SENATE
[EXTRAORDINARY SITTING]

Thursday, July 20, 2023

The Senate met at 1.30 p.m.

PRAYERS

[MR. PRESIDENT in the Chair]

LEAVE OF ABSENCE

Mr. President: Hon. Senators, I have granted leave of absence to Sen. The Hon. Dr. Amery Browne, Sen. The Hon. Allyson West, Sen. The Hon. Donna Cox, and Sen. The Hon. Avinash Singh, all of whom are out of the country.

SENATORS’ APPOINTMENT

Mr. President: Hon. Senators, I have received the following correspondence from Her Excellency the President Christine Carla Kangaloo, O.R.T.T.

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By Her Excellency CHRISTINE CARLA KANGALOO, O.R.T.T., President of the Republic of Trinidad and Tobago and Commander-in-Chief of the Armed Forces.

/s/Christine Kangaloo

President.

TO: MR. MICHAEL SEALES

WHEREAS Senator the Honourable Dr. Amery Browne is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW THEREFORE, I, CHRISTINE CARLA KANGALOO, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section

UNREVISED
44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, acting in accordance with the advice of the Prime Minister, do hereby appoint you, MICHAEL SEALES to be a member of the Senate temporarily, with effect from the 20th July, 2023 and continuing during the absence from Trinidad and Tobago of Senator the Honourable Dr. Amery Browne.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann’s, this 19th day of July, 2023.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By Her Excellency CHRISTINE CARLA KANGALOO, O.R.T.T., President of the Republic of Trinidad and Tobago and Commander-in-Chief of the Armed Forces.

/s/Christine Kangaloo
President.

TO: MS. YOKYMMA BETHELMY

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

NOW THEREFORE, I, CHRISTINE CARLA KANGALOO, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, acting in accordance with the advice of the Prime Minister, do hereby appoint you, YOKYMMA BETHELMY to be a member of the Senate temporarily, with effect
from the 20th July, 2023 and continuing during the absence from Trinidad and Tobago of Senator the Honourable Allyson West.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann’s, this 19th day of July, 2023.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By Her Excellency CHRISTINE CARLA KANGALOO, O.R.T.T., President of the Republic of Trinidad and Tobago and Commander-in-Chief of the Armed Forces.

/s/Christine Kangaloo

President.

TO: MR. HARVEY BORRIS

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

NOW THEREFORE, I, CHRISTINE CARLA KANGALOO, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, acting in accordance with the advice of the Prime Minister, do hereby appoint you, HARVEY BORRIS to be a member of the Senate temporarily, with effect from the 20th July, 2023 and continuing during the absence from Trinidad and Tobago of Senator the Honourable Dr. Donna Cox.

Given under my Hand and the Seal of the President of the Republic of

UNREVISED
Senators’ Appointment (cont’d) 2023.07.20

Trinidad and Tobago at the Office of the President, St. Ann’s, this 19th day of July, 2023.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By Her Excellency CHRISTINE CARLA KANGALOO, O.R.T.T., President of the Republic of Trinidad and Tobago and Commander-in-Chief of the Armed Forces.

/s/Christine Kangaloo
President.

TO: MR. NDALE YOUNG

WHEREAS Senator the Honourable Avinash Singh is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW THEREFORE, I, CHRISTINE CARLA KANGALOO, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, acting in accordance with the advice of the Prime Minister, do hereby appoint you, NDALE YOUNG to be a member of the Senate temporarily, with effect from the 20th July, 2023 and continuing during the absence from Trinidad and Tobago of the said Senator the Honourable Avinash Singh.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann’s, this 20th day of July, 2023.”

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OATH OF ALLEGIANCE

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

Michael Seales, Yokymma Bethelmy and Harvey Borris.

AFFIRMATION OF ALLEGIANCE

Senator Ndale Young took and subscribed the Affirmation of Allegiance as required by law.

PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY

(AMDT. AND VALIDATION) BILL, 2023

Bill to amend the Public Procurement and Disposal of Public Property Act, 2015 and to validate the non-laying of statutory instruments as required under section 7(7) of the Public Procurement and Disposal of Public Property Act, brought from the House of Representatives [The Minister of Finance]; read the first time.

Motion made: That the next stage of the Bill be taken forthwith. [Hon. C. Imbert]

Question put and agreed to.

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

That a Bill to amend the Public Procurement and Disposal of Public Property Act, 2015 and to validate the non-laying of statutory instruments as required under section 7(7) of the Public Procurement and Disposal of Public Property Act, be now read a second time.

Mr. President, I think it is important at the outset to deal with some dangerous misinformation which has emerged in the public domain and in particular, Mr. President, I referring to an editorial that appeared in the Express—
sorry, in the *Guardian*, apologies to the *Express*, yesterday. In that editorial the following words appeared:

“Clause 5 of the July 2023 amendments also refers to changing an affirmative resolution to a negative one. That amendment pertains to section 63(1) of the 2015 act, which gives the Minister of Finance the ability to make regulations regarding the addition to, or the removal from a list of suppliers or contractors ‘who shall not participate in procurement proceedings’.”

And this—if that was not egregious enough, we have these words:

“It is sinister beyond belief that Cabinet…”

Hon. Senators: [Interruption]

Hon. C. Imbert: Mr. President, there is a murmur from the two Senators opposite me.


Hon. C. Imbert: And shouting from the usual suspects.

Mr. President: So, Minister, I think you are seasoned enough to ignore any small murmur. Continue.

Hon. C. Imbert: Thank you, Mr. President.

Hon. Senators: [Desk thumping]

Hon. C. Imbert: I cannot ignore banging of the desks. That amendment pertains to section 63(1).

Hon. Senators: [Interruption]

Hon. C. Imbert: Mr. President, look, please, I beg your protection.

Mr. President: So let us not get off to the wrong foot today. Let us just, at the
very beginning of this debate which intends to be a very long day for all of us, just temper everything, maintain a certain level of silence so that the Minister can make his presentation. Continue, Minister.

**Hon. C. Imbert:** So the *Guardian* said:

“That amendment pertains to the section 63(1) of the 2015 act, which gives the Minister of Finance the ability to make regulations regarding the addition to, or removal from a list of suppliers or contractors ‘who shall not participate in procurement proceedings’.

1.45 p.m.

It is sinister beyond belief that Cabinet should be seeking to remove from parliamentary scrutiny and the debate the minister’s ability to add to or remove from the ineligibility list.

Clause 5 of the July 2023 amendments also empowers the Minister of Finance to not only act on the advice of the Office of Procurement Regulation but also at his own discretion.

That clause, then, would give a Minister of Finance the ability to use the ineligibility list to punish opponents of a ruling party and reward its friends and financiers.”

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

**Hon. C. Imbert:** Arrant nonsense.

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

**Hon. C. Imbert:** And this is the kind of dangerous misinformation and a culture of untruths which is pervading this country. These are the facts, the Public Procurement and Disposal of Public Property Act states as follows with respect to
the ineligibility list:

“(2) The Office”—not the Minister—“shall be responsible for preparing and maintaining an ineligibility list in accordance with this section.

(3) The Office”—not the Minister—“may add a supplier or contractor to the ineligibility list where the supplier or contractor—

(a) consistently fails to provide satisfactory performance;

(b) is found to be indulging in corrupt or fraudulent practices; or

(c) is convicted of an offence under this Act.”

So the very basis of this editorial is unfounded. Totally unfounded. The Minister cannot add, or remove, or in any way get involved in the ineligibility list. This editorial was dangerous misinformation. And that is part of the public campaign outside there, to spread misinformation, create panic and introduce confusion into this debate in this honourable Senate, Mr. President.

Let me move on now to the Bill. The Bill before us, Mr. President, has just six clauses. The original—

Hon. Senators: [ Interruption ]

Hon. C. Imbert: Mr. President, please, it is hard to ignore the murmuring from Sen. Jayanti Lutchmedial and Sen. Jearlean John. I know you told me it is soft murmur. It is not soft.

Sen. Nakhid: “You is ah child ah what”?

Sen. Lyder: When I come I want to see this whole—[ Inaudible ].

Mr. President: Right. So, Sen. Lyder, first—

Hon. Senators: [ Interruption ]

Mr. President: Sen. Lyder, you have been warned on many occasions over
several days.

Sen. Nakhid: “You laughin. You is ah little girl ah what”?

Mr. President: Right. So, Sen. Nakhid, number one, I am on my legs. Let me immediately set the pace and tone for this debate today. None of it will be tolerated. There will be no leniency, there will be no way given and the Standing Orders will be used fully. When a Member is speaking, allow them to make their contribution. Continue, Minister.

Hon. C. Imbert: Thank you, Mr. President. The Bill before the House has six clauses, two of which were amended in the other place last night. And the amendments made to the Bill that was originally circulated to Members and now is before us are to clause 3 of the Bill and clause 5 of the Bill. There was a minor amendment to clause 6 of the Bill just to correct a typographical error in the Bill. But the substantive amendments made in the House last night, which now find their way into the Senate, is that, listening to the commentary from sensible, reasonable people, the Government decided to change the manner in which regulations and the list of exempt services would be amended, and that is to introduce the Office of Procurement Regulation into the mix so that the Minister would be making it on the recommendation of the office or upon consultation with the office, so no longer this concept of a Minister unilaterally doing whatever he pleases to adjust the legislation obtains.

Now, the Bill seeks to address a drafting error in relation to section 7(7) of the Act. It seeks to validate two exemption orders made through Legal Notice No. 164 of ’23 and 206 of ’23 that arise because of the drafting error in section 7, and it seeks to modify the method by which orders and regulations are made. And
finally, seeks to introduce a procurement threshold of $1 million for goods and services which would be exempted from the procurement requirements under the Act, but subject to regulations. And that is something I need to stress. That threshold, as is done all over the world, and I will give examples as I go along, is subject to regulation. The drafting error I think has been well ventilated. As Minister of Finance, I had received initial advice from the Attorney General, and I was advised that the Act as currently worded does not require affirmative resolution for the orders that were made. The Government, however, being a responsible Government, has come into the Parliament and this Senate today to validate the two orders for the avoidance of doubt and out of extreme caution.

There is a view outside there that the introduction of a procurement threshold of $1 million waters down or erodes the objectives of the Act. In fact, some commentators say it guts the entire Act, which is extreme hyperbole and nonsense. When one looks at legislation all over the world what we will discover is that exemptions are part and parcel of modern procurement laws in all the advanced economies. Even within the Caribbean, exemptions are part and parcel of modern procurement laws. So let me go now to global reference to defeat this argument that this is somehow terribly egregious.

In many other countries, there is an adherence to a framework that has been developed by the World Trade Organization, and it is called the Agreement on Government Procurement. And many countries in fact have incorporated within their domestic laws—the EU, not being a country but a collection of several countries, and many other countries have agreed that the WTO thresholds for procurement, from which procurement would be exempt from strict and
bureaucratic procedures, shall be determined by the WTO and is kept under review at regular periods—usually a two-year period.

Before I go into the WTO Agreement on Government Procurement 2012, I wish to point out that a threshold for simplified procurement procedures has existed in this country since the 1960s. The original figure for an accounting officer, under which an accounting officer could use the simple three-quote system to get best value for money, was $10,000 in 1961. So the original threshold for an accounting officer, such as a Permanent Secretary, in 1961, was $10,000. And what that did was exempt from the strictures of the Central Tenders Board Ordinance procurement less than $10,000, but applied the general rules of the CTB to the actions of the accounting officer. This was adjusted in 1983 to $100,000; in 2004 to $500,000; and in 2010 to $1 million. So for the last 13 years, through the Government before us and this Government, the threshold for accounting officers for the procurement of goods has been $1 million but, as I say, the standard rules apply with this procurement.

The WTO Agreement on Government Procurement is intended to mutually open government procurement markets among its parties. Article II, paragraph 3, of the WTO GPA not only permits WTO members to record specific exemptions in their respective annexes, but explicitly exempts the following—and this is important. Because there is a view, when you listen to the noisemakers outside and the “misinformers”, if that is a word, and the “misstaters” and the “confusionists”, they would have you believe that this concept of exemptions exists only in Trinidad and Tobago. But that is simply untrue. In the WTO framework, the following specific exemptions are prescribed, one:
“the acquisition or rental of land, existing buildings or other immovable property…”

Two:
“non-contractual agreements or any form of assistance that a Party provides, including…grants, loans, equity infusions, guarantees, fiscal incentives;”

Three:
“the procurement or acquisition of fiscal agency or depository services, liquidation and management services for regulated financial institutions or services related to the sale, redemption and distribution of public debt, including loans and government bonds, notes and…securities;”

Four, very importantly:
“public employment contracts;”

Five:
“procurement conducted:
for the specific purpose of providing international assistance, including…aid;
under the…procedure…of an international agreement relating to the stationing of troops…
under the particular procedure or condition of an international…”—agency—“…funded by international grants…”

So within this framework of exemptions, WTO members are also able to set applicable thresholds for central government entities, sub-central government entities and other entities that are associated with the general procurement framework. In other words, once the threshold is met, the WTO member must
abide by the terms of the general agreement on procurement.

I want to reference thresholds currently in place until December 31, 2023 in various WTO members’ currency, and this is the threshold identical to what we are asking this Senate to approve. In Australia, for construction services for government entities, the limit, beneath which simplified procurement procedures apply, is AUD $9.8 million, which would be somewhere in the vicinity of over TT $40 million; for services, AUD $256,000, which is over TT $1 million. When you go to sub-central entities it in fact increases: AUD $700,000 for services, which takes you over $3 million; and $9.8 million for construction and so on.

In Canada, the exemption for goods: CAD $238,000 for central government, which would be over TT $1 million; for sub-central entities, CAD $651,000, that is over TT $3 million; for construction, CAD $9.1 million, which again would be over TT $5 million.

And in the USA, a number of different thresholds: US $7 million for construction; US $183,000 for services at central level; US $500,000 for services at the state level. So you are talking about $47 million for construction, that is the limit in the US below which simplified procurement procedures apply, and TT $3.3 million is the limit for services, below which simplified procurement procedures would applied in the US.

In the EU, the exemption for public works is EU€5.35 million, or TT $43 million; for local and regional government contracts, €214,000, TT $1.1 million; for social and other specific contracts, €750,000, which would be TT $6 million. And these are being revised and uplifted as time goes by. These are now higher than they were in 2022. These are all reviewed by the EU countries, by the WTO,
on a regular basis. So the concept of exemptions is not something that is alien to the world.

In the EU, there are no less than 11 exemptions from their procurement regulations: public contracts in the water, energy, transport and postal services; public contracts and design contest for the principal purpose of permitting public communication networks to provide the public with services; public contracts organized pursuant to international rules; public contracts for the acquisition or rental of land, buildings or other immovable property; public contracts for the acquisition development and production of audiovisual media services; public contracts for arbitration and conciliation services; public contracts for legal services—these are all exempted in all the 27 or 28 countries of the European Union from their stringent procurement regulations—public contracts for financial services; public contracts for loans; public contracts for public passenger transport; public contracts on the basis of an exclusive right which persons enjoy pursuant to law. All of these are exemptions within the EU procurement regime from stringent procurement procedures.

2.00 p.m.

In the UK, there is a Bill, post-Brexit—because remember the UK is moving out of EU—has moved out of the EU. A Bill was introduced in the UK Parliament in May 2022, currently awaiting consideration by the House of Lords as a result of amendments made in the House of Commons, and it contains the following thresholds, just as what we are trying to do today: events and security contract, £5 million, TT $50 million; utilities contract, TT $50 million, £5.3 million; contract for the supply of goods or services to a central government authority, £138,000, TT
$1.3 million; contract for supply of goods and services to a sub-central authority, £213,000, TT $2 million.

And again, in this UK Bill, it has exactly more or less the same amendments—exemptions, sorry, that exist in the EU legislation, that have existed in the EU regime for years: acquisition of land and buildings; development of audiovisual material; development of material for broadcast; electronic communications and so on; legal service; arbitration services; mediation services; financial services for loans; public contracts for purchase or transfers of securities; investment services; and goes on to speak about matters of national security and safety and security—all of these things are exempt—public passenger transport; research and development; facilitating or supporting intelligence activities; air transportation. All of those are exempt goods and services within the UK legislation, which has already been passed the House of Commons and is now being finalized by the House of Lords, and there are many more.

Within CARICOM—coming now to home. CARICOM has sought to implement the World Trade Organization general agreement and procurement through the establishment of a protocol on public procurement for the Caribbean Community. And I may say, when I was talking about this in the other place, of course, the usual objectors said, “Well, which country agreed to that?” And I can tell you right now, Barbados, Antigua and Belize have already signed on to this protocol on public procurement for the Caribbean community, and I can assure you that Trinidad and Tobago is well on its way to also acceding to that protocol. And within that protocol, which is already enforced in Barbados—

Mr. President: Sen. Vieira, you have a question?
Sen. Vieira SC: Thank you. Minister, if you can give way? With respect—that is all well and good, but where is the urgency in all of that to summon us for this extraordinary sitting here today?

Hon. C. Imbert: I must say I got caught by that question. I just wanted to give some backgrounds, Sen. Vieira, and we will come to the urgent matter shortly. How much more time do I have?

Mr. President: You finish at 2.27.

Hon. C. Imbert: Okay. Twenty-four minutes. Thank you very much, Sen. Vieira. I guess you want me to get to the point. Okay. But I think it is important, Mr. President, very important that I indicate—because there are four things we are trying to do today; four. One is to validate the two Orders that—I do not know if Sen. Vieira was here when I started to speak.

Sen. Vieira SC: I was listening on the radio.

Hon. C. Imbert: Right. There are four things we were trying to do, Mr. President. We are seeking to validate the two Orders; we are seeking to modify the method by which regulations are made and by which exemptions are created; and we are seeking to introduce a threshold for the procurement of goods and services within which threshold there will be rules but they will not be as complex and as sophisticated as occurs for procurement above a million, and this is deliberately designed to deal with small and microenterprises, and small businessmen, and little people who are struggling to qualify to register in the procurement registry and then to pre-qualify to provide goods and services. And that, Mr. President, is part of the urgency.

Apart from ensuring that we correct a drafting error, apart from ensuring that
the Government gets flexibility to deal with the many things within the Regulations that have to be modified and will have to be modified as we go alone—because this is brand new legislation and it cannot be that we would summon the Parliament in emergency session every time we have to change 10 to five or three to six. There must be flexibility in dealing with technical matters that will arise in the future because this is brand new to this country. And all of those things I spoke about in the EU, in the UK, have been through the mill for many, many years, and there have been many, many sessions of their legislatures dealing with fine-tuning everything there. But I thought it was very important to indicate that in the Caribbean, the threshold for goods that is proposed, already ratified by Antigua, Barbados and Belize, is US $150,000 which is almost exactly TT $1 million. So that is already in the system. And if Sen. Vieira were to read the Barbados legislation, you will be intrigued at how similar it is to what we are trying to do today.

Now, the fact of the matter is, Mr. President, there has been a lot of noise about, there are provisions within the legislation and within the regulations that can be used to deal with all of the situations that arose and led us to take the decisions that we took. That is simply untrue. There are provisions within the legislation for emergencies but the definition of “emergencies” in the legislation is so tight that anyone may feel inclined if they are of malice aforethought to go to court and say, “Your emergency and my emergency is not the same”, and ask the court to determine what is an emergency. I will give you two examples of emergencies.

Some time ago there was a power outage caused by a fallen tree down in Gandhi Village in south Trinidad that shut down the Trinidad generating electricity
plant, shut down the entire country. The entire country was out of electricity for a long time. Chaos. Someone might say that is an emergency, someone else might say it is not an emergency. Someone might say, “You should have used your traditional suppliers to deal with that, not go out into the market and determine who is available and find new providers and so on”. We had a situation with water recently where Port of Spain and its environs were out of water for three to four days, again because of a burst pipeline that was 50 years old; a cement pipeline that proved difficult to repair because of the type of materials, the composite nature of that pipeline. Again, someone may say, “Is that an emergency. What is an emergency?”

We had situations recently where accounting officers were in a quandary. You are having a meeting—I heard the Minister of Energy and Energy Industries speak about this. You have a meeting going late into the night dealing with the matters in the energy sector, dealing with examination of bids for the granting of offshore blocks for exploration and production, and you will have to go to midnight and therefore, you may want to provide coffee—something as simple as that—coffee and water, and maybe some refreshments for your staff members, and when they went to check with Massy, Massy was not registered under the procurement registry. In fact, they could not find a supermarket that was registered in the procurement registry and therefore, they could not procure. So the public servants actually had to use their own money and go and purchase the items. It is as simple as that, Mr. President.

But let us fast forward. Let us say a generator—a transformer blows up in a neighbourhood, let us say whatever neighbourhood anybody lives—let us say you
are living in Maraval, you are living in Haleland Park, and the transformer outside your house, “it gone”. Is that an emergency or is that not an emergency? It is an emergency for the person living next to the transformer and for the people in that neighbourhood, but it is not an emergency for the whole of Maraval because it is a localized event. That is the problem with this legislation. Even if you can apply the emergency procedures, even if you apply the single source procedures—because there are single source procedures that can be used if a number of different events occur, for example, that it would make no sense to go out into the market place with competitive tendering because it would provide no benefit. That might apply if you have just gone through a round of competitive tendering and you have just got market rates for particular items, but somebody could challenge that.

They could say—yes, Sen. Vieira?

**Sen. Vieira SC:** But, Minister, you were reported to have said that the risk is Government grinding to a halt.

**Hon. C. Imbert:** Yes.

**Sen. Vieira SC:** These emergencies do not go anywhere near that threshold.

**Hon. C. Imbert:** Mr. President, in all of this, you can apply it to anything, the procurement of trivial items, the procurement of large value items. In Jamaica, what they have discovered is that the Government’s development programme in Jamaica has shrunk by 25 per cent because accounting officers in the public service in Jamaica are simply afraid, they are unfamiliar, they are not sure what they should do and the penalties in their law are similar to ours, heavy fines and even possibly imprisonment.

So what that has done to Jamaica—there was an article in the papers the
other day. They have a similar Public Accounts Committee, just like us, and there was a debate in the Public Accounts Committee as to why their development programme had not progressed along the lines of what had been outlined in the national budget. So let us say we have a development programme of $5 billion, and then at the end of the year you spent $3 billion, and then you have the usual examination of public accounts and Members would ask, “Well, okay, you are allocated $5 billion, how come you only spent $3 billion?” And in Jamaica it was revealed in this Public Accounts Committee that it was because of their procurement legislation. As simple as that. The difficulty is with registration and pre-qualification, and all of the strictures in their procurement legislation
So this—let me explain something because it is not clear to people what is in this law. For open competitive bidding, there is minimum tender period of 20 working days. That is one month. After that tender period has elapsed, there must be an evaluation of the tenders. With the best will in the world that might take a week, so you are into five weeks now. Then you have an insertion in the legislation call a Procurement Disposal Advisory Committee, or PDAC for short, that is required by law to review the examination and findings and conclusions and recommendations of the evaluation committee. That cannot go to award until the PDAC has given an opinion on the report of the evaluation committee with respect to the outcome of the tender process. That is a next week. With the best will in the world, six weeks.

Having reached the six-week point now, a public body is now in a position to award a contract. They are moving fast, eh, because minimum 20 working days, next week for evaluation, next week for review. That is the best will in the world, the most highly qualified technical committed people in the world, six weeks.
What happens then? You must publish the award and allow a standstill period of 10 working days minimum. That is a next two weeks. So what that means is that from the time you invite tenders, to the time you award a contract, the minimum is two months and that applies to virtually everything, and that every single thing that you could think of that applies to that.

Even if you are doing limited selective bidding, the minimum tendering period is also 20 working days, the standstill period is also 10 working days, and you still have to evaluate and the PDAC still has to review. So whether you are examining five tenders from specialists, or 500 tenders in an open competitive bid for a routine item, two months. But there is another thing inside of there. You can only invite tenders from registered and pre-qualified suppliers. You cannot invite tenders from anybody, you know. It has to be people who are registered and people who are pre-qualified.

So when this legislation was being developed, it is clear to me that everybody went overboard because we took First World, best in class, theoretical frameworks and we applied them to Trinidad and Tobago that does not have any learning in this matter. But let me give you something else, Mr. President. In order to pre-qualify suppliers, you have to give them 30 working days. The period for application for pre-qualification is 30 working days, six weeks.

2.15 p.m.

So add the six weeks to the two months, you get three and a half months; three and a half months for everything that is not an emergency. Understand? And as I said, what is the definition of an emergency? These are the problems—the real practical problems inside of here.
The other problem that we have is that for the first time in law, and nobody is happy about this, in order to pre-qualify, you must be fully paid up with all your taxes, and fully paid up with your national insurance contributions. That is in the law too. You cannot even get through the door to apply for pre-qualification unless you can produce a Tax Clearance Certificate and a national insurance clearance certificate. So if you put all of this together, add to the three and a half months, because the 30 days to apply for pre-qualification—and you cannot leave them out, you know, because the law says you must give 30 working days minimum for applications for pre-qualification.

So if I decide to just go ahead and award contracts without allowing people to apply to pre-qualify, I assure you that we would certainly get a barrage of judicial review applications, no two ways about that. So you have your three and a half months there and then you have to put in front of that the time it takes to go and get your national insurance clearance and your income tax clearance and your VAT clearance as the case may be, because you have to get corporation tax clearance, you have to get value added tax clearance. So “leh we say” four months for the best performer in all of this, four months before you need to do something, it is four months before you could award a contract. And that does not include the possibility of a challenge because inside there, after you go through that first one month, and then the next one month, anybody could challenge, eh; anybody, any interested party can come in and challenge and the regulator must come in and look at the challenge and determine whether they would suspend the procurement, stop the procurement, overturn the procurement as the case may be.

And then, when one goes to the requirements for pre-qualification, when you
look at them, one of the interesting ones—and come back to that example of the late night meetings with the coffee and the juice. It might sound trivial to people who may think in a trivial way but, you know, it says in order to pre-qualify to supply anything, the accounting officer must be satisfied that the supplier has the technical capacity and the human resource capacity to supply the item. So the accounting officer then has to go through an examination of the supermarket to determine whether they can supply the items in the manner desired. That is in the law as well.

As I said, we took First World stuff that may very well have been discounted by the rest of the world long ago—as the EU and so on move to modernize their legislation, we took that and we put it into our legislation. I hope I have now explained how with a three-and-a-half-month minimum period and possibly a four-month period, before you could buy this—[Member raises glass]—why the country would grind to a halt. And that is why we are saying there must be a simplified procedure for routine, day-to-day operational matters, and that has long been recognized in this country for the last 50 years, 60 years.

It has been recognized that you cannot submit the procurement of routine things, and I will use an example of a photocopying machine. That is an essential piece of equipment. No government, Ministry, could function without a photocopying machine. But if you have to buy toner for the photocopying machine, it is four months, eh, because you have to go and pre-qualify the supplier, they have to register, you have to go through the standstill period and so on. So I hope I have now explained how this legislation can grind this country to a halt and why it will grind this country to a halt if we do not allow some flexibility in its
operation, and in particular the whole question of the threshold, and threshold ties directly to the idea of grinding the country to a halt. Because I will give you an example.

We had an issue with the coast guard recently, where the coast guard did not have the financial flexibility that if you needed a small part for one of their vessels, a seal, an O-ring, a screw, as simple as that, the coast guard did not have the financial flexibility to purchase that. Some of these things, you might want to buy it online, you might want to buy a bearing online, it might cost you US $1,000. The coast guard did not have that financial flexibility. We have since given it to them. In fact, we have given the head of the defence force and the procuring officers there a credit card facility up US $15,000 to buy something like that; something that might cost US $2,000 or US $1,000, that an entire vessel could be demobilized and incapacitated because it needs a bearing costing US $1,000. But now, look at what is happening here. Your “vessel down” because it needs a little part, an electrical part, what you going to do? “Yuh going” to pre-qualify? And that is the thing that is coming up in terms of international suppliers as well.

If you talk to the Minister of Health, he is not in this Chamber, but he is telling me—he is asking me a question, I cannot even answer him yet. With the Children’s Life Fund, when a child is qualified under the Children’s Life Fund to have urgent heart surgery in a hospital in South America or the United States—so somebody has a hole in their heart and it cannot be done here and they apply to Children’s Life Fund, it is determined to be a needy case, they say, “Sure, we will pay for it”, $500,000 or whatever it is to pay for this thing, the hospital is required—the foreign hospital, eh, the hospital in Miami, or wherever it is, is
required to pre-qualify and register with our Procurement Depository. That is what our law does. That is certainly an exemption that we need to look at very carefully, that sort of thing. So he is asking me, they want to send a sick child to a hospital abroad to deal with a life-threatening matter and they are being told that the hospital needs to pre-qualify. Of course, the hospital is not interested in that. You really think they have things to deal with—all over the world, they have things to deal with—in a domestic situation, you really think they are bothering to register with our Procurement Depository and our registry to come and—

The other problem that we have—

**Mr. President:** Minister, you have five more minutes.

**Hon. C. Imbert:** Sure, I am almost finished, Mr. President. The other problem that we have is that some of the things in this legislation require financials, audited financials. So you are going to tell a hospital in Miami, “Produce your audited financials to Trinidad and Tobago otherwise we are not going to allow you to deal a child that has a hole in their heart”? Understand all of this.

So what we are trying to do in this Bill—not only to deal with this absurd result of the legislation where unless it is a real emergency, and that is open to interpretation, and even if it is a single source you still have the requirements of registration and prequalification, et cetera, so that there is no such thing as a two-day or one-day or four-day submission in this, you know, because you still have to register and pre-qualify and, as I said, 30 days, working days to pre-qualify. What we are trying to do is to introduce flexibility so that the obvious flaws in the legislation and the Regulations can be corrected in a simplified manner that we do not have to convene the Parliament every time. As I indicated, with competitive

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and limited, why should the tender period for competitive bidding and limited bidding be the same? Even when you read the regulations themselves, they say, obviously limited bidding will take less time but the regulations say 20 days for both, so we need the flexibility to deal with things like that, but things are going to come up all the time.

There is a regulation that talks about procuring readily available relatively low-priced items. What on earth is that? To the Export Centres Company, a readily available low-cost item might be $5,000; to the Ministry of Works and Transport, a readily available low-cost item might be $5 million, a paving contract. We have to get that out of the regulations. We must put numbers inside of there. It cannot be relatively low cost, it has to below 100,000, or below 300,000, or something like that.

So I spoke about all the exemptions because that is one of the things we are trying to do. There will be the need for exemptions. I just explained an exemption to you that if somebody is procuring urgent medical care from a foreign hospital, we need to exempt that foreign hospital from the immediate need to be pre-qualified and registered with our Procurement Depository, otherwise we shooting ourselves in the foot.

So, Mr. President, this Bill seeks to validate the Orders out of an abundance of caution; seeks to make it simpler to modify regulations that must be modified, make it simpler to create exemptions that must be created as we go along; and also, seeks to introduce a threshold which is absolutely essential, otherwise, as I have explained, the procurement of routine items will be impossible and that could grind this country to a halt.
I thank you. I beg to move.

Hon. Senators: [Desk thumping]

Mr. President: Minister, you have four magic words for me.

Hon. C. Imbert: I did say “I beg to move” but very quietly. I whispered it. I beg to move. [Laughter]

Mr. President: Thank you.

Question proposed.

Mr. President: Sen. Mark.

Sen. Wade Mark: Thank you, Mr. President. This meeting of our honourable Senate has been summoned by the Government through, of course, the Office of the President and we were given a letter that spoke to the issue of urgency and, of course, representations would have been made to justify this particular sitting.

I listened very carefully to the statements emanating from the lips of a very weak and feeble contribution—

Hon. Senators: [Laughter]

Sen. W. Mark:—from a Minister who, Mr. President, is conscious that these arguments that he sought to advance are very weak, unconvincing and really designed to mamaguy the nation. But this is a very historic moment for our Parliament. These amendments are pregnant with grave dangers for our democracy, our democratic values and all the principles, which I will elaborate upon in my contribution, that address transparency, accountability, value for money, integrity, equity, just to name a few. All of these principles that this Act No.1 of 2015, which is now being amended for the fourth time by this Government in the last eight years, constitute danger.
Mr. President, you know, these amendments, as we see them on the Opposition Benches, constitute what we would like to describe as brazen banditry on the part of this administration.

Hon. Senators: [Desk thumping]

Sen. W. Mark: That is what this is about, and it is taking place in broad daylight because we are meeting here in broad daylight.

Hon. Senator: [Interruption]

2:30 p.m.

Sen. W. Mark: It does not matter. So, Mr. President, I would like the hon. Minister of Finance who, as I said, tried to defend the indefensible, tried to make excuses that cannot really be justified when a proper objective analysis is made of the cold realities—so I would have liked to ask the hon. Minister when he is winding up, can the hon. Minister tell this honourable Senate where there is a precedent—because he spent a considerable amount of time going on a tour, a journey, all over the globe to justify his feeble attempt at hoodwinking the population, hoodwinking the Senate. That is what this gentleman, the hon. Minister attempted to do. So, Mr. President, I would like him when he is winding up to provide this honourable Senate with any precedent, any part of the world, whereby a Minister can break the law, possibly committing a criminal offence, and then pass a law to validate and decriminalize the offence.

Hon. Senators: [Desk thumping]

Sen. W. Mark: I would like him to tell Trinidad and Tobago, give us a precedent where this has happened, Mr. President.

Hon. Senators: [Crosstalk]
Sen. W. Mark: Where is this? Where? So, Mr. President, this is a very serious moment in our history, where lawbreakers are trying to get lawmakers to validate unlawful, illegal conduct and actions. And he is using—when I say he, the hon. Minister representing his Government—us in the Senate to validate, which I will go into as well, illegal action of the Government. And, Mr. President, you know what is extremely sad? This Government insults the intelligence of not only the Senate but the people of our country. You want us to validate, Mr. President, unlawful activities and action taken—and you know what was nice about the hon. Minister? He did not spend any time explaining the two Legal Notices, Mr. President, that were issued by his Government and under his hands. The Minister—I saw it here, C. Imbert. And when I say “C”, I “ain’t” mean “see”, you know. “C” means Colm Imbert, Minister of Finance. Legal Notice 206 dated the 1st of July, 2023, and in this—Mr. President, the same crime the gentleman there, Imbert—[Member points]

Mr. President: So, Sen. Mark, do not point.

Sen. W. Mark: Sorry. He is carrying on a conversation.

Mr. Imbert: Mr. President, I am sure—

Sen. W. Mark: He is carrying on a conversation. You understand?

Mr. Imbert: Point of order. Point of order.

Mr. President: Both individuals have a seat.

Mr. Imbert: Point of order.

Sen. W. Mark: [Inaudible]

Mr. President: Sen. Mark, have a seat. Minister of Finance, have a seat.

Mr. Imbert: [Inaudible]
Hon. Senator: Sit down. The President is on his feet.

Mr. President: Minister of Finance, have a seat, please. So let us not go down that road. Let us be respectful of each other as we continue on in this debate. So, Minister of Finance, you were raising a point of order? Raise—

Mr. Imbert: Thank you. 46(5)

Mr. President: Right. So, Sen. Mark, 46(5) speaks to referring to Members with titles, specifically Ministers by that title. Even if you are reading out something, like the Order which you are reading out, be respectful and refer to Ministers by their title. Continue.

Sen. W. Mark: So, Mr. President, the hon. Minister of Finance issued a legal notice under his signature, Legal Notice No. 206. He said nothing about this Legal Notice, and we are being asked to validate this Legal Notice because tens of millions of dollars was spent without any accountability, without any oversight, without any checks and balances, without any transparency. Mr. President, for the 50th Anniversary of the CARICOM summit and we are being called upon in this Senate, Mr. President, to validate and we do not have any evidence of what was spent.

Hon. Senator: Yes, correct.

Sen. W. Mark: We demand that the Minister leave this Chamber, bring the evidence.

Hon. Senators: [Desk thumping]

Sen. W. Mark: Bring the evidence. Mr. President, we would like to know, through you and through the Minister, he allocated in the midyear review $20 million for CARICOM and conferences. We would like the Minister to bring
details of the expenditure of the $20 million so every Member of the Senate can see what they are validating.

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

**Sen. W. Mark:** Mr. President, we are not prepared to give the Government a free pass.

**Hon. Senator:** At all.

**Sen. W. Mark:** We are not puppets of the Government. This is not Balisier House, this is not a party group, this is the honourable Senate of the Republic of Trinidad and Tobago.

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

**Sen. W. Mark:** And, Mr. President, we cannot come here and not provide this honourable Senate with the evidence. For example, Mr. President, how much did the CARICOM summit cost the taxpayers of Trinidad and Tobago? Was it $10 million? Was it $15 million? Was it $20 million? Mr. President, they bought goods and services. If it cost $10 million, $15 million, $20 million, let us, as the Senate, get an idea in writing. Let us see the invoices so we can be justified that we are doing something proper. But we cannot be called upon to tie our hands behind our backs, be blindfolded and give the Government a free pass.

**Mr. President:** One second, Sen. Mark. Is that a device, somebody’s device?

**Sen. W. Mark:** I think this is my—

**Mr. President:** Minister of Tourism, Culture and the Arts.

**Sen. W. Mark:** Yes, I better close it off.

**Mr. President:** Could you put it on—

**Sen. W. Mark:** Yes, I will put it on silent. It is on silent, Sir, but it is just the
vibration. But I understand what you are saying.

**Hon. Senator:** Your phone?

**Sen. W. Mark:** Of course, it is. You see, I believe in truth, you know. I do not engage in lies. So that is why I told the President it is my phone. I do not lie. Mr. President, so all I am asking this hon. Minister of Finance is to be true, to be honest, to be sincere and tell Trinidad and Tobago, Mr. President, the value of the summit; the goods and services that were purchased, how much they cost; and most importantly, the names of your suppliers and contractors that provided these goods and services. Mr. President, how can a Minister call us out—how can we be called out to a special sitting and we have no evidence before us, we have no information? That is insulting. That is disrespectful. That is a contempt for every Senator in this Chamber. The Government does not care because you know why? They have an inbuilt majority and they will pass it.

**2.40 p.m.**

So that is why they provided us with no information. So, Mr. President, we are dealing with two Legal Notices, 206, and if you go to the second one, Mr. President, it is 164. And all this Minister has done, crying like a “cry, cry, baby”, you understand?

**Mr. President:** Sen. Mark—

**Sen. W. Mark:** Sorry, Mr. President, I withdraw that. Trying to come here and do what? Mr. President, the Minister knew when he placed his signature on this Legal Notice that he was acting unlawfully. That is why—

**Mr. Imbert:** Point of order.

**Sen. W. Mark:**—this is before us.
Mr. Imbert: Point of order, imputing improper motives. That is entirely untrue, out of order, 46(6), and it is wrong, not true.

Mr. President: So, Sen. Mark, just be mindful and be careful. Continue.

Sen. W. Mark: Mr. President, I ask you and I ask this honourable Senate, why are we being asked to validate these Legal Notices? Mr. President, you can only validate something if you took a wrong decision and you want to cover—

Mr. Imbert: Point of order, 48(6).

Sen. W. Mark: Mr. President, it is a wrong decision.

Mr. President: Right. So, Senators, Minister, again, you know the procedure, a point of order is being raised, you take your seat, allow it to be raised. Have a seat, Minister—you allow it to be raised, I dispense with it as the Presiding Officer of this Chamber and we continue on with the debate. Point of order?

Mr. Imbert: 46(6), the Member said that I knew when I signed the Orders, I was breaking the law. That is imputing improper motives and it is simply untrue, and I ask that that statement be withdrawn.

Mr. President: So, Sen. Mark, again, the point of order in relation to imputing improper motives has been raised. I have ruled on it and I have asked you to be mindful of that statement and just move on.

Sen. W. Mark: Okay, Mr. President. We are going to court on this matter. I will call the relevant parties to the courts and let them tell the court that what we are saying is wrong. So if it cannot be solved here, Mr. President, the High Court will address this. So we serve notice on him, prepare to come to the courts.

Mr. President, let me indicate, I have before me a statement issued a short while ago by the Trinidad and Tobago Chamber of Industry and Commerce, the
JCC of Trinidad and Tobago, AMCHAM of Trinidad and Tobago, the TTCSI, and an organization called T&T Transparency Institute. It is a very short statement, but they have simply called on the Government today—I got it hot off the press. They do not support amending the Act to allow for the Minister and for ministerial orders to be made subject to negative resolution of the Parliament.

Hon. Senators: [Desk thumping]

Sen. W. Mark: Five bodies have said to the Minister—the Minister and the Government, they are not supporting any negative resolution, you keep the affirmative according to this.

Mr. President: Point of order.

Sen. Gopee-Scoon: The Member made reference to a particular article. Could he just give us the information as to the particular article and the date at which the article was published.

Mr. President: The source of the article, Sen. Mark?

Sen. W. Mark: It is a media statement dated the 20th of the seventh month, 2023.

And in the body of the statement it is stated:

“Several Private Sector Civil Society organisations met on Monday 17th July 2023 to discuss the proposed amendments to the Public Procurement and Disposal of Public Property Act. The group was chaired by the…”—JCC—“and includes AMCHAM T&T, the T&T Chamber of Industry and Commerce, TTCSI, and the T&T Transparency Institute.”

And it goes on to say:

“The following is a statement from these organisations…”

I did not want to read verbatim.
Hon. Senators: [Interruption]

Sen. W. Mark: I am just dealing with the essence of what they are calling on the Government—I am being disturbed. Mr. President, the Government is being called by these bodies not to proceed with any changes to the legislation.

Mr. President, the second point that is very important in this statement, they went on to say:

“The group is of the view that legitimate challenges with the operationalization of the Act, as opposed to deficiencies of the Act itself are being identified as justification for an attempt to amend the law.

Consequently…”

Mr. President, I am being disturbed again, eh.

“Consequently, we do not support mixing administrative issues to justify amending the law.”

And they went on to say, Mr. President, that:

“The process of registering…”—like the small businesses he was talking about—“and complying with the steps outlined on the platform is onerous. However, we are of the view that this can be addressed by interaction with the OPR to ensure that the intent of the law is achieved without creating unnecessary bureaucracy. This will require urgent recognition and implementation of specific procedures…”

And they call on the Government to meet with them.

So the Government is being told by these five organizations they are not in support of any amendments that are being proposed. In fact, we join them by calling on the Government to withdraw this nefarious piece of legislation.
Hon. Senators: [Desk thumping]

Sen. W. Mark: That is what these organizations are calling upon the Government to do, Mr. President, to withdraw.

It is obnoxious for a government in 2023, Mr. President, to bring legislation of the type that we have before us. Mr. President, I do not know if you recall the role of the Grim Reaper. Do you know who is the Grim Reaper? He collects the soul of the dead. And this Bill that is before us reminds me of the Grim Reaper, collecting souls of the dead, just as how these amendments will bury the Public Procurement and Disposal of Public Property Act. That is what it will do, Mr. President.

Mr. President, may I inform you that my colleagues in this honourable Senate—and I have the Hansard, and I am referring to the provision in clause 5 of the Bill—in fact, in clause 3 of the Bill. I have before me a Hansard committee stage dated the 8th of December, 2020. And the hon. Minister of Finance, who is grinning, I am reading his justification why the Minister of Finance and the Government, Mr. President, removed negative resolution that was then in the legislation and justified why we must go with affirmative; the Minister, in his own words giving the commitment, principled commitment, Mr. President, to nine Independent Senators, led by Sen. Dr. Paul Richards.

Sen. Dr. Richards: I am not the leader.

Sen. W. Mark: No, well, the coordinator, the coordinator. Yeah, the coordinator. I apologize to my colleague. I apologize to my colleague. I apologize to my colleague. He is the coordinator. Okay? What I am saying, Mr. President, is that
in this statement that I am about to share with you, the Minister of Finance agreed with the sentiments expressed by the Independent Bench. And the question that has to be asked, Mr. President: What has changed? This was 2020, just a few months ago. What has changed in 2023 for the Government to come from negative to affirmative and back to negative? Why? Mr. President, he was in this debate. Hear what the hon. Minister of Finance told our Parliament on the 8th of December, 2020. He said:

“And those are based on comments made by the Independent Bench…”

And he said, it continues:

“…starting with Sen. Thompson-Ahye who made the point that in the Jamaican Procurement Act”—and I saw it, Sen. Thompson-Ahye, I have it here—and the Jamaican Procurement Act is very instructive and very relevant to what we are about today.”

According to the Minister:

“In the Jamaican Procurement Act of 2015 there is a list of…”—exemption—“services among other things. And I will go into that in more detail in a little while. But what the Jamaican Act requires is that if the Minister wishes to expand on the list of services already in the First Schedule to the Act that matter must be subject to affirmative resolution of Parliament.”

He goes on, Mr. President, and that is my last section:

“I think Sen. Richards also raised that point. And I am pleased to say that we”—that is the Minister is speaking about the Government—“have considered that matter and we agreed that we can change negative resolution
to affirmative resolution. So it means that if any additional services are to be added to list of the exempt services it will require debate”—according to hon. Minister—“and a vote in both Houses of Parliament, including this distinguished House where we do not have a built-in majority.”

Mr. President, I read this to remind this honourable House that when we were dealing with the amendment to the parent Act of 2020, the Government had brought an amendment to exempt:

“legal services;”
“accounting and auditing services;
medical services…”
—financing of government debt, et cetera. That was no longer under the purview of the Office of Procurement Regulation. That was in the hands of the Cabinet. They could do what they want, when they want, how they want.

Do you know what happened, Mr. President? The Minister, according to the Act of 2020, introduced a provision called “ministerial order”, that the Minister can determine further exemptions of goods and services, that is through an order. But it must be subject on an affirmative resolution. It was negative before and it was argued it must come here for debate. The Minister of Finance committed himself to that change and it was reflected in the legislation, affirmative. The Minister comes today to tell us, after he gave this Senate, three years ago, a principled commitment, that he wants to reverse that principled commitment and replace affirmative with negative. That is unprincipled conduct.

2.55 p.m.

Mr. President, may I remind you that in section 5 of the legislation, which is
the parent Act that we are amending today, may I remind this honourable House that in section 5 of this law you have what is called, Mr. President, certain fundamental principles. There are two types of procurement models, you have the rules-based, and that is the Central Tenders Board arrangement that we are now repealing, and there is a principled-based method of procurement. This is what we have now in our Act. And when you talk about principles, Mr. President, all those principles that I am about to outline to you, must and are rooted in all the provisions of the legislation of Act No. 1 of 2015.

What are these principles, Mr. President? Transparency, accountability, equity, value for money, integrity, effectiveness, efficiency. These are the principles that are the foundations of the legislation that we passed in 2015, and that parent Act was amended on three occasions. Today is the fourth time. The question therefore that must be asked, Mr. President—and I want tell you before I go to that question. The PNM was never in favour, Mr. President, of proper procurement supervision, oversight, accountability or—

Hon. Senators: [Desk thumping]

Sen. W. Mark:—checks and balances. I would not bore you now. I have the evidence to show that when this Bill was debated in 2015, all of the PNM Ministers abstained. They did not support procurement. It went to the Senate, all six PNM Senators abstained. They never supported procurement legislation in our country.

Mr. President, I want to tell you something. Mr. President, would you believe that when we were in office, we proposed that the procurement regulator should have a salary equivalent to the CEO or President of CAL, which is
$150,000 or thereabout?  You know what this Government did, Mr. President, to water down the legislation?  They brought it down to $50,000; $50,000 because they wanted to have a weak, feeble procurement regulator, Mr. President.  That is what they wanted.

And, Mr. President, this legislation here before us, look at the amendments; look at the amendments.  Go to clause 5, subsection (3), games, mamaguy.  This thing has no value.  What is the Minister doing in procurement issues?  Why is the Minister invoking or inserting himself in procurement matters?  That is not his business.  The hon. Minister has no business.  This is an independent office.  They do not account to the Minister of Finance.  They account to the President of the Senate through reports, and they report to the Speaker, not to the Minister.  The Minister “does not have no” control over the independent office of the Office of Procurement Regulation.

So here is what the Minister—this Minister always wants to find himself controlling, dominating, directing.  He “must be feel” this is the development company that build his flats in Newtown.  I wanted to tell the hon. Minister of Finance, through you, he is a developer, we know that, and he is good at it.  But I want to tell the hon. Minister, you see when it comes to legislation and taxpayers’ money, you are not going to give us in this Parliament any orders to the effect that you must be in charge.

Mr. President, you may not be aware.  Do you know, Mr. President, that we have lost $40billion in the last eight years, according to an estimated amount given to us by the last procurement regulator, through leakages, corruption, and the lack of implementation, and operationalization of the law?  The PNM has cost this
country to lose $40 billion in the last eight years. Mr. President, do you know that two-thirds of our budget goes towards the purchase of goods, services and other works? That is almost $45 million out of $60 billion.

Mr. President: Senator, you have five more minutes.

Sen. W. Mark: Yeah. And what the Government is seeking to do, Mr. President, is to give them a free pass, a blank cheque. They must do what they want to do and they are using excuses about stimulating. The economy has contracted by 20 per cent over the last seven years. So what stimulation you are talking about?

Mr. President, I want to say that the Government of Trinidad and Tobago is trying to take complete control of procurement through the Minister of Finance. I cast no aspersions on anybody, but when I saw the appointment of the new procurement regulator, a lady called Beverly Khan—and I do not know the lady. What I do know, Mr. President—what I do know is that this Beverly Khan was appointed by the Rowley Cabinet as a director by the Prime Minister to the WASA board.

I have the evidence. I have the evidence that Beverly Khan, who is the procurement regulator, was a member and commissioner of the board of WASA, and appointed by the Rowley Cabinet. So how can we have independence?

Mr. President: Sen. Mark, please.


Mr. President: Sen. Mark, have a seat. So I have reminded everybody, and this goes for everybody in their contributions, as much as you are into it and you are in full flight just be mindful of the little nuances that we have to adhere to. When you are referring to Members of Parliament, you refer to them by their title and not by
their name. Continue, Sen. Mark.

**Sen. W. Mark:** So, Mr. President, we have no procurement legislation in our country as we speak. The Government has infiltrated, polluted, subverted, eroded, undermined every independent institution in our land; everyone. And the latest one, all the board—all the members of the board of procurement are PNM appointed. All of them. And, Mr. President, I would like—I cannot say the Minister of Finance here, but I would like the public of Trinidad and Tobago to go on the website of WASA and google the board in 2020 and see if you see the name Beverly Khan. And not only Beverly Khan, they had her as the Acting Deputy Permanent Secretary in the Ministry of Planning and Development. How independent can a person, who is appointed by the Government, led by the Prime Minister, to be when you are dealing with an independent oversight machinery called procurement?

They have polluted procurement and what we are doing today, Mr. President, is administering the final funeral rites of our procurement law in Trinidad and Tobago. But I want to tell you, Mr. President, time is longer than twine. And I want to tell this honourable Senate, a UNC government that will be taking power in 2025 will reverse—

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

**Sen. W. Mark:**—will reverse, will reverse this and we will bring proper—we will go back to the 2015 legislation with all the little nuances that we have to address. But we give Trinidad and Tobago the commitment that the United National Congress will reverse those decisions that have been taken in 2017, 2019, 2020. And this polluted poisonous tree that we are trying to plant here today, we are not
in favour of that. We will not support you on this legislation. We will never support the PNM in trying to thief from the Treasury.

Mr. President: Sen. Mark—

Hon. Senators: [Desk thumping]

Mr. President: So, Sen. Mark, that last statement—

Mr. Imbert: [Inaudible]

Mr. President: One second, Minister of Finance. That last statement is not allowed at all. Continue.

Sen. W. Mark: Mr. President, we will win local and we will win general and we will reverse these misdeeds by this gang.

Sen. Gopee-Scoon: No, no, no, no, no.

Sen. W. Mark: All right, I withdraw “gang”.

Sen. Gopee-Scoon: No.

Sen. W. Mark: This group of—

Mr. President: Sen. Mark—

Sen. W. Mark:—unprincipled—

Mr. President: Sen. Mark, have a seat, your time is up.

Hon. Senators: [Desk thumping]

Sen. W. Mark: Thank you.

Mr. President: Sen. Seepersad.

Sen. Charisse Seepersad: Mr. President, thank you for the opportunity to contribute to the debate on the Public Procurement and Disposal of Public Property (Amdt. and Validation) Bill, 2023, and other related matters. I am endeavouring to contribute to these amendments to try and ensure that the fundamental tenets of the
procurement Act are preserved in the spirit of good governance and astute management while safeguarding scarce public financial resources.

Again, I am reminded that we are here to seek the best interest of the public, and the voice of public opinion clearly disputes the need for the amendments proposed, which dilutes the entire procurement Act and really renders the Act ineffective. Therefore, it will serve no useful purpose. The reported claims that the procurement Act will either delay and/or stymie the alacrity of the public sector is counterintuitive since accountability and openness must be a cornerstone in public affairs and democracy itself.

It is imperative that the public sector rise to the occasion and up its game in planning, budgeting, allocating resources and strategic implementation of projects, both large and small. I am quite familiar with the way the private sector approaches purchasing and procurement of goods and services. Their processes and procedures are stringent and enforced because the market place, including their various stakeholders that they serve, demands accountability and judicious allocation of scarce resources. Only projects which meet criteria of return on investment and profitability targets are approved.

Of course, there are different requirements for the public sector but the point is the economy can only survive and grow if the waste is diminished and eventually eliminated altogether. Procurement regulation therefore must not be diminished or watered down for the sake of convenience and expediency. Further, giving a Minister sole responsibility for seeking the public’s interest as far as these amendments are concerned is contradictory to what the Act seeks to accomplish: transparency in public affairs.
Mr. President, the procurement Act No. 1 of 2015 decentralized the procurement process so that all public money is under the scrutiny of the independent Office of Procurement Regulation. The procurement regulator must report to the Parliament, and the report is scrutinized by the Public Accounts Committee within 90 days of the end of the financial year. That is section 24 of the procurement Act.

3.10 p.m.

This, I am convinced, is a powerful weapon in the fight against corruption and crime and seeks to mitigate the instances of decades of questionable procurement practices. Comprehensive procurement legislation is in the public’s best interest and must stand up to global scrutiny and procurement standards. It goes a long way to ensuring that public officers in government, in the public service and state enterprises, are all accountable.

The main objectives of the procurement Act are:

“…accountability, integrity, transparency, value for money…”

And:

“…good governance…”

Over 200 institutions fall under this office, that is everywhere public money is spent. The procurement legislation also protects the Government from fraud and corruption. This includes million-dollar equipment used in buildings and constructing infrastructure to oranges purchased for school feeding lunches.

A 2014 study done by the Organisation for Economic Cooperation suggested that governments can lose between 10 and 30 per cent of the moneys spent on public procurement to corrupt acts. The following calculation serves to illustrate
the point. The projected budgeted expenditure for 2023/2024 is $61.37 billion. If 50 per cent of the $61.37 billion is used for public procurement, the potential savings from corruption can be approximately 3 billion to $9.2 billion annually. Although this math is conservative and the assumption is incomplete, the idea is that if some corruption hole is even partially plugged, some measure of savings will accrue to the State.

It is not flattering to note that in the Transparency International 100-point Corruption Perceptions Index 2022, Trinidad and Tobago ranks 77 out of 180 countries and is rated 42, where zero means highly corrupt and 100 means very clean. In the 2019 report on economic development and the Development Bank of Latin America report, Trinidad and Tobago ranks higher than the average in the region for incidents of bribery, with approximately 20 per cent of the firm’s surveyed stating bribes are being paid for critical services.

While laws are reversible by Parliament or courts, it is quite conceivable successive governments can and will use this watered-down procurement legislation imprudently. Consequently, I think that it is in the best interest of all of Trinidad and Tobago that we have robust procurement legislation which deals with all aspects of the process. All procurement which utilizes scarce and dwindling public financial resources and other assets must be subject to independent and impartial scrutiny by the Procurement Regulator, its board and the Parliament.

Clause 3 of the Bill, section 7 of the Act, and clause 5 of the Bill, section 63 of the Act, remove the requirement for affirmative resolution of the Parliament for services provided to public bodies or state-controlled enterprises. The following services have already been excluded from the procurement process:
“legal services;”
“accounting and auditing services;”
“debt financing services for the national budget;”
“medical emergency or other scheduled medical services; or
such other services as the Minister may, by Order, determine.”

On December 08, 2020, in the Senate debate on the Public Procurement and Disposal of Public Property (Amdt.) Bill, 2020, the Minister of Finance agreed to change “negative resolution” to “affirmative resolution”. He stated that:

“….if any additional services are to be added to the list of exempt services it will require debate and a vote in both Houses of Parliament, including this distinguished House where we do not have a built-in majority.”

Clause 5 allows exemption of such other services, as the Minister may, on the recommendation of the office or upon the initiative of the Minister in consultation with the office, by order, determine. This means that it is up to the Minister to accept the recommendation to consult with the Office of Procurement Regulation. If the OPR does not agree with the exemption, the Minister is not obligated to accept the OPR’s advice. Therefore, the Minister can exempt from the procurement legislation any class of service, including projects or events subject to negative resolution as opposed affirmative. In effect, the Minister of Finance will be able to decide on regulations and procedures for the procurement of goods and services by allowing him to act at his own discretion. Therefore, the OPR becomes redundant. Parliamentary approval will not be required for the exemptions to take place. With negative resolutions, the exemptions will be valid from the date of the
Order unless rejected by Parliament within 40 days. Mr. President, the removal of the “affirmative resolution” is not in the interest of transparent procurement.

The assertion that the procurement Act is a one-size-fits-all approach to public procurement and does not consider emergency procurement is incorrect. However, in a perfect world, there will be no exceptions. But there are instances when the rule of law must bend as it is in the case of unforeseen crises. Mr. President, the regulations are well drafted. Therefore, when an exception arises, adequate measures and mechanisms and procedures are in place to deal with emergency and urgent situations, as well as routine expenditure. I refer to “Procurement Methods and Procedures Regulations”:

“4. Thresholds”
“12. Single source selection
13. Procedures for single source selection
14. Sole source selection”
And:
“15. Procedure for sole source selection”.
Clause 4 of the Bill, new section 58A, of the Act, make:
“...the procurement of goods and services up to one million dollars...exempt from the procurement requirements under...”—the Public Procurement and Disposal of Property—“...Act.”
These measures would allow the Government and state agencies to spend up to a million dollars without reference to the standards set by the procurement Act. There are no measures included to prevent splitting of contracts.
Comparison with other countries cannot equate to our situation. Countries such as Australia, Canada, the United Kingdom, the United States and Europe have threshold exemption limits, but these countries do not have the same level of corruption that exists in Trinidad and Tobago. Since there is no independent scrutiny of the procurement of these goods and services, this effectively creates a loophole for the avoidance of scrutiny and accountability. It is a well-known and common practice for contracts to be broken up into smaller packages to avoid tender requirements.

The Minister has stated that the procurement process is a complex one under the Act, which impacts on critical purchases necessary for the State operations. I am really disturbed that these problems were not identified and dealt with at the review stages. Since the new system represents a major change in public procurement, extensive training and planning was done by the Office of Procurement Regulation and the Ministry of Finance over the past five years, and even after the legislation came into effect.

From 2020, the Office of Procurement Regulation has been inviting suppliers to register. Also, WASA, in a public service campaign in 2021 and 2022, was also encouraging suppliers to register with the OPR. The Office of Procurement Regulation has dedicated personnel available to assist with the regulation process. The pre-qualification and pre-selection guidelines prepared by the OPR are also very helpful. This was to ensure a successful transition to the new public procurement regime. In fact, Mr. President, I did the registration and it is not complex. It really is not complex. You just have to be organized.
The current system of the OPR depository serving as a one-stop shop replaces the previous annual registration calls with associated fees from each state body. This represents a significant step towards increased efficiency, resulting in substantial time and financial savings for both suppliers and the agencies themselves. For routine activities, such as capital investment projects or maintenance contracts, government agencies should already be prepared to operate within the framework of the new legislation. However, if there are upcoming events, such as summits, the respective state agencies in charge should start the procurement process in advance to ensure the timely acquisition of goods and services. Section 27(1)(a) of the 2015 Act, mandates procuring agencies to:

“...publish...”—the information on planned procurement activities for the next 12 months—“on...”—their—“...website or in any other electronic format...”

“...no later than six weeks after the approval of the National Budget...”

The private sector understands that if it wishes to conduct business with any government agencies involving public funds, it must comply with the registration requirements of the OPR’s online depository.

Clause 6 of the Bill makes legal and valid all statutory instruments, including Legal Notice No. 164 of 2023 and Legal Notice No. 206 of 2023. This measure would retroactively validate two exemption orders signed by the Minister of Finance to cover the cost of $9.2 million spent on the recent CARICOM 50th Anniversary event and expenditure by the Judiciary.

Mr. President, I refer to the following two sections of the procurement Act No. 1 of 2015. Sections 36(1):
Public Procurement and Disposal of Public Property (Amdt. and Validation) Bill, 2023
Sen. Seepersad (cont’d)

“Upon the entry into force of a procurement contract or conclusion of a framework agreement, a procuring entity shall promptly publish on its website or in any other electronic format, notice of the award of the procurement contract or the framework agreement, specifying the name of any supplier or contractor with whom the procurement contract or framework agreement was entered into, the goods or services to be supplied, the works to be effected and, in the case of procurement contracts, the date of the award of the contract and the contract price.”

Section 37 states:

“A procuring entity shall submit to the Office no later than three weeks after the end of each quarter a report of all contracts awarded during the immediately preceding quarter.”

Can the Minister of Finance explain why the Government did not comply with these requirements?

Mr. President, we need to be provided with a comprehensive, detailed explanation of the expenditures that we are being asked to approve through these two Legal Notices. The amendments to this Bill only further serve to undermine the objectives of the procurement Act, which as a reminder I will repeat:

“...accountability, integrity, transparency and value for money…”

—in essence, promoting transparency and reducing corruption in public spending.

The Government has a fiduciary duty as a trustee of the public funds. These amendments endanger their stewardship and oversight of public funds. I have laboured to find some rationale to add my support to the Public Procurement and
Disposal of Public Property (Amdt.) and Validation Bill, 2023. However, in the interest of the public, I find it very difficult to support this Bill.

Mr. President, I thank you.

Hon. Senators: [Desk thumping]

Mr. President: Minister in the Office of the Attorney General.

Hon. Senators: [Desk thumping]

The Minister in the Office of the Attorney General and Ministry of Legal Affairs (Sen. The Hon. Renuka Sagramsingh-Sooklal): Mr. President, I thank you most sincerely for the opportunity to join this debate. You know, Mr. President, coming in very early in this debate, thankfully, the only Opposition Member that I have to really respond to at this stage is Sen. Mark, which I will do in a bit. I want to, you know, recognize, of course, the contribution made by Sen. Seepersad and, of course, during the course of my contribution, I am hoping, Mr. President, that I will be able to address some of those concerns raised by the hon. Senator.

But as I begin my contribution—and, of course, the structure of my contribution, Mr. President, I would, of course, deal with some of the, again, misinformation and propaganda placed by Sen. Mark, the fearmongering placed by Sen. Mark on the record. I will deal with that. And then, of course, I will get into the substantive crux of my contribution which, of course, I am hoping will deal with certain issues or concerns that the hon. Sen. Seepersad has.

But, you know, I just want to begin by, you know—because that is the place that Sen. Mark began.
3.25 p.m.

In his contribution he spoke about, you know, this being an extraordinary sitting where we were all summoned here, and I am dealing with that issue very briefly of extraordinary sitting for the benefit of the members of the listening public. Mr. President, most respectfully, and for the public who is listening on, had Parliament not been prorogued, had the Parliament not been closed, this would have been an ordinary sitting in which we would have come to this honourable Senate asking for this Bill to be—for the procurement Act to be amended based on circumstances. And I am saying that because I have seen a lot of people reach out to me on social media concerning the extraordinary sitting. Of course, it is because the fearmongering that the Opposition is putting out there as if this a section 34 sitting that is happening. And I want the public to rest assured, Mr. President, that the “extraordinariness” of this sitting in essence is because the Parliament is prorogued, there is now something on the books that it requires us to address, and as a consequence, Mr. President, we have had no other choice as a Government to recall the Parliament for us to be able to listen—for us to be able treat with this legal issue that is before us. And that is one of the first places I wanted to start because, Mr. President, as I indicated, I know people would have reached out to me on social media, of course, because again of the fear of what is this extraordinary sitting about and I just wanted that to be stated.

Now, as I jump into some of the other points made by Sen. Mark, you know, I am really now thinking the UNC has to change its name from “UNC” to “control C”, because “control C” in a Mac computer is where you press “copy and paste”; “control C”, you copy and paste an argument. And why I say they should rename
“theirselves” as “control C”, Mr. President, is because, honesty, the poor Opposition Leader, Mr. President, Sen. Mark, again, “control C” her entire contribution and came to the Senate again, and I could say verbatim, eh, because I listened to her up until last night—eleven’clock last night to the House contribution. And the Opposition Leader, I listened to her contribution. The Minister of Finance went all around the world to justify the negative resolution but right here in our region, Jamaica’s procurement legislation still states that it is subject to an affirmative resolution, and the Opposition Leader said that in the other place. And Sen. Mark, in true to form, UNC “control C”-style, came here and regurgitated verbatim what the Opposition Leader said.

So again, it makes it very easy for us on the Government Bench to be able to respond to them because in advance we know what they are going to come to say, because it is just really a “control C” syndrome that has been operating here. But, you know, Mr. President, other than that, which, I mean, they are free to do, there were other points made by Sen. Mark which is certainly concerning to me since I am very new to the Senate and Sen. Mark is a seasoned politician. As a matter of fact, I always say to Sen. Mark, especially because I sit with him in a PAEC—and the fact that in my tenure—my short tenure in being in this Parliament, he is really the only Member of the Opposition Bench that ever champions any cause. And I always say to the hon. Senator, you know, “As a new young politician that is something I recognize”, and I would expect, because of his experience as a politician, he would not have come here today, Mr. President, and said what he said, which was, “I call upon the Government to present forthwith a detailed expenditure of what was spent for those CARICOM meetings”. And he even
requested or demanded that the Minister of Finance leave and come back with that expenditure today so that the entire Senate can now review this; mind you, review this in a matter of an hour or so—well, however long this sitting is.

I would have expected, Mr. President—and that is why I started off by speaking about his experience. I would have expected that a man of his experience—because he always speaks about being in here from the time when he had hair. Right? And, you know, and he said that in this Senate. I would have expected that Sen. Mark would understand, as other Members of this honourable Senate understand, that that is where, come to the end of fiscal, Mr. President, when we go through the deliberation of a Standing Finance Committee, that is where all of the expenditure, Mr. President, that has been utilized, the taxpayers—I am a taxpayer and, of course, I am concerned about how taxpayers’ dollars are utilized. This Parliament—that information will be brought to this Parliament and we will not have to rush going through that expenditure, line Item by line Item, Head by Head, expenditure by expenditure.

The entire Parliament will have an opportunity, the entire Senate and the House of Representatives will have an opportunity, line Item by line Item, to scrutinize, Mr. President, the expenditure coming out of that summit. Even the Judiciary order, the order that was given to the—the exemption order that was given to the Judiciary, the Judiciary does not—the Judiciary appears—I know it appears under the Office of the Attorney General and Ministry of Legal Affairs, and their finances will be presented at a Standing Finance Committee stage and will be subject to scrutiny by all Members of the House of Representatives. And that is why, Mr. President, I started about speaking about the experience of Sen.
Mark because to ask for it to be presented here today, it is rubbish, respectfully, Mr. President, because there is a parliamentary process in which that information will be forthcoming and the citizens of this country and all honourable Senators can rest assured that there will be an opportunity for that account to be scrutinized, Mr. President. And that, you know—to answer to hon. Sen. Seepersad’s concern, that is us discharging, the Government discharging their fiduciary duty and responsibility to the country. Once we go and hit the floor with those Standing Finance Committee meetings, that is where the line Ministers will now be responsible for answering to every single question, every single query, line by line, concerns that the public or the Government—the Opposition may have relative to that expenditure. And I just wanted to make that very, very simple point, Mr. President.

You know, Mr. President, Sen. Mark went on to make reference to a press release. I have not seen the press release and, honestly, I have not been able to verbatim/document everything that he said. But one snippet from that press release, that the hon. Senator indicated, was that these entities were saying they are not supporting the legislation because you cannot mix administrative issues with legal issues. And again, Mr. President, most respectfully to all of the entities—and, of course, bearing in mind that I have not read wholesome because we know Sen. Mark has a habit of cutting and pasting, one; and two, he might deliberately leave out certain things from the press release, so unfortunately I cannot believe—I cannot trust everything that was placed on the record without the benefit of reading the report—the press release. But, Mr. President, how is it really possible for us to separate administrative issues with the law, when the law is responsible for
preventing Ministries and entities from conducting their administrative—discharging their administrative responsibilities and duties. So I want to just say that—I mean, to my mind—and that is why I mentioned, I have not read that release in a wholesome—you know, fully, but I cannot see, especially where there are issues existing on the legislation, that it is preventing effective administration in Ministries, in NGOs, and all those that are considered as “public bodies” pursuant to the procurement legislation. I cannot see how we could separate those two issues, Mr. President.

You know, Mr. President, also, you know, Sen. Mark spoke about the hallmark of the procurement legislation as being integrity—that is predicated on integrity, transparency, honesty. In the crux of my contribution, Mr. President, especially when I deal with the issue of negative versus the affirmative resolution, and other areas of the law and other checks and balances that are still existing in other pieces of law, I am hoping to deal with that concern that Sen. Mark would have placed on the record, whereby he is suggesting to the public that the amendment that we have brought today is somehow or the other an attack on the cornerstone or the fundamental principles of this procurement legislation which is really that of integrity, transparency and honesty, and I will get to that point.

Also, as true to form, Sen. Mark, I do not know what is his obsession with the poor Minister of Finance, again he asked the question, “What is the Minister of Finance doing there? Why is he placing himself in this amendment?” Mr. President, to answer to the Senator, when I get into the crux of my contribution, I will look to the Constitution and again remind the hon. Senator about what is the constitutional role and function of the Minister of Finance.
So when the Minister of Finance places himself in certain pieces of legislation, he is empowered to do so via the Constitution of Trinidad and Tobago and other pieces of legislation, and I will get to that, Mr. President, when I get into the crux of my contribution. But before I conclude, some of the points that Sen. Mark made—you know, I have to make mention, Sen. Mark and the Opposition has a habit of coming to this Senate and “dirtying people name” and “calling up people name”, and I have heard him today speak about Ms. Beverly Khan, the new OPR, “calling up” again “people name” and suggesting, of course, that, you know, there is some sort of political affiliation because she somehow sat—because she sat on the board of directors of WASA. Why is it that Sen. Mark cannot remind this public that Ms. Beverly Khan is a woman of more than 30 years’ experience in the public service and—

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

**Sen. The Hon. R. Sagramsingh-Sooklal:**—therefore is fully equipped and in a position to conduct her roles and her responsibilities? But he will not do that because it will not serve the Opposition’s intention and their purpose. So rather he will come here, cast aspersions about—

**Hon. Senator:** Slander people.

**Sen. The Hon. R. Sagramsingh-Sooklal:**—slander people’s name, “call up people name” in his mouth and not speak to the validity and, of course, the value—sorry, Mr. President—that some of these persons can bring to the office that they serve. Not forgetting too, Mr. President, just to place on the record, the previous Regulator, Mr. President, Mr. Moonilal Lalchan, he was the chairman, Mr. President, of CreativeTT.
Hon. Senator: What?

Sen. The Hon. R. Sagramsingh-Sooklal: He also—he was the chairman of CreativeTT—

Hon. Senator: What?

Sen. The Hon. R. Sagramsingh-Sooklal:—and not under our admin—under—sorry, Mr. President—under the PNM. So that is important for us to understand, Mr. President.

Hon. Senator: [Inaudible]

Hon. Senators: [Laughter]

Sen. The Hon. R. Sagramsingh-Sooklal: So what that suggests, Mr. President—and there were—I recall hearing and reading certain aspersions made about that previous officeholder, but that individual sat under a PNM Government on a state board, Mr. President. Does that make the individual incapable? Whatever his political affiliation is, does that make him incapable of performing his functions, roles and responsibilities? I do not believe that. The modus operandi of this Government has always been, Mr. President—has always been, if you have the skill set and you have the ability to be able to perform a certain function, our Government, led by our political leader, has no qualms about putting the right people in the right places to serve.

Hon. Senators: [Desk thumping]

Sen. The Hon. R. Sagramsingh-Sooklal: And that has always been the modus operandi of our Government, recognizing talent, harnessing that talent and, as I said before, putting the right people in the right places; not people with “two CXC”, putting them to head big organization and—no, no, we do not do that, Mr.

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So, Mr. President, I just had—as a regular citizen of this country, I am sick and I am tired and I am fed up of the UNC coming here and slandering “people name” and “calling up people name”. Because you know why? They know they have the protection of Parliament here. And I just felt that I had to make a point about, you know, Ms. Beverly Khan.

Mr. President, you know, as I move now into the crux of my contribution, you know, of course, the Minister of Finance, of course, I want to again commend him for recognizing that if there is a need for us to bring forth changes in the law, that is why we are here today in order to bring forward those changes.

The first thing that I want to deal with, Mr. President, and I know the Minister of Finance would have dealt with it in his presentation, Mr. President, I want to look at a clause—of course, clause 4 of the Bill, and specifically looking at that—in clause 4, Mr. President, of the Bill that appears before us, which seeks to amend the Act by inserting, of course, section 58A, which states, Mr. President:

“Subject to regulations made under section 63, the procurement of goods and services up to one million dollars are exempt from the procurement requirements under this Act.”
reiterated in his presentation, it shows that is one of the first checks and balances that is going to be put into place in dealing with especially PSs and those public officers who can now—that million-dollar cap that is now exempt from the legislation. So I know he would have dealt with that.

But what I want to look at—I want to “lawyer-up de ting” a little bit. I want to look at other checks and balances and remind this honourable Senate and, of course, members of the public who may be concerned about that $1 million-cap, of other checks and balances, both in the law and otherwise that exist, that will ensure that if there is indeed some sought of misbehaviour in a public office, even as it relates to that $1 million, that is now exempt from procurement, the Regulations and so forth—well, not the Regulations because it is subject to regulations but, of course, that $1 million-cap that persons may be concerned about, I want to deal with the law—the existing law as it relates to providing checks and balances.

Now, Mr. President, I want to read into the record a case. Well, first to begin with, the Minister of Finance would have gone through the history of where that million-dollar cap would have emerged from. Of course, in his deliberations he would have mentioned a significant amount of international comparators. I know the Minister would have looked at Australia. He would have looked at the UK.

Mr. President, I recall in my research as well, in trying to determine, or looking at that million-dollar cap, I would have, of course, looked at other regional comparators in which in their procurement legislation there are similar caps that are in existence. So, for example, if we look at Barbados, if we take the Public Procurement Act of Barbados, 2021, that has in its genesis, of course, the protocol
and public procurement for the Caribbean community, signed and ratified also by St. Kitts and Nevis in 2019. And Part Two of that particular comparator, entitled “Scope and Coverage” specified in Annex A, tells us that goods and services not exceeding US $150,000 are exempted from the protocol on public procurement, and that is in the Bajan legislation.

If we translate that into TT dollars, let us say we are looking at a 6.7 exchange rate, it comes up to about $1 million or so plus dollars. That is almost the same—that is the same cap that our legislation speaks to. So I just wanted to add to some of the comparators that the hon. Minister would have spoken to by putting on the record that in Barbados there is also said cap that is in existence.

Mr. President, also when I looked at Antigua and Barbuda, if we look at the Procurement Administration Act of 2011, what we have in that legislation—again, regional comparators as it relates to this cap that we have brought the amendment that exists in clause 4. If we look to that piece of legislation, we see—and this is what the Antigua and Barbuda Act states. Similar clauses exist where the Schedule notes that procurement for hospitality and catering services with a value equivalent, but not exceeding, and they went on to speak about almost EC $25,000, which is approximately TT $63,000, is exempt from procurement legislation. Their legislation, it goes through in detail other instances similar to our amendment that we have brought here today, in which you can have a similar cap in existence. So I just wanted to place that on the record.

I also want to add a little to—I know the Minister of Finance would have looked at the European Union. Of course, within the European Union specific utilities, markets in certain countries, may be exempt from public procurement
rules. I can list, coming out of the EU procurement directive, four utilities. Some of those things will include:

"Utilities (water, energy, transport…postal services) are essential…"—for the smooth function of an economy—"…and social development."

That is actually verbatim out from that EU procurement directive.

These are some of the services that, of course, benefit from falling in that exempt list, because they recognize that, of course, there are certain industries that really and truly can grind your public service to a halt or you can grind service to your citizens to a halt if you have to go through the rigour of, you know—and detailed procurement legislation has to apply there. It can really provide that blockade to being able to fill the needs of your citizens and so on. So I just wanted to add that as it relates to comparators and to add to why this million-dollar cap—this million-dollar threshold.

Now, I know, I mean, the unfortunate thing—and I have heard the Prime Minister speak about this. The unfortunate reality in our society is the issue of the mistrust of the public and the public not trusting officers and office-holders. And we know a large part of that started from the UNC’s tenure but unfortunately, to the man on the street and the regular citizen, I know one of the major concerns that any government will face, whichever government sits where we sit today, would be because of that level of mistrust that the public has for office-holders. It is unfortunate that some of those before us would have created that image of what public holders are. So unfortunately, new, and politicians like myself, that is the unfortunate reality and mould we are placed into.

But what I want to do for the benefit of the listening public, especially those
who may be concerned about the abuse of that cap, is to remind the public that the checks and balances that will be provided would have been one of the checks and balance that the Minister spoke about subject to regulations, and those regulations which will come relative to how that cap can be utilized—that threshold, sorry—with reference to that threshold.

But beyond that, I want to take the public to the common law on the law as it relates to misbehaviour in public office. Mr. President, the law as it relates to misbehaviour in public—and we have a lot of cases, even coming out of our jurisdiction, and many of the cases star, you know, certain Members of the UNC Bench. But, Mr. President, what I want to read into the record is that if, for example—and there are two cases that I want to speak about when I look at the checks and balances provided in the common law as it relates to the misbehaviour in public office.

And the first case that I want to look at is Belize International Services Limited v the Attorney General of Belize. In this particular case, at paragraph 340 of the judgment, it was stated:

"Notice how accountability, equality, and respect for persons, contracts and property, as well as administrative fairness, feature as essential aspects of the rule of law. The rule of law, accountability, and transparency (open government) intersect to produce a government that is legitimate. In a democracy accountability and transparency are essential for public trust and confidence. In a democracy, based on the rule of law, it is now the expectation that all aspects of government ought to be appropriately accountable. This value and principle of accountability can broadly be said
to refer to the idea that, generally, state decision-makers are accountable for their actions.”

When we talk about state decision-makers, we are not only referring, Mr. President, to politicians. We are referring to even those who hold the office of Permanent Secretaries and accounting officers in Ministries. I had to remind the public that if there is indeed a concern that there is going to be an abuse of that threshold, please be reminded that—and the UNC always speaks about going to court and we know they are a very litigious group. But the public can rest assured that there are other safeguards and checks and balances for any officer, be it politicians, myself included, or public officers, which would include those Permanent Secretaries and so on, if it is there evidence that even that threshold is in one way or the other abused.

So the legislation itself while, yes, there are sanctions in the legislation, criminal sanctions as well in the legislation, for, of course, if there are certain breaches by these officers, let us also be reminded that there are other checks and balances provided in the common law as it relates to misbehaviour in public office, that will not only apply to politicians, but it will apply to these office-holders of which would include the public servants, the Permanent Secretaries and all of that.

You know, Mr. President, also what I want to look at is the case—a local case. It is Trinsalvage Enterprises Limited v The Attorney General of Trinidad and Tobago. It is for the benefit of the Hansard, if you allow me to read it, CV No. 2011-04593. I want to take a little dicta out of this piece of legislation because it was actually a case which dealt with—and I know it was a concern that was raised in the other place, and I do not know if it may be a concern of other Members here.
In a nutshell, it had to do with the million-dollar cap but you break up a $10 million contract into 10 different—you break it up into $10 million contracts; the splitting of contracts, of course. I just tried to break it down so at least to the benefit of the public who is listening will understand what is the issue this case specifically dealt with. So that in a nutshell were the facts that came before the court.

In this particular case—so if I may read:

“…which concerned a cause of action for breach of contract, the court considered the issue of whether the Permanent Secretary in the Ministry of Works and or Lee Young and Partners had the authority and or the apparent authority…to enter into the alleged contract on behalf of the Defendant and whether any lack of such respective authority would deprive the Claimant of its claim on the contract, or under its claim for quantum meruit.”

Now, in this particular judgment, the decision of another local case was cited, and I want to place that case on the record. That case was *The Attorney General v Motilal Ramhit and Sons Contracting Limited*. For the benefit of the *Hansard*, Civil Appeal No. 124 of 1990. So this is what the Trinsalvage case, as I said before, it cross-referenced in its judgment, a 1996 judgment.

This 1996 judgment:

“which concerned the legality of contracts award by a URP supervisor where it was contended that he did not have…authority to award contracts as it was done without approval from the Central Tenders Board by virtue of dividing smaller contracts into small divisible contracts, each under five thousand dollars.”
So that case also dealt with the splitting of contracts.

Now, in this case, Mr. President, the court stated that the work was to be done in sections from week to week, and weekly invoices had to be submitted—because those were the facts coming out of the case—had to be done in sections from week to week, and weekly invoices had to be submitted for sums not in excess of $5,000.

Now, at paragraph 18 of that judgment, and this is what I believe is important, was quoted where the court cited that *Chitty on Contracts*, the 25th edition, paragraph 115(2), which stated that:

“‘where a government agent breaches the Ordinance in the absence of knowledge or collusion…’”—yes.

“‘…breaches the Ordinance in the absence of knowledge or collusion the other contracting party is entitled to avail itself of its civil remedies. The Respondent is therefore entitled to recover the sums claimed.’”

Accordingly, Mr. President, where a public officer acts outside of the remit of his scope of duties by awarding contracts, and even dividing contracts into smaller lots for the purposes of evading the law, he is liable for such an action. This case went on to find the parties—the liable parties, of course liable, based on the case that was before it.

Of course, I do not want to bore the Senate and the members of the public by “lawyering up de thing too much”. But I had to remind the members of the public, because I know—and that is why I started by speaking about the public’s perception of, unfortunately, what politicians are, and not trusting politicians and not trusting office-holders. I want to remind the members of the public that there
are other checks and balances, and remedies are in the common law as it relates to misbehaviour in public office for any office-holders; from a PS, to a Minister, to any office-holder that may be found in flagrant breach of the legislation that appears before us.

3.55 p.m.

Mr. President, also the other checks and balances that will exist, Mr. President, we need to understand in all of these are entities that the legislation refers to, especially state entities, Mr. President, there is what we call the internal audit system and auditing systems of these organizations and entities, which is yet another check and balance on what is done and how contracts—I remember when I sat on the board of directors, for example, of exporTT—that was in a previous incarnation, Mr. President. The sub-committee of exporTT that was created, I was in charge of procurement and tenders, and I recall those sub-committees, when we met, we would go through with a fine-tooth comb, or a fine-teeth comb—however, you say it—we would go through in detail, Mr. President—we would go through with a fine-teeth comb, Mr. President, detail by detail the expenditure and what came before us. So what we must remember, Mr. President, for the members of the public, or even the Members of this House who may have concerns about that $1 million threshold, the Minister has indicated and legislation that is before indicates that it is going to be subject to regulation. That is a check and balance.

Another check and balance is available in the common law, as I would have referred this honourable Senate to cases on misbehaviour in public office, who will be subject to misbehaviour in public office. And then, of course, there is an abundance of cases that already deals with that splitting of contracts and all of that.
That is another check and balance.

A third check and balance that is available, Mr. President, are those committees that are created into these entities. I would have made mention of my personal experience. There is also the audit committee that is created in these state entities. And these audit committees, if they function—and I heard Sen. Seepersad call on the public servants to do what they have to do, and I endorse that position. Persons who sit in these committees, who sit on boards, who sit as directors, they have an equal responsibility and an equal role, Mr. President. It is not just the Members who sit in the Senate, as Members of the Government, or in the other place as Members of the Government that have a responsibility. If we want to eradicate crime and criminality in this country, every single citizen, Mr. President, has an equal part to play. And those committees, Mr. President, that exist in these institutions, the audit, the finance committee, they are examples of committees, other checks and balance that are in place in state entities, and all those who will be considered as public bodies, Mr. President, to ensure that you keep an eye on expenditure in the organizations.

Then, Mr. President, we must not forget that all these state entities are then subject to the scrutiny of Parliament when their annual reports are submitted to the Parliament. Sen. Mark sits on a PAEC, which I mentioned before, in which I sit as a member; Sen. Laurel Lezama-Lee Sing says there is the PAAC, and all those different committees, Mr. President, in which audited finances—in which financial reports of these entities come before the Parliament. That is subject to public scrutiny. Those Joint Select Committees, Mr. President, it is not the Government Bench alone sitting there and analyzing these reports, it is Members of the Senate,
it is Members of the Independent Bench that sit there and have an opportunity, Mr. President, to interrogate expenditure. I remember when EMBD—we had a PAEC I think on EMBD, I scrutinized in detail some expenditure for a photographer and it was small money but I felt I had the need to ask the questions, and I asked the questions. And I have sat in JSCs where Members of the Opposition Bench, Members of the Independent Bench will scrutinize to the last cent, which we are entitled to do, which is why we sit in this place in the first place, for transparency, for accountability.

So I want to remind the members of the listening and viewing public, Mr. President, of course, remind respectfully the Members of this Senate that there are multiple checks and balances that will—especially as we related that—we talk about that $1 million threshold—

**Mr. President:** Minister, you have five more minutes.

**Sen. The Hon. R. Sagramsingh-Sooklal:** Yes, Mr. President, thank you—within these committees.

Then, of course, Mr. President, we must not forget the role of the Auditor General and, of course, legislation speaks to his role and his responsibility and, of course, time is against me so I will move from this point. But as it relates to that threshold, as it relates to that accountability, as it relates to that transparency, Mr. President, I support the hon. Minister in the legislation that has been brought here, because to my mind, not just as a Member of Government, but as a citizen of Trinidad and Tobago, I believe there are several areas in which there are checks and balances that will and can be placed, Mr. President—or check and balances in place to scrutinize that $1 million threshold.
Mr. President, you said I had five minutes, correct?

Mr. President: Yes.

Sen. The Hon. R. Sagramsingh-Sooklal: Yes. Thank you, Mr. President. So that is one of the issues that I wanted to deal with. You know, I did mention that, you know, Sen. Mark asked the question about the Minister of Finance and his role and responsibility, what is he doing placing himself there. You know, Mr. President—because, of course, he made reference to clause 5, proposed section 63, but we would have also seen, Mr. President—well, especially in clause 3 last night in the House of Representatives, there were amendments, Mr. President, that was made. And therefore, it is a new Bill that appears—an amended Bill, sorry, that appears before the Senate today. But I just want to remind the hon. Senator, Sen. Mark—and this is to reiterate because I do not know what is his personal issue with the hon. Minister of Finance. But the Minister of Finance has never come to this Parliament, Mr. President, and step out of the remit of what his constitutional and his legal role and responsibilities are, and this Bill is no different, Mr. President.

Hon. Senators: [Desk thumping]

Sen. The Hon. R. Sagramsingh-Sooklal: And, Mr. President, if we look, for example, to the constitutional role of the Minister of Finance, just to briefly state:

“The Minister responsible for finance shall cause to be prepared and laid before the House of Representatives before or not later than thirty days after the commencement of each financial year, estimates of the revenues and expenditure of Trinidad and Tobago for that year.

That is (1); (2):

“The heads of expenditure contained in the estimates, other than
expenditure charged upon the Consolidated Fund by this Constitution or any Act, shall be included in a Bill, to be known as an Appropriation Bill, providing for the issue from the Consolidated Fund of the sums...”—and so on.

Mr. President, this insertion, I just want to state for the record, the Minister of Finance, there is the whole length and breadth of the Constitution. There are other pieces of legislation that speak to his rule and responsibility. And please, for the benefit of the listening public, this is not the Minister of Finance overstepping his boundaries or overstepping his responsibilities, and I certainly will not belabour the point because I know time, of course, is against me.

As it relates to negative—I know there would be some concerns about the negative versus affirmative resolution. The Minister of Finance, of course, would have dealt with the issue of emergency circumstances/situations, and the reason for, you know, looking at this negative versus—why we have come to the Senate today proposing a negative—for these changes to be brought via negative as opposed to affirmative resolution. And I want to recognize, Mr. President, that on the 8th of December, 2020, yes, the Senate, in this very said place, Mr. President, there was an agreement based in suggestions and based on recommendations made by hon. Members of the Independent Bench where the Government would have abandoned the issue of negative resolution and we would have accepted the recommendations made by the Independent Senators. And I have often heard the question: So what has changed since then? And I want to reiterate, Mr. President, what has changed since then is the operationalization of the Bill. And in the operationalization of the Bill, Mr. President, there are serious challenges that the
Ministries are currently facing.

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

**Sen. The Hon. R. Sagramsingh-Sooklal:** And, Mr. President, I have sat in some of those open consultations after the Bill was proclaimed, or leading up to proclamation, also after proclamation, and I could see and sense the fear of numerous public servants as they took the microphone in those sessions reiterating the concerns and challenges they were having and, of course, in their own unique Ministries.

**4.05 p.m.**

And, of course, to give examples in detail would take us probably from now, according to the Indian people, until the next janaam to be able to go through that point. But, Mr. President, that is what has changed. It is not that the Government is watering down the legislation, but since operationalization, Mr. President, we have recognized real challenges which, of course, we now require, especially in some of those emergency circumstances that we need to deal with.

I ask the hon. Senators to also look at regulation 12(2)(f). You know, it is not just emergency circumstances, Mr. President, there is urgent public interest issues that you may also be required to make a decision and that the legislation—the parent legislation will prevent you from doing that. And then, there is also the Act speaks to unforeseen circumstances. So we have emergency—I wish I had more time to go through that but I am sure that other Members on my Bench will do that.

So, Mr. President, with those few words, which I am sure other Members on the Bench will go through, I thank you for the opportunity.
Hon. Senators: [Desk thumping]

Mr. President: Sen. Vieira.

Sen. Anthony Vieira SC: Thank you, Mr. President. We all have a personal stake in the procurement regime but let me declare from the outset that as one of the persons present when the procurement Act was born in 2015, I feel an even more acute sense of ownership of the Act, more so having regard to the fact that for many years I had been working behind the scenes with civil society groups and persons like Winston Riley and Victor Hart for the establishment of a meaningful procurement regime. The bottom line is that I would not like to see hard-fought gains diluted, diminished or undermined by reckless legislation.

I must also confess that having been summoned here today, we could have been given a more robust and convincing explanation about the urgency. Nonetheless, the situation, as I understand it, is as follows: given the lack of sufficient pre-qualified suppliers and providers; given the difficulties involved with registration and pre-qualification; and given the lengthy timelines involved, unless the Government has the ability to enact simplified procedures for routine day-to-day matters, the procurement of routine items will be impossible and that can grind the country to a halt. And as we have just heard, serious challenges are being faced by the various Ministries even as we speak.

Now, as an Independent Senator, I am today faced with a conundrum. Conundrum, as you know, means a difficult position. Here is the difficulty. On the one hand, the Bill has attracted criticism from voices in civil society. The Opposition accuses the Government of having sinister motives. The Joint Consultative Council urges compliance with the legislation as it stands. And one
commentator has even described the proposed exemption as egregious.

On the other hand, we have a very senior, very experienced Minister in the hon. Minister of Finance lamenting that the current arrangements are unworkable and if we do not amend the law, it will grind the Government to a halt. What am to do? Do I put my academic understanding of procurement law over the Government’s stated position and the practical experienced of a senior and experienced Minister, one who considers the matter serious and urgent enough to summon us to this extraordinary sitting of the Senate today?

Now, I think it is important for the viewing public to understand that the Standing Orders prohibit us from imputing motives against any Member. So any suggestion or contention that the hon. Minister has the sinister motives is simply out of the question. In fact, it needs to be borne in mind that under our system of government, the Minister of Finance has responsibility for ensuring that the public finances are maintained in a satisfactory condition and for monitoring fiscal and economic performance. He is responsible for the administration of legislation pertaining to the financial sector. He is responsible for the preparation of developmental plans, strategies and projects, and he has overall responsibility for ensuring the country’s financial stability. So at the very least, the words of the hon. Minister deserve consideration, even if one ultimately disagrees with the amendments as cast. It is important to separate the office from the man.

Now, it is not lost on me that in the moment’s highly charged political climate, if I support the Bill, I am damned. And if I do not support the Bill and the hon. Minister’s warnings turn out to be well grounded, I am also damned because I would have rendered a disservice to the country. So my only recourse is to be
guided by what my conscience and learning determine to be in the best interest of the country, and to be guided by what has worked in the past.

Hon. Senators: [Desk thumping]

Sen. A. Vieira SC: As I see it, there are essentially three aspect to this Bill falling for consideration. First, the amendments seeking to change the requirement from affirmative to negative resolution for orders made under section 7(7) and 63(3) of the Act.

Secondly, the amendment seeking to exempt the procurement of goods and services made under section 58 for up to $1 million.

And thirdly, the amendment seeking to validate all acts or contracts done in relation to Legal Notices 164 and 206 of 2023, specifically in relation to recent visits by foreign heads of state and foreign dignities, and in relation to goods, services, works and commodities carried out by the Judiciary in relation, among other things—and it a long list, I am not going to go through the order:

“...jury management...judiciary security management;
...witness support...and victim support services;
...conflict resolution…
...law books and periodicals...required by the Judiciary;
...hangman and assistant hangman services…

And:

“...publications required by…”—the—“...rules of court or practice directions;”

Now, as Members of this honourable House would appreciate, procurement, which is basically the process of obtaining goods and services from another, is
simple in theory but complex in practice. And that complexity arises from the need to comply with numerous regulations, to involve professional consultants, to achieve value for money, demonstrate accountability, regulate complicated contractual relationships, and through all of this, achieve a timescale largely dictated by specific objectives.

Given the complexities involved, the proposed amendments require careful examination. They should not be dealt with on a knee-jerk basis. They must be read within the context of the procurement Act as a whole. And where issues are murky or shifting, the way forward must, at least so far as I am concerned, be based on principle, not on rhetoric, not on emotion.

Hon. Senators: [Desk thumping]

Sen. A. Vieira SC: And where the path is not clear, the way forward must be consistent with the declared objectives and principles set out at section 5 of the Act.

So turning now to the proposed amendments. And perhaps I could start with the easier or, at least for me, the less troublesome amendment, specifically the amendment at clause 6 which seeks to validate Legal Notices 164 and 206 of 2023. Now, I accept the law is the law and should apply equally to all. No one should be allowed to operate unshackled. In fact, section 7 of the procurement makes clear that the procurement regime applies to all public bodies, including the Office of the President; this Parliament; the Judiciary; government Ministries, departments and divisions, and section 8 provides that the procurement Act is binding on the State.

So, in my view, the fact that Government is asking us to validate these two Legal Notices is in clear recognition that the legal grounds for direct procurement
are interpreted strictly and the procurement entity is the one that has to prove that the grounds are met.

Now, in the event, the Orders purportedly made for the procurement of goods and services under those two Legal Notices are, in my view, improper, invalid and of no effect, in that they miss the fundamental step in the prescribed process, that is to say, both should have received the affirmative imprimatur of Parliament prior to their publication. So this validation, if granted, will regularize all Acts, contracts and things done under those two Legal Notices. In particular the validation will avoid the consequences for non-compliance.

Now, for what it is worth, I do not fully accept the explanation proffered about Government’s inability to meet the applicable timelines and other requirements. The meeting of the CARICOM heads was a planned event, one that could and should have properly been anticipated and catered for. And I agree with those who say that the Government and the Judiciary should be setting a better example; that Government must demonstrate leadership and commitment to the procurement Act; and that we need—

Hon. Senators:  [Desk thumping]

Sen. A. Vieira SC:—to build a culture—we need to build a culture of planning, accountability and transparency within the State. However, I am also mindful that these are early days since the proclamation of the procurement Act and it is possible, perhaps likely, that the persons responsible for preparing those two Legal Notices were operating on autopilot and did not have due, sufficient or any regard for the changes recently made whereby orders brought to Parliament would no longer be subject to negative resolution, as was originally provided in the Act, but
now had to be passed affirmatively.

So, in the event, I may be willing to agree to the validation sought on all or any of the following grounds: growing pains, as most of us—well, in public bodies or the private sector are still coming to terms with implementation of the procurement Act and it is very steep learning curve because the goods and services provided under both notices were for the public good. I also have no doubt that had those two notices been brought to Parliament in the prescribed manner, the exemption orders would have been granted. And last but not least, because it does not sit well for two out of the three arms under the separation of powers to be in a permanent state of non-compliance. One bad chapter does not mean that the procurement story is over. But if that stain is allowed to remain on the record, I believe it will erode necessary and important gravitas. If the Government and Judiciary are seen as lawbreakers, it will breed contempt for law.

Now, as to the desire for transparency and whether public funds were spent effectively for the public good, as we have heard, the short answer will be found at section 36 of the Act. Section 36 requires a procuring entity to:

“…promptly publish on its website or any other electronic format, notice of the award of the procurement contract…specifying the name of any supplier or contractor with whom the procurement contract…was entered into, the goods or services to be supplied, the works to be effected and…the date of the award and the contract price.”

Hon. Minister, the public deserves to know how much was spent on what and what was paid to whom, and in keeping with:

“the principles of accountability, transparency, integrity and value for
Accordingly, we expect both Government and Judiciary to comply with section 36, failing which one can anticipate questions on notice or formal requests made under the Freedom of Information Act.

4.20 p.m.
I turn now to clause 4, and let me say, in principle, if it will avoid the workings of Government grinding to a halt, I am willing to scale down and simplify the excessive bureaucratic procedures, the lengthy documentation requirements and the rigid qualification criteria for goods and services under a million dollars, not on the basis of a carte blanche exemption of, which I will say more later, but within the confines of a special regime with its own regulations. Let me say, I do have a problem with the hon. Minister of Finance being inserted into the process. In my respectful view, no politician should have the opportunity to undermine or thwart:

“the principles of accountability, integrity, transparency and value for money;”

Period, no exceptions.

The State is not the personal property of any political party or politician. Accordingly, under the procurement regime, no politician should have the ability to procure goods and services as he sees fit. In my respectful view, the amendment seeking to give the Minister of Finance the ability to act in his own discretion, that is abhorrent to the objectives of the Act and should not be countenanced. For the record, I am not ascribing any motives here. The principle I am espousing is independent of the occurrence of inappropriateness and may exist even if no unethical or improper act has taken place. My concern is that if the Minister is
allowed to so act, it can create an appearance of misconduct which ultimately may undermine trust and confidence in the Executive. My recommendation for an expedited and simplified process would be to take a page out of the previous Central Tenders Board Act, as alluded to both by the hon. Minister of Finance and Sen. Sagramsingh-Sooklal, specifically looking at section 19 whereby a committee could act on behalf of the Central Tenders Board:

“…where the value of the articles to be supplied or the works or services to be undertaken does not exceed one million dollars…”

Under the previous regime, committees were established for every statutory body to which the Central Tenders Board Act applied, and those committees comprised a chairman and four other persons appointed by the Minister, two of such persons being nominated by the statutory body in respect of which the committee was established. So it seems to me that under section 9 of the procurement Act, we could expand the number of established committees to include committees on public bodies, and those committees can have leeway in the name of and on behalf of the procurement office to use a scaled down and simplified process for the procurement of goods and services under a million dollars. Those committees could have leeway to make decisions quicker, easier and cheaper given the more strenuous rules applicable to high-value contracts. Those committees can be leveraged to use procurement procedures which are proportionate; proportionate to the cost, nature and complexity of the requirements once those procedures set out in special regulations remain consistent with the objectives of the Act.

Alternatively, as suggested by former Independent Senator, Helen Drayton, in an article at page 14 of the Sunday Guardian dated 16 July, 2023, under the rubric:
“Limit for Spending:”
Perhaps—“Public Service Accounting Officers and the Chief Executive Officers of other…”
And I am quoting:
“…Public Service Accounting Officers and the Chief Executive Officers of other public bodies…”—can—“…have a workable limit using a less stringent methodology that subjects all procurement to the Procurement Laws for reason of transparency and fairness.”
The bottom line is that:
“No procurement…”—process—“…should be outside of the…”—procurement, the scrutiny of the Procurement Regulator.
Scaling down processes and procedures should not be equated with doing away with a strong regulatory framework under an independent regulator free from political interference. Accordingly, I may be willing to accommodate the request for greater agility and flexibility, if, and only if, such measures remain within the jurisdiction of the Procurement Regulator. Now, I think those two options are workable. They will give the desire, speed and flexibility, and they will avoid the perception and potential for conflicts of interest on the part of the hon. Minister of Finance.
Now, let me say for the record, that in respect of exemptions generally, my position is that they should be few and far between, and certainly not the norm. While procurement regulations aim to ensure transparency, fairness and accountability in the procurement process, it is recognized, as you have heard in other jurisdictions, that there are instances where rigid adherence to these
procedures may not be practical, they may not be efficient. So I agree, exemptions can provide flexibility and enable more agile procurement practices in specific circumstances, but it always boils down to striking the right balance between the need for compliance and the efficient delivery of goods and services. And where there is a need for exemptions, they should never be granted on a carte blanche basis. They have to be carefully crafted and they must be subject to appropriate safeguards to prevent misuse or abuse. As far as I am concerned, legal, accounting and medical services should have never been exempted. There should be special regulations dealing with these services. As a rule, transparency and accountability should be maintained through clear guidelines, oversight mechanisms and documentation requirements, even in exempted cases.

Ultimately, the goal is to design a procurement framework that promotes efficiency; one that is simple, seamless, scaled and sustained for small businesses and public offices; a framework that will avoid the workings of government grinding to a halt while still upholding:

“the principles of accountability, integrity, transparency and value for money;”

Exemptions, when properly defined and implemented, can contribute to achieving this balance, but they should never be outside the orbit of the procurement regime. The Regulator must always have the power to scrutinize. So that is my position on exemptions.

Turning now to the amendments seeking to change the requirement from affirmative to negative resolution for orders made under section 7(7) and 63(3) of the Act. Now, again, I may be willing to support these amendments once the
Procurement Regulator—once the procurement office remains in charge, once the regulations are being brought to Parliament and are under the procurement office’s control or direction. If the hon. Minister wants, under his own initiative, to bring a regulation, my respectful submission is that that should be with the consent or approval of the Procurement Regulator, just like how you have to get from the DPP a consent. Negative resolution does not necessarily translate into automatic passage. Indeed, the last time we sat in this Senate, weeks ago, we debated a Motion brought by Sen. Mark seeking to annul the Industrial Relations (Amendment to the Second Schedule) Order. In that debate, the OWTU played a very important role, among other things, by lobbying Senators, and more to the point, that debate demonstrates clearly that orders bought by negative resolution are subject to parliamentary scrutiny and they can be triggered by civil society watchdogs.

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

**Sen. A. Vieira SC:** So as I wind down my contribution, let me just reiterate the importance of the procurement regime and the need to stay faithful to the objectives and principles enshrined at section 5 of the Act. But staying faithful to those objectives and principles does not mean being stifled by mired and complicated rules. I do believe it is possible to have less prescriptive rules and a simpler more agile framework while staying faithful to the objectives and principles.

If the Minister of Finance reports to Parliament that there are flaws in the legislation that can grind government to a halt, our duty is to investigate and to fix, not to paper them over. It is not about who is right, but what is right; what is right
that is of importance. Society is sculptured by its laws and practices. If we pass laws which are bogged down in bureaucratic, complicated and restrictive procedures, laws which are so impractical that they are honoured more in the breach, then we may inadvertently be encouraging lawlessness and a disregard for the law. If people are expected to understand and abide by the law, it should be clear, it should be easy to follow and it should be proportionate. Laws are not cast in stone. They need to be moulded. Process is not a mindless box-ticking routine. We need to mould the procurement regime which is practical and user-friendly. We need to mould a procurement—a regulatory framework which delivers the best possible outcomes with the least burden on the public and private sectors. We need to cultivate a culture of continuous commercial improvement across both the public and private sectors. I regard the amendments brought here today as part of what should be a continuous moulding process. And I am prepared to support the Bill—

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

**Sen. A. Vieira SC:** I am prepared to support the Bill once the hon. Minister’s personal discretion is not inserted into the process, once the Office of the Procurement Regulator remains in charge of regulations brought to Parliament, and once the objectives of the Act are maintained. Mr. President, I thank you.

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

**Mr. President:** Sen. Lutchmedial.

**Sen. Jayanti Lutchmedial:** Thank you, Mr. President, for the opportunity to enter this debate. Mr. President, we are here today at this extraordinary sitting, which perhaps I have—it did not really occur to me that I needed to speak on this, but
when I heard other speakers addressing the need for the extraordinary sitting and the justification and so on, some of what was said, I feel maybe I should comment on it.

The first thing is that I heard in the Minister in the Office of the Attorney General and Ministry of Legal Affairs saying, “Well, it is only extraordinary because we are prorogued”. So let me first say, we are not prorogued, we are on recess and there is a difference. Perhaps the Minister should “control P” and press the Standing Orders and get familiar with it and, you know, read it. But apart from that, what makes it extraordinary and what really makes this different is just as the Minister said, if we were not on recess we would be here to debate this Bill because the Government was forced to come here again and correct one of its errors, and validate its illegal action, just like we did. So for the second time, in as many months, we are here to validate illegal actions taken by this Government because it is necessary to do so in order to preserve some sort of law and order in this country. When you have a lawless Government, the Parliament has to take the responsibility to now step forward and try to validate things that were done which are in fact illegal.

[MR. VICE-PRESIDENT in the Chair]

The other thing is that I heard Sen. Vieira asking about the urgency and he said he thought it would have some more explanation, but that the urgency seems to stem from this notion that the Government has started pushing that, “Look, if we do not make these changes Government is going to grind to a halt”. And then, they have the audacity to say about this one is fearmongering, and civil society is fearmongering, and the Opposition is fearmongering. That is fearmongering.
Because the truth is that had the Government not been caught acting under orders which were illegally passed, and not passed in accordance with the proper procedure, we would have never been here today. We would have never been here. The urgency and all of this that the Act is so unworkable and it cannot happen and so on, how come that was never raised before? How come we have not grind to a halt since the full procurement of the legislation in April? We had a Joint Select Committee of Parliament, Finance and Legal Affairs, sitting and examining this whole public procurement implementation and so on, and we never heard that this thing is so unworkable and will cause the country to grind to a halt unless the Government had the power to make exemptions, to revert to negative resolution, to exempt everything under a million dollars. Suddenly, being caught red-handed—I do not want to say hand in the cookie jar because they will say I copied and pasted that, but that is what it is, it is hand in the cookie jar—caught due to the vigilance or, I would say, the strongest Opposition that we have had in a very long time in this country—

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

**Sen. J. Lutchmedial:**—and I commend my colleague from the other place, from Barataria/San Juan, for his vigilance in this matter. Having caught them, they are here today to now bring, not just the validation—because they know they would make them look bad if they just came here to say, “Oh, sorry, we get catch could you please make all of our illegal actions legal once more”.

4.35 p.m.

So they pile in a bunch of other things that they want to change in order to avoid accountability and transparency because that is the track record of the PNM when
it comes to procurement. And we can go all the way back to when this legislation was first being discussed in a JSC back, I think it was, in 2012 or 2013, somewhere around there. You had Members of the then Opposition, under the stewardship of the now Prime Minister, abandoning the Joint Select Committee, not supporting this public procurement legislation. This legislation did not come about fly-by-night, like how we have to deal with these Bills here that are brought to validate illegality, you know. This came as a result—the 2015 law passed under the stewardship of Kamla Persad-Bissessar.

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

**Sen. J. Lutchmedial:** It was passed after decades of clamouring from the private sector. It was passed after—we had things like the Uff report. It was passed after all of these issues arose when people who used to sit on Chambers of Commerce, before they changed their minds, were clamouring for more transparency and accountability in government.

When the now Government themselves were in Opposition and finding a problem with every aspect of expenditure, we brought legislation which the Minister of Finance himself—I was amazed to hear him say he described it as—but what he says? He says, we took it too far or something like that. Yeah, we went overboard. I had to write this down. He said, we went overboard, we adopted First World, best in class. I want to tell him that is because that is what the UNC is about when it comes to legislation we bring. We brought, we passed, we enacted First World, best in class procurement legislation. And for the fourth time, this Government has come to the Parliament to water it down, to remove accountability, to remove oversight and to cut track for “gouti” to run to be able to
avoid accounting for the expenditure of public moneys, and that is what we are doing here today.

You know, the fact of the matter is it would seem that—because when we talk about the validation aspect of this Bill, a loophole was found because of poor legislative drafting; something that we have complained about time and time again here.

**Sen. Nakhid:** Plenty.

**Sen. J. Lutchmedial:**—a drafting error which the Minister took note of on the floor of the other place when the Bill went back there with amendments; the same amendments that we are speaking of here. The Minister acknowledged that there was, I call it, a typographical error, and then went ahead to not follow the law as amended by this Parliament. And I say today that that loophole was exploited in order to pass these Orders without the scrutiny of Parliament.

And to make matters worse, to add insult to injury, to insult the intelligence of the population, and to say to them we do not care what you think, because that is the arrogance that we see from the Government here today, we do not care what you think about all of the moneys spent under these Orders—we have been asking, both from the Opposition, civil society, I think I heard Members of the Independent Bench saying it today, for a detailed breakdown of all the moneys spent under the illegally passed exemptions.

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

**Sen. J. Lutchmedial:** And what is the excuse we get here today? “Well, that will come out when we have Standing Finance Committee”. So we must wait till October. We must wait till October to ask a question. I want the list now. That is
Public Procurement and Disposal of Public Property (Amdt. and Validation) Bill, 2023
Sen. Lutchmedial (cont’d)

what I want. I want the list now.

Sen. Nakhid: Now, now, now.

Hon. Senators: [Desk thumping]

Sen. Mark: Now, now.

Mr. Vice-President: Senator, kindly direct your comments through the Chair.

Sen. J. Lutchmedial: Yes, Mr. Vice-President. We want the list now. We want the list—

Hon. Senators: [Desk thumping]

Sen. J. Lutchmedial:—of every contract awarded, we want the amount, and we want to know who got the contracts under these illegally made Orders. Nine million dollars under one Order spent in an election season—


Sen. J. Lutchmedial:—it leaves it open to people to draw inferences. And if they were serious, and if they were able to rebut those inferences, they would make it public, but perhaps the name of some party financiers might show up on that document.

Hon. Senators: [Desk thumping]


Sen. J. Lutchmedial: And that is why they are telling us, wait until October. So we must wait until October. That is the excuse, we must do it in the Standing Finance Committee. I heard some other people taking about “lawyering up” and trying to quote cases to sound intelligent here in this debate. I want to say something—and taking about accountability and what?—that you could deal with misbehaviour in public office.
Sen. Gopee-Scoon: On a point of the order, 46(4).

Sen. Mark: “You better than that”.

Sen. Gopee-Scoon: [Inaudible]

Hon. Senators: [Crosstalk]

Sen. Gopee-Scoon: That is insulting. That is insulting.

Mr. Vice-President: Senator, whilst you continue with your contribution, be mindful of the Standing Orders.

Hon. Senators: [Desk thumping]

Sen. J. Lutchmedial: No, yes, but, you know, some people—anyway, they are not important enough. Let us move on. They are of no relevance. Yes.

So we are talking about judgments and so on, and brought up a recent case from the Privy Council, trying to use that as an example that they will deal with the actions and that there is accountability because of what the court held in that Trinsalvage matter and so on. That is a classic case of someone abusing the ability to break up a contract. And do you know what the outcome of that case is? You could read and quote and all of that and try to bamboozle the population, but you cannot bamboozle me. The bottom line is that the public purse, the taxpayer, still had to pay the money even though they did not follow the procedures under Central Tenders Board Act. So what we are trying to say is that having a strong procurement law upfront and prevent these things from happening, it is better—you ever heard prevention is better than cure? You do not want to have contractors taking the Government to court, the Government raising a defence that, “Listen, the Act was breached and this is”—that was the Government’s appeal in the Privy Council in Trinsalvage. And what the court ruled is that, okay, even if the contract
is void because they did not follow procedure and so on, you use quantum merit, and they awarded the money to the companies on the quantum merit basis.

So the taxpayer still has to pay even when a Permanent Secretary breaks the law. That is the type of society that the PNM is happy with having. That is the type of—that is how little respect they have for the rule of law. They prefer to have a system in place where contracts could be broken up into smaller amounts below this threshold of a million dollars, they can do all sorts of thing, they can breach procedures, and what is the check and balance that they come here to tell us we have? “Well, yeah, Trinsalvage still getting their money. That is a check and balance”.

I agree it is perhaps in the best interest of innocent third parties who may be out of pocket because public officers, and public bodies, and state enterprises and so on do not abide by the law. But we want and we are trying to create a society where public officials, public bodies, state enterprises, anybody who is vested with the authority to spend public funds is held to the absolute highest standard. Why has this Government in the last eight years, at every opportunity presented to them, tried to come to this House and reduce the level of transparency and accountability? I cannot for the life of me understand it.

So let me get a little bit into some of the clauses of this Bill and let us examine them one by one, the objectives of what this Bill is really here to do. Firstly, we heard—they come here now with the—so yes, they want to—I will start with the last one first, or the validation. They need to validate these things because they said it was—now, the Minister of Finance, “he take front. He eh not taking this thing alone”. He said, “The Cabinet was advised”. It reminded me of
something, eh. When they came here in 2020 to make the amendments to this same public procurement piece of legislation and exempt legal services, and accounting services, and others and so on, the Minister of Finance stood up and he said, “Well, you know, we have to exempt legal services because it cannot be that we are bound to go with the lowest bidder. It might be Ramdeen or Ramlogan”, and he had this, you know—“Ramdeen or Ramlogan.” I want to tell him if he was getting advice today from Ramdeen and Ramlogan, he would have never made this mistake. He would have never made this mistake.

**Hon. Senators:** [Desk thumping and laughter]

**Sen. J. Lutchmedial:** He would not have been owing Jwala Rambarran $7 million either if he had gotten advice from Ramdeen or Ramlogan. But he got bad advice apparently.

Sen. Vieira’s supposition is that the person who drafted the Order—what he said?—they might have been on autopilot and not realized that we went from negative to affirmation resolution. That is also a failure of the Office of the Attorney General and Ministry of Legal Affairs. Do you know why? Because drafting errors, as the Minister of Finance said in January of 2021 in the House when the Bill went in back there after we make the amendments here, he said that is something to be corrected by the drafters. It is also something when you are consolidating laws under the Law Revision Commission. And he named the Law Revision Commission because the Minister of Finance, as everyone has agreed, is a very experienced Minister and he knows what they are supposed to do. But this might be about the third time that I am asking in this place, has the Law Revision Commission shut down?
Since 2016, we have not gotten any consolidated laws. We come to this Parliament to debate laws that have been amended three, and four, and five times. Today is an example. Can we see a consolidated version of the procurement legislation? No. And that is a failure of the Office of the Attorney General and Ministry of Legal Affairs, and a department that falls under them.

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

**Sen. Nakhid:** Massive failure.

**Sen. J. Lutchmedial:** So not only are they unable to render proper advice to the Cabinet about the procedure to be followed, as the Minister of Finance said, because he said he was acting on the advice, they have also failed to make the laws in a proper format available to the public, available to every Member of this House. We should all have consolidated laws that we should be able to read. Drafting errors like that would be picked very easily and corrected.

So I do not accept this explanation about a drafting error, and all of that happening, and that is why they did not do this. They got bad advice and if nobody else wants to say it, I will say it, I believe it was deliberate that they ran ahead thinking nobody will realize that they had passed these Orders, put them into effect and never brought them to the Parliament. But I say it again, you have a vigilant Opposition in this country.

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

**Sen. J. Lutchmedial:** And when it comes to safeguarding the public’s money, when it comes to safeguarding and upholding trust and confidence, whatever little trust and confidence is left in the state of affairs that we have going on in this country, we are very vigilant and we stand in the gap, just as we did when they
Sen. J. Lutchmedial: Just as we did with the last time we were here to validate their illegal actions in putting off an election, we come back again today to validate the illegality that we have caught them out on and we bring them here.

Hon. Senators: [Desk thumping]

Sen. J. Lutchmedial: We bring them here to account to the population—

Hon. Senators: [Desk thumping]

Sen. J. Lutchmedial: —and to make right their folly.


Sen. Mark: Without the UNC, “dey dead”.

Sen. J. Lutchmedial: Without the UNC, I do not know what would happen. So we have to correct the drafting error and validate the illegality.

The other thing that we are here and being asked to do today—and I repeat again, it is an insult to every Member of this House and the other place, and to the entire country, to ask us to validate the Orders, and the expenditure under those Orders without providing a breakdown of it. And I make that abundantly clear—

Hon. Senators: [Desk thumping]

Sen. J. Lutchmedial:—I will not, we will not—and anybody who wants to support that, that is their business. But we will not say that you can subvert parliamentary process, spend money, and then not give us a proper account and ask us to come here and say, “Is all right. You break de law, you didn’t the right thing? Dais nothin. Go ahead”. That is what they want. And anybody who
chooses to do that and go down that road and give that to them, as I said, that is a matter for you, but we will not participate in that.

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

**Sen. J. Lutchmedial:** I do not know what the big secret is. I really do not know what is the big secret about “all who get” and who had a hand in that $9 million. But we will find out, you know.

**Sen. Lyder:** Yeah, yeah.

**Sen. J. Lutchmedial:** We will find out.

**Sen. Mark:** Lennard

**Sen. Lyder:** That will come out to light.

**Sen. J. Lutchmedial:** Oh, it must be Lennard. Yes, yes, must be Lennard. Okay. Right. So we will find out how many people got contracts, and who they cut cheques to, and what services they paid for and all of that.

**Sen. Nakhid:** Money for “de” boys.

**Sen. J. Lutchmedial:** It will be fine. We will find out that, right? Yes.

The other that we are here to ask to do is to give the Government the power. They want to revert to the position of negative resolution. We sat in this House in December the 8th of 2020, and we were firm, all of us, that we did not feel it was right to give that type of power to allow the Minister to exempt under negative resolution.

**4.50 p.m.**

And I will break it down in very simple terms for everybody who is listening, what negative resolution means.

**Sen. Lyder:** “Mm-hmm.” Tell us.
Sen. J. Lutchmedial:  The minute that order is signed, the ink dries, and the order is published, it takes effect. The explanation and justification that they gave to say that how, you still have parliamentary oversight and so on, is that somebody could bring a Motion just like we brought the Motion on the OWTU. But I will answer that in two things. We bring a Motion to negative an order or any statutory instrument to this House in order to allow for a debate. But at the end of the debate, you take a vote and the Government has a built-in majority in the Parliament. Even if the Opposition and the Independent Bench vote against something together, you have a tie and then you go to a tiebreaker but still in the other place, they have the built-in majority. So whilst the negative resolution and the negating Motion in this House may offer the opportunity, it is like they say, the Government will have its way but Opposition will have a say or the other way around, whatever it is.

Sen. Lyder:  Expose them.

Sen. J. Lutchmedial:  The point is we could expose them, we could stand up here and talk about it but they will still vote and pass it and so—


Sen. J. Lutchmedial:  And yeah, we know they have no shame so they will do it. The whole country could be up in uproar against it as they are in uproar against this now and they will just let it go and they will vote and they will let it pass. So having a negative resolution is really not the level of oversight you need with something as important as this.

Sen. Lyder:  Yeah.

Hon. Senators:  [Desk thumping]
Sen. J. Lutchmedial: The other thing about negative resolution is that, for those who understand the process, is that you have 40 days to raise the Motion. You could raise it on day one, the minute the order is signed, you raise, you can file your Motion, but the debate does not take place immediately and until the debate takes place, the order is in operation and the debate I believe it is within 40 days that the debate must take place. They have 40 days “to thief”, they have 40 days to do anything they want to do.

Hon. Senators: [Desk thumping and interruption]

Sen. Lyder: Misappropriate. You like to use the word misappropriate. She meant to say misappropriate.

Sen. Mitchell: 46(4) and 46(6).

Hon. Senators: [Interuption and crosstalk]

Sen. Mitchell: I will tell you about “thief”.

Mr. Vice-President: Senator.

Sen. Mitchell: Mr. Vice-President, 46(4) and 46(6).

Mr. Vice-President: Senator, be guided on your language.

Sen. J. Lutchmedial: I am guided. Thank you, Mr. Vice-President.

Hon. Senators: [Desk thumping and interruption]

Sen. J. Lutchmedial: If somebody, anybody, not the Minister of Tourism, Culture and the Arts of course, anybody else wanted to and I am not saying anybody has but if they wanted to surreptitiously go and create an exemption in order to misappropriate taxpayers’ moneys—

Sen. Lyder: Wonderful word.

Sen. J. Lutchmedial:—they would have 40 days within which they could do it
and even at the end of the 40 days or during the 40 days and 40 long nights while
they were misappropriating taxpayers’ moneys under that law that would be in
operation, right, you know—[Interuption] During that period of time, the thing is
there, it is operational, they can do what they want. And what, at the end of the 40
days when we have the debate, as I have said before, they have the majority so
they will pass it. So you should never have a law that allows the disbanding of
accountability and transparency and oversight of a procurement regulator to be
able to take effect before anybody in the Parliament is notified, before anybody in
the Parliament has an opportunity to say a word. They can do—it only takes a day
to sign contracts. So you have a period of time where under this order that they
will pass that they could sign off on contracts. And what are you going to do?

And the law is, the Standing Orders are there, in the Interpretation Act, it is
there, it says that nothing done between the date of the order being signed and even
if it is negatived, will be deemed to be invalid. That is the law as I know it and as I
understand it. So you have that period of time where you can operate with zero
accountability on a negative resolution and I wholly oppose and I encourage every
right-thinking person—We stood here, we have argued for it, we got the change,
what is the great inconvenience of affirmative resolution? “Yuh hata call the
Parliament? But yuh call us here on the recess because yuh break the law and yuh
call us here.”

**Hon. Senators:** [Desk thumping and interruption]

**Sen. J. Lutchmedial:** I am not inconvenienced and I will never be
inconvenienced if it is that I have to come here, and no Member of the Opposition
will be inconvenienced to come here and be the watch dogs on behalf of the people
of Trinidad and Tobago. “Dai we wuk.”

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

**Sen. J. Lutchmedial:** You are saying it is inconvenient to call me to come here and do “dey wuk”? That is why they need to change back to negative resolution? Please, please miss us with that lame excuse that every time you want to pass an order, you have to come to the Parliament. So what? That is what the Parliament is here for, to debate, to debate things in the interest of the people of Trinidad and Tobago.

**Hon. Senators:** [Desk thumping and interruption]

**Sen. J. Lutchmedial:** So we will not accept these lame excuses.

**Sen. Mark:** Feeble.

**Sen. J. Lutchmedial:** Lame, feeble excuses from the Government about why they need these exemptions. That is really—I mean, I feel embarrassed for them, I really do feel embarrassed for them having to come here today as I said, they cannot come and just ask for the validation again, it will look bad so you have to come up with all these other lame excuses to come here and ask for these things.

**Sen. Mark:** No toilet paper. No tea.

**Sen. J. Lutchmedial:** No toilet paper, no tea. The Minister of Energy “doh want to sponsor ah lil pack ah Hong Wing” so we had to come here and pass a law to say that because Massy not on the list. These are the kinds of excuses we are being told of here, that they have a meeting going to midnight and the Minister could not send the driver in “ah corner shop” somewhere or down by Rituals or something to buy some coffee so we need to create an exemption for that. [Laughter]

I mean, all this catastrophe that will visit upon the State of Trinidad and
Tobago if we do not pass these exemptions because everything will go wrong, everything will grind to a halt. I have not heard one proper example as yet, not one, not a single one. In the other place, I heard it, they talk about pipeline—“ent the pipeline fix?” The law is in effect and “the pipeline fix”. I do not understand—

Sen. Lyder: Bearings.

Sen. J. Lutchmedial: No, “ah getting to the bearings” just now and the coast guard, hold on. Because you see the point that they hoped nobody picked up on just like they hoped nobody had picked up on the illegal order, is that there are already regulations in place to deal with all of these things.

Hon. Senators: [Desk thumping and interruption]

Sen. J. Lutchmedial: The regulations are there and just like they do not know what is recess versus what is Parliament being prorogued and all of that, they do not know about the regulations, like they do not read it. We have regulations passed right here in this Parliament right here that we debated, we made the regulations, they are here. We are examined these regulations and everything from the Hong Wing go back that they are complaining about here and the toilet paper, it is dealt with and we make provisions for this.

Apart from that, “I work in ah Ministry” for nearly 10 years. My mother “work in ah Ministry” for 30 years and I never went in no Government Ministry and did not see “ah kitchen with ah little bit ah coffee in it, eh”, so please. They have all those things that the AO IV or whoever and they put in their request and they get things done and they stock. That is not an unusual expenditure to buy “ah cup ah coffee” or to put coffee in the kitchen. “It have tea lady” and everything
like that in the Ministry. We all know those things in Ministries. Again, they try to mislead the population because they feel nobody knows.

**Sen. Mark:** Exactly.

**Sen. J. Lutchmedial:** They try to mislead the population. The fact of the matter is that poor management of resources and releases from the Ministry of Finance—

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

**Sen. J. Lutchmedial:**—sometimes, sometimes leaves—and I will talk about—and the TTPS is a good example of that where the moneys approved in the budget for goods and services are not released on time and so yes, I know “it have people”, officers and so on, when I go to the police station sometimes to see people on whatever, they complain to me. They say Ms. Lutchmedial, if you could bring this up you know, we have to walk with toilet paper from home, we have to walk with coffee from home, whatever, because they have no money, they have no money, they have no money. But that has nothing to do with procurement, it has to do with poor management by the Government.

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

**Sen. J. Lutchmedial:** It has to do with their inability to give releases on time because they come here and they pass a budget and then they do not disburse the money effectively and efficiently and on time. It has nothing to do with procurement, procurement is not the problem.

But getting back to the regulations, the Public Procurement and Disposal of Public Property (Procurement, Methods and Procedures) Regulations 2021, I want to draw your attention, Mr. President, to the fact that this particular regulation is very important because it deals with “sole source selection, single source
selection” and I will read a couple of the provisions in here to show you why it is so—you know, why some of these orders were not necessary to begin with, one; and two, why it is not necessary and that nothing is going to grind to a halt and all these problems that they have manufactured and created to come here today about bearing and seal and all kinda thing for the coast guard is ridiculous.

**Sen. Lyder:** “They doh maintain the boat anyway.”

**Sen. J. Lutchmedial:** “Somebody bounce the boat, they send it Puerta Rico.”

**Sen. Lyder:** Dom Rep.

**Sen. J. Lutchmedial:** Oh, Dom Rep, yes. Under the “single source selection”, when can you use single source selection and it says here:

“where the subject of the procurement is a good which is a spare or replacement part for equipment in use by the procuring entity;”

So if you need to buy a seal and a bearing and all of that, you can actually use single source selection. Subparagraph (2), subsection (c):

“where the subject of the procurement is a good which is similar to equipment in use by the procuring entity and single source selection will be more cost effective…”

So you have one photocopying machine and you decide you want that same brand of photocopying machine, you could use single source and say “ah going back to the man who I have sourced” the first photocopying machine from and I am not going to go through the whole process again because it is most cost effective and the regulation caters for that. So do not come and tell me that you need an exemption to buy “ah photocopying machine”.

**Hon. Senators:** [Desk thumping]
Sen. J. Lutchmedial: You need an exemption because you want to do things without oversight, that is why you need an exemption, that is the only reason you need an exemption. I will continue.

Under “sole source selection” which is where you are going to only one supplier or a contractor, it caters for issues like the pipeline, like the transformer and all of that and so on that was raised by the Minister in his opening address and this is Regulation 14(2)(c). So 14(2)(c):

“Sole source selection…”—may—“be used in the following exceptional circumstances…”

And you know the Minister says what is exceptional and what is an emergency; it tells you here about the exceptional circumstances. Subparagraph (c):

“where, due to reasons of extreme urgency brought about by unforeseen events not attributable to the procuring entity”—and that is an important part—“the subject matter of the procurement cannot be obtained in a timely manner if an open bidding method or limited bidding method is utilized;”

So if you have the emergency where half of the East-West Corridor has no water and you need to fix “ah pipe”, you can go there but it says:

“where, due to…unforeseen events not attributable to the procuring entity…”

Do you know why that was put in here and do you know why this is best-in-class, first-class type of regulations that you have coming out from regulations, from procurement experts and so on? It is because you do not want to create an opportunity, which is done from time to time now, where an issue is left unattended to and it is left there and then it goes under from one of those state
enterprises and they call it emergency works and so they use that to avoid the procurement procedures.

So if something, for example, let us just say, at a school, something is wrong and it is reported in December and you close for holidays and it could be repaired while school is on holidays or the Christmas break and it is not done and then the principal through the regular channels in the Ministry reports it again in February and they say, okay, whatever, and the Easter holidays come and that is two weeks Easter break, they do not repair it and they do not fix it. And then they report it again in May and they are saying—and they do not do it, and they do not fix it and all of that and then the entire August break comes and you know what they will do? On the 28th of August, two or three days before a public holiday and school opening on the 2nd of September, they will say this is an emergency work and we cannot go out for competitive tendering so we have to sole select and somehow or the other, “it does end up being ah company” linked to, you know, some Minister or financier or something, true story, true story. That whole example I gave you there is a very true story of something that has happened very recently at a state enterprise in Trinidad and Tobago.

So the Regulations that we put in place here that will say that it cannot be the fault of the procuring entity but it is really a true emergency, an unforeseen event, something that you “cyah” cater for like a tree falling down and knocking out power for the entire country, you have the provisions here already to deal with something like that. So please again, wheel and come back and tell us exactly what is—

**Hon. Senators:** [Desk thumping and interruption]
Sen. Mark: Wheel and come again.

Sen. J. Lutchmedial: Wheel and come again with some better excuses than that because “we not buying the Hong Wing story, we not buying the toilet paper story”, we are not buying the bearings story, we are not buying the tree “fall down and blow out the transformer” story, come again. Come again and tell us exactly what is your intention in wanting to be able to procure these things without oversight and accountability.

5:05 p.m.

It is really and truly—

Hon. Senator: Pilfered.

Sen. J. Lutchmedial:—you know, yes misappropriate, misappropriate. Other than encouraging the misappropriation of funds and creating—“I does say cutting track for agouti to run”.


Sen. J. Lutchmedial: “Cutting track for agouti to run” in an election season.

Sen. Mark: Lenard hardware.

Sen. J. Lutchmedial: Right, want to make sure, yeah.

Sen. Mark: Lenard hardware.


Sen. Lyder: Tread carefully.

Sen. J. Lutchmedial: They want to—

Hon. Senators: [Laughter]

Sen. J. Lutchmedial: [Laughter] Tread carefully? “It have one man”, I think he needs to get a refund because they paying people to come across and people paying
Sen. J. Lutchmedial: But that air condition unit should get a refund. So right, and again the urgency—

Mr. Vice-President: You have five more minutes.

Sen. J. Lutchmedial: So, Mr. Vice-President, let me—yes, Mr. Vice-President. Let me touch on the last issue here today because some people do not believe the media release that Sen. Mark referred to, right? But it is there on—it is published. There is a story about it on the Guardian already, because the Guardian “does do” their homework more than the Government, apparently, right. And private—it says:

“AMCHAM, T&T Chamber, TTCSI, TTTI, slam amendment Act.”

Hon. Senators: [Desk thumping]

Sen. J. Lutchmedial: If it is—that is the headline, “slam amendment Act”, right.

Sen. Lyder: They “aint” have no more chairman there again or what?

Sen. J. Lutchmedial: You know, right, they have all stated that they do not support these amendments, please.

Hon. Senators: [Desk thumping and crosstalk]

Sen. J. Lutchmedial: So when they come here to tell us that “Oh, God, it so hard, the public servant crying. They ain’t know what to do, people outside dey complaining, they cannot comply”. Imagine if we—every time somebody finds it too hard to comply with a law, we come here and water it down?


Sen. J. Lutchmedial: Because it too hard. Imagine that. That is the—that is what
they come to try to sell to us here today.

**Sen. Nahkid:** Governance hard for them.

**Sen. J. Lutchmedial:** Well, anything that requires accountability, and it will be hard for them, we understand that. But the only people it is hard for, I will say this, and I will end with this, the only people who seem to find that this law—this, as the Minister said First World, best-in-class piece of legislation introduced by the UNC, too hard to comply with, is people who are afraid of transparency, accountability and oversight.

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

**Sen. J. Lutchmedial:** And the only person—

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

**Sen. J. Lutchmedial:**—the only people who have come out and said that they are afraid of that here today is this the PNM regime.

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

**Sen. J. Lutchmedial:** So, we are being asked here today to help the PNM regime in power avoid transparency and accountability.

**Sen. John:** And we say no.

**Sen. J. Lutchmedial:** And we say—we say with one voice united with all the people out there who opposed this, absolutely not. You will not get the support.

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

**Sen. J. Lutchmedial:** You will never get the support of the Opposition, just as we did not support your—you know that, I would say totally unnecessary amendments brought before to exempt legal services and you see what has been going on when we ask, when we start to file FOIA? We see the millions and
millions of dollars being spent right. With certain handpicked—I think about the top 10 people who earn, I do not know, more than 75% of the moneys spent, $1.4 billion—

**Sen. Nahkid:** 1.4 billion.

**Sen. J. Lutchmedial:**—to lose a set of cases. And then, you know, and I will get to the other point too. Somebody asked about—as I close—“why we here today” and what is the urgency?

**Sen. Nahkid:** We do not know.

**Sen. J. Lutchmedial:** The urgency is because they “fraid” Anand Ramlogan beats them in court again.

**Hon. Senator:** Oh God.

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

**Sen. J. Lutchmedial:** That is the urgency.

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

**Sen. J. Lutchmedial:** Because as they get the pre-action letter, they draft up this Bill fast, fast, they put it here, and then they write a letter to say withdraw your—“doh” file your claim, withdraw your pre-action letter, “we fixing it” in the Parliament. Anybody who wants to know why we have been called out of our recess here today, it is because they know they cannot beat Anand Ramlogan in court.

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

**Sen. J. Lutchmedial:** And they cannot beat the UNC. And they cannot beat Kamla Persad-Bissessar in court.

**Hon. Senators:** [Desk thumping]
Sen. J. Lutchmedial: They could only come here where they have the majority to ride roughshod over the will of the people of this country to get their way. But they will not get their way outside of here where they have that majority. And we continue to stand in defence of the rule of law. This procurement legislation is a good piece of law—it was a good piece of law in 2015, and we will continue to lobby, to strengthen it, and not whittle down at this piece of law to allow absolute and, you know, then most—I do not even know, I do not want to use any unparliamentarily language.


Sen. J. Lutchmedial: But to not let chaos reign supreme the way this Government wants it to reign supreme in this country and allow for all of their unwarranted, unjustified exemption, and so on.


Sen. J. Lutchmedial: If it is not an exemption “they looking” for, it is to step outside, thing, do this, they are always—they operating like a—


Sen. J. Lutchmedial: Yeah indemnity, they always looking for a backdoor.


Sen. J. Lutchmedial: They always—recusal. Recusal. That is the three words, three watch words of this administration that we could attribute to them, indemnity, recusal, and exemptions. Because that is all “they looking” for. Always looking for a backdoor.


Sen. J. Lutchmedial: A backdoor to avoid accountability. And we will not have
it and we will continue to stand against it. Thank you.


Hon. Members: [Desk thumping]

Mr. Vice-President: Sen. Dillon-Remy.

Sen. Dr. Maria Dillon-Remy: Mr. Vice-President, I am humoured by the contributions that I am hearing, and I can also say that at times I wonder what part of the world I am. And I am saying that because I am hearing—I say it time and time again, one side accusing the other of being this and the other side accusing the other of being that. The same things that they are talking about in terms of lack transparency, and whatever, and I—sometimes I wish I were God and knew everything. And that as people speak, you know, and they are not speaking the truth, they just—You understand what happens? What sometimes, Mr. Vice-President, that sometimes when people speak false and they know that they are doing it, they just—

Hon. Senator: Like Farley.

Sen. Dr. M. Dillon-Remy:—that is how I feel. What happened to Farley?

Hon. Senators: [Laughter and crosstalk]

Sen. Dr. M. Dillon-Remy: Anyhow, Mr. Vice-President, we are dealing here with a very important matter and I am humbled to speak—

Mr. Vice-President: As much as the mood is a little light at the moment, please allow the Senator to make her contribution. Thank you. On both sides the mood is light and the chatter is a little too much. Proceed.

Sen. Dr. M. Dillon-Remy: [Inaudible]—produce some humour. Thank you, Mr. Vice-President, I am humbled to speak on such an important legislative and
economic matter engaging the Parliament’s attention at this time, and at this extraordinary sitting of the Senate. We have before us the Public Procurement and Disposal of Property (Amdt. and Validation) Bill, 2023, and it is an amendment to the Act which aims 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. It therefore follows that any amendments ought to be consistent with these same aforesaid principles.

Mr. Vice-President, there is much contention surrounding the issue of public procurement, and the Acts and amendments there too. In fact, I distinctly remember when in December 2020 when that amendment was brought to this Senate and I supported the amendments, the Bill at that time, I was heavily criticized by people on the Opposition as well as people in the public space. And as I reviewed the Hansard of the Senate from the December sitting of December 08, 2020, I realized that again I stand by the decision I made at that time. And I say that because when I examined again what was before us at that time, and the Government’s willingness to make amendments to what they initially presented before the Senate, they were willing to make amendments. One of the amendments which I remember very clearly was that amendment that moved from negative resolution to affirmative resolution. Another one was the one where they amended the list of the items for exemption. And I also remember when the Minister of Finance was wrapping up, he—and Sen. Mark has already quoted the Hansard on that so I would not do that again—but I remember that discussion very clearly.
5.15 p.m.

So when I heard that an addition was made from this list of exemptions, and it was not brought to Parliament, when I first heard of that I said something has to be wrong. Because it was clear in this Senate, and later ratified by the House, that any additions to that list for exemption will be brought to both Houses of Parliament for affirmative resolution. That was very clear, and as already said, it was at the recommendation of the Independent Senators that the Minister would have said we have agreed and we are making these resolutions. So I was concerned. Having heard the explanation now, I would say that I am still very concerned, and let me just say why. All I am hearing about in the public space as coming from the Government is how difficult this thing is to administer.

I am not hearing that, listen, there are some problems now, but we can do this and do that. I am just hearing “difficulty”. And if this is what is coming from the makers of the law and the ones who are supposed to be making sure that the law is upheld, what do you expect from the people who are already bent on not doing what is right?

So I think this is one of my main concerns as I came to this Senate to debate this Bill. I was not hearing—all I am hearing is how difficult this is. It is difficult for the public servants, it is difficult for the small man. Where is the discussion that says there is a need for something that is better than we are doing right now, and we will make every effort to make sure that the accountability and transparency and everything that we are seeking to aim to get from this Bill, we are making every effort to do it? So I am a little concerned about that.

So I come to the clauses of the Bill. And clause 3 of the Bill amends section
7 of the Act. And it says in subclause (a):

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“ in subsection (6) by deleting the paragraph (e) and substituting the
following:

‘such services as the Minister may, on recommendation of the Office”
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Now, that amendment, there was an amendment put in the House and I am happy
with that amendment that was made yesterday.

The subsection (b) that talks about:

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“in subsection (7) by—

(i) deleting the words ‘(5)’ and substituting...‘(6)’”
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It was mentioned by other Senators that there was an error and I would love to hear
the reason from the Minister as to why the error, which was pointed out in 2020,
was not changed. I really would like to find that out. And I heard the Minister say
that he could not come to the Parliament with a Bill for affirmative resolution
when the Act did not refer to—in other words, because of the error he could not
come or could not ask for affirmative resolution, because the law did not ask him
to do that. But the Minister knew, after discussion in this House, that he had
agreed and we all agreed that that was what would happen.

If, Mr. Vice-President, that was the only thing that we had to do, in other
words by changing the error on the Act, I would have no problems with that. But
what I am hearing also is that the Minister comes back and is asking for what we
debated already in 2020; that we should go back from affirmative and substituting
negative resolution. And I am still not convinced that we have sufficient grounds
for that change.

I really just think that it is a—I would not say a cop out. I heard the Minister
saying that it is difficult to bring things that are affirmative resolutions, it means that we have to come to the House and come to the Senate and it has to be debated. Whereas, if it is a negative resolution, it is just laid in Parliament and only debated if there is a need, as brought up by the Opposition, or by the Independent Senators.

Mr. Vice-President, given the importance of this procurement, and given the fact that what we are dealing with here, what we are talking about here in terms of coming for affirmative resolution, is not every Monday morning that you get up and you want a change. You would have considered before, because the Regulations are already there for the major things, and you have already asked for, when we were debating the amendments for 2020, the Minister already asked for changes as to what should be exempted. And I hear the Minister talking about the number of things that were being exempted in different countries of the world. We already accept that there will be exemptions.

So that if you consider the thing carefully and look at what are the possible needs that you have, you should not have to be coming here so regularly to ask for exemptions. It would be an occasional thing. And I am saying that because yes, it is new; what we are dealing with here is new, and there will be need for changes. But it would not be every Monday morning, every month or so, that the Houses of Parliament cannot meet for such an important thing. And I am saying that, given the sensitivity of this business, and given the fact that we have been grappling with it for so long. As the Minister has said, so many years ago we have been dealing with procurement. So I am not convinced that, after our debate in 2020, and what we agreed to at that time, that I have seen anything of importance or sufficient magnitude to cause the change as is being requested here in clause 3(b)(ii).
Mr. Vice-President, clause 4 the Act is, well, it was mentioned that it was by—you are adding a new section here that says, we talked about already, you are removing the procurement of goods and services up to $1 million, exempting from the Act. I heard other persons who commented on this, particularly Sen. Seepersad’s comment on this, and also Sen. Vieira. And I am saying that the fact that it is up a million dollars, and the fact that this was being done before by accounting officers in Ministries and in government or other government organizations, it was happening before, but there was a need for a change. The change was made and we are now going back to what we had before. Again, the question is: Are we going to have the amount of oversight that is necessary to continue with what the aims of the new Act were?

Before April 2023, when this Act was proclaimed, the accounting officers within the Ministries were working with up to a million limit, et cetera, the PSs and others, that they could have approved for goods and services under a million. But they were working with Central Tenders Board’s regulations. They had regulations that they were working with. When this Act was proclaimed there was no longer a Central Tenders Board. So, as the Minister said regulations will be put in. We do not know what those regulations are at this point in time. We just have to assume that the regulations that are going to be put in place are going to fit in with the standards that have been mentioned here.

If this Act is passed tomorrow, Mr. Vice-President, what happens in these Ministries where people are already having all this difficulty, are they going to be working with systems that are going to be transparent and are going to have their accountability; what is required of the current procurement Act? Are they going to
be working with it tomorrow, when they do not yet have the regulations in place? I am concerned about that, Mr. Vice-President.

The other thing is that this change is being asked for as a result of, as the Minister said—what he said, that they pulled this Act from the First World and what? In other words, the stringent requirements of the current procurement Act for small people, et cetera. So I would say two things about this. One is, when this Act was proclaimed in April, I remember being, “Hmm, how come that Act was proclaimed so quickly, when all the time we were asking about the Act and what was happening with the procurement Act”? Every time it was asked about here, we were told that the procurement regulator is making regulations and the Minister brought the regulations since September last year, et cetera, and we were waiting and waiting and waiting. And then suddenly the Attorney General announced that Cabinet had decided that the Act was going to be proclaimed on a certain date at the end of April.

Did it take into consideration at that point in time they only had a certain number of persons on the list of the procurement regulator? Did they take into consideration at that point in time? I am not sure. But the Act was proclaimed in April, and we are now in July, and we are having all these problems. I am not sure that those problems could not have been anticipated and another way of the introduction could have been put in place.

For instance, and Sen. Vieira already spoke about an article in the Sunday Guardian of the 16th of July by former Independent Sen. Helen Drayton. And she spoke about some of the concerns that she had and some of the recommendations that she had. I want to mention this article, Sunday Guardian, July the 16th by
Helen Drayton and she had made some recommendations. And one was put a temporary stay on the procurement depository’s public bodies requirement until the depository is adequately populated and can deliver the up-to-date information on the approved vendors. And I think that is very reasonable. And the reason for that is it means that you are not stopping the process completely but you are saying, “Listen, we are giving you time”. “And why we are giving you time is because we really want the system to work and we want you to get your act together.”

When you are working and not paying taxes, when you are working—because this business about people not paying is not just because of COVID, not paying VAT is because of COVID. The Minister has had to come and ask for extensions for a long time. So it is a part of the way we live. But if this Act says if you are going to procure services to any public body, you have to have your things in order, then more people may do it. Have them come up to the standard. A temporary stay on the procurement of public bodies, I think is very reasonable.

The second thing she said, the regulator should review the depository system on the website to ensure ease of navigation and information accuracy. Again, the Minister spoke about that as to people having difficulty. I know Sen. Seepersad said that she did not have any difficulty with this, but she is tech-savvy, and it is a different—she is in a different category.

I heard the people in Tobago. When I spoke to some of the accounting officers there, they are saying the same thing about the people’s ability to register on the website.

5.30 p.m.
So it is a challenge. But is it that you cannot fix it? That you want to go back to under $1 million just like that and no end to it. I am not sure about that, Mr. Vice-President.

The third recommendation Sen. Drayton had was that create a spending threshold for public service accounting officers and CEO’s of other public entities within the law. So you are still working within the procurement legislation, but you are creating spending thresholds. So in other words you would not have the systems, whatever is needed to change it, so you do not have as we were hearing the doubles vendor or the man around the corner who has to provide food that they would not have to go through that rigorous system. It can be done. If whatever it is needed for that to be done should be done. And she was recommending that also, that the spending threshold for the public service accounting officers.

And the other thing she mentioned was that, establish a time period of six months to improve the system. I would even say a year to improve the system. So that we do not find ourselves going backwards. I hear the Minister about the fact that the public accounting officers they have had up to $1 million spending limit for the last nine years and they have been doing well. If they were doing well, why did we need to change? Why was there a need for a change? Well, is that the only reason why there was need for a change? Absolutely not, Senator, no, no, no. There was a need for a change because the system was broken. The system was broken and you were trying to fix it. You cannot try to fix the system and have a lip service to fixing the system, but when the rubber hits the road and one PS or whatever, or “somebody jump and say the system hard,” you go back and change. That cannot be. We cannot be looking to go to the higher level if that is what we
are saying. It means that we are encouraging people not to aim for higher standards, Mr. Vice-President.

So I come to the clause 5 of the Bill. Again, there were some changes made in the House and I agree with those changes. There was a concern that I had though, again, again, the clause 5(b) that talks about deleting affirmative and—negative resolution, going back to negative resolution. I have talked about that already, I am not going to say anything about that again.

And clause 6, the statutory instruments for Legal Notices 206 and 164. I would agree that since there was no law to break, and in other words, the Legal Notices were made without breaking the law because there was an error in the law. I would say that it may not have broken the law in terms of the letter, but it broke the spirit of the law. But having said that, they have to be—I agree that they have to be made valid. But I am saying that, having said that, the intention I would say, clearly, of the Minister was that this thing was too hard, let us get over it, let us get back to what we were doing before so that we will make this thing as easy as possible. Because I cannot understand if you did not intend that, why would you—bring the Legal Notices so that they can validated? Do not bring the Legal Notice to be validated and then say that I want you to go back to negative resolution. To me, it means that it is the desire for the negative resolution rather than affirmative resolution.

And I have said before, it is not that I have a problem generally with negative resolution but with the fact that we debated, and it was intense, and it was agreed to in 2020, and given the fact that this is so important as an issue. The procurement is—bring it here let us debate it until we get it right and then you
would not have to be coming here that often after a while. So get it right, let us make sure that whatever is being put in the legislation is agreed to rather than waiting that somebody sees something that is happening. When we have gotten it right we can probably change from positive to negative resolution. I do not know, but I am suggesting that right now we need to leave it that way.

Mr. Vice-President, there is one other comment I would like to make. And I think this is needed for consideration. I know the Minister has been talking about the need to come for further change. There is a concern on the ground that this legislation makes too many mini procurement offices in many Ministries. Each Ministry has a procurement—not only that but there is no Central Tenders Board anymore. So it means that each Ministry can tender for whatever amount using the systems because the procurement regulator only regulates. The procurement regulator gives guidelines but the actual tendering process and the tendering occurs in the Ministry. And they could procure goods and services up to whatever limit, and we have this is being guided by procurement officers. And I heard the Prime Minister in the other place yesterday say that there are difficulties getting these procurement officers. Because it is many, many Ministries. Where are these people, competent people, going to be found?

It seems as though that is something that should be looked at. Probably you do not need so many of them. You may need one system here or one system I “doh” know, one system in Tobago, one system in Trinidad, I do not know. But where you have all these mini procurement units in the various Ministries may have to be looked at again. And I am saying that because it is one of the comments I got from a senior public officer who wanted to make sure that whatever was done
was going to be done and done well, and it did not fall prey to that we had probably bitten off more than we could chew. But I am saying that to say that it is probably one of the things that we should reconsider.

So in summary, Mr. Vice-President, I stand here as someone who would have supported the changes that the Government would have made in the last debate for the amendments to change, and I am concerned that I have not necessarily seen the changes that would have been by now, if we were really, what shall I say, if we really wanted to see something work having proclaimed the legislation in April, we are now in July, I am hearing too many negatives, I am not hearing enough positives and therefore I am concerned about that. And with that, I say, I thank you for allowing me the privilege of contributing.

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

**Mr. Vice-President:** Sen. Dr. Varma Deyalsingh.

**Sen. Dr. Varma Deyalsingh:** Thank you, Mr. Vice-President. Mr. Vice-President, today we have to look at the procurement legislation to see is it serving the purpose that we had originally thought it would have served when it came about, I think in 2015 and then in 2020 when we made amendments. We have realized that this piece of legislation may be a work in progress, that we may have to look at challenges as the Minister of Finance stated, challenges along the way how we are best going to deal with these challenges, how we are best going to make any sort of changes. Because as it goes along, as it is a piece of new legislation to us, the challenges will come on how we will be able to actually actualize the runnings of it. And Sen. Dr. Dillon-Remy did make mention to the fact that there are not enough of these officers in certain departments, so she suggested that something
has to be done with that.

But in any sort of contractual arrangement who is best placed to look after taxpayers’ interest? Our political directorate, public servants instructed by our political directorate? I mean, we had a court case; we heard about a PS who seemed to have flaunted some of the Regulations and it went all up to the Privy Council. It was mentioned twice. But our history is littered with past transgressions and this is why sometimes the members of the public out there would have that level of fear, anticipation.

And even as Government attempts to change this—to amend this Bill, you find that you are hearing a lot of individuals outside a bit cautious. And we have every reason to be so because our history has shown that in past regimes had we different Ministers even with their tenures giving some challenges to the law enforcement agency. I mean, we could go far back as John O’Halloran, Minister Francis Prevatt, then after that Dansam Dhansook raised allegations of bribery against other Ministers, former Prime Minister Basdeo Panday, Minister Carlos John, all those are Ministers, and Brian Kuei Tung was a Minister who served both under the PNM and both under the UNC administration. And all those persons had allegations hanging over their heads. And even as recently, you know, people may have voted for change along the way. They say let us change this regime, let us go on to another one, but along the way they seemed to have been facing this disappointment. Even up to recently in this administration a Minister and her husband were arrested.

So it shows that there is a scepticism in the public that even the persons who are there who are our leaders, who are there to pass legislation, have disappointed
us in the past. And this is why the sceptics out there, they have every reason to be. But laws alone would not insulate us because we had a Central Tenders Board with us before, with all its restrictions.

And I remember there was the Lennox Ballah Report commissioned by George Chambers in 1982 to look at contractual shortcomings that occurred and more with government-to-government arrangements. But when he looked at that, what he found was what was mentioned in that Lennox Ballah’s Report, shortcomings there, and we made the same mistakes along the way, that 28 years later in 2010 the Uff Report had to make similar recommendation.

So what does that tell us? We may get recommendations, we may get laws, but things still happen. So therefore, having the procurement regulator on board, having the laws that may give the regulator that power is, I think, something vital for us, something that we would really hate to water down. We would really hate somehow to take away any powers from the regulator and that department. And this is something persons out there would frown upon. And they have every reason to, because our past history has shown us we are disappointed.

So therefore, even when we looked at the fact that there is a disillusioned public, we should realize that any sort of interference with this legislation, the public may be a bit cynical, and the public may think that some government is trying to make to pull, something pull wool over their eyes. Try to do the same sort of corruption that existed before. So the public definitely needs a watch dog to look into corrupt practices, and the independent office of the procurement regulator needs to be that watch dog but not a toothless bulldog.

When Parliament met in 2020 to discuss the procurement regulations, I was
dismayed when certain exemptions were given. There were certain exemptions
given, and the Minister listed out some of them to legal services, others, when you
are getting loans, et cetera. So you know, what I found, and what certain persons
found, was there may have been a watering down of the legislation. And here we
are again today, and sometimes we may think that, hey, what are we doing today?
Are we further adding water to the brandy? Are we further going to take out some
more teeth, pulling more teeth from the bulldog?

5.45 p.m.
Well, the Fourth Estate had—did say in a Guardian editorial to two days ago. And
this Guardian editorial, it was praised by the Leader of the Opposition in the
Lower House, but it was criticized by the Prime Minister and again today by the
Minister of Finance, who actually went into details why this did not give a clear
picture of what went on. And I really was happy to get that, at least that to be
eliminated with this. But I now would listen—I looked at that article, I read what
certain persons had to say and I listened to even the past Senate President Timothy
Hamel-Smith, and he was among those who also voiced concern in what we are
attempting to do today. But again, I realize he is a politician. So I said, let me look
outside. And I looked at what attorney Martin George said in an interview and—I
am not sure—but Martin George actually described the Minister of Finance’s
statement that the Cabinet and the AG approved the emergency expenditure and he
described it as an act of sophistry. So therefore, he had the opinion and he voiced
his opinion in an interview, that the public needs to come out, they need to be a
vanguard of the democracy and he actually gave something voicing concerns also.
So here I was looking at different persons voicing their concerns. I also looked at what the ex-Sen. Drayton had to say and it was mentioned here, and very good recommendation she had made there about even, when you have this thing kick in, we should have given a time frame period, a period of time for the persons, the small businesses to get together. All these are things what we should have looked at.

So here I was thinking, listen, as Sen. Vieira mentioned, you know, we are caught between a rock and a hard place where we want to satisfy the public who has been what I am saying, the public has been abused by past incursions of corruption from different administrations. So we want to please the public, we want to hold that public purse into, you know, scrutiny, nobody is going to be misspending. But also, while we have to do that, we have to realize that government has to run. A government has to have ways of stimulating the economy and even looking at the small business enterprise if they are not somehow been able to buy into this, it will be a disservice to them. And I have some articles I want to quote with that—look at that and that support that the Minister of Finance mentioned about stimulating the small business.

However, I was shocked when I heard the media release that Sen. Wade Mark read out and I actually got this media release via my WhatsApp, and it was the group chaired by the JCC and included AMCHAM, and that group actually, they—few of those groups, AMCHAM, T&T Chamber of Industry and Commerce, TTCSI and TT Transparency Institute, all those persons whose members make up over 60 per cent of MSMEs in Trinidad and Tobago, they concluded that amending the Act to remove the need for affirmative resolution of Parliament to make an
order would not be in the best interest of the transparent procurement regime. And they do not support amending the Act to allow for Ministerial orders to be made subject to a negative resolution.

So here again, we have these groups of persons, and you see, I cannot just disregard this group, because you see, I may look at certain persons voicing their opinion, some may say they may be ex-politicians, but you see, these are the same groups, the same civil liberties organizations, which actually pushed for the PP Government to bring in this legislation in place. So they had a stake, they would have realized what was lacking. And this is why part of my thinking today is I have to give some sort of weight to what these groups are saying. They met, they discussed it, and they actually are under the impression that, you know, we should not really go further. And I—while I was looking at the—you know, the ease of the process of registering and I think this came about—this was discussed before that—and Sen. Remy did mention, if you have problems in registering these small business people, why do you not create a system to make it more friendly? And when we discussed here some time ago the idea of the nongovernmental organization groups now being put into that frame where they have to get their books in order—so they, these NGOs, when we discussed here in some time ago, we also said that the State would help these organizations, show them how to get their books in order. So along a similar lines, if you have a carpenter, a plumber, I think we also need to see how we can help these persons. Because you see, according to what the—even this group had mentioned with their media release, they acknowledge the process of registering may be difficult, but they said the
possibility for prequalification lies with the procuring entities via the appointed procurement officers.

So therefore, I am the Government, the Minister of Finance must understand all persons want is for us to protect the public purse. And I now quote other persons, on June 17th, Raffique Shah, “Corruption looms large”—he wrote in the Express, if I can read in this:

“Corruption looms large over every facet of life in this country. It is factored into budgets and other expenditure of public funds, very silently, of course, but nevertheless siphoning varying percentages of capital investment into…accounts of operators who, put bluntly, are nothing less than thieves, bandits and white-collar criminals.”

So, basically, the level out there, the perception out there is we have to protect—and Raffique Shah, he sat in Parliament, as a Member of Parliament, and he also fought for change, when he—I think, in the Black Power Revolution, he was one of the main instigators of trying to lead the army into coming into Port of Spain. So, I have to take his idea about the corruption. So we have to put things in place. We have to realize a small carpenter, you know, you may say, you know, I got the element of an appeal from the Lower House and even here that we should help these people, and helping them means bringing them into the system, but bringing them into this system, maybe bringing them into the system without certain proper checks and balance. Remember it was a past Minister also who said also, “All ah we is tief”. And you know, if is that you have to look not just at the white collar, top line criminal, but the individuals low down who you think, you know, are fighting up for a living and who may be tempted to get involved in this.
So it seems that we have to have the legislation being in such a way that persons would not be able to think that we are watering it down. So then I look at the fact that why we are here today. And basically, we are here today to look at certain aspects of it. And one is to address a drafting error that arose in relation to section 7, which is not a problem, that is subsection 5 of the Act, and two, to validate two Exemption Orders made by way of Legal Notice 164 and Legal Notice 206 of 2023. So I want to spend some time with this. So therefore, there was legal notice, and one, we actually would say, is it that looking at the moneys given to the Judiciary, you know, when we look at this, and the Judiciary may need certain things and we know that they may need certain things and I have heard the talk that you know, they may need some time there is the jurors, they may need to keep them, they may need text books printed, et cetera. But you see, before that, some time ago, we were here—I think the Chief Justice had made a claim that I think it was the opening of the law term, I think two years ago, where he asked to give them the autonomy to control their own money. So, if we had done that then and given them that autonomy, we would not have been here today looking to see if we could be running to get money to let them budget their stuff.

But even that Sir, when we are here discussing the budget and the—when we are looking at the pre-term, you know, when we come midterm budget, we are given a list of things that the Judiciary needs. So, we already have that list that they may need photocopies, staff, they may need certain things. So, if that was already catered for, why are we now running out of things? Is it that there is a poor sort of system there within the certain departments where they do not seem to see what they are going to run on. So this is something we have to look at those
persons who are not giving us an adequate knowledge of what we should be catering for in the budget when we come to budget day and the midterm review. So therefore, when I look at the idea that we needed that money also for emergency situations in terms of the—we needed to run the CARICOM Summit.

Now, I remember when we had the mid-year review here, I actually mentioned, I said, listen for the mid-year review, one of the notices there were given—I think we needed about $20 million to put towards the CARICOM 50th Anniversary, and that was there when we did the mid-year review, I think in May. And then when I made my contribution, and I said listen, we are now asking for $20 million for this, which is a good venture to have that, but we have now finished a crime symposium with nearly the same players. And I did mention to us that, you know, we are asked to tie our bellies, we are asked to drink mauby, we are asked to ride bicycles, and spending—and I made mention to that, could we not have consolidated those two meetings in one, which would have saved money? But be that as it may, Government said they needed that extra money, but I think most respectively, that, you know, we had time to at least get that budget in place.

And the other thing I make mention to, is that we were hearing that, you know, if we have to come out to give that you know, we will be asked to come out in our recess, but we are here today. And you see Sir, I in my profession as a medical practitioner—my call of duty is if a patient calls me I go out. Similarly here, if my call of duty to a patient is like that, if my call of duty to the country is to say come here sit at any hour, midnight, because we need that emergency funds, I am civic minded. If the Government says they need funds for something, I will find myself here to try and see if we can help get that fund, to do it, you know, the
way it was put in the 2020 piece of legislation. Reach here, let us go with the positive way, not negative—positive resolution, not the affirmation—not negative resolution. So I would have found myself here.

So the fact is, the excuse of not coming here, you know it might be cumbersome, but we could factor in when we are going to need certain things when we are going to within our normal space. I do not say it is a problem but again, probably the Minister thinks that it may be a lot of political theatre and this is why I could probably understand he may not want to go that way. But you see, political theatre and coming here is a small price to pay for vigilance, for letting the public know that we are here looking at their funds, you know, the public purse. So then the other reason that we were here, not just to look at the—to give blessings to the expenditure that occurred before, but we are also here to look at the fact that the Minister said he would have liked to put the moneys that you know, you can acquire, the threshold, being set at TT$1,000, that you would not have to go through this process.

Now, it seemed a good idea because you are now looking to try and stimulate the economy, you are now trying to say that you would not want to go through that. But what I heard though was some little things that had me a little concerned though.

**6.00 p.m.**

The concern was this. If—you know, what I heard was there were persons who were not paying NIS, persons who did not have their books up to date with taxes, and they would not be allowed to enter into this and we are disadvantaging them, but Sir, if somebody is not paying NIS, it is against the law. If somebody is not
paying taxes, it is against civic duty, and if we are giving them a contract, it means we are now rewarding those individuals. So what message are we sending for other persons are who paying NIS, who are paying taxes, that we are now saying, because these people did not do these things, we are bending over backwards, we are going to try to amend this Act to accommodate these people?

I say, we have to get another way to accommodate these people, not to show out there that those individuals, you know, could basically decide, “Well, we do not need to pay taxes. We do not need to pay NIS”, and we will be encouraging this cycle of behaviour this way; the lackadaisical attitude. They will say, “Why should we come out and get our books in order”? So I was concerned about that. I was concerned about the fact that you would have had these individuals and they would have been getting that message, and I am thinking, you know, we have to go through some other mechanism where we could train them, encourage them, show them how to do their books properly, and even try to see if we can get them into the system; give some time to do that.

[MR. PRESIDENT in the Chair]

So I was not in agreement with that, however I did listen to the Government lament at it; it said about having to get toilet paper, juice, et cetera, from departments. It is like they needed a petty cash in certain departments. But I think—and I heard notes from the police station, et cetera, but, you see, those things are things that, as was mentioned by a previous Senator, was poor management. So we were asked to validate this expenditure, clause 6, to sign off expenses—right? But I am looking also of the fact that—the fact remains that even when we were given the issue of emergency situations, that the pipe would
burst, something will happen, some emergency, you need money, but I thought under the parent Act, section 12, and a few of those—you know, 12, 13, around there, would have looked at emergency situations of fixing certain things, of flood, emergency relief disaster.

So then being here today to try to get funds of emergency—I know emergencies would always arise, but the thing is, if it is already in the parent Act, I do not think—I do not understand why it is so difficult. And my other aspect is, the fact that when we were here before, both Sen. Hazel Thompson-Ahye and Paul Richards had asked for private—positive affirmation for any sort of, you know, moneys that would be acquired, and I am saying, this something—you know, the Minister of Finance knows we did fight for this and it was just recently, 2020, and I am saying that, you know, it is a little bit disheartening to say we are coming here, but I understand the logic that he was trying to say that we are disadvantaging small persons. But, you see, I make the point that we have to get the small persons up to act. I make the point that we have to create that culture. I make the point that we have to have safeguards, that even in those small contracts, because small contracts, are we totally satisfied that the legislations we have existing, someone cannot really break up a contract? This is something—you see, this is something we will have to look at. I mean, you know, I searched looking for details, and could it happen? We need scrutiny and we really need the scrutiny by the procurement legislator.

So even in these small contracts, my opinion is, the Minister of Finance should realize, even though we are trying to give these small businesses that ease, he should not really hesitate in allowing a scrutiny to continue; meaning, all those
contracts should still go to the procurement regulator, still go there so he can look at these contracts to ensure it is not the same persons using the system. He may have to look at that, even contracts I had mentioned before, all contracts, I think, should be given to the procurement regulator to study. They should put it up on a website. They should have that there in such a way that persons could go in and look to see if there are any sort of suspicions; anything could be raising red flags.

So therefore, I must say, I try to see what did other countries do, and I also heard the “small man” argument, because even the UK, eh, even in the UK—if you allow me to quote this, Sir. There is the UK, there is a procedure:

“Procurement Bill to unleash opportunities for SMEs to be debated in Parliament”

And in the UK Parliament—this was released in 9th of January, 2023—this was a similar argument they had there; a similar argument, the Minister of Finance stated, and the similar argument where they said that they want to simplify their laws, so here we are trying to do the same thing. They said they want to introduce new rules to help the:

“...government procure in emergency situations, such as during health pandemics, ensuring that contracting authorities can act quickly and transparently to buy vital goods.”

So it is the same story we are hearing. We also heard that they need more flexible—well, flexible rules, but one thing they mentioned is:

“Creating one single website to register…”—the contracts.
—and I think this is something we need to look at. So therefore, you would have that virtual means where people can look at contracts, who is asking for contracts,
and this will give a greater degree of, I think, transparency. Again, they also complained about:

“The normal tendering process takes…”—about—“…a minimum of 30 days, which is not practical in most emergency…”

—and:

“The Bill will…”—now—“…allow…”—for—“…faster competition…”

So a similar way.

So we see that, similarly, what we were trying to accomplish here. What was mentioned here is they are now debating, they are now trying to see if they can solve that. And even another thing I want to make mention here, is the fact that the threshold for publishing contracts and modifying contracts and for setting and publishing KPIs has been raised from $2 million to $5 million. So they say this is in order to balance the objective of increased transparency with the administrative burden. So similar problems they face that we face. But as I heard Sen. Dr. Dillon-Remy mention, you know, we may not have to go and do changes, even though there are challenges there. We may have to go at our “small man”.

We may have to see if we can get them up to standard, and we may have to see if somehow that, you know, they do not continue breaking money by not putting money into the NIS system. We may have to, you know, stop that, as I say, cycle of culture of non-compliance and monitor them too, because, you see, small contracts—and this is something we have heard before where persons have accused various administrations of hiring gang members. We have even seen that in certain corporations. They say some members come and just sign and move out. If we go and we break this, if we have this threshold, how are we going to ensure
that we are not going to be hiring gang members? You see, we have to get these people up to pay their VAT to be registered to at least be there visible, to have their names there, so when any sort of accusations are made, we can say, yes or no, you know, these people are not being hired, and this is something the Government and the previous government, I think, had problems where they said that certain gang members were hired to build something in police stations. I think police posts.

So therefore now, we have—I think, giving us this level of bringing the “small man” up to establish a micro business is something in keeping with the Government thrust where they are saying they want to bring the little vendor—bring them up a notch, get them to a better action. We keep hearing the need to help the “small man”, we could help them like this. And, you see, in this guava season, if I am a contractor and I need that job, I would reach out to the Government to say, “Listen, how could I get on this list”? “How could I make my business? If I am hiring three persons, how could I get on board because I need money from Government?” And this is how we can give guidelines to how to be a vendor in terms of how we could now open your bank account because we have to account to the FIA when they get their—whatever moneys they get. So therefore, we even have to look at even contracts that are not given to persons, you know, like sort of like preferred persons, you know, that if you are making a waiver to say that, you know, “This firm had a past work”. “They had expedited work. This firm had a staff available.” If all those contracts are being there and persons may now be pointing fingers and saying, “Hey, you are now choosing your persons in the contracts, all these contracts should be—any contract should go on the system that the Procurement Regulator has and it should be there that people could go
back in time; they could look and see what is happening.

So therefore, while the Minister—and I appreciate the Minister speaking of wanting to solve a problem that stood in the way of practicality, and the same problem exists, as I mentioned, in the UK—and not just in the UK, because if I look—Sir, if you allow me to read in here, Policy Center, JP Morgan Chase & Co., this article from the United States, JP Morgan Chase; it was in March 2023, they said:

“Small businesses are engines of economic growth and are a backbone of the U.S. economy. They are major job creators…”

And this we have heard from the Minister of Trade and Industry always trying to push these small businesses. And they mentioned here though that:

“This brief explains why one of the…”—major—“…impactful ways to help…”—those businesses get on board is trying to increase—“…opportunities for them to participate in…public and private procurement.”

And they mentioned:

Even though the Biden administration put—“…$154 billion in federal contracts…”—for—“…small businesses in 2021…”—they found there was steadily decreasing numbers of business vendors coming on board.

So again, they have a similar challenge as we have. And this is what I say, any exemption—let us say we are given an exemption, any exemption from the procurement Act shall not mean an exemption from the obligation to report on the procurement transaction to the procurement regulator to facilitate scrutiny. I am sure the Minister may agree that we need—I am sure, you know, that there is no
desire to escape scrutiny from the procurement regulator, which ultimately will be in the public interest. But somehow we have to figure out a way that we can now, even the small contracts, be there. And I probably may want to make an amendment, Sir, where I would want to put in that, you know, how come we could get the scrutiny and this procurement transaction, you know, to facilitate—the regulator to facilitate the scrutiny.

So I want to say that even financial institutions who want to come here to do business, we should not make an excuse and say well, they cannot fit in to our culture. They cannot fit in. If a foreign company wants to come in here, they should realize that, you know, we do not want to be pointing figures and saying something went amiss, and they should be encouraged to come here and also register. They may not have VAT certificates in their country, they may have different ways of doing things, but we may have to put something in place where we can tell them look, if you cannot get this criteria as a foreign country, go with criteria B. So we have to also encourage that investment in, but not a carte blanche saying that we are now going to look at these things. So I am saying, many small contractors, I am saying, should be encouraged to come on board but we do not want to create an army of corrupted small contractors.

I must say, Sir, I understand the difficulty that the Government has found itself in, in trying to stimulate the small business persons to come on board, but I am saying, it is a challenging way to try and get them, how to get them in, and I say, Sen. Dr. Dillon-Remy—and I am thinking along the same track that we can probably bring them into the game by facilitating them in terms of assisting them, and in that way they may not escape the scrutiny. In that way we may not have
persons to at least try to make any sort of accusation after that is only certain persons who are related to this one, that one, certain individuals are hired, because their names will be listed by the procurement registration, so we cannot—we will take away that level of persons being able say, you know, it is just preferred persons that are even contracts. So once that is listed in terms of—and I say, in—

Mr. President: Senator, you have five more minutes.

Sen. Dr. V. Deyalsingh: Thank you, Sir. So once that is listed, I am saying, this is something that I would try to push for. So again I say, Sir, I would like to listen to further arguments. I would like to move an amendment, I say, to see if we can somehow bring a greater degree of transparency into this process that we are attempting here to do today. Thank you, Sir.

Hon. Senators: [Desk thumping]

Mr. President: Okay. So, Senators, just as a reminder before committee stage, you circulate your amendments as we usually do. Sen. Hislop.

Hon. Senators: [Desk thumping]

Sen. Laurence Hislop: Thank you, Mr. President. Thank you for the opportunity to contribute to this debate this evening. I do not intend to be long, Mr. President, because I believe that the legislation is—as much as the entire parent Act may be very complicated and technical, I think what we are seeking to do here today, in addition to what was done yesterday, is very straightforward, very simple, and for that reason there is no need to labour the House, for us to be here till midnight tonight.

Mr. President, we are debating the Public Procurement and Disposal of Public Property (Amdt. and Validation) Bill, 2023, and we may ask the question,
why are we here again to treat with procurement legislation, and it is simply from the standpoint that for me, legislations are “living, breathing entities”. And from time to time, based on the change in circumstances, you would have to come back to the place where the legislation was established in order to make the necessary changes so as to allow the legislation to evolve with the time, and so that is why we are here. And just to touch on a couple of things, Mr. President, that were said, we heard, over and over again in this sitting, the issue of trust and the population not having trust in the leadership, and I want to say that if it is one entity that has created a level of distrust in this country, that came about in the period, 2010 to 2015, to the extent now that anything governments seek to do in Trinidad and Tobago is always met with significant questions as to why, and we heard the allegations today of the unparliamentary language of “thieving”. And, Mr. President, it is on record that the previous UNC administration has Members of Parliament before the court. So if it is anybody who should be very silent on that issue when it relates to—and I do not want to say “thieving” because—

**Hon. Senator:** Pilferage.

**Sen. L. Hislop:**—pilferage—it is the United National Congress. Mr. President, we sit in this place, even in the Lower House in the other place, and we have no Members of Parliament who are before the court.

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

**Sen. L. Hislop:** None. But in the other place you have sitting Members of Parliament who have questions to answer, and Members opposite us want to come into this Chamber today and accuse this Government of trying to create a loophole in the law for pilferage.
6.15 p.m.

They spoke about them passing the legislation. Yes, you did pass the legislation, but what did you do after passage? What did the United National Congress do after passage? If you are so much a defender of the public purse, why after passing the legislation did you not proclaim the legislation? It was left up to the People’s National Movement Government led by Dr. Keith Rowley to proclaim the legislation.

Hon. Senators: [Desk thumping]

Sen. L. Hislop: We are at a position now where obviously there are challenges with the legislation, and we are seeking to correct those challenges. I do not see what the challenge is with us coming back to this place to correct whatever the challenges may be.

I want to make it abundantly clear, I heard someone, and the Prime Minister made reference to it in his contribution, that a commentator wanted to make the comparison between this and section 34, but that is furthest from the truth. When you consider what was done with section 34, with what we are seeking to do, we are coming in the full glare of the public to make the necessary changes for the legislation to be better.

Hon. Senators: [Desk thumping]

Sen. L. Hislop: Nobody is seeking to proclaim piece of a legislation in the dead of night, so that persons may be able to abscond. That is not what we are seeking to do.

Hon. Senators: [Desk thumping]

Sen. L. Hislop: We have come into the Parliament into the people’s House, in the
full glare of the population. We are saying to the population this is what we are seeking to do.

I heard the concerns about the Minister having certain—I do not want to say leeway, but a certain level of authority, and, Mr. President, I want to make this point, that if a Minister takes an oath of office, he takes an oath of office to carry out his duty, a duty that he has been hired by the people of Trinidad and Tobago to carry out. Even if you give the Minister a level of latitude with regard to a piece of legislation, that does not cause the Minister to be free from any penalty if he breaches regulations and breaches laws. He is still covered by the Regulations that we put in place as well as the parent Act. So I really do not see the concern with the Minister having a level of authority and a level of latitude within the legislation to make regulations, as are required.

Clause 4 of the Bill, and I want to basically pause there for a minute—clause 4 introduces a new section, 58A, to provide that the procurement of goods and services up to $1 million are exempt from the Act. This exemption—and I want to pause there or emphasize—this exemption is subject to regulations made by the Minister. So this is not being done in a vacuum. This is not being done, we are just giving the Minister an open cheque to do what he wants, or for contractors or for people to do what they want. There will be regulations in place so as to guide. There is a framework that is being created.

You know, you hear the Opposition over and over again accusing the Government of wanting to create avenues. You know—well, I should say they should know. They should know what avenues are created to allow pilferage. They should know, because they created many avenues for that to take place. And
we could go on and on, I want to make this—we want to reemphasize this point. When we talk about procurement legislation and securing the purse of the people of Trinidad and Tobago, when you consider what this Government has done over the last seven years, as it relates to white collar crime. It is this Government who has gone after white collar criminals.

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

**Sen. L. Hislop:** It is this Government that has recouped money that friends of theirs took away from the State. It is this Government that is going after white collar crime. So when you want to talk about putting things in place to make sure that we are safe, when it comes to procurement, talk about what this Government is doing. Talk about the operationalization of the procurement regulator. This is what this Government has done. They boasted about passing the legislation, but it fell to us to implement, and it is falling again to this Government to make the necessary corrections. I really cannot understand what the problem—what is the Opposition’s real issue with this here. I cannot—I cannot.

So when we deal with clause 4, we talk the benefits of this exemption. The benefits of these exemptions are far-reaching. It seeks to ease a level of bureaucracy that is going to be faced—or is going to be faced by this legislation. And let us be real, when you look at what is required for business persons to come up to scratch, if I am to use that colloquial term, to come up to scratch to be able to even tender for a contract, it is almost—I am looking for the correct word, but if I am a businessman and I have to literally jump through hoops, I will stay away from even seeking a tender—applying for a tender for a government contract.

But what the Government is seeking to do, yes, we understand what the
Independent Senators have shared with us, that is it that we are lowering the bar when it comes to regulations. Is it that we are lowering the bar when it comes to a standard—and I do not think we are. I do not think we are. What we are seeking to do is to allow smaller companies to remain viable.

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

**Sen. L. Hislop:** I am sure I am not jumping ahead of what the Minister may seek to do with the regulations, but I am almost positive that in those regulations there is going to be a framework that would also create a level of checks and balance on the smaller companies.

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

**Sen. L. Hislop:** But we cannot leave them out. I am part of a small and medium operation, and in all reality when I look—no, I have never vied for government contracts, Mr. President, because we have had enough work in the private sector. We are not getting work now because of the climate in Tobago, but we have been able to survive in the private sector, working in the private sector. But when you consider what is required as a small company, to get into the regulatory framework, it could be extremely daunting.

So the Government is creating an avenue. Not a loophole, as the Opposition would like to think, but an avenue for our small, micro and medium businesses to remain viable.

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

**Sen. L. Hislop:** Why should you fall under the same—well, I would not say scrutiny, but the same level of regulations for a billion dollar contract, if you only seek going after $100,000? When you talk about—I think the Minister of Finance
spoke about it. It is three and a half months—three and a half months to process. Some small and micro businesses do not even have three and a half months money cover. For you to then go through all of that, three and a half months, and you still may not even get the contract—three and half months. That is difficult for a small business. And so it is not as if the Government is saying you could do what you want if it is under $1 million. That is not what the Government is saying.

6.30 p.m.

The Government is saying, “we are making it easier for you to still do business with the Government and state agencies”. That is what the Government is saying. But there are going to be checks and balances on that, Mr. President. You know, when you consider it, the level of scrutiny or regulations that are required for these huge contracts, if I am going after a small contract, it is like using a hammer to kill an ant because it is almost overkill for some of the things that you require.

Now, I heard Members of the Opposition speak to value. We are only hearing about coffee and being trivial about the comment that the Minister made with the coffee. But when you talk about $900—I think it is $900,000, was the contract for the WASA main, where does that fall, Mr. President? It falls under the threshold, but there was a situation that needed attention. Could you imagine waiting three and a half months, I know it has been bandied about, but could you really imagine waiting for three and a half months to go through that process to fix that water main? That is significant in the scheme of things. It is significant because the person who does not have water for three weeks is not concerned about the procurement process that has to take three and a half months before they could get water, you know—requires the water.
But another point I want to look—or another angle I want to look at it from, Mr. President, is that—and I said it before, most of the companies that will fall within this $1 million limit are the small, micro, medium suppliers and contractors. And in all honesty, it is going to be a deterrent, and we need to understand how important and Sen. Deyalsingh spoke about the importance of these companies to the economy. These companies employ people, and we know, we have economists in this House, so we talk about the spin-off of companies in operation because when you leave out that segment, that large segment out of the economy, what it does is that you get the trickle-down effect. You feel it in your supermarket, in your mini-mart, you feel it, because if a contractor is left out of the process, he obviously has to send home people because he is not getting any work. He has to send home people. And that redounds to the man on the ground, the fella who works with the plumber, who cannot fit in to the system and cannot get a contract because he does not qualify. That redounds to the man who works with the plumber, who works with the small contractor. And something as that, something as simple as that could have significant and far reaching lock-horn effects.

You know when we talk about this procurement legislation I remember in Tobago the unit was set up since—there was a procurement unit set up since 2016/2017 thereabout that as was—the previous procurement regulator came and commended the then administration of the THA on the level of work that was being done in that unit and the fact that contractors had to register with that unit in order to get work from the THA. And this is even before the law came into force. But the THA at that time saw the need to start to implement the system for oversight and that was necessary and it worked well in Tobago, Mr. President.
And so the Government is not removing or gutting procurement, it is not doing that. All it is seeking to do is to create an avenue for the small company, the small man, to still be able to function with guidelines because that is what the regulations will be. The regulations—it is not being done as I said, it is not being done in a vacuum. The regulations will be put in place to still create that framework for oversight, Mr. President.

And you may ask the question, why the urgency? Well, the Government sees, or has the vision to see that if we do not treat with this now, Mr. President, that there could be significant problems down the road. Because we could trivialize the talk about the groceries and so on, but that is significant, that is significant. An emergency, an emergency at a Ministry, an emergency at an agency, that is significant when you cannot get the work done. And so, I have absolutely no problem, Mr. President, in supporting this legislation, in supporting the amendments, and I think the Government Bench has—all the speakers, and those to come, have shared over and over again why we need to go this route. The Opposition’s position is “we looking, we cutting road for agouti to run”. That is not what we are doing. If that was the case, then it would have been done in the dead of the night without anybody watching.

Sen. Gopee-Scoon: Like section 34.

Sen. L. Hislop: Like section 34. But we came to people, the Prime Minister said it, the Minister of Finance said it, we have all said the reason why we are here. And so, Mr. President, as short as my contribution is, I support wholeheartedly the amendments that are before us and this legislation. Mr. President, I thank you.

Mr. President: Sen. Lyder.
Sen. Damian Lyder: Thank you, Mr. President. And Mr. President, I thank you for the opportunity today to participate, though low in the batting line-up, I “doh know” if I could guarantee that today, after that contribution from Sen. Hislop, he has given me quite a bit of fodder to deal with.

But, Mr. President, we are here to deal with the Public Procurement and Disposal of Public Property (Amdt. and Validation) Bill, 2023. And, Mr. President, it is indeed with a very heavy heart having to come out of this Parliamentary recess, having taken part in witnessing, and being witnessed and against, of course, the initial gutting and watering down of this Public Procurement and Disposal of Public Property (Amdt. and Validation) Bill, 2023. But it is with an even more heavy heart that I am here today to come here to contribute in a debate that sees this piece of legislation further emasculated, further gutted, and in my humble opinion, Mr. President, decimated. That is what we are here witnessing today.

Mr. President, today we are here to debate, in an Extraordinary Sitting, to see the Government attempt to gloss over what could only be considered as breaking the law, and at the same time, Mr. President, coming here with additional changes to legislation to sort of add an insurance plan, so to speak, to ensure that the Government can do what they want, when they want, with more of the taxpayers’ money, in this country.

6.40 p.m.
Mr. President, I listened attentively to the Minister of Finance in piloting here, and I listened to him in the other place also, not much changed except maybe one amendment or a couple of amendments, and the Minister gave us this long, drawn
out, sort of clandestine type timeline of events of, you know, how they can with the approval of contracts, the approval of service providers, companies going through approval process to be able to supply goods and services to the State, and I think I would have heard him conclude somewhere around three/four months and so forth, which obviously was not fast enough for the Minister, citing reasons of having to deal with emergencies, which my colleague Sen. Lutchmedial already did a good job in indicating where that already exists, the ability to deal with emergencies already exists in this legislation. So we are not buying that.

But, Mr. President, as a result of what the Minister attempted to do, the Minister of Finance tried to do in mamaguying not only the Senate but the population as a whole, is bring this clause, clause 4, which brings amendments that deliver a wide sweeping exemption from anything up to $1 million from under the purview of the public procurement regulator. And in his defence, Mr. President, cited that regulations would be forthcoming. I heard the Minister of State in the Office of the Attorney General and Ministry of Legal Affairs speak about the regulations. I heard my colleague Sen. Hislop speak about regulations. Mr. President, where are these regulations? Where are they? So we are passing a piece of legislation, or amendments to a legislation asking millions of dollars to be removed from the oversight of the public procurement regulator with a defence in place that there will be regulations forthcoming and we have not seen the regulations. Well, maybe this side trusts the Minister of Finance to bring correct regulations, or whosoever. But I could tell you those on this side and more than half of the country do not trust this Government to bring the right regulations. So we are shooting in the dark, Mr. President, once again

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Mr. President, then we go further to another amendment, clause 5, which gives the Minister these near sweeping powers to choose contractors, and at the same point in time choose contractors that may not even be qualified by the public procurement regulator. And Sen. Hislop came, doubled down, and said, you know the Minister is not beyond being penalized because these regulations would be in place. It is not beyond being penalized, Mr. President. But when you remove the independence that comes with the public procurement regulator and put it in the hands of a politician, a member of the Executive arm of the State, who is going to hold him to account? Who is policing the police? Or do we have to wait—the UNC have to wait until someone drops a parcel in our mailbox to be able to hold this Government to account in breach of regulations? What independent body is holding the Minister or any of his members, staff, to task? So I “doh buy dat, Mr. President, I doh buy dat”, Mr. President.

Mr. President, we looked at, most recently in the last week and month, the prequalification process led by this procurement—public procurement regulator, has seen close to 900 businesses being approved in the last few weeks, up to a couple months. So they are moving at a significant pace right now, qualifying and disqualifying contractors and service providers. We are seeing that. And, Mr. President, when we consider that it is only a few weeks ago we proclaimed this law and we only see now a newly functioning office of the public procurement regulator being put in place, we expect that the Government should give some level of time for this process to be undergone.

We in the Opposition would argue that the Office of Procurement Regulation should be given sufficient time to ensure that there is a clean and robust list of
contractors that can be held above scrutiny. In the interest of the taxpayers of this country—and we would have thought that a PNM Government who has been held guilty by the population, not the UNC, you know, by the population of Trinidad and Tobago, for gutting this procurement legislation, we would have thought that they would have seen the merit in ensuring proper independence to the process. But, no, they have further gutted the Bill. They are further gutting the Bill. But, Mr. President, “doh” worry, because it is a United Nations Congress government within two years will fix this problem and we will fix it properly—

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

**Sen. D. Lyder:**—when we relegate them to the Opposition. So what is the rush here today, Mr. President? What is the rush? Clause 4 speaks to the threshold of the exemption of $1 million. So this would relieve the Office of the Procurement Regulator on several vital responsibilities that are required for vetting and ultimately being responsible for properly awarding contracts in this country. That is what we are here debating today.

And I will tell you something, Mr. President. As a businessman, if my chief financial officer and my lawyer for my company came to me to tell me that they were about to remove checks and balances from different departments in my company that would safeguard my money, I would have a sincere problem with that. Mr. President, if I had a chief financial officer and my lawyer coming to me to gut everything that protects my moneys from flying out, and proper transparency and accountability, red flags would be flying high, and it “ain’t go be PNM red flags”. Emergency, red, emergency. Mr. President, so I cannot understand why we are being called here today for this Extraordinary Sitting of Parliament to
further relieve responsibilities of the public procurement regulator. I am perplexed, I am puzzled. I cannot understand this, Mr. President. I am—the whole country, the whole country cannot understand this here today. It only seems to be the PNM that understands this. For how it sounds, I “doh” think the Independents in the back understand it either. But I “cah” say much about that, Mr. President. I have to leave them to make their own opinions.

Mr. President, Sen. Dr. Dillon-Remy spoke about the word on the ground, and I want to agree with Sen. Remy, there are a lot of words on the ground. You see, we are in an election campaign today, and we in the United National Congress, we are touching hands on the ground. We are not seeing the PNM there, but we are touching hands on the ground and we are speaking to people. And every day the people complain, not only about the way the Government runs this country, but about the type of legislation that is being passed in this Parliament. This Government may think that we are fools on the outside, that the citizens of this country are fools. They are not. They read the newspapers. They listen to the Parliament channel. They understand what is going on, and you know what they said on the ground to us when we spoke about this amendment to the procurement legislation? You know what they said?

They said election is in the air. They say it is already too late for the PNM now in the local government election, they done lost that already. They know it, they are doing the polls. The biggest problem for them now is you see 2025, Mr. President, when they are exiled and run out of Government, that is the biggest problem. That is what they are telling me. So you know what they are telling me? They are telling me today, Mr. President, that they are passing this legislation to
make it easy to spend money. Everything under a million dollars. “Doh” worry about the big spend, you know. They already have their hands on the big spend. They see all that small amount ah money under a million dollars—

**Sen. Lutchmedial:** Drip, drip, drip.

**Sen. D. Lyder:** Drip, drip, drip. Mr. President, that is what they are telling me. I did not say it. I do not accuse the Government of anything here. This is the population telling me, “they passing” this legislation so they could start to compensate and make up for those they have upset on their side, their base, but I will move on.

**Hon. Senator:** Twiggy vex, she cannot come—

**Sen. D. Lyder:** Yeah, Twiggy. Down to Twiggy has a problem. Down to Twiggy has a problem. Mr. President, the Government comes to us, and painted clause 4, painted this clause 4, one where a million dollar threshold as simply simplifying the process. And here we are, we have the PNM, when we look at what the PNM understands as simplifying the process in their lexicon, making it easier to spend taxpayers’ money, as the people told me on the ground, without the oversight of the public procurement regulator, Mr. President, we have to consider something.

We have to consider this. We are living in Trinidad and Tobago and “doh” be an ostrich in the stand. There are many people who have multiple companies that they own doing the same service, or providing the same service. There are many people who have family members with similar companies, Mr. President, in there providing the same service. So how is it—so is it hard to think that this Government could take a $9 million contract and break it down into 10 mini
contracts, and it be spread around to five or six of the same companies under one person? That is the type of risk you run when you do not have an independent oversight by a public procurement regulator, and a politician deciding who gets the contract.

Hon. Senators: [Desk thumping]

Sen. Nakhid: That is the point. That is the point.

Sen. D. Lyder: Mr. President, and I heard Sen. Hislop here say that we have Members of Parliament before the courts. Well then, they have Members of Parliament before the courts. Mr. President, I just gave you an example of multiple companies. But if Sen. Hislop could tell this population that we have Members of Parliament before the courts, well I will tell you they have a Minister under investigation, Mr. President. A Minister on that side under investigation. Someone. I am not going to call his name, Mr. President, but he has been fostering a lot of contracts in similar companies.

Hon. Senators: [Desk thumping]

Sen. D. Lyder: He has been fostering a lot of similar contracts, and under investigation today.

Sen. Nakhid: In his comings and goings.

Sen. D. Lyder: Yes.

Sen. Lutchmedial: His comings and goings.

Sen. D. Lyder: Yes.

Sen. Mark: Coming and going.

Sen. D. Lyder: Yes.

Sen. Lutchmedial: All the emergency work in the school.
Sen. D. Lyder: Correct. And, Mr. President, and now we are coming here to validate a CARICOM Heads of Government Meeting, Mr. President, a celebration of wine and dance, a Conga line, Mr. President, right, that cost this Government, or cost the taxpayers of this country beyond $9 million, we are hearing. Beyond $9 million we are hearing, Mr. President, and surely—

Hon. Senator: Mr. President—

Mr. President: One second. One second. Senators, the mumbling and the crosstalk is getting a lil loud. Sen. Lyder, continue.

Sen. D. Lyder: Thank you, Mr. President, and, Mr. President, surely in that $9 or more million surely that was broken down into contracts that were less than $1 million. So I hope that this Government is not coming here today, racing like a headless chicken into the Parliament so that he could pass this legislation and keep veiling from us the details of that CARICOM, the details of that, Mr. President. I hope—because, Mr. President, Sen. Mark said something here. He said we in the Opposition and the country want to know how much has been spent? We want to know who got those contracts, but what he did not say is we want to know who gave them contracts, and we are asking for the Government to expose who gave those contracts.

Hon. Senators: [Desk thumping]

Sen. D. Lyder: Because you connect the dots, Mr. President. You connect the dots. Mr. President, the Government in their defence of these amendments seeks to trivialize—I hear that word “trivialized” a lot today—clause 4, by speaking of it as is $1 million is nothing, is no big deal. But, you know, Mr. President, the State spends, millions, if not billions of dollars, in increments under $1 million. So the
Minister by simply saying, if you want to pay for this glass, if you want to pay for a teacup, if you want to pay for toilet paper and bearings for a ship, a coast guard vessel that sits down and does no patrolling of our borders while illegal guns and ammunition flow into our shores, seeing the murder rate the way it is today.

If the Minister wants to trivialize it like that, I will say to you, why has the Government not come here today to tell this Senate exactly what percentage of that more than $60 billion that is allocated to be spent by this Government? What percentage of that spend is contracts a million and below? Because it is trivialized. But suppose, suppose, Mr. President, is 50 per cent. Just say hypothetically it is 50 per cent. So are you telling me now some $30 billion or more is removed from the oversight of the public procurement regulator. So I challenge Minister Imbert to come in his wrap up and let us know, how much?

Mr. President: Minister of Finance. Minister of Finance.

6.55 p.m.

Sen. D. Lyder: Sorry, Mr. President. Yes. The Minister of Finance to tell this Senate, when we vote for clause 4, exactly how much money of the taxpayers’ dollars are we risking exactly?

Mr. President, but let me tell you this because if you had any doubts, I did my research. I went into the yellow books. I was shaking to go into it again because I felt so sick when I had to look at them during the last budget debate. But I went into them nonetheless and I could just tell you just looking at a few things. I mean Sen. Hislop himself spoke about $900,000. But we saw under the Ministry of Tourism, Culture and the Arts, $496,000 on some contracted services.

Sen. Mark: What about the 1.7 million?
Sen. D. Lyder: Exactly. Mr. President, we looked again, we saw under the Ministry of Works and Transport—I am not seeing my colleagues here, but I am sure the colleagues will let them know. Minister of Works and Transport, with just in one division spent $700,000 in janitorial services. Oh, I see the Minister of state is here. So he could carry that information on to the head honcho. But $700,000 in janitorial services in one division, and when you look there have been several divisions. That is a $700,000 here, a $800,000 here. And when the public procurement regulator is not looking at that, I wonder what friend and financier will get that contract for all “dem” divisions, Mr. President?

Hon. Senators: [Desk thumping]

Sen. D. Lyder: I wonder. You see that is the risk you run, Mr. President, by removing independence. When you see this Government guts—when this Government goes and breaches independent institutions, this is the price the people of Trinidad and Tobago have to pay.

Mr. President, when we look at my dear colleague—soft hands as they are—and we talk about $50,000 coming out of the Ministry of Trade and Industry for promotions, publicity, printing, no oversight. Mr. President, when we have our lovely hon. Attorney General here with us purchasing his favourite books and periodicals to the tune of $100,000, there is no oversight—no oversight now. When you have the Office of the Prime Minister putting aside some $320,000 for some official entertainment in 2022 and when you check his Facebook page is a Conga line in Chaguaramas. Eh? A Conga line in Chaguaramas. That is the thing—that is taxpayers’ money that this United National Congress will continue fighting to protect as we stand up here and fight this Government.
Hon. Senators: *Desk thumping]*

Sen. D. Lyder: Mr. President, this Government has launched a propaganda campaign that they take care about removing red tape in the process of getting goods and services. They purport that the removal of several regulatory practices in clauses 4 and 5 will reduce the red tape. But, Mr. President, you know what the citizens of this country want to know? When are they going to reduce the red tape for relief grants to flood victims? When are they going to reduce the red tape for surgery funding for children? They want to know when they are going to reduce the red tape, Mr. President, for not just the seven UNC corporations you know, but all 14 corporations so that the burgesses and citizens that live within there can get their goods and services.

Sen. Gopee-Scoon: *[Inaudible]*—to.

Sen. D. Lyder: No. Mr. President, they speak about red tape when it is convenient, but not when it is to help the citizens of this country.

Hon. Senators: *[Desk thumping]*

Sen. D. Lyder: Mr. President, this information campaign goes further with the Government coming here to tell us about fixing the ease of doing business with the small and medium and micro enterprises. I heard Sen. Hislop talk about it at length. I heard the hon. Minister of Finance talk about it, and I have to tell you, it is the first time after more than three years standing up here, budget after budget, that I have actually heard the ease of doing business being uttered out of any of their mouths once. It is the first time I hear it.

Sen. Lutchmedial: They try to avoid it.

Sen. D. Lyder: They try to avoid it because they know. But any logical thinking
person, Mr. President—you do not have to have a degree, just know how to do business. Any logical person will tell you that by passing this amendment for 4 and 5, that is not going to fix the ease of doing business for these small companies. Now it might; it might fix the ease of doing business for small companies who are friends, family and financiers at the PNM. That is what it might fix.

Sen. Mark: I think Lennard may—[Inaudible]

Sen. D. Lyder: Yeah, Lennard. I do not know. But I will tell you what, Mr. President. If they are so concerned about the ease of doing business in this country, where they are coming here rushing here today to pass legislation, well, let us see the same amount of speed to pay back the $7.8 billion owing in VAT refunds to manufacturers in this country.

Hon. Senators: [Desk thumping]

Sen. D. Lyder: I want to see them put as much urgency in fixing trading between borders, in fixing access to public utilities, in ensuring that businesses have access to US dollars in this country. I want to see them fix the ease of doing business, Mr. President, when it comes to safety and security in Trinidad and Tobago because we live in a minefield where every day you go to work you worry about who is going to “lock yuh neck” next.

Mr. President, clauses 4 and 5 do not help business in Trinidad. It does not help it succeed unless, as I said, you are the choice of the Minister who gets the power to choose. But just look at the language of clause 5 for a minute. The Minister is empowered, of course, and this is my opinion, this is all they want. They want to improve the business environment, but to put all the power into a political member of the Executive arm of the State—and we have come here,
legislation after legislation, with them bringing that, putting the power in the hands of Ministers, and we see here it again.

Mr. President, I could say this to the business community today. You see that press release that came out with the Chambers of Commerce, with Trinidad and Tobago Manufacturers’ Association, AMCHAM, and the rest of civil society who came out today finally fed up with this Government, completely fed up with this Government, and they are voicing their opinions now. Thank God, and I will say this to them today, let not your heart be troubled because the United National Congress is two years away from taking Government and fixing all these ills that they have brought to us here today.

Hon. Senators: [Desk thumping]

Sen. D. Lyder: Mr. President, today the Minister of Finance—can I ask how much time I have left, Mr. President?

Mr. President: 7.17.

Sen. D. Lyder: 7.17. Thank you, Mr. President. Fifteen minutes, right. Mr. President, the Minister of Finance cited several—in fact, I will come back to that. Mr. President, I was going to leave this later down, but because my hon. colleague, Sen. Hislop was so boisterous today speaking about Tobago.

Sen. Roberts: “He running. He running.”

Sen. D. Lyder: “Don’t run. Don’t run. Stay for it.” So Sen. Hislop spoke about the PNM being behind and working on white collar crime. They are the biggest advocates for fixing white collar crime. Mr. President—and this is in the public domain so nobody could stop me for this—the People’s National Movement has been accused of interfering by the Chief Secretary of the Tobago House of
Mr. President: So Sen. Lyder, that is not relevant to the debate before us now. I will ask you to move to another point.

Sen. D. Lyder: Thank you, Mr. President, and if you allow me, I am connecting some contracts that would fall in the clause 4 which is under $1 million, and the lead up here is very relevant to bringing to my colleagues all here today as to why this clause 4 is dangerous. So if you allow me a mere one minute, I will make my point and it will be relevant.

Mr. President: Make sure.

Sen. D. Lyder: Thank you, Mr. President, you are an understanding man. Mr. President, we saw it in the Newsday on the 23rd of June—because I am responding also to Sen. Hislop about the white collar crime. So if they are interfering in the investigation of white collar crime I need to challenge him. So those two points make it relevant what I am about to say.

Mr. President, we saw on the Newsday on the 23rd of June, the PNM is allegedly getting in the way of reporting on audits and these is the contracts: on emergency restoration works programme; on the road restoration problem—

Sen. Gopee-Scoon: Point of order.

Sen. D. Lyder:—the road resurfacing programme—

Sen. Gopee-Scoon: Point of Order.

Mr. President: There is a point of order.

Sen. Gopee-Scoon: 46(1). There is no relevance to the Bill at hand.

Sen. D. Lyder: And I said why—

Mr. President: So like I have ruled before, tie it to the Bill. I heard what you are trying to do, and I am listening very carefully. It is a very thin line that you are walking in relation to relevance. Continue cautiously.

Sen. D. Lyder: Thank you, Mr. President. They cannot stop me, Mr. President, I am on fire today. Mr. President, the emergency infrastructure rehabilitation project, and the agricultural access roads project in Tobago, serious allegations in the public domain that warrant a police investigation on contracts that have been given out, many of them under $1 million, Mr. President. Many of them under $1 million.

Hon. Senators: [Desk thumping]

Sen. D. Lyder: In fact, Mr. President, there is an allegation—sorry, sorry. In fact, Mr. President, I am so excited for you to see the relevance here now, and I say to you that in fact there is one contractor. Remember we spoke about these contractors with multiple projects, and there is one contractor claiming more than $40 million. Many of those were under one—each separate small road contract under $1 million, and a man, a Chief Secretary by the name of Farley Augustine has shown that many of these roads that had been paid for under a million dollars do not exist today—

Hon. Senators: Wow!

Sen. D. Lyder: Do not exist today.

Hon. Senators: [Desk thumping]

Sen. D. Lyder: And when you remove of the independence of the procurement regulator, this is the bacchanal that happens, and that is why Tobago is in an uproar today. That is why it is in an uproar today.
So if Sen. Hislop’s point is that this PNM Government has been behind white collar crime, then I call on his government to investigate those matters immediately.

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

**Mr. President:** Okay, so it is getting a little loud and I am finding it difficult to hear Sen. Lyder. So again, allow the Member to speak with silence in the Chamber. Continue, Senator.

**Sen. D. Lyder:** Thank you, Mr. President. Mr. President, I would leave it there, you know. I will leave it there. I made my point. What is in the dark will always come out to light—

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

**Sen. D. Lyder:**—and Farley Augustine will bring the light for Tobago.

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

**Sen. Roberts:** Fluorescent light.

**Sen. D. Lyder:** Mr. President, I heard the Minister of Finance draw reference to a number of countries. I may not have the time to cite all, but I will cite two. So the Minister of Finance spoke at length about several countries and he cherry-picked several countries that said that they had similar practices with their procurement legislation. One of them is Australia, he cherry-picked Australia, that has certain exemptions that are similar to the TT $1 million equivalent, clause 4. However, Mr. President, upon further inspection of the Australian procurement regulation, their Commonwealth—and I am going to read this, Mr. President, because when I heard it I had to go and do the research quickly. The Commonwealth Procurement Rules clearly state according to the Department of Finance that and I quote:
“...officials must consider among other things, a potential supplier’s relevant experience and...”—the—“...performance history when assessing value for money. This could include consideration of any unethical behaviour and/or deficiencies in performance under prior contracts (including failure of the tenderer to abide to by substantive requirements such as confidentiality provisions).”

Now, what is the potential of clauses 4 and 5 to offend this here? Because, as far as I am concerned, there is no oversight. There is absolutely no oversight, Mr. President. There is a possibility for any Minister, not this one, any Minister, to abuse their powers of discretion, to order contracts to be awarded to contractors who are qualified or who may be not only not qualified, but could be facing courts against the Government. We know many cases like that today where contractors getting contracts and in the court with the Government. I am not calling any names, Mr. President.

I want to go further with Canada. He spoke about Canada having these favourable comparisons to exemptions structure proposed, that he has proposed here today. But if you dig a little deeper just on the same front page of the Canadian’s procurement regulation website you will see that their regulation is closer to absolute rather than potentially left to the discretion of the Minister. It says, and I quote:

“Only the criteria that were published in the bid call document may be relied on to evaluate the bids that are submitted, which means that the evaluation criteria must be developed before the release of the bid call document. The bid call document must be transparent, and the evaluation criteria apply
evenly with respect to the assessment of all compliant bid submissions. A public agency may make adjustments to the performance criteria after selecting a preferred bidder; however, the right to make such adjustments must itself be reserved in the bid call document.”

7.10 p.m.

Mr. President, so though Canada may have an exemption threshold in certain aspects of the procurement of more than $1 million, their fundamental process is stringent and it really reduces the possibility of interference and misappropriation which we do not see here today under clause 4 and clause 5. We do not see that here today. The discretion of an individual Minister as we see in clause 5 can hold the same weight of the entire machinery of the public procurement regulator. One politician carrying the same weight as an entire office of the procurement regulator.

Sen. Mark: They want control.

Sen. D. Lyder: Yes, Mr. President. So Canada outlines that—what we see is that Canada outlines that, you know, the goalpost can be shifted somewhat. But what we see under the legislation is the goalpost is coming off the field, coming out the track, leaving the stadium, going in the car park, and going into a financier’s car trunk, Mr. President.

Hon. Senators: [Desk thumping]

Sen. D. Lyder: “Dah way the goalpost going. Dais way the goalpost is going, Mr. President.”

But I will tell you something, the Government could cherry-pick all of those countries, and you cited the United States of America, the EU, and “ah could fight
up all ah them with that”. But the Government could cherry-pick from any of those countries with their moot and foolish points, but the reality is this, Mr. President. The one thing that none of those countries have that we have here, the one thing they do not have to deal with that we have here, the one thing they “doh” have is “ah PNM Government”.

Hon. Senators: [Desk thumping and interruption]

Sen. D. Lyder: That is the one thing they do not have. And the perception—“lemme” not say anything about corruption.

Mr. President: Senator, you have five more minutes.

Sen. D. Lyder: I thank you, Mr. President. I might not need the whole five minutes because I think I made my point. But it will be remiss of me not to end my conversation without dealing with one matter.

Sen. Mark: [Inaudible]

Hon. Senators: [Interruption]

Mr. President: Senators, allow the Senator to speak.

Sen. D. Lyder: Or, sorry, right. I found it, yes. I listened to Sen. Mark. He spoke about the various Chambers of Commerce, he spoke about the civil society, he spoke about the TTMA, the press release today.

Sen. Gopee-Scoon: [Inaudible]

Sen. D. Lyder: I heard Sen. Dillon-Remy speak today about a concern from a senior public officer, I heard it, I was listening attentively, great contribution. But, Mr. President, I have to ask this question and the Government, they might not want to answer it here today, but they will have to answer it at some point. Is it true—and I cast no aspersions, but is it true that there are permanent secretaries
right now and government employees right now who have serious concerns about the direction of this public procurement legislation and the further gutting of it? We are hearing tongues wagging in Port of Spain. And I may want to ask this to the hon. Minister of Tourism, Culture and the Arts, the hon. Minister of Trade and Industry, maybe they have heard something. But are there serious concerns that permanent secretaries are worried about the risk to their reputations, to their legacy?

Because when a permanent secretary is required, whether pressured or not, to sign off on funding and there is no public procurement regulator to protect the permanent secretary, when a permanent secretary signs off, pressured or not, moneys to state organizations with politically-appointed chairmen, boards of directors who then appoint CEOs and that money is misappropriated, why? Because we pass clause 4 and clause 5?

Mr. President, what a terrifying thought if I was a Permanent Secretary at this time under this PNM Government. Imagine under this amended legislation, you are going back to the days of rubber stamping. That is where you are going back to, not knowing if your next disbursement is going to tarnish your career, might end you up in the courts and many innocent people, many innocent people, can fall victim to this amendment here today, many innocent people, not just permanent secretaries, but government employees, employees in state companies

And I put it to you this, as I close, Mr. President, if I were some of the Ministers on this side, those who are the toothless tigers who do not sit in the top five who have no decision-making on who sit on what board, I would be worried if I was them too. I would be worried for them too because when their Ministry
allocates money to a state company where they had no play in appointing a chairman, a board of directors and a CEO and “hey get dragged down in that bacchanal” too, I would be worried if I were them. So that is why I hold out hope that some of them would see the light and vote against this. But I know that would not happen, I know that would not happen. There is no testicular fortitude on that side to stand up against the big five.

But, Mr. President, I will tell you what, I say to them also, I say to the permanent secretaries, I say to the government employees who are at risk of these amendments today, be not afraid, be not afraid. When the few of them left, come over on this side and make up the six here, they will be thanking the UNC for putting up a fight today. They will be thanking the United National Congress for standing our ground against this draconian dictatorship of a government. They will be thanking the UNC led by Kamla Persad-Bissessar for standing up against this piece of legislation, fighting against it and when we come back into power in 2025, Mr. President, you could rest assured we will undo all the wrong that this PNM did. And I thank you, Mr. President.

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

**Sen. Amrita Deonarine:** Thank you, Mr. President. I have to say that since I have been in this honourable House, every time this Parliament is convened to debate matters related to public procurement, it has been deeply worrying. This is the third time we are here to debate matters relating to the Public Procurement and Disposal of Public Property Act. The first time since I have been here was in 2020 when Act No. 27 of 2020 was debated, and the second was to debate the procurement regulations meant to operationalize the procurement law, and today
we are convened in an emergency sitting to validate and approve some additional amendments.

Mr. President, while I understand the predicament that the Government finds itself in and the potential consequences doing nothing could have, I have to say that the clauses of this Bill do not sit well with me. It appears to erode the very principles of transparency built into the law. Transparency and accountability.

Hon. Senators: \[Desk thumping\]

Sen. A. Deonarine: Now, I want to start with clause 6 which seeks to validate any statutory instruments and actions taken under those instruments as lawfully and validly made and done had the instruments complied with the Regulations under section 7(6) of the Public Procurement and Disposal of Public Property Act. So for us to understand what this clause is doing, we need to consider the series of events that led us here so that we can determine, one, whether or not the Minister had no other option but to issue these two orders under subsection (6) of section 7 of the procurement Act and two, whether or not it should have been done with parliamentary approval in the context of the drafting error made in the law.

Let us start with whether or not the Minister had no other option but to issue these two orders. Having gone through the Procurement Regulations multiple times, it will seem apparent that there are provisions under regulation 14 which makes accommodation for cases of extreme urgency brought about by unforeseen events not attributable to the procuring entity. This is according to regulation 14 under the Regulations for, I believe, it is the “Procurement Methods and Procedures”.

So during periods of extreme urgency due to unforeseen events, you may
contract—this is what the regulation says, you may contract one supplier but you are contracting that one supplier even though others are available on the market. This is under “single source selection”. It would have been simple for the case of the CARICOM meetings, for example, to satisfy as a case of extreme urgency due to unforeseen events under this regulation. However, we have another problem why this could not be used; the problem that prevented this from happening.

All suppliers and contractors have to register with the procurement depository under section 26 of the parent Act and the procurement entities must do their due diligence to ensure that suppliers and contractors meet the specific requirements in order to prequalify them. So it is two things that have to happen. On one end, you have suppliers and contractors who have to register on the procurement depository and then on the other end, what you have having to happen is that the procuring entities need to pull that information from the depository and start the due diligence process so that they can prequalify persons who they can start engaging in to award a particular contract or to commence the procurement process. So this means that all suppliers and contractors have to register. So it is in indeed going to take some time for such an exercise to be completed.

But what is important to note is that the prequalification process happens only once and it is happening only once because the law is now, less than two months ago, fully proclaimed. So this process of prequalification of suppliers and contractors getting registered with the depository and the procuring entities going through the prequalification process, this is going to happen one time unless, later down the line, these persons are removed or considered ineligible. However, the Government is in the problem where awarding of contracts have slowed down
significantly because at the point of the full proclamation of the Act, it seems as if a vast majority of entities did not submit a report to the Office of Procurement Regulation to say if they had documentation, personnel, support and financing to implement legislation or its guidelines, procedures or protocols. And then on May 3\textsuperscript{rd}, this is a couple of days after the legislation was fully proclaimed, I think it was proclaimed on the 26\textsuperscript{th} of April, I saw an advertisement by the Office of Procurement Regulation for 14 vacant positions.

Prior the full proclamation of the Act, you had suppliers and contractors who have not gone to the Office of Procurement Regulation or Office of the Procurement Regulation’s system to register on the depository, despite multiple entities advertising and encouraging suppliers and contractors to register on the depository so the uptake was pretty slow. So since the full proclamation of the Act now, what you have happening is that a lot of suppliers and contractors are now rushing now, and it is overwhelming the system because these suppliers and contractors now realize that they cannot get any Government contracts unless they are registered on the system.

\textbf{7:25 p.m.}

So the Office of Procurement Regulation is now overwhelmed because you have an influx of persons trying to register which is understandable, because look, law is now fully proclaimed. And you have the office with still 24 vacancies. Now, I checked with the Office of Procurement Regulation and it is confirmed that 24 vacancies currently exist within the office which they are working assiduously in trying to fill. So we have the office itself that is under-resourced in order to deal with this level of work load that is coming into the system from the full
proclamation of that Act. Not to mention that from January to until a couple of weeks ago, the procurement office was out of a regulator. The deputy chairman was acting in the post of the regulator.

On the other hand, you have a situation where—when the suppliers and contractors are now registered in the OPR system, you have a situation where the procurement officers in the public bodies are not there to pull the information to prequalify them because many of the public bodies do not have named procurement officers yet. And the person who has to commence the process of prequalification is that named procurement officer. And as we are right now as of yesterday, I sought confirmation from the Office of Procurement Regulation, there you have—of 325 public bodies you have 147 public bodies where there are no named procurement officers and there are 152 bodies where there are no named accounting officers. So the named procurement officer is the one who shall be suitably qualified under the Act, experienced, and competent to prepare the annual procurement plans, and submit for the approval to the accounting officer.

So what this means is that you have—the Act is just only less than two months fully proclaimed, you have under-resourced Office of Procurement Regulation’s system, you have the system itself being overwhelmed with a lot of suppliers and contractors populating the system trying to get registered because they need to register in order to bid for government contracts. And then you have the procuring entities which are the public bodies who really are still in the process of playing catch up, to find out who it is they are going to name as their procurement officers. So, by not having a named procurement officer in some 45 per cent of public bodies, it automatically means that you have no procurement
planning taking place at this point, even though the procurement plans are usually due six weeks after the budget is read.

And so, you do not have procurement planning taking place and also there is no officer to provide justification for the use of single source selection. Because the named procurement officer is the one who has to—is the one who has to go through the process to prequalify, identify the contractor, let us just say in this case the single source selection it could be used, if there is a large enough pool of persons already prequalified, what you end up having taking place is that you have the named procurement of this—no named procurement officer so you cannot have a single source selection even starting to take place even if it is you have a small pool of suppliers and contractors registered. So the arguments that the Government will grind to a halt, SMEs will suffer, routine procurement cannot be done because the Act is too stringent, all seem to me to be a problem that we should have, as Sen. Dr. Dillon-Remy said, we should have thought of before we decided to fully proclaim the Act.

Mr. President, despite contemplation on the procurement Act, the Government should have been very well aware of the lack of readiness, and therefore should have ensured transitional provisions for a phased registration and prequalification in the transition from the old system to the new one. Mr. President, this is not a new issue. This is an issue that I know the OPR has been raising in joint select committee meetings. It is something that prior to my incarnation here, prior to me being a Senator, I worked at the Inter-American Development Bank, and I was very much well aware of this whole procurement process—the public procurement Act. So it sounds to me—I do not know, I am
assuming—but it sounds to me that the intention was to fully proclaim the Act with
the hope that it will force suppliers and contractors to register, and procuring
entities to sort out their internal controls and procurement function. But what
ended up happening, Mr. President, is a backlog in the system was created. Public
investment is now at risk, ease of doing business at risk—is being suffered. We
have SMEs that are being suffered.

And ultimately what we have taking place, because now the fact that public
investment or infrastructure development spending is almost to a halt or is taking a
longer time to take place to happen, you have the country’s annual GDP forecast at
risk of not meeting that GDP forecast. Because, you are not spending, you are not
being able to award contracts, therefore you are—you cannot hire contractors, who
cannot employ persons who not buying materials, and you know, the multiplier
effect is not happening. So, to me, I feel like we should have thought this through
very carefully before we fully proclaimed this Act. I know very well that the
Government would have been very much aware of the level or readiness of
procuring entities in public bodies.

And therefore, rather than introduce this amendment in the legislation which
deals with a limit of $1 million being exempted from the Act, even though it is
subjected to regulations, I do not have these regulations in front to me, the fact that
it says that it is exempted from the Act, the section says, Mr. President, clause 4, it
says:

“Exemption from this Act.”

Now, I heard the Minister explain that the intention is to make regulations and
these regulations will subject the award of these contracts to a simplified
procurement process. If that is the case, Mr. President, then why do we not name the section “simplified procurement process”, rather than “Exemption from this Act”? Because the concern is there that if you exempt the procurement of goods and services up to $1 million under this Act, it means that it is automatically exempted from that section of the parent Act which deals with the splitting of contracts.

So, Mr. President, I could see how there was—I could see how the Minister had no option but to issue the Orders because of this situation that I have painted that occurred because of the full proclamation of the Act. The next question then is whether or not it should have been done with parliamentary approval in the context of the drafting error made in the law. Now, from what I heard the Minister say, is that he said that he was given—legal advice was sought on whether the affirmative resolution was necessary. He was told based on legal advice that it was not because of the error in the law with respect to reference of sub-section (5). And what the Minister is saying is that we would have had to convene Parliament to change a “5” to a “6”, and then amend the subsection—and then come back to debate the affirmative resolution.

7.35 p.m.

What I would say—because a lot of Senators touched on this before, Mr. President, and I do not want to delve on this—to this is that the subject of procurement is too sensitive of an issue in Trinidad and Tobago to have left this gap in the law and then introduce two Exemption Orders. Mr. President, there was an agreement in this honourable House to change that negative resolution to an affirmative resolution. And here we are here today in clause 3(b)(ii) to reverse that
change. The error in drafting was recognized back in December of 2020. And after considerable amount of debating and controversy surrounding the amendments to section 7 back in 2020, for the sake of the principles of accountability, transparency and integrity, as outlined in the objectives of the Act, I would ask that the Minister should, for the very least, give a proper account of how the moneys were expended under these two Orders.

Further, I would like to ask the Minister to explain why. And I think Sen. Seepersad raised this as well. I would like to ask the Minister why the guidelines under section 7(8), that were agreed to in those amendments back in 2020, have not seen the Parliament to date. Because, from what I understand, those guidelines that govern the section that deals with exemptions, general guidelines should be made, according to section 7(8), and sent to the Office of Procurement Regulation and then the office of the procurement regulator sends it to the Parliament. That did not happen and this is even after the fact that the services have already been procured.

So, Mr. President, I am of the strong belief, because many Senators raised it before, that there is ample space in Part VIII of the parent legislation to have introduced an amendment to introduce a transitional provision for a period of six months, or even a year, to allow for suppliers and contractors to register on the depository, to allow for public bodies to catch up. Because even though you have procurement officers who are named in 50 per cent of the public bodies, you still have a situation where most of those 50 per cent of named procurement officers still have to get up-to-date with the Act and the expectations of the Act, on top of having to prequalify persons so that procurements could start to take place.
Mr. President, I want to deal with—right. I have one more thing to say about this change in clause 3 from the affirmative resolution to the negative resolution. I probably misunderstood the Minister, but what I heard him saying is that he cannot bother to convene the Parliament so regularly for trivial matters relating to the exemptions, relating to laying of orders to deal with services that will be added on the exemption list. And I do not think, Mr. President, that that was the thought process behind the introduction of that piece of amendment in the legislation. I do not think the intention was to have to use it so frequently to have to be in a position where you have to continuously come to the Parliament and lay orders to subject to affirmative resolution of the Parliament. Because remember, Mr. President, you already have exemptions for legal services, which is broad, debt financing services for the national budget, accounting and auditing services, medical emergencies or other scheduled medical services.

Mr. President: Sen. Deonarine, one second.


PROCEDURAL MOTION

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon): Mr. President, in accordance with Standing Order 14(5), I beg to move that this Senate continue to sit until the completion of the business at hand. Thank you.

Question put and agreed to.

PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY (AMDT. AND VALIDATION) BILL, 2023

Mr. President: Continue, Sen. Deonarine.

Sen. A. Deonarine: Thank you, Mr. President. So Mr. President, with respect to
clauses 4 and 5, which deal with the introduction of the new 5A to exempt procurement of goods and services up to $1 million, I already dealt with that. But what I want to say though, is that I understand the thinking behind the introduction of this exemption, given the hiccups in the transition process. But what I also want to say is that I do not agree that this is the way to fix the problem.

Let me just zero in on this whole point that you have procuring entities that are not just ready yet. For example, I received the list of procuring entities who are missing from the Office of the Procurement Regulation’s system. I do not know if this means that they do not have a procurement officer? Most likely I think that is what it means. But the Board of Inland Revenue does not have a named procurement officer or accounting officer. CEPEP does not have a named procurement officer or a named accounting officer. CEPEP, a company that does—we have local government elections coming up. It is an environment-based company; a company that tenders out small contracts below the value of $100 million. EximBank is not included. These are just some of the entities that do not have a named procurement officer and a named accounting officer.

What I would have preferred, is rather than exempting all goods and services procured under $1 million from the procurement of the Act. So my primary preference is to have introduced a transitional provision under Part VIII of the Bill to have allowed for a specified period of time for the transition from the old system to the new system, maybe six months. I would also even accept one year.

But, as I would have already mentioned, if it is we say that the section is not exempt from the procurement Act but just subjected to simplified procurement procedures, or simplified procurement processes, then you make your regulations
for this section which will govern exactly how this simplified procurement process will take place and all these contracts that would be procured under the $100 million will still be subjected to the scrutiny and the oversight of the Act. This is also an option. Why can we not take that into consideration?

As a matter of fact, Mr. President, how it should have been done in the first place was that in the parent Act you should have had the threshold. But this was a matter of much debate because when we debated the Regulations, thresholds come under the (Procurement Methods and Procedures) Regulations. And the reason it came under that part of the Regulations is because this new procurement—modern procurement system, is a decentralized system where you have different public bodies, establishing their own thresholds on the recommendation or on consultation with the Office of the Procurement Regulation. So you have a system where you have a myriad of thresholds from one entity to another entity.

What should have been the case, given that we are very young in our development and our knowledge capacity and our know-how of modern procurement system is that in the parent law, you should have introduced the thresholds, but that did not take place.

Mr. President, and I think that it is important for our purposes for what we are trying to achieve, is that we have to understand that we are adapting to a new system, a system that is trying to change the status quo. We are trying to break the cycle of weak compliance, improper accounting records, improper internal controls.

This exemption gives—it actually does the opposite. It shows that we are—I do not know, trying to resist the change by circumventing the carefully
thought-out procurement system, carefully thought-out law. I do not know. By creating a parallel procurement system where every one of the requirements, according to section 28 of the parent Act, where the contractor and the supplier has to participate in public procurement is that they have to—one of the requirements is that they have to fulfill their past obligations. Many speakers spoke about that before and we are just escaping that. This is $100 million for one contract, 100.

You will have a situation where you are creating an incentive for those who are already trying to beat the system. Under $1 million, you do not need to register and you are still benefiting from public contracts. You do not need to register in the Office of Procurement Regulation depository. Should we not be cultivating a culture of compliance, proper accounting, internal controls within our small/medium enterprises?

Mind you, if it is we are doing—the intention is to do simplified procurement process, simplified procurement process. We rename the section to simplify the procurement, not exempt it from the Act, you know these same SMEs would very well be able to benefit and still have a period of time to transition to give them—Some SMEs may need six months, some SMEs may need one year, to get their accounting in order, get their internal controls in order to get their tax compliance certificate, their NIB compliance certificate. Because at the end of the day, what we are trying to do is boost these SMEs so that they become more productive contributors to our society, so that they can generate additional GDP to our country. And by getting these SMEs on board to register and fulfill the due diligence requirements, what we are ultimately doing is helping them to qualify for a loan and allowing them the opportunity to have access to financing, because they
would have their documents in order.

Mr. President, I see potential for this clause to be used and abused if it is left as it is, and it also—as I said before—does not encourage the suppliers and contractors to sign on to the depository. There is also the potential to split contracts, which I also mentioned earlier.

I probably mentioned this already, but perhaps what should be done right now to guard against the mischief and ensure that people continue to register with the OPR and also give them time to have procuring entities to get up to speed is that transitional provision, even if we put a sunset clause on that supposed section that we are going to exempt from the law.

Mr. President, I want to say again that exempting procurement up to $1 million from the procurement Act, telling us that, you know, it is subjected to regulations, I have not seen the regulations, just like I have not seen the guidelines that were supposed to be there with the Exemption Order. I still have not seen those guidelines.

And saying that you are going to exempt these things up to $1 million, $1 million—sorry, I have been referencing very wrong. It is one million? It is 100, yes.

7.50 p.m.

Hon. Senator: One million.

Sen. A. Deonarine: One million? If we are to look at it very carefully right, in like multilateral lending agencies, for example, for small procurements there is a threshold and these small procurements are usually for things like a three quotes system, right, where you can engage in direct contracting. The threshold for that is
usually US $100,000. US $100,000 for multilateral development bank projects that are being implemented.

So I do not know, I also feel like this threshold is a little bit too high. We have to take into consideration that the VAT registration requirement is $600,000. Maybe we need to reduce this threshold or create bands within the threshold, because we are in the process of setting up a Trinidad and Tobago revenue authority. At one end you do not want to be fuelling the tax evasion problem or encouraging the tax evasion problem because you already continuously having to implement or to exercise tax amnesties. And then on the other end you want to have a Trinidad and Tobago revenue authority to deal with the tax compliance and tax evasion issues in the country. So I just would leave that there.

All right. To me it seems as if we are creating a parallel procurement system. It is just like, you know, when we had the Central Tenders Board it was taking long, it was too bureaucratic, so then for state owned enterprises we created a whole new system where they could have undergone their own procurement by themselves.

So Mr. President, what I am trying to say is that there is no limit where it can stop. And you do not want to be in a position where as soon as it gets difficult, as soon as it gets difficult in trying to adapt to a new system, you keep undermining the law because you just trying to resist the change. Then you will end up defeating everything that the law was intended to achieve. If you feel—

Mr. President: Senator, you have five more minutes.

Sen. A. Deonarine: Thank you, Mr. President. If the concern, and I know this is the concern, the concern is that the process is too bureaucratic, as I said earlier
my contribution, if it is you have that transitional provision, if it is you allow a period of time for these suppliers to register and for the procuring entities to come on board, prequalification takes place only one time. So this is really a one-time problem. Afterwards everything should be operating smoothly and efficiently once the knowledge and the capacity building takes place within the procurement units in the public bodies and the OPR is well resourced.

But Mr. President, undermining the framework for accountability is not the way to bring about efficiency. We know that there are structural inefficiencies in the public service, we all know that. If it is taking too long then we need to sit back and evaluate. Why is the process unduly long? I actually helped explain why the process is unduly long. We have to find and fix those things. But cutting off portions of the procurement and exempting of the procurement law and exempting them from coverage under the law that was not intended to regulate and bring everything into order and consistency. I do not think we should do that. With those few words, Mr. President, I thank you.

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

**Mr. President:** Sen. Richards.

**Sen. Dr. Paul Richards:** Thank you, Mr. President for allowing me to join in this debate on an Act to amend the Public Procurement and Disposal of Public Property Act, 2015 and to validate the non-laying of statutory instruments as required under section 7(7) of the Public Procurement and Disposal of Public Property Act.

Mr. President, I would like to start with a quotation—a quote sorry, by Max de Pree:

“We cannot become what we want by remaining what we are.”

**UNREVISED**
And a lot of what is happening, or we have heard today, is simply a result of the teething processes, the transition from an old system to a very new regime, a very new framework, a very different framework, a framework which seeks to offer more accountability and transparency, and oversight in some instances.

And I will tell you that a lot of what we are seeing in the public domain, the visceral reaction to the clauses in this Bill, and not invalidly so, is because of decades of pain, anguish, experienced by the people of Trinidad and Tobago through decades of corruption, billions of dollars lost and/or stolen. Added to that, the length of time it actually took to bring procurement legislation to book in Trinidad and Tobago. So the response is not in a vacuum. The people of Trinidad and Tobago had become, or have become, fed up of the rip-off syndrome, the jobs for the boys, the contracts for friends, family, financiers, and are very sensitive to anything that gets in the way of fixing those issues.

The thing is, we were never going to get this right from the start. It is too radically different to what we have become accustomed to or what we had become accustomed to. It is to radically different and the requirements are much more because we want more from the system. So the four main objectives as outlined are: the validation of the two Legal Notices, the establishment of the threshold for some exemptions, the procedures and exemptions by the Minister as presented in this, and the drafting error corrections.

And you know, I want to make a distinction. We are using the word “exemption” throughout this debate, and there is a difference between “exemption” which is something—a process that is free from obligation or obligations, and lowered requirements for qualification. I think we need to recognize that.
Mr. President, it has been almost two years since the 2020 Act was passed and we have to ask ourselves, did we as a country move with alacrity to get public entities ready, and their service and goods suppliers and contractors ready for this? Two years delayed for full proclamation. Our colleague, Sen. Seepersad, asked in this august House on several occasions, at least two I can remember, what percentage of public entities are ready? At what stage are they ready? And I do not think the answers ever came above 35 or 40 per cent.

In fact, Sen. Deonarine added even more detailed data today in terms of the public bodies that are actually ready with a procurement officer or services in place to enact the provisions of the Public Procurement and Disposal of Public Property Act 2020, or the amendments. And that is the problem. We waited, and waited, and waited, and when it came the entire public service, it seems, were caught with their pants down. So now, we screaming and bawling to go back to the old ways because change is uncomfortable.

You see the human condition abhors change and this is change. Especially when you do not put systems in place for an effective transition from one system to another. I would have thought that the Government, the Ministries, would have had a list of their regular suppliers of goods and services, and they would have been reaching out to them in a proactive manner. There are requirements coming. You will not be able to get business in the way that you have become accustomed to get business. You have some things to do. Six months to go. Five months to go. But we think everything just falls into place by osmosis or magic in Trinidad and Tobago and it obviously does not. So here we are today to try to remedy some of these issues.
Let me start with clause 6, Mr. President, which seeks to validate:

“All statutory instruments, including Legal Notice No. 206 of 2023 and Legal Notice No. 164 of 2023…”

And I would not go into the details because a lot of my colleagues have gone through the issues related to having to validate those Legal Notices. And to validate, as we said, about six or eight weeks ago, means we have to fix something that was wrong whether consciously or not.

In the last instance we had to validate it was understandable to me at some level, that—well, the Government had a particular legal perspective on extending the terms or councillors and aldermen. The Privy Council thought otherwise and so the Government moved to validate as a responsible thing to do.

Here we are again validating another mistake or two. So I have to ask myself, with the greatest of respect, is the Government going to start to question the level of the quality of legal advice it is taking? Because if you are taking advice and having to come having acted on that advice, breaking the law in effect, you have to ask yourself if the legal advice you are getting is good advice. With the greatest of respect to the hon. Attorney General, I am not pointing this at him; I am pointing this at the situation. Because the country cannot seem at the level of the Government as Sen. Vieira said, and the Judiciary, to be breaking the law when we are all sworn to uphold the law. That is basic, and I am not saying it was a deliberate act, or an overt act to break the law, or a conscious decision to break the law, it was the Government acting on, I presume, some sort of legal advice. So we cannot operate like that as a country. We just cannot, because if we have to do this in three months again we are going to become a laughing stock. So I am hoping
that this sort of Bill does not come to the Parliament again where we have to validate illegality.

But as I said before in the last validation exercise, the responsible thing to do when you recognize that a mistake has been made is to come to the Parliament and fix it, because it cannot stay on the books like that. So I would again question whether the legal advice to act and sign off of on these Legal Notices was quality advice? And maybe we need to get different advice in the future.

And I agree with Sen. Mark in so much as while the Government in the other place has indicated the reasons for the validation, which to me are reasonable, the Judiciary will not always know, although they have a court schedule for cases and the types of cases and what those cases may require, there will be exigencies coming up that may not fall within the budgeted expenditures. I understand that. But as someone said in the other place, the Judiciary, like the Parliament, is “on break”. So something has gone awry with the planning but it must be fixed.

8.05 p.m.

The other issue is, and I think the hon. Minister of Finance addressed it—because it was a question I had related to the CARICOM Heads of Government for the 45th meeting and the 50th anniversary celebrations, which were hosted recently in Trinidad and Tobago, where the question arose as to, well, we should have known we were hosting it, but I think the Minister of Finance, the hon. Minister of Finance addressed it in the other place indicating that it was shifted from Dominica, to Trinidad and Tobago, so that it was not as straightforward planning as that as if we would have known a year in advance when systems and budgets...
could have been put in place. So, the—you see, so many different reports in the newspaper, you get confused sometimes. “Ah see 15 million, ah see 20 million, ah see 34 million, ah doh know what to believe.” Whatever it is, I understand that there would have been exigent circumstances if you have to shift locations and step up as it were to host it because at the end of the day, CARICOM is a regional body, we are part of it. And if a conference of that magnitude, particularly on an anniversary, as a 50th anniversary, and the Heads of Government meeting that was due to discuss several critical issues in the region did not come off, the region does not look good, and certainly Trinidad Tobago would not look good.

But I agree with Sen. Mark in so much as, I think it is important to know the cost, the actual cost, if we are being asked to validate the Legal Notice to—for the expenditure. When the law stated that well, there was a process that come to Parliament and go through the affirmative resolution process, which was not followed, which we should have known because we passed the law not too long ago. So I think in the interest of full transparency, and accountability, I see—I do not know what the reluctance is—with even giving a draft expenditure of what the general figure was or is and what the money was expended on. That is accountability and transparency. So what is the problem with that? Is there a reluctance to do that? And is there a reason for the reluctance? Just let us know. Because I think it is Trinidad and Tobago taxpayers’ dollars, used, in my opinion for a good cause. But because it is Trinidad and Tobago taxpayers’ dollars, the population of Trinidad and Tobago has a right to know. So I am hoping we get a sense of what that expenditure was, because we are being asked in this instance, to validate it because of the process used. So—and as I said, I have no problem with
the reasons given. I think they are reasonable but of course, since we have been brought into the process, by this validation request, I think we have a right to know.

Let me go to sections 4, 5, and 6 and a lot has been said so I can condense a lot of what I had planned to say, because I do not want to be guilty of tedious repetition and none of us want to be here until three o’clock in the morning.

So, a lot has been said about section—clause 3, sorry, which section 7 of the Act amended, I am using the—I hope I am using the amended version that came from the other place yesterday, which is amended in (a), (6) by deleting paragraph (e) and substituting the following (e):

“such as other services as the Minister may on recommendation of the office, on the initiative of the Minister in consultation with the office, by Order determined”

(b) subsection 7 by one, deleting:

“the words “(5)” and substituting the words “(6)”; and”

—two, deleting—

“...the word “affirmative” and substituting the word “negative.”

And that sort of phraseology ends up in (5), moving down and of course, there is (4), which I will come to in a while.

With the greatest of respect, I agree with previous speakers who have indicated the Minister has no place in this. If we have gone through the trouble of setting up a procurement regulation regime, and appointing a procurement regulator, let the regulator do his or her job. It reminds me recently of the Bill we debated where the Minister of National Security attempted to insert himself in the
process of renewing FULs, fortunately, good sense prevailed, and the Government withdrew that clause. I think this is a similar situation where in the interest of empowering the independent office of the OPR, the Minister should not be involved in this, as others have said before. I think the line and I quote:

(e) such other services, as the Minister may, on the recommendation of the office or on the initiative of the Minister—problem, the Minister initiating inserted—in consultation with the Office by Order determine.

Now, that word “consultation” just means with the greatest of respect, I call you to a meeting, we talk for five minutes and we consult. Consultation has no requirement for agreement. None. So it really, with the greatest of respect is very cosmetic and it means nothing in the context of the OPR having a view that is critical and consider in an official capacity in a documented way. So I would suggest some sort of surgery be done on that to take out the Minister and to ensure that the regulator has the determining say in that clause. Because that would mean that there is oversight from an independent body. And you know, I heard some comments earlier on about the independent Regulator who just was substantially appointed. And my memory, Sen. Vieira just showed me the consolidated view, is appointed by the President in consultation with the Prime Minister and the Leader of the Opposition. And that is very—actually, it is exactly the same for several other critical high officeholders in Trinidad and Tobago.

So unless we have cause, with evidence to impugn the reputation or integrity of the officeholder, we should desist from doing that. Because then we should do that for every other officeholder who is similarly appointed. So we should give the
person a chance to do the job, because we all want this to work. I do not think diminishing the institution, and the officeholder is productive at all. Because all it does is diminish the process and the entire regime, which I get, it makes no sense. It is just another institution that will come into public ridicule, and put us back 10-15 years, because what we are trying to do is different, and radically different, in terms of transparency and accountability with the contracting of public goods and services.

So I would suggest that. That should also be applicable to clause 5, because it basically says the same thing where the Minister is inserted and the Minister essentially has the final say, because the Minister initiates the process and the Minister initiates the consultation, and the Minister shall so advise and basically, whether or not the regulator, the OPR says, I do not agree with this, he or she has no say, it is a fait accompli. And that cannot be what we want. Not with the greatest of respect with a decidedly political creature. I am not talking about this particular Minister. I am talking about any Minister who holds the position of Minister of Finance, because I have said it on several occasions before, we cannot make law for who sits in the office, we have to make law for whom may come to office, who may not have the clarity of moral and ethical direction of who sat in the office before, in any administration.

We have seen what is happening around the world, the unthinkable is happening around the world. And we have to learn from not only our mistakes, but the mistakes of countries that I have seen radically different personalities take very high office. So I think we have to protect the office and the process from some potential—again, I am trying to be respectful, not necessarily this particular
Minister, but any Minister who may come to the office who may abuse this as a loophole. Because it is a loophole. Because the very thing we are trying to move away from that Minister will have the power to here. Am I crazy to think so? Because the Minister will have the power to create the regulations and OPR has no say. So, the present Minister may like this, but will we like it in 10-15 years? Remains to be seen.

So I am hoping that some sort of surgery can be done. And to add double jeopardy to that, let us move to clause 4. “And I eh reach to affirmative yet because I have a bee in meh bonnet about that.” The Act is amended by inserting after section 58 the following new section, exemption from the Act. And I took the time to make a distinction between exemption which is a process free from an obligation or obligations to lowered qualification or requirements. They are different concepts. Exemption is absolute. You do not need to do anything. Lowered requirements are lowered requirements. And we keep using the word exemption as if it is lowered requirements and interchangeably and that is a dangerous way to go. So and I know, because we have so much work to do when this was passed and amended the four times, that a lot of this is not fresh to us. And maybe it is good to come out in the recess where we did not have to sit for a couple of weeks that we could look at it with fresh eyes. So:

“58A. Subject to regulations made under section 63, the procurement of goods and services, up to one million dollars are exempt from procurement requirements under this Act.”

So subject to regulations made under section 63—regulations made by the Minister essentially, am I wrong? So what is the difference? So again, you, Minister, are
inserted in the process, the Minister could consult with the OPR or not. And it is a fait accompli. So (a) Minister of Finance can basically give an exemption through regulations to any service provider or goods provider under a million dollars, and I do not need to regale you all with the occurrences of the past where multimillion dollar contracts were put in at $999,000 to beat the system. We cannot be absent of our history in the country, because that is what we are trying to move away from.

So again, double jeopardy in clause 4, where the million dollars is made, sorry, subject to regulations on the 63 and exempt from procurement regulations under the Act and you know, that word “exempt” keeps bothering me and I will tell you why: it should never be absolutely exempt. No contract for service or goods should ever be absolutely exempt. None. Because it opens the door, I agree with lowered requirements.

And, and I can go through—I researched Ghanian legislation, New Zealand legislation, Canadian legislation which have provisions for so many of these situations. And what many of them have done is categorize service providers by the size of their small and medium-sized enterprises. So if you have 50 employees and you make less than $300,000 a year, you have a particular bar you have to meet. If your business grows, and you go to 20 employees, and you are making $500,000 a year, you have a particular benchmark to meet in terms of prequalification and preregistration. But it is never absolutely exempt. Because at the end of the day, the moving of the goalposts, that, well, they do have the capacity to have audited financials, that is what we want. We want the culture to change. We want SMEs to get on board. And I think if, as I said before, if the
Ministries and the public entities had been prodded by their line Ministries, who they provide services and goods for over the last two years that this is coming, and you will not be eligible, we would have been a lot further along in terms of preregistration and prequalification. But you know what, they expected this. “Is Trinidad and Tobago. Dey go move the goalposts. We go cry and dey go move the goalposts.” And we will be back to square one because that is exactly what is happening by moving the goalposts.

At some point, we have to as a country demand better and I am not saying be heartless and callous about it. But you have to move the culture forward. And then what happens, they do not have audited financials, they do not have the necessary prerequisites, they still get contracts, and then we complain about why they are not paying their taxes, tax evasion. But you have not demanded more capacity of them. So they are going to continue doing what they are doing, because we are allowing it because they cry. And again, I am not being insensitive to the fact that some smaller business and service providers and goods providers may not have the capacity, but we have to design a different kind of requirement for them.

8.20 p.m.

It cannot be a carte blanche, three-stage or three-tier approach alone. We have to take into consideration different kinds of businesses but still demand some sort of accountability, and I understand. Let me just quote some issues, the Ghanaian Public Procurement Act of 2003, Act 663 of Ghana, encountered when it was implemented. They had a survey that indicated 61.8 per cent of those surveyed described delays in procurement activities as the main difficulty; 5.9 per cent mentioned inadequate qualified personnel—Sen. Deonarine spoke about that,
“where yuh go find the officers”—while 2.9 per cent mentioned inadequate logistics; 11.8 admitted the act was too complex to use; 8.8 per cent mentioned political interference continued in the award of contracts because there were loopholes, and inadequate supervision in the application and usage of the Act. We have to learn from these people around the world and they have lowered requirement for suppliers, also single source procurement, procurement of goods and services by relevant entities, other Commonwealth states, procurement funded by international grants, and all these are Australian exemptions also. In Australia, they even have special arrangements for the procurement of goods and services from the indigenous peoples because they think they need special arrangements, et cetera. So we are not unique in this way, others have gone through this, and we have to learn from their experiences.

Mr. President, I now come to what is potentially the most contentious. This is the one to me that has received the most amount of lobbying and information and things in “meh” mailbox and emails and telephone calls from people I “aint” hear from for months.

Sen. Roberts: Lobbying?

Sen. Dr. P. Richards: Lobbying all over. It is a good thing I am good at ignoring, and that is not directed at you, hon. Minister, through you, Mr. President. So the reason I was so adamantly in advocating, because on the 8th of December, 2020, there were two amendments, maybe three, maybe I am leaving out Sen. Thompson-Ahye’s amendment, but there are two I could put my hands on; one by the hon. Minister of Finance and one by my good self. Right? So these are the amendments as proposed then, and they relate to the affirmative resolution as
opposed to negative. And let me start with the proposal—the amendment as proposed by the hon. Minister of Finance, clause 5:

“‘In paragraph (c) as renumbered -

(a) insert before proposed subsection (5) the following new subsection and renumber proposed subsections (5) and (6) as (6) and (7):’”

—and I will go down the list. In (i), under 5(b):

“delete paragraph (b) and replace with the following new paragraph:

‘(b) debt financing services for the national budget;’;

(ii) in paragraph (d) insert after the word ‘medical’ the words ‘emergency or other scheduled medical services’

(c) in proposed renumbered subsection (7) delete the word ‘negative’ and replace with the word ‘affirmative’.”

That is the Minister of Finance—the hon. Minister of Finance, sorry. In the amendment that I tabled, same clause 5, and I will go down in A:

“In…”—subsection—“…7 of the Act by deleting subsection (2) and substituting the following:

‘(2) The Office of the Procurement Regulator may determine the extent to which this Act conflicts with an obligation of the State under or arising out of the following’

B. In new subsection (5):

i. Delete paragraph (b)

ii. In paragraph (d), insert the word ‘emergency’ before the word
‘medical’

C. In new subsection (6) delete the word ‘negative’ and substitute the word ‘affirmative’

D. Insert the following new subsections

‘(7) The Minister shall submit to the Office annual guidelines which outline the circumstances under which exempted services in subsection (5) may be procured.

(8) The Office shall forward a copy of the guidelines to the Speaker of the House of Representatives who shall cause the guidelines to be laid in Parliament at the earliest opportunity.’”

Now, they are very similar. The Minister emphatically agreed to this, and the reason that I was strong in advocacy for this is because of the sentiment in the public domain by persons who had worked long and hard in the vineyard of procurement regulation that the amendments that came, since 2015 to 2020, had at some level reduced the potency of the procurement law in the country and that I thought that this was at least a strong limb of parliamentary oversight which I think was reasonable if we are to have the kind of oversight we want, and the hon. Minister of Finance agreed because his tabled amendments were the same. And in the other place, I listened attentively yesterday, the Minister said—and to some extent in this honourable House, that, I guess on reflection, coming to the Parliament to change regulations regularly would be burdensome. I want us to understand, this is a transition to a new system. We are not going to have to change regulations regularly for the next three years.

This would probably take four, five or six sittings of what I can describe as
omnibus regulation changes that can come to the Parliament every month if we are doing our homework before time to have the critical changes as necessary. Very often—and I do not consider it burdensome one bit. As a matter of fact, I do not think—I cannot think of any more productive use of parliamentary time than that type of oversight in the country.

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

**Sen. Dr. P. Richards:** The public often opines, “Wha’ we paying them for? Dey gehing real exemptions an’ dey doing nothing”. Whether valid or not, what is wrong with coming to the Parliament for affirmative resolution five, six or seven times when the recess is over—

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

**Sen. Dr. P. Richards:**—to resolve these regulations by affirmative actions? It is not going to be forever. It is possibly an opportunity to do things differently. We want change, but we do not want to change. Maybe complex, radically new, novel legislation needs this kind of approach. Maybe this is a new kind of approach where we can adopt moving forward because it is important to the country. It is important to the process.

We cannot think of these as, “well, we pass it and it done”, because we are never going to get it right the first time, and particularly with regulations that have such a critical impact, and not only the operations of the public entities but on the service providers and goods providers in the country. What is so difficult or wrong about that, one sitting a month? Figure out what needs to be regulated and changed and bring it; we come here, we debate it. And you know what is interesting about this, with affirmative resolution all the Government needs is one
Independent Senator. Am I wrong? One! If you cannot get one Independent Senator to agree with you, maybe you should not be doing it because you cannot believe in the institution and “doh” have faith in it. All you need is one for the affirmative resolution to pass. And at least—yes, there is the adversarial politics in the Lower House, but at least you have an Upper House where we presume there are dispassionate people who will have a different kind of approach to oversight, to accountability, to transparency in the interest of the people of Trinidad and Tobago. We have that, why not employ it? And that is what affirmative resolution does, and after the six months, at most a year, if so much, it can go to negative resolution because most of the issues regarding regulations would already have been resolved because this is so different.

So, you see, I understand the trepidation of people—of speakers before previously, sorry—where you have all these three main concerns interrelated and piling up on each other. Clause 3, the Minister in consultation, consultation means nothing; OPR, impotent. Clause 4, $1 million—

Mr. President: Senator, you have five more minutes.

Sen. Dr. P. Richards: Thank you. Clause 4, $1 million; on top of clause 3, Minister involved, no OPR oversight, and then clause 5, same thing, and then on top of that you are removing affirmative resolution and you are putting negative; four “hard cuff”. That is where the trepidation comes from in a real sense and that is why so many have voiced concerns about this.

It is not the principle of it, you know, is that we are purporting to want to go in a new direction, but we are shifting the goalpost backward. So in closing, Mr. President, we make law and order for the order and good governance and peace
and to manage potential executive overreach. We make law not only for who holds the reins of power, but who may come to power and who may lack the moral and ethical clarity, direction and appropriate consideration. Look around the world, our job here is to protect the interest of the people of Trinidad and Tobago; that is our job, and “we cannot become”—again, as I started by saying—“what we want by remaining what we are”, Max de Pree. Mr. President, I thank you.

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

**Mr. President:** Hon. Senators, before I call on the next speaker, let me just state at this point in time, we have had 12 speakers that have gone before, and so all intending speakers to come after, I do advise that if it is you have new points and new perspectives to bring in, to bring them forward now because if you are to repeat what has been said before, tedious repetition will apply. Attorney General.

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

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

**The Attorney General and Minister of Legal Affairs (Sen. The Hon. Reginald Armour SC):** Thank you very much, Mr. President, and it is my privilege to stand here to speak in support of the Bill which has been presented before this honourable Chamber by the hon. Member for Diego Martin North/East, the hon. Minister of Finance. The Bill is the Public Procurement and Disposal of Public Property (Amdt. and Validation) Bill, 2023, as amended in the other place last evening. I will not repeat the number of preambular sections nor the sections which are there for consideration. I think the House is well aware of it all. I will get straight to the few points that I would like to make this evening. So point one with reference to one of the sections that arises for amendment, and that section
arises for amendment under clause 3 of the Bill, and the section is section 7. Point one that I wish to make, and to make very clearly, is that the Government of Trinidad and Tobago has not acted illegally.

There is an easy temptation to allow oneself to use that kind of language, but it is not permissible given the law as it exists, particularly with respect to the law of statutory interpretation at the time that the two Orders which are under consideration, the two Ministerial Orders, arose. Section 7(7) of the Act was clear; it is still clear, it is what we are here to amend today, tonight, and the fact of the matter is that the Order that was asked for of the Minister of Finance under section 7(6) of the Act, did not require on the literal interpretation of the law an affirmative resolution. It is that simple.

8.35 p.m.

And the law is clear, and I spoke to it in the other House, and I will at the risk of repetition repeat it very briefly. The law is clear. It is not the job of those of us who are reading the law to change the law.

The case of the Attorney General of Belize v. British Telecoms makes it very clear, and that is reported at 2009, 2 All ER 1132, makes it very clear that the law must be applied according to its literal meaning. Corrections of perceived defects are correctable by the legislature, and that is why we are in this Chamber this evening. That is why we were in the other House yesterday.

The Government recognizing that there is an error in the law, which it was not open to the Government to change, either by the Attorney General or by the Minister of Finance, has come to this House and said, may we therefore change the law. So I repeat: The Government has not acted illegally.
Secondly, I wish to turn to a principle which I consider to be of singular and pivotal importance in the discussion that we are having this evening, and that principle is the principle of the presumption of regularity. We are—and I speak here in the case of the Minister of Finance, and I speak in particular of the Members of the Government—public servants. Whether elected or appointed to public office, constitutional office with the trust of the public reposed in us, and the principle or the presumption of regularity applies with full vigour. That presumption has been spoken to in many cases, but the best statement that I have read, and I have had the privilege to apply as a practitioner, was uttered by Justice of Appeal Clinton Bernard, as he then was at the time, in the case of *the Attorney General v KC Confectionary*, reported at 1985, 34 WIR, 387, at pages 415 - 416 in particular. I quote from Justice of Appeal Bernard:

“The presumption of regularity is part of the law of this Republic. The presumption is a salutary and sensible concept of Government action. Were it to the contrary, great difficulty and burdens would arise in proof of the bona fide exercise of day-to-day executive action, and this could well lead to chaos or uncertainty.”

With your permission, Mr. Vice-President, I continue to quote:

“It is, in my view, essential to our democratic system of Government that confidence and trust...”

My learned colleague Sen. Laurence Hislop spoke of the trust:

“It is, in my view, essential to our democratic system of Government that confidence and trust must prima facie be reposed in public officials, and more particularly senior ones.”
The Minister of Finance is the most senior Member of us here today, and in May and June of this year when he was asked to issue the Orders which he did, pursuant to section 7(6)(e) of the Act, he was acting on the presumption of regularity.

I continue to quote from Justice of Appeal Bernard:

“It has never been considered to be morally right that one should condemn the whole for the misdeeds of a few; hence a presumption of regularity in their acts for which I contend. Public officials, as the term connotes, are people who render public service...the presumption...can only be discharged by proof of mala fides on a balance of probability...so long as it can be demonstrated by evidence that the act of the public official or organ was a hostile act, or an intentional and irresponsible act, that in my view, will in fact, be enough to rebut the presumption of regularity and to infer mala fides.”

So we are operating on the presumption of regularity that at the point at which the ministerial Orders were issued, they were issued by a senior public official in accordance with a literal law as it existed at the time, and there is no question or mala fides. Therefore, we are here to correct the law as it exists today, and as it was amended last night in the House, and as we ask this Chamber tonight to improve on and to finalize that correction.

Mr. Vice-President, let me move immediately to the two Orders which were made, one on the 29th of May and one on 29 June, 2022. But before I move there, permit me to divert relevantly to another seminal treatise. The first to which I have just spoken is that of Mr. Justice of Appeal Bernard, and the second to which I will now speak is that of Mr. Justice of Appeal Telford Georges, a former Justice of
Appeal of this country, a former Chief Justice of Tanzania, a former Chief Justice of the Bahamas, and a Justice of Appeal of almost all Commonwealth countries that we can think of. An esteemed and very respected judge of the Caribbean.

He was asked, Mr. Vice-President, on the 3rd of November, 1999, by a special general meeting of the Law Association of Trinidad and Tobago, to be the sole commissioner of enquiry because an imbroglio had arisen in this Republic. The Attorney General then, the hon. Ramesh Lawrence Maharaj of the government which is now in Opposition, sought to impinge upon the independence of the Judiciary to refuse the then Chief Justice, Mr. Justice Michael de la Bastide, going abroad, because the hon. Attorney General arrogated onto himself the right to control the finances of the Judiciary.

The Law Association under the presidency of Mr. Karl Hudson Phillips appointed Justice Georges to enquire into whether the Attorney General at the time was correct in law to have arrogated that power onto himself.

In examining the issue, which Mr. Justice Telford Georges ruled definitively, that the Attorney General was wrong. One of the things that he did is he looked at the historical relationship an Attorney General of Trinidad and Tobago and the Judiciary, and it is for that reason I go there as I go to speak to the two notices.

At page 13 of his report—his report, Mr. Deputy Speaker, is dated 16 February, 2000. At page 16 of his report, with your leave I quote:

“Historically, the Attorney General has been the member of Cabinet responsible for bringing to the attention of Cabinet matters of concern to the Judiciary. This is an inheritance from the pre-independence administrative
structure. The Attorney General was a member of the Executive Council, the body in which time involved into the Cabinet.”

At page 20 he says:

“I have spoken to two recent holders of the office of the Attorney General - Mr. Sobion and Mr. Martineau, SC. Both were clear on the fact that they considered their roles...”—as Attorney General—“to be that of conduits.”

Conduits between the Executive and the Judiciary, because in our separation of powers we have, as we know, a Judiciary, an Executive and the Parliament, and we like to speak about the separation of powers without understanding that there is not a rigidity between those three arms. There has to be a relationship among those three arms for the Government to function. And the reason why the Attorney General has historically from pre-independence been the conduit between the executive and the Judiciary, is so that there can be a healthy conversation between two important arms of the State.

In pursuance of that responsibility, I was approached as Attorney General of this Republic, in late May of 2022 by the Judiciary, through its Chief Executive Officer, the Court Executive Administrator, and asked to deal with a matter urgently that had to do with the sequestration of a jury which was occurring within a matter of days.

I took instructions and I approached the Minister of Finance. We discussed it and it became necessary for the Minister of Finance to issue on my advice, and I take responsibility for that, and I will come back to that. I had a discussion with the Minister of Finance, and I said to the Minister of Finance we need to provide urgently a ministerial order that will exempt the Judiciary, because they have a
circumstance to deal with, among others, and it was in those circumstances that Legal Notice No. 164 was drafted.

When we look at Legal Notice No. 164, we can see that what the Minister did was to exempt the Judiciary from the application of the procurement Act, having regard to the operating contingencies that existed at that time, prompted in the first instance by the need to sequester a jury. What does sequestering a jury involve? It means that you have to bring a jury into a hotel or a place where they can say. You have to feed, water and provision them. You have to transport them from their home to the court, and you have to keep them locked into that hotel for as long as the trial takes place.

There are circumstances in this country in which jurors are interfered with. They are threatened. You sometimes get into a taxi and you find a picture of your five-year-old daughter on the seat that you are about to sit on, and the picture is torn, because somebody is telling you that if you do not mind your business and do as the text message that you just got tells you to do, your children are in trouble.

Those are the circumstances, Mr. Vice-President, in which the Judiciary came to me and asked, “Can we get an urgent situation addressed?” And in those circumstances, and there will be lot of talk about the fact, well, no jury was sequestered, et cetera. The fact of the matter is it may not yet have happened, but at the time it was about to happen. And in the circumstances, that is why the Exemption Order says:

“...goods, services, works and commodities arising from a court order...”

That is why it spoke in respect of goods, services, witness support systems, victim support services, matters involving experts. It went on to speak of goods, services,
commodities related to psychological counselling, specialized devices. Goods, works and services required for the continuation of essential, judicial or court-related services.

Mr. Vice-President, the Judiciary is a significant constitutional arm of the State that has its independence secured under the Constitution, and to require the Judiciary every time it has to deal with one of these exigencies, to have to go through the 30-day, plus the standstill period of the procurement Act is just absolute nonsense. It undermines the independence of the Judiciary. It is contrary to the security arrangements that the Judiciary requires to function, without which we may as well all go back to the jungle and stay in the treetops and shoot at each other with bows and arrows.

The fact of the matter is, when we—and I spent some time in the other place going through the details of the very many services that the Judiciary provides to this country. I am not going to repeat all of it. Members can read the Hansard from yesterday and hear everything that I said, and read everything that I said yesterday. The fact of the matter is while the Act provides for national security services, it does not provide specifically for the very essential services that the Judiciary must provide in circumstances that are comparable to issues of national security. And the circumstances which arose at the time required the urgency with which that Exemption Order had to be made.

We go to the 29th of June. Last night we were informed, not for the first time, but it has to be repeated because persons love to speak convenient untruths as often as they possibly can, in the hope that it would become the new reality. We were told yesterday, and we have been told before this, that the Heads of
Government 50th anniversary conference had been shifted from Dominica to Trinidad and Tobago at the request of the Prime Minister of Dominica in late May.

When was the Order made? It was made in late June. When was the Order made? The Order was made—I beg your pardon, I am getting—let me just pull it—29th June. So it was made in late May, so the Order was made for the foreign heads of government, 29th June. The reality is that there was not the time for the 30 days and the standstill to be able to go through an entire process of going into Parliament and back to get that put together. On top of which, there were the exigencies operating at the time of the last-minute confirmations of visits of the President of Rwanda, the Secretary of State of the United States of America, Baroness Scotland of the Commonwealth Secretariat, all of those were being organized for Trinidad and Tobago at short notice and there was no time. What does one do? Say, I beg your pardon, I am very sorry all of you stay home, we cannot accommodate you? No.

And that takes me Mr. Vice-President to section 53 of our Constitution which provides for peace, order and good government. It is the responsibility of this Government, never mind those others who have occupied the hall of government and have a different idea of how to run a country. It is the constitutional responsibility of this Government to subscribe to and discharge its constitutional mandate for the peace, order and good governance of this country—

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

**Sen. The Hon. R. Armour SC:**—and that is the basis on which this Government
functions.

Mr. Vice-President, we are here today—when I wrote this note to myself, we are here in broad daylight I wrote it at two o’clock this afternoon and it is now night, but we are not here at midnight on a section 34.

Hon. Senators: [Desk thumping]

Sen. The Hon. R. Armour SC: We came here in broad daylight in acknowledgement of the fact that we needed to amend the law in order to continue to govern this country for the peace, good order and government of the country.

Hon. Senators: [Crosstalk]

Sen. The Hon. R. Armour SC: I beg your pardon, Mr. Vice-President.

Mr. Vice-President: Let us be aware of the Standing Order which says a member must speak in silence.

Sen. The Hon. R. Armour SC: Thank you, Mr. Vice-President. And while we are on the natural, reflexive inclinations that they cannot help themselves with, of those on the other side. While we are speaking about section 34, let me make it very clear, do not liken me to these other Attorney Generals who take kickbacks, I do not take kickbacks.

Hon. Senators: [Desk thumping and crosstalk]

Sen. The Hon. R. Armour SC: So when you call names and you say some other Attorney General would have given better advice, I do not accept that insult.

Hon. Senators: [Desk thumping and crosstalk]

Sen. The Hon. R. Armour SC: And we are here, Mr. Vice-President—

Hon. Senators: [Crosstalk]

Sen. The Hon. R. Armour SC: We are here, Mr. Vice-President—
Members, members, we have all been here for a while, and we know the Standing Orders. As tempting as it is to increase on the crosstalk, I ask that we conduct ourselves in manner and allow the speaker once again, the contributor to the Bill right now, to proceed in silence.

Sen. The Hon. R. Armour SC: Thank you, Mr. Vice-President. We are here as a responsible government; we are not here to be judged by those who have chosen to descend to the bottom of the pit—

Hon. Senators: [Desk thumping and crosstalk]

Sen. The Hon. R. Armour SC:—and to judge everybody else by their standards. We are operating on the presumption of regularity, and we are here in constitutional government.

Hon. Senators: [Desk thumping and crosstalk]

Sen. The Hon. R. Armour SC: And section 58A, which this House is being asked to affirm by the amendment that we have asked for, at clause 4 of the legislation, of the Bill before this House introduces the concept of the threshold. We are asking this House to establish a threshold, 58A of the Act:

“58A. Subject to regulations made under section 63, the procurement of goods and services up to one million dollars are exempt from the procurement requirements under this Act.”

It says:

“Subject to section 63...”

—which takes us next to clause 5. Section 63 of the Act last night was amended, and I hear Members here today on the other side speaking as if they have not read what was amended last night. The amendment that is before this House today on
the section 63 is on the recommendation of the office or upon the initiative of the
Minister in consultation with the office. It is not the Minister on his own, who is
going to do that which we are asking this House to approve, and it is the Minister
on recommendation of the Office of Public Procurement or in consultation with
that office. So it is not a question of Minister on a frolic of his own and we all
acknowledge that the Office of Procurement Regulation is an independent office,
that is going to have the oversight of that threshold and we know that under the
section, the enabling section which we are asking this House approve the
amendment of, regulations will be issued to speak to the manner in which that
threshold will be operated in order to be subject to the scrutiny and the approval of
the Office of Procurement Regulation.

And let me get to perhaps the most critically important reason why we are
here, in addition to the validation of the two notices to which I have already
spoken, Mr. Vice-President. Why are we here? We are here because some people
in this country cannot afford to have the editorials written on their behalf. The
little man and woman, children who have to go to school in September who will
have to get schoolbooks bought, uniforms bought, school fees paid, they need to be
able to get the work that they are unable to get right now, in the manner in which
this Act is operationalized.

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

**Sen. The Hon. R. Armour SC:** It is as simple as that, that is the urgency.
Children have to go to school, so we are here today to ask this House to approve
the amendments which were passed yesterday evening in the House, in order that
the Act can operate consistently with section 5, consistently with section 5 of the
existing law in order for efficiency, fairness, equity and public confidence for all the citizens of this country. And we are not—

**Hon. Senators: [Crosstalk]**

**Sen. The Hon. R. Armour SC:**—here to take any instructions from the elite who assembled on the 17th of June and held a meeting—

**Hon. Senators: [Laughter]**

**Sen. The Hon. R. Armour SC:**—and held a meeting and then conveniently it is reported—

**Hon. Imbert:** July, July.

**Sen. The Hon. R. Armour SC:** 17th July, I have it here on my phone, it is a—and Sen. Mark read through it, and I had it sent to me.

**Hon. Senators:** Elite! Elite! Elite!

**Hon. Imbert:** Yes, elite. Your friends.

**Sen. The Hon. R. Armour SC:** Media statement, several—it is dated the 20th of July, but it says—and when Sen. Mark read from it:

Several private sector civil society organizations met on Monday 17th July, 2023...

Before we even went into the House, they had met and they are condemning that which we are in the House to do and they do not have the decency to acknowledge when it is published in today’s papers, that this is an issue that predated, a statement that predated what we are seeking to do today in the House. All we are being told is so and so has condemned what the Government is doing and the Prime Minister is being asked to tread carefully, well, those—

**Hon. Senators: [Crosstalk]**
Sen. Mark: He is attacking the chairman!

Mr. Vice-President: Senators, Senators, Senators—

Hon. Senators: [Crosstalk]

Hon. Imbert: Why are you all screaming?

Mr. Vice-President: Senators, Sen. Mark. Sen. Mark—

Sen. Mark: [Inaudible] He is a liar!


Mr. Vice-President: Sen. Randall, Members on both sides—

Hon. Senators: [Crosstalk]

Mr. Vice-President: Members on both sides, from Sen. Roberts come down to Sen. Mark, please listen. The crosstalk and the chatter and the volume has gone too high. Kindly allow the Attorney General to make his contribution, I ask as my final warning whilst as he speaks.

Sen. Roberts: [Inaudible]

Mr. Vice-President: I am hearing your voice the loudest. Proceed.

9.00 p.m.

Sen. Gopee-Scoon: For the record I would still like to call Standing Order 46(4). There was a very offensive statement which was just made by Sen. Mark and it must not go unnoticed.

Hon. Senators: [Crosstalk]

Hon. Senator: Withdraw it, withdraw it.

Mr. Vice-President: Sen. Mark.

Sen. Mark: Yes.

Mr. Vice-President: Your comments were inflammatory and it was out of place
at the moment.

**Sen. Mark:** [Inaudible]

**Mr. Vice-President:** No.

**Sen. Mark:** [Inaudible]

**Mr. Vice-President:** Sen. Mark! Sen. Mark.

**Hon. Senator:** “He lie to people.”

**Mr. Vice-President:** Sen. Mark, 46(4) upheld. Proceed.

**Sen. The Hon. R. Armour SC:** Thank you very much, Mr. Deputy President—Mr. Vice-President, I beg your pardon. I was in the course of saying, before my remarks seemed to have troubled the other side sufficiently for them to rise in voice—

**Hon. Senators:** What!

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

**Hon. Senator:** Missing Faris.

**Sen. Gopee-Scoon:** Keep going AG.

**Sen. The Hon. R. Armour SC:** I was in the course of saying, Mr. Vice-President, that there is a vast number of persons in this country, they are referred to by the term “small, medium business people”, and we are talking about the plumbers and the electricians, and persons who live and are entitled to live in exactly the same way as the rest of us live, in order to be able to afford their school children’s fees in order to be able to afford to put bread on the table, and if we do not pass—if we do not pass—

**Hon. Senators:** [Interruption]

**Mr. Vice-President:** Members, the level of disrespect being shown towards the
hon. AG as he is on his legs making his contribution, leaves a lot to be desired. If it shall persist, I will ask one by one or collectively for individuals who continue to break our Standing Orders to take a break from the Chamber. Proceed.

**Sen. The Hon. R. Armour SC:** Thank you very much, Mr. Vice-President. I was in the course of saying, and it was well put by Sen. Deonarine in her comments. She spoke to the fact that the OPR system is not properly functional at this point in time. The operationalization of the law now that—and Sen. Dillon-Remy used the term—the rubber has hit the road, Sen. Vieira talked about the difference between the academic view and the practicalities. Now that the law has been operationalized in the few months that it is in operation, we as a government, as a responsible government, recognized that we need to provide some flexibility to the operationalization of the law in order that everybody can get a fair equitable share of the work that is out there that needs to be done. What is wrong with that?

And that is why we are asking for the amendment by section 58A to create a threshold level within which, not that people will have free operational licence to do what they please, but within which during this transitional period while the Office of Procurement Regulation is getting itself better operationalized, while the procuring entities are getting their procurement officers organized so that people can be registered, we are asking this House to approve an amendment under the auspices and the oversight of the Office of Procurement Regulation working with the Minister to permit a $1 million threshold within which work can continue and people can earn a living. What is wrong with that? And why is it that we find the *Guardian* telling us that we are looking to repeal the entire Act and to create for illegality. Those people who we are here today to give voice to, to earn a living,
cannot get *Guardian* writing editorials for them, beg your pardon, so we are here for them.

**Hon. Senators:** [*Desk thumping and crosstalk*]

**Sen. The Hon. R. Armour SC:** Mr. Vice-President, the other point that I wish to come to is with respect to the two amendments to be made, both with respect to section 7 and with respect to section 63. I have already spoken to the fact that we are asking for an amendment for the services to be on the recommendation of the office or on the initiative of the Minister in consultation with the office by Order may determine the exemptions that he grants. But the important point that I now want to turn to is that which has troubled, and I can understand that which has troubled certainly the Independent Senators, the shift that we are making from affirmative to negative resolution.

The short point is, two short points, Mr. Vice-President, the negative resolution process does not remove the orders made by the Minister if the amendments are approved from the oversight scrutiny of the House. Section 75 subsection (7) of the Interpretation Act, if I may read:

“…‘subject to negative resolution of Parliament’…shall, as soon as may be after they are made, but within the prescribed period, be laid before each House of Parliament. Where either House within the prescribed period resolves that any of those instruments or documents shall be annulled, that instrument or document is void as from the date of the resolution, but without prejudice to the validity of anything done thereunder or to the making of a new instrument or document.”

Thank you. Two points there. The negative resolution will be approving an
Public Procurement and Disposal of Public Property (Amdt. and Validation) Bill, 2023
Sen. The Hon. R. Armour SC (cont’d)

order that has been made pursuant to the amended section 7 and the amended section 63 with the oversight of the Office of Procurement Regulation working with the Minister. That is the first point. So there is oversight on that. And then it is lodged with both Houses, and if within the prescribed period any of the Members of either of those Houses, whether they be Independent or Opposition wish to call in question what has been done, you file a Motion to annul. And as indeed, one of our Members here today reminded us we were here not too long ago on Sen. Mark’s Motion. We fully debated the negative resolution on that which had been brought here by, I almost said by the OWTU. It has not been brought by the OWTU, but it certainly had been lobbied for by the OWTU.


Sen. The Hon. R. Armour SC: And we had a full debate. So that the amendments that we are seeking to make to allow the Minister to make orders pursuant to section 7(6)(e) will be under the oversight of the Office of Procurement Regulation and the oversight of Parliament on the negative resolution procedure.

Sen. Mark: We are not supporting it.

Sen. The Hon. R. Armour SC: And may I, as I close, Mr. Vice-President, may I as I close say a few further words, that is to say that I would like to acknowledge the contributions, and I find it a pleasure to do that every time I stand in this Senate, I would like to acknowledge the contributions that have come from the Independent Bench. I have listened carefully to Sen. Vieira. I have listened carefully to Sen. Richards, Sen. Deonarine, Sen. Dillon-Remy and Sen. Seepersad, they have all made valuable contributions, most of which we can work with. I will
leave it for the Minister in his wind-up to address that. But the short point that I make, is that given the clear evidence that has been presented in this debate in the other House and what is out in the public domain, I would exhort our Independent Senators when the time comes to vote, to remember that there is category of persons in the small and medium category of citizens who deserve the equity that section 5 of this legislation offers to them, and with those words, Mr. Vice-President, I support this Bill. Thank you.

Hon. Senators: [Desk thumping]

Mr. Vice-President: Members, just as a reminder, seeing that we are here for just over about eight hours and we just passed the halfway point, I ask that all contributors to the debate keep their contributions, one, relevant; and two, to stay away from any level of tedious repetition that has been debated already. Sen. Roberts.

Hon. Senators: [Desk thumping]

Sen. Anil Roberts: Thank you, Mr. Vice-President. I just want to put on record the definition of perjury that is lying under oath. Now, I was not sure whether I was in the Senate today or if I was at Centre of Excellence after carnival after a comedy show, after hearing the hon. Attorney General’s contribution. Because it is very interesting, I think I have to say to move over Makandal Daaga, move over Morris Marshall, more over Rudy Indarsingh, Basdeo Panday, Uriah “Buzz” Butler, Adrian Kola Rienzi, Errol Mc Leod, we have a new fighter for the people of Trinidad and Tobago.

Hon. Senators: Yeah! Yeah.

Hon. Senators: [Desk thumping]
Sen. A. Roberts: For the poor and the down-trodden, I say all of them can rest because we now have Attorney General Armour, the man on the ground. Yeah.

Hon. Senators: [Laughter and desk thumping]

Sen. A. Roberts: But then I realized—

Hon. Senators: [Laughter]

Sen. A. Roberts:—then I realized like the Red House had moved to St. Ann’s, because the hon. Attorney General said on Hansard that he wrote a note to himself, and I realized that this had to be a twilight zone.

Hon. Senators: [Desk thumping]

Sen. A. Roberts: But confession, Mr. Vice-President, is good for the soul. Because at first at the beginning of his contribution, the hon. Attorney General looked to his left at the normal acting Prime Minister and Member for Diego Martin North/East and Minister of Finance and he kind of told him that he brought the orders, and he made the orders, and he did this, when we all know how Cabinet works, and a Minister of Finance writes nothing and makes no legal order until getting advice from the hon. Attorney General. Later on in his contribution, he wrote a note to himself to remind himself that it was him who told the hon. Minister of Finance to do what he did.

Hon. Senators: [Desk thumping]

Sen. A. Roberts: Now, I am not sure with this hon. Attorney General whether the file got lost or the Order got lost. Because he made a categorical statement here, that the Government broke no law. Well, I ask the Government and by extension the hon. Attorney General and the freedom fighter, well, “what we doing here”? “What we validating?” If no law was broken why “all yuh have meh” here at 9.12
p.m.? What are we—let “meh” read it:

We are here to, this—“let meh put on meh glasses” to make sure I read the thing correctly, eh:

“This Bill seeks to amend the Public Procurement and Disposal of Public Property Act, No. 1 of 2015 (‘the Act’) and to validate certain actions taken in respect of statutory instruments made under the Public Procurement and Disposal of Public Property Act.”

The last time I checked the meaning of validate, it means you did something wrong. You did something illegal, and you have to validate your actions.

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

**Sen. A. Roberts:** You come here to redefine, bring a thesaurus from the PNM in Balisier House to tell us that you broke no law, then what are we doing here?

**Sen. Mark:** Exactly.

**Sen. Nakhid:** That is a good point.

**Sen. A. Roberts:** Well, they say they broke no law.

**Sen. Nakhid:** Let us go home.

**Sen. A. Roberts:** O.J. Simpson said he was not guilty either. Independent Sen. Richards, my hon. colleague, I would like you at some point in time, whether to the media, on Facebook, or here in the Senate, to explain what you meant when you stated in this honourable Senate that you had been lobbied. By whom? I certainly did not as a UNC Senator lobby any Independent Senator or Sen. Paul Richards, so he will have to explain what he meant when he said here that he had been lobbied with regard to this Bill. Lobbied by whom? For what? To do what? Where? When? And how? Because this country has to return to the basic principles of
propriety, decorum and democracy.

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

**Sen. A. Roberts:** Sen. Paul Richards, Independent Senator, also said that they keep personalizing principles. Mr. Vice-President, there are certain principles of conflict of interest and apparent bias that do not require personalization. It does not mean that you are attacking someone. If you have a conflict of interest, you have a conflict of interest. If there is an apparent bias, there is an apparent bias. If someone is appointed by the very government who is in charge of spending the money, breaking the law, bringing validation, and they are appointed and get remuneration from that government, there exists conflict of interest. There is apparent bias. It does not require actual bias.

**9.15 p.m.**

So for Independent Senator Paul Richards to say, “Leave the lady alone”. “Let us see if she can do her work”, he does not understand the principle. It is irrelevant how professional the individual is or if they are able to differentiate and to actually look at something impartially. The principle of apparent bias is clear. Once the conflict exists, you must recuse. You cannot take an independent position. This is why in our country now we have judges who are in love with their husband, and their husband is a PNM and the husband is in Inez Gate, and the husband is a legal adviser to the Government and a senior counsel, and they do not recuse. They have to say no, I am still going to sit down there and judge in a political case. We are losing our moorings. We have a judge who did not know that her brother was on the board who brought the case before her, go through four years and then had to come out and crash the whole case.
So we need to return to some sort of priority understanding democracy, rule of law and just general character.

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

**Sen. A. Roberts:** We have seen it with this PNM. I was honoured to be a Minister of Sport in a Cabinet. I have been swimming and coaching for decades. As a Minister of Sport, I knew that for decades we had tried to build an Olympic pool.

**Hon. Senators:** [Interruption]

**Sen. A. Roberts:** I sat quietly and listened to the nonsense spewed by the PNM. So, Mr. Vice-President, I ask protection especially from the chutney singer on that side.

**Hon. Senators:** [Laughter]

**Mr. Vice-President:** Please be reminded of the Standing Orders which the Member should have silence to make his contribution.

**Sen. A. Roberts:** Thank you, Mr. Vice-President. I really do not have time. You see time is short. And when I decided to swear on the Bible to be a Minister of Sport, I understood that I would not able to move my family’s business or the business of Piranha Aquatics forward to use taxpayers’ money to build the aquatic centre that the PNM and the now Prime Minister and former Minister John Raphael had said, “over his dead body it would build”. But I said that once you come into office you cannot go in the Cabinet and utilize resources of the people for your families’ advancement. So that land remains empty even up to today while an aquatic centre was built by Kamla Persad-Bissessar and this Minister of Sport in Couva for the people of Trinidad and Tobago.
Hon. Senators: [Desk thumping]

Sen. A. Roberts: But this PNM Government of which the Ministers and those who are shouting and standing up have nine and 10 recusals themselves and will have to answer when the time is correct, this PNM Government allows a former Attorney General to step outside and have a cup of tea and then they approve rental of his own building. So they have lost their moral ground to speak anything about procurement or corruption in any form or fashion.

Hon. Senator: And you have it?

Sen. A. Roberts: Well, as we say it, I do have it. Because you see, this Government here, they can say all of them in here will talk about LifeSport, but not one of them will go outside of anywhere and say Anil Roberts, the former Minister took money or corruption in LifeSport because they cannot.

Hon. Senators: [Desk thumping]

Sen. A. Roberts: And I dare any one of them to do it. And I would love to have to wait. I have been waiting for eight years, nine years, and I will keep waiting. You could spend $50 million, you could $100 million, but the reason you will never get anything on a Minister of Sport named Anil O. E. Roberts, Mr. Vice-President, is because you follow process. You do not overstep your bounds. You follow the rule of law, and you allow the public servants to do their job. So if there is anything in any problem with LifeSport, LifeSport had a board—Sport Company board—they had a CEO, they have a director, and once you follow the law—

Mr. Vice-President: Sen. Roberts, I ask that you bring your contribution and tie it in please?

Sen. A. Roberts: Well, sure, Sir. I am tying it in, Sir, because we are here
because the Government, the Executive, broke the law. They overstepped their bounds.

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

**Sen. A. Roberts:** They did not follow the procedure. They did not follow the law. They did not follow the procurement. So I am showing you that the law not only protects the people’s money, the law protects the Ministers, the Executive, who follow the rules and follow the law, and no amount of witch hunt, no amount of SRP cake, no amount of hundred million. “Anil right here and stand up right here” in front of them. Some of them will end up where they would like to send somebody else quite before me, because when you follow the law, you could stand strong, and no evil made, no plan could harass, no tape recording, no audio tape, no commissioner of police who liming with a senior counsel could do anything to bring you down.

This here today, we are seeing that the Government broke the law. They come here to call the Senate and they want to continue to break the law going forward because the PNM has never been one to believe in procurement and I will show you that. My honourable young colleague from Tobago, “ah lil” disappointed in him today.

**Hon. Senator:** Nah, he is a good fella.

**Sen. A. Roberts:** He is a good fella, yes, but I will advise him as a young politician to read a lil bit more before you get involved in debate, because you believe that the PNM began in 2010 so you will probably just got into politics recently. But let me just say that to the hon. Sen. Hislop, he said that the UNC passed the legislation in 2015 and we left it to the PNM to do whatever. My
brother, Senator, there was an election in 2015 just after the passing of the procurement legislation with special majority with very serious clauses, and in that election the EBC gave the PNM an extra hour and did not tell the UNC.

**Hon. Senators:** [ Interruption ]

**Sen. A. Roberts:** The PNM just came to the—well, if you would like to say that you won it like that, yes. Ben Johnson won the 100 metres in 1988 also, does he have the gold medal? But also let me say to the hon. Senator, that you came into office in 2015 so you are criticizing the UNC for not proclaiming a legislation in a few months that you have not done in eight years, and now when you—as soon as you proclaim it, you break it. So Senator, I think you should slow your roll and take your time. Also Sen. Hislop said and made the most incredible statement, he said—and it is echoed by some of the PNM—those smaller amounts, $1 million and less, you do not need procurement for that. You do not need checks and balances. Those things are small. Let me just tell you, he said—**Sen. Gopee-Scoon:** He did not say that.

**Sen. A. Roberts:** You all did not listen to your colleague so please do not disturb me if you did not—go and read his *Hansard*. He said, why do you need all of those checks and the smaller contracts? But you need them to move fast and do not worry about that. You need it for the billion-dollar projects. That is what the hon. Senator said. Let me tell the hon. Sen. Hislop, “small thief, big thief, same thief”.

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

**Sen. Hislop:** The Senator is—

**Sen. A. Roberts:** Standing Order please?
Hon. Senator: You gave way!

Sen. A. Roberts: I did not give way. No, no, no.

Sen. Hislop: 46—

Mr. Vice-President: Senators, Senators, have a seat. Both have a seat.

Hon. Senators: [Continuous crosstalk]

Sen. A. Roberts: I did not give way.

Mr. Vice-President: Sen. Roberts. Sen. Hislop, Sen. Roberts, have a seat.

Sen. A. Roberts: I did not give way.

Mr. Vice-President: Senator, kindly allow—

Sen. A. Roberts: No, no, no, Standing Order.

Mr. Vice-President: Kindly allow the Senator to raise the Standing Order.

Sen. A. Roberts: Okay. What is the Standing Order?

Sen. Hislop: So, Mr. Vice-President, 46(6). Not because I am a young Senator, Sen. Roberts is going to want to bully me when I am raising a Standing Order. 46(6), Mr. Vice-President.

Hon. Senator: But that is what you said.

Sen. Hislop: I never said that—

Mr. Vice-President: Hold on. Sen. Roberts, proceed with your contribution.

Sen. A. Roberts: Thank you, Sir. You know if you come to debate and you do not know what you said, I cannot help the junior Senator. Because he said and he quoted that you need this procurement law for the big contracts, the big projects. You do not need it for the small, in trying to defend clauses 4 and 5. And I am saying to the hon Senator, “small thief, big thief, same thief”. You understand? And as your former Prime Minister said, “Show me a liar and I will show you a
thief”. So show me a small thief and I will show you a big thief. So—

**Sen. Mitchell:** Mr. Vice-President, on a point of order, 46(4) please. This is unparliamentary language as he is unparliamentary.

**Hon. Senator:** He is referencing quotes.

**Mr. Vice-President:** Members. Senator, whilst you continue your contribution, please be mindful of your language and I will ask you once again and take the opportunity to tie in what you are saying to the relevance of the matter, please. Thank you.

**Sen. A. Roberts:** Thank you, Mr. Vice-President. Those were not my words. Those were the words of the former Prime Minister and Member for San Fernando East, a seat that the Minister of Tourism, Culture and the Arts once held, and he was kicked out of it for somebody else. So those are not my words. Those are the PNM’s words.

Sen. Deyalsingh talked about and called out a lot of names and I just have to correct the record, because when you are calling names you must call names and have facts and figures, so you do not end up in court. I ended up in court once over 20 years after being on radio three hours a day and so on. It was only one fella, the now Member for San Fernando East, who replaced the Minister of Tourism, Culture and the Arts, he took me to court over a $9 million basketball league. Of course he lost and he had to pay cost and so on. That is the only time I ever reached as far as the court, but I beat him, his attorneys A. A. Quamina and Stuart Young. So let me just say the reason for that is, that when you open your mouth you must research and you must talk facts so that you do not have to come in here and hide and play your talk. You must talk outside. So when you talk the truth,
when you find facts and figures, it cannot hold up in court because the PNM chooses to make up stories.

So let us just say to the Sen. the hon. Deyalsingh, in his contribution I am sure he did not intend to do so, but he just rattled off some names and then he said, these previous people have done bad things or have brought our country into disrepute and so on, and he linked their names to one PNM called John O’Halloran. So I just have to correct the record because one of those names he also called was the former Prime Minister and the second-best Prime Minister this country ever saw, the hon. Basdeo Panday, who has no case. Whatever cases were brought before against him by persecution, he saw them through and he was exonerated. He was brought before court and put into jail because he did not declare an account that his wife had. But yet we have a sitting Member of Parliament here who has declared—on his integrity forms has not declared a benefit of $486,000 on an apartment he negotiated and purchased, while putting a false value on the integrity form and signing it, but we do not see him going to any jail. So Basdeo Panday—

Sen. Mitchell: Mr. Vice-President, on a point of order please, 46(6).

Mr. Vice-President: Member, whilst you make your contribution, not only must you keep it as tight as possible when it comes to motives and implying improper motives about Members or past Members. Kindly continue with your—

Sen. A. Roberts: Thank you, Sir. Yes, I am just clarifying and clearing the record. Because the hon. Sen. Deyalsingh, certainly I did not think that he intended to cast aspirations by linking people’s names—so I would not even repeat their names—to O’Halloran. Let me just put on the record who PNM John
O’Halloran is and I quote from Lindquist Report printed in 1987.

“Government of Trinidad and Tobago vs. Minister Johnny O Halloran, Mr. 10%”

This PNM man. Done by “Political Corruption”—and—“Bribery”.

“Mr. Ten Percent of Trinidad.

It doesn’t sound like much to be Mr. Ten Percent of Trinidad. A man named John H. O’Halloran made himself an extraordinarily wealthy man. Johnny O, as he was called on the island hadn’t come as a stranger to Trinidad; he grew up there. O’Halloran’s clout in Trinidad lay in the sway he seem to hold over a man…”—

Mr. Vice-President: Sen. Roberts—

Sen. A. Roberts: —“…named Eric Williams…”

Mr. Vice-President: —kindly tie this into the debate. You are explaining a name that was raised once. Tell me the relevance of it when you debate—

Sen. A. Roberts: The relevance of this, hon. Mr. Vice-President, is that the PNM was born of corruption, developed on corruption, and has broken the law for a procurement legislation—

Hon. Senators: [Desk thumping]

Sen. A. Roberts:—and has brought us here to validate the corruption. And I am saying that this PNM, they are—I am going to show you also that they never wanted procurement legislation. Their track record and timeline show that they try to thwart it at every level, from since the Central Tenders Board Act that they were forced to bring into power, to the creation of special purpose companies by the PNM under Patrick Manning in order to circumvent the Central Tenders Board and
to put boards to procure, sell, dispose of assets and spend money. So we are not here by guess. We are here because the PNM is corrupt. They are made of corruption, and they continued their corruption by bringing us here to validate their Orders that were illegal as they breached a legislation and a procurement law that they gutted previously, and now even that weakened watered down version was too strong for PNM and their corrupt DNA.

9.30 p.m.

So I am starting to read because Sen. Deyalsingh called some names and one of them was a UNC Prime Minister and he linked it in the same breath with Johnny O’Halloran, so that is what I am putting on the Hansard.

Sen. Lyder: “He doh have no big building in Canada.”

Sen. A. Roberts: So this PNM man, they continued:

“…the People’s National Movement, a political party that came to power in 1956. Williams appointed his man…”

Sen. Gopee-Scoon: Point of order.

Sen. A. Roberts: It is hard to listen to. Is it not?


Sen. Gopee-Scoon: 46(1).


Sen. Gopee-Scoon: This is going on and on.

Sen. A. Roberts: On and on—[Inaudible]

Mr. Vice-President: Sen. Roberts, as intellectuals in the House, we understand the point that you are tying in.

Sen. A. Roberts: Okay.
Mr. Vice-President: Can you move on from that point please because it is getting irrelevant.

Sen. A. Roberts: No problem, Mr. Vice-President. I know it is painful for them to know who they are, but we will let the population know.

Hon. Senators: [Desk thumping and interruption]

Sen. A. Roberts: Earlier on today, I was looking for my daughter’s Aunt Jemima’s maple syrup to pour on all the waffles that the Minister of Finance came here to talk for 45 minutes. I have never seen—normally, this Minister is a brilliant individual, never mind he went to St. Mary’s College. For the years, I have always enjoyed the battle and the debate with him. I know that you have to listen very carefully because he understands the law, he understands Motions, he understands legislation and he is very intelligent. But just like Muhammad Ali, even the greatest have to retire, and get a little old and slow because he performed today like Ali versus Berbick in 1981 without the moves—he did not sting like a bee and fly like a butterfly. His debate today as Minister of Finance—

Sen. Gopee-Scoon: Point of order, 46(4).

Mr. Vice-President: Sen. Roberts, you have 20 minutes remaining in your contribution, 18 minutes to be exact. I ask that you keep it relevant, you reduce your offensive language—

Sen. A. Roberts: What offensive language, Sir?

Mr. Vice-President: Your—

Sen. A. Roberts: [Inaudible]

Hon. Senators: [Crosstalk]

Mr. Vice-President: Silence, please, silence in the Chamber please.
Hon. Senators: [Continuous crosstalk]

Mr. Vice-President: Silence in the Chamber. Can you kindly bring your points across a little more palatable? Thank you very much.

Sen. A. Roberts: Mr. Vice-President, with all due respect, please tell me what word I used that was unpalatable?

Mr. Vice-President: Sen. Roberts, your tone—

Sen. A. Roberts: My tone?

Mr. Vice-President:—and the manner in which you are bringing it across, is very offensive.

Sen. A. Roberts: Really?

Mr. Vice-President: Yes. Can you proceed?

Sen. A. Roberts: That is very interesting, but the people will know, anyway. That is a very good. Thank you, Mr. Vice-President, I shall continue. The Minister of Finance came and he said—before I reach to the Minister of Finance, I listened to the hon. Sen. Dillon-Remy who said, you know, left side, right side, PNM, UNC, she gets confused with the debates and so on and she does not know who is telling the truth. I would just like to say to the hon. Independent Senator, when you look at the facts of the procurement legislation and you look at the history of it, you would see that there is one side, that side, that has done everything to thwart the procurement legislation. And then there is another side that in five years, not only came into the power but got legislation passed with a special majority strong legislation in five years.

Let me remind the hon. Senator that the PNM was talking about procurement legislation through their Prime Minister Patrick Manning, Member of
San Fernando East since 2004. They came from 2004 to 2010 and it reached nowhere. It was a White Paper in 2004, then a Green Paper and then to delay it, they said that Calder Hart and Utara Rao and Ken Julien had to comment on it. They came out of power in 2010 having left procurement legislation languishing. Kamla Persad-Bissessar became Prime Minister and moved it forward and it was passed on January 2015. That is performance.

The PNM then came in, hon. Independent Senator, in 2015 and from 2015 to 2020, did absolutely nothing with the legislation sitting there, collecting dust on “ah cobweb”. Then they went into an election in 2020 under COVID and we will discuss that at another time and after that, they came to this Parliament and the Senate to gut the legislation that existed to make it weaker, to take things out, to take out medical supplies and legal fees and disposal of assets and government-to-government relations and this was a government that collapsed a sea-bridge, brought in procurement PNM-style, a company called Bridgeman’s that the then Prime Minister and Member for Diego Martin West described as a crooked company, crooked money but then simultaneously he approved it by Prime Ministerial approval, went back to the Cabinet and got covering approval and the “corbeaux” star is still operating now, seven years later, $225 million later of crooked money as described not by the UNC, as described by the Member for Diego Martin West and that was done PNM-procurement style.

While they were doing that and it collapsed, they then went as they let the legislation languish on a shelf, they went to Australia and we saw the new thing about Ministers procuring vessels just before Australia. A Cabinet committee was rushed together in the Cabinet to get a—yes?
Mr. Vice-President: Sen. Roberts, as interesting as your historical standpoint is, I ask that you bring it to relevance to the six clauses at hand without going as wide as you are because you have broken relevance many times in this contribution.

Sen. A. Roberts: But Sir, as far as I can see we are here dealing with procurement, amendments to the procurement legislation and I am showing you that this PNM who broke the law and have us here to validate, they have a history of doing so and breaking down the principles of corporate governance and best practice, because where even in the Central Tenders Board Act of 1960 or the special purpose company or the Ministry of Finance rules, there was never ever in the history of Trinidad and Tobago any element where a committee of Ministers will be allowed to procure goods and services.

This PNM put together a ministerial committee to procure the Galleons Passage, it was supposed to be a lease of a fast ferry, but they purchased a slow boat to nowhere for $120 million. This is why procurement legislation is very important and why we must not support the validation of the breaking of the law of the PNM because you give them an inch, “they take ah billion”.

Hon. Senators: [Desk thumping]

Sen. A. Roberts: So let me just read.

Sen. Gopee-Scoon: 53(1)(b), the Member has been talking about validation for 10 minutes now. Tedious repetition.

Hon. Senators: [Crosstalk]

Sen. A. Roberts: Thank you. Let me also go quickly as I am running out of time and let me go to the Hansard. There is a lot of research to show the Independent Senators that this PNM never wanted the procurement. So let me go back to the
debate of the appropriation Bill, September 2009 when the PNM was in Government. The hon. Patrick Manning, Member for San Fernando East was the Prime Minister, Member for Point Fortin is now here interrupting me but let us go back to that debate and let us see what the Leader of the Opposition at that time, the hon. Basdeo Panday had to say. He said and I quote:

“Under the heading ‘Procurement Reform,’ the Prime Minister promised and I quote…”

—Prime Minister meaning the PNM Prime Minister—

“To further ensure transparency, accountability and good governance, this Government is undertaking a personal”—reform—“of its procurement process…”

This is 2009, eh, 14 years ago. Okay—

“…a personal”—reform—“of its procurement process:
the imperative for reform centres on the need for good governance; public confidence in the integrity of the procurement process; conformity with…”—informal—‘international best practice and regional and international developments; prevailing deficiencies in the legal…regulatory framework; human resource limitation and…lack of regulatory oversight; further add to the urgency for a new, objective; and comprehensive approach to the Government’s acquisition of goods and services’.

Urgency”—says Basdeo Panday—“Urgency was the Prime Minister’s description. Then with great fanfare he revealed a Green Paper on the Reform of the Government’s Procurement Regime, dated…2004, which was out for public comment…”

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Sen. Gopee-Scoon: Point of order, 46(1). The Member is regaling us with a history on procurement when we are here to deal with six clauses. That is what it is. Six—yes, not to be regaled about the history of procurement in Trinidad and Tobago.

Hon. Senators: [Crosstalk]

Mr. Vice-President: As stated just before, when it applies to relevance, the histories are much, however, can you just tie it in a little quickly?

Sen. A. Roberts: Thank you, Sir. I am tying it in and it must be painful for the Member who sat there because this shows that these two Orders that came in May because the Government did not know that CARICOM was still turning 50 and they had to rush and then do orders and get advice from the Attorney General to break the law that we are now called here to validate the breaking of the law. I am showing that the PNM’s track record is not to have procurement legislation. They want to return to us not having procurement legislation just like some editorials. That is why they are attacking the Guardian because the Guardian remembers this. They remember the track record of the PNM when it comes to procurement. So it may be painful for them to hear but this is fact, this is Hansard. So I will continue. Thank you.

“Urgency was the Prime Minister’s description. Then with great fanfare he revealed a Green Paper on the Reform of the Government’s Procurement Regime, dated…2004, which was out for public comment and which listed a series of recommendations. With a straight face he told the country, ‘Implementation of the new procurement regime is…”

Hon. Senators: [Interrupt]
Sen. A. Roberts: Implementation—I sat quietly while the Minister of Finance waffled. I do not know why he is interrupting me.

Mr. Vice-President: That is because we are all hoping that you bring it to a point.

Hon. Senators: [Desk thumping and laughter]

Sen. A. Roberts: [Inaudible]—you think this is a funny joke, Mr. Vice-President. This is the point.

Mr. Vice-President: I do not think it is a funny—

Sen. A. Roberts: When the PNM—[Inaudible]

Mr. Vice-President: Senator, Senator.

Hon. Senators: [Desk thumping and interruption]

Mr. Vice-President: Senator, you have eight minutes remaining. You need to take out the fluff—

Sen. A. Roberts: Fluff?

Hon. Senators: [Laughter]

Mr. Vice-President:—and bring it into relevance.

Sen. A. Roberts: [Inaudible]

Mr. Vice-President: No, no, no, I am on my legs. I am on my legs.

Sen. A. Roberts: [Inaudible]

Mr. Vice-President: It is silence when I am on my legs. I am asking you in parliamentary terms to keep your point relevant and to desist from the straying away with the historical lesson. You have made your point. Do you have another point to bring?

Sen. A. Roberts: I get the point. Are you going to apologize for describing it as fluff?
Hon. Senators: What! [Crosstalk]

Hon. Senator: Despicable.

Mr. Vice-President: Sen. Roberts.

Sen. A. Roberts: Excuse me? What is despicable about that?

Mr. Vice-President: Sen. Roberts, I am on my legs once again. I ask that you keep your contributions relevant, and you tie it into the Bill and the amendments at hand.

Sen. A. Roberts: Thank you, Sir. The Bill comes here to validate the illegal actions of this Government who broke the law with the procurement legislation that was eventually passed here.

Hon. Senators: [Desk thumping]

Sen. A. Roberts: Right. The PNM—

Sen. Gopee-Scoon: Point of order, 53(1)(b), we heard this already.

Mr. Vice-President: The Member has brought up tedious repetition, you have reiterated that point many a time.

Sen. A. Roberts: Because you all keep standing up, Sir.

Mr. Vice-President: But we have heard it. We have heard it. If I sit back down, you are going to say it again. I ask that you move on please.

Sen. A. Roberts: Thank you. The hon. Minister of Finance said in this honourable Senate that the procurement legislation passed in 2015 by the Kamla Persad-Bissessar government sought to put such stringent laws of developed countries and that Trinidad and Tobago is not ready for such brilliance, such amazing—we are not able to reach those standards. The United National Congress says that we totally reject that statement by the PNM and the Minister of Finance.
Hon. Senators: [Desk thumping]

Sen. A. Roberts: We in Trinidad and Tobago can ascribe to the highest levels of procurement, propriety and merit throughout and to make that argument that we are somehow—and I heard the hon. Attorney General talk about us and describe us as some jungle and swinging. I did not understand where he was going with that but I can say that for a government and a Minister of Finance to come here and tell the population that we are not good enough to have stringent, First World procurement so that we could stop “tiefing”, I have a problem with the PNM Government on that point.

9:45 p.m.

They say that they made a mistake, they made an error, it was oversight, it was poor drafting, but they did not make the law but we going to validate. But yet they come here with arrogance and hubris. When one makes a mistake or when there is oversight, or they made an error one should come and say mea culpa, we are sorry, we humbly ask you to help us get out of the morass that we have found ourselves in, could you please assist us? But not this PNM, they break the law, they got the procurement, they procure and spend people money illegally. We do not know how much, we do not know where it went, to whom, and by whom, and what we got for it. They came in the Parliament and when they were asked a question downstairs about the conference that told us that crime is a public health thing like you need a vaccine to stop gun, they came and told us it was 1.3 million, we later found out—two weeks later—it was 3.4 million. “Dey tellin’ us bout 9 million” but 20 million was approved. Is it 20 million? Is it 50 million? Is it 100 million? We need to know where the taxpayers’ money went. “Where the money gone?”
Sen. A. Roberts: They attack the *Guardian* editorial and the hon. Minister of Finance said, and he took umbrage to the words that “it is sinister”. Well, I put it to you here in the Senate that it is sinister beyond belief, that the PNM claims the 50th Anniversary of CARICOM snuck up on them. It is sinister beyond belief, that the PNM spent taxpayers’ money contrary to the law. It is sinister beyond belief that the Minister of Finance on the advice of the hon. Attorney General would surreptitiously secretly produce two illegal orders, 164 and 206. It is sinister beyond belief that the PNM will be terrified and vehemently opposed and allergic to strong, erstwhile procurement legislation. Up to one million they say is “small thing”. I say “small thief or big thief, same thief”. In many other countries the independent commissioners of police, they have independent commissioners of police, they have independent public service, they have well-staffed and fully funded DPP’s office. So when they compare some of the stringent legislation or some of the authority to procure without limit at certain levels, those countries have systems and independent institutions that are functioning. In this country under the PNM—

Sen. A. Roberts:—all independent institutions have been infected with balisier poison, whether it the commissioner of police—

Hon. Senators: [Desk thumping]

Sen. A. Roberts:—the police, the integrity commission—

Hon. Senators: [Desk thumping]

Sen. A. Roberts:—across the board.
Hon. Senators:  [Desk thumping]

Sen. A. Roberts: So we need legislation that is strong, that an independent procurement regulator could monitor the activities of the PNM. The Minister of Finance said the world—he gave us an example of the World Trade Organization, but the World Trade Organization never envisaged a Government like the PNM. They cannot even fathom this sort of impropriety. They cannot fathom that an Attorney General would go into a foreign jurisdiction and sign a document that is full of falsehoods. They could not understand that a Prime Minister will go to Australia with his number one sidekick and visit two different companies, pretend that it is procurement, tell them to tender to the very Minister, the Minister will look over it and say that one company bid less than the other, call the company whose bid was higher, alert them of the secret information of the other company, and then boast that he saved the country money, and hand out one vessel here and one vessel there “like it is dinner mint”. Only in Trinidad and Tobago, do we have the impropriety of the PNM. And now you come here to tell us vote to legitimize their legal Act. We in the UNC say no, we wait for August 14th, and we wait for an election to get rid of them. They have a history of corruption as long as the party from 1956 through now, and it is getting worse under Diego Martin West. So the population has heard today as they try to interrupt, we have seen that an Attorney General has turned the Senate into St. Ann’s and we say on August 14th we will get rid of each and every one of the PNM across Trinidad. Thank you very much.

Sen. Lyder: Yes.

Hon. Senators:  [Desk thumping]
Mr. Vice-President: Senator Teemal.

Hon. Senators: [Desk thumping]

Sen. Deoroop Teemal: Mr. Vice-President, I thank you for the opportunity to contribute on the Bill that is before us here today. Mr. Vice-President just briefly
an opening statement is that when a situation where trust in the political system, and our institutions is definitely at a low level, and a substantial percentage of our citizens do not feel that governments, both past and present, can be trusted to establish institutions that will function with integrity in the best interest of the country. And I think one of the—lying at the crux of our debate here today, really and truly is the question of trust. And based on as I said previous experiences, you know, whether or not that we are in a position to place our trust to such an extent that we can support this piece of legislation before us. Now, Mr. Vice-President, the hon. Minister of Finance in piloting this Bill here today would have gone into lengths, in terms of the demerits of the parent Act, particularly with regard to the length of time it takes in order to procure an item. Now, we did hear from him that the procurement Act has the potential, and not only the potential but actually is causing situations where it seems that the Government is grinding to a halt in terms of the procurement of goods and services to keep the country going. And, you know, he painted a picture of the three and a half months I think it was, and equated that to a situation where it even applies to small items of good or services that has to be subjected to this lengthy process.

Now, I think he related it a lot to the question of open bidding procedure, and it caused me to revisit the Public Procurement and Disposal of Property (Procurement Methods and Procedures) Regulations, 2021, which was passed in
this House and by the other House as well. And for me to really look and see what mechanisms are there, what procurement techniques are there within the delegated legislation or subsidiary legislation that can provide procuring entities including Government, with the necessary means to be able to procure goods and services without a yoke around their neck, or without having situations where it seems as though things are grinding to a halt as we say.

Now, if we go to Part IV section 10 of those very regulations, one of the techniques available is referred to as a request for quotations. And section 10 says:

“10. A request for quotations may be utilized by a procuring entity for the procurement of readily available, relatively low priced, goods or services—”

And it outlines under (a):

“which are not specially produced or provided to the particular specifications of the procuring entity; and

(b) for which there is an established market.”

Now, the provision for section 10 of the very regulations, it goes on to section 11 where it says that:

“…a request for quotations is to be utilized, a procuring entity shall, using standard documents it prepared, request quotations, in writing, from as many suppliers or contractors as practicable, but not less than…three suppliers or contractors.”

9.55 p.m.

[MR. PRESIDENT in the Chair]

Now, Mr. President, there are other subsections to section 11 that, you know, I would not take up the time of the Senate to read them out. But it is clear that the
intention of this provision in the Regulations, sections 10 and 11, there is the system of request for quotations which is not as onerous and which is not as demanding as say, the conditions for open bidding. And if we look at it actually, this request for quotations can actually be done in a relatively short period of time, because of elimination of a lot of the processes that go with open bidding.

Now, some of the contributors so far to this debate have mentioned single source selection. And section 12 of the Regulations says single source selections is a non-competitive method of procurement, whereby a procuring entity engages one supplier or contractor for a procurement even though other suppliers or contractors are available. Again, Mr. President, I do not intend to read out all of the requirements where a single source selection can be used. But I will just point out two. In section 12(2)(b) it says:

“where the subject of the procurement is a good which is a spare or replacement part for equipment in use by the procuring entity…”

So the Regulations do allow, under single source selection, for procurement of spare parts and replacement parts for equipment in use by the respective procuring entities. And then down to section (f) of that same regulation, it states:

“in cases of emergency.”

Now, the hon. Minister of Finance did express some concerns about the interpretation of emergency coming up possibly in a court of law, where a decision made as to what the emergency was could be challenged in court. And, you know, what I want to ask is: Can the Regulations themselves not be amended to define what is an emergency, or to provide guidelines on what is an emergency? So that fear that accounting officers would have would be addressed, and the regulations
themselves, through appropriate amendments, can address what an emergency would be. Because really and truly it is not a rocket science. It is not. Because whether it is loss of limb or life, whether it is the continuation of essential services that impacts on the population, you know, whether it is the safety of communities or large-scale national emergencies, surely, I think we are in a position to be able to give some guidelines in the Regulations as to what emergency means and what could be construed as emergency to minimize the fear and the risk of litigation arising out of decisions that are made, that are classified as emergency.

So, we also have that technique of the single source protection. And, to me the Regulations are fairly well detailed in regard to it. Then also the same regulations speak about a framework arrangement for the procurement. And it says that:

“A procuring entity may establish a framework agreement if it is of the opinion that—

(a) the need for goods, works or services, is expected to arise on a repetitive basis.”

So small items, you know like consumables, I do not want to go to the level of identifying those things. But consumables, generally and small items can be addressed under a framework arrangement for the procurement of bids and:

“(b) the need for goods, works or services due to their nature that may arise on an urgent basis during a given period of time.”

So the Regulations actually allow for framework agreements that can address, you know, the procurement of particularly repetitive items, small items,
and items that are needed in cases of urgency. It is actually stated there in the Regulations. So, within the Regulations, you know, there are several techniques and several methods available to procuring entities in order to address procurement from small items to very large items. And it is not a situation where you have to acquire, procure small items that have to be subjected to the long requirements of open bidding, and open competitive bidding.

I think the drafters of these regulations and the drafters of the procurement Act surely would have known the practicalities of procurement, particularly when it comes to these small items in particular. Because what I see here in the Regulations is reflective of that consideration. And it does not ignore or put, how I am looking at it, puts restrictions, such that things have to grind to a halt.

I think, really and truly is it a question of bad law, or is it a question of us not being ready to operationalize the law? And due to the lack of readiness to operationalize this law, we are being placed in a situation where we have to amend the parent Act in order to allow for our lack of readiness.

Now, Sen. Deonarine, in her contribution, also Sen. Seepersad, did go into some detail, Sen. Deonarine in particular, where a lot of figures were quoted and all of those things. Now, from their respective contributions it is obvious that we are not ready to operationalize this law. Because, from the figures quoted the majority of our procuring entities are just not up to scratch. Not only are they not on the office of procurement regulator depository, they have not even appointed a procurement officer as they are required by the Act. And some of these entities are some of the major entities engaging in the procurement of goods and services for state enterprises, and also on behalf of the Government.
So it begs the question: why would we want to bring about the proclamation of an Act when we are not ready to operationalize the Act? And I hope that the hon. Minister of Finance, in his wrap-up, would probably put across to us, you know, why it is that we have gone about it in such a way? Why have we gone about it in such a way?

Now, what it is, it is giving rise to amendments that are proposed in the Bill before us. And the amendments to section 7 of the Act, as proposed under section 3 of what is before us, is the question of the exemptions, and we already have exemptions defined in one of the amendments to the parent Act, medical services and legal services, and those things. But here, what is significant is that we are changing from affirmative resolution to negative resolution. And to me, that is one of the key aspects of what is here before us.

Now, not only are we looking at exemptions, but we are also looking to measure the scrutiny of the Parliament. And to—well, to reduce the level of scrutiny. Because, however you look at it, the negative resolution, I do not want to repeat what have been said before in terms of affirmative and negative. The negative resolution, there is a step down from the affirmative resolution. And it is a step down because, of course, it is subjected to a different procedure.

Now, I think the Government would have made a step in the direction to allay the fears of the public, to assure the public of good intent by introducing into what is before us, the legislation before us, by introducing a role for the office of the procurement regulator. And it is a step in the right direction. But it reminds me of, you know, there is this game that young children play. I do not know if they still play it, but you throw something over and somebody catches it, and when you
turn around, if you catch them you say: you take two baby steps, you take 10 baby steps, or you take a giant step. So, I think in this case, the step could be considered as baby steps, because I think, in my opinion, we have to go a bit further than that.

Now, Sen. Vieira, in his contribution, did suggest a bigger step, in that the role of the Minister be removed from the proposed amendment before us. And there should be no mention of the Minister. I trust that I am getting Sen. Vieira correct, and that the office should be the sole entity that is responsible for this particular amendment, in terms of the exemptions that are being proposed. Now, Sen. Vieira, yes, we can add some steps there, some baby steps. But, to me, Mr. President, I think the giant step is really for the Government to revert to affirmative resolution.

And I say that because I really do not see any onerous restrictions, in terms of an affirmative resolution. Yes, it takes up Parliament’s time, yes because the legislation is in its embryonic stage, and there may be several instances, or repetitive instances or frequent instances, I should say, where the Government may have to come back to the Parliament in order to seek affirmative resolution.

10.10 p.m.
But Mr. President, the very reason that we are putting forward to change to negative resolution, is that the legislation is young, it is in its embryonic stage, is the same reason that we can put forward for keeping the affirmative resolution. And to put ourselves through, when I say put ourselves through as a Parliament, to put ourselves through the necessity if we have to meet and if we have to call sittings of Parliament to address the problems that has come up in the execution and operationalization of this particular Act, then it may be worth the sacrifice.
Particularly, in the environment in which this particular procurement Act and its amendments have created.

It has always been a sensitive issue. It is not now, it is for decades. And uppermost in the minds of citizens is the whole question of corruption and the quest for us to acquire and to put into legislation appropriate, and timely, and legislation that could be executed in order to deal with irregularities of the past, and in order to curb our penchant for corruption in this country.

So I would urge, you know, the Government, to seriously consider going back to the affirmative resolution.

Now, Mr. President, in section 4 under 58A we are looking at the question of exemptions but in the form of thresholds. And again, thresholds, this is not a new concept for the very regulations that are referred to on methods for procurement also envisage that thresholds would have to be introduced in the subsidiary legislation. And actually, in section 4 of that said Regulation deals with thresholds. And if I may just, it is a bit lengthy I but will just pick one or two points within what is in the Regulations to repeat, just to illustrate my point, is that:

“The Office...”

It says, in section 4(1):

“...may, by guidelines, establish different thresholds to be used for different methods of procurement.”

So the thresholds fall under the purview of the Office of Procurement Regulation and not the Minister. It goes on to say:

“A procuring entity may establish specific threshold values in special guidelines and handbooks.”

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So the Regulations actually allow for procuring entities to establish their own thresholds and to bring it to the Office of Procurement Regulation for validation because section (3), 4(3) of the Regulations even goes on to say that:

“For the purpose of calculating thresholds, the total value of a procurement shall be estimated as follows:”

And there are four categories in which the formula is actually spelt out in the Regulations. The formula for the calculating of thresholds actually spelt out in the Regulations. And might I say, in my humble opinion, the formula that is spelt out in the Regulations is far superior to what is being proposed here in this amendment, because it does not just give a blanket figure of $1 million for goods and services, but it outlines formulas for the calculation of thresholds.

It also allows, the Regulations allow, for the issue of the splitting of contracts and there are guidelines there regarding splitting of contracts, regarding breaking up of contracts, and regarding separation of contracts that would accrue to the best interest of the procuring entity.

So it does not recommend the splitting of the contracts, but in terms of economic returns and economic value, the Regulations actually have an opening for procuring entities to divide contracts, knowingly divide it, not surreptitiously divide to achieve an end, but knowingly divide a contract for the purposes of time, of completion, if you are looking at a shorter period of completion, also in order to achieve the best value for money.

And you know, splitting of contracts, dividing of contracts, is even used for very large contracts. You know, for certain highway projects you have section one, section two, section three, section four. And they award it to different contractors.
because maybe rather than have one contractor doing a mega project that will exclude the participation of local contractors, because a single contractor may not have that capacity. It has been done in the past. To maximize local participation, contracts are broken up.

So all those concepts are not new. And you know, Mr. President, I have heard several of the Senators in this debate talk about that this procurement is new, the legislation is new, the procurement legislation is new but albeit with all the challenges we have had as a country with regard to procurement, procurement is not new to Trinidad and Tobago. And proper procurement is not new to Trinidad and Tobago.

We have had the Central Tenders Board, albeit with its challenges, who managed the procurement process as best as they could. We have many state enterprises who have developed methodologies, and techniques, and systems for complex procurement. We have the Ministry of Works and Transports who has extensive procurement experience, and who have developed their own through consultants, conditions of contracts, specifications, who have evolved the two-envelope system for evaluation of consultants. And we have entities like NIPDEC who have been in the business for a long time. And if you look at the documents for procurement by NIPDEC and some of these entities who have been engaged in procurement, you will realize how far advanced as a country we are in procurement.

So this is nothing new. It is being brought into law under a single procurement regulator. And the same entities who have the expertise in procurement are being asked to comply with the requirements of the Office of
Procurement Regulation in a way that if you really look at it, those entities have dealt with more complex registration, more complex evaluations than what is being asked in the Regulations and in the Act, the parent Act.

So to say that it is new, and that we are now finding ourselves, we are learning, and things are grinding to a halt, I think we need to look at it in a different context. And the context is that whether it is bad law, whether it is onerous law, or whether we have placed ourselves in a position where we were not ready to operationalize this particular piece of legislation.

And if the latter is factual, is the approach that we are using to amend the law, is it the best way forward? Is it the best way forward in that it is going to provide short-term solutions, or is it going to lead us back into the same problems that we are trying to solve with the procurement legislation?

And you know, I am afraid that maybe the latter is the prevalent view. that by continuously amending the law because of lack of readiness, is whether we are re-entering a stage like we did with the Central Tenders Board where we had so many exceptions, so many exemptions, and so many side arrangements, that it made the entire procurement process exceedingly questionable. And unfortunately, those in our society would exploit any openings and any defects that they see.

Now, Dr. Richards, Sen. Dr. Paul Richards spoke about change and said that we want change, but we are reluctant to change. Now, this procurement law that is before us, it calls for change, it calls for change. It cannot be business as usual. And the fact that so many persons including well-established procurement entities have not even registered to get themselves on the procurement depository, it indicates—
Mr. President: Senator, at this point, we have heard those lines of arguments before, so I will ask you to just keep it fresh in terms of what you have been saying earlier on, but anything that has been said before is no need at this late juncture to repeat them. So anything new you have, I would invite you to bring it forward now.

Sen. D. Teemal: Yeah, I thank you for your guidance, Mr. President. All right, I will move on. And that I will come to the question of transitioning from a position of proclamation to where we would like to be. And it is obvious that the period for transitioning was not considered adequately in terms of the proclamation of this law that is before us. Because to move from zero to 100 overnight, even for the most experienced persons and the most experienced entities, calls for resources, it calls for certain appointments under the procurement Act, and it calls for you know, expenditures of money, maybe the hiring of consultants to draft certain guidelines and all of those things.

So what I am suggesting, in addition to the consideration that we relook at the whole thing about going back to affirmative resolution is that one other thing is that the possibility of a period of time to put our house in order. Now, whether it is three months, four months, I do not know, but based on what the statistics that have been presented here by Senators, it seems as though we are way behind in terms of putting our house in order in order to give this legislation a fair and reasonable chance of succeeding. And I would like the Government to take that into consideration, whether it is a three-month period, or four, or five, or six, whatever it may be that some mechanism be found, some way of doing it, to give time for these things to be put in place. Mr. President, I thank you.
Hon. Senators: [Desk thumping]

Mr. President: Acting Leader of Government Business.

Hon. Senators: [Desk thumping]

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon):

Thank you very much, Mr. President. Mr. President, we have been here for about nine hours, and I am not going to be long, simply because as Minister of Trade and Industry, naturally, I want to speak in particular and address, and question, the suitability of the Act in its current form, parts of the Act with regard to SMEs. And because we have discussed it so much, I am going to be very careful and speak to it for just a few minutes.

10.25 p.m.

And then I would want to make reference to clause 6 and just to give some additional information on the whole question of the 50th Anniversary of CARICOM and the need for the validation, only additional information so that it may help the Independents in particular, to come to some understanding of why there was absolutely a need for it. And then, of course, I will just touch on the question of negative resolution again, but just in passing, so I can tell you I will speak for just 10 minutes.

We have listened and it has been long, but in there we have had very good contributions from the Independents and I know that the Minister of Finance will address these in his winding up. But it has been very difficult to listen to the Opposition. I have to tell you those who have gone before, in particular, I mean they have been amounted to nothing more than hot air. I just do not understand, at the end of the day, there was nothing meaningful, no meaningful takeaways from
their contribution. And in particular, I am surprised by my colleague, and I call him my colleague because he is here for a while, Sen. Damian Lyder. Normally he comes with a prepared speech and usually, even though he repeats himself sometimes, usually, you can get something out of it. And he goes on to the podium and spends the time to try to make some points. But today, no, he sat at his desk—he stood at his desk obviously, did not have the paper and I know why and there was not a takeaway from it. He was very loud, loud, loud just almost like Sen. Roberts, very vacuous, hot air but the point about it, I know that he is suffering from the fact that he no longer has his researcher who—his researcher being a member part of the exodus that came over to the PNM and that is why he has been suffering like that.

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

**Sen. The Hon. P. Gopee-Scoon:** I understand very well the position that he is in today.

**Sen. Mitchell:** He is an empty vessel.

**Sen. The Hon. P. Gopee-Scoon:**—it is—yeah, he no longer has his prepared speech, which was usually researched by someone else. No problem with that, but it is part of the exodus.

**Hon. Senators:** [Crosstalk]

**Sen. The Hon. P. Gopee-Scoon:** No, it is a fact. And I mean a lot of noise was made by Sen. Roberts, regaling us with a long history of procurement and why the PNM had never engaged in procurement, et cetera, et cetera, and trying to hit us very hard. But the point about it is when they came into power, and they had, oh, quite a number of seats 28, so they could have done anything that they wanted. So
at the same time Kamala put on her—no sorry, at the same time, the then Prime Minister put on her tall boots, and went out there on the day of the inauguration, at the very same time they should have been thinking about procurement. And they did not, and they know why, they know why, they waited and they let five years pass, they could have passed that procurement legislation and they could have implemented that they did not and it is for particular reasons and need not say more than they are the most corrupt—

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

**Sen. The Hon. P. Gopee-Scoon:**—government that this country has ever seen. And it is for that reason that they did not pass—they did not think about the legislation, they talked about it but never passed anything until they were going out and leaving it for somebody else to implement.

But I want to say that when we came in, it is not that we did not act, we came in in 2015 and we set about to do what was required. There was a need for the appointment of the procurement regulator, and the Government and the procurement regulator were working to get the regulations in place to get the administrative side of things in place, you have to set up an entire office, an entire structure, et cetera, and hire persons and so on. So there is a lot of activity and work that had been required and we have been working very closely and with the Office of Procurement Regulation to ensure that we brought ourselves to some state of readiness for the implementation of this law that had been passed. And there was always active collaboration to the point where I recall that in 2020, the Office of Procurement Regulation had informed the Minister of Finance so that the OPR not be involved in the disposal of lands because of the conflict of interest
involved and of course, and the Minister brought the necessary amendments to Parliament. So that there has been much work being done by the Minister of Finance and both Attorneys General in ensuring that we bring this—we get to the point of readiness in terms of implementation. Needless to say, that there has been training more recently, training for government officials and also to the private sector and of course, while with a view to having some kind of a seamless transition.

So seamless transition is what we wanted. Seamless transition is not entirely where we are at and the point about it is, we are here because we have to deal with the fact that the legislation is deficient in some parts and in particular, I want to speak to how it is affecting SMEs. And—so we all know why we want this public procurement, and it is because of the benefits that it will bring, and we know the objectives are all about efficiency and cost savings, transparency and fairness, quality and standardization, support to the local economy, innovation, technological advancement. That is all—we want to get all of those things out of this procurement Act. But at the end of the day, the first word that I called was efficiency. We have to admit the place where we are at, despite all of the efforts to strengthen and to get ready and so on, we are at a place where it is not quite suitable for SMEs and it is something that we have to address because of how important SMEs are to our economy. And so, in doing so, we have to be careful about getting the balance right and I speak then therefore getting the balance right between rigor and functionality.

So and the point I am trying to make is that at the macro level, there are serious implications for the economy and the development on our nation when we
ignore SMEs and their contribution to the economy. So there is no way we can look forward without addressing their concerns and their needs and how they fit into this new legislation. And so, at the core of this, and in doing my research, I looked at the OECD Council on Public Procurement and the advice which they gave to countries on the expectation, the objectives and the requirements for having effective public procurement. And so in 2015, they had published a number of recommendations for improving public procurement in jurisdictions. And I want to speak in particular a point to recommendation IV, which:

“Recommends that Adherents facilitate access to procurement opportunities for potential competitors of all sizes.”

And that is where the SMEs come in. So we have talked about the business and the readiness and many of them perhaps have already registered, we note that there are about 1,000 entities/businesses that have registered already and I feel certain that most of them, if not all of them, would be large businesses. But the recommendation IV spoke about ensuring that there are opportunities for potential competitors of all sizes, and I want to quote that:

“…Adherents should:
Have in place coherent and stable institutional, legal and regulatory frameworks, which are essential to increase participation in doing business with the public sector and are key starting points to assure sustainable and efficient…procurement systems.”

And they talk about these frameworks being as clear and as simple as possible. And a lot of what we spoke about today, points to the fact that it is not simple. What has been put forward, what is existing, is not simple for the regular small
business and let alone the micro businesses as well, which we must pay attention to.

We talk about 20,000 SMEs existing in this country, contributing to the economy, creating employment. We sometimes ignore those that are existing in the informal economy as well as, the micro businesses. And they too are important, all of the micro businesses in Sangre Grande and Toco and Point Fortin, because they too contribute to the economy. And whilst we are not satisfied that they are existing in an informal way, the point is that they do have a contribution to make to the economy and especially also in the creation of employment. And so the frameworks which the OECD had expressed also, in addition to being clear about being simple as possible, talks about also treating bidders:

“...in a fair, transparent and equitable manner...”

Delivering:

“…clear and integrated tender documentation, standardised…”—and so on.

But again, they spoke about specific tender opportunities designed to encourage broad participation from potential competitors, including new entrants and small and medium enterprises. And they will choose to ignore that on the other side, I am hearing the “steusping” and so on, I will ignore you all. Because I am speaking on behalf of the 20,000 businesses—

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

**Sen. The Hon. P. Gopee-Scoon:**—and all of the micro enterprises that exist in this country, and other contributors. Perhaps you do not care about them, you are only
interested in big business, but we are interested in the small and medium size businesses in this country. Right.

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

**Sen. The Hon. P. Gopee-Scoon:** So this takes us directly to clause 4 and I know that it is a topic that has generated a lot of debate. Again, in my capacity as Minister of Trade and Industry, I must address it, and because we must look after the interests of the SMEs in this country and to give them a chance, give them a chance to participate in being able to supply goods and services to the Government and to the public service. So very, very important and I strongly support the addition the new section 58A, which states that:

“...Subject to regulations made under section 63, the procurement of goods and services up to one million dollars are exempt from the procurement requirements under this Act.”

So as I said, I am not going to spend a long time on this but let us acknowledge, and we saw—I make reference to one article in newspaper, an article written in the *Guardian*, July 13, 2023 by *Guardian* newspaper, the Dareece Polo, and again, noting that their depository is cumbersome for most users and of course, at that time, there were two Chambers which were in support, I am not going into the details, it would have been the Chamber of Industry and Commerce and of course, AMCHAM TT. There is no need for me to go into that but the general sentiment, it was that the prequalification requirements are onerous, and not well suited to capture the SMEs.

And so, again, the Minister of Finance when he spoke in the other place, spoke to the fact that just under 1,000 private entities have successfully
prequalified and that there were 32,000 lines of businesses pending qualifications—32,000. This is not a small number, and therefore it cannot be ignored. And, of course, they spoke about some of the rejections. But the point I want to make, the final point I want to make on the relevance of the suggested amendments to the SMEs, is the fact that taking into account that there are 20,000 SMEs, and I am ignoring the amount of—the number, I do not have the number of micro enterprises as well, it stands to reason that there are less than 5 per cent of businesses in this country, and I am only talking about SMEs, that are currently prequalified and able to provide goods and services to the Government. That cannot be ignored. It cannot be ignored and is based on that and I am not going to go any much longer—it has been a struggle for us, I can tell you, we have been doing whatever we can to support the SMEs. So we can do that on one hand and that is the balance that we have to achieve. So it cannot be that the Minister of Finance is providing finance through the SME Development Loan Programme.

Initially, when he came to the SME guarantee loan programme just during the COVID period, he had to go back and alter and change all the—and amend because simply they could not qualify many of the SMEs. And so we have to bend backwards to accommodate them so that they can participate in the economy and that stimulation is very relevant to the economy and the success of the economy of Trinidad and Tobago.

So the balance is that the law must not penalize these small firms. We are doing what we have to do. Only yesterday, again, I launched a programme at the Hilton, which is on the enhancement of the single electronic window and so on, again, ensuring that the ease of business is in fact working much better and in
support of the business environment. But on the other hand, we have to ensure that there must be the balance and the law does not penalize these firms in Trinidad and Tobago. Right.

10.40 p.m.

We want these firms to be able to operate, particularly now as we come out of COVID. We have been doing well but we need them to contribute to the economy. And I just want to make another point before I shift off of this—I mean, a lot of heavy weather about accounting, PSs and accounting officers. There are one or two persons who spoke about that, and I want to tell you that I am in strong support of the PSs and the accounting officers in the Government service. I think they have done very well. You cannot paint a broad brush. All of—for the last “how many ever” years, they have been using their limits and executing contracts, and so on, within their limits and I do not know that we could paint any broad brush about corruption when it comes to our public servants and our PSs and so on; not at all. I think they are very capable of managing, governing and managing the affairs with integrity and having the country’s best interest at heart, and I want to support them as being able to continue to operate in the way that is being suggested today, attending to spending below $1 million. I want to go just to—I said I would be quick, I want to go to the question of the 50th Anniversary of CARICOM and the $9 million spend. The Minister of Finance spoke about the $9 million spend on the conference and its associated events, and this is related to clause 6, so I want to add information.

I know many Members have been concerned about what was the spend on, why was it necessary, why was there no predictability; we knew that the 50th
anniversary was going to be held on July 04, 2023, we should have been prepared for it, and I know I have heard it, both from the Independents and with the Opposition as well. And I want to say, despite all of the preparation, and I know that the hon. Prime Minister and also the Minister of Finance would have addressed the fact of how recent the decision had been taken that Trinidad and Tobago would host, but far and apart from taking the decision and not having enough time to comply with the requirements—for firms to comply with the requirements of registration and so on, given the fact of the process of three and the half months which we were told by the Minister of Finance today, the fact is a lot of—when you are doing a large meeting, a large convention of this size, much of the confirmation of the delegation—and this was a successful—a very successful conference.

We had more than 400 delegates and many of the delegates, including high-level delegates do not give you their confirmation until very close to the date, and so it is not uncommon to have where, especially where you have Heads of State and Heads of Government, and so on, to have to find the room within their very busy schedules to confirm that they will attend, and very often, even though the conference is on, the convention is on, many of them are not able to confirm until very late. In this case we kept adding and adding. I do not think any member of—any head of government within CARICOM had any inclination that this would have been so successful and that we would have had so many visitors to our shores, including more than 25 non-CARICOM representatives—25 delegates from non-CARICOM territories.

We would have had seven international organizations come to our shore,
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including the United Nations, the OAS, the CAF Development Bank, the Commonwealth Secretary, and ECLAC, et cetera. And in addition to that, you would have had six members of Congress as well, but 25 territories from across Europe and Asia and Africa coming to our shores, and so it was mammoth. And as I said before, the confirmations came in late, and I can tell you, I have some of the dates of the confirmations here and some of them were as late as—this thing was being held on the 4th of July, confirmations were coming in very late in June. So it was not an easy thing to say we can predict, we are going to have 400 delegates, et cetera, and these are the levels of the delegates, and these are all of the requirements in terms of vehicles, et cetera, et cetera.

We found ourselves having to find cars at the very last minute for new entrants, for new delegates coming on to the programme, and so I think we were able to achieve quite a bit in terms of the actual celebrations, the 50th anniversary celebrations and also the Heads of Government meeting, and also all of the attendant events with regard to the celebration. And so 26 businesses would have benefited, 26 businesses, and I am not going to stand here and call out the 26 businesses because there is an opportunity for the Opposition, if they wish, they can ask a question in Parliament—

**Sen. Mark:** [Inaudible]

**Sen. The Hon. P. Gopee-Scoon:** That is okay, you can ask, and I could give you all the details. I have details but I am not going to stand here and call out dollar values, et cetera, but what I can tell you, the range of expenses, the $9million would have covered from the opening ceremony to a CARICOM exhibition, to the anniversary concert, to the actual convention site, event and preparation, to hotel

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accommodation for the high-level delegates as well, dinners for them, et cetera, down to audiovisual equipment. Is it in there; it is a range of activities and I can understand that you are not familiar with this, you know. You had one high-level visit here; I remember I was in Opposition and it was by the President of the People’s Republic of China and, listen to me, you made a mess of it diplomatically, you know, because you can understand that they do not wear the veneer of diplomacy.

Hon. Senators: [Desk thumping]

Sen. The Hon. P. Gopee-Scoon: And we see it in the Chamber, we see it in the tearoom; we understand them well. So you would never understand. You will never understand.

Hon. Senators: [Crosstalk]

Mr. President: Okay.

Hon. Senators [Continuous crosstalk]

Mr. President: All right, Senators—Senators—

Hon. Senators: [Continuous crosstalk]

Sen. Lutchmedial: Yuh grab up Obama.

Mr. President: Members, it is getting late and as much as something said in the course of the debate might cause a response, let us not allow it to run for too long. Continue Minister.

Sen. The Hon. P. Gopee-Scoon: Thank you. And again, I think there may have been the visit of the Cuban President and what did they do, another diplomatic faux pas, because I think that they gave him a painting or something that was quite offensive. So they did not do their research. I think they just sent out and they
procured something, and they did not think about the meaning behind it, and the visiting Head of State was quite offended at what they did. As I said, so the spend would have gone—I mean, from the smallest items, you are talking about banners and flags, and flagpoles, et cetera, and tokens, et cetera. There were vehicle rentals, so that it is a lot of expense involved in hosting—and I would know, eh; I would know. I was the Minister of Foreign Affairs at the time of the 5th Summit of the Americas and—[Inaudible]

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

**Sen. The Hon. P. Gopee-Scoon:** Yes, I would know, but you have no sense of diplomacy and this is why you cannot appreciate the level of spend that we did and it was $9 million, not $20 million as you are trying to tell the population.

**Hon. Senators:** [Continuous crosstalk]

**Sen. The Hon. P. Gopee-Scoon:** I will move away—

**Mr. President:** Let the Minister speak. Continue, Minister.

**Sen. The Hon. P. Gopee-Scoon:** Thank you very much. Thank you very much, Mr. President, and I will move away from that because they can pose a question and they would get all the details. But I will move away and there is just one point I made, I want to make again, and it is about the negative resolution. All of them, heavy weather about negative resolution, and I could understand some of the concerns raised and we will address it, concerns raised by the Independents and we will address it. But we will make the point again that negative resolution does not negate the opportunity for debate—right?—and it changes—I mean, what it does, is that it changes when a debate may occur, and you do have the 40 days, and they spoke about the 40 days and the 40 days to “tief”. Everybody talking about
“tiefing, “tiefing”, they all know about “tiefing”. Right?

Hon. Senator: [Inaudible]

Mr. President: Please.

Sen. The Hon. P. Gopee-Scoon: And the point is negative orders are still subject to the scrutiny of Parliament, but I want to make the point that during the 10th Republican Parliament when the UNC was in office—you are talking about negative resolution, negative resolution—Oh, God, they cannot stop—right? It was the standard legislative practice of the UNC government to bring legislation to the Parliament—

Hon. Senator: No! What?

Sen. The Hon. P. Gopee-Scoon:—authorizing Ministers to effect regulations and other forms of statutory instruments subject to negative resolution of Parliament. Everything they brought; they wanted to give their Ministers free sheets subject to negative resolution of Parliament.

Hon. Senators: [Crosstalk]

Sen. Mark: [Inaudible]

Sen. The Hon. P. Gopee-Scoon: That is so—it is not true?

Sen. Mark: [Inaudible]

Sen. The Hon. P. Gopee-Scoon: I am misleading? No. If it is not true, I will call them out.

Hon. Senators: [Crosstalk]

Mr. President: Again, I am not going to ask again, I am really not, it is too late for this—

Sen. Mark: [Inaudible]
Mr. President: Sen. Mark, it is too late for this. Minister.

Sen. The Hon. P. Gopee-Scoon: And since you think it is misleading, let me give the facts. Right? The Trade Marks Act, 2015, the section of the Act authorizing regulations to be effected by negative resolution of Parliament, section 123; Indictable Offences (Criminal Proceedings) Act, 2014, section 47; Cybercrime Bill, 2014, section 46(2); Insurance Bill, 2013, clause 292; Planning and Facilitation of Development Act, 2014, section 107—

Mr. President: Okay, Minister, I think the point has been made.

Sen. The Hon. P. Gopee-Scoon: Right. I am making the point but about 10—I am telling you, about 10 pieces of legislation, negative resolution, and I will call them out. Ask the question and I will get it for you.

Sen. Mark: [Inaudible]

Sen. The Hon. P. Gopee-Scoon: But the final one, the final one, the final one, the Justice (Indictable Proceedings) Act of 2011, that is the pièce de résistance; that is the infamous section 34 legislation which the former government attempted to use to free their family, friends and financiers from the wheels of justice. You are talking about the wheels of justice, and the legislation was subsequently repealed during an emergency sitting of Parliament so that all of their persons understand the need to have emergency sittings.

Sen. Roberts: [Inaudible]

Sen. Mark: [Inaudible]

Sen. The Hon. P. Gopee-Scoon: Yeah. We had to have an emergency sitting to deal with that.

Hon. Senator: Who was the Speaker?
Sen. The Hon. P. Gopee-Scoon: But I cannot—I had to make that point to them because all of them are making that point about negative resolution.

Hon. Senators: [Desk thumping]

Sen. The Hon. P. Gopee-Scoon: The pièce de résistance, the Justice (Indictable Proceedings) Act—[Inaudible]

Hon. Senators: [Continuous crosstalk]

Mr. President: Okay. Minister, Minister, Minister, Minster, have a seat.

Sen. The Hon. P. Gopee-Scoon: [Inaudible]—section 34.

Mr. President: This is the last time I am going to get to my legs. Minister.

Sen. The Hon. P. Gopee-Scoon: Thank you. I am going to close—right? And just to give the population the assurance that we are working to make practical, the unpractical aspects of the law, that is what we are trying to do here, and the work will continue by us. And all this thing about “gutting” and “gutting” and “gutting”, if we do not fix it, what we would be doing is “gutting” our economic potential and “gutting” the ability of our SMEs to fully participate in the economy in Trinidad and Tobago. Thank you, Mr. President.

Hon. Senators: [Desk thumping]

Mr. President: Sen. Nakhid.

Hon. Senators: [Desk thumping]


Sen. Roberts: Standing Order 46(1).

Hon. Senators: [Laughter]

Sen. David Nakhid: In the name of God, the most gracious, the most merciful. Mr. President, at this late hour, I was quite content to give a philosophical
overview to the end of this debate. I think our Opposition Members, credit to them, and some Independent Members handled this thing quite well. Congratulations to them.

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

**Sen. D. Nakhid:** I was content to come with some kind of philosophical statement outlining that basically ancient and contemporary philosophers can put any dilemma into categories of right and wrong. No matter all the smoke and mirrors, you put most dilemmas into a category of right and wrong, until, Mr. President, the last contribution—

**Hon. Senators:** [Laughter]

**Sen. D. Nakhid:**—which had me reaching for my guns like Clint Eastwood and saddling up—

**Sen. Lutchmedial:** Philosophically.

**Sen. D. Nakhid:**—because I heard all this talk, quite conveniently, Mr. President, about small and medium enterprises, the PNM’s sudden interest, sudden love for the poor people of this country who we have seen suffer for the last eight years under this Government.

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

**Sen. Lyder:** No man. Pain. Shame

**Hon. Senator:** “Don’t worry, ah have” more issue with—[Inaudible]

**Hon. Senators:** [Crosstalk]

10.55 p.m.

**Sen. D. Nakhid:** All of a sudden, quite conveniently—and this is where one of the philosophers—and excuse my background in philosophy—Immanuel Kant, spoke
about rank opportunism being morphed into idealism. That is the PNM.

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

**Sen. Lyder:** Oh yes!

**Sen. D. Nakhid:** Rank opportunism. It is quite clear what is before us. Did they breach the law or did they not? Dilemma of right or wrong. Did they, with all that was before them, with all the years and the history that they told us about, what we did, what they did, “blah, blah, blah” and “blah, blah, blah”. What the poor man on the street wants to hear? Did they, with the hard-earned procurement regulations that we secured, Opposition and Independents, that they agreed to quite recently, did they breach the law? Did they break the law?

To do what? They say do not talk about “tief” money. Did they do that? To pilfer. Did they do that? Yes they did. If not, why then come here, as has been stated on both sides, to come and tell us we are going to validate this thing? Obviously, something has been done wrong. So let me give that some background, so I will avoid tedious repetition.

I heard ad nauseam from the Attorney General, Minister of Trade and Industry, and the Minister of Finance, about CARICOM and CARICOM and CARICOM.

**Sen. Gopee-Scoon:** You know you all do not like CARICOM.

**Sen. D. Nakhid:** The Minister of Trade and Industry spoke about it, about adding to the lists, new delegates were coming on, and on and on. I do not talk about this, some people may know on our side, and I think one of the Independents knows. My parents’ proudest moment about their son, was not my football achievement. It was the fact that I graduated from the School of International Service at American
Hon. Senators: [Desk thumping].

Sen. D. Nakhid: One of the most prestigious schools of international service in the world. So when I heard all this hullabaloo about how CARICOM had just confirmed, and people had just confirmed, and it was late coming on, let me tell you how this thing works, and any freshman who deals—a freshman at any school of international service that has any rank, I will tell you how the protocol works.

They talked about Blinken, or whoever, just confirming at the last minute. That is not how it works. The United States sends a delegation list, everybody, to the point. This is not any Third World country here. They send everything on point. They might change the names, but the size of the delegation is confirmed months before. That is a fact. Go on any website, any website, and I will tell you one further, especially in relation to CARICOM, I will tell you what happened exactly. They came in the mid-year revenue, with that $20 million ask for CARICOM. They met at the Summit of the Americas, when? In June 2022. They had a side meeting with Barbara Feinstein. They forget who they are dealing with. The UNC is a bright party.

Hon. Senators: [Desk thumping]

Sen. D. Nakhid: Barbara Feinstein confirmed attendance—confirmed attendance, Barbara Feinstein, as she is the Assistant Deputy Secretary of State, especially for Central America and Caribbean affairs. So they would have known. So all this talk they come here to tell us about a delegate came on late, and they had to do, and they had to do; smoke and mirrors, Mr. President. Smoke and mirrors, they broke the law. They broke the law, deliberately.
The question we have to ask ourselves is why. Let me tell you something further—let me tell you something further, the people who pretend now to have this sudden interest in small and medium enterprises, the poor man. Mr. President, 6,000 small and medium enterprises closed down under this Government during the COVID—6,000.

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

**Sen. D. Nakhid:** They have not brought one actionable, one deliverable to what they did to help that 6,000—not one. Did they make access to banking easier for them? No. Many of them never received a grant, no. But they come here to tell us, all of a sudden, where opportunism morphs into idealism, that they are the party of the poor and the small and the small medium man. “Boy, move from here, allyuh go from here, yes.”

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

**Sen. Lutchmedial:** Suffering people for VAT refunds.

**Sen. D. Nakhid:** So, Mr. President, after 41 years of being out of the country, just coming to play for my country, blood, sweat and tears, “I tell myself I going and watch some cricket today”. I have to come here and try to validate their breaking the law.

**Sen. Lutchmedial:** “Yuh understand?” I had to sell my ticket.

**Sen. D. Nakhid:** And everybody here standing up to talk about section 34, well, let me address that frontally.

Section 34, they liken it to what has happened. Their own words, section 34, section 34. Well, as I recall, the hon. Kamla Persad-Bissessar took action on section 34 and fired her Minister of Justice. I want to know who is going to get
fired on that side.

**Hon. Senators:** “Yeaaa!” [*Desk thumping*]

**Sen. Lyder:** Not one! Not one!

**Sen. Lutchmedial:** “Foster still sit down dey with he Special Branch report! FIU lookin for him.”

**Sen. D. Nakhid:** Their own words—their own words, and “lemmeh tell yuh something”, in section 34 no one got off, no one escaped, not one person.

**Sen. Lutchmedial:** Not one person walked free.

**Sen. D. Nakhid:** But here now they cannot even come and tell us and account for moneys. They cannot even do that.

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

**Sen. D. Nakhid:** And listen to the—she said—it is not “piece deh”—it is pièce de résistance. The Attorney General with outrage. I was amazed, a rage, I never heard him, loud; talking about people getting schools supplies and all of that. School just finish, eh, but people—he was talking about people getting school supplies. This is the Government who shut down laptops.

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

**Sen. D. Nakhid:** This is the Government who cut GATE. This is the Government who cut school feeding.

**Hon. Senators:** [*Continuous desk thumping*].

**Sen. D. Nakhid:** And they are coming here with all the hubris and fake outrage to tell us about they care about the poor man.

**Sen. Mark:** Imagine that.

**Sen. Roberts:** They cut textbook grants.
Sen. D. Nakhid: So if political hypocrisy was a name, it is PNM.

Hon. Senators: [Desk thumping] Yes!

Sen. D. Nakhid: So I will get off. I know I could have gone and dealt more with the Minister of Trade and Industry, but—

Sen. Roberts: Ease her up.

Sen. Lyder: She is a toothless tiger.

Sen. Lutchmedial: That is called “diplomacy”.


Sen. Lutchmedial: “Grab up” Obama.

Sen. Roberts: Go to the AG. “Deal with he.”

Sen. Lutchmedial: Diplomacy is running and “grab up” Obama.

Sen. D. Nakhid: What was most irritable, Mr. President, to be honest, is to hear the AG, who put his Minister of Finance in quite a pickle.

Hon. Senator: [Laughter]

Hon. Senator: In what?

Sen. D. Nakhid: He put him in quite a pickle. Is to see the Minister of Finance—

Sen. Lutchmedial: I thought he was in Miami.

Sen. D. Nakhid:—who, I will tell you something, whether we agree or not, whether he is unremarkable as an economist, as Minister of Finance, Minister of Works, whatever portfolio, what no one could ever say about the Minister of Finance is that he has allowed himself to be politically exposed. Well, bravo, AG, you have done that in three days.

Hon. Senators: [Desk thumping and laughter]

Sen. D. Nakhid: I have never seen a Minister of Finance so under pressure. He
“doh” know what to say. He “doh” know where to turn, constricted by the poor legislation, the poor—maybe thought process—of an AG who is completely out of his depth—completely out of his depth. I mean, I will not be exaggerating to say—

**Sen. Roberts:** “He worse than Faris.”

**Sen. D. Nakhid:** No! Faris looking like a boss!

**Hon. Senators:** [*Laughter and desk thumping*]

**Mr. President:** Sen. Nakhid, have a seat. Just remember, even in the midst of your contribution that we refer to Members by their title. Continue.

**Sen. D. Nakhid:** Mr. President, sorry, late, the 11.03. The Minister of Local Government and Rural Development, now looks like a professional in front of this AG.

**Hon. Senators:** [*Desk thumping and laughter*]

**Sen. Gopee-Scoon:** Point of order, 46(4), that is insulting language.

**Hon. Senators:** What? Aww!

**Mr. President:** Continue. Continue. Continue.

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

**Sen. D. Nakhid:** I might be factual, Mr. President, but I am never insulting, never. I can assure you that. I was brought up well. I was brought up very well.

**Sen. Roberts:** What is insulting is that his name is Johnny Seukeran.

**Sen. D. Nakhid:** Proud of my mother and father.

**Sen. Roberts:** Shamed to be Indian. His name is Johnny Seukeran.

**Sen. D. Nakhid:** Proud of my mother and father. They raised me well. Mr. President, yes. So we have an Attorney General who obviously gave poor advice.
And I would to quote, since I was on a philosophical trend, a manager that we are all aware of, manager Alex Ferguson, one of the most famous, the greatest ever. And he said, you know, you have a player who can be a disappointment. It means he is sporadic, he will be poor from time to time. He is a disappointment. But then you have a player who is an embarrassment, he is poor all the time. That is the Attorney General. He is an embarrassment to the Government. He is an embarrassment to the country.

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

**Sen. D. Nakhid:** He does nothing right it seems, Mr. President. We are here—

**Sen. Gopee-Scoon:** Point of order, 46(4), I do not think he has to go to that extent. We must be respectful of each other.

**Sen. Roberts:** “De man is an embarrassment.”

**Mr. President:** Senators, Senators, Senators, let the point of order be raised and the Presiding Officer will rule. Sen. Nakhid, just temper it a little bit. Continue.

**Sen. John:** They like to give, but they cannot take it.

**Sen. D. Nakhid:** Yes, yes. I have heard—

**Sen. Roberts:** “Yuh hug up Obama.”

**Mr. President:** No—just the running commentary. Sen. Nakhid.

**Sen. D. Nakhid:** Mr. President, the hon. Minister of Trade and Industry rose and spewed pejoratives at us just now. I have done no such thing. I am saying that he has proven, the AG, has proved his incompetence. He has placed that Government and the country in a situation where we are meeting in an extraordinary session with very ordinary people.

**Hon. Senators:** [Desk thumping and laughter]
Sen. D. Nakhid: And I will give you an example, Mr. President. This is a government with all the resources at their disposal to do the right thing. We have placed our trust in them. Taxpayers’ money is in their hands. They like to say that, they are in charge of the Treasury. They like to say that, “is we in charge now”, brilliant fella. We in charge now.

Hon. Senators: Deal with it.

Sen. D. Nakhid: Well, I can give you an example. Let me give them an example. If a poor little African or Indian boy from the East-West Corridor—you know I like to talk about the East-West Corridor, it is where I come from, and it is where I played football with all my boys. Let us say that little African boy, little Indian boy, he had policies that catered for his situation: Proper education, primary through tertiary, proper tech/voc, sporting policies and funding, like we had with our hon. Sen. Roberts. Social, business grants to help the disenfranchised youth start a business. Easy access to bank funding for that youth who wanted to start a little business.

If the youth on the East-West Corridor had all of that available to him, and then went into a life of crime, what do you think that Government would have said? They would have said, “Look, we give him everything and look what he do. He went in a life of crime—one shot/one kill, cockroach”. They would have told him “all kinda ting”.

Mr. President: Bring it to the debate.

Sen. D. Nakhid: Is that not the same? This Government had procurement legislation before them, which they agreed to, watered down, gutted, agreed to and then came and broke their own law. What should we say about them, Mr.
President? How can they sit here and want to fake outrage, after they broke their own law, that all of us sat here—I was here—and agreed to?

Mr. President: Sen. Nakhid, you started off responding to the speaker right before you, and now several minutes in, I am hearing it coming back again. So take a look at what you have before you, and anything new bring it in, because you are crossing the line of tedious repetition of your own arguments at this point.

Sen. D. Nakhid: Thank you for your guidance. I will not be long, but just to return to the Minister of Finance, who loves to speak about—well, everybody heard he went around the world, talking about the UK, the EU and all of that, but no one made the point that he was talking about economies that are dealing with their GDP of trillions of dollars. The UK, I think $3 trillion; the EU, $15 trillion. So when they have exemptions amounting to what could be $1 million TT, you are talking about economies of scale. You are talking about, look at that comparative. We are talking about here one million exemptions that could be broken up to suit what they want, by a Minister who has given himself all the power. How could that be?

11.10 p.m.

I warned and I warned in a previous, as I conclude. I warned in a previous debate right here about the Trinidad and Tobago revenue authority, about the dangers of giving a Minister those powers and I called that contribution defending the indefensible. And I alluded to a book, but before I get to that book in my conclusion, we must say that no matter where we reach, the Government has two stated objectives, their mandate is two-fold no matter how you bring it in. One, to protect us, I think we all agree on that, to keep us safe so far they have failed
abysmally.

Then the second, is to use the taxpayers’ money to uplift all, to uplift all the people to make sure that they serve the country in a way that we feel secure not only in our homes, our churches, our mosques, our mandirs, whatever, that we feel secure that they are spending our money in the interest of our disadvantaged as well as the people who deserve. Can we say they have done that, Mr. President, with the breaching of this law? Can we say that they have reposed trust or improved their credibility among the people? Look at the reaction of civil of society and I do not want to go into it again, but it is just a reflection of how far down the rabbit hole this Government has taken us. Where we know longer have any trust and we hear that word bandied about, Mr. President, but it is a true word, it is a word that has meaning. The people no longer have trust in this Government, for anything not even the smallest of exemptions, we do not believe them because nothing is ever the deliverable by this Government, nothing. They never bring statistics, they just come and talk, the Minister of Trade and Industry stood up as she mentioned small and medium—and I was waiting, I said I am going to hear a couple statistics. She just went into a general overview of standardization, we are bringing everything into a process but mentioned not one small, or medium business enterprise that they helped.

So in conclusion, Mr. President, this sleight of hand that we witnessed by this Government, this anomalous position that we now find ourselves in is not anymore anomalous for this Government, we become accustomed to this place we are in with this Government. Coming to validate something they have done wrong, typical of the People’s National Movement. I ask you, as I repeat, Mr. President,
the quote of Walter Block, the author of *Defending the Undefendable*, he said who would defend the undefendable, who? What manner of man or woman. And he said who. He said it would be people of low character, the pimp, the prostitute, the slumlord, the libeler, the moneylender. These are the people who would defend the indefensible. I cast no aspersions but you stand in the glare, the spotlight from the people of Trinidad and Tobago. I hope you do not defend the indefensible and I thank you, Mr. President.

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

**Mr. President:** Sen. Thompson-Ahye.

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

**Sen. Hazel Thompson-Ahye:** Thank you, Mr. President. It has been a long day, glad to be here, not at this hour, did not think I would make it. I had to fight to get back to Trinidad. And you know, when I read in today’s paper about how the Independent Senators are part-time and you know, some things that were not at all complimentary or true, you know you wonder where people get information from because I have been at my desk since 2:30 this morning after going to bed after ten. So Independents are not really part-time, we work very hard to try to serve our country, so the columnists should talk to us and know the lives that we live.

I am grateful for to opportunity to speak on this Bill. When I read this Bill the Public Procurement and Disposal of Public Property (Amdt. and Validation) Bill, 2023, a title that falls trippingly off one’s tongue, and heard the hon. Minister of Finance explain explanations for the amendments, immediately the lyrics of one Dolly Parton’s songs came to mind:

“Here you come again…”

**UNREvised**
I had resigned myself to living to what was passed in the December 2020:

“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…”

Never mind my objections to certain key provisions did not meet with much success and you know the unkindest cut out of all was that this Bill was proclaimed on my birthday, April 25, 2023. And here comes, again you know, the hon. Minister with his characteristic grin trying to convince us that vote for these amendments of the Bill, we must. The Bill is short on clauses, but long on implications, it begins with a preamble. We have not seen one of those in a while, save where it is legislation requiring a special majority. The preamble I think has been read before and you know when I realized that the errors in the preamble were corrected I said, now why they did not send us this correction before, so I would not have to spend time correcting the grammatical errors. So thank you, thank you, we are getting there.

Clause 1 gives the short title, The Public Procurement and Disposal of Public Property (Amdt. and Validation) Bill, 2023. And clause 2, gives the title of the Bill and perhaps for first time in the history of legal drafting the short title is longer than the long title, but maybe that gives you an idea that this is an unusual Bill. Now, clause 3 states:

“3. Section 7(7) of the Act is amended by deleting -
(a) the words “(5)” and substituting the words “(6)…”

Mr. President it is a long time I studied legal drafting, I like to describe myself as
an eternal student and that is the reason I attend so many conferences. Please enlighten me, is there a legal drafting rule which prescribes that figure should be described as word? In my ignorance, I would have written figure “5” and figure “6” where I saw digits, instead of the word “five” and the word “six” where there are figures. So kindly clarify; something strange to me.

So let me move now from the grammatical to the substantive, the proposed amendments to clause 7(7) have attracted a great deal of attention. And clause 3 is designed to correct a cross-referencing error, the wrong section was referenced and needed to be corrected was an obvious error and but we needed a little more than a mea culpa.

You know something very odd, in that I listened to the Minister speak about there was, you know, nothing wrong, no crime was committed or anything like that and the letter of the law and the spirit of the law, I think, should always coincide. It makes for good governance. So that if it is that one says that one is doing something, one does not do it and when one is called on it, I think it would have been a better approach to say, you know, we could have done things differently and you know, we should not have done what we have done.

Clause 3(b) now, is a horse of a different colour. It is viewed in the nature of a Trojan horse hiding, as some see it, Government’s sinister purpose. When the Bill was being debated, I had objected to Government’s proposal for it to be subjected to negative resolution. I had referenced Jamaica’s Public Procurement Act and UK’s Procurement Bill, both of which required an affirmative resolution to exempt certain goods and services coming within the purview of the Act. And I have chastised the Government for its seeming predilection in my view for
negative resolution in legislation, rather than the use of affirmative resolution. It has come up time and time again. And I think that is one of the things that Sen. Mark and I agree on; one of the few things, Mr. Mark, that we agree on.

11.20 p.m.
I was very pleased therefore, when at the end of the debate, the Minister accepted my recommendation for affirmative resolution. Today I saw there is a change of heart and this Bill now requires of us that we, and I quote:

Empower the Minister of Finance to issue subsidiary legislation which would be subject to the negative resolution of Parliament.

Mr. President, I remain firmly of the view that the use of the affirmative resolution is the route that the Government should take in this matter.

I was astonished to hear in the debate in the other place, a Minister of Government whom the late Justice Telford Georges—and I believe the Attorney General made reference to him, spoke in very high terms, for whom I was the greatest of admiration and whom I was privileged to call my friend. In fact, he sent me a telegram the morning of my wedding from Zimbabwe, and I was given the privilege of not only attending but also speaking as his close, invited guests only, funeral. This much revered Caribbean man had described a Member of Parliament as a brilliant fellow, so I was taken aback to hear him equating affirmative resolution with negative resolution and extolling the virtues of a negative resolution, such as having the advantage of saving parliamentary time. Did I hear correctly, I wondered, or did either of us “bounce” our head? Was it becoming—I was becoming a hearing-impaired person? Did he really say that it was laziness that prevented his opposing parliamentary colleagues from objecting within the 40-
day window of opportunity given to nullify a negative resolution? Really, I think I must have been mistaken. I must have misheard. I have always admired him as one whose intellect is sound. He would not have ascribed my stance on negative resolution to laziness and I must apologize for misunderstanding him, but the student in me prompted me to further research and the teacher in me made me feel constrained to seek to explain a difference between a positive and a negative resolution. I spent most of last night researching the issue, after all this is the ruby anniversary of my graduation from law school so I needed to return to the books.

What I discovered, Mr. President, is that those of us who object to Government’s propensity for negative resolutions are not singular in that respect. The delegated powers and delegation committee of the House of Lords that scrutinize the grant of delegated powers, which is equivalent to our Statutory Instruments Committee, constituted under Senate’s Standing Order 83, has similar concerns. Now, I did not know about this Standing Order 83, and when I spoke to some of my fellow Independent Senators, they also were not aware that we have this Statutory Instruments Committee to actually scrutinize negative resolutions and bring it to our attention. Now, the House of Lords Committee said:

“During this century there has been a huge growth in the numbers of Statutory Instruments made each year, and an even larger growth in their volume and complexity.”

Mr. President, when you read the submissions to the House of Lords Committee, you will find a familiar ring, and if I may quote:

“Several of the written submissions”—to the committee—“expressed concern that the growth in the number of Statutory Instruments represented a
substantial shift of legislative power away from Parliament and towards the executive. That concern was compounded by the perceived shortcomings of the arrangements for scrutinising Statutory Instruments.”

Some of the many recommendations made to the UK committee were as follows:

One:
“The…Committee should encourage the practice of publishing particularly significant Statutory Instruments in a draft so that they can be subjected to detailed comment by interested parties and members of both Houses of Parliament before being formally laid before Parliament.”

And that:
“Ministers and Departments should consider doing so wherever that would be beneficial.”

Two:
“A ‘sifting mechanism should be established to look at the significance of every Statutory Instrument subject to Parliamentary scrutiny; call for further information from Departments where necessary; and draw attention to those Statutory Instruments which are important and those which merit further debate or consideration.”

Three:
“A joint Committee should be established to sift Statutory Instruments. Alternatively, the second chamber should consider setting up machinery to sift Statutory Instruments, perhaps inviting the…”—statutory—“Committee to take on the task.”
I do not know if we have ever constituted a statutory committee and if it is working but, as I said, I did not learn about it until, you know, I had to do the research. Four:

“Neither…”—House—“should consider a Statutory…”—provision until the committee—“has reported on it. The Statutory Instruments Act…should be amended to extend the statutory ‘praying time’ in respect of negative resolution instruments from 40 days to 60 days.”

So that is the recommendation they are making to the House of Lords that we can perhaps consider. One of its most significant recommendations was at the practice of:

“…consulting on proposed Statutory Instruments…would reduce the number of occasions on which serious criticisms might be levelled at the drafting of Statutory Instruments.”

And I would like to commend this recommendation to our Parliament.

Clause 4 of the Bill introduces a completely new section 58A which has aroused a great deal of controversy, as we know. It provides for the exemption up to $1 million, so I would not go into that. Mr. President, when we delegate powers to Ministers to make secondary legislation, we are in fact surrendering to them some of our legislative powers. However, we must maintain scrutiny as guardians of the people and the Constitution. Mr. President, citizens are wary of the Government and the Opposition. There is a crisis of confidence. They are not sure whom they can trust; neither side has been untouched by corruption charges.

History has not absolved one or the other, but has engendered that feeling of mistrust. Citizens want, no, they need a government that they can trust, and more
importantly one that they believe cares for them and one to satisfy their needs. I repeat here my quote from the “General Procurement Guidelines” issued by the Government of South Africa that I used when we were doing the Bill in 2020. The introduction to the guidelines states that:

“Proper and successful government rests upon certain core principles of behaviour”—called—“the Five Pillars of Procurement…because if any one of them is broken the procurement system falls down.

The Five Pillars are:

One:
“Value for Money”.

Two:
“Open and Effective Competition”.

Three:
“Ethics and Fair Dealing”.

Four:
“Accountability and Reporting”.

And five:
“Equity”.

It is not fair or even wise to judge our citizens as gullible. They listen to the Parliament channel, they call in to the radio stations and you hear what they have to say. They have ideas about things, even governance. When I spoke on the legislation on December 07, 2020, I explained that this procurement legislation does not require that you accept the lowest bidder. Even a poor, illiterate man understands the concept of value for money. I had said then in response to an
Express peer that if you need to hire a lawyer, you may be compelled to take Ramdeen or Ramlogan, not the best examples of low-priced lawyers, because their price is lowest. Quoting South Africa’s manual, I said, value for money:

“…is an essential test against which a department must justify a procurement outcome. Price alone is not a reliable indicator and departments will not necessarily obtain the best value for money by accepting the lowest price offer that meets mandatory requirements. Best value for money means the best available outcome when all relevant costs and benefits over the procurement cycle are considered.”

In spite of my explanation, the same indigestible diet is being fed to the populace. But, you know, when someone repeats in the press what I had said seven months ago, it becomes their original comment recommended as worthy of emulation and by other Independent Senators who are deemed wanting in perspective, lord put a hand. I am talking about a newspaper report.

Some years ago I was trying to persuade a Minister of Government to act in accordance with his duty to a fellow citizen. He thought the financial outlay might have been too much for someone who seemed to be an unsavoury character. I lectured him on citizens’ rights and he countered with words I will never forget. He said, “Is we money, you know”. I was shocked. I could have fainted away like Lu Lu in the Mausica Folk song, “Doh Faint away Lu Lu, Doh Faint away. Oh lord meh yellow girl doh faint away.”

He did not seem to understand that money under the control of a government official was not government’s money, but belonged to the people of Trinidad and Tobago. This man was a citizen who was entitled to have his needs met from that
money. One of the hurdles that Trini Government has to overcome is the public perception that laws are being enacted for personal benefit of lawmakers and their cronies rather than for the benefit of the people. This is one of the hardships that every Prime Minister has to bear, that perception.

So as we celebrate this week, the 60th anniversary of the founding of Mausica Teachers’ College whose motto is “Moulding a nation to service”, a college that has given us even parliamentarians, Garcia, Rodney Charles, Eastlyn, Bacchus and so on, many of us would welcome legislation as in accordance with open and effective competition, ethics and fair dealing, accountability and reporting, and equity legislation that is in accordance with the principles of good governance, namely transparency and integrity and value for money. But it must be properly done.

When we look at clause 4, not even scrutinize it, just a fleeting glance, the red flag goes up. An exemption of $1 million is not chicken feed, and it has aroused some concerns, now I have heard that it will benefit the poor people and it will help them to get their children to go to school. Well, I also hope that those people who are doing school feeding programmes and are being owed money, those people who are driving children to school and have not been paid, that they would benefit from that as well in some way, so that it is not just one group of people, or two groups of people, but we look at it across the board, because a number of people are still suffering.

Now, clause 5 amends section 63 by deleting the Chapeau and substituting the following, and it talks about the recommendation of the office upon the initiative of the Minister in consultation with the office, he will make regulation to give effect
to the provision of this Act, including regulation with respect to a number of things, including the procurement of goods and services up to $1 million. Now, a lot has been said and it is late so I would not go into that. We now how, you know, this $1 million has to be handled very carefully.

Clause 6 is the validation clause which seeks to legalize Legal Notices No. 206 of 2023 and 164 of 2023, and the contracts done and purported to be done pursuant to those instruments, and that too has been dealt with to a large extent. And as one who is involved over time with organizing conferences and so on, perhaps what we could do is say, you know, I am willing to entertain you if it is a situation that they are not paying their own way, but no, leave out the alcoholic drinks. You could do that, you know. You could say, “You want alcoholic drinks, pay for that, and do not drink all the premium alcohol drinks when you come as a visitor, as a guest, as my guest to my country”.

Now, I know that we all want to roll out this procurement legislation, but there are problems that we need to look at. So it means, you know, sometimes we want to do things and we find it is taking too long, but there are problems even with the Judiciary still, and the depository and certain things that they cannot do because their work is so complex. Like I was asked the question, you know, could we arrest a ship? I was told, well, you know some of the things like peer resolution and some of the services that they provide, counselling and so on, there is a difficulty with that. So we need to do what we can. So this is a government with highly experienced people, intelligent and conversant with good practices, and we are not sure what went wrong. I mean, if you tell me, I would like to know, you know, and I promise not to tell anybody, so you could level with me and tell me
what it is that really that went wrong with the legislation.

11.35 p.m.

It must have been very painful for those in power to realize that we have made some errors there. Now, as I sat there, you know, people start sending me things and they want me to refer to certain things, and one of the recommendations made is that there should be a six-month period for readiness for people to qualify, give them that opportunity because a number of people who run businesses are not ready and they will take a little while. And also, I heard from another person that vendor education sessions worked at Petrotrin. It was very successful. They were able to prepare because when they started to roll out their procurement practices there were many people who were not ready, they were not prepared and they did not know what to do. Because a lot of the times we teach people skills, but we do not prepare them to run a business and they just do not know what is required.

In our joint select committee, I remember when we were discussing some of these provisions, a lot of people, we were saying that they ought to be taught what is required to start up a business. So we need a lot of education, we need a lot of training still. We will get there, but in our anxiety to get there let us not cut corners. Let us try to do the best we can. Let us cooperate. And I would not say by this time next year, but shortly I think we will all come on board and do what we have to do. Thank you, Mr. President.

Hon. Senators: [Desk thumping]

Mr. President: Minister of Tourism, Culture and the Arts.

Hon. Senators: [Desk thumping]
The Minister of Tourism, Culture and the Arts (Sen. The Hon. Randall Mitchell): Thank you very much, Mr. President. Mr. President, we just heard from Sen. Nakhid and I would say, most respectfully, if philosophy jumped up and smacked Sen. Nakhid in the face he certainly would not recognize it. Mr. President, Sen. Nakhid usually carries on his debate with a lot of sound and fury and often describes himself as bright but always fails to support the assertion, so there is nothing much to say about Sen. Nakhid, largely irrelevant; nothing to do with the Bill before us today.

But, Mr. President, I plan to come to speak with the Independents because we have before us a very important amendment Bill, and I am very grateful for the contributions of the Independents. And if it is one thing, one common thread among all the Independents, is that there is a problem with the new procurement regime. We may differ on what that problem is, whether that problem is teething problems, whether the problem stems from deficiencies in the law and deficiencies in the regulations, or whether the problems are simply challenges with the operationalization.

Every Member of the Independent Bench provided for us different solutions, and there are different ways to tackle this problem depending on how you see the problem. But as a Government we are responsible, of course, for the management of the procurement regime and for the management of the economy, and we too have provided a solution and we can discuss and we can come to a consensus to ensure that we find the best solution for public procurement in Trinidad and Tobago. And I came to speak to the Independents and we came to speak about the Bill, but I cannot allow the contribution of Sen. Roberts to go by unchecked.
Now, Mr. President, Sen. Richards spoke a lot about our culture here in Trinidad and Tobago. I am a practising Catholic and I hope I do not offend the Christians but, you know, sometimes we, in Trinidad and Tobago, have nothing on the resurrection of the Lord and Saviour following the resurrection of Sen. Roberts on our political landscape. The gumption of the United National Congress to place Sen. Roberts in this Chamber to speak on matters of public procurement has to be one of the most shameless things in this country.

Hon. Senators: [Desk thumping]

Sen. The Hon. R. Mitchell: Sen. Roberts—and I refer to a Guardian article almost nine years ago:

“Prime Minister Kamla Persad-Bissessar…”

Mr. President: Date.


“Prime Minister Kamla Persad-Bissessar has referred the damning report of the Life Sport audit—including alleged fraud, theft, questionable payment and other criminal activities—to the Police Commissioner, Director of Public Prosecutions, the Integrity Commission and the head of the Public Service.

Immediately terminating the programme yesterday because of...deep irregularities…”

That programme, run by the former Minister of Sport—

Sen. Roberts: “Eh heh?” Run by—

Sen. The Hon. R. Mitchell:—under the former Minister of Sport, of course it was run by the public servants under your charge, was one of the most corrupt
programmes that this country has ever seen. Procurement using cash in brown bags, one of the things coming out of the central audit report; most questionable procurement practices; gang members were actively benefiting from state contracts under that programme. And you know who told us that, Mr. President? The former Minister of National Security, none other than Gary Griffith, who is now the head of the NTA, who has now formed a coalition with the United National Congress. And I wonder often how Sen. Roberts feels about that coalition because it is that former Minister of National Security, who referred Sen. Roberts and his LifeSport programme, reported it to the Prime Minister. He was the whistleblower. But there is a saying you know, Mr. President, those who marry in haste must repent at leisure.

Hon. Senators: [Desk thumping]

Sen. The Hon. R. Mitchell: And if there was nothing wrong with LifeSport, then why did the hon. Senator resign as the Minister of Sport and resign as the MP for D’Abadie/O’Meara?

Sen. Roberts: It was the right thing.

Sen. The Hon. R. Mitchell: Of course it was the right thing because you prevailed over the most corrupt procurement practices of any programme in Trinidad and Tobago.

Hon. Senators: [Desk thumping]

Sen. The Hon. R. Mitchell: And I will speak about mendacity of the hon. Senator in his contribution, trying to point to the Cabinet about procurement practices of the _Galleons Passage_ and the _Cabo Star_. Those procurement events were done by NIDCO. Pure mendacity—
Sen. Roberts: Not the *Galleons Passage*, you lie. You lie.

Mr. President: Sen. Roberts, please.

Sen. Roberts: But he is—[Inaudible]

Mr. President: Sen. Roberts, we do not speak across the floor in that manner, utilizing—

Sen. Roberts: [Inaudible]

Mr. President: Sen. Roberts—utilizing that language. It is 15 minutes to midnight and we are getting through this process with the individuals that want to speak. Please allow them to do so.

Sen. Roberts: Okay, Sir.

Mr. President: You have a point of order you want to raise? Minister, continue.

Sen. The Hon. R. Mitchell: Thank you very much, Mr. President. Mr. President, let me move to Sen. Mark. Sen. Mark, of course, a lot of sound and fury as well, and they are making this thing sound as though these procurement practices are hidden away, “where the $9 million gone, and where this gone, and where that gone”. Sen. Mark has been a Senator, a Member of these precincts for a very long time. Sen. Mark knows very well of the very robust financial security mechanisms in this Parliament, and very simply he can ask a question for oral answer, can ask a question for written answer. As a member of the PAC, or the PA(E)C, or the PAAC, you can ask for the information and the information will be provided as it always was.

I faced a question recently, just about last month, where I provided the entire procurement for Carnival 2023, all the procurement, the values, the names of the suppliers, the names of the vendors. I supplied everything. But you are coming
here, theatrical as always, thespian at best, and you are making it sound to the public that this information cannot be received by you. It is some secret or surreptitious deal. Nothing could be further from the truth. And he spoke about a press release and, Mr. President, let me touch on the press release, and I agree with the hon. Attorney General.

The JCC, AMCHAM, the Trinidad and Tobago Chamber of Industry and Commerce, TTCSI, T&T Transparency Institute, they do not speak for all the businesses in Trinidad and Tobago, and I would dare say that it is untrue. It is untrue that their members make up 60 per cent of the MSMEs in Trinidad and Tobago. It is plainly untrue. But hear what they say in the very same media statement:

“The group is of the view that legitimate challenges with the operationalization of the Act, as opposed to deficiencies of the Act itself are being identified as justification for an attempt the amend the law.”

So, on the one hand you are saying that there are legitimate challenges with the law, and that is what we are saying, that is what the public servants are saying, and that is what the persons who wish to participate in public procurement, that is what they are saying. And if there are legitimate challenges, is it not incumbent upon the Government to deal with those legitimate challenges in the way that we have? It is incumbent on a responsible government to do just that. So I reject this media statement. And further, you have to ask yourself who makes up the JCC, the Trinidad and Tobago Contractors Association, AMCHAM, Trinidad and Tobago Chamber of Industry and Commerce.
You know, Mr. President, a lot of these companies that make up—the hon. Attorney General called them elite, but a lot of these companies that make up these organizations, they have accountants, they have lawyers on staff. They have complete compliance units to deal with these things, gaining an advantage in competition over micro, small and medium enterprises. I am not shocked by this, but I reject it.

Another thing that Sen. Roberts and Sen. Mark said, of course, going down the road of attempting to undermine another independent institution by accusing the new procurement regulator of apparent bias and conflict of interest, and making the claim, dastardly as it is, that it is the PNM who appointed the procurement regulator.

11.50 p.m.
Mendacity, again, UNC-style. Because when you—

Sen. Roberts: Boring.

Sen. The Hon. R. Mitchell: I would call you a liar but then I would be unparliamentary but I will be truthful. Mr. President, if you look at Part II “The Office of Procurement Regulation”, you would see in section 10:

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

Sen. Mark: Standing Order 46(4). I do not think it is proper for any Member of Parliament to be calling another Member a liar and I think that is what he just said, the hon. Minister, so I will ask you to rule on this.

Mr. President: Okay. So one, we do not use that type of language or reference to
Sen. The Hon. R. Mitchell: That is no problem, Sir.

Mr. President:—in our contributions or whatnot. So, Minister, just continue.

Sen. The Hon. R. Mitchell: Thank you very much. Well, Mr. President, I did say that it was unparliamentary but I would say the word untruthful. Both Sen. Mark and Sen. Roberts both untruthful in their contributions in making the claim that the Government of the day was responsible for the appointment of the procurement regulator. In section 10(1):

“The Office shall be governed by a Board…”

And I repeat:

“…which shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition…”

—which means that the procurement regulator was appointed by the President after consultation with the Leader of the Opposition. What did the Leader of the Opposition say?

Sen. Roberts: No, but it was overruled by the Prime Minister. So “wais yuh point”? Come on “nah man”.


Hon. Senators: [Laughter]

Sen. The Hon. R. Mitchell: Mr. President, I will touch on something that Sen. Seepersad said. In identifying our place in the corruption index, Sen. Seepersad made the point, and correctly so, that bribes are being paid for important services in society and that is correct. But who are these bribes being paid to? When you go to the licensing office or any other office and there is some bribe that is
requested or a bribe to be paid, the bribe is not being paid to anybody on this Bench, it is not paid to anybody on that Bench either. The bribe is being paid and extracted from public officials and that is the thing.

In this procurement legislation, as much as we are hearing that there is distrust for Members of the Government, this entire procurement legislation, with the exception of the Minister of Finance who will bring regulations in consultation with the office of the procurement regulator, the entire regime is operated by public servants—entire regime, not by members of the Executive. I understand your distrust after hearing what went on in LifeSport and starting with a former Minister called Mary King who interfered with an entire procurement process and was fired within a few months under the UNC. We understand that distrust but there must be some level of trust. The Executive, we are not operating this regime, you know.

So, Mr. President, I would not be long and I really wanted to start off with an old adage which says, “demonstrate, do not explicate”. And what that means really is you demonstrate with action and not through argument in the hope that now with the proclamation of the procurement legislation, you would see and have ample evidence of the deficiencies that are now found within the legislation and the need for tweaks. The need to fix the legislation as we go along, it being an entirely new regime.

But this type of argument is extremely difficult. It is very, very difficult to argue with the objectives of the procurement legislation. It is very, very, very difficult, Mr. President. It is very difficult to argue with—and many persons have mentioned it. Sen. Mark mentions it almost every time he speaks. The objectives
of this Act are to promote:

“(a) the principles of accountability, integrity, transparency and value for money;”

It is very difficult to argue against that, nobody on this side argues against that. We want these principles of good governance. But the framers of the argument and the framers in civil society whom I believe may have an agenda to serve, the framers of the argument, they make it so that if you are to have any critique or suggest any amendment to the procurement regime, it therefore means that you are against the principles of accountability, integrity, transparency and value for money and therefore, you have some nefarious motive and that you are corrupt. That is what the framers of the argument are doing.

Mr. President, without wanting to display, in just one week, all of these articles on people who have a lot to say but have not yet even read the parent legislation nor the regulations that support the parent legislation. Nobody. All they hear is accountability, integrity, transparency and value for money and therefore, if you want to touch it, you are therefore accused of being corrupt. But the Independent Senators have all agreed. There is a problem with the procurement legislation and the procurement regime.

But as Sen. Mark identifies these principles, somehow on the Opposition Bench, they are leaving out the other parts of section 5 of the Act. Yes, the objects of the Act are to promote:

“(a) the principles of accountability, integrity, transparency and value for money;”

But also, in subsection (b), to promote:
“efficiency…”

Efficiency. To promote:

“…equity…”

Not equality, equity, not a levelling of the playing field at the very high threshold where the JCC and all of those types of bodies reside.

“…equity and public confidence; and

(c) local industry development…”

Hon. Senators: [Desk thumping]

Sen. The Hon. R. Mitchell: And it goes on to define what local industry development includes:

“…includes those activities that serve to enhance local capacity and competitiveness by involvement and participation of local persons, firms and capital market and knowledge transfer during the conduct of the programme of goods, works or services that are being procured;”

But we are being told now that out of the tens of thousands of organizations, and when I say organizations, I mean vehicles that conduct business, only 973 of those organizations are prequalified to do business with the Government. Obviously, there is a problem. There is obviously a problem.

But, Mr. President, I want to quickly just make the points without offending the rules against tedious repetition and I just want to make it on clause 4. Everybody else has spoken a lot about all the clauses but I would like to make a few comments on clause 4, and I want to make it just in the context of the Ministry of Tourism, Culture and the Arts because in the Ministry of Tourism, Culture and the Arts, look at the types of things that Tourism Trinidad or the Ministry of
Tourism would procure. A cruise ship may come on the Waterfront to visit us and we will want to procure a “doubles man”; we may want to procure somebody to walk—moko jumbies, stilt walkers; we may want to procure somebody to give out some chow; we may want to procure Johnny’s coconuts, for somebody to come and provide coconuts to those people. And every single person, as micro as they are, whether they are sole traders, whether they act in their personal capacity, whether they are limited liability company or whatever other organization, they have to go through the process as everybody else.

So what is that process? They must register. Who must register? Everyone must register. You must register to do business with a public body. What is a public body? Well, section 4 tells us what a public body is. Section 4 in the definition section tells us what a public body is, and a “public body” means:

“(a)...Office of the President;
(b)...Parliament;
(c)...Judiciary;”

And it goes down, the Ministries, municipal corporations, the usual public bodies. But (k) and (l) are very instructive.

“(k) a body corporate or unincorporated entity—
   (i) in relation to any function which it exercises on behalf of the State; or
   (ii) which is established by virtue of the President’s prerogative, by a Minister of Government in his capacity as such...”

And (l):

“a body corporate or unincorporated entity in relation to any function,
project, scheme or arrangement which involves the use by it, of public money;”

And that means, Mr. President, that this very section suggests that even if you need to get a little subcontract from somebody, you are captured by this law.

So we go through, again, and to make the point that the annual budget is $57 billion and if we take out about $20 billion for the payment of personnel expenditure, the rest of money goes into the procurement of goods and services and this $57 billion goes into the stimulation of our annual $150 billion in GDP and that is directly relative to the Ministry of Finance’s collection of taxes for the servicing of our company.

And I make that point to say that public procurement is the lifeblood of our economy. It is not like in other advanced economies where the private sector—the spend in the private sector is more than the public sector. Public sector spend is the lifeblood of our economy. So you must register and I have no problems with a lot of the registration on the depository. You have to create a profile, you have to add your directors, your addresses, your geographical location, your shareholders and all of those things, but you have to provide financials, Mr. President. You have to provide your financials.

12:05 a.m.

And, Mr. President, before you move on, in the depository, in registration you have to provide your financials. You have to provide a banker’s letter, you have to provide management accounts, financial statements. What does a doubles vendor, what does the person who is providing some stilt walkers, some moko jumbies, what do they know about management accounts? Mr. President, you know, there

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are Members on the Opposition Bench who failed the subject of management accounts about five times in the Arthur Lok Jack Graduate School of Business, but we are asking these micro and small enterprises to be able to produce management accounts, financial statements and banker’s letter. Well, banker’s letter would not be an issue.

Many of these small businesses, they operate by bank statements. You get a bank statement and you know how much you spend, you know how much you earn and you know whether you are making a profit. A lot of these sole traders, that is how they operate. But you have to fill this out before you move on to the next stage or else the procuring entity will not prequalify you. And then there is another issue that I will move to very quickly, and that is the matter of preselection. So the procuring entity must engage in preselection, and preselection is governed by the regulations. And in preselection you have assessment criteria and scoring that gives the advantage to the larger JCC, TT Chamber of Commerce and Industry, and those types of member bodies and organizations. It gives the advantage to them.

Hon. Senator: Equity.

Sen. The Hon. R. Mitchell: That is not equity, it is equality, but it is not equity. So, Mr. President, we can stay here and we can pontificate about what is good procurement, and what we should do and what—but I would invite Independent Senators, and I would invite everybody, go through the process of attempting to do business with the Government. Do not just tinker and go on and click on these lil drop boxes, go through the process. See how many persons—see if you get rejected. Go through the process, you cannot know the experience of the micro,
small and medium businesses without having to go through the process and obviously there is a problem if we only have 973 approved entities to do business with the Government. Mr. President, this Government is responsible for the management of the economy and for fiscal and economic policy. And I dare say that to continue with all of these issues, to continue with all of these problems would be—and I contend—would be to support discriminatory economic policy and practices by a state against its micro, small and medium enterprises.

Hon. Senators: [Desk thumping]

Sen. The Hon. R. Mitchell: State-sponsored discriminatory economic policy. There must be some room, there must be some equity. There must be an allowance for small businesses, for micro businesses to do business with the Government. It cannot be that at Johnny’s coconuts—and I am sorry to be—I mean, he really produces some fantastic coconuts, but it cannot be that Johnny’s coconuts has to face those very stiff barriers to entry into this regime. It cannot be. And it cannot be that some large event management company or rather Johnny’s coconuts cannot participate in government procurement unless by some large entertainment company who will—

Hon. Senators: [Desk thumping]

Sen. The Hon. R. Mitchell:—always win the contracts or be preselected to tender into contracts. There must be equity. Again, public procurement is the lifeblood of our economy and the micro, and small, and medium enterprises are also the lifeblood of the economy. That is where we want people to go. We want people to go towards entrepreneurship, towards business ownership, Government cannot hire everybody. But there must be equity. We are for the principles, Mr. President, of
transparency, integrity and accountability. We are for those principles, but we must also seek efficiencies. We must seek efficiencies. It must be efficacious if Government is to stimulate the local economy.

We must engage in the development of the local industry, micro, coming all the way up. If you are a micro enterprise and you have started two years, you are at a disadvantage of other enterprises. And, Mr. President, just by way, in the procurement regime, if you qualify, and you are prequalified for $10 million, you know you are also prequalified for all the thresholds below $10 million as well? So we know that there are deficiencies in the Act, we must fix those deficiencies. I understand that there is distrust for government officials, and I understand the cause for that distrust is the United National Congress. But judge us on our own record and in eight years being in government, not one credible allegation of corruption could be made against this Government, not one.

Hon. Senators: [Desk thumping]

Sen. Lutchmedial: “All yuh have somebody in jail—” [Inaudible]

Sen. The Hon. R. Mitchell: It is the public officers who run this—who are the operators of this regime.

Sen. Lutchmedial: Marlene McDonald—[Inaudible]

Sen. The Hon. R. Mitchell: It is the—Mr.—

Mr. President: So the Minister only has a few more minutes, please allow him to wrap up. Continue, Minister.

Sen. Hon. R. Mitchell: Yeah, it is the—Mr. President, I want to make the point again, it is not the Executive, it is not the Cabinet Members, it is not Ministers, it is not Senators on the Government side that run this procurement regime; they are the
public servants, the employees of the Office of Procurement Regulation, they are the ones who operate this regime. They are the ones who are saying that there are deficiencies to be rectified. Not the Government, not government officials. And, Mr. President, we are responsible for this economy. We understand that it would serve the UNC’s interest to grind this economy to a halt, but we must hold fast. And we have the job of developing this economy keeping this economy turning, keeping the economy stimulated and also creating a state of equity for all these enterprises, those who wish to do business with the Government to thrive. With those few words, Mr. President, I thank you.

Hon. Senators: [Desk thumping]

Mr. President: Sen. Welch.

Hon. Senators: [Desk thumping]

12.15 a.m.

Sen. Evans Welch: Mr. President, thank you for giving me the opportunity at this, I want to say eleventh hour, but it is really past the twelfth hour to speak on this Bill. Perhaps, it is fortunate that I have come last because several of the points that I intended to make have already been made, and it is a test of my stamina and energy to fully ventilate all what I wanted to say on this issue at this hour. So I am very grateful to everyone who has gone before me because, as I said, they have covered several of the areas and I do not want to be guilty of tedious repetition. So I would just—I do not want to say “briefly”, because somehow the word briefly hangs over my head and I end up going much longer than usual any time I say briefly. So, I would just want to make a few general observations and concisely, instead of briefly, look at some of the clauses that did cause me some concern.
First of all, before looking at the clauses, the general observation I wish to make is that I found it rather interesting that the Government has promoted this Bill as an indication of their very strong stance in favour of proper procurement practices. It is a stance which, I have no doubt, they seek to uphold and adhere to and want the best for the country under this new regime. So they have advanced it and they have emphasized when this legislation was introduced that it would promote fairness of competition; eliminate favouritism in the grant of contracts, connections, string-pulling, corruption; promote transparency, accountability, integrity in the process. And all of these were to be achieved by the stringent measures of the legislation when it was passed in 2015 and when the amendment was made in 2020, and when the legislation was proclaimed in April 2023.

So it is passing strange that this very legislation on which they relied on to promote that philosophy and as evidence of their adherence to it, just practically three months later, after its proclamation, and the ink has not even dried on the legislation since its proclamation, to hear that it is, without it even running for a year or two years, without it being allowed to see how it operates, how effective it is, let the empirical evidence and the experience demonstrate what needs to be adjusted or amended within barely two or three months of its operation, where hardly much could have been done under it, we are now hearing the very same provisions which the Government has put into effect being criticized as being too cumbersome, being too stringent, being too restrictive and the very principles of adherence that it was promoting, they now come in an extraordinary sitting seeking to loosen, to dilute. And to me, that shows almost a Jekyll and Hyde approach to the procurement legislation. And therefore, that is one of my concerns about it. It
shows an inconsistency of philosophy and approach to something which is very important and which is a legislative must.

Having said that, I would just like to briefly look, as I said, at some of the clauses. And I would avoid making some of the points that have already been so eloquently and articulately made.

First of all, clause 3 has three potential effects, which all relate to the existing section 7 of the Act. First of all, it seeks to amend section 7(6)(e), which presently reads that the Act shall not apply to, having listed the services to which the Act shall not apply, 7(e) reads:

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

That is the present provision of the legislation.

This provision, as it stands, gives the Minister a very wide power to add to the services, which are exempted from the provisions of the procurement legislation. Like most others, I am not comfortable with this approach. And I was heartened to see that an attempt was made—well, not an attempt, I was heartened to see that it was actually amended in the House to involve the procurement office regulator in determining whether any services should be added to the list. The result of the proposed amendment is that the Minister, on the recommendation of the procurement regulator, may add to the services. I think that is a step in the right direction for the procurement regulator to be involved in any addition to the services.

However, I think it does not go far enough, because it says that the—it still gives the Minister, of his own volition—according to this proposed amendment, of his own volition, the Minister may, upon the initiative of the Minister, in

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consultation with the office, make regulations for further exemptions.

[Mr. Vice-President in the Chair]

So although it says in consultation with the office of the procurement regulator, this addition to the services that may be exempted is still on the initiative of the Minister and in consultation with the procurement office, does not mean that he is bound by it. And therefore, I would suggest that not all the powers be removed from the Minister, that this amendment proposes. But what he contemplates of his own initiative, which I think is important to still have, should be subject to the agreement or with the consent or the consensus of the procurement administrator, because I think it is right that the Minister, having regard to his portfolio, ought to have the power or ought to have an influence, having regard to being in touch with the finances and financial operations of the country, of his own initiative to make suggestions as to what services can be exempted. Because he is on the ground and he is in touch as well. But whatever suggestions come from his own volition and initiative should be, with the consensuses of the procurement regulator, to avoid the accusations and the insinuations which can arise. And I also think that two heads are better than one approach would be commendable in such circumstances. So I support the amendment as proposed in House of Representatives, subject to the observations which I have just made, which I ask the hon. Minister to consider and to take on board.

The other aspect of section 7, which is proposed to be affected by clause 3 of the Bill, is the replacement of “5” under section 7(5) with the “6”. Now, that is the correction of an obvious error which, having regard to the principles of collective
responsibility, I have to say that I am embarrassed that such an error could have escaped the attention of us when this amendment was made in 2020. Because under section 7, section 7 as it now reads:

“An Order under subsection (5) shall be subject to affirmative resolution of Parliament.”

But when you look at subsection (5), there is no order to be made under subsection (5). So the use of the number subsection (5) there, obviously is an error. The order is really to be made under subsection (6). And therefore, it is right that that error be corrected, which is what clause 3 proposes to do by substituting “5” with “6”. So it may sound surprising in light of what I have advanced so far, that I still have a difficulty with the amendment. Because if you are correcting an error—an error has been recognized and you are correcting it, then it should be fully, and properly, and precisely, and completely be corrected. And putting “6” there alone does not achieve that purpose. The order is made—the order is intended to be made under section 7(6)(e). Subsection (6) covers a number of different paragraphs but it is only under paragraph (e) that the order can be made. So rather than a provision of just subsection (6), do a full and proper amendment and let subsection (5) be replaced by subsection (6)(e), and not simply subsection (6).

12:30 a.m.

So hon. Attorney General, I hope this, unless I am missing something, I hope this proposal meets with your favour and it is reflected in the committee stage. Because if I am right about it, I reemphasize the point and I reiterate, we cannot come and be correcting an obvious error and still not doing it properly. Once is a mistake, twice is a habit, and bad habits should not be perpetuated.
The other aspect of clause 3 is that it seeks to replace “affirmative” resolution with the word “negative” resolution. So that the Minister—the order the Minister may make to add the services that are exempted from the procurement legislation should be approved by negative resolution as opposed to affirmative resolution.

I agree with everything that has been said by all Senators. I think almost unanimously on the Opposition and Independent side opposing this amendment, opposing this change from “affirmative” to “negative.” Because let us face it, the history shows, and I do not need to repeat that history, when the matter was debated in 2020, when the amendment was debated in 2020, it was initially brought to the Senate as a negative resolution and it was proposed by Independent Senators that procurement is so important that if you are adding services that are going to be exempted, it should not be simply by way of negative implied resolution operation of law, but it should attract the affirmative resolution of the Parliament, and be debated and brought to the attention of everyone in Parliament; be debated, approved, and passed. And the hon. Minister agreed with that suggestion in 2020. He agreed with that suggestion and up to the time that it was proclaimed earlier this year, there was no attempt of a reversal by the hon. Minister on that position for the three years between 2020 and now. And now that the Act has been passed, there is this sudden reversal without any clear justification. I have to say that I thoroughly reject the reasons advanced for—as a justification for the reversal.

I agree fully with Sen. Lutchmedial, and it is one of the points I intended to make, and so I do not intend to go onto it in any detail but to see if I can
summarize it in half a minute. Listening to the—first of all, listening to the Government side you would think there is no difference between a negative resolution and an affirmative resolution, they both attract the same level of parliamentary scrutiny. There is no difference if one were to listen to the Government side. Well then, if there is no difference, why are you seeking to abandon what was agreed to from affirmative and change it to negative? But the fact is, there is a difference. Such an important change—if this amendment succeeds, such an important change takes effect automatically on the Minister’s promulgation of the Order for the service to be added, and it takes effect and it lasts for 40 days, and contracts can be entered in that period of time. And those contracts, such things that have been done until annulment, if it is annulled at all, remain effective.

So it is not the same level of parliamentary scrutiny as would be the affirmative resolution. And with the affirmative resolution there is a guarantee that there is going to be a debate on it because you have to bring it to the House, alert everyone’s attention to it, and have a debate and have it voted upon. Let us face it, we are all human beings and sometimes we may not be as alert as we should be. Sometimes there can be oversight. If it is done by way of negative resolution, it has the potential to slip through the cracks without being observed or considered and therefore properly debated upon.

Therefore, I cannot agree and cannot support this Bill insofar as it seeks to replace affirmative resolution with negative resolution. And the Government ought not to—the Minister ought not to be blowing hot and cold on the issue. I have heard no empirical example of any difficulty occasioned since the proclamation of
the legislation in April 2023, and today, involving affirmative resolution providing difficulty.

And as has been observed by many Senators, it is no argument to say you may have to come back here every time. Because I do not expect realistically that you would be coming back here every week to add a service to the list of services exempted, because that would be making nonsense of the provisions. That should be the exception rather than the rule. And even if you do it once a month, or twice a month, the fact that we have all turned up here during the holiday is an indication of how serious we take collectively, all take our portfolios, so it is no inconvenience to anyone to return to do and carry out the responsibilities that the nation has entrusted in us.

So I do not ascribe to the argument that every time you want something, you need to come back. And if the argument is based on the suggestion there may be emergency services, et cetera, et cetera, et cetera, well, the debate and the contributions of the Senators have already pointed out that there are regulations which deal with emergency situations, which can be put into effect, and which I do not propose to rehash, because it has been well articulated and well dealt with both by the Opposition Senators and the Independent Senators before myself.

And I also note that it is the Government who sets the agenda of this Parliament, what we debate and so on. So if there is need for an affirmative resolution, they are not hampered by a process of having to wait to bring that before the Parliament if it is urgent, and let us deal with it. And I anticipate in each House it will take no more than a day because these provisions, as lengthy as they are, or as involved as they are, have not taken the House more than a day nor has it
taken the Senate more than a day to deal with.

With respect to the question of the new clause 4—the new section 58, which I would call the “million-dollar provision”, the effect of that as proposed is that the procurement of goods and services up to $1 million would now be exempt from the procurement requirements under this Act. I am in total disagreement with that provision and the arguments which have been advanced in favour of it.

Mr. Vice-President, can you advise me as to how much more time I have?

Mr. Vice-President: You have 15 more minutes.

Sen. E. Welch: Thank you. One reason suggested is that small business—for this reduction, is that small business enterprises and the smaller man would have difficulty meeting the pre-qualifying process and the preregistration process to become registered on the procurement regulator's registry. Well, if that is a difficulty, then I suggest we do not impose a limit of a $1million threshold to deal with it, but to accommodate smaller businesses you find a way of relaxing whatever provisions are proving to be onerous and burdensome, perhaps by reference to their capital or something to distinguish them from larger businesses. But the solution certainly is not to say anything under $1million would now be exempted from the procurement legislation.

And if it is, as the Minister has pointed out the problem, is that some of them, that they are required to be up to date with their tax liability and their NIB liabilities and some of them are not, then we ought not to countenance such liabilities. We ought not to countenance such noncompliance, let them become up to date. The responsibility to pay tax has to be taken seriously. The responsibility to pay NIB for your employees has to be taken seriously. And if that is what you
need to do to get onto the register, act responsibly when it comes to those two aspects, then there ought to be no laxity or latitude in allowing noncompliance so that you can be registered. Let them wanting to become registered be a motivation to bring their tax liabilities in order and the NIB liabilities. So I do not agree that that is a sufficient basis.

But there are other concerns that I have about that $1million threshold, anything below $1 million escaping the procurement regulator; $1 million may not be a lot of money to some people, but in a country where we are running a budget deficit, and where we are concerned about corruption and preventing corruption, and where we fall very low on the international transparency rating and corruption index, et cetera, it is a lot of money if public entities, state enterprises, PSs, whoever, can simply award contracts of their own volition to the amount of $950,000 or $800,000 or $700,000 without coming under the ambit of the procurement regulations—the Act.

12.45 a.m.

To impose such a threshold is to defeat the purposes of the Act—

Hon. Senators: [Desk thumping]

Sen. E. Welch:—and I would not—I cannot countenance that or support it on the basis that has been advanced, especially when the basis is about coffee buying and Massy and whatever. Well, give everybody a—find a way to give different offices some petty fund—some petty cash fund in some informal arrangement to buy the coffee and the milk and so on. But you cannot come in Parliament, with serious legislation, impose a threshold which would allow people to spend $800,000 without supervision—
Hon. Senators: [Desk thumping]

Sen. E. Welch:—give it to a friend or a family because Massy is not on the thing—Massy which is closest to the office is not on the—that is not acceptable reasoning. As for the issue of photocopying and toner, et cetera, I do not need to repeat that because there are provisions in the Regulations to cover that and it has been adequately referred to during the course of this debate already.

It is no argument to say, “Well, look, the tenders board under the old Act, the Central Tenders Board Act, it was a million”. Is that not why we are moving away from that Act? Are we not progressing and we are advancing? So why are we relying on the past conveniently and trying to put an argument on the basis of the old when you are promulgating and promoting the new. The old way of doing things has to be stopped and it cannot be relied on conveniently. The threshold can be used as a mechanism for fraud, and as pointed out by many, there is the possibility of breaking contracts up into smaller pieces to fall under the under the $100,000. And it has no argument to say section 21 of the procurement Act prohibits that, because the existence of a provision prohibiting it will not prevent it because unscrupulous persons breached the provisions of the Act. And let me further say a perfect example an empirical example of thresholds being abused is—I recall there are some banks, and I know of particular examples, where anything above $10,000 deposit, the bank would ask for a source of funds, whatever, whatever, whatever. There are two cases I am aware of where persons split up their deposits and go to different branches over a period of time under the $10,000.

This one may also ring a bell with the Minister, it is the same with VAT. There is a $10,000 threshold with VAT. If you claim a refund for $10,000, the
system and the software automatically generates a refund. It has been observed that many businesses, and I can say that because of my involvement with the tax, many businesses have been observed to be submitting refunds $10,900, $10,950, et cetera, and that pattern has been observed. Some of them do not even have a business operating but they are claiming refunds because of—so that is what threshold—

Mr. Vice-President: Senator, you have five minutes remaining.

Sen. E. Welch: Thank you, Mr. Vice-President. So that is what thresholds can do. And finally, let me deal, in the five minutes I have left, with the validating aspect of this Bill.

Mr. Vice-President, I ask the forgiveness of the Minister because when I first looked at this provision and the reason for it, I was trying my best, because I know the Minister is a person of responsibility, integrity and fairness, so I was trying my best to understand how this could not have been a deliberate breach.

Hon. Senator: Wow.

Sen. E. Welch: And I have heard an explanation and I have accepted that it is not. But I am still concerned about the man on the bus route or whatever, all with good intentions, mind you. Because it seems obvious to me that—even with that error in there with “(5)”, it seems obvious to me that the whole intention and the provision, the only way you can make an order is under 7(6). So when 7(7) refers to:

“An Order under subsection (5) shall be subject to affirmative resolution…”

—subsection (5) has nothing to do with orders. So it is an obvious error. And when you bear in mind that it was agreed upon that orders for the exemption of
additional services was to be made the subject, and the Minister agreed with that, and that was passed of affirmative resolution, then no one can be—I just felt it was difficult for anyone to be misled by the error that is occurring in section 7(7) but I accept and I understand that the Minister has received certain advice about this but I disagree with that advice. That advice is the court would apply the literal interpretation, but the literal interpretation is only applicable if it makes sense—it offers an alternative interpretation that makes sense.

The literal interpretation with this (5) here, makes no sense. It can have no meaning because (5) deals—subsection 7(5) deals with Ministry of National Security and not orders. So it would be obvious to any court what was intended here was (6)(e) or not “(5)” and a court would give a purposive interpretation to the legislation where the error makes absolutely no sense and has no effect. And it seems, therefore, to me, no SC as I am but nevertheless it seems therefore to me that the proper interpretation to be applied both common sense and reasonable and purposive which any court would apply, because the court must give meaning to legislation—it cannot say it is an error and I am not bothering with that. If the provision makes no sense, the court has to find what it means and “(5)” is really intended to mean (6)(e), referring to orders made by the Minister being subject to affirmative resolution. So that is no excuse not to have brought it for affirmative resolution. Thank you, Mr. President.

Hon. Senators: [Desk thumping]

Mr. Vice-President: Minister of Finance.

Hon. Senators: [Desk thumping]
The Minister of Finance (Hon. Colm Imbert): Thank you very much. Mr. Vice-President, let me deal with the contribution by Sen. Welch first. Sen. Welch told us that a court would have established or determined that the “(5)” that is mentioned in section 7(7) of the Act, a court would determine that that really should be (6). However, Mr. Vice-President, until and unless a court determines that, or until and unless we came to Parliament to correct that error, there is no provision in the law that would allow the Order to be made by affirmative resolution.

So there are only two solutions to this issue. One would be to get an order of the court declaring that in subsection (7), it really meant an order under subsection (6), or we come to Parliament and we change a “(5)” to a “(6)”. So at the time that the orders were made, there was no provision in the law for affirmative resolution. And that is a point I dealt with in the other place because in order to get these orders made by affirmative resolution, we would have had to convene Parliament twice, firstly, to fix the parent Act, to change the “(5)” to the “(6)”, go through both Houses of Parliament, and then come back with the orders for affirmative resolution, again, through both Houses of Parliament.

And the point has been made, that the first Order requested was predicated on an urgent jury trial that was to take place within a matter of days. And the second Order requested was as a result of an event where originally, the 50th Anniversary of the signing of the Treaty of Chaguaramas in Trinidad was planned as a Trinidad and Tobago event, not as a CARICOM event. And it was at the CARICOM Heads of Government Meeting in the Bahamas in February that a request was made that the incoming Chairman of CARICOM, the Prime Minister
of Dominica, had indicated that his country was not in a position to host a CARICOM Heads of Government Meeting. So a request was made to Trinidad and Tobago this year, 2023, that Trinidad and Tobago host the CARICOM Heads of Government Meeting that we just had.

Another request was made, that the CARICOM Heads of Government Meeting be now merged with the 50th Anniversary of the signing of the Treaty of Chaguaramas. So it moved from a Trinidad and Tobago event, which could have been planned for fairly easily some time ago, to a merged event, 50th Anniversary celebration now of CARICOM and of a CARICOM Heads of Government, a merged event, and this merged event began to attract the attention of international players, such as the UN Secretary-General, the Secretary of State of the United States, the Prime Minister of South Korea, the President of Rwanda, and a congressional delegation headed by the Minority Leader in the Congress, Hakeem Jeffries.

1.00 a.m.

The event gathered gained far more stature when it became a merged event and became a CARICOM event, and these individuals who indicated a desire to attend and speak to CARICOM at this merged event began to confirm their attendance, some of them within a matter of days of the event, and therefore that was the motivation for the second Order. The first Order was a request from the Judiciary with respect to an imminent jury trial and the second Order was because of circumstances where an event began to expand in terms of its scope and procurement under the strictures of the Act would not have been possible, and the advice was rendered by the Attorney General. So those are the reasons why those
two Orders were made.

Let me also deal with some other points made by Sen. Welch. Sen. Welch has indicated that rather than do what we wish to do via this Bill, we should make informal arrangements for petty cash or make some other arrangements for the purchase of small items. That is not possible without amending either the Regulations or the parent Act. It is not possible because the Act as it stands will not allow those purchases to take place, however petty they may be.

There is also a complete misunderstanding of the Regulations, and I have listened to the contributions of the several Senators, and the misunderstanding that I have heard tonight makes it even more important for us to make significant amendments to these Regulations. For example, the Regulations in regulation 10, which speaks to a “Request for Quotations”, request for quotes, it defines the items that can be used where the request for quotations method can be used as:

“…readily available, relatively low priced, goods or services—

which…”

—there are more qualifications:

“which are not specially produced or provided to the particular specifications of the procuring entity; and

for which there is an established market.”

That construction is impossible. It is impossible to apply that construction to items where you would go through the three-quote system.

The other problem in all of this is that that thought that you can use this to procure the items completely ignores the fact that even if you are using this, the suppliers have to be registered, they have to be pre-qualified, there has to be a
standstill period, there has to be a procurement and disposal advisory committee getting involved. So even if you are reducing the tender period to five days, and even if you could somehow fit items in this rubric, “readily available, relatively low priced, goods and services, which are not specially produced”, okay, perhaps you could do that, but then all you have done is reduced the tender period from 20 days to five days, but you have not dealt with the fact that the supplier has to be registered, pre-qualified, and you also have the PDAC, and you also have the standstill period, and the 30-day period for pre-qualification; it does not deal with that.

I heard Sen. Teemal say that we could use another regulation, the regulation for thresholds. That too is a complete misunderstanding of the Regulations, complete misunderstanding, and that the impression given by Sen. Teemal, because I am not the only person that got this impression, that “rather than go with the $1 million threshold or limit, let us use this, regulation 4”, and what does regulation 4 say:

“The Office may, by guidelines, establish different thresholds to be used for different methods of procurement.”

And what are those different methods of procurement? The answer is found in the Regulations itself. Open bidding is a method; limited bidding is another method; single source procurement is a method; sole source selection is a method; request for quotation is a method and alternative procurement methods is a method.

All this does is gives the office the ability to establish the thresholds that should be used for all of these things—open bidding, limited bidding, sole source, single source—but that is not a one-size-fits-all, so every single public body will
have to have a different threshold for open bidding, limited bidding, single source bidding, sole select bidding. You are going to end up with hundreds of thresholds. And I wish to advise that the office has not yet made one threshold with respect to 10. And I do have to apologize to Sen. Deonarine because she told me—the hon. Senator told me that she said all of this when we were debating the Regulations, that this regulation will cause the creation of hundreds of thresholds because each threshold would be unique to the public entity, because the limit for open bidding for UDeCOTT might be $5 million. But I want to go back to my example of the export centres, the limit for open bidding for that entity might be $50,000. Each public body will have a different limit for open bidding, limited bidding, single source, sole select, and so on. This does not help us at all. Even if by some magic the office were to wake up and make these hundreds of different thresholds for the different Ministries, and the different state enterprises, and the different statutory authorities—even if somehow they would do that because one gets the feeling they “doh” think this is their responsibility to develop these thresholds because they have not done one yet, but even if they were by “wave a magic wand and tomorrow morning we would be regaled with 200 different thresholds for the 50-odd state enterprises”, and so on, that still does not remove the requirement for registration, pre-qualification, PDAC, standstill period, and so on.

So this does not help us all. It does not help us for routine, day-to-day operational expenditure, and this is what the $1 million limit is all about. And I want to also disabuse hon. Senators. There is a recurrent theme coming through here; I see it in the media, I have heard it in this place tonight, our Bill will not make this a free-for-all. It is subject to regulations. And if one looks at the
amendment that has been circulated, the amendment will deal with a lot of the misgivings of hon. Senators and the wider public, because Sen. Dr. Richards, and I have to complain, made me go and do some homework. And, you know, I heard Sen. Welch say, “It is no big thing because we convened the House yesterday and we convened the Senate today”, I left here last night midnight and I think—I “doh” know what time it is now. What time is it? One o’clock?

Mr. Vice-President: Seven minutes past one.

Hon. C. Imbert: Seven past one—seven past one. That is not an easy thing to do, to convene the House until midnight and the Senate until one o’clock. And to have to do that every week is not an easy thing to do and it does not make any practical common sense. So I went—Sen. Dr. Richards made me do some homework, so I went and I looked for a guide to when do you apply affirmative resolution and when do you apply negative resolution. And having read it I had to resile—I had to resile from the amendment that was done in the other place. I had to resile, I had to retreat, I had to withdraw, because what it told me is that you use affirmative resolution—this is from the Welsh Parliament and the document is “guidelines on subordinate legislation: affirmative or negative assembly procedure”, and what they say is that when you are determining as a legislature, whether you should use affirmative resolution or negative resolution, you have to understand there is always a balance to be struck between the following:

“scrutiny by the…”—legislature
“consumption of…”—legislative—“(or committee)”—time as the case may be.
“the significance of the provisions in question, and”
The need to make—“...legislation in the most efficacious manner.”

Now, this is not to take away from the points that Sen. Welch made. He is absolutely right in terms of the difference between negative and affirmative. He is right, but when a legislature is making a decision whether to go with affirmative or negative, you have to consider these things: oversight, scrutiny, time, significance and how efficient or efficacious you are being. And this then leads to further guidelines—those are just factors that you must consider—but it leads to further guidelines that for affirmative resolution you should use that when you are conferring powers that would substantially affect provisions of Acts of Parliament. This is in subsidiary legislation, you are conferring powers that could have effect on the parent Act:

“powers to impose or increase taxation or other significant financial burdens on the public
provision involving substantial government expenditure
powers to create unusual criminal provisions or unusual civil penalties
powers to confer unusual powers of entry, examination or inspection…
powers that impose onerous duties on the public…”

But the one where I had to resile it said:

“powers…which…”—would—“enable…Ministers…to confer…significant powers on themselves.”

So having listened to Senators, the uncomfortableness that I am picking up, the concern, the worry, the fear is with our proposal. Even though it was amended in the House, our original proposal was that the Minister in his discretion could make amendments by negative resolution. We retreated from that in the House and...
brought in the Office of Procurement Regulation and we came up with a construct that said:

…on the recommendation of the office or on the initiative of the Minister with consultation with the office.

But Senators are right because consultation means you simply inform the other side.

[Mr. President in the Chair]

You do not have to listen to them, you can proceed. Having informed them, spoken to them, you have a meeting, you send them a letter, or whatever the method of consultation is, it is true that you can then proceed. So when I saw this and I heard the proposed changes proposed by Sen. Vieira in particular, and others, and even Sen. Welch in the first part of his contribution made a proposal, I realized that these proposals make eminent sense. And therefore, you would see that there is an amendment proposed and what the amendment is—it has been circulated to hon. Members, and what the amendment does is it deletes the words “in consultation with” in clause 3 and in clause 5. And when you do that deletion and you then read the effect of that deletion, what you then see is that the way clause 3 and clause 5 will read is as follows:

Section 7 of the Act is amended:

(a) in subsection (6) by deleting paragraph (e) and substituting the following, “such other services as the Minister may on the recommendation of the office or upon the initiative of the Minister with the agreement of the office.”

So what this means, and the reason why we believe that the words, “upon the
initiative of the Minister” should remain, is because the OPR is a regulatory body, it does not get involved in procurement activities. It does not procure, except minor stuff for itself. It might procure photocopiers, coffee, water, the things that have been derided by some, but it does not get involved in substantial procurement of construction works, of major equipment, and so on.

1.15 a.m.

So that it is really a quasi-academic research body, but Ministers of Government and public bodies every day would be doing procurement, every single day, and these public bodies will come upon anomalies, errors, problems in the Regulations and the exemption list. I am going to read out a particular exemption list for you in a little while—exemption in a little while, that I never thought of.

So that when you take the words “in consultation” out, you actually take out the power of the Minister. The power of the Minister is gone. If you have a rogue regulator, well, that is the end of it. One would assume however, as Sen. Dr. Richards has said, that that is not what we wanted to create and that is not what we have created. We have not created a rogue organization in the Office of Procurement Regulation, we have to trust it. And therefore, what happens here? The Minister is now subordinate to the OPR. No amendments will be made to the Regulations. No amendments will be made to the exemption list unless it is the will of the Office of Procurement Regulation.

Sen. Dr. Richards: Thank you, Minister, through you, Mr. President. Does that mean, Minister, that in clause 4, 58A, that this million-dollar exemption—under this million-dollar exemption also falls under that—

Hon. C. Imbert: Yes, and thank you so much for bringing up that because that
cures the apparent issue with respect to clause 4, because now we are saying section 63, which is the regulation-making clause, can now only be adjusted, or regulations made on the recommendation of the OPR, or with the agreement of the OPR. So it means that the Regulations that will now apply, the simplified procedures, will now come from the Office of Procurement Regulation. They will not come from the Minister.

So all of the issues that Senators have raised, what they are worried about, what would these rules entail, they are no longer going to be creatures of the Minister. Again, going back to what Sen. Dr. Richards said, you expect that the Office of Procurement Regulation is a body of integrity, a body of competence that we have established as a country and a Parliament, and therefore we do not expect that with the simplified procurement procedures, which will be subject to the Act, all this thing does is it exempts him from the existing bureaucratic procedures, but it imposes new procedures on them, which will be subject to the Act.

One expects the OPR, in making these simplified procedures, will follow international best practice. They exist in the United Kingdom. They exist in New Zealand, Australia. There are simplified procurement procedures specifically designed for small and medium enterprises in those countries, and one would expect that the OPR, in making these regulations in clause 4, would consult widely, would talk to civil society, would look at international best practice and so on, and what they end up with would be eminently reasonable and fit for purpose.

So it does, by removing the Minister’s discretion and the Minister’s ability to act unilaterally, now bring it into the power of the regulator and takes it away from the Minister, and this would include the Regulations that would apply to the
$1 million threshold. So as I said, Sen. Dr. Richards made me do some homework, and I realized that we were conferring significant powers on a Minister, and that I agree that we should not do that. So I have taken the Minister out.

Now, let me deal with some other issues raised by other Members. Let me deal with the whole question of exemptions. I heard Sen. Dr. Dillon-Remy say these will be few and it will not happen often. Sorry, not true. I got a letter from Caribbean Airlines on July the 13th. Let me read it:

Dear Minister,

Request for approval from the Minister of Finance for exemptions under the Public Procurement and Disposal of Public Property Act.

Well, after the bacchanal, I “eh” doing that. So “ah” trying to figure out what it is they want so. So listen to this—

Sen. Roberts: [ Interruption ]

Hon. C. Imbert:

I am writing…

—can you stop Sen. Roberts from muttering, please?

Mr. President: Please, again. Let us just keep it at a minimal level. Continue, Minister.

Hon. C. Imbert: Thank you.

I am writing to request your kind consideration for exemptions for Caribbean Airlines in certain key areas related to the airline industry.

The Public Procurement and Disposal of Public Property Act was proclaimed on April 26th, and as we implement all the phases that are required, the challenges are becoming more evident.
The important words there, “the challenges are becoming more evident”. This was not obvious, and they gave some background:

Caribbean Airlines experienced an increase in demand for air travel following the relaxation of border restrictions, steering Caribbean Airlines to urgently review and optimize its operating schedule. There was an increasing call for Caribbean Airlines to expand the routes and frequency of flights to meet the demand of various territories.

And it is a fact, Caribbean Airlines is on an expansion programme. It has already signalled it is acquiring three more wide-bodied aircrafts, four more ATRs, and three or four midrange jets for intraregional travel, and it is also expanding the destinations that it plans to go to. To the upper Caribbean, the British Virgin Islands, and to Central and South America, and to other destinations in North America, and so on.

**Sen. Dr. Dillon-Remy:** And to Tobago, Minister?

**Hon. Senators:** *[Laughter]*

**Hon. C. Imbert:** Oh, certainly. That is what the ATRs are for, the additional ATRs, and we already fly to Tobago, Sen. Dr. Dillon-Remy. We already fly to Tobago. I was speaking about new routes. But anyway, let us move on.

So Caribbean Airlines is telling me that:

Their strategic plan identifies route expansion, new territory development, fleet expansion, and they are currently attempting to expand their network and set up new stations. The process entails visits to locations, meetings with stakeholders, and capturing information on all service providers available to support our new destinations.
Let us move on:

Prior to the proclamation of the Act, Caribbean Airlines used a tendering process for all products or services which required an investment of over US $100,000. Based on the Act now, many of our processes now require special guidelines, then senior management approval prior to submission, and then approval by the OPR due to the specialized nature of our industry. These are the areas where we now require exemption: airport leases, fuel contracts, aircraft leases, engine leases, landing gear contracts, aircraft maintenance contracts, IT software specific to the aviation industry, aircraft monitoring and communication systems, passenger booking systems, ground handling agreements, aviation security arrangements, general service agreements, pilot training, station start-up.

Would anybody in here have thought of that? That Caribbean Airlines is now flying to all sorts of destinations, but because they are a public body, because they are a wholly owned state enterprise, subject to the Act, every one of these things, buying fuel—they land in Miami, they buy fuel. They land in New York, they buy fuel. They go to Toronto and they have to engage—ground handling services. Different suppliers in each destination for different things. According to the Act, every one of these things now has to be with a supplier that is registered with the procurement depository and prequalified, and gone through the tender process, the 20 days for bidding and also the PDAC, and also the standstill period and so on.

Obviously, we would have to look at these things because it makes sense. We will have to do some sort of conditional exemption for Caribbean Airlines as it
flies, otherwise Caribbean Airlines will just stop flying. As I was debating this, I thought about Heritage Petroleum. Heritage Petroleum, if it requires drilling to be done in the shallow water or the deep water, will have to import a drilling ship or a drilling rig. But because Heritage Limited, Heritage the company, is a state enterprise, whatever it procures from outside in its oil industry, the suppliers will have to be registered, prequalified, and then you go through the 20-day bidding process and also the standstill period, and so on.

This will also apply to the National Gas Company. These are the things I began to think of. That means that with all of these specialized public bodies, all of them, the regional health authorities, that have to procure essential medication, essential equipment from overseas suppliers—because there is very little medication that we make in Trinidad and Tobago. We make some, we do not make a lot and, again, you will have to exempt the ones you have to buy from overseas and not exempt the one that you could get locally. I am just giving you some idea of the complexity of how we will have to treat with the Ministry of Health.

Mr. President, how much more time do I have?

**Mr. President:** You finish at 1.40.

**Hon. C. Imbert:** Thank you very much. So I do not accept the argument that we will be coming here infrequently, every now and then, and there will be few exemptions. I can see quite a few because of the nature of our country and our industry. We are an oil-based economy. Not all countries are energy-based. Not all companies derive a significant amount of their revenue from natural gas, and from petrochemicals. and from oil and so on. This is a unique country.
So that I do not really agree that we should be coming to this Parliament every week to debate this, to argue about whether a fuel contract should be exempt, but an aircraft lease should not because that is what the debate is going to get into. I could certainly see with something like Heritage Petroleum, I would not ask for complete exemption. I will not go to the OPR and say, “Exempt de whole of Heritage Petroleum”, because there are many things that they will be procuring locally, and there is no need to exempt local acquisitions, local purchases from the Act.

But certainly, the things that they will be purchasing overseas that they would need at short notice, one might want to mount an argument that you want to look at that in terms of an exemption, but these are not simple things. It is wrong to try and simplify this whole thing. It is wrong to simplify it. And the more one looks at the Regulations—yes, the Regulations took a lot of time—the office of the procurement regulator took two years with them. So did we in the Ministry of Finance. They were out for public comment for six months. They were submitted to all the stakeholders. They came through this Parliament, both Houses of Parliament, all of that is true. But who in the Parliament saw in the Regulations that we gave the same time for open competitive bidding that we gave to selected limited bidding?

What is the time frame for single source? What is the time frame for sole select? Where is it in the Regulations? So the point I am making, Mr. President—and all of the countries that have enacted procurement legislation have experienced this: the EU, the UK, Australia, New Zealand. In England, when they brought the Bill for the first time, the Bill that has gone through the House of Commons and
now is being reviewed by the House of Lords, the MPs in the House of Commons made 500 amendments to the Bill, and that Bill was produced by experts in the industry in the UK. The brightest and the best in the UK produced that Bill for the House of Commons, and when it went to the House of Commons it was supposed to be fit for purpose. They made 500 amendments. And who knows what the House of Lords will do when they look at what the people in the House of Commons did.

That is the reason why, when I go back to what the Welsh Parliament says is the guideline for negative resolution, certainly we have to remove the ability of the Minister to confer significant powers onto himself. That is true. That goes without saying. But the rationale for negative resolution is where the subject matter is of a technical nature, and certainly we are going to find ourselves discussing matters of a very technical nature, where it is appropriate to update the subject matter of the Regulations on a regular basis, and we will. There will be need to update the Regulations on a regular basis.

1.30 a.m.

And where in consideration of these things it is more appropriate to legislate swiftly, that is when you use negative resolution. So that when I saw this guideline and it all makes imminent common sense, that is why I decided to do this amendment and take the Minister’s discretion, and take the Minister’s unilateral regulation-making and exemption-creating power out.

So that, now we will have to subject ourselves to the OPR. This problem with Caribbean Airlines will have to, if this Senate approves this Bill, I will have to send this letter now to the OPR, “Look at that and tell me what to do. What
purchasing items, what scope of purchasing of Caribbean Airlines do you think should be exempted?” I have to do it, I cannot allow Caribbean Airlines—I “doh” know what they are doing now you know, I “doh” even want to ask them. How are they buying fuel when they land the plane in Toronto, I “doh” want to know, I “doh” want to ask because the airline has to keep running. Can you imagine if we decided, all right, we will apply the rigid structures of this Act? Caribbean Airlines would shut down tomorrow. I mean, it may very well fall into the definition of an emergency, but that is a matter of opinion.

Hon. Senators: [Interruption]

Hon. C. Imbert: Mr. President, what is wrong with these Opposition Senators? Why can they not keep quiet, Mr. President?

Mr. President: All right. So the Minister only has about six or seven more minutes left, and then we have to go to committee stage. Again, it is 1:31 in the morning, take that to mean whatever you want, I have Senators sleeping. Minister.

Hon. C. Imbert: So—

Hon. Senators: [Crosstalk]

Hon. C. Imbert: Mr. President.

Mr. President: It was not an invitation to speak. Minister, wrap up.

Hon. C. Imbert: I know they have problems, they have issues, I know. And you know, Mr. President, one of the things that I found particularly galling tonight was to hear Sen. Roberts speak. And I do not think Sen. Roberts should be allowed to get away with his contribution tonight, because Sen. Roberts is famous in this country for the LifeSport fiasco. He is famous, he is famous.

Hon. Senators: [Desk thumping]
Hon. C. Imbert: And, you know, Mr. President, when Sen. Roberts was regaling us with tales of virtue, what came to mind was Shakespeare’s *The Merchant of Venice* and a passage from Shakespeare’s *The Merchant of Venice*, when Antonio—*The Merchant of Venice*, by the way—scornfully rejected Shylock’s attempt to find a justification for usury, moneylending. And is this is what Antonio said:

“Mark you this, Bassanio
The devil can cite Scripture for his purpose.”

Hon. Senators: [*Laughter and desk thumping]*

“An evil soul producing holy witness
Is like a villain with a smiling cheek
A goodly apple rotten at the heart...”

Hon. Senators: [*Laughter and desk thumping]*

Sen. Mark: [*Inaudible]*

Hon. Senators: [*Crosstalk]*

Hon. C. Imbert: That is what came to mind when Sen. Roberts was regaling us with stories of virtue. We should not let him get away, Mr. LifeSport, should not get away.

Mr. President: Okay, okay, that is enough. Sen. Mark and Senators, we have had our light moment, so let us bring the Chamber back to a level of decorum. Minister.

Hon. C. Imbert: So the whole point of what we have done—I have looked at the amendments as well, and I must say Sen. Dr. Deyalsingh, I want to compliment you on your amendments. Obviously, from what I am seeing here—

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Hon. Senators: [Desk thumping and crosstalk]

Hon. C. Imbert: They are just like little children, you know. When I looked at Sen. Dr. Deyalsingh’s amendment, what Sen. Dr. Deyalsingh is doing, from what I am seeing, is in agreement with what we are seeking to do, but he wanted exempted procurement transactions to be submitted to the office for transparency and publication and I agreed with that, I agreed.

But then we got a message from the Judiciary, and they made the point and I want to say this, that among the items that the Judiciary procures would be safe houses for victims of domestic violence awaiting the completion of a trial, or safe houses for vulnerable witnesses in perhaps a murder trial where the accused is trying to kill the witness and they have to keep these witnesses in safe houses. And if we were to publish all the procurement—not, I mean, obviously things like transportation and meals and that, that is not a matter of national security.

Mr. President: Minister, you have five more minutes.

Hon. C. Imbert: Yes, but if we were to publish where the safe houses were, because that is the contract, we would be jeopardizing the safety of the witnesses. So I have spoken to Sen. Dr. Deyalsingh about this, I still want exempt services to be published, I give that assurance that there must be some way to account for exempt services. There must be a way. And we have to come back to the Parliament and deal with that to deal with how do we deal with exempt services. There is a provision in the Act for guidelines to be made by the Minister annually and they will be made this year, we are almost finished. But a guideline cannot compel someone to publish the details of procurement. So we have to come back and do amendments to the Act, so that with the exempt services we do have the
transparency and the scrutiny that is required.

Because I have listened to what people are saying, there are two messages coming through to us. One is the need for transparency, people must know about all the procurement that is being done by public bodies. I agree with that, people must know. There should be nothing to hide. You should know who got what contract, how they get it, how much it was, what it was for, when they got it and all that sort of thing. I completely agree with that. So we have to find a way to modify the Act so that with exempt services there is some way of determining non-controversial things. As I said, we cannot disclose everything, but things that are routine, there must be some way of disclosing that.

And the other message I got was to need for a hands-off approach to the whole question of adjustments to the legislation. And as I come back to what Sen. Dr. Richards said, we have created this office and I have decided through the amendment to get the Minister out of—remove the power from the Minister. In other words, the Minister cannot confer this power on himself to make regulations and to create exempt services.

I noticed that Sen. Deonarine just wanted to give us five months. I think we need a little bit more than that. And also I like this idea of the contracts awarded to be reported to the office and so on, but again we run into this issue of disclosing things that should not be disclosed, like a contract for a safe house. So I think that is something I give the undertaking that we need to come back and deal with that; how do we deal with disclosure with respect to exempt services.

With respect to the amendments from Sen. Vieira, I think upon the initiative that the Minister has to be there, I have to explain why. The OPR is an academic
research organization and even if you put that in, it does not mean the Minister could do anything expect ask the OPR whether they agree with this amendment to the regulation as the case may be.

With respect to the first amendment from Sen. Vieira, I do not think it is required because Sen. Dr. Richards, when we were debating the 2020 amendments to create the exempt services, asked me to agree that guidelines be published. You cannot have guidelines and regulations at the same time. To me, that would be in conflict. And in any event, I do believe this provision that we agreed to in 2020 about guidelines is adequate.

With respect to, why are we here? We are here out of an abundance of caution to validate the two orders which I think is important. We are here to ask Senators to agree, subject to regulations that will be created by the Office of Procurement Regulation, now with these amendments, that we allow a threshold of $1 million but subject to simplified rules which will be done by the OPR. And we are here to allow some flexibility in regulation-making and in the creation of exempt services. And I do think this is something that qualifies for negative, but I do also agree that it should not involve any Minister having any power whatsoever on his own, without any reference to anybody else creating or modifying these things.

And with those words, Mr. President, I beg to move.

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

1.40 a.m.

*Question put and agreed to.*

*Bill accordingly read a second time.*

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Bill committed to a committee of the whole Senate.

Senate in committee.

Mr. Chairman: Right. Hon. Senators, the interesting thing is this, the Minister of Finance in his wrap up spoke to several of the amendments that have already been circulated in terms of answering them and so forth. So in the interest of time and given the time of the morning that is it right now, I will ask this question before we get into the proper procedure. Given what the Minister of Finance has said in his wrap up, and the Senators that have circulated amendments, which is Sen. Vieira, Sen. Deonarine and Sen. Dr. Deyalsingh, are any of those three Senators who I have just called, based on what has been said thus far, are you willing to withdraw your proposed amendments, or is it that you wish for those amendments to be put by way of question?

Sen. Vieira SC: So the amendment where I had about “with the approval of”—

Mr. Chairman: Okay. So you—I mean—

Sen. Vieira SC: I am going to withdraw that, because the Minister—

Mr. Chairman: Well, we will get to that. We will get to that. I just want to deal quickly with anybody who wishes to withdraw the entirety. If you want to take out something and put something we will do that. Sen. Deonarine, you want to put the question—you want it still put—

Clerk: Considered.

Mr. Chairman:—or considered, sorry?

Sen. Deonarine: Yes, I would like it to still be considered, please.

Mr. Chairman: Yes? Okay. And Sen. Dr. Deyalsingh.

Sen. Dr. Deyalsingh: Yes, I would like to ask.

Mr. Chairman: Okay, perfect. So then we will go through as per usual. Right?
Hon. Senators, there are six clauses in this Bill—

Clerk: And a preamble.

Mr. Chairman:—and a preamble, so we shall now begin. Clerk.

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

Clause 3.

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

Mr. Chairman: Sen. Dr. Deyalsingh we will start with yours. No, you have clause 4, so we will start with Sen. Vieira.

Sen. Vieira SC: Thank you, Chair. In my proposed amendment there is a typo. I was referring to section 7(6). So what it was to change is, in section 7, it says:

“The Act shall not apply to the”—following—“services”.

And my amendment was going to be, take out “This Act shall not” and substitute “Appropriate regulations shall” apply to the following services provided to public bodies or state-controlled enterprises. The background to that, of course, is, as I have said, I do not believe that there should be a carte blanche exemption as cast the way this is cast. These things fall outside of the ambit and jurisdiction of the procurement regulator. I really do believe that the regulator must have scrutiny. All procurement must be subject to the procurement Act and the principles of the parent law must always be—must always have applicability. Exemptions should be conditional. So that is why I—that is the thrust of the amendment.

Mr. Imbert: Yeah. In discussing with the drafts person, it is changing the entire complexion of a section we debated at length and agreed in this place and in the other place, that there should be exemptions to which the Act would not apply. I am hearing what you are saying but I do not think we could do this on the floor tonight. I understand what you are saying, that you do not think that exempt
services should be fully exempt. But that is not what we debated here when we debated this the last time. So that is a fundamental departure from—I will need to—because I have asked for research to be done on this. Just coincidentally before we came here, because of all the discussion about exempt services, I have asked how is this dealt with in other countries and I have not got the benefit of that yet. So I do not think we should fundamentally change the meaning and effect of something we already debated and agreed in this House.

Sen. Vieira SC: Well, again, as you said, I could see it takes you by surprise and it may be something that you do not want to deal with on the floor, but if I can get your assurance that you will look at it because—

Mr. Imbert: I give you my assurance because I am already trying to figure out how do you regulate exempt services.

Sen. Vieira SC: Even using the example of CAL—

Mr. Imbert: Yeah.

Sen. Vieira SC:—CAL should not be totally exempt, but we could say there is a special regulation for aircraft carriers.

Mr. Imbert: Yeah.

Sen. Vieira SC: Also for the Judiciary. So I do think—

Mr. Imbert: No, I am giving you the assurance that we will find a methodology using best practice. We are not going to try and reinvent the wheel to regulate exempt services, but we ought to allow transparency. I think that is what you are driving at. People must know what contracts were awarded under the exemption process.

Sen. Vieira SC: And the regulator must have scrutiny.

Mr. Imbert: And the regulator must have some way of dealing with it. I
understand that.

**Sen. Vieira SC:** The second amendment under this—well, you brought an amendment after this—

**Mr. Imbert:** Right.

**Sen. Vieira SC:**—but basically saying the same thing.

**Mr. Imbert:** Right.

**Sen. Vieira SC:** So I am quite happy to withdraw my own and go with yours.

**Mr. Imbert:** Thank you.

**Mr. Chairman:** All right. So you are withdrawing all of 3 now?

**Sen. Vieira SC:** All of 3, yes. And 5.

**Mr. Chairman:** Right, so Senator—

**Sen. Vieira SC:** And 5, because 5 is the same.

**Mr. Chairman:** That is fine. Sen. Deonarine.

**Sen. Thompson-Ahye:** Hi, excuse me.

**Mr. Chairman:** Sen. Thompson-Ahye.

**Sen. Thompson-Ahye:** Yes, 7(b)(i)

**Mr. Chairman:** 7(b)(i).

**Sen. Thompson-Ahye:** Remember I had asked—3, sorry. 3, subsection (7), remember I had asked about whether the use of the word “words” is correct.

**Mr. Chairman:** Is that—you are speaking about something grammatical? Drafting steps, we will deal with that. We will deal with that, I just want to deal with Sen. Doenarine’s proposed amendment as circulated first for clause 3.

**Sen. Thompson-Ahye:** Oh, okay.

**Mr. Chairman:** Sen. Deonarine.

**Mr. Imbert:** Well, I have an answer on that.
Mr. Chairman: Yeah, we will get there, “doh” worry. Sen. Deonarine.

Sen. Deonarine: Thank you, Chair. Chair, I appreciate the explanation that the hon. Minister would have given while he wrapped up the debate. However, through you, what I want to ask the Minister is, how do we avoid a situation where we end up having too many things being considered to be exempted? Because from what the Minister was saying in the wrap up it seems as if there will be regular occurrences of exemptions coming up, but we do not know just yet how many of these exemptions will be coming up. We do not know where exactly there are, how technical they are. What we also do not know is if these exemptions are going to only be coming up for a temporary period of time given that the Act is only now proclaimed, so it might be for maybe the first year, or the first six months. So those are my questions with respect to—

Mr. Imbert: Those are very good questions, and I will have to leave that up to the Office of Procurement Regulation, which I do not expect—they may very well do things in a “grap”, to use local parlance. They might come with a series of exemptions after consultation with all relevant parties. But it will no longer be a Minister doing it, it will be the Office of Procurement Regulation. They may exempt no one. When we present Caribbean Airlines’ problem to them, they say, “Look, we have a solution for that and it does not require an exemption”. I cannot—I do not have a crystal ball. I cannot tell you how many exemptions there would be, but as far as I could see there would be several, and they will be complex. But they would not be done by a politician. It would be done by the Office of Procurement Regulation.

And I could see the need for temporary exemptions rather than permanent exemptions. I can see that. Because the two exemption Orders that I did were only
for three months. I did not want to. I could have done an exemption for the Judiciary that was permanent, but I certainly did not want to do that, and I will tell you what I told them, through the Attorney General. I said you are getting three months and within that three months put your house in order and get your suppliers registered and prequalified and so on. So that I would expect the same approach, the same responsible professional approach would be adopted to any exemption that the OPR would want to recommend to the Minister. But I “doh” have a crystal ball. Okay?

Sen. Deonarine: Thank you, Minister.

Mr. Imbert: And I think we have to—I have to agree with Sen. Dr. Richards, although I could see some of these things may be a hard sell. I may want to have an exemption and the OPR may say, “No”, and I might think it is critical and need it, and we need it, the country needs it, and they say, “No, sorry, we will deal with that in another way”. I think we have to trust the process because we have created an independent body, it is a professional body, it is filled with professional people, and we have to allow them to deal with it. You see you “kinda” asking for your cake and you want to eat it too. Because you are asking me what would the exemptions be. “Ah doh know”, because I have now delegated and abandoned and resiled from the making of regulations and exemptions. It is not me anymore, so I cannot answer you.

Sen. Dr. Dillon-Remy: But, Minister, you can still suggest or recommend—

Mr. Imbert: I can recommend, but they do not have to take me on.

Sen. Dr. Dillon-Remy: Right. Okay. But at least you will bring to their attention—

Mr. Imbert: I will, and certainly this one with Caribbean Airlines, they are
getting that tomorrow. I am going to ask them what they think about that.

Mr. Chairman: Minister, could you just respond to Sen. Thompson-Ahye’s—

Mr. Imbert: Oh, certainly. Apparently in the rules of legislative drafting the brackets, open and close brackets, count as words, believe it or not. So it is “(5)”, those are three words. That is what the legislative drafting expert has told me, so “words” is correct.

Mr. Chairman: Sen. Deonarine.

Sen. Deonarine: Minister of Finance, through you, Mr. Chair, I do not know if there is a legal something in the law that deals with this, but what happens in a situation where both the OPR and the Minister cannot agree? Because we are not talking about this Minister alone, and this regulator alone. We are talking about regulations—

Mr. Imbert: You want a simple answer for that?

Sen. Deonarine: Yes.

Mr. Imbert: Too bad. Because we have decided that the competence and the integrity resides with the Office of Procurement Regulation. That is the whole thrust of Sen. Dr. Richard’s argument, and he said we may not be able to trust another Minister of Finance, and he might be right.

Sen. Vieira SC: Using the analogy of the DPP for criminal matters—

Mr. Imbert: Yes, yes, he might be right.

Sen. Vieira SC:—the procurement regulator now has sole control of procurement matters of the regime.

Mr. Chairman: Okay.

Mr. Imbert: So that is the answer to your question. So we have decided we create this body and we trust them to have the competence and the integrity and the
professionalism to get it right, and if they do not get it right, as I said, tough. It is one of those constitutional conundrums where you are just stuck and there is nothing you can do. You can use moral suasion, you could put pressure to bear on them, you can try and—and I think eventually they would do what is right. Okay? If they are doing something that is wrong, I think eventually, through moral suasion, stakeholder pressure, civil society, they will do what is correct. Okay?

1.55 a.m.

Mr. Chairman: I will take Sen. Mark and then Sen. Welch.

Sen. Mark: Yes, Mr. Chairman, I just wanted to get—

Mr. Chairman: Members, Members, please. I need to hear what Senators are actually saying to the Minister of Finance so he can respond.

Sen. Mark: I just wanted Sen. Deonarine to clarify her amendment. When we look at clause 3(b)(ii), can you clarify if you are proposing affirmative to replace negative?

Sen. Deonarine: Yes.

Sen. Mark: And what is your position? Is the Minister—

Mr. Chairman: Members, please, just—

Sen. Mark:—going along with affirmative?

Mr. Chairman:—let the procedure flow.

Mr. Imbert: Why he is asking that? That is the procedure?

Sen. Deonarine: The Minister would have given an explanation in his wrap up—


Sen. Mark: No, I am just trying to get clarification—

Mr. Imbert: That is not the procedure.

Mr. Chairman: Hold on. Members, let me handle the procedure. Any which
way you take it there is a circulated amendment by a particular Senator who has asked questions of the Minister of Finance which have been answered. Sen. Mark is just seeking clarification which he can do. You have sought your clarification, correct?

**Sen. Mark:** Yeah, well, I am just—

**Mr. Chairman:** Right.

**Sen. Mark:** If you could just clarify—

**Mr. Chairman:** So, Sen. Deonarine, we know what the amendment is, we know what the amendment says. I will ask of you once I finish with Sen. Welch. Sen. Welch.

**Sen. Welch:** Chairman, with your leave, I was hoping I might ask if I can make a suggestion of a minor amendment which I have not circulated?

**Mr. Imbert:** This is something that you raised on the floor?

**Sen. Welch:** I raised it during the contribution.

**Mr. Imbert:** On the floor?

**Sen. Welch:** Yes.

**Mr. Imbert:** When you were talking?

**Sen. Welch:** Yes.

**Mr. Imbert:** You want to add the letter “e”?

**Sen. Welch:** Yes. It refers to 3(b)(i).

**Mr. Imbert:** So instead of the words “(6)”, you want “(6(e))”?

**Sen. Welch:** Yeah, I believe it would be (6), then (e).

**Mr. Imbert:** I do not think so. I think the brackets are a little mixed up there because you are talking about all the words contained within the brackets, but it does not matter. We will add (e) to the (6) if that solves the problem.
Sen. Welch: Yes. If you add (e) to the (6), I am happy with that as opposed to leaving the (6) alone.
Mr. Imbert: Yeah, we are adding the (e), in brackets.
Sen. Welch: Yes.
Mr. Imbert: Right. We agree.
Sen. Welch: Thank you.
Mr. Imbert: So that is on the floor, eh, common (e) after the word (6). It will be (6)(e). It will be open brackets, 6, close brackets. Open brackets, close brackets, open brackets, close brackets, close brackets—
Mr. Chairman: Sen. Vieira.
Sen. Vieira SC: Thank you. Minister, I believe for most of us the issue about affirmative and negative resolution is probably the most troubling aspect of the amendments. I am wondering if you could help clarify for the record. I suspect that for many, the thinking is that if it is negative and you want to annul the enactment, there is a process and you have to come by way of Private Members’ Motion. My understanding—and you could tell me if I am right—is that when you lay the instrument in Parliament you have 40 days in each House within which—that is the prescribed way—you could bring the annulment Motion. And once that annulment Motion is brought, it must be dealt with promptly and in any event within that 40 days. It is given priority. Is that right?
Mr. Imbert: Correct. There is no idea that you have to wait until the next Private Members’ Day, and the next Private Members’ Day, because you might not find a slot. So you might have to wait six months before. No, no, no. It has to be debated and dealt with within the 40 days and it must be dealt with as a matter of urgency. It does not have to wait for Private Members’ Day. The House will have
to convene a sitting to deal with that, or to put it on the agenda within a sitting. It
does not have to wait for Private Members’ Day.

**Sen. Dr. Dillon-Remy:** Chair, following up on Sen. Vieira’s comment about the
affirmative and negative, I was just wondering whether, based on what I think
many of us have said, in the early phase of this thing—in other words, this is now
starting the change—why not do that for a while, for a six months, for a year, and
make it that, so that in the early stages you should and we would be more
comfortable with that coming, and then after that then put it to negative resolution
and change it then.

**Mr. Imbert:** For precisely the reasons and the arguments that I have made. I used
the Caribbean Airlines example, but there are many others that come to mind, and
we would be convening the House on numerous occasions because these things
will not emerge immediately. Every week when a state enterprise or a public body
runs into trouble, you are going to find yourself convening Parliament every single
week. Just the health sector alone, to figure out whether we should have
exemptions whether or not, is going to be a bit of a nightmare. So for the reasons
that I have advanced, this is why we are asking for the negative. And the fact that
the Minister is now out of the picture and the OPR now decides whether an
exemption should occur at all, I think that deals with the question, the fear that
people have that exemptions will occur that should not occur.

**Mr. Chairman:** Sen. Mark.

**Sen. Mark:** Mr. Chairman, I think that is a reasonably eminent position being
advanced by Sen. Dr. Dillon-Remy. And as Sen. Hazel Thompson-Ahye indicated
some time ago in the Jamaican procurement law, there is provision for an
affirmative resolution, and what the Minister is engaging in is scaremongering and
I think that, you know, you must have respect—

Mr. Imbert: He is debating now? You are not allowed to debate.

Mr. Chairman: Sen. Mark, okay. You have made your point, just tie it up because he is right, we are not allowed to re-debate the issue.

Sen. Mark: I am not re-debating anything, Sir.

Mr. Imbert: Really?

Sen. Mark: What I am saying is that lawmaking belongs to the Parliament and what we are doing is conceding. We are giving our power to the Cabinet.

Mr. Imbert: How?

Sen. Mark: That is what we are doing. When we say negative resolution, we are giving the Cabinet our power.

Mr. Imbert: He is debating, Mr. Chairman.

Sen. Mark: And all I am saying, Mr. Chairman, is this, we cannot rely on the Government to give us the facts. We need to debate these things openly and—

Mr. Chairman: Sen. Mark, you have a question for the Chair—for the Minister of Finance, sorry?

Sen. Mark: No, I am just saying—

Mr. Chairman: So you just made the statement. Minister of Finance, you want to respond?

Mr. Imbert: Well, I will have to make a statement as well. I will defer to Sen. Vieira.

Sen. Vieira SC: Just to correct. I understand the impression but honestly, in light of the amendment that has been made where the Minister is no longer involved, the Minister is no more than a conduit. The Minister brings the instrument because he has standing in the Parliament, not the procurement regulator. But it is the
procurement regulator that is in charge. It is the procurement regulator that is bringing the regulation and the timing of the regulation.

**Mr. Imbert:** Thank you for—

**Mr. Chairman:** Final statements by the Minister of Finance.

**Mr. Imbert:** The point I want to make is that the statements made by Sen. Mark are incorrect. The Cabinet will not be involved in the making of these regulations or the exemptions. We have delegated that and we have given it over to the Office of Procurement Regulation. It is not the Cabinet anymore, and Sen. Vieira has properly articulated it. That is incorrect statements.

**Mr. Chairman:** Okay. So we have on the floor, we have the amendment proposed by Sen. Deonarine. Sen. Deonarine, are you still proposing that amendment? Because we are still at clause 3. You still have one on the floor.

Delete subsection (b)(ii).

**Sen. Deonarine:** I would leave the amendment.

**Mr. Chairman:** You would leave it?

**Sen. Deonarine:** Yes. I will put it to the question.

**Mr. Chairman:** Hon. Senators, the question is that clause 3 be amended as circulated by Sen. Deonarine.

*Question, on amendment, [Sen. Deonarine] put.*

**Sen. Mark:** Division.

*The Committee divided:* Ayes 14  Noes 18

AYES

Mark, W.
John, Ms. J.
Lutchmedial, Ms. J.
Public Procurement and Disposal of Public Property (Amdt. and Validation) Bill, 2023

Nakhid, D.
Lyder, D.
Roberts, A.
Richards, Dr. P.
Deyalsingh, Dr. V.
Deonarine, Ms. A.
Seepersad, Ms. C.
Teemal, D.
Thompson-Ahye, Mrs. H.
Dillon-Remy, Dr. M.
Welch, E.

NOES
Armour SC, R.
Gopee-Scoon, Ms. P.
Sinanan, R.
Hosein, K.
Randall, M.
Bacchus, H.
Ibrahim, Dr. I.
Sagramsingh-Sooklal, Mrs. R.
Sookhai, R.
Lezama-Lee Singh, Mrs. L.
Hislop, L.
Seales, M.
Bethelmy, Ms. Y.

UNREVISED
Mr. Chairman: So I will now put the question and dispense with Sen. Welch’s amendment. So, hon. Senators, the question is that clause 3 be amended as follows:

At clause 3(b)(i):

(6)(e).

Question put and agreed.

Mr. Chairman: That is Sen. Welch’s amendment. Okay. So now we are going to treat with the clause 3(a) as proposed by the Minister of Finance. Minister of Finance, you have anything to say?

In proposed paragraph (e) delete the words “in consultation with” and replace with the words “with the agreement of”.

Mr. Imbert: Yes, I want to repeat that this falls within the guidelines in the Welsh Parliament for negative resolution because it no longer confers powers on the Minister that he should not have. Therefore, we have changed “in consultation with”, which as Senators correctly said, would allow the Minister to proceed even if the OPR disagreed to “with the agreement of”, which means we cannot proceed if the OPR disagrees. So we have taken the Minister’s power away.

Mr. Chairman: So, hon. Senators, the question is that clause 3 be amended as circulated by the Minister of Finance.

Question put and agreed to.

Clause 3, as amended, ordered to stand part of the Bill.
2.10 a.m.

Clause 4.

Question proposed: That clause 4 stand part of the Bill.

Mr. Chairman: We have proposed amendments by Sen. Deyalsingh. Sen. Deyalsingh.

Sen. Dr. Deyalsingh: Through you, Chair. Minister, I had sought to put in this part (2):

“Exempted procurement transactions shall be submitted to the Office.”

To try and see if we can somehow put in the million-dollar contracts that were exempted, to put it under some scrutiny by the procurement regulator. And I realized what you told me there, it would be a difficult thing to put because we would be putting persons’ lives at risk in cases where there are the domestic violence homes, et cetera. Is it possible to put at the end of that, “except where disclosure puts a life at risk”?

Mr. Imbert: I think the problem is we do not have enough time tonight.

Sen. Dr. Deyalsingh: Okay, sure.

Mr. Imbert: Of course, that was a very good, excellent suggestion. What about other things like safety and security, you know, so it is more than just lives at risk here.

Sen. Dr. Deyalsingh: Sure.

Mr. Imbert: So I have given the assurance that I will see what is done in other countries with respect to disclosure, with respect to exempt services, and we will come to Parliament with that.


Sen. Mark: Can I ask, Mr. Chairman, through you—
Mr. Chairman: Go ahead, Sen. Mark.

Sen. Mark: Yeah, Mr. Chairman, could the Minister indicate to this Senate so we can put on the record, when he gives an assurance, can the Minister indicate to this House what time frame? Is it a month from now? Is it two weeks from now? Or is it open-ended? Because I do not want the Minister to mamaguy us, so let him give us a specific time when he will come back.

Mr. Chairman: Minister.

Mr. Imbert: It is very difficult to give a time frame.

Sen. Mark: And that is why we have to put the law in place.

Mr. Chairman: Okay, Sen. Mark. Minister.

Mr. Imbert: “He cyah help himself.”

Sen. Mark: It is open.

Mr. Imbert: Stop it. But I am going to make the best effort—

Sen. Mark: “Yuh see?”

Mr. Imbert:—to complete this exercise before the end of this year 2023.

Hon. Senator: Okay.

Mr. Imbert: Because remember we are in recess, then we go into the budget cycle which takes us to the end of October. So we have literally the month of November and maybe half of December. But I will get the draftsmen working on it immediately so that when we finish the budget exercise, we can come to the Parliament as quickly possible after the budget exercise with this.

Sen. Mark: Mr. Chairman, can I ask—

Mr. Chairman: So, Sen. Mark, hold on, hold on, you have asked the question for a time frame, a time frame has been given by the Minister of Finance.

Sen. Mark: Is the Minister saying on or before the 31st of December, 20—
Mr. Chairman: Sen. Mark, I understand where you are trying to get at and I think the Minister of Finance has responded.

Mr. Imbert: I did. I answered him.

Mr. Chairman: I suspect the answer will be same.

Mr. Imbert: “Same answer he getting.”

Mr. Chairman: Exactly. So I will move on—

Sen. Mark: Can I—

Mr. Chairman: No, Sen. Mark, I am going to move on now. Sen. Dr. Deyalsingh, is it that the amendment is still proposed or are you withdrawing?

Sen. Dr. Deyalsingh: I am withdrawing.

Mr. Chairman: You withdraw. Thank you.

Amendment withdrawn.

Mr. Chairman: Sen. Deonarine, you have proposed amendments to clause 4.

Sen. Deonarine: Thank you, Chair. Minister of Finance, through you, Chair, when you spoke to this section during the debate when you piloted and then when you wrapped up, the indication that I got was that it is not necessarily an exemption you want from the parent Act but what you really want to do is have a certain value of procurement of goods and services to be subjected to simplified—simpler procurement processes. Right?

Mr. Imbert: Correct, correct.

Sen. Deonarine: So what I sought to do here was to—because the name of the—I do not know what they call that part of the law. The name of the thing was “exempt from this Act”. I thought that maybe what you were trying to do was say “simplified procurement requirements”, I do not know if this is the right legal drafting. And also what I sought to do was to reduce the limit, the threshold to
$500,000 bearing in mind that I find that $1 million is far too much, and also bearing in mind that $600,000 per year is the VAT threshold. And also given that this is really to give an opportunity for the contractors, suppliers, procurement officers to get to a point where they are fully on board or they can register with the depository and they can be—and the different public bodies can be fully staffed in their different procurement offices, that it would give some time to allow these procurements to take place up to a point in time and then by that time, by let us say December 2023, you have a situation where you can no longer continue this because most of them would already will be registered or prequalified.

Mr. Chairman: Minister of Finance.

Mr. Imbert: I do not think we need to try and get into expert drafting at this time. I do not think we need to put these words in here, “simplified procurement requirements” because what we expect the OPR to do is to look at what is done around the world for small and medium enterprises. When you look at the regulations in the UK, for example, they are focused on small and medium enterprises, they are not called simplified procurement requirements. And since we are now delegating everything to the OPR, they will understand what we are doing. They would have heard about what we spoke about in this debate, so it is for SMEs, that is what it is for. So I would prefer not to be so prescriptive as you are here.

And I think this should be something that we should keep for quite a while. I think we are going to need this for SMEs continuously because new players come into the market all the time so I do not think that this should be a cut off in 2023. I think that this $1 million, with regulations made by the OPR geared at assisting SMEs, should be a permanent feature of the legislation. It is a permanent feature
of the legislation in virtually every other procurement Act. Just take a look at the Barbados legislation, and they have this for US $150,000, about $1 million, and it is a permanent feature of their legislation. Look all around the world and you will see this is a permanent feature. So I do not see any need for this to be time barred but we are going to be asking the OPR to look at best practice around the world, to put in regulations that are fit for purpose for small and medium state enterprises.

Mr. Chairman: Sen. Mark.

Sen. Mark: Mr. Chairman, could the Minister clarify whether he is telling this Parliament that the $1 million or less is going to be specifically designed to aid and assist small and medium-sized businesses or is this $1 million going to be used to buy coffee and other facilities and so on, for use at various offices? I want him to be very specific in clarifying for us.

Mr. Chairman: Sen. Dr. Dillon-Remy.

Sen. Dr. Dillon-Remy: I just wondered whether clause 4, 58A said:

“Subject to regulations made under section…the procurement of goods and services up to one million…are exempt from procurement requirements under this Act.”

Yet, we are putting the procurement regulator to make regulations for this same area there that we are saying is no longer under—it is exempt from—it is there a contradiction there? I am just asking for clarity.

Mr. Imbert: No.

Sen. Dr. Dillon-Remy: No.

Mr. Imbert: Because the Regulations will determine how people will behave with respect to this procurement. Okay?

Sen. Dr. Dillon-Remy: Great, thanks.
Mr. Chairman: A response to Sen. Mark, if any.

Mr. Imbert: I cannot remember what he said.

Sen. Armour SC: He asked if it is for small business or coffee.

Mr. Imbert: I could not understand because coffee would be sold by a small business, so I did not understand.

Mr. Chairman: So, Sen. Deonarine, you still putting the question, yes?

Sen. Deonarine: I just have one question.

Mr. Chairman: Sure.

Sen. Deonarine: Minister of Finance, through you, Chair, I did not get a response to reducing the value from—

Mr. Imbert: Oh, the reason—I did not pull this out of a hat, that is why I spent some time, although my dear friend, Sen. Vieira, interrupted me, abruptly, I would not say rudely, three times—[Laughter]—when I was in full flight trying to show you around the world that the limit for this is usually in the vicinity of US $150,000, $1 million. And we do feel when we look at the history of procurement over the years, the fact that it was felt by successive parliaments and successive governments that $1 million was a reasonable figure to have simplified procedures, that is why I went with $1 million. I think $500,000 is a little too low, especially in 2023. That is my view. Okay?

Mr. Chairman: Sen. Deonarine.

Sen. Deonarine: I will—

Mr. Imbert: And I am just reminded with post-Ukraine and inflation and all of that kind of thing, it is a little too low.

Mr. Chairman: Sen. Seepersad.

Sen. Seepersad: Minister, I am just trying to get clarification, the Regulations

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concerning this particular exemption will be included in the list of stuff that you will bring before the end of the year? Would these regulations—

**Mr. Imbert:** Remember, now I have to go and ask the OPR—that is why I was unable to give Sen. Mark a definitive answer.

**Sen. Seepersad:** Right.

**Mr. Imbert:** I have to go and ask them to make these regulations. And I want to make something clear, this procurement cannot take place, this procurement, with simplified procedures up to $1 million, cannot take place until these regulations are made. So this is not a tomorrow thing, you know. Some people seem to think that we pass this tonight, tomorrow people could start procuring up to $1 million just willy-nilly. We have to wait now because I have removed myself from the legislation, we have to wait for the OPR to recommend them.

**Sen. Seepersad:** But I suppose you will use your good office to explain—

**Mr. Imbert:** I am “gonna” try—

**Sen. Seepersad:**—the urgency of these—

**Mr. Imbert:** But I could only use suasion on them.

**Sen. Seepersad:** Suasion, exactly.

**Mr. Imbert:** I cannot instruct them, I cannot tell them what to do.

**Sen. Seepersad:** No, no, no, but I suppose you could explain.

**Mr. Chairman:** Okay. Sen. Deonarine, continue or you withdraw?

**Sen. Deonarine:** I will withdraw.

**Mr. Chairman:** Withdraw. Okay.

*Amendment withdrawn.*

**Mr. Chairman:** So then we will put the question as per normal. Hon. Senators, the question is that clause 4 now stands part of the Bill. Those in favour say aye—
Hon. Senators: Aye.

Mr. Chairman: Let me say that again and listen carefully.

  Question put and agreed to.

  Clause 4 ordered to stand part of the Bill.

Clause 5.

  Question proposed: That clause 5 stand part of the Bill.

Mr. Chairman: Sen. Deonarine.

Sen. Deonarine: Thank you, Chair. I will withdraw part A because I realize that it is in alignment with what the Minister of Finance has proposed in his circulated amendment. Am I correct? Yes.

With respect to B, I understand the situation with publishing the contracts awarded. So then in that case, is it possible to have these regulations made, have it worded such as:

  Regulations made under section 63(1)(c) shall provide for the contracts awarded to be reported to the Office, full stop.

Mr. Chairman: Minister of Finance.

Mr. Imbert: Well, this would not apply to exempt services, eh. You understand that? The effect of your proposed amendment is that you are just saying contracts under $1 million. This is the effect of what you are telling us, it is for contracts under $1 million—

Sen. Deonarine: Yes.

Mr. Imbert:—but it would not apply to exempt services—

Sen. Deonarine: Yes, yes, yes.

Mr. Imbert:—because they are exempt this.

Sen. Deonarine: Yes.
Mr. Imbert: I am okay with that. What do you think, Attorney General? On a quarterly basis to be reported to the office, full stop. Right?

Sen. Deonarine: Yes, to be reported to the office, full stop.

Mr. Imbert: So okay, now that we have—

Hon. Senators: [ Interruption and laughter ]

Mr. Imbert: What are they laughing at so? “Is children ah dealing with here? Is ah serious thing going on here.”

Mr. Chairman: Let us, let us, let us—honestly, it is 2:23 in the morning. Really honestly, we have been moving with some alacrity and efficiency, so let us continue to do that.

Mr. Imbert: Yes, I am just trying to get a better understanding now. So we are going to say that regulations made under section 63(1)(c), and those would be the Regulations for procedures for the procurement of goods and services up to $1 million will be reported to the office. I do not have a problem with that. Okay? I am okay with that.


Mr. Chairman: Minister of Finance, yes?

Mr. Imbert: Yeah.

Mr. Chairman: As it is here without any added words or—

Mr. Imbert: No, no, no. “Yuh taking out the big A” and then deleting all the words after the words “Office” in the second line.

Mr. Chairman: Okay. Hon. Senators, the question is that clause 5 be amended as circulated by Sen. Deonarine and further amended as follows:

Withdraw part A and in part B will read as follows:

B. By inserting after subsection (3), the following new subsection:
(4) Regulations made under section 63(1)(c) shall provide for the contracts awarded to be reported to the Office.

*Question, on amendment, [Sen. A. Deonarine] put and agreed to.*

2:25 a.m.

**Mr. Chairman:** So, Sen. Vieira, just for the record your clause 5 as circulated is withdrawn?

**Sen. Vieira SC:** Yes.

*Amendment withdrawn*

**Mr. Chairman:** That is now on the record. Minister of Finance, you have a proposed amendment for clause 5?

5(a)(i) A Delete the words “in consultation with” and replace with the words “with the agreement of”.

**Mr. Imbert:** “Mm-hmm”, clause 5.

**Mr. Chairman:** Yeah, 5(a)(i)A.

**Mr. Imbert:** Oh yes, I am so sorry. Yeah, it is here. It is circulated. Right. Let us go. Yes, it is exactly the same as we did with 3. Mr. President, exactly the same as we did with 3, remove “in consultation with”, replace with the words “with the agreement of” which would mean now that exemptions would be done on the recommendation of the OPR or upon the initiative of the Minister with the agreement of the OPR. So, again, this has now been delegated to—well, not—abdicated is probably a better word, to the OPR. Okay?

**Mr. Chairman:** The question is that clause 5 be amended as circulated by the Minister of Finance.

*Question put and agreed to.*

*Clause 5, as amended, ordered to stand part of the Bill.*
Clause 6.

Question proposed: That clause 6 stand part of the Bill.

Question put.

The Committee divided: Ayes 21 Noes 6

AYES

Armour SC, R.
Gopee-Scoon, Mrs. P.
Sinanan, R.
Hosein, K.
Mitchell, R.
Bacchus, H.
Ibrahim, Dr. M.
Sagramsingh-Sooklal, Mrs. R.
Sookhai, R.
Lezama Lee-Sing, Mrs. L.
Hislop, L.
Seales, M.
Bethelmy, Ms. Y.
Borris, H.
Young, N.

Hon. Senator: [Inaudible]

Mr. Chairman: Senators, I would like to hear the answers to the division.

Division continued.

Vieira SC, A.
Seepersad, Ms. C.
The following Senators abstained: Dr. P. Richards, Dr. V. Deyalsingh and Ms. A. Deonarine.

Clause 6 ordered to stand part of the Bill.

Preamble.

Question proposed: That the preamble be approved.

Question put and agreed to.

Preamble approved.

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

Senate resumed.

Mr. President: Minister of Finance.

Hon. C. Imbert: Thank you, Mr. President.

Sen. Dr. Dillion-Remy: I just read something saying—

Mr. President: Sen. Dr. Dillion-Remy.
Sen. Dr. Dillion-Remy: I just realized that in the preamble, there is a—where the change Sen. Welch should ask for 6, it just—it should be (6)(e) also in the preamble.

Mr. President: That does not form part of the Bill.

Sen. Dr. Dillion-Remy: What is that? The preamble does not form part?

Mr. President: Okay, so I am—

Sen. Dr. Dillion-Remy: I know, I just saw it.

Mr. President: Yeah, thank you. Minister of Finance, go ahead.

Hon. C. Imbert: It is okay, do not worry. The substantive section has been amended, thank you. Mr. President, I wish to report that the Public Procurement and Disposal of Public Property (Amdt. and Validation) Bill, 2023, was considered in the committee of the whole and approved with amendments. I now beg to move that the Senate agree with the committee’s report.

Question put.

Sen. Mark: Division

The Senate divided: Ayes 19 Noes 9

AYES
Armour SC, Hon. R.
Gopee-Scoon, Hon. P.
Sinanan, Hon. R.
Hosein, Hon. K.
Mitchell, Hon. R.
Bacchus, Hon. H.
Ibrahim, Dr. M.
Sagramsingh-Sooklal, Hon. R.
Public Procurement and Disposal of Public Property (Amdt. and Validation) Bill, 2023

Sookhai, Hon. R.
Lezama Lee-Sing, Mrs. L.
Hislop, L.
Seales, M.
Bethelmy, Ms. Y.
Borris, H.
Young, N.
Vieira SC, A.
Deonarine, Ms. A.
Seepersad, Ms. C.
Dillon-Remy, Dr. M

NOES.
Mark, W.
John, Ms. J.
Lutchmedial, Ms. J.
Nakhid, D.
Lyder, D.
Roberts, A.
Teemal, D.
Thompson-Ahye, Mrs. H.
Welch, E.

Sen Dr. P. Richards and Sen. Dr. V. Deyalsingh abstained.

Question agreed to.

Bill reported, with amendment.

Question put: That the Bill be read a third time.
2.35 a.m.

Sen. Mark: No. Division.

The Senate divided: Ayes 19 Noes 8

AYES
Armour SC, Hon. R.
Gopee-Scoon, Hon. P.
Sinanan, Hon. R.
Hosein, Hon. K.
Mitchell, Hon. R.
Bacchus, Hon. H.
Ibrahim, Dr. M.
Sagramsingh-Sooklal, Hon. R.
Sookhai, Hon. R.
Lezama-Lee Sing, Mrs. L.
Hislop, L.
Seales, M.
Bethelmy, Ms. Y.
Borris, H.
Young, N.
Vieira SC, A.
Deonarine, Ms. A.
Seepersad, Ms. C.
Dillon-Remy, Dr. M.

NOES
Mark, W.

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The following Senators abstained: Dr. P. Richards, Dr. V. Deyalsingh, Sen. E. Welch.

*Question agreed to.*

*Bill accordingly read the third time and passed.*

**ADJOURNMENT**

**Mr. President:** Hon. Senators, in accordance with Standing Order 12(4), this Senate now stands adjourned to a date to be fixed.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 2.38a.m.*