construction of a building. And the second one that I referred to, although it preceded it, was with respect to the award of a contract for

an overpass or an interchange at the intersection of the Uriah Butler and the Churchill Roosevelt Highways.

The court in both instances—in the case of *NH International v UDeCOTT*, at first instance and in the Court of Appeal the court concluded that there were insufficient public law elements involved in the matter to allow the court to intervene and to stand in the shoes as it were of the evaluation committee and determine whether the contract award should be set aside or varied as the case may be. A similar decision was arrived at in the Spancrete case, in the case of the interchange, and the judge—I believe it was Justice Mohammed, arrived at a similar conclusion using Canadian authorities at the time. So that the law in Trinidad and Tobago and the law in the English common law jurisdictions was that unless there are sufficient public law elements within our procurement regime a court would not easily intervene in a matter of an award of a contract unless it can demonstrate that there were allegations of corruption that could be proven, breaches of statutory duties and obligations.

So, following in particular that case, that *NH International v UDeCOTT* case, there was a movement coming from our local construction industry that we get to the point of introducing public law elements into our procurement process. And I will explain what I mean by a public law element. In the European Union, for example, there is a very sophisticated procurement regime governed by legislation and subsidiary legislation and there is continuous upgrade and amendment of their procurement laws. So that tender rules in the European Union are actually prescribed in law. In our situation the only public law element in our environment is what is known as the Central Tenders Board and it is possible for an aggrieved contractor to go to court and seek judicial review of a decision of the

Central Tenders Board, but many contract awards—in fact, in most contract awards in Trinidad and Tobago now for many, many years are done by way of state enterprises, by wholly-owned state enterprises, such as NIPDEC, or quasi state enterprises such as NIPDEC, wholly-owned enterprises such as NIDCO, such as UDeCOTT and so on. And while a contractor could challenge the Central Tenders Board, the development of the law did not allow a contractor to easily challenge an award made by a state enterprise, unless, as I said, they could prove fraud or a breach of obligation.

So there was this movement within the construction industry that we create a public procurement regime that will allow the court to intervene in a matter if there is a breach of process and the evolution of all of this is what we are talking about today. We are looking now—there is an Act, the Public Procurement and Disposal of Public Property Act but the Act cannot operate without subsidiary legislation, which is the Regulations that are before us today. I want to tell hon. Members, there is a view that this will be the panacea and the solution to all problems in Trinidad and Tobago with respect to procurement but understand what we are doing today. Today we are for the first time introducing public law elements into the procurement by state enterprises and we will now be inviting the court to get involved in the award of contracts by state enterprises.

It is not as simple as I just expressed, of course you have an intervening body. You have the Office of the Procurement Regulator who would establish rules and guidelines and serve as an arbiter in the middle. In terms of dealing with disputes you have a review board, you have an appeal aboard; you have quite a sophisticated alternative dispute resolution process in the middle there but we are now for the first time introducing a situation where the court can, and probably



will, intervene in the award of contracts within the public sector, in particular within state enterprises.

So let us deal with the matter at hand now—and, Mr. Deputy Speaker, how much more time do I have?

**Mr. Deputy Speaker:** You finish at 3.18.

**Hon. C. Imbert:** Okay. All right. Thank you. That is about half an hour. Before this House, Mr. Deputy Speaker, there is a package of 10 Regulations required under the Public Procurement and Disposal of Public Property Act. These are: the Public Procurement and Disposal of Public Property (Participation in Procurement) (No. 2) Regulations, 2021; the Public Procurement and Disposal of Public Property (Pre-Qualification and Pre-Selection) (No. 2) Regulations, 2021; the Public Procurement and Disposal of Public Property (Procurement Methods and Procedures) (No. 2) Regulations, 2021; the Public Procurement and Disposal of Public Property (Ineligibility Proceedings) (No. 2) Regulations, 2021; the Public Procurement and Disposal of Public Property (Challenge Proceedings) (No. 2) Regulations, 2021; the Public Procurement and Disposal of Public Property (Record of Procurement Proceedings) (No. 2) Regulations; the Public Procurement and Disposal of Public Property (Retention and Disposal of Personal Property) (No. 2) Regulations, 2021—and the last three, the Public Procurement and Disposal of Public Property (Evaluation) (No. 2) Regulations, 2021; the Public Procurement and Disposal of Public Property (Miscellaneous) (No. 2) Regulations, 2021 and the Public Procurement and Disposal of Public Property (Procurement of Consultants) (No. 2) Regulations, 2021.

**2.45 p.m.**

As indicated previously, these Regulations were laid in the House on 2<sup>nd</sup>

July 2021, and from July 2<sup>nd</sup> to November 26<sup>th</sup>, 2021, the Regulations were open to public comments through the Ministry of Finance, through the Parliament and also through the Office of Procurement Regulation. As I indicated previously, all of the voluminous comments were considered, adjustments were made and the Regulations once again laid in the House on the 13<sup>th</sup> of December, 2021.

These 10 Regulations provide a very important underpinning of the Public Procurement and Disposal of Public Property Act, and give details and mechanisms for critical matters and procedures required under the Act. They set the stage for the ensuing full proclamation of the Public Procurement and Disposal of Public Property Act, an event that has attracted much attention over time, and an event which it is felt and believed requires introduction in order to modernize the mode of doing business within the public sector, and also to allow for greater transparency.

These Regulations require affirmative resolution of Parliament, but I will also touch on other regulations required under the Act that do not, that would become law unless negated by negative resolution.

The additional regulations that I have just spoken about, touch and concern the Review Board, an important entity under the Act, that has oversight of the Office of Procurement Regulation on certain matters, because what we are trying to do is to avoid the first default, or the first consequence, of a grievance being litigation and an approach to the court. This Act truly is a manifestation of alternative dispute resolution, because you have the Office of Procurement Regulation as the first arbiter, and then you have the Review Board as the second arbiter before the matter gets into court. One would hope, and experience has shown in other countries, that 90 per cent of matters are disposed of at that level

and just a few would go on to require the intervention of the High Court, or the Supreme Court as it is called. Now let us look at the actual 10 Regulations that I just announced.

Firstly, the Public Procurement and Disposal of Public Property (Participation in Procurement) (No. 2) Regulations, 2021. Participation in procurement is required for the establishment of the rules. This particular Regulation I am speaking about, the Participation in Procurement Regulation, is required to establish the rules under which the procuring entity will comply with section 5(1)(c) of the Act. It seeks to promote sustainable procurement, sustainable development and local industry development. These objectives are achieved by establishing a domestic preference, which is set out in the bidding documents, when bids are being sought internationally and from local suppliers.

A margin of preference is a measure that recognizes the benefits of domestic goods or services, and applies to goods manufactured exclusively in Trinidad and Tobago, goods partially manufactured or assembled in Trinidad and Tobago, where the supplier or contractors establish to the satisfaction of the contracting entity that the proportion of domestic value, local content, added to the total value of those goods, is equal to or greater than 35 per cent of the export price of the goods.

Section 5(1) of the Act requires all public procurement to be guided by the principles of accountability, integrity, transparency and value for money, efficiency, fairness, equity and to instill public confidence. This Regulation, No. 1, therefore support Government's priority of economic growth by making procurement proceeds more transparent and effective for businesses and public bodies. Focus is placed on getting the right supplier with the best bids and enabling

suppliers to compete in a more effective and transparent manner. These provisions are in keeping with the Government's priority in ensuring that local companies, particularly small and medium enterprises, benefit from public procurement which is a driver for economic growth.

In addition, in their bids, suppliers and contractors are required to certify that the necessary capacity exists where domestic value is to be added. In the case of international competitive bids, a preference may be applied to bids that propose the employment of 65 per cent or more of domestic labour. In applying a preference, the nationality of the manufacturer, supplier or contractor would not be a condition for eligibility. Just the 65 per cent local content I just referred to.

Mr. Deputy Speaker, the bidding and solicitation documents must also state the documentation required as evidence of eligibility for the margin of preference, the percentage of the margin and the manner in which it would be applied during evaluation. The maximum percentage permitted to be added for domestic preference, that is to say for contractors and suppliers based in Trinidad and Tobago in these Regulations is 10 per cent. So that local contractors will be given a preference margin of 10 per cent when bidding against international contractors.

Regulations 6(1) to 6(8) set out the rules by which the Office will fulfil the requirements of section 26(1) of the Act, which requires the Office to establish a database known as the Procurement Depository, where suppliers or contractors can submit information on their qualifications and experience.

Regulation 6(5) ensures that suppliers or contractors registered in the Procurement Depository continue to maintain a registered status, unless they are added to ineligibility list in accordance with section 58(6) of the Act.

Regulation 6(8) makes it an offence to give false information or make false

statements to the Office in relation to the Procurement Depository database, and such an offence is liable on conviction to a fine of \$500,000 or imprisonment of one year. As you can see, Mr. Deputy Speaker, this is a very serious Regulation. So a Procurement Depository, where suppliers and contractors will submit information on their qualifications and experience, will be established by the Office of Procurement Regulation, and if you provide false information you will be liable to a fine of \$500,000 and imprisonment for one year—up to.

Number 2: Public Procurement and Disposal of Public Property (Pre-qualification and Pre-selection) (No. 2) Regulations, 2021. Regulation 3(1) allows suppliers and contractors to upload information to the Procurement Depository in order that procuring entities may prequalify them on an ongoing basis, in accordance with section 29(1) of the Act. This is absolutely essential, Mr. Deputy Speaker. There have been instances, of which I have knowledge, of public entities awarding contracts based on a prequalified list, which has not been developed in accordance with any known process.

Regulation 4 allows procuring entities to prequalify suppliers using the Procurement Depository, and the list of suppliers and contractors contained therein. The procurement entity can assess those suppliers or contractors on a pass/fail basis to determine whether they should be pre-qualified. The procurement entity—and by that I mean a procurement entity is any state enterprise, statutory authority, department of Government—that is what we are calling a procurement entity in this paradigm. The procurement entity can also engage with suppliers and contractors to confirm that the information in the Procurement Depository is accurate.

Regulations 4(4)(a), (b) set out the procedure where there are no prequalified

suppliers or contractors for the category of goods, works or services, or where the number of prequalified suppliers or contractors is less than the required number or deemed insufficient for a competitive process. That would then lead to selective tendering or sole select tender.

Regulation 4(5) requires that in situation outlined above, the procuring entity must issue a public invitation to prequalify. So no secret prequalification; it must be done publicly.

Regulation 5 outlines the information required by procuring entities from suppliers or contractors prequalified, and ensures that the requirements of section 29(1) of the Act are satisfied.

Regulation 6(1) requires the procuring entity to respond within a reasonable time. Moreover, Regulation 6(3)—and by the way, Mr. Deputy Speaker, these Regulations, these numbers I am calling are within the rubric of the overall set of Regulations, whether it is No. 2, No. 3 and so on. So Regulation 6(1) requires the procuring entity to respond within a reasonable time.

Regulation 6(3) requires that where a response to a request for clarification might be of interest to other suppliers or contractors, the procuring entity shall, without identifying the source of the request, communicate the response to all suppliers or contractors to whom the procuring entity provided the prequalification documents.

Regulation 7 requires that procuring entities promptly notify each supplier or contractor presenting an application to prequalify, its written decision as to whether or not that supplier or contractor has been prequalified. So that there must be a notification to someone who is seeking prequalification whether they have been prequalified or not. They shall not be left in limbo. If the supplier was

unsuccessful, then the procuring entity must give reasons for the non-prequalification.

By now, Mr. Deputy Speaker, you would see how sophisticated these Regulations are.

Regulation 9 allows procuring entities a basis for making a preselection of suppliers and contractors. Regulation 9(2) allows the procuring entity to preselect suppliers and contractors, where the prequalified list of suppliers or contractors is prohibitively lengthy and would result in the public body spending an inordinate amount of time on the evaluation of bids or proposals. In this situation, the procuring entity will invite all prequalified suppliers or contractors to participate in the preselection proceedings in order to establish a short list. So, again, this will allow not just selective tendering or sole select, but also shortlisting or potentially prequalified suppliers.

Regulation 9(5) requires that for situations involving high risk or high value procurements, where there are no prequalified suppliers or contractors to preselect, that the procuring entity issue a public invitation for prequalification in accordance with the criteria set out in Regulation 4, and the conditions under sub Regulation 4(4) will apply.

Regulation 10 requires that an invitation for preselection specify the minimum and maximum number of suppliers that would be invited to submit a bid or proposal, post the preselection exercise.

Regulation 11 regulates the use of the preselection option by procuring entities by stating it shall be issued a prerequisite in relation to a specific procurement activity.

Regulation 12 requires that preselected applicants be assessed against

additional evaluation scoring relevant to the procurement proceedings in question, with a maximum and minimum score applied to each criteria, and the applicants being ranked in accordance with the overall scores obtained. So, again, all of this is in the interest of transparency.

Regulation 13 allows the procuring entity to invite bids from the suppliers or contractors who achieve the required score for prequalification.

So that is a summary of the prequalification Regulations. I go now to 3, the Public Procurement and Disposal of Public Property (Procurement Methods and Procedures) (No. 2) Regulations. These Regulations set out the methods and procedures that procuring entities shall use to ensure that they manage the risk involved in procuring goods, services, works, with a view to achieving value for money. That is the overall objective, value for money.

Regulation 3 stipulates that procuring entities develop an annual procurement plan, and Regulation 4 specifies that specific threshold values be established in special guidelines and handbooks, and procurement entities generally do not split transaction values. Again, I am aware that this happens. That people attempt or do split transaction values so as to circumvent the approval process.

Regulation 4(4), (5) allows some flexibility to the general rule where there are clear calculable economic or technical advantages.

Regulations 5 to 7 outline the process of open bidding that procurement entities shall follow.

Regulation 8 details the process for limited bidding.

Regulations 10 to 14 cover other methods of procurement, including single source and sole source bidding.



Regulation 17 provides for the establishment of framework agreements for works or services that are required on a repetitive basis.

Regulation 21 provides for the establishment of a Procurement and Disposal Advisory Committee, the functions of the committee and the officers of the procuring entity which shall form that committee.

Regulation 22 outlines the information that must be included in an invitation to tender and stipulates that the information may be made available in electronic or hard copy format, with minimum cost for printing and distribution, and this is fundamental. You do not want to restrict people from procurement by making them pay an excessive fee to get copies of tender documents for example. So this is fundamental to the achievement of transparency under section 5(1) of the Act.

Regulation 28 stipulates the manner in which technical specifications must be communicated in order to avoid unfair advantage being granted to any supplier or contractor.

Regulations 30 to 34 set out the criteria and methodology for the evaluation of bids and determining the successful supplier or contractor.

Regulation 36 allows procuring entities to request advance payments guarantees where applicable. I go now to four.

These Regulations provide the mechanism through which section 58(4) of the Act shall be effected. Ineligibility proceedings—this requires the Minister, on the advice of the Office of Procurement Regulation to specify the mechanism and manner for adding a supplier or contractor to the ineligibility list, and also for removing a supplier or contractor from that list. That is the list where persons are essentially disqualified from bidding on particular matters.

Regulation 7 provides for three forms of ineligibility: a letter of reprimand, a

conditional non-debarment, and for the most serious breaches of the Act, ineligibility for up to 10 years. This would be major fraud and so on, collusion, conspiracy, that sort of thing; conspiracy to defraud the public and so on.

Regulation 11 allows a supplier or contractor the opportunity to seek a review of the declaration of ineligibility, where the supplier has complied with remedial or new evidence and facts emerged that exonerate the supplier or contractor.

Five, Challenged Proceedings. These Regulations outline the mechanism by which a supplier or contractor may challenge the decision of a procuring entity for noncompliance with the Act, or due to any action or decision likely to cause loss or injury, as provided for in Part V, sections 49 to 52 of the Act.

Regulation 2 establishes the procedure for review and references the provisions of section 51 and 52 of the Act.

Regulation 4 establishes the basis on which the Office may dismiss an application for review, largely confined to the following three criteria. The application for a review is manifestly without merit; the application for review is out of time, and there is lack of sufficient standing, no locus, pecuniary or otherwise economic interest in the procurement proceedings. This is to avoid persons who have no involvement or association whatsoever with a procurement matter, from diving into a matter to stop or overturn a contract.

Regulations 5 and 6 establish the Office as being responsible for conducting and managing applications for review.

Regulation 7 guarantees a party to the review the right of representation by an attorney-at-law, engineer, quantity surveyor, valuator or other qualified person.

Regulations 8 and 9 establish the specifics on a submission of an application

for review, and the submission of a reply by the procuring entity. So, again, that is the first stage in the process. The person would complain to the Ministry, the state enterprise, the statutory authority and ask for a review. If the entity does not agree to the review, or does not agree with the challenge that is being made, it then goes to the Office of Procurement Regulation for a further review, and then goes to the Review Board for a further review, all in an effort to prevent costly litigation.

Regulation 11, subject to the provisions of section 50(4) and 50(7) of the Act, provide the officer with the ability to consider whether or not procurement proceedings should be suspended.

Regulations 12, 13, 14 and 15 set out the procedure for the hearing and the review.

The sixth set of Regulations, Record of Procurement Proceedings. These Regulations make it mandatory for each procuring entity to maintain an easily accessible record of each procurement procedure, and establishes the information that should form part of that record. The Regulations also require that the procuring entity submit a summary of its procurement activities to the Office of Procurement Regulation, in accordance with the handbook and guidelines approved for the entity by the Office.

Seven, Retention and Disposal of Personal Property. These Regulations outline the procedures for the retention and disposal of personal property, mainly assets other than real property, such as stores and equipment covered by Part IV of the Act.

Regulations 3 and 4 stipulate a risk-based approach to the retention and disposal of personal property, and require the Office to approve handbooks and guidelines setting out procedures.

Regulation 5 requires a public body to establish a written policy for the retention of stores and equipment, in accordance with the good governance principles of accountability, transparency, integrity and value for money.

Regulation 6 mandates that public bodies be responsible for the disposal of its stores and equipment, which are deemed unserviceable, obsolete or surplus.

Regulation 7(2) requires that where any disposal of personal property is made to an employee of a public body and the net book value or residual is in excess of \$100,000, that the Office be informed of the details of the item, disposal price and the name of the employee. We are talking about something like a motor car. So it means that if a procuring entity wants to dispose of a motor care, for example, to one of its employees and the value is over \$100,000, they must communicate with the Office and let the Office of Public Procurement know, so that action can be taken if necessary.

Eight, Evaluation. These evaluation Regulations outline the factors that should be considered when evaluating submissions, including both the price and non-price factors. There is a general concern that public bodies when evaluating procurement submissions are concerned only with the lowest price and do not properly evaluate life cycle costs. So somebody may bid to supply an item, or may bid to provide some form of construction, but using inferior materials or using materials that are difficult to maintain, and this now empowers procuring entities to look, not just at price, but look at quality and to look at the item over its life cycle, which only makes sense. That is quite commonplace in developed countries. So this now requires that life cycle costing methodology be used to establish the total cost of ownership, which results in the achievement of one of the core principles of the Act, which is value for money.

The easiest example I can think of that is machinery and equipment. Somebody may tender, they may be lowest bidder, but the equipment may not be durable, it may mash up within a couple of weeks and, therefore, the entire exercise would be an exercise in futility. So this now requires procurement entities to not just look at the actual bid price, but also at the life cycle costs of the equipment. That is very, very important. There are so many items that are being procured in the public space, that within a short period of time have to be put aside and cannot be used and, therefore, one must look at all elements of price.

The ninth set of Regulations is the miscellaneous Regulations. This allows the board, through section 16 of the Act, to appoint committees for providing advice on any matter within its functions. This sets out a transparent method of appointments to these types of committees. So we will know who is advising the Office of the Procurement Regulator, the board, under Regulation 3(2), by way of a public invitation in at least one newspaper, of such proposed appointments. So the board or the Office of Procurement Regulation will not be able to appoint persons to advise it in secret. Regulations will also set out terms and conditions under which these members would operate.

Section 63(2) of the Act stipulates that any contravention of the Regulations made to give effect to the provisions of the Act, could result in penalties being applied, and this even extends to committee members who may give the Procurement Regulator bad advice.

Finally, the Public Procurement and Disposal of Public Property (Procurement of Consultants) Regulations. This set of Regulations, the tenth and last outline the procurement methods by which consultants may be engaged. Procurement options for engaging consultants include utilizing sole source, where

there is only one firm that has the necessary expertise and track record, singles source, open tendering or the use of pre-qualification or preselection lists, depending on the circumstances.

These Regulations also require consultants to submit a technical and financial proposal, and outline the evaluation methods that can be utilized based on the nature of the consultant. Mr. Deputy Speaker, conflicts of interest among consultants and in consultancy arrangements are not new. It is well known that you have consultants who also have an interest in construction and, therefore, may give bad advice. These Regulations make it clear that where conflicts are found, the consultancy will be disqualified.

So, Mr. Deputy Speaker, I think I have traversed the Regulations. Do I have just a few more minutes?

**Mr. Deputy Speaker:** You have six minutes.

**Hon. C. Imbert:** Six minutes, thank you very much. I want to go back to the reason why we are here. I want to just reemphasize that when these Regulations are passed by this honourable House, which I expect they will be, and passed in the other place, which again I will seek to obtain the support of the other place. In fact, I must say that we have had quite substantive comments coming from a Senator in the other place, which were very helpful to us and we incorporated quite a few of them.

When these Regulations are passed in this place and in the other place and we proclaim this Act, we deal with the other Regulations, which are already drafted by the way. I must say that. The Regulations that do not require affirmative resolution have already been drafted, and will be laid in Parliament in short order. When we do that, we are going to be involved in a paradigm shift from what

occurs at this point in time, where although a state-owned enterprise is a public body, the court at this point in time has held, both in Trinidad and abroad, in the United Kingdom, in Australia in particular, in Canada, where a lot of the learning has come with respect to the amenability of contract awards by state enterprises to judicial review.

The current paradigm is that the commercial decisions of state enterprises are not subject to judicial review, unless a prima facie case of fraud, corruption or bad faith can be established. I want to repeat that. At this time, the commercial decisions of state enterprises are not subject to judicial review in Trinidad and Tobago, unless a prima facie case of fraud, corruption or bad faith can be established.

### **3.15 p.m.**

What this is going to do now is going to allow someone who feels that the persons who evaluated his bid did not give him the correct number of points or did not take into account all the features of this bid or his particular circumstances, this will now allow the Office of Procurement Regulation to get involved and sit in the shoes of the evaluators of the tender committees in state enterprises. This is a very serious move that we are making here. It is something that the country has asked for and it has taken a very long time. You would have realized, Mr. Deputy Speaker, as I went through the summary of these Regulations, because within the time permitted that is all I could do. I could simply summarize the import, effect and intent of the Regulations. This is quite sophisticated. This is quite complex. It will lead to greater transparency, there is no two ways about that, and we shall see how it affects the pace of development in the country. We shall see whether it is indeed the panacea that it is held out to be. But I am very pleased, Mr. Deputy

Speaker, to have been able to get the requisite assistance from expert consultants, from persons in my Ministry, from—

**Mr. Deputy Speaker:** Two more minutes, Member.

**Hon. C. Imbert:** Yes, thank you—from the interventions, the comments and the suggestions from the construction industry and also other stakeholders. I am very happy that we have been able to traverse this very complex path and get to the point where we are today where I am able to debate these 10 sets of Regulations and put us well on the way in the very near future to the full proclamation and implementation of the Public Procurement and Disposal of Public Property Act, and I beg to move, Mr. Deputy Speaker.

**Hon. Members:** [*Desk thumping*]

*Question proposed.*

**Mr. Deputy Speaker:** And note, hon. Members, you are reminded that leave has been granted for Motions No. 1 to 10 to be debated together. I think I recognize the Member for Oropouche East.

**Hon. Members:** [*Desk thumping*]

**Mr. Deputy Speaker:** And, Member for Oropouche East, you have 45 minutes.

**Dr. Roodal Moonilal (Oropouche East):** Okay. Thank you. Thank you, Mr. Deputy Speaker. Mr. Deputy Speaker, may I begin, of course, on this day, by wishing your good self, all parliamentary colleagues, members of the administration, staff of the Parliament, including our security, a very happy, prosperous and very safe 2022.

Mr. Deputy Speaker, indeed this is a historic occasion that has been the subject of much anticipation that we would debate 10 sets of Regulations pursuant to the procurement Act, the public procurement Act. It is, of course, as the Minister



indicated, somewhat of a complex body of Regulations that synchronizes itself with the parent, the public procurement Act, and therefore it requires some understanding of the Act but also some understanding of the principles inherent in the parent Act and the elements of public laws, the Minister indicated, inherent in the body of Regulations.

Like the Minister before me, I would also like to set the context for this debate from our perspective, Mr. Deputy Speaker, to indicate that those of us in the Opposition and particularly myself, I think, the Member for Siparia, and a couple others, in a way we have shepherded the discussion, the public discussion, the parliamentary discussion, the parliamentary process dealing with public procurement. We have had the opportunity during our term in 2010 to 2014 to be au courant with the development of this law and indeed by 2014 to be part of a historic Parliament that passed the parent Act.

We have waited a long time and therefore it is not a debate that we take lightly given the complexity of the matters involved, given the depth of issues, given the practice of business. And while we will look at complex issues in matters like this, Mr. Deputy Speaker, and we will try to understand the application, we must also stand in the shoes of those persons and those entities that would be affected by these Regulations whether it is the contractor, the supplier, whether it is a foreign entity, whether it is a lone operator, a sole operator offering goods and services to state enterprises and so on, they are the ones that would be impacted by these Regulations and therefore, it is our duty to explain in as simple terms as we can the implementation and the operationalization of these Regulations.

Mr. Deputy Speaker, I begin with the end of an editorial in the *Guardian* of Friday 14, 2022, today. The title of the editorial of the *Guardian* today is, "Public

procurement in limbo”. And, of course, it is not my desire to read the entire editorial which is a very pertinent and relevant editorial given what we are doing this afternoon. But it ends with an interesting comment.

“...following...”

And I quote:

“...following today’s sitting of Parliament, the final hurdle in the way full implementation will be crossed. Hopefully...”

The Minister, on one but on two occasions, indicated the importance of these measures as to the full proclamation of the legislation. But at no time did the Minister venture to tell us when we would find the full implementation of this legislation. So that the newspaper stating:

“Hopefully, following today’s sitting of Parliament, the final hurdle in the way of full implementation will be crossed.”

I will indicate to the editor, do not hold your breath. Do not hold your breath.

Mr. Deputy Speaker, today we are dealing with several areas, and just to recap it fully, we are dealing with the areas concerning record of proceedings, challenge proceedings, ineligibility proceedings, retention and disposal, evaluation, participation, prequalification and preselection, procurement methods and procedure and procurement of consultants which the Minister dealt with at the end of his presentation. Mr. Deputy Speaker, to alert you that several of my colleagues are able and willing to participate in this debate and we would indeed speak to all these areas but certain colleagues, of course, would concentrate on one area or the other. I intend to speak, Mr. Deputy Speaker, on the area of consultants and participation.

Mr. Deputy Speaker, by way of introduction, these procurement Regulations

were forwarded to the Minister of Finance in and around November 30, 2018, three years ago. The Minister admitted that he did receive 48 or 43 pages of recommendations three years ago. The procurement regulator was appointed in January 2018 which means he wasted little time in getting to work on these matters to operationalize the Act.

Mr. Deputy Speaker, the Sixth Report of the Joint Select Committee on Finance and Legal Affairs on an Inquiry into the Implementation of the New Procurement System in the Fourth Session of the 2018/2019 year of the Eleventh Parliament had this to say:

“During the period July 5<sup>th</sup> 2018 to August 2018, a consultant was engaged with the assistance of the IADB to conduct an analysis of the legal framework and drafting of the procurement regulations.”

These:

“...Regulations were sent to the Ministry of Finance on November 30, 2018 pursuant to Section 63 of the Act...”—

—which the Minister identified and was:

“...scheduled to undergo...”—parliamentary—“...consideration by February 2019.”

It is to be appreciated, Mr. Deputy Speaker, that the Regulations produced by the regulator and his team were generally comprehensive and detailed and for that the regulator should be seen as separate and apart from the Minister of Finance in this debate. While it may be that the Regulations submitted in 2018 were the subject of review and senior counsel’s advice on the invitation of the Minister, as he indicated, amended Regulations were submitted by the Office of Procurement Regulation since the 3<sup>rd</sup> of March, 2019. That is a matter, Mr. Deputy Speaker, of

public record.

In the 2019 national budget, the Minister of Finance declared that the Act would be fully proclaimed by March 2019. And, I go back to the point I made earlier that today, with the Regulations in hand, and on the verge of passage as the Minister claimed, we still do not have a date on which this piece of legislation would be fully proclaimed.

This has been the song and dance of the Minister of Finance for every budget. In a release on the 14<sup>th</sup> of January, 2019 *Trinidad Express*, Mr. Deputy Speaker, the Minister of Finance stated and I quote—January 2019:

“The Regulations are therefore not a trivial matter and must be subjected to thorough and rational examination by the Ministry of Finance.”

In the *Guardian* of 19<sup>th</sup> of September, 2019, the procurement regulator stated that:

“...the Office—of the Procurement has ‘gone through pains’ to draft all the regulations and complete the handbooks that prescribe how public bodies...”—and state bodies—“...should contract goods and services and dispose of public property.”

The—Mr. Lalchan, I believe:

“...said his office submitted all remaining documents to the Minister of Finance on September 2...”—2019. He was “...hopeful...”—that—“the stated intentions of the Prime Minister...”—and the Government—“...to have the regulations passed...”—by—“...December”—2019—“...will become a reality.”

Well, he was wrong.

Today, this Government has brought the Regulations to debate on the floor January 2022. That, Mr. Deputy Speaker, is the beginning of our position today

that the delay has been, we believe, planned, intentional. It was not a delay due to accident, due to COVID, although they may argue that COVID may have influenced this as well.

Mr. Deputy Speaker, a couple days ago, I believe, it was on Wednesday last, I had the displeasure of witnessing a live, on my computer, a live session, proceedings of the Public Accounts Committee on Wednesday 12<sup>th</sup> a couple days ago. And, Mr. Deputy Speaker, like the rest of the national community, I stood there in shock looking on at this, when we were told on that public televised broadcast of the Public Accounts Committee that of the 314 agencies that the OPR expected to respond to their query about the state of readiness to implement the Public Procurement and Disposal of Public Property Act, only 70 responded. So on the matter of implementation of these Regulations, 10 sets of Regulations before us today, all synchronizing with aspects of the Act, we are told 48 hours ago that 70 responded out of 314 agencies approached.

Now, Mr. Deputy Speaker, the Minister may want to tell us something about this. If 70 responded and we are not sure which are the 70 at this time, what is the state of readiness of the state sector to implement the Regulations that we have before us today? That is the first thing.

So it may take another three years, five years, 10 years? When? You would have thought, Mr. Deputy Speaker, that given the time that would have passed between 2014 to 2022, state enterprises would have been putting their house in order and be eager and excited to respond to a Public Accounts Committee through the OPR that they were in a state of readiness, that they had put systems and institutions in place. But 70 out of 318 indicated—and they responded. That does not mean that they are in a state of readiness. It means they responded.

Mr. Deputy Speaker, the—Mr. Lalchan, Mr. Moonilal Lalchan, and let me say from the beginning, no. No relation at all between myself and the goodly gentleman. In fact, I will suffer in comparison with him, indicated that that organization, this institution was still a toothless dog, was still toothless in dealing with the issues of day.

So the Regulations, if approved today, there will be no rush to implement because they cannot implement by virtue of not having codes of conduct, not having audits and so on in place which are requirements of the Act. This will further delay the benefit of having the Regulations in place. It will further delay that.

They advised that they were not in any position to ensure compliance because the Regulations were not in place and 70 responded out of 314. Their programme of activities were not synchronized with the implementation of the Act itself. So that it suggests that the Minister of Finance may have failed, and his collaborators, to put in place the requisite processes, programmes, initiatives, to protect the public purse, to ensure transparency and accountability for the procurement, retention and disposal of public property. The Ministry of Finance has not acted to ensure that these agencies even comply with requests from the Office of Procurement Regulation. They could not even comply with a request. So they are not anxious to account.

Of the 314 agencies that these Regulations now will apply to, 20 had a code of conduct. The rest did not or did not respond; 20 out of 314. So that despite the passage of the legislation, the regulator has been forced to operate under the confines of the Central Tenders Board Act for the last six years. It means that the CTB legislation was recognized as weak and deficient in multiple areas but

continues in place.

So having recognized the deficiencies and put legislation to address them, it is highly suspicious that the Minister appears today to suggest that having passed these legislations we will have, we will be any closer to implementing and proclaiming the public procurement Act and that, I think, is a naked truth that we must confront immediately.

We want to go on record to indicate that the Office of Procurement Regulation has done a job, a good job in providing substantial amount of preparatory work but this will come to naught because of the disregard of the vast majority of state enterprises. And, Mr. Deputy Speaker, I wanted to throw on the table early o'clock the recommendation that we should probably be thinking not only of institutional advancement by way of the law before us and the Regulations but within the management of the Government itself.

Mr. Deputy Speaker, I want to get to some of the issues raised by the Minister in terms of the various areas of the Regulations that the Minister outlined. The—incidentally, the Minister indicated that he did procure the services of an attorney to advise him on the Regulations but did not indicate the identity of the attorney that he procured, the identity of the consultants. He did not indicate that. But he spent some time telling us about the position as it relates to the court in using the two cases Spancrete and NH International to suggest that the issue of inefficient elements of public law was a critical issue that the Regulations are now addressing and went on to deal with that. And there are limited principles under which you can access the court to overturn a decision of a procuring entity.

We have also learnt, Mr. Deputy Speaker, that the Regulations broken up as they are, also specify issues of local content, of building, contractor and supplier

database and having those databases, so to speak, accessible as well and updated through a process that will allow for the Office Procurement Regulation to be on top of the issues as it relate to accessing contracts, accessing state facilities for the supply of goods and services. But, Mr. Deputy Speaker, it comes back to the root point. If today 70 out of 314 procurement entities responded, to what extent could we expect them to be developing in-house databases of suppliers and contractors and updating on technical and financial information of suppliers and contractors? To what extent? So I think we are hoping and over-hoping that this matter could resolve itself bearing in mind that the entities themselves are nowhere close implementing the procurement legislation.

Mr. Deputy Speaker, notwithstanding their promises in manifesto after manifesto in 2015 and thereon that they will implement this, in 2015 in particular. Today, seven years later, Mr. Deputy Speaker, we are no closer to implementing notwithstanding the delayed arrival of the Regulations on the floor of the Parliament for debate.

Mr. Deputy Speaker, this country has had an amazing history of improper procurement. And I just wanted to remind ourselves that notwithstanding the laudable ideals of procurement legislation, the time it takes and the issues associated with it, I recall because, Mr. Deputy Speaker, I have been around, I have been around sometime where this country spent over \$230 million on something called Project Pride which was to begin construction of a new airport in the 1995/2000 period somewhere there we were looking at that and between '91 to '95, \$230 million on Project Pride.

We had here procuring of consultancy services and I will get to consultancy services because that is where I want to sort of drill down on. Mr. Deputy Speaker,



we have had consultancy services for the development of a monorail. And few people may know that that monorail project cost, I believe, around TT \$1 billion; the Rapid Rail. Sorry, the Rapid Rail. And, Mr. Deputy Speaker, the Rapid Rail later called the rapid racket was an engineering project of \$1 billion.

**Mr. Deputy Speaker:** Hon. Member, please. You did the correct thing first but then you came back and you did something else.

**Dr. R. Moonilal:** What is that?

**Mr. Deputy Speaker:** Retract the word, please.

**Dr. R. Moonilal:** Okay, please. I will call it the Rapid Rail report. Yes. Thank you. The Rapid Rail report costing, procured at a cost of \$1 billion was later used as a foot stool by one Minister of Works because that project was completely abandoned.

Mr. Deputy Speaker, a cricket stadium here started at \$365 million, ended up at \$1.3 billion. They still to this day cannot host an international cricket match. That is a fete match stadium, \$1.3 billion. Because one of the matters that have affected us in procurement of contracts and transparency and integrity and credibility of contracts has been the matter of cost overruns, when through a process you deliberately put in costs and so on in a way to attract the favouritism, to attract a positive and favourable outcome from a selection panel and you later pack cost as you go along and call it cost overruns which Cabinets approve, which Cabinets approve. And that has been a serious problem that we have faced over the years.

Now, you can easily find other projects. And not only other projects but other governments having similar challenges. So I want to make the point in this thing. This is not a—when I raise these issues, it is not to a specific government.

All governments over the years have had these challenges because of the failure to have procurement legislation in place because of the failure to develop the law because we have failed to implement the Regulations and the law. In 2014—between 2010 and 2014 I believe that was the speediest time that was used by a Parliament to arrive at procurement legislation.

**Hon. Members:** [*Desk thumping*]

**Dr. R. Moonilal:** Passed in 2014 under the prime ministership of the Member for Siparia. And 2014 to 2022, January 2022 we are now discussing Regulations. Not the Bill, not the Act. In fact, the Act was amended several times and the purpose of amending that Act was really to remove certain areas from transparency. So you had a Bill passed 2014 as an Act and every time we came to look at the Bill, it was to reduce transparency not to increase it. Legal services, medical services, government-to-government agreements, public/private sector agreements. So every time we came to amend the procurement law, it was to water down the procurement law. Today, we come with the Regulations and I will get into this matter immediately.

We are here talking about consultants and if I can just reflect quickly, Mr. Deputy Speaker, on this area dealing with consultants. Yes. Regulations (No. 2), 2021 and there are certain arrangements here and, again, for the record let me state:

“...Procurement of consultants  
...Competitive process for selecting a Consultant  
...Selection of Consultant from among public bodies  
...Shortlisting  
...Requests for Proposal...  
...Submissions...”—and so on.

Mr. Deputy Speaker, when you plough through this, of course, it defines what is a “consultant”, “market knowledge” and so on. But at regulation 3 you have here: “Procurement of Consultants”. And the Minister indicated he procured a consultant lawyer. Now where did this happen? How did this happen? Was there a public tender? Was it from a preselected list at the Ministry of Finance? Was it because it is a specialized area and only one person and one person alone could have satisfied that?

And, Mr. Deputy Speaker, it says here:

The: “...procuring entity may utilize either the sole source or single source method of procurement where –

- (a) a Consultant is to be selected because of his”—specialized—  
“qualification”

And:

“(b) it is necessary for a Consultant to continue a project...”

—where the initial contract of award through an approved procurement process in compliance with the Act and in compliance with the Regulations.

It is the Regulations before us now, Mr. Deputy Speaker. It goes on at Regulation 4.

“A procuring entity may invite proposals via open tendering or from a listing of pre-qualified or pre-selected Consultants.”

Mr. Deputy Speaker, the most dramatic procurement of a consultant adviser to this Government was the procurement of a lobbyist in Washington by the name of Arthur Collins. We lost count when he got \$20 million. I think we lost count of how much more was involved. Every time we came to the Parliament we heard that his contract was extended. In fact, we have never heard that the contract

ended.

Now, when you have governments operating like this, taking on board lobbyists in Washington to promote the interest of Trinidad and Tobago, I ask the question, so what was the purpose of the mission there? Was this somebody selected through a single source? Through a sole tendering process? Was there some advertisement in the social media or the newspapers in Washington and elsewhere around the world to source a firm to help Trinidad and Tobago identify what was the problem what you needed? No.

We were told in this Parliament by the Prime Minister—I knew him. I think he is good at the job. I hired him. That is procurement. I knew him. I thought he is good. I hired him. That is the procurement process.

So you have here Regulations on consultants but you proceed in a particular way. You proceed in a particular way to appoint consultants outside of these Regulations. And, Mr. Deputy Speaker, we submit that there was purpose in taking seven years and maybe another seven years before implementing this. Because had these Regulations been in place, Art Collins may not have been in place. That is the truth of the matter.

Mr. Deputy Speaker, there is a process through recruiting agencies and incidentally, I believe, a Ministry is a recruiting agency, divisions of a Ministry, state enterprises. So the Ministry of Foreign and Caricom Affairs, for example, would have procured the services of lobbyists, wherever he is in the world, but they would not have used any transparent method because we were told that we know him, we like him, we hire him; procurement policy.

And this is why, Mr. Deputy Speaker, those of us on this side are very concerned with this matter before us as to the timeline it would talk. And if it is

that the Minister of State in the Ministry of Finance who carries a legacy name would be responding, he would want to tell us when are we going to proclaim and implement this fully? When would these Regulations be implemented if 70 out of 314 entities just replied? That, Mr. Deputy Speaker, is the burning question.

Mr. Deputy Speaker, last year I made a loud noise which Members on the opposite side did not like when I raised the issue of the procurement of goods by the Government in a matter that was shrouded in secrecy. I will not use other words to suggest it was nefarious, it was, you know, fraudulent and so on, but certainly secret, not other things. It was certainly secret. And when we raised the issue of the procurement in and around September 2019 of CCTV cameras at the Ministry of National Security, I was told I have an obsession with CCTV cameras.

**3.45 p.m.**

Because a process started where persons made their bidding and then it was undone, it was just cancelled with no reason given. And then from September 2019 to January 2020, we were told through the persons in the sector who were bidding, that they went and split up that job into two and invited in some way that nobody knew, invited prospective suppliers of hardware and then split it for a software maintenance to be with someone else. But they at no time, even today there are pending questions to the Ministry of National Security on this and they refused flatly to answer questions on the procurement of CCTV camera and associated services. And, Mr. Deputy Speaker, this is just an example of procurement and of consultancies that can be procured properly if and when such regulations come into being.

The other matter, of course, Mr. Deputy Speaker, today, I mean it is an ongoing matter, I know, but we are hearing so much and we accept so much

because we live in the COVID pandemic. And when you are in a COVID pandemic, a pandemic like this, you accept things without questioning, because everything you seem to believe is in the interest of public health. So sometimes if you have a question, you do not want to ask it because, public health. There is the procurement of vaccines, and all of these arrangements are now non-disclosure arrangements. Every time you ask anything about the expenditure of public funds it is non-disclosure agreement, non-disclosure this, non-disclosure this. So what is disclosure? What will we ever disclose if everything is non-disclosure in which millions of dollars are being spent?

Now, Mr. Deputy Speaker, the Minister spoke about procurement entities and he actually identified NIDCO and UDeCOTT as two key procurement entities, and clearly those entities—there are some entities that are much bigger than the others. NIDCO clearly, UDeCOTT as well, that procure goods and services. The PURE programme, for example, that procure construction services and so on. And they are now asked to develop according to these regulations an infrastructure, an institutional infrastructure to manage in a transparent way the provision of goods and services, these entities. Mr. Deputy Speaker, to remind the national community that the UDeCOTT was the subject of a commission of enquiry on the matter of procurement in 2009/2010, around there. UDeCOTT itself that presided over the cricket stadium was the subject of an enquiry.

So, Mr. Deputy Speaker, there will be little hope in these matters if the entities that are involved are not up to scratch and are not committed philosophically and are not committed to abide by the law, to implement the institutions that are required by the law and the Regulations. Mr. Deputy Speaker, the issue of high value procurement was raised by the Minister as well. High value

procurement, and we have something of a working definition of that, because those are things that you will hardly find suppliers, you will hardly find providers of those services, you will hardly find providers of those goods because they are called “high value procurement processes” and so on. And you may be in a position where you do not have an established prequalification list, so you have to secure goods and services within another context. But, Mr. Deputy Speaker, just like the CCTV camera before, you could be operating as well in an area where we lack transparency, integrity, where there is little or no public information on how you conduct business. And this is why, for example, Mr. Deputy Speaker, we even suggest that the Joint Select Committee of Parliament on National Security and other committees can be empowered to explore issues of transparency and procurement, in camera, if you so prefer, that there are sensitive national security matters and so on, they should be able to investigate these matters.

Mr. Deputy Speaker, a bulk of expenditure on consultancy fees at the higher scale would be large-scale projects. Now, when we talk of consultants, competitive processes, selection of consultants, I would go to evaluation methods now, Mr. Deputy Speaker, we must get out of our mind that this is dealing only with lower level low cost consultancies for legal services, although that may be excluded now. But in large sale projects as much as 40 per cent of a cost of a project could form—could be in the way of consultancies one way or another, because it is an ongoing matter. Consultants are hired for a project and it is ongoing, for the life of specific contracts. And, Mr. Deputy Speaker, the evaluation methods that we are now putting into the Regulations must work in tandem with the requisite area, section in the parent Act. But, Mr. Deputy Speaker, we would like to ask the Government to respond as to whether or not the two biggest agencies that deal with procurement

of consultants, UDeCOTT and NIDCO, have submitted their proposals, their strategies, their plans, their institutional arrangements to the Office of Procurement Regulation? Because they are the ones that will deal with the multibillion dollar contracts and by definition the billion dollar consultancies. They are the ones. It is not the small—at the lower level of procuring for small-scale construction work and small-scale provision of goods and services and so on.

So, Mr. Deputy Speaker, the issue of conflict of interest arises. Now, this Government is a Government that clearly have now come to epitomize and to personalize the issue of recusals, and you know this has serious, serious implications, because in the whole constitutional arrangement of this country I do not think that people foresaw, drafters foresaw that it will have Cabinet Ministers at any time who will have to recuse themselves 52 times in one year from decisions of the Cabinet. Maybe it is because that level of businessmen and entrepreneurs and other business heads may not have been in the Cabinet. But, Mr. Deputy Speaker, through a process we received information on recusals and so on and suggesting conflict of interest. Because the issue of the procurement entity not awarding a procurement contract to consultants and so on, where conflict of interest arises, really is the issue of recusing as well. And the Government has now developed this habit of two things, of having no problem with Ministers in office that recuse themselves with monotonous frequency over several matters, including matters of their own Ministry. So a Minister brings a note to Cabinet and, “I have to leave the Cabinet room because I think I am conflicted”, who brought the note.

Then, Mr. Deputy Speaker, I heard the other day the Prime Minister boasting about running a private business and earning money. I knew that Ministers cannot earn money outside of their ministerial salaries, including a Prime Minister. And I



was shocked that nobody said anything. Nobody cared. Maybe they did not believe him that he was actually earning something. But nobody cared that in a government, the head of the Government can boast about earning money outside of the public purse. And on a related matter of procurement of consultants, I want to make another issue, Mr. Deputy Speaker, and ask the question, under what circumstances do consultants work free for a government? This is something we are now hearing about as well, as part of the usual operations of Government. When we stood in the Parliament and asked the questions as to the recruitment and procurement of two retired officers, one from the police and one from the defence force, to conduct an enquiry into firearms distribution and so on, we were told by the head of government that they are working for free.

Mr. Deputy Speaker, there is a saying, “there is no free lunch”. There is no free breakfast and dinner either. But there is no free lunch. Something is intrinsically wrong with persons working for the Government for free in that way, because they may look for a favour lower down the road. They may look for a favour that they—they may look to repay a favour that they got before. So if someone, hypothetically, and none of the characters I am naming are alive or real, they are fictitious. Hypothetically if someone is given an HDC home and then six months or one year later you ask them to do something for free for the Government, they have been a recipient of something before of the administration. They may actually get something later down the road for doing the free work. So, it is not correct when you are recruiting consultants, procuring the consultants. It is incorrect, it is wrong I believe in principle for persons to be offering themselves free to the Government like this. Surely you have a stipend or you have some small fee or something, you can reduce your professional cost and so on. If you are

technically trained you reduce your cost and so on.

But a government ought not to be looking at just hiring people, pulling them from the street, no process at all and saying, “Well, yuh wuking for free”. It cannot work like that, and taking serious decisions that undermine public officers. And that is something I also raise in the context of transparency with the procurement of consultancy services. That is a serious issue I raised. Now, you may look at that and maybe the respondent to me will say, well, we want—everybody must earn money and earn large fees and so on. No, no, no, no, there must be a process, a principle where persons are consultants, they work for the Government, their credibility, integrity is at stake and they receive even if a small stipend, even if a small professional fee. But you ought not to have people to say, “working for the Government free”, as was declared in this House. It is on *Hansard* as declared in this House.

Mr. Deputy Speaker, I raise these issues of the disposal of property now which is a fundamental part of the Regulations, the disposal of property, in the context that the Government has embarked on a process well known to all—well, on identifying a process. The process is not known but the identification of an objective is known, of privatizing, selling, leasing the refinery assets. Nothing has come of that. We now have old iron at Pointe-a-Pierre which eventually scrap dealers will be bidding for, years after there was a promise. This very Minister stood up in this Parliament and banged the table with joy saying that we are so happy, a local entity, Patriotic, will take command of the refinery, and the Opposition do not like that. He banged the table. I think they had to repair the table when he was finished. Today, three years later they cannot procure, they cannot dispose of that element of public property through any transparent measure. Every

time you ask what is happening with that, “we are in the process, we are looking, we are tendering, it is an ongoing process”, and “ole iron packing up” in Pointe-a-Pierre that eventually will go to a scrapyard. This is the legacy of the disposal of public property that this Government presides over.

Now, I know that they will want to come after and talk about the People’s Partnership administration and the Beetham waste water, and the EMBDC, and all that kind of thing. And let me tell you something, the more you talk about that is the more elections you will lose. I am sure they will come with that. They will come with that. But that did not help them before, it will not help them now, because those matters—of course, I do not want to get into those matters, and I deliberately did not raise matters involving the EMBDC/HDC. Because they are matters at court, in the civil court. The Government has put case in court, so their approach is to put a case in court, taxpayers pay lawyers. That is the approach. And I hope that they would not be raising those issues that are before the court. So I just warn you of that because I did not do it. But the Beetham waste-water issue is not the procurement of a contractor to undertake a Beetham waste-water plant is not before the court. It is not, so I can address that briefly. And, Mr. Deputy Speaker, having this Government plunder and, you know, attack the Opposition for years now about this matter in terms of the contract and the procurement of—

**Mrs. Robinson-Regis:** Mr. Deputy Speaker, 48(6).

**Dr. R. Moonilal:** Oh, there is a Standing Order, sorry.

**Mrs. Robinson-Regis:** 48(6), the use of the word, “plunder”.

**Dr. R. Moonilal:** Okay, I will change the word because I really at this stage do not want to entertain that.

**Mr. Deputy Speaker:** Proceed, “nah”. When I say, as you desire change the word,

please.

**Dr. R. Moonilal:** Yes, the Government did not plunder on that matter, they attacked the Opposition.

**Mr. Deputy Speaker:** No, Member.

**Mrs. Robinson-Regis:** Mr. Deputy Speaker, Standing Order 48(6) again.

**Mr. Deputy Speaker:** Okay, so again Member—

**Dr. R. Moonilal:** Okay, I withdraw the word “plunder”.

**Mr. Deputy Speaker:** Okay.

**Dr. R. Moonilal:** Okay. The Government was very critical of the Opposition. I think we could go with the word “critical”.

**Mrs. Robinson-Regis:** Mr. Deputy Speaker, the Member is playing smart with foolishness by repeating the word over and over, 48(6).

**Dr. R. Moonilal:** Mr. Deputy Speaker, you either have a Standing Order or what are you doing? You are judging in a debate?

**Mrs. Robinson-Regis:** 48(6) Mr. Deputy Speaker. 48(6)

**Dr. R. Moonilal:** 48(1).

**Mr. Deputy Speaker:** I recognize the Leader of the House. Member, hold on.

**Mrs. Robinson-Regis:** 48(6) again, Mr. Deputy Speaker, because even as the Member is withdrawing, he is repeating the word.

**Dr. R. Moonilal:** Mr. Deputy Speaker, I withdraw the word “plunder” and I have gone past that.

**Mr. Deputy Speaker:** Member! Member, please wait. All right Member, so according to 48(6) I would like you to withdraw. Just kindly withdraw and move on.

**Dr. R. Moonilal:** Mr. Deputy Speaker, I kindly withdraw, and let me move on.

The point I am making and I pray now that there is no objection is that this Government has been over the years critical of the partnership government as it relates to an issue of the Beetham waste-water plant. I think we can safely say that. On that matter of procurement there is a hidden report at the NGC that deals with that project, indicating that the project was well worth its while, that that project could have brought relief in terms of the supply of water to residential areas by transforming the water that was there now to the industrial estates, 20 million gallons per day.

And there were bidders—there was a procurement issue there. The NGC went out and invited bidders to submit bids to continue that project, because they had gone into some arrangements with the former contractor, and there were bidders. And when the bidders came in and expressed deep interest in that project on the viability of the project, a procuring entity named NGC cancelled everything on instructions from Ministers. Because it would not look good if the Beetham waste-water project was completed, it means the partnership was on to a good thing, and that is where we are with procurement. So 20 million gallons a day, people do not have water in this country. You could not divert 20 million gallons to industrial estate and allow residents to have 20 million gallons of water a day because of your malice.

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

**Dr. R. Moonilal:** How much?

**Mr. Deputy Speaker:** Two more minutes.

**Dr. R. Moonilal:** Oh, thank you very much, Mr. Deputy Speaker. Mr. Deputy Speaker, well, in winding up in that two minutes or so, let me say that the conflict of interest matter—we dealt with the consultants matter, we dealt with. Mr. Deputy

Speaker, it is also well known that these matters would in some way influence the operations of the construction industry.

Mr. Deputy Speaker, the construction industry is not a homogenous sector. Indeed, there are several elements in that industry, including transport, of course, that will be impacted and effected by this. I would like to call on the Government as a recommendation, in closing, to have greater interfacing, greater awareness and education with the various subsectors in the construction industry to appraise them of the requirements of the Regulations now, because I think persons are aware somewhat of the parent Act. But the requirements of the legislation, not to consult as to change regulations, but really to make awareness and education as to what is required if and when these regulations are eventually implemented. Because you see in the construction sector not everybody suffers the same, certain course and certain processes that a large-scale contractor can undertake, a small contractor finds it difficult. And therefore the awareness is very important, because this means increase in cost for small-scale operators in the sector.

So, Mr. Deputy Speaker, there are other speakers who will appear after me and deal with specific areas. We wanted in opening just to indicate our general feelings on the matter, to indicate that it is very important that the United National Congress and the Partnership Government today has the historic duty to participate in this matter since it was our administration that introduced into Parliament, and passed the procurement of public property Act, 2014. Mr. Deputy Speaker, thank you.

**Hon. Members:** [*Desk thumping*]

**Mr. Deputy Speaker:** I recognize the Member for Port of Spain North/St. Ann's West.

**Hon. Members:** [*Desk thumping*]

**Mr. Deputy Speaker:** Member, on entering the debate you have 20 minutes.

**The Minister of Energy and Energy Industries and Minister in the Office of the Prime Minister (Hon. Stuart Young):** Thank you very much, Mr. Deputy Speaker, and allow me to thank my colleagues for allowing me to enter the debate a little earlier than expected. At the outset, Mr. Deputy Speaker, the reason for that is as I sat there listening to the previous speaker, the Member for Oropouche East, I had to leave the Chamber because my stomach started to churn. Because the audacity with which the Member for Oropouche East came in his normal flamboyant style to attempt to put forward facts to the population, through you, Mr. Deputy Speaker, it became critical and important that I immediately seek the leave of my colleague to respond to the Member for Oropouche East, lest we leave any of that attempt to rewrite history on the books unattended to.

So let me say first of all, Mr. Deputy Speaker, it is a little bewildering to listen to some of the examples given with respect to improper procurement or a suggestion by the former Member, the former speaker, as to what is improper procurement. Let us start with some live examples in response, and the one that I picked up the back end of, coming to the end, and I was a little stunned, so I actually had to stop, pause, turn up the volume to hear if he was really referring, the Member for Oropouche East, to the Beetham waste-water project. So I was in an office and the volume was turned up, and when I heard the Member try to put a spin on that now and change and rewrite and liquid paper off history, allow me, through you, Mr. Deputy Speaker, to remind the population of the irrefutable facts with respect to the Beetham waste-water plant. Because you see, it was a PNM opposition in 2014 to 2015 that first alerted the population to the abuse of procurement that was about

to take place with the award of the Beetham waste-water project.

**Hon. Members:** [*Desk thumping*]

**Hon. S. Young:** In fact, my recollection is that was a PNM opposition that came to the Parliament to attempt to raise it, saw it so important to prevent the wastage of over a billion dollars in cash, \$1 billion in cash.

Because you see, Mr. Deputy Speaker, one of the ways utilized in that period to get around not only proper procurement, because procurement is only part of the puzzle. Let us not fool ourselves. The other piece of the puzzle is that after a contract is awarded, the management of it, and when you borrow money and you have agencies who are interested how their money is being spent, for example the IDB or a bank, what they will do is they will appoint quantity surveyors to oversee the work, to make sure that prior to money being paid there is some quantity survey or some engineer who looks to make sure that the work being paid for has actually been done.

So let us start with the Beetham waste-water project that the Member for Oropouche East cherry picked as one to give an example and to try and spin it once again on NGC and how NGC did not, when there were other persons interested in finishing this project at \$300 million, NGC was instructed by Ministers to stop and not spend taxpayers \$300. That is not even accepted. The Beetham waste-water project was awarded to a company called SIS by NGC. First question for the people of Trinidad and Tobago, why did a UNC government use NGC, National Gas Company, to deal with a waste-water treatment plant? Was it because there was a pot of cash at NGC that they did not need anybody to oversee, as Ministers and others gave instructions as to how to award the contract? First point.

Second point, the bid that was put in by SIS who have absolutely no



experience in building a waste-water plant was \$400 million over the value of what the plant should have been. So out of a billion dollars awarded, it was \$400 million at the outset overvalue, and you come here today to talk about \$300 million to finish it. Then let the population of Trinidad and Tobago be reminded, at the end, thankfully, in 2015 when the population elected a PNM Government and we came in, what was it that SIS who is in Piarco Airport on his way to Panama, where there is no extradition treaty, what was he saying? The reason to terminate the contract was because the then Leader of the Opposition and Minister from Diego Martin West, and the Member for Diego Martin North/East, talked about him on a platform, so he “cah” finish the project because he is now worried. So we come in and we do an assessment in a proper way. You want to talk about consultants, et cetera. We came in, quantity surveyors were brought in, experts were brought in, and you know what they came up with when they went in and they checked the documentation? Over 80 per cent of the billion dollars, so over \$800 million in cash spent, how much work done? Less than 40 per cent. Let the people of Trinidad and Tobago know that is UNC procurement, UNC carrying out of contract, and UNC expenditure of their taxpaying dollars with no protection.

**Hon. Members:** [*Desk thumping*]

**Hon. S. Young:** So on that one project overpriced by \$400 million, over \$800 million of NGC’s cash paid out, so it is difficult now sometimes as the Minister of Energy and Energy Affairs to sit here and listen to them attack NGC which was left without any cash at the end of their tenure, and now put in a period where there is a lot of work to be done. If we had the \$16 billion that they went spending all over, and the other one, the advertising campaign, again consultants, I wonder what was the selective process for that? “Happiness.” Who in 2015 remembers

waking up every morning, opening your newspaper to full page spreads of “happiness” by NGC, and the payment of one of their favourite PR consultants?

So do not come here now today to talk about delay in procurement legislation. Because I recall debating this procurement legislation as they tried at the last minute to pull the wool on the population in 2014/2015 as a temporary Opposition Senator and raising concerns about the procurement legislation then. Nothing was procured, nothing was done, nothing was proclaimed. You talked about Beetham. Let me give another good example of proper procurement UNC-style: the Curepe interchange. What do we as the population know about the Curepe Interchange? They put it out, one contractor selected, it leads to a fight in a Cabinet between two Ministers. One Minister fired, because she should not have raised any questions about who they were awarding this contract to for \$500 million. Three contractors then upset because how he could get it and the two of us cannot get any piece. What was the response to that in procurement? What was the response to that by regulator and every nice word they want to use? Split it in three, “all ah we go share in piece”. So one contractor was to get the road leading up to Curepe, another contractor to get the piece going over the highway, and the third contractor, well, you take the piece going south ,“nah”. And what happened with that attempt? It came up to over \$500 million. So they could not stomach over \$500 million. Again thankfully, along rolled September 2015, a PNM administration comes in, scraps all of that, and we go out for competitive tender.

Because you see I want to make the point, Mr. Deputy Speaker, this legislation is not going to be the solution to everything. In fact, some believe, including myself, it may create problems in other areas, but the population has called for it. We are going for it. The Regulations are here to be debated today, but

let us finish the Curepe Interchange story. Remember the story, \$500 million split it three ways amongst three contractors, but when they put in their bids for those three pieces the whole thing was supposed to cost 500 under them. It went up above five, they said no, let us press pause because, of course, elections rolling around. We come in, competitive tender, and for the people of Trinidad and Tobago, that Curepe Interchange was built at \$219 million.

**Hon. Members:** [*Desk thumping*]

**Hon. S. Young:** Savings without the procurement legislation. Because you see, it is how you conduct your business. It is how you transact the business of your house. It is how you look after the people's money. Again, I listened to the Member for Oropouche East and what came to mind, put your mind back to just around before the election, EMBD. So EMBD, they go out, they borrow over \$400 million to fix roads. Where is the procurement? They invite selected contractors. What happens? Five contractors split up all the contracts. Money all paid out, over \$400 million. This is procurement. This is what we are talking about, over \$400 million paid out.

**4.15 p.m.**

What happens? When we come in, we assess the work—

**Mr. Lee:** Mr. Deputy Speaker—

**Hon. S. Young:**—work not done.

**Mr. Lee:** Mr. Deputy Speaker, I think that matter is sub judice. It is in the court—

**Mr. Hosein:** And you put it there.

**Mr. Lee:**—and the Minister knows that. A determine of—

**Mr. Deputy Speaker:** Member you have a determination of where it is at?

**Mr. Lee:** No, it is in the court, Deputy Speaker. So it is sub judice.

**Mr. Deputy Speaker:** Member, I will give you a little leeway and then I will—

**Hon. S. Young:** Thank you. Yes, I heard one of them bawl out on the other side I put it in court.

**Mr. Deputy Speaker:** Hold on! No, Member. Please, just retract that statement “one of them” please, properly.

**Hon. S. Young:** The Member for Barataria/San Juan just shouted out I put it in court. Yes, I am happy to have overseen the work that again has saved taxpayers hundreds of millions of dollars, and as a result of that have certain people before the court and a judge ruled that there is a case to answer. I have not breached any sub judice.

**Mr. Hosein:** Mr. Deputy Speaker, Standing Order 49. The Member even admitted that there is a ruling in this matter already on a preliminary point.

**Mr. Deputy Speaker:** Barataria/San Juan—

**Mr. Hosein:** This matter is sub judice.

**Mr. Deputy Speaker:**—I will entertain you in your proper seat please. Once you are addressing the Chair, I would like you in your proper seat. Proceed.

**Hon. S. Young:** Thank you very much. So yes, I expect that kind of nervousness there, right. Another one—because you see it is important that the people put into context as we come here to debate today, Mr. Deputy Speaker, have an understanding of some of the ills we are trying to fix. But the point is even with the Regulations, even with the legislation, even now that you put a proper structure in place to try and improve procurement, it is not going to solve everything because there is a stage after the award of the contract and that is one of the points that I am making here today, through you, Mr. Deputy Speaker. After the award of the contract how do you carry it out?

So we heard about cost overruns, we heard about rapid rail, cricket stadium, but these are some of the points, the Chaguaramas Boardwalk, Eden Gardens. Would these Regulations have helped in Eden Gardens? Who was the Minister of Housing at the time that took the Cabinet Note to Eden Gardens to have the taxpayers pay \$175 million for a \$50 million property; and where did that extra \$125 million go? So do not come here today and fight about how you choose a consultant and talk about Art Collins. One day we will tell the story of Mr. Art Collins and how the Member for Oropouche East has a personal knowledge of Mr. Art Collins and the room that he sat down in with Mr. Art Collins.

**Mr. Indarsingh:** Mr. Deputy Speaker, 48(6).

**Hon. S. Young:** What is the 48(6)? Because you are sitting down in a room?

**Mr. Deputy Speaker:** Hold on. Hon. Members, again we are still early in the debate—all right?—and I believe that the Member is responding based on what has been entered into the debate at this time. So again, proceed.

**Hon. S. Young:** Thank you very much. It is a direct response. I did not see Mr. Art Collins' name in any paper before us. The Member for Oropouche East had the gall to go into the booth again and raise Mr. Art Collins who is not here to defend himself. What is the improper motive? That you were sitting in a room with Mr. Art Collins at a particular time? I have not said what you said in the room because that might expose an improper motive. Right?

**Dr. Moonilal:** You “was” not in the room.

**Hon. S. Young:** Let us get now to this other one that he likes—the Member for Oropouche East loves to talk about procurement of CCTV camera at national security. So I am responding to that. Because yes, I have said it and I will repeat it again today, he is obsessed with it. But I have now figured out why. I now

understand why he has an obsession with the maintenance of those cameras and where the information comes from. So let me put it again on the record for the people of Trinidad and Tobago.

This PNM administration went out for a tender on CCTV cameras. When it came down there were attempts to frustrate the tendering process, the procurement process, but in the end we prevailed and saved the taxpayers over \$300 million. And you see I listened carefully for the Member for Oropouche East today. He said about breaking up the contract, one for equipment, one for this, one for maintenance, and from the time I heard maintenance my ears perked up because that for me was the confirmation of what his continuous utterances about it are. Because yes there were contracts for maintenance. And you see when you break up these types of things that are improperly procured in the first place you rustle the pockets of some, and those some who are no longer able to feed off of the taxpayer go running for a mouth piece, but at the right time it will all come out. At the right time because there is nothing wrong. And I am telling the people of Trinidad and Tobago without fear of contradiction, despite the attempts of persons to frustrate that tender process—

**Mr. Deputy Speaker:** Hon. Members, please. Each one will have the opportunity to enter the debate. No shouting or utterances audible enough across the Chamber. Proceed.

**Hon. S. Young:** Thank you very much, Mr.—

**Mr. Deputy Speaker:** Member, as I am on my feet, you have roughly just about three minutes.

**Hon. S. Young:** Three minutes. Thank you very much.

**Mr. Deputy Speaker:** Three to four minutes.

**Hon. S. Young:** So I want to assure the people of Trinidad and Tobago on that CCTV contract—first of all there is another one that constantly he likes to ask: What is the status of the camera? Over 85 per cent, if not 90 per cent of all the cameras are currently working. That contract that people try to frustrate—there was actually a police investigation.

I wrote as the Minister of National Security, to the Commissioner of Police, asking for a police investigation into that procurement process because there were persons who tried to make files go missing to ensure that there was not a proper award of contract. But you see you must listen carefully, and those who make the most noise is two things you learn, “empty barrels makes the most noise”, but then there is another saying, “when stone pelting he who bawling, watch them”.

**Hon. Members:** [*Desk thumping*]

**Hon. S. Young:** So, Mr. Deputy Speaker, it was important to be allowed the opportunity to come in and to enter the debate to directly respond to some of the utterances from the previous speaker. The other speakers for this side who will follow, I am certain will pick up where we should be which is a proper intellectual conversation with respect to the Regulations that are before us which is what I was preparing to come to deal with today, but when I heard the barrel making the noise it was important to respond.

**Mr. Deputy Speaker:** Please, retract that.

**Hon. S. Young:** The Member for Oropouche East—

**Mr. Deputy Speaker:** Retract—

**Hon. S. Young:** I retract it. Sorry, Mr. Deputy Speaker. The reference “the barrel” is retracted—

**Mr. Deputy Speaker:** No, no, no.

Public Procurement and Disposal of  
Public Property Regulations, 2021  
Hon. S. Young (cont'd)

**Hon. S. Young:**—in full.

**Mr. Deputy Speaker:** Member—

**Hon. S. Young:** I retract the statement

**Mr. Deputy Speaker:**—just retract.

**Hon. S. Young:**—in full and I appreciate the opportunity to be allowed to properly correct the record to put onto the *Hansard* here this afternoon, procurement the UNC way. Thank you.

**Hon. Members:** [*Desk thumping*]

**Mr. Deputy Speaker:** I recognize the Member for Barataria/San Juan.

**Hon. Members:** [*Desk thumping*]

**Mr. Saddam Hosein** (*Barataria/San Juan*): Thank you very much, Mr. Deputy Speaker.

**Mr. Deputy Speaker:** Member, you have 20 minutes.

**Mr. S. Hosein:** Thank you. Thank you very much, Mr. Deputy Speaker, for allowing me to enter into this debate, and I also would like to take this opportunity to wish my colleagues on both sides of this House, the staff of the Parliament, a Happy New Year and all the best for 2022. And, Mr. Deputy Speaker, you think that as we enter into a new year persons may have resolutions to change the way in which they behave, but it seems as though the Member for Port of Spain North/St. Ann's West cannot change the way he is. Not a single Regulation he has quoted in his entire 20 minutes. Not a single Regulation. And in fact, we have 10 pieces of Regulations—10—and not a single one he bothered to quote. Just to come here and cause bacchanal and “lacaray” in this place.

**Hon. Members:** [*Desk thumping*]

**Mr. S. Hosein:** The Member did not even bother to say how these Regulations



would defend the Regulations; how they are going to improve the manner in which procurement will take place via state agencies. He could not give us a commitment to tell us when these Regulations will come into force or will the entire Act be fully proclaimed and operationalized. Not a mention of that, but come to talk about things and stories as he termed them, six, seven, eight, nine, 10 years ago.

You see, the Member for Port of Spain North/St. Ann's West had no confidence in his own colleague, the Member for San Fernando East, to respond to the Member for Oropouche East. That is why he stood up to respond because they were afraid that we talk about what took place with UDeCOTT and a "fella" called Calder Hart in this country.

**Hon. Members:** [*Desk thumping*]

**Mr. S. Hosein:** They want us to remove that from the history books of Trinidad and Tobago, but I am compelled after that contribution by the Minister of Energy and Energy Industries to remind the country of the billions that went missing under the former Prime Minister, Mr. Manning, and UDeCOTT, and Mr. Calder Hart.

Mr. Deputy Speaker, we had church building in Guanapo. We had people call PM in this country, you did not even know if it was the Prime Minister or the project manager.

**Hon. Members:** [*Desk thumping*]

**Mr. S. Hosein:** Mr. Deputy Speaker, he speaks of the Beetham Wastewater plant. Today, people in this country cannot get water. Had that plant been operationalized, there would have been an additional 20 million gallons of water in this country.

**Hon. Members:** [*Desk thumping*]

**Mr. S. Hosein:** Twenty million gallons. And it is so hypocritical for the Member

for Port of Spain North/St. Ann's West to come here to talk about corruption and to talk about conflicts of interest, when he had to recuse himself over 50 times from the Cabinet—

**Hon. Members:** [*Desk thumping*]

**Mr. S. Hosein:**—because his family member was the beneficiary of—

**Mr. Al-Rawi:** Mr. Deputy Speaker, I rise on Standing Order 48(1) and 48(6) on this particular point, the last contribution made by hon. Member.

**Hon. Members:** [*Crosstalk*]

**Mr. Deputy Speaker:** I need no assistance. I need no assistance whatsoever. So again—hon. AG overruled at this time, but again I need to make a statement at this time. Yes, we have 10 Regulation guidelines before us—right, Members?—so to please consider it and let us proceed.

**Mr. S. Hosein:** Thank you.

**Mr. Deputy Speaker:** Move on.

**Mr. S. Hosein:** You see, Mr. Deputy Speaker, the Member for Port of Spain North/St. Ann's West gave several stories and he talked about Beetham Wastewater, he talked about EMBD. He about—he spoke of several matters, Curepe Interchange. Which one of those matters are currently in a criminal court in Trinidad and Tobago?

**Hon. Members:** [*Desk thumping*]

**Mr. S. Hosein:** Which one of those have been arrested or charged? The Member for Oropouche East can sleep well at night. None of his family members are charged. I do not know if the same for Port of Spain North/St. Ann's West.

**Hon. Members:** [*Desk thumping*]

**Mr. S. Hosein:** You see—

**Mr. Al-Rawi:** Mr. Deputy Speaker, Standing Order 48(1). Mr. Deputy Speaker, I have no problems with references to issues, but an ad hominem debate on Port of Spain North/St. Ann's West is brought by way of a substantive motion. That is the simple point I am making on 48(1).

**Mr. Ram:** [*Inaudible*]

**Mr. Deputy Speaker:** Member for Caroni Central, I said I need no assistance in handling the portfolio here. Please, that is the second time. Again, Barataria/San Juan, again, let us stick to the debate. Let us stick to the Motion before us, the Regulation before us as we continue along.

**Mr. S. Hosein:** Yes. Thank you very much, Mr. Deputy Speaker. There is just one point I would like to rebut again because it was a point that was repeated and I think the record cannot go unanswered, and it is the Curepe Interchange project. You see, the Minister did not bother to tell the House that the scope of works was reduced by this Government, and he did not bother to tell the House how much a certain person was paid for a particular land called Kay Donna.

**Hon. Members:** [*Desk thumping*]

**Mr. S. Hosein:** But, Mr. Deputy Speaker, I leave that right there. You see, had the Member come with a sensible debate we would have been able to respond to the issues put. But, Mr. Deputy Speaker, I think I owe the population an opportunity and a chance now to understand what this Parliament is doing. And we have to look at the objectives of this particular piece of law, and this is a particular piece of law that was passed in the year 2014, and it is Act No, 1 of 2015. And if you look at the Preamble of this particular piece of legislation, Act 1 of 2015, it reads as follows:

It is—"An act to provide for public procurement, and for the retention and

disposal of public property, in accordance with the principles of good governance, namely accountability, transparency, integrity and value for money, the establishment of the Office of Procurement Regulation, the repeal of the Central Tenders Board...and related matters.”

And I put that on record, Mr. Deputy Speaker, because these particular Regulations were dragged from the year 2015 when this PNM Government took office. They did not bother, Mr. Deputy Speaker, to have these Regulations properly drafted and brought to this Parliament.

These Regulations were first prepared sometime in 2019. We are now in the year 2022 and we are now debating this. But you see what they did, Mr. Deputy Speaker, is took that intervening period of time to gut the procurement legislation—to gut it. Because while the 2015 Act was very strong in terms of protecting the public purse, in terms of protecting state agencies and Ministries from abusing taxpayers’ money, what this Government’s policy, via legislation, did was to gut the procurement legislation. And, Mr. Deputy Speaker, I would like to focus a little on the regulations that deal with the ineligibility listing. You see, that is in particular a blacklist. So in that piece of Regulations—it is No. 3 on the Order Paper—that deals with those persons who would have gone through the particular process and then be placed on an eligibility list. And if we look at section 58 of the Act it says that this list means:

“...a list of suppliers or contractors who shall not participate in procurement proceedings;”

So, Mr. Deputy Speaker, this is a very important matter because of the consequences in which it carries. But when I mentioned earlier that the Government has gutted the procurement legislation we have to read it together

with the amendments made. And when you look at Act 27 of 2020, which is, “An Act to amend the Public Procurement and Disposal of Public Property Act”, there is a group or a menu of things that will not fall under the procurement law or the scrutiny of the Procurement Regulator, and they are as follows:

State-controlled enterprises or public bodies in relation to—

- “(a) legal services;
- (b) debt financing services for the national budget;
- (c) accounting and auditing services;
- (d) medical emergency or other scheduled medial services, or
- (e)” any—“such other services as the Minister may, by Order determine.”

And you see, Mr Deputy Speaker, the problem with that is now that just like the Minister said in his piloting of these particular Regulations, is that he procured a consultant who falls under one of these exempted services and that will not be subject to the procurement Act.

Mr. Deputy Speaker, in terms of accounting, auditing, financial service, when, for example, debt financing services for the national budget, that is very wide. And you see, Mr. Deputy Speaker—

**Mr. Al-Rawi:** Mr. Deputy Speaker, I rise on 48(1). With the greatest of respect, there is a Regulation on consultants before us and this is not a debate on the parent law. On a debate that has passed already with respect to section 7 of the Act.

**Mr. Deputy Speaker:** Again Member, again, tie in your point. I will give you the opportunity. Tie in the point as it relates to both the Act and what is before us at present.

**Mr. S. Hosein:** You see the point, Mr. Deputy Speaker, is that what I am showing is that these particular exempted services will not fall under the Regulation that I

am dealing with in terms of the ineligibility list. So that is the point I was making. So therefore, debt financing services for the national budget, if a particular bank is being favoured by this Government—

**Mr. Al-Rawi:** I therefore rise on Standing Order 48(1), because the Member just admitted that he is being irrelevant. The Regulations have absolutely nothing to do with that because the law disappplies it.

**Mr. Deputy Speaker:** Again, tie in your point, Member, and then you can move to your other point.

**Mr. S. Hosein:** Yes. Thank you very much, Mr. Deputy Speaker. You see, Mr. Deputy Speaker, the list of individuals or the persons that may fall under an eligibility list are those, for example, who would not follow proper procedure in terms of procurement proceedings, those who may be in terms of fraud, corruption, collusion, or may have been in terms of breaches of this particular parent Act. Those persons will find themselves having to face the ineligibility list after the entire procedure has been completed. But, for example, financial institutions that may have encountered or have been charged with some of these offences will not because they are now exempted under the procurement legislation, Mr. Deputy Speaker.

**Mr. Al-Rawi:** I rise—I am absolutely certain of the irrelevance of the Member under 48(1). It is one thing to speak to ineligibility provisions and the Regulations, but the debate is not about section 7 of the parent Act which disappplies plainly in law these factors.

**Mr. Deputy Speaker:** Again, in terms—hon. AG, the Member has entered the debate—right?—and he is making his point in terms of relevance of how he sees it in reference to the Act that he is referring to that is in place. So again proceed,

Member.

**Mr. S. Hosein:** Thank you very much, Mr. Deputy Speaker. You see, it is very difficult to take legal advice from this particular—

**Mr. Deputy Speaker:** Member, Member, I have ruled. Just proceed, I have ruled.

**Mr. S. Hosein:** Mr. Deputy Speaker, when we look again at this particular piece of Regulation, I am looking in particular to the Regulation 3 in terms of the report of prohibited conduct, is that there is a particular procedure that is outlined in the Regulations in terms of how reports are to be made and this is found at 3(1) in terms of—

“...procuring entity, a bidder...a member of the public...”—if they—  
“...suspects that a supplier or contractor...”—participates—“...in a contract...or a senior officer...”—with respect to prohibited activities under section 41(2) or (3) of the parent Act—“...he may bring this to the attention of the Accounting Officer, or equivalent in a public body, or to the Office in a report, together with any documentary evidence at his disposal.”

And then after this report is made, Mr. Deputy Speaker, what happens is that the Accounting Officer, normally the Permanent Secretary of the Ministry, or could be in terms of the equivalent on a state enterprise, they will now filter this particular report and that report will be transmitted to the office in terms of the Office of Procurement Regulators for this particular matter to be determined in terms of whether or not the person should be placed on the ineligibility list, but it triggers, of course, a particular procedure before that can happen.

But when you look, Mr. Deputy Speaker, at that particular section that is referred to in the parent Act, which is section 41(2) or (3) of the Act, it deals with complaints. And in this case it talks about persons who may have complaints in

terms of bid rigging, or collusion, or irregularity in procurement proceedings, or breach of the Act. They also can write directly to the office. So there are two procedures that flow side by side in terms of this: one, is that the person can write to the accounting officer, then the accounting officer makes a decision whether to forward it to the office, or that is under the Regulation, Regulation 3; but when you look at 41 of the parent Act the person can just send the complaint and bypass the accounting officer and go directly to the Office of the Procurement Regulator. So there are two streams there, one from the parent Act, one from the Regulations. So there may be a little inconsistency with respect to how the particular complaint is made.

Also in particular there is a wide range of matters that will in fact trip this particular section for a person to be placed under the ineligibility list such as I said bid rigging, irregularity and procurement proceedings, breach of the Act, and when you look at the Regulations at 3(7) you see that there is now a definition of something call “prohibited conduct” and this is conduct referred to on sections 58(3) or 59(7) of the parent Act. And you see that is why it is very important to ensure that you read the parent Act together with the Regulations. They cannot be read in isolation because the Regulations supplement, give the teeth to what the parent Act is saying. The parent Act gives the power, the Regulations normally prescribe the procedure in which it is done.

So when you look at 58(3) the conduct that the Regulations is referring to is those who consistently—

- “(a) contractors that consistently fail to provide satisfactory performance;
- (b) is found to be indulging in corrupt or fraudulent practices,...
- (c) is convicted of an offence under this Act.”



And when you look at 59(7) it deals in particular with:

“...a procuring entity...”—where an inducement—“...was offered, or any corrupt, fraudulent, collusive, coercive or obstructive practice was carried out in relation to a tender or proposal...”

So those are the grounds in which complaints can be made by members of the public in order for a supplier or a contractor to be placed under the ineligibility list. And then when this happens, Mr. Deputy Speaker, a notice is then sent to the supplier or the contractor because that is part of the natural justice scheme in terms of giving a person a chance to a fair hearing.

Now, I see a notice of proposed ineligibility will be sent to the supplier or contractor. Now, Mr. Deputy Speaker, I wonder whether or not that should have been on a prescribed form, because in terms of this particular regulation it just says a notice will be sent. When you look at, for example—I can give an example of the Civil Proceedings Rules, there are prescribed forms which make things easier. Now this is an administrative tribunal that will be in fact executing or exercising a judicial function. So you want to ensure that the procedure that is being conducted is a proper one in terms of how the entire process is being worked out because this is a very important and very coercive piece of regulation in terms of once the person—

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

**Mr. S. Hosein:** Thank you very much—is placed on the list they no longer can participate in public procurement. They cannot tender for contracts. So therefore you have to also balance that particular issue of constitutional rights.

Now, this particular piece of legislation under the former People’s Partnership Government was in fact passed with a special majority. So it is clothed

with constitutional protection. So that is the point with respect to that particular issue in terms of the complaint mechanism and the grounds in which a particular contractor or supplier can in fact be placed on the ineligibility list.

Now, there is one thing I would ask the Minister of Finance to note is that in the legislation when you look at section 58 it deals only with the ineligibility list. So when you read the parent Act it seems as though there is only sanction that can be placed on the contractor. But when you look at the Regulations it expands that list now of ineligibility sanctions at Regulation 7. So the office may impose a formal letter of reprimand based on the respondent's conduct, a conditional non-debarment not exceeding six months, or the ineligibility for one to 10 years which appropriate only in cases of particular egregious offences and the severity of the offence will determine the period of ineligibility.

So I wonder whether or not the Regulations are going a little too far, or should have this have been also included in the parent Act to ensure that we have maximum constitutional protection in terms of the sanctions that can be imposed by the office in particular with respect to ineligibility list?

**Mr. Deputy Speaker:** Thank you, hon. Member. Your time has elapsed.

**Mr. S. Hosein:** I thank you very much, Mr. Deputy Speaker.

**Hon. Members:** [*Desk thumping*]

**Mr. Deputy Speaker:** At this time, Members, the sitting is suspended and we will resume at 5.15 p.m.

**4.44 p.m.:** *Sitting suspended.*

**5.15 p.m.:** *Sitting resumed.*

**Mr. Deputy Speaker:** As we resume, I recognize the Member for San Fernando East, and Member, you have 20 minutes.

**The Minister in the Ministry of Finance (Hon. Brian Manning):** Thank you, Mr. Deputy Speaker, for an opportunity to speak on this important piece of legislation. We are here today to discuss 10 Regulations that provide an important foundation for the Public Procurement and Disposal of Public Property Act with the details and mechanisms of certain vital matters and procedures under the Act are set out.

This is an important piece of legislation, Mr. Deputy Speaker, and that is why I was pretty much amazed when the Member for Oropouche East went down the road that he decided to. To even bring up some of the matters that he discussed, I found it very difficult to believe. I would like to remind the Member for Oropouche East that the only legacy I bring to this Chamber is one of caring for and defending the people of Trinidad and Tobago from people like him and his SIS friends. That is what I bring to this Chamber. But let me delve into the matter at hand, Mr. Deputy Speaker, the Regulations required to operationalize the Public Procurement and Disposal of Public Property Act.

This legislation seeks to evolve and modernize the mode of doing business with the public sector in Trinidad and Tobago. It is extremely important. It is one that is long overdue. Earlier we received complaints and I have seen in the media some anxiety about the length of time that this is taking, but let me inform the general public and those on the other side, that the Government of Trinidad and Tobago is taking its time and ensuring that we follow the important steps so that this piece of legislation is done properly.

If you remember last year, it was first laid in the House in July 02, 2021. From there, it was put out to the public for public commentary. The members of the public could have submitted their suggestions, their comments to the

Parliament, the Ministry of Finance, the Office of procurement. All of this takes time. This is what the democratic process looks like, something I think those on the other side may have some difficulty with. They were in office for five years, had an opportunity to submit legislation that definitely and certainly would have improved an obviously broken system and did absolutely nothing about it. All we got was more SIS, more LifeSport, NGC buying fete tickets, OAS Construction and of course, EMBD. That is what we got and now they want to come to this Chamber here today in front of this national community and ask for more information on this piece of legislation.

The legislation is being brought back here today due to affirmative resolution. That means that we decided to read all of the comments that came from the public, we gleaned the information that we felt were relevant and important, we made changes and now these important Regulations are back here in the House to be approved by this venerable Chamber. That is what the democratic process looks like, that is how proper legislation is implemented.

Now, there are 10 Regulations that we are discussing here today and I know the Minister of Finance went through them earlier but some of it bears repeating. Regulation one involves the Participation in Procurement required for the establishment of rules under which the procuring entity will comply with section 5(1)(c) of the Act and seeks to promote sustainable procurement, sustainable development and local industry development. This is the Regulation that involves domestic preference which calls for about 10 per cent of all procurement to go to domestic suppliers. This, of course, is designed to stimulate the local economy and to also create opportunities for small and medium enterprises in Trinidad and Tobago.

Two, we have the Pre-Qualification and Pre-Selection. This allows for suppliers, contractors to upload information to the Procurement Depository in order that procuring entities may prequalify then on an ongoing basis in accordance with section 29(1) of the Act. Of course, Government has been saying from day one that our goal is to digitize the public service in Trinidad and Tobago and this is a step in that direction.

Three, Procurement Methods and Procedures. Those Regulations set out the methods and procedures that procuring entities shall use to ensure that it manages the risk involved in procuring goods, services and works with a view to achieving value for money. Now, Mr. Deputy Speaker, as you may know, in the private sector, the motive is profit maximization. In the public sector, it is value for money. It is one of the reasons why services were excluded from these regulations but that is something I will discuss later on. I will go into greater detail.

Four, Ineligibility Proceedings. These regulations provide the mechanism through which section 58(4) of the Act shall be effected. Section 58(4) requires the Minister, on the advice of the office, to specify the mechanism and manner for adding a supplier or contractor to the ineligibility list—for the Member for Barataria/San Juan list—the ineligibility list and also for removing a supplier or contractor from that list. Regulation 7 provides three forms of ineligibility sanctions which range from simple, reprimand to ineligibility for up to 10 years.

Five, Challenge Proceedings. So of course, we have ineligibility proceedings, anyone who wants to challenge those things, the rules for that are set out in the challenge proceedings. These Regulations outline the mechanism by which a supplier or contractor may challenge the decision of a procuring entity for non-compliance with the Act or due to any action or decision likely to cause lost or

injury as provided for in Part V, sections 49 to 52 of the Act.

Six, Record of Procurement Proceedings. Those Regulations make it mandatory for each procuring entity to maintain an easily accessible record of each procurement proceedings and establishes the information that should form part of the record.

Move on to seven, Retention and Disposal of Personal Property. These Regulations outline the procedures for the retention and disposal of personal property, mainly assets other than real property such as stores and equipment covered by Part VI of the Act.

Eight, Evaluation. These Regulations outline the factors that should be considered when evaluating submissions, including both the price and non-price factors; extremely important. You would have heard the Minister of Finance earlier talk about the life of a submission. That is extremely important when it comes to procurement. There have been criticisms that submissions are concerned only with the lowest price and do not fully evaluate the lifecycle cost of what is supplied.

Nine, Miscellaneous. This allows the board to appoint committees for the purpose of, inter alia, providing advice on any matter within the scope of the board's functions. Of course, there are matters that may arise that may not be covered by these Regulations, the miscellaneous section chooses to deal with those things.

Ten, the Procurement of Consultants. These Regulations outline the procurement methods by which consultants may be engaged. Procurement options for engaging the consultants include utilizing sole source, single source, open tendering or the use of prequalification or preselection list. These Regulations also require consultants to submit a technical and financial proposal that outlines the

valuation methods that can be utilized based on the nature of the consultancy. Now, that segues nicely into one of the major criticisms that we have all heard about this procurement legislation and that is the exclusion of specific services. Services such as ones that involve— Regulations involve, sorry, legal, financial, auditing, accounting and medical services.

Now, Mr. Deputy Speaker, even in your personal life, any right-thinking person who is seeking legal or medical assistance is certainly not going to look for the lowest cost provider. That does not make sense to anybody with sense. In fact, last evening on the television, I saw a gentleman who was a staunch and verbose anti-vaxxer suggesting to the national community that if you were to contract COVID, that Ivermectin and fever grass would be the best solution for your ailment. Of course, that is medical advice but I am certainly sure it is not going to end in the way that most would want it to. We have to be very careful about where we source advice and it cannot be that we choose the advice that comes at the lowest price. That does not make any sense. No one seeking legal, financial, accounting or medical services would want to choose the lowest cost provider. That should be simple to understand.

So, Mr. Deputy Speaker, these 10 Regulations that we have laid in the House today due to affirmative resolution, I would just like to repeat for the national community. The main criticism that came from the other side was the length of time that it is taking for these matters to come to Parliament and also for them to be proclaimed. But that is the way proper legislation is brought to the people of Trinidad and Tobago.

First of all, again, first laid in the House on July 02, 2021. From there, it was put out to the public for consultation. We received reams of opinions and advice

from the public, all of which were read and considered. From there, changes were made and these 10 Regulations were brought here today to be debated and discussed. That is the democratic process, that is what proper legislation looks like. Thank you, Mr. Deputy Speaker.

**Hon. Members:** [*Desk thumping*]

**Mr. Deputy Speaker:** I recognize the Member for Pointe-a-Pierre and 20 minutes.

**Mr. David Lee** (*Pointe-a-Pierre*): Thank you, Mr. Deputy Speaker, for allowing me to join this debate this afternoon on such, I think, for the Opposition, a very critical debate because what is happening here is that we are debating Regulations, 10 Regulations that once it is approved, it will give impetus, teeth, operationalization effectively of the OPR, the operation of the Procurement Regulator office and that entire agency's staff led by Chairman Lalchan.

Mr. Deputy Speaker, before I get into my contribution, I listened to the Member for San Fernando East and really as a junior Minister in the Ministry of Finance, really, I thought his contribution would have been a bit more dynamic in respect of these Regulations coming out of that Ministry, so I do not know if—you know, I know he was not too well a few weeks ago but I see he is here and I wish him all the best in 2022.

Mr. Deputy Speaker, I also listened to the previous speakers and the Member for Diego Martin North/East who piloted these 10 Motions, also the Member for Port of Spain North/St. Ann's West and they raised certain things and it was dealt with by my Member from Barataria/San Juan. He did a tremendous job in rebutting most of the points raised by the Member for Port of Spain North/St. Ann's West, so I would not get into that. Even the Minister of Finance, in piloting these 10 Regulations, these 10 Motions, really and truly did not go into much detail



given his 45 minutes that he had and I am sure in his wind up, he might add some clarity to some questions that the Member for Oropouche East raised and I will also raise some concerns based on a particular regulation that I will concentrate on and that is regulation as far as the retention and disposal of public property.

So, Mr. Deputy Speaker, but first of all, I was pleased or taken aback, it is sort of a contradictory thing, that statement. Both the Member for Diego Martin North/East and the Member for Port of Spain North/St. Ann's West talked about that these Motions, these Regulations, are not the be all and end all so that they gave me the impression that while they are passing these Regulations, they are not too happy to pass these Regulations, because they see it as—they gave me the impression that they saw it as some humbug or drawback in the movement or the growth of the country.

And I want to say as part of the Opposition, that is the furthest thing from the truth because the country has been calling about accountability and transparency and even in their manifesto back in 2015 when they were on the campaign trail, one of their major points in their manifesto was about the public procurement legislation and bringing it to this country, Mr. Deputy Speaker, and bringing it to the Parliament to pass it as quickly as possible and put it into operation. And I was heartened by the Member for San Fernando East because he contradicted them because the Member for San Fernando East was all enthused and said this is an important piece of legislation and the Regulations that we are now going to ask Parliament to approve and I agree with the Member for San Fernando East.

Mr. Deputy Speaker, I just want to ask, at the end in his wind up, the Minister of Finance, if he can give some assurance to this country when full

proclamation of the procurement legislation will be put into place along with all the outstanding regulations. Because when the original set of motions or regulations were laid, I think there were 12 Motions back in July last year and today, Mr. Deputy Speaker, we are only dealing with 10 Motions or 10 Regulations in respect to that legislation. So I am asking the Minister of Finance if there are any outstanding regulations that need affirmative—to be assented to in this Parliament, if it is still outstanding.

Mr. Deputy Speaker, I want to ask the compliance about the—when you look in the newspapers two days ago, in the *Newsday*, on Thursday January 13<sup>th</sup>, the headline was:

“Procurement Regulator prepares for new regime...”—meaning what comes out today—“despite inaction by state...”—agencies

And I will get into that a little more. In the *Guardian* of Thursday the 13<sup>th</sup> of January, the headline:

“Office of Procurement Regulation still lacks power, waiting for the legislation”

So they are waiting on what is the outcome of today. And on the *Daily Express* again, on Thursday the 13<sup>th</sup>:

“Regulator: OPR...”—which is the Office of Procurement Regulation—“ready to work

“Concerns raised over failure of State agencies to respond to...”—information—“requests”—by them, by the office.

So, Mr. Deputy Speaker, that is the state of play in respect of what is happening coming out of today in Parliament.

When I turn to and I want to look at regulation which relates to Public

Procurement and Disposal of Public Property (Retention and Disposal of Personal Property). This Regulation has seven sections. You have the Citation. You have the Interpretation. Section 3 is the Retention and disposal of personal property. Section 4 talks about Risk-based approach for retention of personal property. Section 5 talks about Risk mitigation strategy. Section 6 talks about Disposal of stores and equipment and section 7, Disposal to public employees. This Regulation, Mr. Deputy Speaker, in my view, is a very important piece of regulation for all public bodies, state enterprises. It talks really about retaining your stores and equipment, your public property, putting things in place, policies, handbooks, et cetera, risk-mitigating strategies, et cetera and also the other part of it is the disposal of that personal property.

Now, disposal of personal property in respect of public bodies and state organizations has always been an issue in disposing of those items. From what I know of, some public bodies had to go through a long process of obsolete equipment to be able to dispose of them having to go through utilizing the policy by the Central Tenders Board, et cetera, Mr. Deputy Speaker, and it was sometimes so onerous that a lot of these obsolete equipment and property were just left in abeyance in these state companies or public bodies and maybe being utilized in expensive warehouse storage facilities, just storing obsolete equipment that could, based on this policy, these regulations, if it is utilized in the way that it is designed, it can bring some relief to a lot of the public bodies and state organizations, if it is done according to the guidelines that are set out here.

So we think this is a very good thing but I think that it is a plus, Mr. Deputy Speaker, but there also is a negative aspect of disposing of equipment if it is not done in a very tight and regulated way. So you can have issues when you have to

dispose of those properties. But we think it is a very good regulation and there is some clarity that I would like to seek—some recommendation to the Minister of Finance in strengthening these regulations.

So when you look at in respect of disposing under this regulation, how do you—because you see, Mr. Deputy Speaker, they had some issues in some state organization when they were disposing of—and I think in PTSC, there was one—an issue with buses and so forth and when you look at the Police Service, Mr. Deputy Speaker, it brings me to an article that I had read. They had so many obsolete derelict motor vehicles, police motor vehicles, just left in abeyance. So I really hope that utilizing these new guidelines, once it is in place, would strengthen the removal and clearing up of those derelict vehicles.

The other aspect in this area is the procurement officer because when you look at the role and function of procurement officers now coming into play with these Regulations and the offences that go along with it, Mr. Deputy Speaker, some state agencies, some public bodies, might have a challenge in getting the type of qualified individual that is required once these Regulations come into play because it now requires a different level of employee to ensure that based on the handbooks and the guidelines that are required of these public bodies that they really follow it because the fines are very onerous. I mean, you are talking about jail sentence in some areas.

So, Mr. Deputy Speaker, I hope that the Minister of Finance could look at this section as far as disposal to see if the Office of Procurement Regulation if they can strengthen that aspect of disposal, not to the point that it becomes another deterrent like how it was, the whole onerous issue with respect to the Central Tenders Board but they need some strengthening in that particular regulation.

So, I ask the question, again, through you, Mr. Deputy Speaker, to the Minister of Finance, when he had laid, he had laid 12 different Regulations and the ones that are missing in my view here today, and maybe the Minister of Finance, in winding up, could add a reason why those two Regulations are not part of the 10 Motions here today. One is the technical requirements. It was laid previously and has been removed. The other one is something called procedural for safeguards. That was a set of regulations that was laid and it was removed. And so that there were 12 Regulations that were laid and today, we are only debating 10.

So, Mr. Deputy Speaker, I just want to conclude that we in the Opposition, we are in support of proper procurement as it was our Government that created the first government procurement legislation. It is because we support proper procurement, we stood up and we do not want a watering down of this legislation and the parent Act. We will support the Regulations before us because we will give some protection to our citizens' assets. However, you need to ensure that these Regulations are not just listed on paper but are acted upon, hence the operations of the Office of the Procurement Regulation, as opposed to reviewing policy but also evaluate and execute these policies.

The OPR must be vigilant and not take it for granted that public entities will follow the guidelines. The OPR must consistently review the progress and processes of these public entities and they must also constantly update these Regulations because when you look at how it is being done, it is a general guideline that they are asking these public bodies and state entities and there are certain sectors that require different kinds of regulations in respect to their handbooks and guidelines. So you cannot compare like for example YTEPP to PTSC or even NGC, et cetera.

So with those few words, Mr. Deputy Speaker, I thank you for your time.  
Thank you.

**Hon. Members:** [*Desk thumping*]

**Mr. Deputy Speaker:** Welcome to the Chamber, Madam Minister. I recognize the Minister of Public Administration and you have 20 minutes.

**The Minister of Public Administration (Sen. The Hon. Allyson West):** Mr. Deputy Speaker, I thank you for giving me the opportunity to make an intervention in this debate. I place this Government's approach to public procurement in the context of our National Development Plan, *Vision 2030* and in particular Theme II: Delivering Good Governance and Service Excellence. Mr. Deputy Speaker, virtually every definition of good governance includes the twin principles of transparency and accountability which are at the heart of the Trinidad and Tobago procurement framework. The objective of the framework and its various elements, regulations, processes and procedures are regarded as the recipe to promote effectiveness, efficiency and value for money.

Public procurement has been defined as the Government activity most vulnerable to waste, fraud, corruption, due to its complexity, the size of the financial flows it generates, and the close interaction between the public and the private sectors. This Government has been fighting the scourge of waste, fraud and corruption from the outset and it is felt by many based on the loud and frequent calls for implementation of the public procurement legislation that this will be the answer to those issues. However, we need to recognize that this legislation is not a panacea, it is not a silver bullet and that like all legislation, it requires robust rules, a proper implementation and solid enforcement if it is to fulfil its objectives.

In this regard, Mr. Deputy Speaker, I would like us to hold the thought of the

complexity in mind, because it is the underpinning of the work that needs to be done in preparing the public service for the new procurement regime.

**5. 45 p.m.**

Mr. Deputy Speaker, I think it is important for the national community to understand that public procurement is not some esoteric issue, but has a myriad of real work consequences for the average citizen. There are big impacts of saving money at the level of the national treasury through transparency, accountability, and the reduction of opportunities for corruption which would allow resources to be spent by meeting by the real needs of citizens. Also, it is important to understand that procurement is not just about getting the cheapest price as my colleague Minister Manning said, it is not just about getting the cheapest price, but about value for money and the ability to use evidence-based information to make decisions that ensure the greatest benefit realization for citizens.

Mr. Deputy Speaker, the evidence increasingly suggests as an effective robust public procurement system has the potential to improve public sector productivity through savings and economies of scale. Moreover, work done by the Organisation for Economic Co-operation and Development the OECD, has shown that governments are tapping into the potential of procurement as a strategic policy lever to advance socioeconomic and environmental objectives. However, at the end of the day the system will be operated by individuals in the public sector including the public service. As such, I want to focus at this time on how we propose to prepare the public service to take on this new task.

Mr. Deputy Speaker, according to the World Bank there are three pillars of effective and successful governance. One, increasing value for money. Two, improving public service delivery. And three, creating an enabling environment for

strong private sector-led growth. Public procurement is linked to all three of these. In Trinidad and Tobago public procurement makes up more than 20 per cent of GDP. International comparative studies suggest that weak or inadequate public procurement systems result in losses through corrupt practices that can exceed 25 per cent in some countries.

Experts agree that there are four core elements of public procurement which can have direct positive impact on public service delivery, results, and performance. Those are consolidation and harmonization of the legal framework, modernization and application of procedures, well-structured and well-managed procurement systems, and professionalization of the procurement workforce.

I want to share with this House how the Ministry of Public Administration will contribute to the effectiveness of the system, and in particular ensure that procurement units are well resourced and procurement workforce is professionalized.

Mr. Deputy Speaker, public procurement takes place at the level of the individual Ministry, Department, or agency in the public sector. The legislation and the Office of Procurement Regulation provides a framework but the operationalization of the framework is the work of individual public officers. The new system of procurement management will require new kinds of skills and capabilities. As we have sought to assess the required skills and capabilities and benchmark good practice, we recognize that some weaknesses were common in countries that have attempted to implement new procurement systems but have performed poorly. These weaknesses include: the absence of a cadre of procurement professionals; poor quality of training programmes; low capacity of trainers; selection of the wrong persons for training; high turnover of competent



practitioners; rigid and obstructive organizational settings. The Ministry of Public Administration and the public service will seek to avoid these weaknesses.

Mr. Deputy Speaker, a few days ago I heard the Procurement Regulator expressing the view that the public service is not ready for the new system, and the time to act was short if not passed. I understand his concerns and while it is true that there is work to be done, it is within our reach. The Regulator has a role to play in this regard as does the Ministry of Public Administration. So I would now like to share with the House how the Ministry of Public Administration will seek to address these issues in the context of the Ministry's remit for modernization of the public service.

Mr. Deputy Speaker, we plan to give attention to the creation of a professional specialization for procurement in the public service. If one examines the legislation and regulations, it is clear that for Ministries, Departments, and agencies it would be inadequate if we were to treat the procurement profession as an afterthought. Indeed, I would suggest that procurement is just one of the many skillsets that are required in order to achieve the goal of excellence in public service delivery as contained in *Vision 2030*.

This House would readily recognize, Mr. Deputy Speaker, that there are two categories of skills that are required in the procurement process. They are the skills of the public procurement professional who needs to be intimately involved in operating the system. But there is also the average public officer who is not required to be a procurement specialist but who is required to understand the principles of transparency, and accountability, and to have a working knowledge of the procurement process as part of their jobs.

The Regulations provide good guidance as to who these persons should be

based on their portfolios and their roles in procuring goods and services on behalf of the Government. The Ministry has already commenced the work necessary to prepare the public service for effectiveness in the procurement process. The Public Management Consulting Division of the Ministry has been working with other Ministries to determine the composition of the units, and the skills required in those units to provide efficient and effective procurement services to the Ministries. Those procurement units have been established in the various Ministries, divisions, and agencies and have been or are being populated.

My team and I have also had conversations with the Public Service Commission about options available for identifying the required skills for those positions from among the existing cadre of staff in the public service. We are also engaged or will shortly be embarking on the following additional steps.

Firstly, we will be working with the Office of the Procurement Regulator to ensure that we have the competency baseline that is required for developing the cadre of persons who would be able to effectively operate in the space of the new framework.

Secondly, we would be including in our biennial public service training needs assessment a specific enquiry into the training needs for procurement. The House should know that we have been receiving exceptional technical assistance from the Inter-American Development Bank in strengthening our training capacity in the public service, including enhanced and more vigorous methods of training needs assessment.

Third, we are developing competency-based training curricula that takes into account both international good practice as well as the specific requirements of our framework. It is our intention as we develop curricula to seek further technical

assistance in both the design of the training as well as where possible and appropriate, the delivery of training.

Fourth, we are also seeking to address the issue of business processes in Ministries to ensure that they are consistent with and can contribute to the effective operation of the new system.

Mr. Deputy Speaker, I should point out this is in keeping with the Government's overall strategy of the digital transformation of the public service. Best practice has shown that e-procurement creates exponential advances in transparency and efficiency in the procurement process. As we modernize, transform, and digitalize the public service with a view to increasing the quality of services rendered to the population, we are quickly recognizing the importance not only of investing in technology, but also in changing the way in which people work so that those investments in technology can have the greatest possible impact.

In this regard, Mr. Deputy Speaker, e-procurement creates better opportunities for increased competition among suppliers, which usually results in price reductions. Significantly, it also results in reduced administrative cost while strengthening transparency by the use of secure online processes. The overall transparency and efficiency of the procurement process is strengthened through the use of e-procurement. All of this points to the need for different ways of thinking and different skills. It creates opportunities for public officers to be innovative through such activities as using e-catalogues for common standard off-the-shelf products regularly ordered by the public sector. What the experts realize however, is that few of these objectives are achieved without an underlying reform strategy that introduces new procurement methodologies, procedures, workflows, and improved monitoring and analytical capacity of management.

I am pleased to note that there are indications that the potential for innovation is being embraced in our country, and it shows the spinoffs that are possible procurement reform. The Telecommunication Services of Trinidad and Tobago, TSTT, has actually developed an application for e-tenders, and I rather like their tagline which encapsulates what we need to do in the public service to take advantage of the procurement framework and other initiatives to improve the quality of life and standard of living of our citizens. That tagline is “Innovate, Transform, Disrupt”. Although I would personally switch that around to “Disrupt, Innovate, Transform” to signal that the disruption is a means to an end with the end game being transformation. But the disruption is critical as it signals to public servants and to the wider public that it cannot be business as usual. We all need to embrace the change.

These disruptions will not be restricted to the procurement area but will be more all-encompassing and include retraining the leadership of the public service to better respond to and guide the transformation. It also includes a system of greater accountability of public servants, again, supported by the technology.

The Ministry of Public Administration has embarked on a series of initiatives to improve the performance of the public service and these initiatives will support and feed into the new procurement regime. In fact, Mr. Deputy Speaker, I would even be so bold as to say that the introduction of this regime comes at a time when several factors that will impact on its success are beginning to align. And therefore, allow for the proper implementation and rationalization.

Mr. Deputy Speaker, the Ministry approaches the new procurement system as an opportunity not a burden. However, for us to make the most of this opportunity there is a pivotal road for a cadre of public servants. Indeed, the

success and benefits will rise and fall based on whether we can motivate those involved in the operating the system to embrace the changes that are required. Changes in thinking, changes in competencies, and changes in workflows. It is a daunting task, Mr. Deputy Speaker, but I am hopeful, and we are enthusiastic about the opportunity that we have in the Ministry of Public Administration to advance the Government's 2030 vision of excellence in public service delivery. We are committed to ensuring that the public procurement legislation is properly introduced, properly implemented and properly operationalized, so that it can generate the kinds of benefits that it is intended so to do. Mr. Deputy Speaker, I thank you very much.

**Hon. Members:** [*Desk thumping*]

**Mr. Deputy Speaker:** I recognize the Member for Oropouche West, and you have 20 minutes.

**Mr. Davendranath Tancoo** (*Oropouche West*): Thank you, Mr. Deputy Speaker and colleagues for giving me the opportunity to present for a few minutes today the Opposition's point of view on the Regulations currently before this House. As I listened to the hon. Minister of Public Administration, I could have sworn, Mr. Deputy Speaker, that we were listening to a speech delivered in 2015. Because she was so full of hope, she was so full of compassion, and care, and concern, and commitment, that they were going—her Government, was going to implement this legislation and implement this regulations with a sense of urgency, which is absolutely what is required. But ladies and gentlemen, Members, it has been six years since this Government has been in office, and six years since they have been sitting on their hands with regard to the implementation of this public policy, this public procurement legislation, six years.

Just to take us back a little bit. Just to take us back a little bit. The Member for San Fernando East in his opening statement said that he was surprised because the Opposition, the Members of the UNC on this side were in office for five years and did nothing about procurement regulation, nothing on procurement legislation. I think the hon. Member was probably abroad at that time and was not paying attention to what was going on in Trinidad and Tobago. Because the parent legislation that we are looking at today was devised under the United National Congress-led government. When you came into office, Sir, you met a substantial amount of regulatory information done already. The legislation was given to you in your hands. It was passed in 2015. It took three years, three years, Mr. Deputy Speaker, before they would appoint a board. That is the sense of urgency that they actually placed on the implementation of this legislation. And then it will take another three years-plus before you would bring the Regulations, these very same Regulations to this House.

So this talk about recognizing the importance of this legislation, recognizing the importance of implementing the legislation, recognizing the importance of passing these regulations as a matter of priority, it is only talk, Mr. Deputy Speaker, because when it came down to action the Government of the day, this PNM regime has in fact failed comprehensively to implement the laws to ensure proper procedure, accountability, transparency, and clearness, in the use of state funds. Completely failed.

So to come today to create the perception that finally we are going to do something. We have no confidence that this Government will implement even the Regulations passed here today. Because, Mr. Deputy Speaker, I recall a pepper spray legislation, it was passed in this very House. Urgently needed to protect, to

give some level of protection to the women folk of Trinidad and Tobago. It is languishing, it has not been implemented up to today.

So when we look at the Regulations today and the history of the Government on the other side, when we look at that, Mr. Deputy Speaker, you will forgive this Opposition, you will forgive the population for not having any confidence that this Government will in fact implement this legislation, fully put the legislation in place, fully assent, give assent to the procurement Act with this legislation, with these Regulations to ensure that there is transparency.

Mr. Deputy Speaker, I want refer back to a comment made by the hon. Minister of Public Administration when she said, and she was referring to Mr. Moonilal Lalchan who is the Chairman of the Office of Procurement Regulation, and she said that she was in conflict with his view that the public service was not ready for the implementation of this piece of legislation. She provided in her contribution that she read exclusively in her contribution today, she provided no clarification as to why she came up to that assessment. But I am sure that the OPR Chairman is basing his commentary on his own experience, on his own information, on his own statistics, which she was unable to provide clarity for. So that is another reason that we may not have any implementation of this legislation. And I want to join the call of my colleagues on this side in the hope that the hon. Minister of Finance in his windup will give a commitment not just that they will approve and they will pass and that they will implement at some point in time, but will give a firm commitment of a date on which this these regulations will be assented to, of a date on which the full procurement legislation would be implemented so that the citizens of this country will have full transparency in the disposal and procurement of public resources.

The reason that is important, Mr. Deputy Speaker, is because we have been begging for this for a long time. And the failure of the Government is not just cosmetic. It has actually cost this country billions of dollars in revenue and expenditure that are couching questionable activity. Mr. Deputy Speaker, I want to refer you to an article in the *Trinidad Express* dated January 14, 2020. This was after the Procurement Regulator, the Chairman of the OPR had indicated that had the Regulations had been submitted and resubmitted to the desk of the Minister of Finance. This article in the *Express* is captioned:

“The cost of corruption in T&T. Delay in proclaiming Procurement Act”

Mr. Deputy Speaker, this article is important because it tells us what the delay by this Government has cost taxpaying citizens of Trinidad and Tobago on a yearly basis. And, Mr. Deputy Speaker, that figure is \$5.2 billion. Not the \$100 million that the Member for Port of Spain North/St. Ann’s West keeps ranting about, \$100 million here and \$0200 million here. This cost taxpayers an estimated figure of \$5.2 billion per year, based on statements, based on the report of the Chairman of the Office of Procurement Regulation, based on his report. And, Mr. Deputy Speaker, he is in place to know.

Just to quote the first paragraph, Mr. Deputy Speaker, of this article. And I quote:

“Proper procurement practices could save this country a conservative \$5.2 billion a year—otherwise lost to corruption or inefficiency—and translate over time into an improved standard of living for”—our—“citizens.”

\$5.2 billion a year and they have had this legislation since 2015. What that means, Mr. Deputy Speaker, is in the last six years because of the intransigence and failure of this Government to implement this legislation, taxpayers have been bent over



backwards and forced to pay \$31.2 billion. That has been the cost to taxpayers because this Government refused to expedite these regulations that are currently before us. This has nothing to do with making sure that we cross the T's and dot the I's. Because they have not even done that, Mr. Deputy Speaker.

In this very same article and I want to side with the Chairman of the Office of the Procurement Regulation because he referred to this figure in explaining to himself and as a public servant he clearly was heartfelt, clearly it bothered him greatly that \$5.2 billion per year or \$31.2 billion over the last six years was wasted when that could have been spent on laptops for children, it could have been spent fixing the roads, clearing the drains and river courses, so I would not have flooding in my constituency. It could have been spent on improving the water supply so I could have had proper pipe borne water in my constituency. It could have been spent on improving the health sector. It could have been spent on improving the environment for investment in Trinidad and Tobago, \$31. 2 billion lost into corruption or inefficiency. That is an indisputable fact that rests totally on the shoulders of this Government.

And I raise that, Mr. Deputy Speaker, because we also have other issues that have come up where the Ministers on the other side are saying that they do not have money to top up food cards. There is a shortage of funds to buy this or to buy that. This is where the money should have gone.

**Mr. F. Al-Rawi:** Mr. Deputy Speaker, I rise on Standing Order 58(1).

**Mr. Deputy Speaker:** Hon. Member, I have given you some leeway in terms of your references based on what you have just commenced. So I would like you to move on from that particular aspect please.

**Mr. D. Tancoo:** Sure—

**Mr. Deputy Speaker:** Right. I have given you some leeway, but I will have to uphold the objection.

**Mr. D. Tancoo:** Thank you very much, Sir. I think I have made the point that I wanted to make that this Government really needed to do better with the funds that they have had access to.

Mr. Deputy Speaker, I want to tune in to one of the regulations listed here, and this is captioned the:

“Public Procurement and Disposal of Public Property (Evaluation) (No. 2) Regulations”

This deals specifically with the evaluation process of bids and proposals and tenders coming forward.

According to the regulation itself it cites in Regulation 2 a preference for what is called the life cycle costing method that the Minister of Finance described briefly as looking at the entire cycle of the project and the acquisition of how it is going to benefit. But there are other methods of evaluation, there are other methods that I think that the Government needs these to consider. And maybe the Minister may want to take a look at that and see how he could include these other measures in the regulation instead of tying the Regulator, instead of tying the OPR strictly to one form. This is the life cycle costing method. Because there is also another method that I am suggesting to him. This was based on a study done by the OECD in 2021, just last year in April. And it is called the sustainable public procurement method. And if you will allow me to quote briefly:

It—“...builds on the principles and best practices of ‘traditional’ public procurement and considers additional factors to obtain social, environmental and economic benefits appropriately for procuring entities, its supply chain

and society as a whole.”

What it does, it is a lot broader; it is a lot broader than purely a numbers game. Because there are also other factors which may not be considered by the life cycle costing method, but which should inform proper efficient valuation of projects going forward.

So I would want the Minister to consider that as an option as well so that he widens the scope of the measures that the Office of Procurement Regulation can in fact use engaging proposals and projects and their efficiency in the way they operate.

I also want to suggest to the Minister that he provide in his windup some clarification because one of the requirements of the legislation, the Regulations that we have here and the legislation itself, is the establishment of a review board. The Minister himself referred to it in his presentation; the existence of the review board and the importance of the review board. However, in the little bit of research that I have done with regard to this section, I am advised that the review board was established by section 51A of the procurement Act, and it is at this point today, unclear as to whether that review board is in existence today or still functioning, because the last known appointment to the board was with respect to its chairman, at that time retired Justice Sebastian Ventour who was appointed on August 24, 2018. That is three years ago, and whose appointment would now have expired.

**6.15 p.m.**

Now, these Regulations will have no effect, will not be able to be implemented if this review board is not in place. But that is another indication, Mr. Deputy Speaker, of the passion, or lack thereof, of this Government in implementing this legislation.

Mr. Deputy Speaker, there is a lot more that can be said, however, I think in the interest of time the important factor now is that we actually get started to stop this attrition and loss of this \$5.2 billion every year. To stop this query the risks that we have associated with the absence of transparency and accountability, I think it is very critical that the Government get serious and act quickly with the implementation of these Regulations to protect the public purse. And I find, I believe, Mr. Deputy Speaker, as I close, that should the Government do so they can find that they have access to a little bit more funds, a little bit more funds that can be spent to the benefit of taxpaying citizens of Trinidad and Tobago. Mr. Deputy Speaker, with those few words, I thank you for the opportunity.

**Mr. Deputy Speaker:** I recognize the Attorney General and you have—

**Hon. Members:** [*Desk thumping*]

**Mr. Deputy Speaker:**—20 minutes.

**The Attorney General and Minister of Legal Affairs (Hon. Faris Al-Rawi):** Thank you, Mr. Deputy Speaker. Mr. Deputy Speaker, I rise and now stand before you to contribute to the 10 Regulations before this hon. House, which are here for affirmative resolution.

Speaker after speaker on the benches opposite have simply said that they wish to have a firm date for commitment for the proclamation of this law. Speaker after speaker has made allegations that the Government has not acted with alacrity in pushing this law. Speaker after speaker has attempted to deal with allegations of impropriety in the society that we live in and permit me therefore, Mr. Deputy Speaker, to address the many contributions put forward, to put forward a few observations and need for caution in respect of matters that have arisen and therefore, to proceed as follows.

I had the pleasure, Mr. Deputy Speaker, of serving on the Joint Select Committee for several years for the establishment of what is now the Public Procurement and Disposal of Property Act, 2015. I heard Members opposite say that this was legislation pioneered by the Leader of the Opposition, Kamla Persad-Bissessar, Member for Siparia, who is not even in the Chamber today but we are told that somehow the Opposition was the champion of public procurement. I would like to say that the record of the Joint Select Committee, several committees, one after the other will demonstrate that the Opposition refused to make a policy commitment on diversions of law tabled before us as legislative proposals. You see, the records would demonstrate that the Member for Siparia led a Government which brought two separate legislative proposals and that at the Joint Select Committee stage, we came to a halt in relation to the progress of the law, because the Government then under the Member for Siparia would not make a policy direction. Fortunately, there was a great deal of public pressure and coming close to the eve of the 2015 general election, we saw Act No. 1 of 2015 come into form.

Now, Mr. Deputy Speaker, if you listen to the Members opposite, once that law was passed, there was nothing to do. And the Minister of Finance made a very important statement here today that I wish to repeat in a slightly different way as to how novel, the public procurement step is going to be. You see, the Member for Diego Martin North/East said to Trinidad and Tobago the facts that the public has been shielded from public law, introduction of argument and interference in public procurement. The Minister of Finance went through the NH cases, et cetera, the UDeCOTT case, two cases, and pointed out that you could not intervene in public procurement other than in certain circumstances but this new law is about to

introduce something which is unknown to Trinidad and Tobago. That, Mr. Deputy Speaker, is not business as usual, and the steps required to be taken between 2015 to 2021, as we have just completed, involved not only the passage of the law, but the appointment of the persons, the installation of the office holders in the Office of Procurement Regulator, the board, and importantly, the development of the regulations, and the review mechanisms, and the electronic structures, and also the guidelines and handbooks. And if you are faithful to what the law actually says, Mr. Deputy Speaker, you would understand it is not in the simplicity of what the Members opposite say.

I mean, we heard a well-educated Member today repeatedly talk to us about ineligibility, in fact, saying it unfortunately in a very different way, talking about “in-illegible”. I would like to just remind hon. Members opposite whether your handwriting is legible is not the same thing as being eligible for something. But when you look to the law itself, Mr. Deputy Speaker, the law itself says that you have to establish and incorporate the office, there has to be a procurement board, the tenure is then put into effect, you then get into the Procurement Regulator himself— as Mr. Moonilal Lalchan has properly been constituted and Mr. Deputy Speaker, the Office of the President will reflect that those things did not happen in 2015 and took life in the period 2015 to 2021 but that very importantly, the Office of Procurement Regulator had to develop the structures for these Regulations.

The Minister of Finance has put onto the record that it was in the period of 2021, July and August and in those periods, that the Regulations were in fact put out in form and, Mr. Deputy Speaker, not only have these Regulations been amended, not only has there been significant consultation on the Regulations but, Mr. Deputy Speaker, these Regulations are about to radically transform the system

of Trinidad and Tobago, and I want to be on *Hansard* as warning that it may not be the paradise of efficiency that we are looking for yet because you have to work your way into what challenge proceedings are going to look like. One of the Regulations before us treats with the challenge proceedings and Mr. Deputy Speaker, what are challenge proceedings? Challenge proceedings are to be found in Part V of the legislation, sections 49 straight through and including section 52 is where you get to the end of challenge proceedings.

Challenge proceedings, Mr. Deputy Speaker, are very important, because not only was the Minister of Finance clear and correct in saying that it is an alternative dispute mechanism that the review board was put in for but the challenge proceedings Mr. Deputy Speaker, go through a very important timeline. So what is a challenge proceeding? Anybody that alleges that they have a problem with a regular procurement mechanism can quite simply approach to challenge the procurement. That starts off with day one under sections 49 and 50, subsections (1) and (2) of section 50 of the Act, it then goes to day four, under section 50 (3). So on day one promptly upon receipt of an application for review, the office shall notify the procuring entity of an application for review. Day four, after that:

“(3) Within three days of receiving an application...the office shall publish a notice...in at least two newspapers...”

—you then go—

“(4) —within three days of—that on receipt of—an application for review”

—you can—

“(a) order...suspension...”

—you can—

“(b) order the suspension of...performance of a procurement contract or the operation...”

“...and for so long as it finds...suspension necessary...”

—you then get to day eight—

“(6) Within seven days”—after the last event you—“shall notify the procuring entity and all qualified suppliers...”

—so if you had 100 people qualified to supply you have to now inform 100 people and contractors of the application and the substance.

So you put out a procurement, 100 people reply, one of the 100 challenges, you have to inform all of the 100 people of the notice of challenge. You then get after day eight, you have a period of 20 days after that, working days, and you have to make a decision in the office. After that, after the decision is done in writing, you must no more than 30 days after making the decision provide written reasons. So, you are now up to day 51 of challenge proceedings. After that a request for a review of the decision must be made by the office and 21 days after they must take certain steps. We are now to day 72. After day 72, you get to section 51(i) of the Act where these regulations are being dealt with. The review board must conduct a review within 21 days after the request for review, you are now up to day 93. After day 93 they should complete the review within 28 days—you are working your way up that is after the request for review, you now up to day 100. After you get to day 100, you can appeal against the decision to the High Court, so you now at day 128. When you go to the High Court and you are challenging that you enter into the high court processes, case management, case directions, you get into the hearing, you get into evidence and arguments put before the court in terms of submissions, you are looking at one to three years—after one to three years, you



are then getting into the Court of Appeal and in years three to six, depending upon the cause list you are then going to the Privy Council—that is in years six to nine.

So let me put on the record what the review process looks like. You have an application out for any one of the services of public procurement and what is public procurement is defined in the parent law. Public procurement is specifically defined as treating with, procurement or public procurement means, the acquisition of goods, works or services involving the use of public money. A public body is the Office of the President, the Parliament, the Judiciary, a Ministry or Division, the THA or Division, all municipal corporations, regional health authorities, statutory bodies, state control enterprises, service commission, body corporate, body corporate or unincorporated—it includes state controlled enterprises, a company incorporated under the laws owned or controlled by the state, a company incorporated under the laws of Trinidad Tobago which is owned or controlled by a company referred to in paragraph A. A body corporate or unincorporated entity which is supported directly or indirectly by public money—that means that every recipient of money under the Green Fund falls into this. You get a grant from the Government you are into this.

We are now talking about the whole of Trinidad and Tobago support by the use of public money and I am cautioning that you are looking at a potential nine-year cycle by the time you get to the Privy Council, not including injunctive or tangential proceedings and therefore, when you listen to Members opposite, make this sound as if this is a simple thing—wave a wand. Mr. Deputy Speaker, I am cautioning that you have to get the guidelines right, you have to get the handbooks right, you have to get the Regulations right and the only way to do that is not only by the law but the plant and machinery, the people and the processes. But Mr.

Deputy Speaker, I do not expect Members opposite to understand that. After all, Mr. Deputy Speaker, in 1999, we saw the passage of plea-bargaining legislation. We saw barely 10 in number exercised in 20 years. We saw, Mr. Deputy Speaker, the passage of a sex offenders' registry in 1999, with nobody put onto the register, because what the Opposition does is they just turned their back on the law and they are not talking about reform and operationalization and a law that is as complicated as this one has to be operationalized. And so when the Minister of Public Administration, Sen. West, came here today to speak to the operational preparedness of the Government's agencies and state enterprises, et cetera, that is not a fact which can be ignored. The establishment by way of Cabinet Notes and approvals for public procurement divisions, for public procurement entities to be managed in accordance with the law, Mr. Deputy Speaker, but I am cautioning that this is no uncomplicated matter.

But, Mr. Deputy Speaker, we have not dealt with this law in a vacuum. You heard the Minister of Finance today read out a very important statement in relation to the Financial Intelligence Unit. Mr. Deputy Speaker, this law runs concurrent with non-profit organization law; it runs concurrent with beneficial ownership; it runs concurrent with civil asset, forfeiture, explain your wealth legislation; it runs concurrent with amendments to the Companies Act so that you have to declare legal ownership in shares; it runs concurrent with the demonetization process; it runs concurrent with the law of evidence; it runs concurrent with the creation of the Criminal Division, the Family Division, the Civil Division; it runs concurrent with the birth of 129 new courtrooms—

**Mr. Lee:** Deputy Speaker—

**Hon. F. Al-Rawi:**—of Criminal Procedure Rules—

**Mr. Lee:**—with all due respect to my learned friend 48(1), 48(1).

**Mr. Deputy Speaker:** Yes, again Member so tie in the—tie it in immediately please.

**Hon. F. Al-Rawi:**—51 re: challenge proceedings end up in the court, the operational structures are to be tied in, you cannot look at the challenge proceedings regulations before us and be ignorant of the parent law—wide latitude having been given to the Member for Barataria/San Juan on these points. I regret that Pointe-a-Pierre was not in the Chamber at that point to be paying attention while his colleague was talking about illegible and “illegibility” as opposed to ineligible and ineligibility Mr. Deputy Speaker, but we are not babysitting in Palmiste, Mr. Deputy Speaker, we are dealing with the law.

So, Mr. Deputy Speaker, when we looked to the operational structures, how can the Members opposite not be cognizant of the fact that the companion to public procurement is campaign finance reform? And it is on the Parliament record—I am not going to go into that because our Joint Select Committee is considering that work but I drafted that law, the Prime Minister's instruction. So while we are creating the atmosphere for public procurement to be dealt with Mr. Deputy Speaker, we must understand that we have not put all our eggs in one basket and the structures. be it demonetization, be it any one of the elements that we are treating with, these are the important aspects because when the Procurement Regulator goes to conduct an investigation under the Act, and that investigation is done under Part IV of the Act in sections 41 to 48 that ability to go and get information at any person's place or any public authority is underwritten by the reforms that we put in the Income Tax Act, in the Police Complaints Authority, in the TTPS, in all of the legislation where we allowed—

**Mr. Lee:** Mr. Deputy Speaker—

**Hon. F. Al-Rawi:**—for the entry for evidence—

**Mr. Lee:**—my friend is straying, he is straying all over the place, Deputy Speaker.

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

**Mr. Lee:** 48(1), he is straying all over.

**Mr. Deputy Speaker:** Again, hon. AG, I know you are trying to tie in the particular various laws that have been implemented already with this particular one but again, do not stray too far please.

**Hon. F. Al-Rawi:** Thank you, Mr. Deputy Speaker, I am certainly not straying. I will refer my learned colleague, the Member for Pointe-a-Pierre to the Regulations in front of us. It is clear he has not read them, Mr. Deputy Speaker, because the public procurement and disposal of public property procurement methods and procedures are exactly what I am speaking about Mr. Deputy Speaker. Oh woe be to those that cannot read the paper that the Parliament has printed for them.

So, Mr. Deputy Speaker, as I have two minutes left in this position, I would just like to say, we could stand up all day. I heard the Member—the hon. Member Tancoo, forgive me for the seat Tabaquite—Oropouche—Oropouche East—West—Oropouche West, forgive me—talk about \$5 billion and where did that come from? I could start with LifeSport at 500 million, I could start with Beetham Wastewater at 1.2 billion, I could start with a Damen vessel at 1.2 billion, I am nearly up to 5 billion already and by the way, there are criminal investigations into some of those matters. So, Mr. Deputy Speaker, I take no advice from the Member for Oropouche West who is apparently not familiar with the status of largesse, expenditure, waste, and mismanagement under the UNC. Fortunately for us, Mr. Deputy Speaker, the public procurement regulations are before us, a massive

amount of work has gone into them, I note the Minister of Finance has yet to reflect upon the work that the Attorney General's Office did in this particular matter but it was no easy task to take a very large bunch of regulations and dissect them into 10 individual Regulations but Mr. Deputy Speaker, we are getting to where we need to be in the ethos and structure of where we are and I am confident the Minister of Finance will put this to bed. Thank you, Mr. Deputy Speaker.

**Mr. Deputy Speaker:** I recognize the Member for Mayaro and you have 20 minutes.

**Mr. Rushton Paray** (*Mayaro*): Thank you very much. Mr. Deputy Speaker, I would like to add my views to the Regulation with respect to prequalification and preselection of providers of goods and services, which can be found on the Order Paper at Motion No. 8.

Deputy Speaker, it is important to note that the backdrop to these Regulations, in particular, the Government's earlier and I would say deliberate delay in introducing the governing legislation and the removal of a very wide number of transactions from its oversight. You will recall, Mr. Speaker, that the Opposition plus several sectors of civil society had protested the stripping away of the substance of the procurement legislation, making it what I would say anaemic and inadequate and it opens it up to bribes, kickbacks, collusion and what we term influence peddling.

Mr. Deputy Speaker, the Act itself was neutered I would say and clearly it tells me that the Government has very little interest in good procurement legislation and perhaps the Regulations, with the best of its intentions, it may not achieve the objectives that the Government is hoping to produce with these Regulations today, Mr. Deputy Speaker. So, Mr. Deputy Speaker, against that disturbing scenario,

comes the Regulations before us in 10 Motions on the Order Paper today. And looking at these Regulations it really has re-awakened my deep concern over the Government's lack of commitment to accountability and probity with the use of the taxpayers' purse, Mr. Deputy Speaker.

Mr. Deputy Speaker, even if the legislation—the parent legislation before us was not bad enough, this particular Regulation which I want to dive into for a couple of minutes, in my view, it really leaves room for manipulation and the undermining of the procurement process through sometimes deliberately ambiguous language and I would explain that to you, Mr. Deputy Speaker. Let me first refer to clause 9(2) which says:

“(2) Where the list of pre-qualified suppliers or contractors is prohibitively lengthy and would result in the public body spending an inordinate amount of time on the evaluation of the submissions...”

—the procuring entity may at a minimum pre-select suppliers or contractors.

Mr. Deputy Speaker, I have a few questions about that particular clause, what exactly is prohibitively lengthy? Who determines that? What is an inordinate amount of time? Again, how is that defined and who defines it? One can say that is probably nitpicking but when you are dealing with billions of dollars in taxpayers' money, I cannot see that being nitpicking.

Mr. Deputy Speaker, it amuses me sometimes that a government that has not yet delivered on several of its 2015 manifesto promises, suddenly they are concerned about an inordinate amount of time. What is the international benchmark for those things? Mr. Deputy Speaker, a major purpose of any procurement law and its associated regulations is to remove subjectivity and the likelihood of bias and unfairness in the disbursement of public contracts. Is this

legislation—this Regulation accomplishing that? Is it removing subjectivity, bias and unfairness?

Mr. Deputy Speaker, I feel that we are presented with a skewed and prejudiced regulations by the state—by this Government that perhaps sees procurement as a nuisance or a necessary evil. But, Mr. Deputy Speaker, this particular Regulation that I am speaking of it gives really the public body a very flimsy reason to remove and bypass tenders from the pre-qualification process. That can only be seen, Mr. Deputy Speaker, as a gateway to corruption. Mr. Deputy Speaker, allow me to look at another deliberately abstract provision in the clause as well and we go back to clause 9(2) which also states that a public body could pre-select contractors based on several criteria, including geographical location.

Mr. Deputy Speaker, does that mean that contractors would be favoured or ignored based on where they are registered and located? Mr. Deputy Speaker, in this interconnected world that we live in, how does geography come into play when seeking out the best goods and services at the most economical cost? Has the Government ever heard of expertise and transfer of knowledge, where geography does not play a role? Is this provision, Mr. Deputy Speaker, meant to give an edge to local contractors or to discriminate against them? Mr. Deputy Speaker, these are areas of ambiguity which the regulation provides and it gives no clarity.

Mr. Deputy Speaker, if one were to look to our neighbours in Guyana, where Middle Eastern companies are building out their country, how does geographical location fit into the award of public contracts? Could this be a criterion used, for example, in favour of Chinese contractors over those in the US? Just asking—Mr. Deputy Speaker, this Regulation, the one that I am particularly looking at and

several which have been identified by my colleagues who spoke before these Regulations are fraught with the risk of wrongdoing and in some cases opening the doors to blatant corruption, especially in the award of these public contracts. This pre-selection process is another dark indicator, Mr. Deputy Speaker, that the procurement legislation itself does not bear the material good for the citizens.

**6.45 p.m.**

I wish to confirm, Mr. Deputy Speaker, my skepticism by quoting from the highly regarded Global Infrastructure Anti-Corruption Centre, which has done extensive work and they have come up with methods in terms of looking at opportunities where corruption can be planted, can be exercised. Mr. Deputy Speaker, if you will allow me to quote from a document which was produced on April 10, 2020, and it is titled, “How Corruption Occurs”. The Global Infrastructure Anti-Corruption Centre says explicitly that:

“A bidder which is properly qualified may be rejected at pre-qualification stage as a result of a bribe paid to a representative of the project owner or consulting engineer by another bidder. The reasons...for”—the—  
“rejection”—could be absolutely—“artificial. Alternatively, no reasons may”—even—“be given. The rejection of several potential winners could result in the corruptly favoured bidder being given an unfair advantage at”—  
the tendering—“stage.”

So, Mr. Deputy Speaker, the way how that Regulation is framed, it opens up speculation. It opens up the opportunity for those who may be so ill will and of bad mind to create more problems, rather than fix the problems that we are hoping that these Regulations would solve in this country.

Mr. Deputy Speaker, if you allow me to just speak briefly to another



scenario; the Global Infrastructure Anti-Corruption Centre in this very same paper said:

“A tenderer may pay a bribe to a government official, in return for which the official ensures that the bribing tenderer wins the contract:”

Mr. Deputy Speaker, the Centre offered several circumstances; they listed them, about 15 or 20 pages, that facilitates corruption based on the weak drafting of this particular piece of legislation, Mr. Deputy Speaker. And I mean, I would not go into that because it is going to take too long. But there is a declaration as well that a tenderer may make a donation to a ruling political party in return to which a political official ensures the tender wins the contract.

Mr. Deputy Speaker, these are things that we are all familiar with. We have heard it. We have lived it. I mean, we have all lived in this country, we have heard about these things and one would have hoped that the Regulations today presented would deal with those things. And let me just talk quickly on the speakers opposite so far. While they have defended the Government's position, one would have thought that each Minister of Government who spoke before could have answered a few simple questions. One, are the state enterprises under my watch, are they ready to move forward with procurement legislation? Are they tooled and resourced if, according to Mr. Lalchan, that only 70 responded? Let us assume 35 or 50 per cent of that 70, 35 people ready, that is a far cry. That is 10 per cent of the total amount.

Another thing that I thought each Minister of Government who spoke before could have said, of all the ills that they would have identified from past Governments, how is this Regulation, the 10 of them, going to be a plug to stop future governments, future States, future state enterprises from walking down that

very same road, Mr. Deputy Speaker? Unfortunately, Mr. Deputy Speaker, none of them took the opportunity to make that case for the national community. Mr. Deputy Speaker, the World Bank itself, they too documented and they set out a set of equitable and transparent pre-qualification processes as well; again, nothing spoke in terms of defending those Regulations so far.

The Minister of Finance in his delivery, he spoke about the IMF and they too have pronounced on the matter of public procurement and regulations, saying that public infrastructure, Mr. Deputy Speaker, is subject to high risks of corruption because obviously the large sums of money involved. The IMF has stressed that countries with weak institutional capacity are more vulnerable, and I think that speaks to Trinidad and Tobago, Mr. Deputy-Speaker. I want to make it clear that we in the Opposition will stand and support good law, good legislation. We want to see procurement legislation work. Member for San Fernando East, you spoke about you have—you are going through the democratic process in terms of what you have done, but I want to tell you as well that the Opposition, when we stand on this side and we scrutinize legislation, we too are participating in the democratic process by scrutinizing legislation, Mr. Deputy Speaker.

Mr. Deputy Speaker, if I were to look at clause 10 of the Regulation it grants the authority to a public body to:

“...specify the minimum and maximum number of suppliers or contractors that would be invited to make a submission.”

At face value, Mr. Deputy Speaker, that may appear to be very appropriate but in the hands of an administration, this one, the next one, the one that comes after that, that is not dedicated to sound procurement behaviour, it could lead to systemic engineering of the process itself, Mr. Deputy Speaker. And when we come to this

House as a Parliament to pass laws, we are not passing laws for the hon. Members who sit opposite, we are passing law for every Minister of Government who will sit on the Government Benches for the next 30, 40 years. And it is important that we do our duty, which we are doing today and scrutinizing these Regulations and pointing out weak areas with the hope that the Government can find some loopholes, see it, agree with us, and plug it going forward.

Mr. Deputy Speaker, the Regulation on (Pre-Qualification and Pre-Selection) is not a very watertight parameter which I think is required, and in all honestly, Mr. Deputy Speaker, I think the Government has set the lowest possible bar possible on this particular piece of Regulation. Left as it is, Mr. Deputy Speaker, leaving all the windows that it can potentially open up, it could lead to higher cost of public projects, time overruns, which is going to be borne by the taxpayer in an economy, in an environment that is going to become much more difficult for our citizens.

Mr. Deputy Speaker, it is really a reversal of the work done by the Uff Commission of Enquiry which had made 91 recommendations during that enquiry in terms of dealing with public procurement and so on, many of which were implemented by the Kamla Persad-Bissessar Government, Mr. Deputy Speaker. It is also ironic that the procurement legislation and Regulations have come today in 2022 under a Prime Minister, who in a previous incarnation, had scolded his own Government on public procurement and has insisted on higher standards. Mr. Deputy Speaker, I am sure that the citizens of this country will agree with me when I say that we have not put forward legislation and Regulations today of a higher standard.

Mr. Deputy Speaker, we state our objections to the loopholes in these

Regulations and we challenge the Government to bring them up to global standards in the interest of transparency, accountability and good governance. We would like to remind the Government that the country is watching and that Trinidad is as fed up as Tobago with its gross mismanagement of the national affairs. We in the Opposition will not remain silent, we would keep the country properly informed on the undermining of this procurement process. I thank you, Mr. Deputy Speaker. [Desk thumping]

**Mr. Deputy Speaker:** I recognize the Member for Point Fortin. [Desk thumping]

**Mr. Kennedy Richards** (*Point Fortin*): Thank you. Thank you, Mr. Deputy Speaker, as I make a contribution this afternoon on the Public Procurement and Disposal of Public Property Regulations. As I rise to give my contribution, Mr. Deputy Speaker, on this Motion to adopt the Public Procurement and Disposal of Public Property Regulations, 2021, the parent legislation of these proposed Regulations calls for a provision of public procurement and for the retention and disposal of public property in accordance with the principles of good governance, accountability, transparency, integrity and value for money. Mr. Deputy Speaker, without a doubt all these tenets are embedded in this administration led by our Prime Minister. [Desk thumping]

Some of these values were missing in previous years, namely 2010 to 2015. Mr. Deputy Speaker, these progressive and reforming Regulations seek to operationalize and essentially provide the impetus to complete execution and amend Public Procurement and Disposal of Public Property Act. My contribution would focus on how these Regulations, from a (Record of Procurement Proceedings) to the (Participation in Procurement) Regulations, or the (Retention and Disposal of Personal Property) Regulations all contribute and define

accountability, good governance, value for money within the public administration in Trinidad and Tobago.

Mr. Deputy Speaker, firstly the (Record of Procurement Proceedings) Regulations expands the reach of the Act to provide transparency, this being a further thrust to promote anti-corruption within the business of public enterprises and agencies. Regulation 4 of the (Record of Procurement Proceedings) provides a comprehensive list of 15 articles of information that must by law be included on the procurement record. This of course is not limited to 15 but in itself it is vastly comprehensive and inculcates further transparency in these processes. Take for instance the procuring entity must, in Regulation 4(d), says:

“a list of each participating supplier or contractor and his”—or her—  
“qualification;”

Which is followed up by part (e) that says:

“the reason for limiting participation, where participation is limited;”

Why is this an important provision?, one might ask? It is important because procuring entities must justify any decision to limit a pool of participants who is participating in the process—in the procuring process. Competitive tendering is usually best practice in terms of transparency and equality, therefore if a decision is taken to limit it a procurement flag would be raised which would then permit the office to examine and assess the justification to ensure that it was a reasonable one within the ambit of the law. And two, by providing a list of suppliers with the relevant qualifications is a move to acclimatize our public entities in ensuring that all suppliers are adequately qualified to deliver the goods and services once procured. It also ensures that we have no square pegs in round holes because of our requisite qualification process.

Secondly, Mr. Deputy Speaker, we see the objective of good governance being encapsulated in this group of Regulations before us today. Take, for instance, the (Retention and Disposal of Personal Property) Regulations; uniquely provides a comprehensive description of the process in which public authorities must seek the care and maintenance of property as well as a clear direction in which the disposal of the same can occur. Regulation 6 gives a public body the responsibility to dispose of:

“...its stores and equipment that are deemed unserviceable, obsolete or surplus.”

Mr. Deputy Speaker, I laud the Minister of Finance and his team for introducing this very specific Regulation that brings the disposal of personal property part of the Act into operation. Oftentimes we underestimate the importance of disposing of public property within the context of value for money and good governance, by this Regulation it would put a gradual end to some of the public offices becoming literal junkyards because of the arduous process used to dispose of them. And this brings me to a point; back in 2010 when I just assumed the office of Councillor in the Borough of Point Fortin, one of the things that we initially wanted to do was to do a clean-up programme within the corporation itself. To the back of the corporation is where they dump basically everything, 30, 40, 50, 60 years old; everything is in the back there, and we wanted to clean up that property. So being new we felt as though we could have just gone in and take action and provide some type of impetus and relief to the workers. However, there is a process presently and you have to do a board of survey and then someone from Central Tenders have to come and make sure that this whole thing happens. And then that process started in 2010 and then in 2016 there was the national clean-up

campaign launched by the Minister of Rural Development and Local Government and we still were waiting on that board of survey to be completed so that we can initiate that clean up. So this procurement, this legislation, these Regulations will assist us in treating with issues like that. And it is not just in Point Fortin Borough that takes place, that happens in almost all the regional corporations. You would see that in the fire service, you would see that in the police service; you would see that all over the country because everyone follows that same procedure. But now we could see the light at the end of the tunnel with respect to cleaning up and treating with our public properties in the way it should be treated.

This Regulation in particular gives anybody defined in the Act the authority to dispose through the means of public sale or tendering public auction gift, lease, concession, transfer, destruction, trading, recycling and donation. Local government bodies now have the opportunity, which is a unique opportunity, to review and dispose where applicable the unserviceable and obsolete property for the better service and more efficiency of the municipality.

Finally, Mr. Deputy Speaker, the value for money is realized under these Regulations. The participation in the procurement Regulation is clearly an advocate for transparency and impartiality in the award of contracts, whilst showing appreciation for local talent, goods and services produced in Trinidad and Tobago. Another example of that was the highway to Point Fortin where we had Constructora OAS being the main contractor and at that point in time the quality of work that we were getting was not the quality of work that we expected as citizens of this country. But this Government, through a very rigorous and robust tendering process, thought that it was necessary and we got local contractors to deal with the establishing of the highway from Point Fortin and now we are seeing some

progress. And the quality of work that we are experiencing it goes to show how good our local talent is, Mr. Deputy Speaker. And for the public listening, I want to explain what the domestic preference article in these Regulations are all about. The domestic preference is a benefiting mechanism set out in Regulation 3 that provides:

“A supplier”—that—“participates in an international competitive bid”—when it—“involves...  
the supply of goods...manufactured...in Trinidad and Tobago; or”  
partially supplied or assembled by at least—“thirty five per cent”—or  
involve the employment of local labourers at—“sixty-five per cent”—  
for the least.

Part II:

Procuring entities before considering a domestic preference must take into account the value of the raw materials assembled and manufactured and local labour.

Mr. Deputy Speaker, this in no way inculcates favouritism or biases in the awards on contracts.

In fact, Regulation 6 stimulates that:

“The nationality of a supplier or contractor shall not be a condition for eligibility.”

What this encourages though, Mr. Deputy Speaker, is that procuring entities ought to appreciate the utilization of local produce and goods in which they are seeking to procure for continued growth of our local economy, an appreciation that is cost effective and provides value for money according to the Act; two, the potential suppliers are encouraged to utilize locally manufactured goods and services and,



more importantly, to employ and utilize local labour in their work.

These Regulations also promote local businesses to build their capacity, to compete internationally and provide quality service to the nation. These Regulations are not intended to give the local supplier a “bigh”, and which is basically an easy pass because as a responsible Government we must ensure that our local contractors can stand shoulder to shoulder, run toe to toe with their international counterparts in their appreciation for the value of money and accountability.

Using local produce and local bolsters the economy; a cross-section of subcontractors that manufacture goods and services across the country would be granted the opportunity to contribute to national development by this Regulation under very specific transparent and fair practices that this Act and Regulation provide. Local goods, talent and services always provide value for money for us as the taxpayers. For instance, the Point Fortin Highway yet again, completion because of this Government’s move away from a contractor that did not use, for the most part, local goods to, one, where the construction is almost 100 per cent local. We can now see the highway connecting, a highway due to be completed locally and with quality.

Mr. Deputy Speaker, you know, I sat and I listened to the Opposition and so far it does not seem that they are against the Regulations or the procurement Regulations but it seems as though they are more concerned with the timespan that it was taken to—that it has taken to reach to the Parliament, and of course trying to score a little Brownie points by saying that, you know, they would have brought the legislation first, but today is the day—today is the day to support this legislation. And you are supporting this legislation not because you want to support

it, you are supporting this legislation because this is good legislation. You are supporting this legislation to ensure the furtherance and the continued development of our country, Trinidad and Tobago. And coming from local government, Mr. Deputy Speaker, I can speak comfortably about a brighter and a better future with regard to these procurement Regulations.

This will definitely assist us in terms of value for money, transparency. It is going to even increase the rate at which we get work done. We must do this together and today is a good day for all and sundry, all Members in this House to support these Regulations so that we could go forward and continue to build this country. I thank you for allowing me the time, Mr. Deputy Speaker. [*Desk thumping*]

**Mr. Deputy Speaker:** I recognize the Member for Caroni Central. [*Desk thumping*] Member, you have 20 minutes.

**Mr. Arnold Ram (Caroni Central):** Thank you, Mr. Deputy Speaker. And let me take this opportunity, like my colleagues on this side prior, to wish all Members of this House, and by extension the parliamentary staff, a Happy New Year, a blessed 2022 and a safe one. Mr. Deputy Speaker, when the Member for Diego Martin North/East was piloting this Bill—

**Mr. Imbert:** It is not a Bill.

**Mr. A. Ram:** This Regulation, please—these Regulations here, please—

**Hon. Members:** [*Crosstalk*]

**Mr. Deputy Speaker:** Members, please.

**Mr. A. Ram:**—he indicated that this is a matter of some vintage and I agree with him, because he went back all the way to the Central Tenders Board Act, 1961, and I myself have done my research and I have discovered that this Bill—these

Regulations in which the procurement Act is the parent legislation, was first passed by Act No. 1 of 2015, passed by the Kamla Persad-Bissessar administration, it was subsequently amended on three occasions, by Act No. 5 of 2016, which established a review board; very briefly please, Mr. Deputy Speaker, by Act No. 3 of 2017, which reduced the term of office of the office of the Procurement Regulator, and Act No. 27 of 2020, which we all know removed certain elements under the purview of the procurement Act, Mr. Deputy Speaker.

So, Mr. Deputy Speaker, the record is there. The record shows that the Minister of Finance has not been steadfast in bringing these Regulations to this Parliament. He has not been resolute, neither has he acted with alacrity in bringing these Regulations to this House. And the Minister of Finance was first given these Regulations by the Office of Procurement Regulation sometime in November 2018, and the Minister indicated that—the Minister is not a rubberstamp or a post box; the Minister is required to ensure that these Regulations are lawful and consistent with the intent and purpose of the parent legislation and the public interest. So I ask of the Minister of Finance, of this hon. Minister of Finance, he has indicated and it was indicated before prior that he consulted a Senior Counsel, someone who has not been identified up to this point, and also he has not indicated the amount of taxpayers' moneys that were expended in getting the services of this Senior Counsel. And then when the hon. Minister—the Attorney General, when he was on his feet on this debate, Mr. Deputy Speaker, he indicated that the Office of the Attorney General and Ministry of Legal Affairs had an input in these Regulations. So therefore, there are conflicting stories coming from that side, from the Government Benches as to why these Regulations took so long.

Mr. Deputy Speaker, what could be described as the most significant and

groundbreaking piece of good law that was passed in this Parliament, it must be put on public record that the Member for Diego Martin North/East, this hon. Minister of Finance, when Act No. 1 of 2015 was passed in this House he abstained, Mr. Deputy Speaker; he abstained.

So, I am not certain and maybe it can be an explanation as to the reason why the Minister of Finance was not diligent and/or acted with alacrity in bringing these Regulations to this House.

**7.15 p.m.**

Mr. Deputy Speaker, I want to turn my attention to Regulations number two, which is the Regulations in respect of the record of procurement proceedings. Mr. Deputy Speaker, these Regulations must be read in conjunction with the procurement Act as well as the Office of Procurement Regulation's general guidelines on recording keeping and maintenance of procurement files. Because, Mr. Deputy Speaker, the Office of Procurement Regulation has done enormous work. On their website it has been indicated, it is indicated there that the Office of Procurement Regulation has completed 31 handbooks, guidelines and templates. They have held over 20 capacity-building workshops, conducted 193 bespoke sessions, responded to 398 stakeholder queries, as at August 2020. They have also drafted these Regulations which were sent, as I said previously, to the Minister of Finance.

Now, Mr. Deputy Speaker, if you look at regulation 3 that deals with the procuring entities:

“A procuring entity shall maintain an easily accessible and retrievable record for each procurement proceeding, which shall be marked with the record management reference number.”

Now, it is very important that public bodies—and this is in accordance with the OPR’s guidelines on recordkeeping and maintenance of public procurement files—it is very important that public bodies are able to verify the conditions under which the contract was awarded, performed and supervised to guarantee the objects of the Act have been fulfilled. Documentation must be readily available and accessible for consultation by both the contracting authority and by the auditor as well as the public. So recordkeeping is very important to this exercise of the procurement Regulations, and the accountability and transparency that it adds to the public purse.

What is very instructive, Mr. Deputy Speaker, is that there was a *Loop News* article dated 15 December, 2021, and it was entitled:

“THA to conduct audit: \$163M spent, unaccounted for under the PNM”

And this runs to the heart of why we are here today in terms of Regulations number two: Record of Proceedings. The THA Chief Secretary, Farley Augustine, he said:

“...an audit will be conducted to find out how \$163 million in bond financing for Tobago was spent under the former People’s National Movement (PNM) administration in the run-up to the THA election.”

So basically Mr. Augustine had to say that \$163 million, there was no recordkeeping on how this money was spent between May 2021 and December 2021. So, Mr. Deputy Speaker, that is one of the purposes in which these Regulations will protect the public purse, as we seek to transform the way in which public moneys are being spent.

Mr. Deputy Speaker, as it pertains to recordkeeping, I wish to quote from a journal entitled, *Journal of Financial Crime*, Volume 28/Issue 1. The article is

entitled:

“The nexus between records management and perceived corruption in sub-Saharan Africa”

The author says, and it states:

Poor records management is one of the channels or routes used by public officials to facilitate corruption activities. In a poorly managed record management system, accountability and transparency are weak. Financial decisions and transactions cannot be verified, trailed and reported. Indeed, unauthorized purchases, inflated contracts and illegal payments can only thrive in an environment where ineffective records management exists. An effective management of records means that there is enough information on procurement processes, accounting procedures and programmes to enhance public trust.

So if you look at Regulation 4 of this Regulation number two, Record of Proceedings, there is something entitled basically, identifying what the procurement proceedings are, and it identifies items (a) to (k) which, by and large, capture the entire procurement proceedings from the initiation from the planning stage all the way to the completion and management of the contract. So it is quite comprehensive, in my humble view, that it captures all of the stages of a procurement proceeding.

However, Mr. Deputy Speaker, when we look at Regulation 5, it deals with:

“A record shall be prepared and disclosed in a manner that avoids the disclosure of proprietary commercial information.”

Now, Mr. Deputy Speaker, what is “propriety commercial information”? The fact that this expression lacks precise legal definition, can lead to an abuse in this

subsection to deny public information, because there is no definition in this Regulation or elsewhere of what is proprietary commercial information. Maybe the Minister of Finance can look at what the UK Government indicated in their Green Paper: “Transforming public procurement”, which was established in December 2020.

They suggested, to remove the inconsistencies between public authority disclosure around contracting and procurement, there should be a set list of details which should be redacted, proposed to include profit margins, overheads, intellectual property, trade secrets and similar type information, all other details would be by default to be disclosed. So instead of making this imprecise exemption and something that is very subjective, in terms of what this proprietary commercial information, maybe this hon. Minister of Finance may want to look at the UK Government Green Paper, and this will ensure that this imprecise definition does not be as subjective as it stands, now, Mr. Deputy Speaker.

As I move on, Mr. Deputy Speaker, in terms of Regulation 6, it says—clause 6, that a record may be kept—

**Mr. Deputy Speaker:** Member, clause 6 of which Regulations?

**Mr. A. Ram:** Regulations two. I am dealing with Regulations two, exclusively Regulations two: Record of Proceedings. So in terms of Regulation 6, it says that records will be kept in electronic form. This indicates at a minimum that paper records may also be required.

Now, Mr. Deputy Speaker, in terms of these Regulations which will operationalize the procurement Act, I propose that in relation to the storage of records there should be more specificity, and not just leave it to the procuring entity to establish and maintain measures to safeguard the integrity, reliability and

accuracy of records. So if you look at 6(2), it speaks to what should be done by the procuring entity to safeguard their records. “Measures”—again, “measures” should be given more precise definition, because—and the reason why I am saying this is because of the pronouncements made by the Office of the Procurement Regulator in respect of a number of issues. I think some of it was stated previously but which is very instructive.

One is that there has been quite a “lucklature” approach by the Government agencies—[*Interruption*—lacklustre approach by the Government agencies in responding—

**Hon. Members:** [*Inaudible*]

**Mr. A. Ram:**—to the Office of the Procurement Regulator.

**Mr. Deputy Speaker:** Silence!

**Mr. A. Ram:** In fact, in this article of the *Express* of the 19<sup>th</sup> of September, 2019, Lalchan said the staff has met with most of the 150 organizations that fall under the ambit of the Act. But he singled out two line Ministries, the Ministry of Housing and Urban Development and the Ministry of Planning and Development as having no overture to meet with the Regulator.

Additionally, speaking generally about the response from state agencies, he, Lalchan said:

I can tell you that there are a number of organizations who are supposed to fall under the Act is trying all sorts of reasons why they cannot fall under the Act, and every single one has sought legal interpretation, from their legal unit, why they should not fall under the Act. What it is they are trying to hide?

That is some of the pronouncements made by the Procurement Regulator.



I say guardedly please, Mr. Deputy Speaker, that measures under Regulation 6(2) should be given more precise definition as to what is required of these procuring entities, because there is a hesitancy of these state agencies to even meet and respond to the Procurement Regulator. So it shows where their head space is at this point in time, and unless a strong policy of the Government is put, or a strong mandate is put, much like—I heard the Member for San Fernando East speaking about vaccination earlier—unless some mandate in terms of or in line with the Government’s recent position with respect to mandatory vaccination, is put, something as strong as that, then these agencies will continue to operate in the way and to almost shun the Office of the Procurement Regulator.

**Mr. Deputy Speaker:** Two more minutes, Member.

**Mr. A. Ram:** Mr. Deputy Speaker, as I wind up, Regulation 7—again, this is in respect of Regulations number two, Record of Proceedings, deals with:

“A procuring entity shall submit the summary of the report of its procurement activities to the Office in accordance with the handbooks and guidelines, approved for the entity by the Office.”

Mr. Deputy Speaker, I wish to ask: Does this report on procurement activities mean a report on records kept by the procuring entity in relation to procurement proceedings, or is this report to be annually submitted to the Office of Procurement Regulation? These matters should be made clear in these Regulations, if these Regulations are to have the effect which they ought to have.

So with those few words, Mr. Deputy Speaker, I want to thank you for the opportunity this afternoon.

**Mr. Deputy Speaker:** I recognize the Member for Port of Spain South. You have 20 minutes, Member. [*Interruption*] Members, please. Member, Member, Caroni

Central. Proceed, 20 minutes.

**Mr. Keith Scotland** (*Port of Spain South*): Mr. Deputy Speaker, forgive me if I appear to have a lacklustre approach this afternoon.

**Hon. Members:** [*Laughter and desk thumping*]

**Mr. K. Scotland:** It is late in the evening—my learned friend from Caroni, Happy New Year to you, your colleagues, everyone, all Members, forgive me—Mr. Deputy Speaker, that will not belie the enthusiasm that I have for these Regulations, for the simple reason that I disagree with the hon. Member for Caroni Central, who has just spoken, that the Minister of Finance did not approach the Regulations with alacrity. We say that he approached it with alacrity and sagacity—[*Desk thumping*]

**Mr. Hinds:** Well putted! Well putted!

**Mr. K. Scotland:**—and that is why these Regulations represent an exercise of good governance, but it does not end there, Mr. Deputy Speaker.

In communication you learn that it is not what the speaker says, but what the listener receives, and by its actions over the past six and a half years, this Government is trying to communicate to the population that we are serious about good governance. I hope that by these Regulations that have been brought to this Parliament, that the population will continue to be assured that this Government has the interest of the people of Trinidad and Tobago at heart. [*Desk thumping*]

The bringing of these Regulations to the Parliament represents an embodiment of the commitment, not only to good governance but to best practice in the procurement sphere of economic activity. It represents and touches good governance, Mr. Deputy Speaker, both on a national and international forum. When on the 9<sup>th</sup> of December, 2011, during the 66<sup>th</sup> Session of the United Nations,

the Government of Trinidad and Tobago resolved to implement public procurement policy, these Regulations, and the bringing of these Regulations, represents a culmination of that commitment, both nationally and internationally.

I would want to focus, Mr. Deputy Speaker, on Regulations 2, the “Challenge Proceedings”, and try to explain to the public the significance of these proceedings and link it to good governance. Mr. Deputy Speaker, the parent Act—because the Regulations are all pegged to the parent Act—and section 50 of the parent Act deals with reviews on the part of a supplier or a contractor, reviews of the procurement process.

If you look at the Regulations, these Regulations, Regulation 2, sub (2) makes it clear and mandatory for the Office of Procurement Regulation, upon receipt of an application of an aggrieved contractor or supplier to register that application promptly. So the first thing we know then about the Challenge Proceedings is that it is governed by promptitude.

Regulation 2(3) of the Regulations then dictates and it makes allowances that the decision of the Office is binding on all persons who would be part of the review process. What that means is there is a sense of finality. After the challenge and you go through the process, the decision is binding and we move on.

Regulation 4 of the Regulations states that when the review application is received, it sets out the grounds for dismissal of unmeritorious applications. That would mean a curtailing of unnecessary and unmeritorious challenges, which will then prolong the procurement process.

Most importantly, Mr. Deputy Speaker, Regulation 5(1) of these Regulations ensures, and statutorily enshrines, that all reviews shall be conducted “independently and impartially”. That is very important, because an independent

and impartial conduct of a review breeds confidence in the process, and suppliers and/or contractors can now be assured of not just a swift process, but a process that is independent and impartial. The significance of this excludes capriciousness, it excludes acting on whims, and it ensures that there are reasoned decisions in the process of reviews. It ensures that all stakeholders, inclusive of suppliers and contractors, or the procuring entity, that they are guaranteed by this statute that they would have a fair hearing, devoid of bias and external or internal influences. That is an important cog in the wheel, an important part in the wheel ensuring good governance. The integrity of the process then is set up in a statutory framework, and we say on this side that that is a constituent of good governance.

**Hon. Members:** [*Desk thumping*]

**Mr. K. Scotland:** In order to further safeguard the sanctity of the review process, Mr. Deputy Speaker, I wish to draw your attention to Regulation 7 of these Regulations. Regulation 7 enables a party who appears before the review body in the process, to have a right to be represented by an appropriate entity, for example, an attorney, an engineer, a quantity surveyor or a valuator. What that means, Mr. Deputy Speaker, is that this act envisages the broad spectrum of challenges and assistance that may be required by persons and entities involved in the review process. It is not at all times that you will call a lawyer. Lawyers just prolong things, it will last forever. Sometimes you need QS, you need a valuator, you need an engineer who can bring expert evidence before the review process to show that something went awry in the process.

It means, Mr. Deputy Speaker, that in drafting these Regulations there was no myopic vision that only focused on, well, there is a review, bring in the lawyers. You bring in the expert who is qualified in the area that touches and concerns the

nature of the challenge, and that is why Regulation 7 is so important.

Then, Mr. Deputy Speaker, I would like to address you on Regulation 8(6) of the Regulations, that further safeguards the process. In that, it ensures that any public body affected by the review process will be notified of the process, and thereafter will be entitled to make an application to participate in the review process, if it deemed fit and if it deemed necessary. Therefore, we then say that the process of review and challenge ensures that an aggrieved entity can seek review and redress in the appropriate circumstance.

The combination of section 50(4) and (7) of the main Act and Regulation 11 of the Regulations is very important. It is important because this is what it says:

“Within three working days of the receipt of a review application, the Office shall convene to consider whether or not the procurement proceedings should be suspended.”

What it means, and the significance of this, in my view, is as follows. If there is a challenge to the procurement process, but the procurement process continues and is expedited and brought to conclusion, then it makes a nonsense of the challenge, because you have challenged it yes, but the procurement process continues. By this Regulation, if something has gone wrong in the procurement process and on the face of it the Office has documentation or reason to believe that it is just and expedient to suspend it, then the procurement process is suspended pending the outcome of the review process. That gives meaning to the review process.

It means then that the Regulation in the appropriate instances can ensure that once a review is filed and the Office deliberates, it can suspend the procurement process, even in instances where the contract is already awarded. It means, Mr. Deputy Speaker, hon. Attorney General, hon. Minister of Finance, that this piece of

legislation was well thought out to protect the integrity of the challenge process, and we wish to commend Regulation 11 to parties that may be involved in a challenge of any procurement process that they feel did not go right.

The Office in exercising its powers and deliberating on reviews, according to Regulation 14(6) of the Regulations, the Office is not bound by technicalities and legal form, and not bound to follow the rules of evidence. Mr. Deputy Speaker, that is contained in Regulation 14(6), and it is an important addition to the challenge Regulations. I want to take a minute to read it:

“In the hearing of any matter before it the Office may act without regard to technicalities and legal form and shall not be bound to follow the rules of evidence stipulated in the Evidence Act, but the Office may inform itself on any matter in such manner as it thinks just and may take into account any generally recognized scientific or technical fact, information or opinion within its area of expertise and such facts as it considers relevant...”—as the case may be.

The only sibling to this type of provision that I have found is in section 10(b)(3) of the Industrial Relations Act that gives the Industrial Court the power to act, not in accordance with the normal technical rules of evidence, but follow good conscience, equity and principles and practice of industrial relations.

What this means then in the challenge, Mr. Deputy Speaker, is that the Office when dealing with a challenge can act fairly, and inform itself devoid of legal technicalities.

I now go relative to the evaluation Regulations, and particularly Regulation 3 of the procuring entity and say, Mr. Deputy, that it sets out a firm criteria and methodology that will be specified in the bidding document. Mr. Deputy Speaker,

how many times have we heard suppliers and contractors complain about the process, about outside influence, about nepotism, that their bid should have succeeded? Now, we have an objective criteria set beforehand that will tell bidders what are the criteria set in the particular procurement process.

**7.45 p.m.**

These Regulations then will go a long way. It is not the panacea for all ills but it will go a long way to ensuring that there is some sort of transparency and it will eliminate grounds to or for such complaints. The advantages of these Regulations are that it will and they will in conjunction with the main Act and the subsidiary legislation will provide procurement oversight, ensure that entities and particularly government agencies act fairly, cost effectively and in a manner that is just in awarding contracts to small, medium and large enterprises. It will ensure that nepotism is reduced and unseemly practises in the procurement process via Regulations 5, 8, and 14 are as far as is reasonably practicable eliminated. By setting such a rigorous process for the review and by elucidating the evaluation process, these Regulations can ensure open and fair competitive procurement policies and procurement processes.

I therefore commend to the population that these Regulations will help the citizenry to obtain better value for money as it relates to the procurement processes. It will not cure all ills but it will go a long way in eliminating certain bad practises that have existed in the past.

In the final analysis, Mr. Deputy Speaker, in the final analysis these Regulations on public procurement will allow the efficient delivery of goods and services that is necessary to accomplish and attain government projects in a timely, economical and in an efficient manner. It will make Trinidad and Tobago more

attractive to foreign investors. It will make Trinidad and Tobago and government procurement processes more attractive even to the private sector and it may and it should act as a catalyst for private—for local private sector investment because what it does, it shows, it gives transparency, a certain amount of certainty and it shows the commitment of the Government of Trinidad and Tobago to ensuring fairness. So I wish to conclude, Mr. Deputy Speaker—

**Mr. Deputy Speaker:** Within two minutes.

**Hon. K. Scotland:** Yes—that these Regulations represent a step to promote best practice. And in Trinidad and Tobago, if properly utilized, they will go a long way in improving public confidence in Trinidad and Tobago's procurement process. It will raise the status of Trinidad and Tobago in the global competitive market and public procurement scale. And when these Regulations are implemented, it will help the business sector and the government sector in Trinidad and Tobago.

Mr. Deputy Speaker, in the last minute that I have, I wish to declare that no dark clouds will hover over us in Trinidad and Tobago for 2022 and we shall prosper in 2022 under the astute leadership of this Government. I thank you, Mr. Deputy Speaker.

**Hon. Members:** [*Desk thumping*]

**Mr. Deputy Speaker:** Leader of the House.

### PROCEDURAL MOTION

**The Minister of Planning and Development (Hon. Camille Robinson-Regis):** I rise to move the Procedural Motion, please. In accordance with Standing Order 15(5), I beg to move that the House continues sit until the conclusion of this matter before it. The Minister is up next. Thank you, Mr. Deputy Speaker.

*Question put and agreed to.*



**PUBLIC PROCUREMENT AND DISPOSAL OF  
PUBLIC PROPERTY (RECORD OF PROCUREMENT PROCEEDINGS)  
(NO. 2) REGULATIONS, 2021**

**Mr. Deputy Speaker:** We continue with the business and I will recognize the Minister of Finance and you have a period of 20 minutes.

**Hon. Members:** [*Desk thumping*]

**The Minister of Finance (Hon. Colm Imbert):** Thank you very much, Mr. Deputy Speaker. Mr. Deputy Speaker, there is a term that is used in developed countries that does not have consistent usage in Trinidad and Tobago but I suspect it will over time and that is the word “gaslighting”. And gaslighting means to manipulate someone by psychological means into doubting reality. And the word came to mind, gaslighting came to mind, when I heard the contribution of the Member for Oropouche East because he made the preposterous statement, the hon. Member, at the end of his contribution that the Parliament will hear about matters relating to the former UNC administration such as the Beetham Wastewater Plant and so on but we could talk about these things all we want, that will not assist us in winning elections. Now, that is classic gaslighting because as far as I can recall, one of the reasons why the PNM won the 2015 election was because the population was convinced of UNC corruption in the 2010 to 2015 period.

**Hon. Members:** [*Desk thumping*]

**Hon. C. Imbert:** And again one of the reasons, not the only one, that the PNM won the 2020 election is the population did not wish to return to the UNC corruption that occurred—

**Hon. Members:** [*Desk thumping*]

**Hon. C. Imbert:**—between 2010 and 2015. So that, I am sorry, I will not accept that attempted gaslighting from the hon. Member for Oropouche East. I am very

aware of what is reality.

Now, hon. Members opposite, with few exceptions, did not address the Regulations at all which is a tragedy because these Regulations are very robust, they are very sophisticated and if properly utilized will result in greater transparency and value for money in public procurement in Trinidad and Tobago. A lot of work was done on them. A lot of work was done by the Office of the Procurement Regulation itself. A lot of work was done by the Office of the Attorney General and Legal Affairs. And I heard a Member opposite complain, you know, that he heard, the hon. Member heard the Attorney General say that a lot of work was done by the Attorney General's Office and that contradicted something that I said. Poppycock, Mr. Deputy Speaker.

The fact of the matter is, in any legislation that comes before this Parliament, the legislation must first go through a process, at least, in this PNM administration of scrutiny by a subcommittee of the Cabinet called the Legislation Review Committee and it is in that committee and outside of that committee that the Attorney General and his office went through these very comprehensive Regulations, flagged a number of areas for further discussion with the regulator. In fact, the Attorney General had several discussions and meetings with the regulator to deal with the issues where further clarification and a meeting of the minds was required. So that was part of the reason why this process has taken the time that it has.

But the regulator himself had asked for amendments to the legislation, for example, to remove from the regulator the responsibility for disposal of public property because as far as the regulator was concerned and the regulator was correct, it is a nonsense to ask a public authority to do something and then ask that

same public authority to review that action. So that is a classic case of himself to himself. So the regulator pointed out that it made no sense, as was in the original UNC Bill, and I heard an hon. Member also say that we abstained from that legislation and we abstained for a reason because we felt at the time the UNC administration was simply paying lip service to the concept of procurement. They had dragged it out for five years and they were the most corrupt Government one could ever imagine.

**Hon. Members:** [*Desk thumping*]

**Hon. C. Imbert:** And therefore, we did not want to be part of pappy show and that is why we did not join them in voting for the public procurement Act. That is the reason and that is a matter of public record. But the regulator himself indicated that it was a nonsense to ask his office to dispose of public property and then ask his office to review the disposal of public property. So we—that is one of the amendments that we made. And we made other amendments which were based on practical common sense.

But Members opposite have disappointed me, not for the first time because I have said it before that when we come into this Parliament there is a certain level of intellectual content that one expects in a debate especially on a complex matter and yet this has been a very weak performance on the part of the Opposition, very, very weak, very moribund, very pedestrian contributions from Members opposite.

And let us go to a contribution that came from the last speaker from the Opposition who complained that we did not explain what proprietary commercial information meant. Now, I would have thought that anybody who has been involved in commerce would have an understanding of what proprietary commercial information means. It means intellectual property. It means technical

drawings and designs, business plans, trade secrets, customer lists, formulas for chemical products, personal information. That is what proprietary information means and in the context of commerce, it is self-evident. And I am quite astonished that that is the only comment that a Member of the Opposition could make demanding a definition of proprietary information to be put into the legislation.

And it is entirely regrettable that I now have to explain to hon. Members opposite the various rules for statutory interpretation, the *ejusdem generis* rule, for example, the *noscitur a sociis* rule. These are terms related to the interpretation of legal doctrine. *Ejusdem generis* means of the same kind and *noscitur a sociis* means recognized by its partners. And these two rules are used for interpreting statutes that may have some ambiguity in them. And simply one looks at its simple English meaning of the words and you do not need to have a definition of proprietary commercial information because that is well-established in law and well-established in the English language.

That same hon. Member also made an error in alleging that we on this side had said that we had hired a senior counsel and he wanted to know how much we paid the Senior Counsel. I said no such thing. I said, Mr. Deputy Speaker, that we were privileged to be able to procure the services of an expert in procurement. And that particular individual is an attorney-at-law and an expert in procurement and contracts with over 25 years' experience in the field and has been a lecturer at the Arthur Lok Jack Graduate School of Business for 17 years and I do not need to say anymore. That particular individual is a renowned lecturer in procurement contracts and negotiations at the University of the West Indies. Certainly not any Senior Counsel that we paid a huge sum of money to. But if I go back to the documents before us.

We have laid Regulations today. The Member for Pointe-a-Pierre asked, how come it is 10. And I will answer the hon. Member Pointe-a-Pierre. Under normal circumstances I would accuse him of being slightly politically delusional but because the hon. Member was so generous to allow us to debate all 10 Regulations today and I thank him for that and I thank UNC for that so that we did not have to do them one by one, thank you very much, I will answer the point.

When the Office of Procurement Regulation did their first draft of Regulations and published that on their website, their first draft of Regulations, this is nothing that came to the Parliament, there were 12. But when it was reviewed, when those 12 Regulations were reviewed by the Ministry of Finance and by the various legal experts, by the Office of the Attorney General and so on, we recognized there was some overlap in the 12 and therefore, we combined them into 10. But there has never been 12 Regulations ever laid in this House. In July of last year, in September of last year and December of last year, we only laid 10. So, I just wanted to correct the record, there were originally 12 draft Regulations published by the Office of the Procurement Regulation but those were in the original draft form and that is why you might be confused as to have heard there 12 and now there are 10 but we have always laid 10. We have never laid 12. So I just wanted to clear that up.

If I go now to other comments made by Members opposite, it is very, very difficult to respond because as I said, I once again was disappointed at the lack of intellectual content by Members opposite. And the Member for Oropouche East complained that we took so long, but the Office of Procurement Regulation has published on its website the entire process, the entire process of the first draft, the second draft, the third draft, the amendment to the Act, the return to the Ministry of

Finance, the reversion back to the Office of the Procurement Regulation which is why we find ourselves in this position today. It is all in the public domain.

The Member for Barataria/San Juan, I do not know if that is the Member who mixed up legibility and ineligibility, I rather suspect so. But that particular hon. Member complained that the Regulations prescribed a 10-year ban as the remedy for a breach of the Regulations. That is nonsense. The Regulations said up to 10 years. So that the maximum disqualification period when a contractor is in breach is 10 years. It could be as little as one year or less. It is a range. That is why I wonder about, as I said, I am disappointed in the intellectual content. I have already dealt with Mr. Lee's—sorry, the hon. Member for Pointe-a-Pierre, his comment about why 12 and why 10. I have dealt with that.

And finally, I would come to the other Oropouche Member who uttered a preposterous statement that if the public procurement Act which this Government never proclaimed was in force, we could save \$5 billion a year. Utter nonsense. I looked and I found where that statement came from and it was really kind of a wild and loose statement. The statement was that, if in a \$50 billion budget, \$25 billion is spent on goods and services and you save 20 per cent of that, totally hypothetical, you could save \$5 billion. This betrays a lack of understanding of government expenditure.

If one goes to the *Review of the Economy*, one goes to the *Estimates of Expenditure* one will see that between the capital programme and expenditure on goods and services out of a \$50 billion budget, at most \$10 billion is spent of procurement of goods and services, and capital programme. So therefore, it is impossible to save \$5 billion out of \$10 billion. The maths is all wrong.

In addition, that statement which should have not been made also ignores the

fact that this Government as part of the mandate given to us by the population in 2015, when we told the population that when we got into office, we would cut out waste, corruption and mismanagement. We told the population that and we were elected on that platform in 2015. And the first thing that we did was to reduce public expenditure from \$60 billion to \$50 billion without reducing expenditure on personnel expenditure, wages and salaries. So that \$10 billion came out of expenditure on procurement of goods and services, so we have saved this country \$10 billion a year on—

**Hon. Members:** [*Desk thumping*]

**Hon. C. Imbert:**—expenditure on goods and services. That is the reality, not that fictional number of \$5 billion a year out of some other fictional number of \$25 billion a year on good and services.

A number of Members want to know this Act will be proclaimed. I am hoping we will get the support of hon. Members opposite to pass these Regulations. And let me just say that from time to time we may very well return to the Parliament to make adjustments to the Regulations or to put new Regulations. There are no further Regulations that require affirmative resolution. I think the Member for Pointe-a-Pierre asked that as well. Whatever Regulations we put forward in the future will be by negative resolution.

As soon as the Senate is able to receive us, because there is a lot of other work on the parliamentary agenda, urgent critical work that Members are all aware of, we do not need to play games. But as soon as the Senate is ready to receive us, we will go to the Senate with these Regulations and we expect that we will not get opposition there so that we can pass the Regulations in both Houses of Parliament. And that is all that is required to do to commence the proclamation of the Act. I

hope I have made myself clear. I have no intention of giving a date.

What I can say today, that as soon as the Senate is ready to receive us, we will go to the Senate and we will ask the Senate to approve these procurement Regulations so that will complete the process of parliamentary action. During that period we have already drafted all of the Regulations, other Regulations that are required by negative resolution, during that period we will be laying those documents in Parliament as time goes along so that we should be able to proclaim this Act in the very near future. But I am not sticking to a date because many things happen along the way. And as I said, the parliamentary agenda is packed with other equally important matters. And with those few words, Mr. Deputy Speaker, I beg to move.

**Hon. Members:** [*Desk thumping*]

*Question put and agreed to.*

**Mr. Deputy Speaker:** Hon. Members, as leave was granted for the 10 Motions to be debated together, the other Motions will be moved separately and the questions will be put by the Deputy Speaker without any debate. Minister of Finance.

**Hon. C. Imbert:** Thank you very much, Mr. Deputy Speaker. Mr. Deputy Speaker, I beg to move Motion No. 1 standing in my name:

*Whereas* it is provided by section 63 of the Public Procurement and Disposal of Public Property Act, 2015 (hereinafter referred to as “the Act”) that the Minister, on the recommendation of the Office of Procurement Regulation, may make Regulations to give effect to the provisions of the Act;

*And whereas* it is provided by section 63(3), that Regulations made under the Act shall be subject to affirmative resolution of Parliament;

*And whereas* the Minister of Finance, on the recommendation of the Office



of Procurement Regulation, caused the Public Procurement and Disposal of Public Property (Record of Procurement Proceedings) (No. 2) Regulations, 2021 to be prepared;

*And whereas* the Public Procurement and Disposal of Public Property (Record of Procurement Proceedings) (No. 2) Regulations, 2021 were laid in the House of Representatives on the 13<sup>th</sup> day of December, 2021;

And whereas it is expedient that the Public Procurement and Disposal of Public Property (Record of Procurement Proceedings) (No. 2) Regulations, 2021 now be affirmed:

*Be it resolved* that the Public Procurement and Disposal of Public Property (Record of Procurement Proceedings) (No. 2) Regulations, 2021 be approved.

I beg to move.

*Question put and agreed to.*

*Resolved:*

That the Public Procurement and Disposal of Public Property (Record of Procurement Proceedings) (No. 2) Regulations, 2021 be approved.

**PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY  
(CHALLENGE PROCEEDINGS) (NO. 2) REGULATIONS, 2021**

**Mr. Deputy Speaker:** The Minister of Finance.

**The Minister of Finance (Hon. Colm Imbert):** Yes. Mr. Deputy Speaker, I now realise that I have to do this 10 times. Perhaps we have to look at the Standing Orders. So, I beg to move Motion No. 2 standing in my name:

*Whereas* it is provided by section 63 of the Public Procurement and Disposal of Public Property Act, 2015 (hereinafter referred to as “the Act”) that the

Minister, on the recommendation of the Office of Procurement Regulation, may make Regulations to give effect to the provisions of the Act;

*And whereas* it is provided by section 63(3), that Regulations made under the Act shall be subject to affirmative resolution of Parliament;

And whereas the Minister of Finance, on the recommendation of the Office of Procurement Regulation, caused the Public Procurement and Disposal of Public Property (Challenge Proceedings) (No. 2) Regulations, 2021 to be prepared;

And whereas the Public Procurement and Disposal of Public Property (Challenge Proceedings) (No. 2) Regulations, 2021 were laid in the House of Representatives on the 13th day of December, 2021;

*And whereas* it is expedient that the Public Procurement and Disposal of Public Property (Challenge Proceedings) (No. 2) Regulations, 2021 now be affirmed:

*Be it resolved* that the Public Procurement and Disposal of Public Property (Challenge Proceedings) (No. 2) Regulations, 2021 be approved.

I beg to move.

*Question put and agreed to.*

*Resolved:*

That the Public Procurement and Disposal of Public Property (Challenge Proceedings) (No. 2) Regulations, 2021 be approved.

**PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY  
(INELIGIBILITY PROCEEDINGS) (NO. 2) REGULATIONS, 2021**

**The Minister of Finance (Hon. Colm Imbert):** So, I beg to move Motion No. 3 standing in my name:

*Whereas* it is provided by section 63 of the Public Procurement and Disposal of Public Property Act, 2015 (hereinafter referred to as “the Act”) that the Minister, on the recommendation of the Office of Procurement Regulation, may make Regulations to give effect to the provisions of the Act;

*And whereas* it is provided by section 63(3), that Regulations made under the Act shall be subject to affirmative resolution of Parliament;

And whereas the Minister of Finance, on the recommendation of the Office of Procurement Regulation, caused the Public Procurement and Disposal of Public Property (Ineligibility Proceedings) (No. 2) Regulations, 2021 to be prepared;

*And whereas* the Public Procurement and Disposal of Public Property (Ineligibility Proceedings) (No. 2) Regulations, 2021 were laid in the House of Representatives on the 13<sup>th</sup> day of December, 2021;

*And whereas* it is expedient that the Public Procurement and Disposal of Public Property (Ineligibility Proceedings) (No. 2) Regulations, 2021 now be affirmed.

*Be it resolved* that the Public Procurement and Disposal of Public Property (Ineligibility Proceedings) (No. 2) Regulations, 2021 be approved.

I beg to move.

*Question put and agreed to.*

*Resolved:*

That the Public Procurement and Disposal of Public Property (Ineligibility Proceedings) (No. 2) Regulations, 2021 be approved.

**Mr. Deputy Speaker:** Before you proceed, the Minister of Finance, according to the Standing Orders procedures all interrelated Motions, Bills and so on must go this particular format.

**Hon. C. Imbert:** I understand. That is why I said perhaps we should revisit—

**Mr. Deputy Speaker:** Proceed.

**Hon. C. Imbert:**—the Standing Orders.

**PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY  
(RETENTION AND DISPOSAL OF PERSONAL PROPERTY) (NO. 2)  
REGULATIONS, 2021**

**The Minister of Finance (Hon. Colm Imbert):** Thank you very much, Mr. Deputy Speaker. Mr. Deputy Speaker, I beg to move Motion No. 4 standing in my name:

*Whereas* it is provided by section 63 of the Public Procurement and Disposal of Public Property Act, 2015 (hereinafter referred to as “the Act”) that the Minister, on the recommendation of the Office of Procurement Regulation, may make Regulations to give effect to the provisions of the Act;

*And whereas* it is provided by section 63(3), that Regulations made under the Act shall be subject to affirmative resolution of Parliament;

*And whereas* the Minister of Finance, on the recommendation of the Office of Procurement Regulation, caused the Public Procurement and Disposal of Public Property (Retention and Disposal of Personal Property) (No. 2) Regulations, 2021 to be prepared;

*And whereas* the Public Procurement and Disposal of Public Property (Retention and Disposal of Personal Property) (No. 2) Regulations, 2021 were laid in the House of Representatives on the 13<sup>th</sup> day of December, 2021;

*And whereas* it is expedient that the Public Procurement and Disposal of Public Property (Retention and Disposal of Personal Property) (No. 2) Regulations, 2021 now be affirmed:

*Be it resolved* that the Public Procurement and Disposal of Public Property (Retention and Disposal of Personal Property) (No. 2) Regulations, 2021 be approved.

I beg to move.

*Question put and agreed to.*

*Resolved:*

That the Public Procurement and Disposal of Public Property (Retention and Disposal of Personal Property) (No. 2) Regulations, 2021 be approved.

**PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY  
(MISCELLANEOUS) (NO. 2) REGULATIONS, 2021**

**Mr. Deputy Speaker:** The Minister of Finance.

**The Minister of Finance (Hon. Colm Imbert):** Thank you, Mr. Deputy Speaker, I beg to move Motion No. 5 standing in my name:

*Whereas* it is provided by section 63 of the Public Procurement and Disposal of Public Property Act, 2015 (hereinafter referred to as “the Act”) that the Minister, on the recommendation of the Office of Procurement Regulation, may make Regulations to give effect to the provisions of the Act;

*And whereas* it is provided by section 63(3), that Regulations made under the Act shall be subject to affirmative resolution of Parliament;

*And whereas* the Minister of Finance, on the recommendation of the Office of Procurement Regulation, caused the Public Procurement and Disposal of Public Property (Miscellaneous) (No. 2) Regulations, 2021 to be prepared;

*And whereas* the Public Procurement and Disposal of Public Property (Miscellaneous) (No. 2) Regulations, 2021 were laid in the House of Representatives on the 13<sup>th</sup> day of December, 2021;

*And whereas* it is expedient that the Public Procurement and Disposal of Public Property (Miscellaneous) (No. 2) Regulations, 2021 now be affirmed:

*Be it resolved* that the Public Procurement and Disposal of Public Property (Miscellaneous) (No. 2) Regulations, 2021 be approved.

I beg to move.

*Question put and agreed to.*

*Resolved:*

That the Public Procurement and Disposal of Public Property (Miscellaneous) (No. 2) Regulations, 2021 be approved.

**Mr. Deputy Speaker:** The Minister of Finance.

**8.15 p.m.**

**PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY  
(EVALUATION) (NO. 2) REGULATIONS, 2021**

**The Minister of Finance (Hon. Colm. Imbert):** Thank you, Mr. Deputy Speaker.

I beg to move Motion No. 6 standing in my name:

*Whereas* it is provided by section 63 of the Public Procurement and Disposal of Public Property Act, 2015 (hereinafter referred to as “the Act”) that the Minister, on the recommendation of the Office of Procurement Regulation, may make Regulations to give effect to the provisions of the Act;

*And whereas* it is provided by section 63(3), that Regulations made under the Act shall be subject to affirmative resolution of Parliament;

*And whereas* the Minister of Finance, on the recommendation of the Office of Procurement Regulation, caused the Public Procurement and Disposal of Public Property (Evaluation) (No. 2) Regulations, 2021 to be prepared;

*And whereas* the Public Procurement and Disposal of Public Property (Evaluation) (No. 2) Regulations, 2021 were laid in the House of Representatives on the 13<sup>th</sup> day of December;

*And whereas* it is expedient that the Public Procurement and Disposal of Public Property (Evaluation) (No. 2) Regulations, 2021 now be affirmed:

*Be it resolved* that the Public Procurement and Disposal of Public Property (Evaluation) (No. 2) Regulations, 2021 be approved.

I beg to move.

*Question put and agreed to.*

*Resolved:*

That the Public Procurement and Disposal of Public Property (Evaluation) (No. 2) Regulations, 2021 be approved.

**PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY  
(PARTICIPATION IN PROCUREMENT) (NO. 2) REGULATIONS, 2021**

**Mr. Deputy Speaker:** Minister of Finance.

**The Minister of Finance (Hon. Colm. Imbert):** Thank you, Mr. Deputy Speaker.

Thankfully just four to go. I beg to move Motion No. 7 standing in my name:

*Whereas* it is provided by section 63 of the Public Procurement and Disposal of Public Property Act, 2015 (hereinafter referred to as “the Act”) that the Minister, on the recommendation of the Office of Procurement Regulation, may make Regulations to give effect to the provisions of the Act;

*And whereas* it is provided by section 63(3), that Regulations made under the Act shall be subject to affirmative resolution of Parliament;

*And whereas* the Minister of Finance, on the recommendation of the Office of Procurement Regulation, caused the Public Procurement and Disposal of Public Property (Participation in Procurement) (No. 2) Regulations, 2021 to be prepared;

*And whereas* the Public Procurement and Disposal of Public Property (Participation in Procurement) (No. 2) Regulations, 2021 were laid in the House of Representatives on the 13<sup>th</sup> day of December, 2021;

*And whereas* it is expedient that the Public Procurement and Disposal of Public Property (Participation in Procurement) (No. 2) Regulations, 2021 now be affirmed:

*Be it resolved* that the Public Procurement and Disposal of Public Property (Participation in Procurement) (No. 2) Regulations, 2021 be approved.

I beg to move.

*Question put and agreed to.*

*Resolved:*

That the Public Procurement and Disposal of Public Property (Participation in Procurement) (No. 2) Regulations, 2021 be approved.

**PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY  
(PRE-QUALIFICATION AND PRE-SELECTION) (NO. 2)  
REGULATIONS, 2021**

**Mr. Deputy Speaker:** The Minister of Finance.

**The Minister of Finance (Hon. Colm. Imbert):** Thank you, Mr. Deputy Speaker.

I beg to move Motion No. 8 standing in my name:



*Whereas* it is provided by section 63 of the Public Procurement and Disposal of Public Property Act, 2015 (hereinafter referred to as “the Act”) that the Minister, on the recommendation of the Office of Procurement Regulation, may make Regulations to give effect to the provisions of the Act;

*And whereas* it is provided by section 63(3), that Regulations made under the Act shall be subject to affirmative resolution of Parliament;

*And whereas* the Minister of Finance, on the recommendation of the Office of Procurement Regulation, caused the Public Procurement and Disposal of Public Property (Pre-Qualification and Pre-Selection) (No. 2) Regulations, 2021 to be prepared;

*And whereas* the Public Procurement and Disposal of Public Property (Pre-Qualification and Pre-Selection) (No. 2) Regulations, 2021 were laid in the House of Representatives on the 13<sup>th</sup> day of December, 2021;

*And whereas* it is expedient that the Public Procurement and Disposal of Public Property (Pre-Qualification and Pre-Selection) (No. 2) Regulations, 2021 now be affirmed:

*Be it resolved* that the Public Procurement and Disposal of Public Property (Pre-Qualification and Pre-Selection) (No. 2) Regulations, 2021 be approved.

I beg to move.

*Question put and agreed to.*

*Resolved:*

That the Public Procurement and Disposal of Public Property (Pre-Qualification and Pre-Selection) (No. 2) Regulations, 2021 be approved.

**PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY  
(PROCUREMENT METHODS AND PROCEDURES) (NO. 2)  
REGULATIONS, 2021**

**Mr. Deputy Speaker:** The Minister of Finance.

**The Minister of Finance (Hon. Colm. Imbert):** Thank you, Mr. Deputy Speaker.

I beg to move Motion No. 9 standing in my name:

*Whereas* it is provided by section 63 of the Public Procurement and Disposal of Public Property Act, 2015 (hereinafter referred to as “the Act”) that the Minister, on the recommendation of the Office of Procurement Regulation, may make Regulations to give effect to the provisions of the Act;

*And whereas* it is provided by section 63(3), that Regulations made under the Act shall be subject to affirmative resolution of Parliament;

*And whereas* the Minister of Finance, on the recommendation of the Office of Procurement Regulation, caused the Public Procurement and Disposal of Public Property (Procurement Methods and Procedures) (No. 2) Regulations, 2021 to be prepared;

*And whereas* the Public Procurement and Disposal of Public Property (Procurement Methods and Procedures) (No. 2) Regulations, 2021 were laid in the House of Representatives on the 13<sup>th</sup> day of December, 2021;

*And whereas* it is expedient that the Public Procurement and Disposal of Public Property (Procurement Methods and Procedures) (No. 2) Regulations, 2021 now be affirmed:

*Be it resolved* that the Public Procurement and Disposal of Public Property (Procurement Methods and Procedures) (No. 2) Regulations, 2021 be approved.

I beg to move.

*Question put and agreed to.*

*Resolved:*

That the Public Procurement and Disposal of Public Property (Procurement Methods and Procedures) (No. 2) Regulations, 2021 be approved.

**PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY  
(PROCUREMENT OF CONSULTANTS) (NO. 2) REGULATIONS, 2021**

**Mr. Deputy Speaker:** The Minister of Finance.

**The Minister of Finance (Hon. Colm. Imbert):** Thank you, Mr. Deputy Speaker.

I beg to move Motion No. 10 standing in my name:

*Whereas* it is provided by section 63 of the Public Procurement and Disposal of Public Property Act, 2015 (hereinafter referred to as “the Act”) that the Minister, on the recommendation of the Office of Procurement Regulation, may make Regulations to give effect to the provisions of the Act;

*And whereas* it is provided by section 63(3), that Regulations made under the Act shall be subject to affirmative resolution of Parliament;

*And whereas* the Minister of Finance, on the recommendation of the Office of Procurement Regulation, caused the Public Procurement and Disposal of Public Property (Procurement of Consultants) (No. 2) Regulations, 2021 to be prepared;

*And whereas* the Public Procurement and Disposal of Public Property (Procurement of Consultants) (No. 2) Regulations, 2021 were laid in the House of Representatives on the 13<sup>th</sup> day of December, 2021;

*And whereas* it is expedient that the Public Procurement and Disposal of Public Property (Procurement of Consultants) (No. 2) Regulations, 2021 now be affirmed:

*Be it resolved* that the Public Procurement and Disposal of Public Property (Procurement of Consultants) (No. 2) Regulations, 2021 be approved.

Mr. Deputy Speaker, I beg to move.

*Question put and agreed to.*

*Resolved:*

That the Public Procurement and Disposal of Public Property (Procurement of Consultants) (No. 2) Regulations, 2021 be approved.

### **ADJOURNMENT**

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

Thank you very much, Mr. Deputy Speaker, Mr. Deputy Speaker, I beg to move that this House do now adjourn to Wednesday the 19<sup>th</sup> day of January, 2022 at 1.30 p.m. Mr. Deputy Speaker, at that time we will do an Act to provide for the designation, development, operation and management of Special Economic Zones. Thank you, Mr. Deputy Speaker.

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 8.21 p.m.*