



REPUBLIC OF TRINIDAD AND TOBAGO

Debates of the House of Representatives

4th Session – 10th Parliament (Rep.) – Volume 28 – Number 36

**OFFICIAL REPORT
(HANSARD)**

THE HONOURABLE WADE MARK
SPEAKER

THE HONOURABLE NELA KHAN
DEPUTY SPEAKER

Friday 4th July, 2014

CLERK OF THE HOUSE: JACQUI SAMPSON-MEIGUEL

EDITOR: LILA RODRIGUEZ-ROBERTS
Telephone: 623-4494

(TYPESET BY THE HANSARD STAFF, PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, CARONI,
REPUBLIC OF TRINIDAD AND TOBAGO— 2022)

CONTENTS

	Page
LEAVE OF ABSENCE	1
JOINT SELECT COMMITTEE (ESTABLISHMENT OF)	1
PLANNING AND FACILITATION OF DEVELOPMENT BILL, 2013	
First Reading	2
ORAL ANSWERS TO QUESTIONS	
Chaguaramas Peninsula (Details of Lease Consideration)	
[<i>Deferred</i>]	2
Prime Minister's Official Visit to China (Details of)	
[<i>Deferred</i>]	2
Central Bank Employees (Details of)	
[<i>Deferred</i>]	3
Development/Upgrade of Recreational Grounds (Details of)	3
St Paul Street Recreation Grounds (Completion of)	5
Central Market Port of Spain (Refurbishment of)	7
First Citizens Bank Limited (Investigation into IPO Report)	8
Central Bank (Distribution of Foreign Exchange)	10
Central Bank (Details of Authorized Foreign Exchange Dealers)	13

Guapo River (Details of)	16
Techier Village Aged Sewer Network (Commencement of Work on)	17
Refurbishment/Renovation Work (Commencement of)	18
EXPIRATION OF QUESTION TIME	20
Operation of Petrotrin owned Barge (Details of)	20
Trou Macaque HDC Building (Refurbishment)	20
Trou Macaque HDC Building (Fire Escape Steps)	21
PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY BILL, 2014	
[<i>Sen. the Hon. Dr. B. Tewarie</i>]	
Second Reading	21
LEAVE OF ABSENCE	50
... ..	142
ADJOURNMENT	
[<i>Hon. Dr. R. Moonilal</i>]	141

**THE
PARLIAMENTARY DEBATES
OFFICIAL REPORT
IN THE FOURTH SESSION OF THE TENTH PARLIAMENT OF THE REPUBLIC OF
TRINIDAD AND TOBAGO WHICH OPENED ON JUNE 18, 2010**

SESSION 2013—2014

VOLUME 28

HOUSE OF REPRESENTATIVES

Friday, July 04, 2014

The House met at 10.00 a.m.

PRAYERS

[MR. SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Mr. Speaker: Hon. Members, I have received the following communication from the Member of Parliament for Tunapuna, the hon. Winston Dookeran who is currently out of the country, and has asked to be excused from sittings of the House during the period June 29 to July 04, 2014. The leave which the Member seeks is granted.

**JOINT SELECT COMMITTEE
(ESTABLISHMENT OF)**

Mr. Speaker: Hon. Members, I have received the following communication from Sen. James Lambert, Vice-President of the Senate, which reads as follows. It is dated June 23, 2014, addressed to hon. Wade Mark MP, Speaker of the House:

Dear Honourable Speaker,

Establishment of a Joint Select Committee

I wish to advise that at a sitting held on Tuesday, June 17, 2014, the Senate resolved as follows:

“That Parliament appoint a Joint Select Committee to propose a legislative framework to govern the financing of election campaigns and to submit its reports with recommendations to both Houses of Parliament within six months of its appointment.”

I respectfully request that you convey this decision of the Senate to the House of Representatives.

Sincerely,

James Lambert

Vice-President of the Senate

**PLANNING AND FACILITATION OF
DEVELOPMENT BILL, 2013**

Bill relating to the planning and development of land and to repeal and replace the Town and Country Planning Act, Chap. 35:01, brought from the Senate. [*The Minister of Planning and Sustainable Development*]; read the first time.

The Minister of Housing and Urban Development (Hon. Dr. Roodal Moonilal): Mr. Speaker, the Government is in a position to answer several questions on the Order Paper today, but we will ask that three questions be deferred: question No. 136 to the Minister of Planning and Sustainable Development, question No. 162 and question No. 165; all others, we are in a position to answer.

ORAL ANSWERS TO QUESTIONS

The following questions stood on the order Paper:

**Chaguaramas Peninsula
(Details of Lease Consideration)**

- 136.** Could the hon. Minister of Planning and Sustainable Development state:
- A. Have any lands been leased to/offered for lease/been considered to be leased to any person in the Chaguaramas peninsula for agricultural purposes?
 - B. If so, can the Minister identify the location or locations, the acreages and the beneficiaries involved?
 - C. If any lease has been entered into, what are the terms of such lease and when was Cabinet approval granted for any such lease?
 - D. Are there any provisions for residents of Carenage, L'Anse Mitan and Point Cumana to access agricultural lands in the Chaguaramas area [*Dr. K. Rowley*]

**Prime Minister's Official Visit to China
(Details of)**

- 162.** With respect to the Prime Minister's recent official visit to China, could the hon. Prime Minister state:
- i. the names of any persons or agency/company, local or foreign who contributed towards the visit to China; and
 - ii. the amount contributed by each person/agency/company and for what purpose? [*Mr. N. Hypolite*]

**Central Bank Employees
(Details of)**

- 165.** Could the hon. Minister of Finance and the Economy state:
- a) the number of employees on payroll at the Central Bank of Trinidad and Tobago as at July 13, 2012;
 - b) the number of employees on payroll at the Central Bank as at May 31, 2014; and
 - c) how many new employees were hired by the Central Bank between July 13, 2012 and May 31, 2014? [*Mr. C. Imbert*]

Questions, by leave, deferred.

Hon. Dr. R. Moonilal: Mr. Speaker, with your leave and arising out of a consensus with the Opposition, there are several Ministers from the other place here with questions to answer at various points, and we have asked that the Ministers who are answering, are allowed to answer their two or three questions together, so that they can leave easily and another Minister can then answer. So, for example, the Minister of Finance and the Economy and the Minister of Local Government, if they can take all their questions together.

Thank you.

Mr. Speaker: Is the Minister of Local Government here?

Hon. Dr. R. Moonilal: The Minister of Local Government is here, Mr. Speaker, thank you.

Mr. Speaker: All right, Members of the House, a request is being advanced that we facilitate the hon. Members from the Senate who are here in their ministerial portfolio, in an effort to allow their questions to be addressed—the answers rather to the various questions to be addressed early.

So we will first address—we will call on the hon. Member for Port of Spain North/St. Ann's West.

**Development/Upgrade of Recreational Grounds
(Details of)**

- 134. Miss Marlene Mc Donald** (*Port of Spain South*) on behalf of Mrs. Patricia Mc Intosh (*Port of Spain North/St. Ann's West*) asked the hon. Minister of Local Government:

Could the Minister state when the following recreational ground would be developed/upgraded:

- a) President's grounds, St. Ann's;
- b) Children's park and basketball court at Harpe Place, Teshea Terrace, East Dry River;
- c) Playground, Belmont Valley Road?

The Minister of Local Government (Sen. The Hon. Marlene Coudray):
[Desk thumping] Thank you, Mr. Speaker. Mr. Speaker, the answer to part (a) of the question on the President's ground, St. Ann's. The San Juan/Laventille Regional Corporation has advised that development works at the President's ground, St. Ann's have been included in the draft estimates, development programme 2014/2015. The proposed works include the installation of a fence 120 metres by 5 metres, grading of the ground and applying top soil and grass, the connection of a water supply and the erection of a pavilion with male and female toilets and change rooms.

With respect of part (b) of the question: the Port of Spain City Corporation has advised that upgrade works are being carried out at the children's play park and basketball court at Harpe Place, Teshea Terrace and East Dry River. These works include upgrading of the fencing, resurfacing of the basketball court and providing additional park equipment. The scheduled date of completion is August 30, 2014.

With respect to part (c) of the question: the Belmont Valley Road consists of more than one playground which fall under the jurisdiction of the Port of Spain City Corporation and the San Juan/Laventille Regional Corporation.

The Belmont Valley Road recreation ground is located at First David Street, and that one is under the control of the Port of Spain City Corporation, and that corporation has advised that this project has been included in the draft estimates for development programme 2014/2015.

The proposed works include lighting, benches, proper drainage and the upgrade of the fencing. However, the Belmont Valley Road recreation ground located at St. Francois Valley Road is under the purview of the San Juan/Laventille Regional Corporation. That corporation has advised that they are in the process of implementing upgrade work at the ground. These works include the installation of a ceiling to the roof of the toilet, installing two steel doors, creating a new point of entry for the pavilion, repairing the plumbing fixtures for the toilet, site drainage improvement works and installing of guttering on the toilet roof.

The works identified, the first four items and the last item, are expected to be completed before August 2014. However, the site drainage improvement works will be completed at a later date, but that date was not identified by the corporation.

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

Mr. Speaker: Any supplemental?

Miss Mc Donald: No.

**St. Paul Street Recreation Grounds
(Completion of)**

138. Miss Marlene Mc Donald (*Port of Spain South*) asked the hon. Minister of Local Government:

Can the Minister state when will the recreational grounds located at St. Paul Street be completed?

The Minister of Local Government (Sen. The Hon. Marlene Coudray): [*Desk thumping*] Thank you, Mr. Speaker. Mr. Speaker, the St. Paul Street recreational facility had been assigned to the East Port of Spain Development Company Limited for upgrade. The East Port of Spain Development Company Limited is one of the special purpose state enterprises established by the Government to expedite the physical development of the country. The East Port of Spain Development Company was incorporated on September 28, 2005 and commenced its operations in May 2006.

Mr. Speaker, Cabinet, by Minute No. 2993 of November 01, 2007, agreed to the upgrade of the St. Paul Street recreational facility, and the Morris Marshall Recreation Ground by the East Port of Spain Development Company Limited, at an estimated cost of \$2,050,377.64 and \$2,163,918.59 respectively; and two, to the provision of additional funds in the sum of \$3,214,296.23 under the Infrastructure Development Programme, to facilitate the implementation of the aforementioned projects.

The contract to undertake the upgrade works at the St. Paul Street recreational facility was awarded by the East Port of Spain Development Company to a company called Inch by Inch Construction and Manufacturing Company Limited on December 01, 2007, at the original total contract sum of \$2,050,377.64, representing \$1,872,490.99 for construction cost, 7.5 per cent project management fees in the sum of \$140,436.83, and 2 per cent design fees of \$37,449.82.

In addition, Cabinet, by Minute No. 2405 of September 03, 2009, agreed to approve an additional sum of \$1.7 million to meet the cost of the redesign and completion of work on the upgrade of the St. Paul Street recreational facility, to be met under the Infrastructure Development Fund of the Ministry of Local Government. The actual expenditure on the project was \$2,838,000 and the scope of works for that project included:

- (1) demolishing the existing pavilion;
- (2) building a cricket practice net;
- (3) complete concrete covers to the south side box drain;
- (4) to fill, grade, drain playing field and replant a suitable mix of grass, also include maintenance of grass to first cut, the supply and insulation of goal posts and nets and marking the ground;
- (5) to build a new covered pavilion to include concrete apron, retaining wall, toilets, showers and a concession facility, including construction and connection of a soakaway and septic tank sewer disposal system;
- (6) to facilitate insulation of appropriate lighting of the playing field by others, to drawing and specifications and also to meet the approval of the Electrical Inspectorate;
- (7) to build 150 yards fencing; and
- (8) to clean the site and dispose of all unwanted materials before delivering the completed works.

A certificate of practical completion was issued on June 07, 2010, and the contractor was given six months to rectify the defects that were identified. However, final accounts prepared by an independent cost consultant were submitted to the company, but not accepted by the contractor.

The contractor initiated legal action against the company claiming outstanding payments. The company's valuations supported by the independent cost consultant confirmed that all payments due were made to the contractor. The company was advised by its lawyers that the court matter was discontinued by the claimant, who is the contractor, on the February 28, 2014.

The recreation ground is not owned by the East Port of Spain Development Company or any other agency. Therefore, the Ministry of Sport was approached to take up ownership. However, as a conditionality to take up ownership, the Ministry of Sport requested that additional works be completed, which were outside the original scope of works of the project. At the time of the request from

the Ministry of Sport, the matter was before the court and the East Port of Spain Development Company was unable to initiate any further work on the site, and now the project is no longer on its project to-do listing.

As at August 2012, Mr. Speaker, the East Port of Spain Development Company was put under the purview of Minister of Planning and Sustainable Development. Therefore, all future enquiries should be directed to that Ministry.

I thank you, Mr. Speaker.

10.15 a.m.

Miss Mc Donald: Thank you, Mr. Speaker, to the Minister of Local Government, can you tell me, in light of what you have just said that \$2.8 million has already been allocated to this company Inch by Inch, what is the status of this project, Ma'am?

Sen. The Hon. M. Coudray: Mr. Speaker, as indicated, the East Port of Spain Development Company did sign off on the work undertaken. They are yet to provide an updated status, which I am sure would, by now, have been given to the Minister of Planning and Sustainable Development, but the Ministry of Local Government, at the time we took sight of this project, it was already handed over to the Minister of Planning and Sustainable Development. So I am not in a position to respond to that question at this time.

Miss Mc Donald: Further question, Mr. Speaker. The East Port of Spain Development Company, one of the problems there, the concern I have always had, is lack of funding. Is that the case here? Is the East Port of Spain Company under your Ministry, Ma'am? To whom does the East Port of Spain Development Company report? Which Ministry are they funded by?

Sen. The Hon. M. Coudray: Mr. Speaker, I just indicated, maybe I am not speaking loudly enough, that it was handed over in August 2012 to the Minister of Planning and Sustainable Development.

Miss Mc Donald: Thank you, Mr. Speaker, I will then file the question to the Minister of Planning and Sustainable Development. Thank you, Sir.

**Central Market Port of Spain
(Refurbishment of)**

142. Miss Marlene Mc Donald (*Port of Spain South*) asked the hon. Minister of Local Government:

Can the Minister state:

When will the Central Market in Port of Spain be refurbished?

The Minister of Local Government (Sen. The Hon. Marlene Coudray): Thank you, Mr. Speaker. The question on the Central Market in Port of Spain, the refurbishing of all facilities, those are recurrent items that take place incrementally and the Port of Spain City Corporation has indicated that major refurbishment works commenced in May of this year and are scheduled to be completed by September 06, 2014.

In terms of local government, if I am allowed to indicate, every municipality in Trinidad falls within constituencies and these answers were obtained from the mayors and chairmen of these corporations and a lot of these answers have to do with current work being undertaken within these municipalities, so that I would like to suggest that the Members of Parliament liaise with the corporations a little more closely in terms of finding out what is taking place in these corporations.

I thank you, Mr. Speaker.

Miss Mc Donald: Mr. Speaker, just to clarify: Madam Minister of Local Government, as the Minister responsible for the municipal corporations in this country, I believe that we are in Parliament and I believe that we can ask the question of the Minister responsible. Thank you.

**First Citizens Bank Limited
(Investigation into IPO Report)**

135. Dr. Keith Rowley (*Diego Martin West*) asked the hon. Minister of Finance and the Economy:

- A. With respect to the investigation into the handling of the IPO at First Citizens Bank Limited, did the Minister obtain the PricewaterhouseCoopers report which was commissioned?
- B. If yes, is the Minister prepared to lay this report in Parliament?

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai): Thank you, Mr. Speaker. With respect to part A of the question, yes the PricewaterhouseCoopers report was received, a copy of which was provided to the Attorney General who in turn has passed the matter to the Office of the Director of Public Prosecutions.

With respect to part B, the Minister has been advised that the public dissemination of the report can prejudice the ongoing investigations being

conducted by the SEC and any action which may have to be taken by the DPP. As a consequence, the Government, at this time, does not contemplate the laying of the report in Parliament.

Dr. Rowley: Is the Minister prepared to tell this House whether or not he has read the report and is familiar with the contents?

Sen. The Hon. L. Howai: Mr. Speaker, the answer is yes, I have read the report.

Dr. Rowley: Is the Minister prepared to tell the House whether the contents of the report make any reference to the Seeterram purchase of shares or are they confined to other considerations?

Sen. The Hon. L. Howai: I will try to answer the question, Mr. Speaker. The report does not deal with any issues in respect of the Seeterram share purchase arrangement. That did come to the attention of the Minister after the report had been done and that matter was then referred to the Securities and Exchange Commission, once it came to the attention of the Minister.

Dr. Rowley: Now that the Minister has indicated that this serious matter has come to his attention, does it in any way influence the Minister's concern about the chairmanship of the FCB at the time when the Acting Chairman was put in the position?

Sen. The Hon. L. Howai: Mr. Speaker, the preliminary information that we had with respect to that specific transaction was that, informally, the feedback from the SEC had been that the matter—they did not see any issues that would require the attention following on the information becoming available. However, I have asked that they continue that particular investigation to determine if there are other ancillary issues that may need to be addressed.

So, in the circumstances, and based on the preliminary feedback I had received from the SEC, we had decided that there was no need to make any specific changes at the time. I should add, however, that subsequent to that, the Acting Chairman who, at the time was the Deputy Chairman of the board, has indicated that he has resigned. [*Interruption*]

Dr. Rowley: Mr. Speaker, I am getting some assistance from my colleague, the Member for Oropouche East. Clearly, desist please. Thank you.

Now that the Minister has had a report which was initiated on the basis of information on the Rahaman purchase; and now that it is in the public domain that

there are similar issues with the Seeterram purchase, is the Minister prepared or has the Minister taken steps to have an investigation into that aspect of the IPO?

Sen. The Hon. L. Howai: Mr. Speaker, as I indicated, I did ask that the SEC continue the particular investigation of the matter which I had referred to them.

Dr. K. Rowley: I am not talking about the SEC investigation; I am talking about a separate investigation in a similar manner to the PWC investigation, which specifically focused on the Rahaman purchase and was initiated by the Rahaman purchase.

Sen. The Hon. L. Howai: There was no need for me to take that particular matter any further, given the fact that the SEC had started their own investigation.

Mr. Speaker: Final question. We have a couple more well to go. Continue, hon. Leader! [*Interruption*]

Dr. Rowley: Mr. Speaker, my colleague is very spritely today.

Mr. Speaker: You have my protection. Please.

Dr. Rowley: That is not his business.

Mr. Speaker: I know. I know. Member for Oropouche East. Continue, hon. Leader of the Opposition!

Dr. Rowley: He is accusing me of abusing my position.

Mr. Speaker: No, you are not abusing it. I will tell you when you are abusing it. You continue, please!

Dr. Rowley: He is trying to distract me.

Mr. Speaker: Yes, continue! Pose your question, please.

Dr. Rowley: In view of the fact that the Senator has told the House that the House will not be able to see the report based on advice obtained by the Government, is the Minister prepared to tell us the source of that advice?

Sen. The Hon. L. Howai: Mr. Speaker, the advice came from the office of the Attorney General.

Central Bank (Distribution of Foreign Exchange)

163. Dr. Keith Rowley (*Diego Martin West*) on behalf of Mr. Colm Imbert (*Diego Martin/North East*) asked the hon. Minister of Finance and the Economy:

Could the Minister state:

- (a) what system was used by the Central Bank of Trinidad and Tobago between May 1993 and March 2014 to sell and distribute foreign exchange to authorized dealers in Trinidad and Tobago;
- (b) when did the Central Bank change the system;
- (c) what are the features of the new system; and
- (d) why was the system changed?

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai): With respect to part (a) of the question, from May 01, 1993 to April 30, 2012, the Central Bank sold foreign exchange to authorized dealers through a non-competitive allocation system.

With respect to part (b), from May 01, 2012, the Central Bank introduced a foreign exchange multiple price auction system to operate alongside the non-competitive allocation system that had existed prior to that time.

I note that the question had put a time frame of March 2014. I am not sure if that was an error because I think there was a subsequent change made to the system in May, but that is not part of my answer. I see the question was related just to March 2014.

With respect to part (c), the features of the new system are as follows:

- (1) All authorized dealers are included in the auction system;
- (2) Bids are assessed based on multiple prices;
- (3) Allotments are made from highest price to lowest price until the auction volume is fully allocated; and
- (4) All bids are capped at 20 per cent of the total auction volume.

With respect to part (d), the Central Bank modified the arrangements in an attempt—and this would have been back in 2012—to ensure widespread distribution of foreign exchange.

Dr. Rowley: Mr. Speaker, I am not sure that the Minister answered (b). When did the Central Bank change the system? Can I get a specific answer to that, please?

Sen. The Hon. L. Howai: As I indicated, the system was changed on May 01, 2012, which is the first change after the 1993 float.

Dr. Rowley: Why was the system changed as requested in (d)? Why was it changed?

Sen. The Hon. L. Howai: Mr. Speaker, as I indicated, at the time, in 2012, the intention was to ensure a more widespread distribution of foreign exchange and that would be the reason why, at the time, the Central Bank would have made that change.

Dr. Rowley: Were there any specific benefits to be had by a more widespread distribution of foreign exchange?

Sen. The Hon. L. Howai: Well, the expectation is that what would happen is that by having more persons or more dealers having a wider amount of foreign exchange accessible to them, it would introduce more competitiveness into the market and gradually get to a position where the market would be more liberalized than it had been.

We have, as you know, Mr. Speaker, been operating under what they sometimes call a managed float. Some people refer to it as a dirty float and the intention is to get to a position at some point of time where the market more closely resembles an open and perhaps less restrictive market and less controlled market and perhaps a market which is more akin to the open and dynamic markets that operate in other parts of the world.

Dr. Rowley: If that is the objective and the benefit to be had, how then does the Minister explain the revaluation effect which the Central Bank's unilateral action had when the Central Bank put the rate back at 6.34?

Mr. Speaker: That is another question, but I will leave it up to the hon. Minister of Finance and the Economy if he wishes to—

Sen. The Hon. L. Howai: The limit that was put on the question was to March 2014, Member for Diego Martin West. The change that you are referring to is a change that occurred subsequently and subsequent to the time frames within which the questions were asked. But in terms of what you are asking, I expect that because of the relatively large inflow of foreign exchange that took place at that time, it would have had an impact on the movement in the price at the time, as well as the price at which the Central Bank would have actually made the funds available to the market. So it would be a combination of two factors.

10.30 a.m.

Dr. Rowley: My question flowed from (d), it was not really my final supplemental. Given that instabilities and shortages and loss of confidence were the effect of these changes: is the Minister in a position to tell us whether, in fact, the Central Bank is now required to put more money, and put more money

frequently, to maintain some supply and to try to restore confidence in the system? Is there an increased flow of funds from the Central Bank to the market so as to treat with the instabilities created?

Sen. The Hon. L. Howai: Mr. Speaker, the question is actually going outside the bounds of what was actually asked, but I understand what the Member is asking, and I would try to deal with it.

The thing is that around June, July, August there tends to be a larger demand for foreign exchange because a number of things are happening at that time: one, people are starting to build up their—the merchants—the demand for their goods and services is expected to grow somewhere around the time of certain events such as Eid, Divali, Christmas coming up and, therefore, orders tend to be placed around this time for that, as well as the vacation period, as well as the demand for schools—you know, children registering in schools and so on. So, around this time you would tend to have a build-up of demand for foreign exchange.

In addition to which, of course, as the economy continues to grow and expand and as demand increases, you will see an increase in demand. I cannot say that I have had, say enough time, to analyse the data on a seasonal basis between what would have happened in May, April or late April—sorry, it would be May and June this year versus prior years—to be able to give a formal response to the Member for Diego Martin West, but I would say that the fact is that the demand around this time tends to start to begin to grow, and some of the increases that we have seen would have been attributable to this.

There is probably some element of demand that would have had to come in to deal with the pent-up demand that had developed, which had given rise to some of the concerns which had been expressed by various members of the public, and that also would have impacted on the amounts that would have come in. So, there has to be some further analysis being done before perhaps I place on record a response to this honourable House in respect of what the hon. Member is asking.

Dr. Rowley: Mr. Speaker, I thank the Minister for the expanded explanation.

**Central Bank
(Details of Authorized Foreign Exchange Dealers)**

164. Dr. Keith Rowley (*Diego Martin West*) on behalf of Mr. Colm Imbert (*Diego Martin North/East*) asked the hon. Minister of Finance and the Economy:

Could the Minister state:

- a) the names of the authorized dealers that were sold foreign exchange by the Central Bank of Trinidad and Tobago in 2013;
- b) the names of the authorized dealers that were sold foreign exchange by the Central Bank of Trinidad and Tobago in 2014; and
- c) why were these new dealers included in the system in 2014?

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai):
Mr. Speaker, with respect to question (a), the names of the authorized dealers that were sold foreign exchange by the Central Bank of Trinidad and Tobago in 2013 are as follows:

- Bank of Baroda Trinidad and Tobago Limited;
- Citibank Trinidad Limited;
- CIBC First Caribbean International Bank Limited;
- First Citizens Bank Limited;
- Intercommercial Bank Limited;
- RBC Royal Bank Trinidad and Tobago Limited;
- Republic Bank Limited; and
- Scotiabank Trinidad and Tobago Limited.

With respect to (b), Mr. Speaker, the names of the authorized dealers that were sold foreign exchange by the Central Bank of Trinidad and Tobago in 2014 are as follows:

- AIC Finance Limited;
- Ansa Merchant Bank Limited;
- Bank of Baroda Trinidad and Tobago Limited;
- Citibank Trinidad Limited;
- CIBC First Caribbean International Bank Limited;
- Development Finance Limited;
- First Citizens Bank Limited;
- General Finance Corporation Limited;
- Intercommercial Bank Limited;

- RBC Royal Bank Trinidad and Tobago Limited;
- Republic Bank Limited; and
- Scotiabank Trinidad and Tobago Limited

With respect to (c), Mr. Speaker, since October 03, 2007, there have been 12 authorized dealers. Four of the existing 12 authorized dealers were included in the allocations/allocation system in mid-2014 to ensure a more equitable distribution of foreign exchange.

Dr. Rowley: Mr. Speaker, what was the qualification required for an entity to be added to the list of authorized dealers?

Sen. The Hon. L. Howai: Mr. Speaker, I would need to treat that as a separate question. I do not have the details of the specific qualifications for a person to become an authorized dealer, one of which would probably clearly have to be that it be a financial institution, but I would need to get the details from the Central Bank as to what are the criteria they would use.

Mr. Imbert: Mr. Speaker, supplemental. I do not think the Minister properly answered part (c). So, could the Minister please tell us exactly why these four new dealers were brought in? Why?

Sen. The Hon. L. Howai: Well, Mr. Speaker, as I indicated, it was to ensure a more equitable distribution of foreign exchange within the market and to broaden—perhaps I could add—the number of dealers who are able to participate in the market.

Mr. Imbert: Mr. Speaker, supplemental, further supplemental. If that is the case, how could the addition of merchant banks—banks that are not retail banks that do not have large numbers of customers—improve the system?

Sen. The Hon. L. Howai: Mr. Speaker, the fact is that these institutions have a number of customers who are themselves large purchasers of foreign exchange. The largest purchasers of foreign exchange tend to be the business community more so than individuals. The aggregate demand by individuals tends to be much smaller than what is required by the business community for imports of goods and services. So that the intention was to have a larger number of dealers who could deal with the business community where pricing could, perhaps, be done on a more competitive basis and, therefore, which would allow the consumer to be able to benefit from the competition which would normally produce lower prices as part of the whole ambit of what normally occurs when you increase the level of competition.

Mr. Imbert: Further supplemental, Mr. Speaker. Could the Minister please explain the statement he just made that the pricing of foreign exchange would become more competitive with the introduction of these four banks that are not retail banks? Could you explain what you mean by that—pricing more competitive?

Sen. The Hon. L. Howai: Well, Mr. Speaker, without going into the details of how the system works and the formulae that are used, normally within the bands that the Central Bank identifies, there is normally a range in which one could quote buying and selling prices, and there is also a formula by which pricing can move within certain kinds of ambits as defined by the Central Bank. The expectation was that, by having more persons who would have foreign exchange available to sell, the effect of that would be to provide the consumers, particularly the businesses, with a broader range of sellers with whom they could negotiate and, hopefully, get better prices.

Mr. Speaker: The hon. Member for Point—[*Member for St. Joseph on his feet*] No, no, no. All right, ask and then I would go to Point Fortin.

Mr. Deyalsingh: Could the hon. Member say the inequitable system which prevailed before, whether the Bankers Association or the banks, either individually or collectively, were consulted and whether they agreed to the change in the system?

Mr. Speaker: That is another question, but—

Sen. The Hon. L. Howai: I would not say it was an inequitable system but, Mr. Speaker, I would need to consult with the Central Bank to get further details on that particular matter.

Guapo River (Details of)

156. Mrs. Paula Gopee-Scoon (*Point Fortin*) asked the hon. Minister of the Environment and Water Resources:

Could the Minister state when last was the Guapo River in Point Fortin dredged and when next will it be dredged?

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you very much, Mr. Speaker. Mr. Speaker, the question

asked—this is question No. 156.

Mr. Speaker, major desilting took place to the Guapo River in June 2007. I am advised that thereafter routine maintenance has been carried out on an annual basis, which is degrassing and cleaning. Routine maintenance of the Guapo River is scheduled for July 21, 2014. Similarly, routine maintenance was carried out on Rose Drain or Parrylands Drain, a principal tributary of the Guapo River in February 2014.

**Techier Village Aged Sewer Network
(Commencement of Work on)**

157. Mrs. Paula Gopee-Scoon (*Point Fortin*) asked the hon. Minister of the Environment and Water Resources:

Could the Minister confirm whether work has commenced on the aged sewer network in Techier Village, Point Fortin and if so, when will it be completed?

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you very much, Mr. Speaker. The Techier Development is located to the east of the Borough of Point Fortin. The Techier Wastewater Development was constructed around 1947 by Shell Trinidad Limited. The development has approximately 360 houses and these are constructed as duplexes with a common adjoining building wall. WASA adopted the Techier waste water system over 30 years ago. The public sewers are located along the roadway and the sewer connections are made up such that there is a single sewer line connecting several properties.

Over the several years, homeowners have extended their buildings over the sewers, resulting in collapse in several areas. Operations and maintenance of the sewer network is problematic due to a lack of access to the sewerage system, and the Member is aware of this. WASA has attempted to address the sewerage network problem in Techier by relaying some of the sewer lines along the verges of properties. However, the problem is compounded by the layout of the plumbing in the individual houses, and modification of internal plumbing is required.

WASA is currently undertaking a comprehensive approach to address the Techier waste water network. Topographical surveys and field assessments are currently under way to define the full scope of works, and detailed designs will be prepared to construct new sewers as well as new sewer connections. Due to the configuration of the internal plumbing of the houses at Techier, there is a

need to have an agreement with owners in order to redo their internal plumbing for a proper connection to the sewers to take place.

The sewer works in Techier also involve rehabilitation of the Techier Wastewater Treatment Plant to ensure that the effluent from the plant satisfies Water Pollution (Amendment) Rules, 2006. The scope of works as well as the tender documents are currently being prepared for the waste water treatment plant.

The project is anticipated for tendering by the year end, 2014. The estimated time frame for construction is 12 months. The anticipated cost for the project is \$6.5 million for the waste water treatment plant and \$10 million for the collection system, giving a total project cost of \$16.5 million.

Mr. Speaker: Hon. Member.

Mrs. Gopee-Scoon: Thank you, Mr. Speaker. Question No. 158 to the Minister of Energy and Energy Affairs.

Mr. Speaker: No, no. Is the Minister of Energy and Energy Affairs here?

Dr. Moonilal: No.

Mrs. Gopee-Scoon: Nobody is answering?

Mr. Speaker: The Minister is not here as yet, okay? So we will go to 141.

Refurbishment/Renovation Work (Commencement of)

141. Miss Marlene Mc Donald (*Port of Spain South*) asked the hon. Minister of Education:

Can the Minister state when refurbishment/renovation work will commence in the following schools:

- a) Piccadilly School;
- b) Eastern Boys School; and
- c) Eastern Girls School?

The Minister of Education (Hon. Dr. Tim Gopeesingh): Thank you, Mr. Speaker. Mr. Speaker, between June 2010 and May 2014, the Ministry of Education, through the Educational Facilities Company Limited, performed over

4,000 repair and maintenance projects in schools throughout Trinidad and Tobago numbering more than 800 schools, benefited from the repair and maintenance projects.

For the constituency of Port of Spain North/ St. Ann's West, where there are approximately 14 schools—these three schools which are mentioned are part of the 14 schools—I have been advised that close to \$16 million have been spent so far on repairs and maintenance to the schools within the Port of Spain North/ St. Ann's West district.

The Member asked: when would these schools be looked at for repairs and maintenance? Mr. Speaker, these schools have undergone a number of repair and maintenance projects, so voluminous that it would take a long time for me to answer the details of each one of these. So, I am a bit surprised that the Member has asked this question, when repairs and maintenance have already been done to these three schools, but if there are any new areas where the Member believes that these schools need attention, during this July/August vacation period we will be very happy to consider scoping the work, and sending out for tenders so that further repair work can be done.

So, Mr. Speaker, with all 41 constituencies, 39 in Trinidad, we have done approximately 4,000 repair and maintenance projects to over 800 schools, at a cost of approximately \$500 million and work done by more than 550 small, medium and large contractors, over the last four years.

Miss Mc Donald: Supplemental, Mr. Speaker. Mr. Speaker, just by way of clarification, is the Minister stating that there is no sort of schedule or commencement date for the refurbishing of these three schools as itemized here?

10.45 a.m.

Hon. Dr. T. Gopeesingh: No, I think, Member for Port of Spain South, you might have been in a discussion with the Member for Diego Martin West and you missed part of the answer. [*Laughter*] I mean no offence, Member, for certain. But work has already been done on these three schools; a lot of work has been done. They are voluminous. It is too detailed for me to answer here but I could provide it for the Member for Port for Spain North/St. Ann's West, and for the House. Work has already been done in these three schools, but if there are any new requests by the Member for further work to be done, we would be prepared to send it out to do the scoping and send it out for tender, and we can do it during the July/August vacation period.

As with all constituencies and the schools under the jurisdiction of the various Members of Parliament, we have spared no effort in ensuring that all 39 constituencies in Trinidad and Tobago, the schools in these constituencies, have undergone repairs and maintenance programmes. And I indicated that over 4,000 repair and maintenance projects at an approximate cost of more than \$550 million in these schools using over 500 contractors, small, medium and large contractors.

Miss Mc Donald: Mr. Speaker, this Piccadilly school, the Minister may not be aware that the Piccadilly EC School is located directly next door to my constituency office on Piccadilly Street, and I could assure you that nothing has been done at Piccadilly school. But what I will do, I will submit something to you.

Hon. Dr. T. Gopeesingh: I will be pleased.

Mr. Speaker: All other questions shall stand over to the next sitting of the House of Representatives.

EXPIRATION OF QUESTION TIME

The following questions stood on the Order Paper:

Operation of Petrotrin-owned Barge (Details of)

- 158.** Could the hon. Minister of Energy and Energy Affairs indicate whether:
- a) The Petrotrin-owned barge, the 'Marabella', is operating illegally by virtue of being a single hull vessel and if so, has any international treaty been violated?
 - b) Petrotrin intends to replace the aged 'Marabella' vessel?
- [Mrs. P. Gopee-Scoon]

Trou Macaque HDC Building (Details of)

- 160.** With respect to the Trou Macaque HDC building which was destroyed by fire in December 2011, could the hon. Minister of Housing and Urban Development state:
- a) when will the refurbishment commence;
 - b) the name of the contractor selected to carry out the work;
 - c) the estimated date of completion; and
 - d) the estimated cost of the work? [Mr. N. Hypolite]

**Trou Macaque HDC Building
(Construction of Fire Escape Steps)**

- 161.** Could the hon. Minister of Housing and Urban Development state:
- a) when will fire escape steps be installed at the three HDC buildings at Trou Macaque;
 - b) whether a contractor has been selected to do the work and if so, who;
 - c) the estimated date for completion; and
 - d) the estimated cost of the work? [*Mr. N. Hypolite*]

Question time having expired, questions 158, 160 and 161 were not dealt with.

**PUBLIC PROCUREMENT AND DISPOSAL
OF PUBLIC PROPERTY BILL, 2014**

Order for second reading read.

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

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

Mr. Speaker, this Bill comes to this honourable House from the other place after full and due consideration and significant amendments to its original form. The Bill is important for several reasons, but I will mention four. First of all, it is meant to address the vexing issue of corruption and allegations of corruption in procurement practice, which you might say have been almost legion over the last several decades of governance in this country. It addresses the challenging issue of procurement as a development mechanism. Often, the issue of procurement, the arguments that surround the need for reform is usually about transparency and accountability issues, but there is another equally—if not, even more important issue—and that is that procurement and the system of procurement you have, given the nature of the global economy and given the need of countries to develop

Public Procurement Bill, 2014
[SEN. THE HON. DR. B. TEWARIE]

Friday, July 04, 2014

their own industries, is a critical tool in the development of business, as well as the development of the economy.

Thirdly, this is truly landmark legislation of a very far-reaching nature, which is at the heart of the question of what kind of society do we wish to be and what is the kind of ethical framework under which we wish to govern ourselves. This is an important question because the manner in which you conduct public business and the manner in which private business is conducted under the scrutiny of the general public, that is to say its citizens, has an implication for the ethos of the society itself.

There is a fourth element, which is that a close examination of this Bill will indicate that it places responsibilities and obligations on the part of state procuring entities to meet very high standards, but it also places on private sector entities the need to meet and to honour their own obligations for high standards. I think this is important because we must not forget that the system that we have is not a system in which only people in the public sphere can be at fault. It is also a system in which two sides play, so to speak—the public and the private sector—and, generally, it is the public sector that gets the blame but, really, such blame could not be attributable to one party alone because there is a significant beneficial interest on the part of private sector and private sector entities in the process of procurement and, therefore, they are very much a significant part of the equation.

The need for balance, therefore, in looking at both the self-interestedness of those in the public sector, as well as those in the private sector, is something that needs to be held in balance. Now, our current procurement system is over 50 years old. In 1961, a centralized system for procurement was established under the Central Tenders Board Ordinance. Today, in 2014, however, centralized procurement is applicable to Government Ministries and departments, and a few statutory authorities only.

This has occurred because over the years, via a series of amendments to the 1961 legislation, other agencies have been empowered to act independently of the Central Tenders Board. These include special purpose companies and the protective services, although the regulatory framework which governs the Central Tenders Board applies and all state agencies have procurement procedures, but these over time have been perceived as being deficient in their execution—that is to say, those that are free from direct Central Tenders Board control.

What this means is that the main intent of the original Central Tenders Board Act, which was to consolidate major procurement under the umbrella of a process

and the level of official oversight it was meant to provide, it should be not as it was intended. Now, this was acknowledged several years ago, and certainly several years before the People's Partnership Government came into office, so that other attempts at procurement reform were initiated. The draft National Tenders Board Bill, 1997, was considered by Cabinet at that time but it was never introduced in Parliament.

The reform of the Public Procurement Regime, a White Paper, produced by the Ministry of Finance was presented in 2005, and that was followed by the Procurement and Disposal of Public Property Bill, 2006, and that of course was based on the White Paper of 2005. But the Bill, though laid in Parliament was never debated so that, basically, in terms of reform of the public procurement system, there had been no action with results.

The 2007—2010 administration which preceded this administration of the People's Partnership Government found itself mired in a series of scandals and controversies, and these were extremely intense in the years 2009 and 2010. So, ultimately, we ended up with a commission of enquiry led by a gentleman by the name of Uff, and that Uff Commission of Enquiry conducted its investigations and ultimately produced a report, and following the report there was a clamour by citizens at large for procurement legislation as at least one opportunity, one window of opportunity, for establishing a platform of good governance in the country.

Let us take a minute or two to look at some of the recommendations of the Uff Report, which were inspired by the malpractices uncovered during the period 2007—2010. There were 91 recommendations, and I would not abuse this honourable House by repeating all 91 of the recommendations, but I will mention about a dozen or so simply to make a link between the recommendations of the report, the problems that it sought to address by making those recommendations and the inclusion in this Bill—this Bill which we are debating today—of a number of issues which were cause for concern prior to this administration, the People's Partnership administration, taking office in May 2010.

Dr. Browne: This presentation is tailor-made for the—[*Inaudible*]

Sen. The Hon. Dr. B. Tewarie: Tailor-made for what?

Hon. Member: The Lower House. Go ahead. [*Laughter*]

Sen. The Hon. Dr. B. Tewarie: I wish to mention recommendation 1, for instance:

Public Procurement Bill, 2014
[SEN. THE HON. DR. B. TEWARIE]

Friday, July 04, 2014

“Money assigned for public construction projects must not be allowed to be corruptly diverted and thereby stolen from the public.”

Now, for a commission to make a recommendation like that, the assumption has to be that corruption did take place. The assumption has to be that money was diverted and therefore stolen from the public. Therefore, the recommendation was meant to create, by the reform of the public procurement system, the virtual or near, or even the impossibility of having this continue as part of public administration and governance in the country. These things are taken into account in this legislation and there are many clauses that address this issue of how you plug the hole, so to speak, to make such things not possible.

11.00 a.m.

Mr. Speaker, second recommendation:

“Management roles should be performed only by experienced persons, who should be motivated to take positive and pro-active decisions and to take initiative when the project so demands.”

So what it raises here really is the extent to which management systems need to be part of the procurement execution process, so that value for money is achieved from the projects that are being executed. Therefore these issues, the value for money issue, is also an issue that is included in this particular Bill.

I will read recommendation 5:

“Planning authorities and utility companies should reduce their response times to a minimum. Attention should be given to coordinating the range of regulatory approvals required with a view to motivating developers to obtain all such consents before starting work.”

Ironically, it turned out that the planning Bill and the procurement Bill were being debated in the other place at the same time, and both of them are coming to this honourable House at around the same time. Certainly, the intention was always to have them close on the heels of each other.

We have taken longer than we intended, but still the fact that they complement each other is important to note, because what this recommendation really says is that the procurement process sometimes proceeded without following the law, so to speak, in terms of permissions being granted and in terms of the state agencies that were required to give legitimacy to the project, having done so as part of the due process.

I want to read recommendation 6:

“Planning and other regulatory consent should be subject to procedures aimed at ensuring either that appropriate consents are given before a development starts, or at least the appropriate considerations are given before work starts: it is unacceptable that rules should be systematically ignored.”

I think the case is being made very simple there in the Uff Report, which is that the Government should follow the law as an example to other citizens.

Recommendation 15:

“Development contracts must not be let without adequate security being available in the event of failure or insolvency of the contractor. As a minimum there should be a secure right of recourse exceeding the aggregate of all sums paid to the contractor.”

Again, this is provided for in this Bill. It is also provided for in terms of development works by any developer in the planning Bill. So that there is what you might say a comprehensive approach to this business of ensuring that the State and the citizen are not cheated in the process.

Recommendation 17:

“User groups and other interests groups should be properly consulted on decisions regarding public building projects, to ensure that relevant views can be expressed at the appropriate time and taken into account before decisions are made.”

That is not included in this Bill, but it is an integral part of the planning Bill, because any new development taking place in the community under that Bill has to give notice to the community, and consultations are required under the law so that the voices of the citizens can be heard.

I will skip and go to recommendation 37, under the heading:

“...attainment of Free and Fair Competition

Procurement rules applying to Government agencies in the field of construction should, in general, be the same. Agencies applying different procurement rules should either justify any differences or take steps to adopt uniform rules. The Ministry of Finance should renew its efforts to achieve uniform procurement rules...”

At that time they assumed that the Ministry of Finance and the Economy would continue in the way that it had in the past. I want to say that this has been addressed in this particular Bill. What you have is a centralized system to which

all state public entities involved in procurement report, so that there is centralized scrutiny, but there is decentralized allowance for individual initiative and action under certain rules and conditions, and then there is the role of the procurement regulator in harmonizing discrepancies and differences that may need to be ironed out, involving different procurement agencies in the public sector.

Recommendation 38:

“It should be the responsibility of all Government agencies and of ministers to ensure that, in any tender situation, it is clear beyond doubt what rules are applicable to the tender process and that those rules are readily available and clear.”

That is taken into account in this Bill. You have to make the tender public on the various public media and, more than that, entities are required 90 days after the passage of the budget to declare all their intentions in terms of procurement, although they are not held to that; that is to say, because you announce a tender does not mean you have to do it, but you need to indicate your intentions. More than that, the rules of engagement, so to speak, are for the public record and for public scrutiny. When you report to the procurement regulator, then the application of those rules will bring the procurement process under scrutiny.

Recommendation 40:

“A reserved quota or subsidy in favour of local contractors or consultants could be justified by the need to protect particular sectors of the local construction industry where there is public interest in developing or preserving local skills or capacity.”

After much consultation, the already strong provisions in the original Bill for local content and for the development of local industry were, in fact, strengthened, so we have very strong provisions for that. In addition to that, a procurement may take place with the procuring entity declaring that the procurement process is limited to local contractors or local companies only. Once that is declared, it cannot be changed, but it is possible to discriminate positively, so to speak, on behalf of local content, local providers, local industry.

Recommendation 49:

“It should be assumed that the construction industry is vulnerable to potential corruption and steps should accordingly be taken to avoid actual corruption following established guidelines and recommended practices laid down by Transparency International and its affiliates.”

I want to say that in the preparation of this Bill, all through the Joint Select Committee stages and after, in the consultation process both in and out of Parliament, the best practices of countries everywhere on the procurement issue, the institutional best practices of agencies that had been set up, have been taken into account to make sure that we have good and enlightened legislation and good law that can be, in fact, applied in Trinidad and Tobago.

Recommendation 56:

“To the extent the solutions for the construction industry embodied in the White Paper are not to be implemented, other measures and safeguards should be introduced to secure attainment of the principles of value for money, transparency and accountability.”

All of these things are included in this Bill and reinforced by important clauses in the Bill.

Mr. Speaker, those are the 16 recommendations that I will mention, that pointed to problems prior to 2010, and especially in the 2009/2010 period, and that were fully taken into account in the preparation of this piece of legislation and strengthened during the process of engagement in the other place, both in the debate and through the committee stage.

It is against that background, therefore, the background of the raging tensions about the procurement process and procurement practices in the period mentioned, and against the report by the UFF Commission and the recommendations, the 91 of them contained therein, it is against this background that our hon. Prime Minister of Trinidad and Tobago today, and then the acknowledged leader of the People’s Partnership in 2010, but not yet in government, gave a public commitment to reform the public procurement system, and this came to be reflected in the manifesto, which was the basis of ascendency to office of the People’s Partnership. It was included in the Medium-Term Policy Framework 2014 which derived its legitimacy from the manifesto, and by the early establishment of a joint select committee of Parliament on procurement.

That is how the process was initiated, leading to the long and sometimes difficult and challenging process of getting to the point where we could have debated and passed the Bill in the other place, and now bringing this Bill for final approval by the parliamentary system here in the honourable House of Representatives.

The Bill before this honourable House was passed in the other place on June 11, 2014. We had laid it in the Parliament and said we would give three weeks for

Public Procurement Bill, 2014
[SEN. THE HON. DR. B. TEWARIE]

Friday, July 04, 2014

public consultation, but it ended up that we actually gave six weeks before the Bill was actually debated. On June 11, 2014, following a debate which spanned three sittings and a committee stage which lasted 16 hours and spanned two days, the Bill was then introduced into this honourable House on June 16, 2014. So hon. Members in this House would have had about three weeks to scrutinize the Bill for consideration.

The whole title of the Bill is:

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

The objects of this Bill are to promote the principles of accountability, integrity, transparency and value for money, efficiency, fairness, equity and public confidence, and local industry development, sustainable procurement and sustainable development.

So the entire Bill is built around the policy framework of this Government, as articulated in many of its documents, and we have produced close to 20 documents having to do with policy formulation and policy action, this administration, the People’s Partnership Administration. It is built around the principle of sustainable development. Sustainable development, very simply put, is the balance between the actions you have to take for economic prosperity, for environmental and ecological conservation and sociocultural harmony, and the extent to which these can be managed in such a way as to have an inclusive strategy for development in which all citizens are part and parcel of the economic gains that attend the development process, and in which the development process proceeds in such a way as to achieve greater, rather than lesser, equity in the society.

11.15 a.m.

So this is what we are committed to, and the results we seek to achieve, the results that we expect out of this Bill are, first of all, to minimize corruption and to limit the talk and accusations of corruption and establish a regime that improves and facilitates public trust.

Secondly, to facilitate and enhance business development and the development of our country generally, Trinidad and Tobago.

Thirdly, to have a system of free and fair trade and investment practices, while acknowledging the need to develop local industry and local capability. And finally, to place responsibility and obligations on the State and procuring entities of the State to meet high standards in terms of procurement practices and ethical conduct, but also to place on private sector entities the need to meet and honour their own obligations to be honest and fair in their own practices.

The Bill is guided by the key concepts fundamental to a properly functioning public procurement system and the oversight of this. The first one, transparency. In this Bill procurement entities have to publish on their websites or in any other electronic format, information regarding all planned procurement activities for the period following the passage of the budget with a printed copy available on request.

When a procurement contract is entered into, the procurement entity has to publish on its website notice of the award of the contract specifying the name of any supplier or contractor with whom procurement contract or framework agreement was entered into, the goods or services to be supplied, the works to be effected, and the date of the award of the contract and the contract price. Where this is not done, a complaint can be made to the regulator about the non-publication.

The regulator is required to submit an annual report to Parliament not later than 90 days after the end of the financial year. And this report will contain the total value of contracts as awarded by public bodies, and also the cost of the total value of the procurement contract and the variances for that year, the number of unfulfilled contracts, a summary of transactions for each public body including contracts awarded, variances, and disposal of public property. The idea is to place a great deal of accountability on the part of the procuring entity, and in the system of accountability to make, in the provision of information to the procurement regulator, the opportunity for clear and easy and transparent scrutiny of the documents and documentation and therefore, the ability of the procurement regulator to say something positive, negative or indifferent about the procurement process in any entity or about any procurement contract.

From transparency—accountability. A procuring entity shall submit to the office of procurement regulations no later than three weeks after the end of each quarter, a report of all contracts awarded during the preceding quarter. So, they have to report on a quarterly basis, they cannot wait until the end of the year, and therefore, there is a constant flow of information to the procurement regulator.

Public Procurement Bill, 2014
[SEN. THE HON. DR. B. TEWARIE]

Friday, July 04, 2014

The office, that is to say the office of the procurement regulator, shall submit to the office of procurement regulation no longer than three weeks—I read that—sorry. The office shall submit a special report to the Speaker if it finds that there is need to flag any issue. If there is any breach of duty or misconduct on the part of the officer or member of a public body and in the case of a criminal offence, the procurement regulator can refer the matter to the Commissioner of Police, to the Director of Public Prosecutions and in all other cases, refer the matter—that is to say, if it is not a criminal offence—to the person responsible for disciplinary action against the officer or member. In most cases, this would be a Minister who is responsible for the state enterprises under his or her control.

Miss Mc Donald: Minister, just for clarification for the House and my personal edification, can you tell me which model legislation from which country are you using?

Sen. The Hon. Dr. B. Tewarie: It was a variety of a number of countries involved in either procurement legislation that had been passed or procurement legislation that was being considered. I will mention a couple of them, Australia was one, Singapore was another, Jamaica was one, and we had the procurement regulator actually from—well he is called the contractor general—from Jamaica actually come down, he spent a day with us, he presented, et cetera. We also had presentations from the World Bank, presentations from the IDB. We had presentations, or course, from institutions within Trinidad and Tobago society. So it was really quite comprehensive, and ultimately the model that we would have used at the end in marrying and harmonizing all of these things, would have been the UNCITRAL model of 2011 from the United Nations.

So while it is not precisely and solely aligned to UNCITRAL, that would have been a major influence. [*Crosstalk*] Yes. So it is a hybrid document taking into account the nature of our society, the issues that we were trying to address, the cultural aspects of the society which always need to be taken into account, and the extent to which the lobbying effort by civil society, private sector groups, raised issues that were worthy of consideration in the Bill. Okay?

Now one of the things about this is that, if something is flagged by the procurement regulator, it goes straight to the Speaker of the House and the Speaker of the House and the President of the other place will cause the report to be laid before Parliament, and then for a referral to a joint select committee which is established for the purpose in the Bill. So it receives parliamentary scrutiny almost simultaneously, and this includes matters that may be referred as criminal

actions to the chief of police or the public prosecutor—the DPP.

Fairness and equity. Under section 40 of the Bill, a person cannot be penalized for reporting in good faith a possible breach to the relevant authority; that is, either to the procurement regulator or the DPP or the police. In other words, there is whistle-blower protection built into the Bill. And where a person or public body has been found in breach by the office, the office cannot report until that person or public body has been allowed to be heard with legal representation, if he so wishes.

So, I mentioned previously that the office of procurement regulator can send something to the DPP for instance, or send it immediately to Parliament, flagging that there is an issue, but the regulator will not do that until due process takes place. That is to say, they will invite the entity to engage so that explanation can be had before that takes place.

Value for money. In the first iteration of the Bill as laid in the Senate, the other place, there was no formal definition of “value for money”, as it is a concept that means different things in various circumstances including non-procurement expenditure. However, in the Bill before us, the one that was amended in the other place, there is now a definition, and the “value for money” definition is, that:

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

If I might digress a little bit to give you a sense of how “value for money” as a concept is not just about money. When I was principal at the University of the West Indies, Royal Bank of Trinidad and Tobago at the time was interested in focusing only on its core business, and was interested therefore, in hiving off, so to speak, and basically disaffecting from its core business, Roytec, the educational institution. And it put out Roytec for bids. And there were many bids, and I think the highest bids were upwards of \$15 million for the highest bids. And the University of the West Indies put in a bid for \$1, but the University of the West Indies then accompanied that bid for \$1 with a rationale for why it would be advantageous for Roytec to be procured, so to speak, by the University of the West Indies.

And the process continued until ultimately it was agreed by that banking entity that Roytec would go to the University of the West Indies. Because they made the assessment that the issue about this educational institution was not about

money, it was what would happen to Roytec in the long future, and where would that best happen in a positive way because there were partnerships with educational institutions abroad that Roytec had, there were plans that they had in motion that they wanted to see come to fruition, and they occupied a niche in the market that they did not want to lose. And although they would no longer profit from it, they felt that it was important that the institution have a sustainable life.

So, I make this point simply to explain that “value for money” could be a very, very complex process, and it is something which is why we did not originally identify how you define “value for money”, but in an appreciation of the need for consensus, and because of the strong views of people, we found a way to identify what “value for money” would mean, and it:

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

Due diligence. This is contained in clause 29. Procuring entities are required to ensure that prospective contractors have the ability to execute the contract, in terms of experience, technical competence, finance and legal capacity. This reduces the possibility of awarding contracts to firms that are incapable of executing them which will eventually lead to delays, incomplete or substandard work and eventually greater cost. So, the due diligence matter is there for both local companies as well as international companies, and is required of every procuring exercise.

11.30 a.m.

Local industry. A procuring entity may limit participation in procurement proceedings to promote local industry development and local content. They must do so at the initiation of the tendering process, and indicate the reason why to the procurement regulator, so he can determine that it was okay.

Government to Government arrangements. Government to Government arrangements are now covered under the Bill in clause 7(2). Previously they were exempt, and there was a lot of discussion about that, and Government had very strong views of it. The legal advice told us that our position was correct according to international law, and that there was nothing wrong with it. So, we proceeded on that basis, but there was a strong voice from the civil society/private sector that there needed to be some re-evaluation of that clause and we met, we discussed, we engaged, we battled over issues related and, ultimately, this clause, as I said,

was the source of some concern for members of the private sector/civil society group.

However, through consultation—and this consultation was a cornerstone in the development of this Bill because it went through the joint select committee process—it had a long period before it actually was debated for the first time, which meant that you had an opportunity for public comments for over six weeks, and there was a long process of engagement with the private sector/civil society and I said, this was led, ultimately, by Mr. Winston Riley. I am happy to say that we worked together to achieve a mutually agreed upon position, one that does not compromise the sovereignty of Trinidad and Tobago, which was one of our major concerns as a Government, nor place the Government in a weakened position during negotiations with international and multilateral agencies. Those were our two concerns, but it also honours the need for transparency and accountability in the procurement process.

As a consequence of these discussions, clause 7(2) now reads in part, and I quote:

“...the requirements of the treaty or agreement shall prevail except that the procurement of goods, works or services shall be governed by this Act and shall promote the socio-economic policies of Trinidad and Tobago and shall adhere to the objects of this Act.”

And I think what ultimately we did, by doing the Bill in this way, is that we strengthened the sovereignty of Trinidad and Tobago; we strengthened the negotiating hand of Trinidad and Tobago with international entities; we strengthened our capacity to make demands for local content and local industry; and I am very happy with what we were able to achieve as far as this is concerned.

In the other place, I spoke to the strength of the legislation, and I wish to spend a little time today in this honourable House to speak on areas of the Bill which were amended, and what has transpired since the passage in the other place.

In Clause 4, amendments were made to strengthen and clarify the following definitions: “bid rigging”, we strengthened what bid rigging is. I will not read it, it would take too much time, and you can read as well as I; “classified information”,

Public Procurement Bill, 2014
[SEN. THE HON. DR. B. TEWARIE]

Friday, July 04, 2014

we also strengthened that; “electronic means”, we strengthened that, and there is an errata here, which we would include; “private party”; “value for money”, as I mentioned before; and “works”; and other amendments were made in the other place to individual clauses, as Members would have seen during the examination of the Bill, and these have been highlighted in the Bill before you for easy reference.

Clause 10, for instance, was amended to change the number of persons appointed to the board by the President following consultation with the Prime Minister and the Leader of the Opposition. The board shall now comprise, and I quote:

“...no less than eight and no more than eleven members...”

Originally, we had eight members, and provision has been made for a spread of civil society representation. So, in one of the subclauses of clause 10, we identified more civil society representation for a spread, so you would not have a concentration of one kind of civil society representation, and you would not have all, at the same time, because of the limit.

In clause 10(a)(i), the professional criterion for the regulator is outlined. The regulator shall:

“possess a degree from an accredited University in a field relating to procurement, finance, economics, law, accounting or an equivalent professional qualification in accounting;”

We have taken the necessary steps to assure that through this Bill, the most qualified people, in terms of the job that they have to do, serve on the board.

In addition, we have gone a step further and provided for representation from interest of the community—women, youth, religion, or civil society—in clause 10(1)(h) of the Bill. This composition ensures, not only that qualified persons will be represented on the board, but also that the voice of civil society will have a seat at the table, so to speak.

There was a concern about the tenure of office of members of the board because all the members of the board had the same length of tenure, and we addressed those concerns at the committee stage in a very meaningful way, so that in 11(4)(a), (b) and (c), we staggered the tenure of board members whose term of office would now vary between four and six years, and clause 11(9), allows for the appointment of the Deputy Chairman to execute the functions of the regulator in the absence of the regulator.

In addressing matters related to powers of the office, we sought to strike a balance between ensuring the autonomy of the office and not infringing on the rights of citizens of Trinidad and Tobago. These issues have been addressed in clause 14 of the Bill. This is addressed in clause 14(3), which states:

“No finding that a public body or person has failed without reasonable justification to comply with a direction issued under this Act shall be made unless reasonable notice has been given to the public body or person of the alleged failure and the public body or person has been allowed full opportunity to be heard...by a senior officer”—accompanied—“by an Attorney-at-Law.”

As you can see, the Bill allows, therefore, for due process and for public bodies and persons to be heard. A decision of wrongdoing will not be made by the regulator until the aggrieved or alleged offending parties are first heard.

Clause 24 addresses the issues related to reports submitted by the regulator, and I indicated how those would be done in relation to Parliament. Part IV of the Bill—clauses 41 to 48—addresses matters related to investigation and enforcement. Now, this area of the Bill addresses how the office of the regulator will conduct investigations and report the outcome of those investigations. We have also ensured through clause 43(3) that:

“An authorized officer shall not enter the premises of a public body or person, unless the Office first obtains, on an *ex parte* application to a Judge of the High Court, an order authorizing him to enter the premises to conduct an examination...”

Upon completion of such investigation, the office shall in accordance with—clause 44:

“...without delay, in writing, inform the affected parties and the Minister, the Chief Secretary”—in the case of Tobago—“or public official having responsibility for that body, of the result of that investigation and make such recommendations as it considers necessary in respect of the matter which was investigated.”

We have addressed the issue of preparation of a special report in clause 45, outlining the outcome of investigations conducted by the office. I quote from the Bill:

“Where after the conduct of an investigation, the Office is satisfied that there are reasonable grounds for suspecting that an offence has been

Public Procurement Bill, 2014
[SEN. THE HON. DR. B. TEWARIE]

Friday, July 04, 2014

committed, it shall make a report to the Director of Public Prosecutions who may take such action as he thinks appropriate.”

The penalties are identified in the Bill, and this Bill, I would say, has gone through, not only due process, so to speak, in strengthening the democratic process, and also strengthening the engagement process in putting forward good legislation. I think, as well, the Bill has gone through a process which allowed us to achieve even greater balance that might have been possible initially, because many issues were raised—many contentious issues were raised—and this allowed us, basically, to reflect on things and ended us up with a Bill that I think is superior. It is no wonder, therefore, that we were able to achieve a consensus position in the other place.

There was some concern expressed in various quarters that this Bill may find disfavour with international entities because of the decision that we had made on clause 7(2), and I just want to say that is not so at all. So, I would read a letter from the European Union with whom we do a fair amount of business and the Chargé d’Affaires of the European Union delegation to the Republic of Trinidad and Tobago:

I would like to extend my congratulations to you...

This is addressed to me personally:

as the national authorizing officer and to the Government of Trinidad and Tobago for tabling—[*Interruption*] I am just reading the letter to indicate—Public Procurement and Disposal of Public Property. The Bill which was long overdue is the end result of a welcome and genuine consultative process with civil society and other stakeholders that took, at heart, the need for public procurement and disposal of public property legislation based on the principles of good governance, accountability, integrity, transparency and value for money. It is also well noted that the Bill was unanimously supported in the Senate.

We look forward to the swift enactment of the Bill and stand ready to support Government in ensuring its proper implementation, and also make use of the opportunities offered by our cooperation programme EU Trinidad and Tobago NIP, 2014—2020...

And, basically, they are expressing support. From the IDB, which was one of the concerns that was raised in the other place, they said we would not be able to get

anymore IDB loans or concessions of any kind and, again, this is addressed to me:

The Inter-American Development Bank wishes to commend the Government of the Republic of Trinidad and Tobago on the significant strides it has made in efforts to modernize the country's legislative framework for public procurement.

She goes on to say many other good things. [*Desk thumping*] This is from Michelle Cross Fenty, the Trinidad and Tobago representative of the IDB here, and the other letter was from Chargé d'Affaires Daniela Tramacere. [*Interruption*]

I also got a letter from the United Nations. This one is addressed to Minister Tewarie and Permanent Secretary Arlene Mc Comie:

Congratulations to you for the leadership on getting the procurement legislation in shape and moving forward—[*Desk thumping*]—I have been following up on how the UNDP can support next steps.

And, therefore, he suggests ways in which the UNDP might help us or partner with us in order to achieve this.

The civil society, basically, gave high praise to the Senate as a whole for the manner in which it worked to pass this Bill, and was very pleased with the outcome, so you have public—[*Desk thumping*] The *Guardian* wrote an editorial in which they talked about the procurement light at the end of the tunnel, outlining the challenges [*Desk thumping*] and so on.

11.45 a.m.

And basically what you have, is that there is a general acceptance that the Government has met its commitment, originally. That, yes, it has taken longer than it intended, but we got here to the point that we needed to get. We have, in fact, gone through the passage of the Bill, at least in the other place, up to this point in a way that was consensus building, not only in the other place, but in the society at large. And basically, local and international entities who are concerned about the procurement process and who are concerned about good governance are really giving the Government of Trinidad and Tobago and the Parliament of Trinidad and Tobago high marks for the passage of this Bill. [*Desk thumping*]

Mr. Speaker, hon. Members, on that note I think it would be appropriate for me to conclude, except that I do want to indicate that this indeed was a commitment of our manifesto in which we said on page 18, under Procurement,

Public Procurement Bill, 2014
[SEN. THE HON. DR. B. TEWARIE]

Friday, July 04, 2014

we will:

“Prioritise the passing of procurement legislation and appropriate rules and regulations.

Establish equitable arrangements for an efficient procurement system ensuring transparency and accountability by all government departments and state enterprises.”

—and with your help we will do so. [*Desk thumping*]

I want to state that this procurement legislation is only one piece of several pieces that have to do with Policy Shift No. 7 of the manifesto, which is, and which states that:

“We”—shall—“have clean, responsible and responsive government with legislative changes and constitutional amendments to curb excesses and abuse of power.” [*Desk thumping*]

I want to say that we have proceeded with constitutional reform, and that process will come to closure soon. We have proceeded with checks and balances to safeguard against abuse of power; the details are here, I do not have the time to read all of them. We have proceeded to respect the voices of minorities, while acknowledging the will of the majority; and the consultative process, in fact, shows it, demonstrates it very clearly. We have guaranteed a free press unfettered by government intimidation and uncompromised by government preference—access to official information. We proceed to honour the containment and eradication of corruption. You can see this in the action taken by the hon. Prime Minister, whether it is at ministerial level [*Desk thumping*] or whether it is at the board level.

We increased penalties under the Finance Act 2012, from \$500,000 to \$6 million. Activities on strengthening parliamentary practices in Trinidad and Tobago completed with the consideration of adequate remuneration for Members. The introduction of procurement legislation which is fair, efficient and transparent, which we are doing now. Mandatory provisions for making local government part of the integral part of the governance process, and that is part of the constitutional reform. A right to recall for non-performing parliamentary representatives. The hon. Prime Minister has spoken on that. Fixed election dates for national and local elections. Mechanisms for the referendum process. Limiting the Prime Minister to two consecutive terms, all of those—[*Interruption*]

Mr. Imbert: I thank the Minister for his very courteous giving way. Is the Government prepared to consider any amendments to this legislation in this House, the elected House?

Sen. The Hon. Dr. B. Tewarie: I would prefer if there were no amendments because we went through—[*Interruption*]

Mr. Imbert: This is the elected House you are talking about?

Sen. The Hon. Dr. B. Tewarie: Yes, we went through an entire process, we when through joint select. We went through a revised process—the revision of the Bill that was originally laid. We went through a very—[*Interruption*]

Mr. Imbert: So the answer is no?

Sen. The Hon. Dr. B. Tewarie: The answer is no, but it is necessary to explain. [*Crosstalk*] The House of Representatives has its own rules, and obviously Members can put forward amendments, but what I am trying to explain to you—

Mr. Imbert: Arrogance.

Sen. The Hon. Dr. B. Tewarie: This is not arrogance. We have gone through the process. We assumed that the House of Representatives, like the other place, consists of Members who are part of parties, and that there is consultation in the party about the various positions. [*Desk thumping*] And more than that, the Independent Senators and civil society were also brought into the process. If there is something that is compelling—I mean, it is obvious that in the course of the execution of the business of this House that it will be considered. But I would prefer, quite frankly, that we pass the Bill as is, because I do not want—since you have raised this, I have to go where I chose not to go in my presentation.

The Opposition has persistently, from the point of the joint select committee process, tried to sabotage the passage of this Bill. [*Desk thumping*] They walked out of the joint select committee process and the only reason they came back is because of public opinion outside. [*Desk thumping*]

Dr. Gopeesingh: Editorials upon editorials.

Sen. The Hon. Dr. B. Tewarie: And the only reason, if I might say so, that they cooperated in the Senate, in the way that they did to pass this unanimously, is because the public outcry and position outside—and Independent Senators—was to pass this Bill. And I do not want now, with the parliamentary session coming to

Public Procurement Bill, 2014
[SEN. THE HON. DR. B. TEWARIE]

Friday, July 04, 2014

an end, for this Bill to lapse, and it is on that basis—[*Desk thumping*] that we want to pass the Bill. Anyone would understand that it is not the Government that is being disrespectful, [*Crosstalk*] the Government respected every single view. [*Desk thumping*] It is the Opposition that has been disrespectful and contemptuous, not only of Parliament, but the process and the entire need and desire and aspiration of the country for decent and honourable procurement laws.

Mr. Speaker, I beg to move. [*Desk thumping and crosstalk*]

Mr. Speaker: Hon. Members, hon. Members, Member for Port of Spain South, [*Crosstalk*] Member for St Augustine and Member for Caroni East, please. I shall now propose the question for debate.

Question proposed.

Mr. Terrence Deyalsingh (*St. Joseph*): Thank you, Mr. Speaker. Mr. Speaker, it is incumbent upon us to start by, first of all, congratulating young Shivanna Chatoor on her success at the recent Secondary Entrance Assessment exams. I think with results like that of young Chatoor, the future of the country is in good hands. I would also like to commend to this House, recognition of the holy month of Ramadan, and to congratulate our Muslim brothers and sisters on the start of this period of fasting, sacrifice and purity.

It is unfortunate that I, as an elected Member of this Parliament, should have to sit here and be scolded by a Senator—[*Interruption*]

Mr. Imbert: By a non-elected person.

Mr. T. Deyalsingh: By a non-elected Member of this House. It is rather unfortunate. I have always said, even when I occupied a different position, that the Lower House is the superior House because they are elected. They have persons to respond to, and that is why the Constitution gives the Lower House certain powers and privileges not accorded to the Senate. For instance, all money Bills must start here, by law, by Constitution. The Senate could just delay, but they cannot undo what the Lower House, which consists of elected Members, has put into law.

I want to also take issue with the appointed Member of the Senate who came here to pilot a Bill, talking about the PNM. Were the views of the constituents of Chaguanas West considered in this Bill?

Mr. Warner: “Oh, boy!”

Mr. T. Deyalsingh: Do they not have a voice?

Mr. Warner: I am not important.

Mr. T. Deyalsingh: The Member for Chaguanas West, whether I agree or disagree with his politics, he is here because the constituents of Chaguanas West elected him. The ILP has a voice in this Parliament. Was the ILP a member of the Joint Select Committee? So do not come here and lecture to me. Do not! [*Crosstalk*]

Mr. Speaker, we are here because we have a bicameral Parliament, established under section 39 of the Constitution. This is not a unicameral Parliament like Guyana. This is a bicameral Parliament, two Houses. And the reason for two Houses is that it offers us a second look, especially at important legislation, and procurement legislation is important legislation. And like Finance Bills, in our humble view, should have started in this Lower House.

Mr. Seemungal: What is the reason for the walkout?

Mr. T. Deyalsingh: The reason for the walkout, and I will come to that, was because of your poor procurement practices during that—you were saying one thing and doing another thing. And it is unfortunate that a person who is on a different dispensation, like Chicken Little, was running around the country saying we have the characteristics of a failed state, now comes here—and I will demonstrate under his watch what he has done.

Mr. Speaker, the first thing we in the elected House, we in the elected House, want to put on record, is that we take note of the proclamation clause. We do not want to be caught again where we support a piece of legislation based on assurances given that certain things will not be done until it is proclaimed, and then in the dead of night you go and proclaim one clause. We want to hear assurances from the hon. Minister that everything we raised on this side, that has to be put in place before proclamation, is actually put in place.

Mr. Peters: If it makes sense.

Mr. T. Deyalsingh: Mr. Speaker, there are some clauses in this Bill that talk to public money and public bodies, and I will attempt to deal with them in one. And I want the Minister in his wrap-up to tell me whether this wide berth that he is taking as far as a public body is concerned is intentional or inadvertent.

12 noon

Mr. Speaker, I just crave your indulgence to allow me a bit of a long run-up—maybe reminiscent of Michael Holding and not Sunil Narine—to explain what I mean by the problems we will incur about this wide definition of “public body”. [*Crosstalk*]

Mr. Speaker—[*Interruption*]

Mr. Speaker: Hon Members, I would like you to observe Standing Order 40 (b) and (c). A Member is on his legs, he needs the full attention of all hon. Members and the crosstalk I am hearing is disturbing. And I want to advise the hon. Member for St. Joseph, kindly address your observations and your remarks to the Chair and do not deal directly with Members. That deals with the personalization of a debate. So kindly address your remarks to the Chair and you have the Chair's full protection.

Mr. T. Deyalsingh: Thank you, Mr. Speaker. There are bodies in Trinidad, private bodies, which by virtue of their private status and not being established under statute, will be subject to private law and not public law. You have two streams of law: private law and public law. So if I have an argument with a private citizen or a company, I will take action under private law. Mr. Speaker, that dichotomy was changed in England in a famous case *R v Panel on Take-overs and Mergers, ex parte Datafin plc*.

Prior to that case, all such arguments, disputes were the subject of private law because Datafin and the Panel on Take-overs and Mergers were private companies. What started to happen in England was that, in an effort for the English Government to get on with its development programme, it would start to outsource some of its government functions to private firms. Questions then arose: is a private firm, a private body, exercising and carrying out a government function being paid for by public money now subject to public law? And the question then was: is such a body subject to judicial review? As we know, judicial review is only reserved for public bodies and to query public decision-making, like a Minister, a Permanent Secretary or anything like that.

It was held in that case that a private entity carrying out a public function, receiving public money, is now subject to judicial review, which then puts that private body receiving public money into the realm of public law. That Datafin case, Mr. Speaker, was very, very significant, and the significance of that case which went to the Court of Appeal says this:

“The Court of Appeal held that the powers exercised by the Panel...”—was—
“essentially in the domain of public law and formed part of the Government's scheme to regulate the City.”

Mr. Speaker, it is well known, for instance, through GATE funding, that many private tertiary institutions are carrying out government policy, and they receive

the remuneration via public money. My question to the hon. Minister is this: the net you are now casting, based on the case law I have given you and based on a literal interpretation of this Bill, are all GATE-funded private institutions now caught under this Bill? Question again: suppose the Minister of Health has a backlog of cataract surgeries and he hires private hospitals to do government work, are all these private nursing homes and hospitals, according to this Bill, are they now deemed to be a public body—*[Interruption]*

Dr. Gopeesingh: Yes.

Mr. T. Deyalsingh:—and do they now have to do tendering according to this? The hon. Member for Caroni East is saying, yes. Is that government policy that these two private industries, that is, the GATE-funded schools and the private nursing homes—according to the Member for Caroni East in his crosstalk is now saying, yes—they are caught under this Bill? We want to hear what is the Government’s position. Please, clarify. I notice the crosstalk has stopped. I notice that.

Mr. Speaker, one of the reasons why the PNM walked out of those talks had to do with the core demonstration of ethics, and to use the Minister’s word “ethos” when it came to public procurement. This Minister has a record of not being forthright with information—*[Interruption]*

Hon. Member: What?

Mr. T. Deyalsingh: Well, let me finish. Let me finish—when it comes to public procurement, and I refer specifically to an over \$2 billion project called Invader’s Bay. Let me give you, Mr. Speaker—because the Minister in piloting spoke about the last administration—*[Interruption]*

Dr. Moonilal: Mr. Speaker, Standing Order 36(5).

Mr. Speaker: Please! Member for Caroni East, please. Hon. Member for St. Joseph, I do not want you to get into querying the honesty and the integrity of any Member. *[Interruption]* I am not raising any matter with the hon. Member for Diego Martin West. So I am just asking you, in your contribution, do not impute any improper motives to any hon. Member of this House. Continue.

Mr. T. Deyalsingh: I am so guided, Mr. Speaker, and I humbly apologize if I did so. Let us get to the Invader’s Bay project. The Invader’s Bay project—request went out at the end of August in 2012, with a closing date of October 04, 2012. Persons who were interested had less than six weeks to submit proposals for what was going to be a major project. Is that ethical? When one considers that

Public Procurement Bill, 2014
[MR. DEYALSINGH]

Friday, July 04, 2014

before the request for proposals went out, one developer said—and the newspaper article confirms this—that the Cabinet had already given the green light for the project—[*Interruption*]

Mr. Imbert: To him.

Mr. T. Deyalsingh:—to him, and he was told so by the Minister of Planning and the Economy, the hon. Bhoendradatt Tewarie. Imagine that!

Hon. Dr. Tewarie: I would like to see that.

Mr. T. Deyalsingh: You want to see it? I will give it to you. Mr. Speaker, yes—[*Interruption*]

Mr. Speaker: Member for St. Joseph, please, do not impute improper motives to Members of this honourable House or to the other place, And you see, when you are quoting from newspapers, I keep saying to hon. Members, take responsibility for quotations, but you cannot use a quotation to impute improper motives to any Member of this honourable House. So I want to guide you, again, on matters dealing with the imputation of improper motives. Please be guided.

Mr. T. Deyalsingh: Thank you. Mr. Speaker, it is well known that when the civil society that the hon. Minister spoke about, asked the Minister to release a legal opinion which the Minister says gave him the authority to circumvent the Central Tenders Board Act in the award of the lease arrangements for Invader's Bay—this Bill talks about transparency and accountability—the hon. Minister says, “No, we cannot release that opinion”. This is not a matter of national security. This is just a matter of some land for development. The JCC had to write the Minister under the Freedom of Information Act to get information and, up to today, they have not received the information. But this is after August 03, 2012. One developer said they already got the green light from the Cabinet. That commentator called this, a large-scale act of intentional illegality. That is what it was called.

They wrote querying the RFP process. They wrote to the Permanent Secretary in the Ministry of Planning and the Economy talking about ethics, transparency. Up to today, civil society has not received under the FOI any information as to why it was proper for the Ministry of Planning and the Economy not to issue the lease arrangements under the Central Tenders Board Act.

Hon. Dr. Tewarie: Would you give way?

Mr. T. Deyalsingh: Sure.

Hon. Dr. Tewarie: Hon. Speaker, I would just like to indicate that is a matter before the court. The decisions were made on the basis of legal advice and I would advise the Member not to speak to this issue in this House.

Mr. Speaker: If the matter is sub judice and is before the court, I will make a determination as to if you are going too far as it relates to the sub judice. Continue, please.

Mr. T. Deyalsingh: Mr. Speaker, everything I have said is in the public domain and I am so guided. But I just want to show that the Government talks about transparency, but it is not transparent when it comes to civil society. [*Desk thumping*] They talk a good talk.

Mr. Speaker, it gets worse. In the recent finance Bill, one would get the impression from 2012 that this Invader's Bay project was a done deal. A developer was selected, the Cabinet had given it its green light. Do you know what is shocking in the finance Bill which we recently considered on page 37? On page 37 of the recently debated finance Bill of last week, there is a \$1 million allocation to PricewaterhouseCoopers. To do what? To negotiate the basic terms and conditions of the commercial lease at Invader's Bay. So we are dealing with Invader's Bay from 2012, 2013 and we are spending \$1 million of taxpayers' money to talk about the basic terms and conditions of the lease, which the Cabinet gave the green light for on August 04, 2012.

If Cabinet was so seized of the information that they could give the green light, why are we now spending, two years later, \$1 million of taxpayers' money to PricewaterhouseCoopers to negotiate basic terms and conditions? I want to ask the hon. Member the following questions: do you have a lease that endows in the Government all rights to Invader's Bay? Do you have a lease that any developer can take to a bank and say I have a lease—this is the lease? And hon. Member for Caroni East was also a Member of those talks back then.

Dr. Gopeesingh: Which talks are you talking about?

Mr. T. Deyalsingh: Do you have a lease that any developer—[*Interruption*] But he can rise and say, no. Do you have a lease that any developer can take to the bank, can take to IDB and say, "Okay, these lands are properly vested in the State"?

12.15 p.m.

Hon. Dr. Tewarie: Take care when I reply "allyuh"—[*Interruption*]

Mr. T. Deyalsingh: You have been threatening to do that two years now.

Mr. Speaker: Please, Member for St. Joseph.

Miss Mc Donald: He is a guest here.

Mr. Speaker: No, no, he is a Minister and he has a right to be here.

Miss Mc Donald: He is a guest here.

Mr. Speaker: Yeah, yeah, yeah, but he is not a guest, he has a right to be here.

Hon. Member for St. Joseph and the Minister of Planning and Sustainable Development, forget the crosstalk. You have a right of reply, take notes. Once again, I am asking my colleague, the hon. Member for St. Joseph, to observe Standing Order 33(1). Just address your observations to the Chair, to the Speaker, not to the Minister. That is what brings about the crosstalk. Kindly do that for me? Continue, please.

Mr. T. Deyalsingh: I am so advised, Mr. Speaker, and I will be speaking directly to you from now on. Thank you.

So I want the hon. Minister to tell us unequivocally that he has a lease, a lease agreement, a deed to show that the Invader's Bay lands are properly well vested in the State, and that any developer—local, international—can take that to the bank and say okay, we can go ahead. So I leave Invader's Bay for now. So much for transparency, so much for accountability, because that Invader's Bay project has been shrouded in mist from day one.

Mr. Speaker, the hon. Minister in piloting talked about a recommendation from the UFF Commission, and he could not help but go back to the PNM days; could not help it.

Hon. Dr. Tewarie: That was when it happened.

Mr. Speaker: Please, please, Members!

Mr. T. Deyalsingh: Right. He spoke about money corruptly diverted, money diverted, and failure of management systems. Mr. Speaker, the Auditor General's Report of 2012, this is two years ago, spoke about stipends and cheques being issued for a particular programme, and it is now in the public domain where a spokesman for the Government has told this country, has told this Parliament, that it is okay to take six cheques made out to six persons and deposit them into one bank account.

Mr. Speaker, I have some questions directed to the hon. Minister of Planning and Sustainable Development. The accounting officer in any Ministry, let us just say the Ministry of Sport, in any Ministry, the accounting officer, what would direct an accounting officer to prepare six cheques, for six persons or, is it that that accounting officer is told that these people do not have bank accounts, and prepare one cheque for six? We need to know. So is the accounting officer preparing six cheques, five of whom do not have bank accounts? But, Mr. Speaker, as far as procurement is concerned, it gets worse.

On what basis does a commercial bank now accept government cheques? As far as I know, and please correct me if I am wrong, all government cheques are crossed. Am I correct?—crossed and says “pay to payee account only”. What does that mean? It means I cannot take it to the bank and simply cash it. A crossed cheque means I have to deposit it into an account. Could the hon. Minister tell me if it is now the habit of any Ministry—Ministry of Sport—to produce uncrossed cheques? I want to know, that is one, because an uncrossed cheque is totally counter-intuitive to FIU and everything else.

But, if the cheques are crossed and made payable to payee account only, on what basis are these commercial banks accepting those cheques? Now that this issue is in the public domain, what is the position of the commercial banks in accepting those cheques? My information is the legality of those deposits, when the banks did not know about it prior to last week, the legality of those deposits now have to be called into question.

So when the hon. Minister said, “corruptly diverted, money diverted under the PNM”, we now have a Minister of National Security, a Minister of National Security, talking about Government paying people \$90,000 cash—liquid cash money in brown paper bags. I want the hon. Minister to explain that to me. How does a Ministry, according to the Minister of National Security, who has all the security apparatus around him—he could order wiretapping; he could order banks to give him information—how does this Minister of National Security’s statement, that \$90,000 of public funds are now being diverted? Explain that to me.

And I want to put the Bankers’ Association now headed by Mr. Larry Nath on notice, that they now have to answer a case as to what is going on in the banking system, with these cheques under the Proceeds of Crime Act. Because under this Government and their procurement practices with the FCB IPO, our private institutions, like our banking sector, are now under some stress—not because of

Public Procurement Bill, 2014
[MR. DEYALSINGH]

Friday, July 04, 2014

their doing, but because of this Government's doing, and the hon. Minister has to explain that to me. It seems to me that only a failed State pays \$90,000 to criminals, money in a brown bag. Only a failed State does that. Only a failed State, Mr. Speaker.

Mr. Speaker, another procurement issue which I want the hon. Minister to talk to me about, is that in the Eastern Regional Health Authority. The Eastern Regional—because all these bodies are public bodies and they can procure. The Eastern Regional Health Authority, I have always said is a star—stellar performance in the public health sector. It is one of the better, if not the best RHA under different administrations, because of the quality of personnel working there, the rigidity of their systems and so on. In recent times under this Government, the Eastern RHA has been brought into the public spotlight for all the wrong reasons, not because of the quality of health care they provide, but because of the internecine warfare between a CEO and a chairman of a board.

Mr. Speaker, the Eastern RHA recently gave out an award to pave a car park for \$382,548.10. It is my understanding that this contract was never advertised although it should have been advertised, but six contactors were invited to a pre-bid site visit, LRS Ramcharan Hardware and Construction Company, SS Maharaj General Contractor Limited, SIV Construction Services Limited, Ramkissoon Construction Limited, Eastern Engineering and West and Associates. There was no advertisement, no transparency, no accountability and over \$300,000 was spent on this contract given, I believe, to SIV Construction Services. Mr. Speaker, do you know where these funds came from? Not from the Consolidated Fund, you know. All the RHAs have a minor repairs fund to do minor repairs. Under paragraph 7.0, Funding, it said:

Funding for this project will be sourced from the Sangre Grande Hospital minor repairs programme.

Is that correct procurement? Three hundred and eighty-two thousand dollars to pave a car park with no public tendering, himself to himself, comes from a minor repairs programme—imagine that—and this Minister speaks about transparency.

Mr. Speaker, I turn to Part II, clauses 9 to 25 of this piece of legislation, and the Minister has to really explain to us something. He told us which models he looked at. The Office of Procurement Regulation: in Jamaica, we know the Contractor General Act, section 18.3 confers upon the Contractor General the powers of that of a judge of the Supreme Court; that was their policy position, no problem. But the Minister in piloting today, did not explain to us fully the policy

position behind this procurement office, and if he could do so in his wrap-up. I will explain to you why.

He spoke about the UNCITRAL Model, which is the United Nations Commission on International Trade Law. And this is why I said we will support this, but we want to know what you are going to do before you proclaim. We do not want another section 34, so we are putting direct questions. The office we are setting up does not seem to have the same powers of the Contractor General. If that is the policy position, that is fine, not a problem there, but it does not seem to be purely administrative either. Because if we turn to clause 14 of that Bill, of this Bill, clause 14, we are just seeking clarification, Powers of the Office 14(d):

“carry out such other activities and do such other acts as it considers necessary or expedient for the carrying out its functions.”

That is clause 14, I will help you out, Mr. Speaker, clause 14(d).

Mr. Speaker, a literal interpretation of clause 14 speaks about an office which has both administrative and investigatory powers to possibly do search and seizure—I think what the lawyers call an Anton Piller order—where you can go before a judge and get an order to go in and search. We just want to know on this side whether that is the intent, whether this office of procurement regulation has the power to go before a judge, and get an Anton Piller order for search and seizure, because you see, it goes back to my point I made before. This Bill now catches in its net private tertiary learning institutions and nursing homes, the St. Vincent de Paul, and all other such bodies that receive public money.

I think it is incumbent upon us as a Parliament to tell all these private bodies that this public procurement legislation also affects them. So could you tell us whether this is a deliberate move to catch all these bodies in the net, and then now, they will be subject to search and seizure order? Just explain to us.

Hon. Dr. Tewarie: Just an alarmist.

Mr. T. Deyalsingh: You may say I am an alarmist. We are simply seeking clarification; clarification.

Mr. Speaker, I want to ask the hon. Minister, clause 10, which sets out the board of eight to 11 persons, whether those members of the board will be subject to the rigours of the Integrity in Public Life Act, yes? And I also want to know whether the technical officers operating below the board will also be subject to the rigours of the Integrity in Public Life Act, because the technical officers will have a lot of power here.

Public Procurement Bill, 2014
[MR. DEYALSINGH]

Friday, July 04, 2014

Mr. Speaker, I just want to alert the population that although we have looked at the Jamaican model, the Jamaican model in practice also has some problems. And I refer to an article:

“IDB Pulls Funding on Jamaican Power Plant

Jamaica’s Contractor General Dirk Harrison previously...”—[*Interruption*]

Mr. Speaker: Hon. Members, it is a good time for us to take lunch, but before doing so, I would like to inform Members, with your leave, I would like to revert to the item “Announcements by the Speaker”.

LEAVE OF ABSENCE

Mr. Speaker: I have received communications, subsequent to our commencement, that the Member for Port of Spain North/St. Ann’s West, Mrs. Patricia Mc Intosh has asked to be excused from today’s sitting of the House. The leave which the Member seeks is granted.

Hon. Members, this sitting is now suspended until 2.00 p.m.

12.31 p.m.: *Sitting suspended.*

2.00 p.m.: *Sitting resumed.*

PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY BILL, 2014

Mr. T. Deyalsingh: Thank you very much, Mr. Speaker. Mr. Speaker, before we took the lunch break I was just putting on record some of the experiences with the Jamaican model in the context of the procurement office we are setting up here. We raise these matters on this side, simply to request of the hon. Minister, when he is wrapping up—the point I made at the very beginning—the proclamation date envisages certain things to be put into place. If we are to support this piece of legislation, given our experience with the Indictable Offences Act, we need to have bulletproof, waterproof, hermetically-sealed assurances that certain things would be put in place, because even the procurement office in Jamaica is finding itself in some problems with the new regulations.

I quote from an article, the Procurement Office of Jamaica, “Jamaican Government Cracks Down on Rogue Postings”. Now, we know, in this new system that we are trying to implement, various Ministries will have to post on their websites, by electronic means, what it is they intend to do for the balance of the year. This system that Jamaica has had the experience with is not bulletproof because, as I am going to read into the *Hansard* now, it says here:

“A report in the Jamaica Observer notes that...Jamaican procurement authorities have issued a warning to government entities...”

Now, they are actually warning their own:

“...government entities who have been bypassing the government’s centralized tender call posting process and have directed those entities to post all solicitations on the government’s...Procurement Page:”

I raise this issue so that the hon. Member and hon. Minister, in wrapping up, could tell us what steps are being taken to have all procuring entities, for example, all Ministries adhere to the proposals, because we are seeing with the Jamaican experience that the Jamaican Government had to read the riot act to their own procuring entities.

So I was back to the Office of Procurement Regulation. This, in our view—on our side here—is the crux, is the heart, is the axle around which this procurement legislation is going to work. I ask the Minister two questions, which I just want to reiterate: Yes, we know the board will fall under the Integrity in Public Life Act—we know that—the further question we are asking is about the technical officers. Would the technical officers, who would be writing reports and making recommendations for projects worth hundreds of millions, or billions of dollars also fall under the Integrity in Public Life Act?

Mr. Speaker, I dealt with the search and seizure issue already so I move on to another area where we have some concerns on this side and that has to do with clause 29 of the Bill. This Bill is not framework legislation because it seems to go into a lot of detail. It seems to be very prescriptive. There is an issue in clause 29, which I want to draw to the hon. Minister’s attention and that has to do with clause 29(e). So, I am actually on page 24, clause 29(e), under the subheading “Due diligence”. I want the hon. Minister, in his wrap-up, to tell me if a literal meaning, a literal interpretation of 29(e) is, in fact, what the Government intends by way of policy.

So, I read 29(e) into the *Hansard*. I start at 29(1):

“A procuring entity shall ensure that suppliers and contractors—”

Then you have (a), (b), (c), (d). I am focusing on (e).

So,

“A procuring entity shall ensure that suppliers and contractors—”

(e) have...”

Public Procurement Bill, 2014
[MR. DEYALSINGH]

Friday, July 04, 2014

Now, notice the words. The words are very prescriptive; the words leave no room for ambiguity.

“...have the necessary professional and technical qualifications and competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and personnel to perform the procurement contract;”

So, 29(e), if we break down everything under “Due diligence”, you have some qualitative factors and you have some quantitative factors. You have some tangible requirements and some intangibles. Let us deal with the intangibles: professional, technical qualifications—fine. Financial resources could be both tangible and intangible. Managerial capability, qualitative/intangible. What I want to focus on are the words “equipment and other physical facilities”, which is very quantitative and very tangible.

Now, on a literal interpretation of 29(e), let us take a garbage contractor. Let us take a small garbage contractor, Mr. Speaker, and I have physical facilities and five garbage trucks. If I want to tender for a garbage collection contract that now requires me to have 10 trucks or 15 trucks, my question to the Minister, on a literal interpretation of 29(e)—tell us if this is the Government’s policy—is it that in order for me to tender for a contract that requires 15 trucks, but I only have five, because I am a small contractor, I must have all 15 trucks on site—so when a due diligence test is taken, somebody from the procurement office has to come and see I have 15 trucks—a garage and a shed to accommodate 15 trucks? Because on a literal interpretation of 29(e), that is what it is saying; that if somebody wants to move from small to medium, they must have everything on site to be seen.

I want to know if this is the Government’s policy position or, again, whether it is like the very wide berth I spoke about on a public body—where now private entities become public bodies—whether this is deliberate or inadvertent. So, I would like the hon. Minister to address that.

Mr. Speaker, the next issue I want to turn to, briefly, has to deal with Clause 35(8). Clause 35 deals with:

“Acceptance of the successful submission and entry into force of the procurement contract”

What this section is now talking about is that somebody has bid for a contract, they have been successful. Clause 35(8)(a), on page 30 of the Bill speaks about:

“the procuring entity and the supplier or contractor concerned shall sign the procurement contract...”

and these are the key words I want to draw attention to:

“...within a reasonable period of time after the...acceptance is dispatched to the respective supplier or contractor;”

I want to pause there and focus on the words “within a reasonable period of time”.

Now, nothing is wrong with the term “within a reasonable period of time” because, in law, what is a reasonable period of time depends on the circumstances and what is accepted for that particular transaction. However, in researching for this—looking at different jurisdictions—many jurisdictions that deal with procurement legislation that have this same clause—

Mr. Speaker: Hon. Members, the speaking time of the hon. Member for St. Joseph has expired.

Motion made: That the hon. Member’s speaking time be extended by 30 minutes. [*Mr. N. Hypolite*]

Question put and agreed to.

Mr. T. Deyalsingh: Thank you, Mr. Speaker and I thank my colleague, the Member for Laventille West and all Members for allowing me the extension.

So, I am on the theme, reasonable time. It is to be found in many pieces of legislation, but I am alerting the Government to the fact that in jurisdictions all over the world where you have this, it has been the cause of litigation. What is a reasonable period of time and is it open to abuse by someone in the office of procurement that has one sense of what is a reasonable period of time and another? I raise this in the context where throughout this Bill, periods of time have been listed as either three weeks or seven days, but this is the only area that leaves it to discretion. This discretion, as I have pointed out, has been the source of litigation throughout the world. So, I am asking the hon. Minister, again, to look at this. I know the Minister has said he is not taking amendments, but we will deal with that when we come to committee stage. [*Interruption*] The Minister said he is not taking amendments.

Mr. Speaker, I now turn to page 32 of the Bill, under Clause 39(3). Just not en passant, but I would not dwell with it for very long. I just want to ask the hon. Minister: In procurement issues dealing with matters of national security, do procurement matters dealing with national security—whether it is computers for national security or anything else—that need a certain degree of confidentiality

Public Procurement Bill, 2014
[MR. DEYALSINGH]

Friday, July 04, 2014

and secrecy, whether we have something separate for them. I am just asking that and you could reply to me, because you cannot have national security procurement matters being in the public domain. *[Interruption]* You may want to order some supercomputer for national security, you know.

Hon. Member: A tank.

Mr. T. Deyalsingh: Or a tank. *[Laughter]* Whatever. Does it fall under this piece of legislation? Does the due diligence, the openness and transparency still prevail?

Mr. Speaker, I turn to Part VI of the Bill, “DISPOSAL OF STORES AND EQUIPMENT OF A PUBLIC BODY”. The Minister can tell me if we on this side are mistaken, does this apply to land? The disposal of land. Because, again, a literal reading says no, but then I have raised the Invader’s Bay project. That is land and we have many land disposal issues facing us.

The part that deals with disposal—again I come back to the fact that this legislation is not framework legislation but it goes into a lot of details in different areas, but it does not spell out what disposal processes will be used although it says—the side note on clause 54:

“Guidelines and handbooks in relation to retention and disposal...property”

So, there are going to be some guidelines, there are going to be some handbooks. My question to the hon. Minister, when he is wrapping up, is: what disposal methods are we using and will they be included in those guidelines and handbooks? For example, would it specify whether disposal is by way of public auction, public tender, destruction, trade-in or a gift? You may want to gift it to a children’s home. So, if you could just tell us in your wrap-up, what are your disposal methodologies.

2.15 p.m.

So, Mr. Speaker, those are some of the issues we raised. Other issues we would like to raise deal with this, and this has to do with the electronic reverse auctions envisaged in this Bill, which is going to be new to this country and novel to this country. It has been used abroad and that is fine; we should keep up with the times. But if the Minister in his wrap-up could tell us, as far as electronic reverse auctions, so let me explain what that is: as opposed to a typical auction that you might see in Christie’s or Sotheby’s or when AM Querino was around, you go and you bid and you drive the price up and the thing is sold to the highest bidder.

A reverse electronic auction is simply the reverse of that, meaning you are not selling to the highest bidder, but you are giving the contract to the lowest bidder. But you are not doing it by means of a hammer dropping; it is by electronic means. We on this side have no problem with the concept of introducing into our procurement processes electronic reverse auctions, as long as we put the population on notice what they are good for and what they are not good for.

Electronic reverse auctions, as I have explained, is not where you keep bidding the price up and you sell to the highest bidder, but you bid the price down and you sell to the lowest one. It is an excellent method of procurement, but for certain categories of goods and services where price is the only factor; where quality may not be a factor; where it is a commodity as opposed to a specialized item, like, for example, the Member for Diego Martin West told me the tank. You may not want to purchase the tank or national security apparatus via electronic reverse auctions.

So we are simply marking the spot, that whilst we on this side are in favour of introducing reverse electronic auctions, we are marking the spot as to its advantages, its disadvantages, its uses, its drawbacks. So those are some of the issues that have to deal with electronic reverse auction.

Reverse electronic auction is also favourable where you have many suppliers and so price becomes an issue. As I said, it is a commodity; it is a standardized product; no problem. Reverse electronic auction is also very good where the industry is producing so much, so you have excess capacity in the industry. So you have a tender out for cars for the police service and some supplier abroad has an excess of 1,000 cars; cases like that, fine; and where price becomes a key selection criterion. So we are just marking the spot that we are looking at important new legislation, innovative legislation, but we are just marking the spot that there are some areas to look at.

Mr. Speaker, this Government inherited hundreds of thousands of square feet of office space in the City of Port of Spain, hundreds of thousands. It was a campaign platform theme, but the fact is you have it. You have it. You have, in 2014, four years after your ascent to high office, this country and citizens of this country, civil servants, their offices are being shut down because they are not OSH compliant. As a result, people cannot procure passports, whether it is the Immigration Office on Frederick Street or Point Fortin. I understand the one in Point Fortin is not issuing passports either or not working full time. You have the National Insurance Board offices not opening whole day.

Public Procurement Bill, 2014
[MR. DEYALSINGH]

Friday, July 04, 2014

Think about the inconvenience to citizens trying to do their normal daily business. The Ministry of Education, I think, closes at two o'clock—the head office, I believe, closes at two o'clock. We boast about the ease of doing business. I have two friends, two acquaintances, who are trying to set up new companies and the Companies Registry is on a go-slow; they are not working; they are closed. Their own Central Statistical Office, under the hon. Minister of Planning and Sustainable Development, is a nomad. They have nowhere to go. The Licensing Office, all these are offices where citizens need to procure certain goods and services.

We left, we bequeathed to this Government, hundreds of thousands of square feet of prime office real estate. You know what they will say when they reply to me: “It was over budget.” Yes, okay, so what? It is a sunk cost now. It is there. What do you do with it? It is there. Okay, it is there.

The continuing paying of rents to offices which are not OSH compliant and which are being shut down every single day, is it worth it? Or should you not, from 2010, have done the needful, outfitted the offices; outfitted the Chaguanas municipal building instead of fighting over who gets the contract to outfit them? This is what is going on.

The offices are not being finished; all these offices, which are deemed non-OSH compliant, could have been housed in the Government Campus; could have been housed in the education building and workers would be working in OSH-compliant buildings; citizens who need goods and services like passports, who need to access goods and services from the Ministry of Education, from National Insurance Board, could all have gone into modern office buildings and got their business done.

Hon. Member: What that has to do with the procurement Bill?

Mr. T. Deyalsingh: Because you are fighting over, in the case of the Chaguanas municipal building, who gets the contract to outfit it. That is what it has to do with procurement.

We have all that space; all that space. Could the Minister tell us what are his plans? But what we are doing under procurement is spending \$37 million for a property around the savannah that the land value is not more than \$50 million. Procurement.

Mr. Warner: You read the *Sunshine*, boy.

Mr. T. Deyalsingh: I spoke about that in the Parliament last week. We buy a building around the savannah, Queen's Park East, that the land value, if we are generous, Mr. Speaker, is not more than \$20 million, if we are generous. But we paid \$37 million for it, then spent \$5 million to repair it, hand it back to the previous owners and that is a building in distress from 2012 where the bank put it up for sale.

What is the procurement rationale, I am asking the Minister? Explain to me that. Explain to the country why NIB is going to Queen's Park East 10 years from now when the Government Campus is there? You could have finished it; you could have put NIB there. Immigration could have gone there. Ministry of Education could have been housed, instead of citizens having to do all kinds of magic, jump through all kinds of hoops, in 2014, to get a passport. And persons on that side had the temerity, back in the old days, to talk about Trinidad and Tobago having the characteristics of a failed State.

In 2014, you cannot get a passport in Trinidad and Tobago. Have we not learnt? In 2014, you cannot comply with the regulations of the National Insurance Board. Business people cannot comply.

In 2014, you cannot register a business because the registry office is closed. In 2014, people in Point Fortin, the passport office is closed. Explain to me what has happened to this country in the past four years. Explain to me.

Hon. Member: The GDP has grown.

Mr. T. Deyalsingh: Because the price of oil and gas, which you have no control over is doing well. That is why the GDP has grown.

Mr. Speaker, the hon. Minister spoke about 90 per cent delivery on campaign promises, which is in stark contrast to what Mr. Sat Maharaj of the Maha Sabha had to say, because he was blaming the civil service for the Government's inability to deliver. Now who is right? As far as procurement is concerned, who is right?—Mr. Sat Maharaj, who says the civil service is a PNM civil service, so the Government cannot deliver; or this Minister who says they have delivered 90 per cent?

Mr. Speaker, as far as procurement is concerned, I want to alert the population to something. This Government, when it came into power, in an attempt to have all 29 Members of Parliament do well, created Ministries like how we churn out Dinner Mints; a new Ministry today, a new Ministry tomorrow, a new Ministry next week.

Public Procurement Bill, 2014
[MR. DEYALSINGH]

Friday, July 04, 2014

Does the Minister of Planning and Sustainable Development understand that when you take a structure like a Ministry and then start to chop it up, just to create jobs for an MP, what happens to delivery? When we put in a new Minister every Monday morning, it takes a new Minister, I hear, between six months to a year to get up to speed.

So let us see why, if Mr. Sat Maharaj is right, that this Government cannot deliver on its procurement promises. Is it because it is a PNM civil service, or is it because of this document called Schedule, relating to the Supplementation/Variation of Estimates, 2014, a document laid in this Parliament last week?

When you go through this document, as I did, there are 74 references—74, that is threescore and ten plus four—under the headings “Transferred to” or “Transferred from” a Ministry. This is what is plaguing service delivery in Trinidad and Tobago in 2014 because no Ministry and no PS can come to grips with their position because every Monday morning, at least for the first three years of this Government’s life, they created a Ministry just to give an MP a job.

There are 74 references, and if you turn to page 85 of this document as I did, page 85 of this document, under “Ministry of Works and Infrastructure”, under “Households”, it talks about a debit card system for URP employees transferred from Head: Office of the Prime Minister.

So CEPEP employees have a debit card; nothing wrong with that. Why are we not using the same system to pay other persons instead of paying them out of a brown paper bag? You may say, “Gosh”, but I am sure if the PNM was doing it, you would be marching all over the place; all over the place.

I want to ask the hon. Minister, when he wraps up, tell us, as a former Member of Tapia, Lloyd Best, excellent man who always spoke about ethics, as a current member of the Congress of the People, ethics, the moral centre, how does that type of personality now encourage a procurement process where persons are paid out of a brown paper bag? Is that the characteristic of a failed State, a failing State? Tell us. And how do you sit there and condone that? *[Interruption]* It is not an assumption.

2.30 p.m.

You see, the Member for Tabaquite is saying, it is an assumption. As far as they are concerned these things do not exist. When they see themselves in the mirror, “Is not me”. The Minister of National Security is on record as saying that people are being paid out of brown paper bags \$90,000. Is it that this type of lax

procurement, illegal procurement, is going to go on under your watch? How do you condone that?

How does a former member of Tapia, who suckled at the breast of Lloyd Best, not literally, but figuratively [*Laughter*—who suckled at the breast of Tapia, took in all the learnings of Tapia, became a member of the Congress of the People, which came to power on new politics, principles of fairness, Fyzabad Accord: how does anyone sit here, come to this Parliament with the temerity to pass procurement legislation? [*Desk thumping*] How?

I want the Minister to tell us today what is his position on LifeSport and whether the hon. Minister of National Security is fantasizing when he says, \$90,000 is being paid out of brown paper bags. You cannot have the Minister of National Security saying one thing, the Prime Minister supporting another position, and the rest of the Cabinet silent. This is 2014. We do not have to go back to 1956, 1976, 1986 or 2006, hon. Minister. This is a live issue facing your conscience and your Government in 2014.

Dr. Browne: And it is not hearsay.

Mr. T. Deyalsingh: And it is not hearsay. It is either the Minister of National Security is a stranger to the truth. Right? Is the Minister of National Security a stranger to the truth?

Mr. Speaker, Thursday July 03, which was yesterday, Gail Alexander, the *Guardian*: Procurement issue: “Life Sport official gets \$90,000 in hand for paper bag payouts”.

Hon. Member: What?

Mr. T. Deyalsingh: “Approximately \$90,000 in cash was put into paper bags...”

Well, we know what paper bags are good for. We have “man/woman joke about dat, but we eh going into dat”.

“Approximately \$90,000 in cash was put into paper bags and given to one person”—Minister, this is what you are condoning—to distribute to 60 Life Sport participants, National Security Minister Gary Griffith said yesterday. He was relating—as Max Senhouse used to say, what? Liquid cash money or solid liquid cash or Mastana Bahar, solid liquid cash, one of them—to Parliament reporters facts—these are facts, he is saying—“he had about the

Public Procurement Bill, 2014
[MR. DEYALSINGH]

Friday, July 04, 2014

programme and which he had given to Finance Ministry auditors now probing the programme. Griffith has halted with immediate effect all previous procedures that allowed such payment to anyone involved in Life Sport.”

Mr. Speaker, the hon. Minister is a former principal of the University of the West Indies. He set up the Critical Thinking Unit at the University of the West Indies. He was a former member of trade, I believe, under the NAR Government, former Member of Tapia. I think you were with UNC at one time—Congress of the People. He went around this country: Axe the Tax, he had every right to articulate his position. He always articulated transparency and accountability. I want this Minister to tell us today: what is his position on the LifeSport Programme and this \$90,000 in cash in a brown paper bag? Tell us!

So, Mr. Speaker, we are disappointed to hear that the Government is entertaining absolutely no amendments from the elected House. I started off my contribution by talking about the fact that this is a bicameral Parliament, two Chambers. This is not Guyana where you have one chamber; this is a bicameral Parliament, and we are very disappointed that the elected Members on this side do not have a say into amendments.

I have pointed out several issues, and as I wrap up, I would just reiterate them: one, the Minister has to tell us what he is putting in place before proclamation. Are the Ministries which are procuring entities, in light of the Jamaican experience, going to be so equipped, not only with the hardware but with the personnel, to engage in this type of activity?

Three, Mr. Speaker, I raised the issue—and this is a very important issue for businesses out there—that under this definition of “public body”, and I have given the case law, that private companies who are doing business with the Government—and I drew two examples: the tertiary institutions who are GATE funded; the nursing homes who carry out government policy and are paid by Government—whether this catchment of those two types of industries and others; for example, all the oil-servicing companies in south whose only customer is the Government—whether it is intentional or inadvertent that all these businesses, all that plethora of businesses, are now caught under the ambit of this legislation? Because there is a provision in this Bill that says any public body that does not comply will be reported to the Parliament. I want the businesses outside there to understand the gravitas of this thing. This is serious business. The Minister has to tell us whether it is deliberate or inadvertent. If it is deliberate, that is your policy, fine. If it is inadvertent, are you open to amendment?

You have to tell us how this office of public procurement is going to work. It does not have the powers of the contractor general in Jamaica, neither is it purely administrative; it is a hybrid. That is your policy position, explain to us how it is going to work because, as I have said, this office has the authority of search and seizure into private companies as now caught in this Bill.

So, you have a hospital out there, a private nursing home, doing cataract surgeries on behalf of the Government receiving a government cheque: is it that that private hospital—whether it is in the east, Port of Spain, St. Joseph, San Fernando, Tobago wherever—are they now caught under this? Is that deliberate? Is it inadvertent?

I drew to the attention, section 29, which on a literal interpretation seems to say that if I want to tender for anything, I must have all the equipment and all the facilities on spot. So when somebody from the office of procurement comes, I must show him I have everything. I may not get the contract, but I have to buy the 15 trucks, put them down, have a shed, have mechanics. Is that the intention? If it is that is your policy position, fine. If it is not your intention, are you amenable to amendments?

So, Mr. Speaker, I have raised some issues. I am also asking the Minister to make a definite statement on what is the status of the Invader's Bay project; what is the status of the cable car project from Picton Hill to City Gate. Is that cable car which is a big procurement issue still alive? Mr. Speaker, with those very few words, I thank you. [*Desk thumping*]

The Minister of Housing and Urban Development (Hon. Dr. Roodal Moonilal): Thank you very much, Mr. Speaker. Mr. Speaker, I rise to contribute on what for all of us is one of the most significant pieces of legislation ever brought to the House of Representatives in our post-independence experience.

Mr. Speaker, today is indeed a significant day in the history of Trinidad and Tobago because it is the day, Mr. Speaker, that the House of Representatives will debate and seek to pass legislation dealing with a problem, and dealing with developmental challenges that have affected this country since independence.

Mr. Speaker, issues of procurement, transparency, integrity and good governance are issues that are not new by themselves, and successive administrations—from the first administration of Dr. Eric Williams—have sought to address these issues in some form or fashion.

Public Procurement Bill, 2014
[HON. DR. R. MOONILAL]

Friday, July 04, 2014

Mr. Speaker, the matters before us can take their root to law enacted in 1961 by the Cost Accounting Division in the Ministry of Finance, and the establishment of the Central Tenders Board. So, Mr. Speaker, it is from 1961 that we began our modern-day system of procurement, which we have deemed for several years now to be inadequate and we are here in all humility, but proud that a Government led by the Member of Parliament for Siparia has brought landmark procurement legislation to Parliament, as the first act of a great revolution in Trinidad and Tobago for reform. [*Desk thumping*]

Mr. Speaker, let me take a couple minutes to congratulate the Minister of Planning and Sustainable Development on the enormous work that this Minister and his technical people at the Ministry and outside the Ministry have done for this country. They have produced a comprehensive piece of legislation that has been accepted in several quarters. Mr. Speaker, to build consensus on legislation like this is not easy. It can take a Government 15 years, 20 years, to build consensus on these types of issues, procurement.

Mr. Speaker, we are still battling with another comprehensive matter on the recycling issue, on the environment—a Bill on protecting the environment. Mr. Speaker, Bills like these—Insurance Bill, Securities Bill, Procurement Bill, Planning and Facilitation of Development Bill—governments take 15 years to deliver on this. Mr. Speaker, in four years, Sen. The Hon. Bhoendradatt Tewarie has brought legislation to the Parliament of Trinidad and Tobago. [*Desk thumping*]

Mr. Speaker, the hon. Minister was the target of some personal emphasis, if not direct attack, from the member for St. Joseph. He took some time out, quite surprisingly, to focus on the Minister himself and his various incarnations. And, Mr. Speaker, this Minister is no stranger to public life. He has spent all of a generation serving the people of Trinidad and Tobago, in the political sphere; in the sphere of academia; in the private sector; in Parliament; in Cabinet. He has served the people of Trinidad and Tobago for over a generation, beginning as a teacher. I am very proud to say that I think the Minister taught in my school in San Fernando at some time. Mr. Speaker, I was poor since he never had the opportunity to teach me, and I am sure I would have reached much further in life, if I had benefited from his learning.

So, Mr. Speaker, over the years, this is a gentleman who has served this country well, and I think it is really regrettable that the Member for St. Joseph would choose to identify the Senator in this way, and put such emphasis on his

career and ask him: what do you say on this, what do you say on that and what do you say on the other? The Senator's public record is very clear, extremely clear. He has always stood for principle. He has always stood for fairness, transparency and good governance. [*Desk thumping*]

2.45 p.m.

You know, the Member for St. Joseph is a fresher with us in the Parliament and, you know, I am hoping that he would learn the ropes sooner rather than later when it would not matter, Mr. Speaker, that really we do not question unless it is a private Motion on the conduct of someone, their career and what they did in university, and what they did in their village, and so on. Mr. Speaker, I move on from that. I just wanted to raise that matter.

Mr. Speaker, this matter, as I said, can be traced to early legislation in the 1960s, and attempted by several administrations to undertake the matter of procurement and transparency in a matter that meets the existing demands of citizens at that point in time. There was a time in this country—I would just be brief on this, in my introduction. There was a time in this country when “Government procure, and who cares?” Who really care? You hear stories of the 60s and 70s—I call no names, a lot of those people have gone by and, you know, may their souls rest in peace—of Ministers, you know, acquiring all sort of things, whether it is car, house, land that they cannot find, of gifts to this one and that one, and the society of the 60s and 70s and so on—really, “who cares?”

Nobody bothered with that. That time it had one TV station and, I think, two newspapers. There was no rule. The society did not have this bothering, you know, phobia with the issue of good governance. My friend from Diego Martin Central, I know, is between two football matches so he is a bit nervous, [*Laughter*] but we will get to that in a little while.

Mr. Speaker, today we live in a different world where there is a greater demand for transparency, accountability. Today if you buy a “sweet drink” at the Ministry, you have to be careful it is a “sweet drink” and it is nothing else. If you take people for lunch you have to be very clear that is in the course of your business. That is not somebody you pick up somewhere at the side of the road and carry for lunch, and billing the Ministry for entertainment.

If you buy something for yourself as a Minister, you have to be very clear, these are personal effects. You cannot take public money and buy—“what they buy before?”

Hon. Member: Wig.

Hon. Member: Weave.

Hon. Dr. R. Moonilal: Wig. I do not want to get into that again, but you cannot take public money and purchase items for yourself. If you purchase anything, it must be something related to your Ministry. You buy software for a computer or something, you claim.

Mr. Speaker, we were in Tobago recently for a funeral and at that funeral a car was rented for my Ministry, and for \$1,600, all our paperwork had to be in place. That was the cost of rental for two days to attend a funeral to go from, you know, cemetery to burial, to this to that. One has to be very cautious, this is the world we live in. Today, based upon that great public demand, this Government coming into power made the commitment—Dr. Tewarie, Senator, told us that commitment—rooted in our manifesto, and we are here.

Mr. Speaker, we did not come here—it was not easy. It was not easy. It was not, you know, a walk in the park. The first thing we did in 2010 was to lay the procurement legislation in the Parliament. [*Desk thumping*] The first day Parliament met, “whap” we came out with it. Hon. Kamla Persad-Bissessar came and gave the thing. We went to a joint select committee. Mr. Speaker, I believe a root canal is easier to undertake than a joint select committee with the PNM on procurement. It was a living hell. We have the record here. A living hell at this joint select committee to deal with procurement. They walked out in protest, one day they walked in, in protest, and the work could not be done. We could not get the work done. We could not get a quorum.

The attendance record is here in the Parliament, I will not embarrass anybody by reading the attendance record. But, Mr. Speaker, we did not get that cooperation. That took Dr. Tewarie a two-year delay; a two-year delay in coming to this point. We could have been here easily by the end of 2012. Easily. Two years we delayed because the Opposition was not sure whether it is the left side or the right side, or what they were asking for. I want to make this point because the Member for St. Joseph led me to this point.

We have a serious problem for four years in the Parliament that we have papered over. We have papered it over and we have moved on. Mr. Speaker, 10 years I spent in the Opposition, we had a caucus meeting every week. It was 5.30 p.m. Rienzi Complex on a Wednesday—caucus meeting. That meeting, Senators are there in our caucus and Lower House elected Members, and we will go through the Bills, the Order Paper. We would agree on who is speaking. We would agree on who is bringing amendments and what are the nature of those amendments, and we will agree because we are one party.

Mr. Speaker, is not my intention to draw you in this at all, but all Senators would agree, even though they had misgivings they would agree, and Lower House elected MPs would agree, even though we had misgivings, on amendments. Amendments never dropped from the sky that way. So when we left Rienzi Complex on a Wednesday night, we were clear on the amendments agreed to, and when we go to the Parliament, whether it is the Senate or the Lower House, this is how we will operate, and that is the view of the party called the United National Congress. [*Desk thumping*] That is the view. So we will defend each other because we have agreed on that.

Mr. Speaker, for four years we have carried this burden of dealing with two political parties: one here and one in the other place. And when in the other place they make amendments, one here tell us, “That does not concern we, we elected”. What happens if you get into Government? We will have two Governments in this country. The Government in the Lower House will pass Bills and the Government in the Senate will amend, send it back to the Lower House, where the Government in the Lower House will say, “No, we do not agree with the Government in the next place”. That is what will happen here.

If you cannot build harmony and consensus in your Opposition, speak with one voice, what will you do in Government? There will be two Governments operating because we will never agree on anything. This is not how this business is conducted. This is a matter that was subjected to day and night debate. I think the committee stage took a week, if I was not mistaken.

Sen. Dr. Tewarie: Sixteen hours.

Hon. Dr. R. Moonilal: Sixteen hours in committee where Members opposite came, their colleagues, and fresh colleagues of the Member for St. Joseph—fresh—he may still be talking to them. And they brought their amendments, we listened—“Is this your view? Yes. Have you all agreed on this? Yes.” We come now in the Lower House, “We just read it last night and realized something wrong, we want more amendments”. That is not how this business is conducted, and I am not suggesting at any time that this is a conspiracy to derail the procurement legislation again. I am not suggesting that. I do not believe that, but I believe we will have to take the Opposition screaming and kicking to pass this legislation—I believe.

It happened with the OSHA, the OSHA Bill as well. Imagine the Government and Opposition in early 2001, '02, '03, somewhere there, had to meet with the then Government and beg for OSHA to be passed. Today Members are talking

Public Procurement Bill, 2014
[HON. DR. R. MOONILAL]

Friday, July 04, 2014

about OSHA compliant. You see what is happening here? They went dragging and screaming. It happened with the Equal Opportunity legislation. Imagine Lord Woolf in London had to tell us it is good law in Trinidad, implement it, the Equal Opportunity. A man that goes by the sobriquet, Lord Woolf. We had to listen to Lord Woolf in London to tell us it is good law, implement it, but the wolves in Trinidad did not implement it. [*Desk thumping*] You understand, Mr. Speaker?

So there we are today, and I have taken note on the issue of transparency. I have taken note of something else. You see, Mr. Speaker, there is a newspaper article from the *Newsday* written by one Sean Douglas, and the article headline is, and I quote, “Rowley: We are not racist”. In the body of the article the Member goes on proudly to indicate that he is related to somebody in Penal and has family there, and so on. Now that is fine because I understand he is now promising city status to Chaguanas.

Now, I hope when this city status to Chaguanas is promised, you made the point to tell the people of Chaguanas that every week Members of the PNM come here and condemn this Government for development in Central Trinidad, [*Desk thumping*] Chaguanas, Couva. Every week they condemn us, “development going central, development going Chaguanas”, and then you go to talk to the businessmen and tell them, “Vote for me you will get a city”. [*Laughter*] Nah. Nah. Nah. I imagine Penal might become a city too, because the Opposition Leader has some family down there and we may be in some trouble down there, Mr. Speaker, with the Opposition Leader having all his family in Penal.

Mr. Speaker, it is not that I want to talk about. I want to get to the issue. I am quoting from the newspaper so no disrespect:

“Rowley vowed that one of the first acts of a future PNM government would be the enactment of Whistle-blower legislation, even as he claimed to have...such draft bill in his...hands.”

Mr. Ramadhar: What is the date on that?

Hon. Dr. R. Moonilal: The date, Sir, is June 17, 2014. No, the article is June 07—sorry—June 07, 2014. That is quite recently. Right.

“...Whistle-blower legislation, even as he claimed to have one such draft bill in his very hands.”

Now, the former leader had the election date in his back pocket, this one has whistle-blower legislation in his hands, but, Mr. Speaker, whistle-blower legislation is built-in in this procurement Bill. [*Desk thumping*] This is built-in in

this procurement Bill. Sen. Tewarie spoke about that, but I raise this matter because I have a concern with whistle-blower legislation. You see, in that period 2001—2010, there was a Bill that appeared in the Parliament; a Bill entitled—it came to the Parliament—the Equal Opportunity Bill, 2006. It was approved by the Cabinet on January 11, 2007, a PNM Cabinet in 2007 dealing with transparency, whistle-blowing, reporting, discrimination; this Bill, procurement, deals with discrimination. You select contractors of one sort over another and you cannot defend it, inequality of treatment.

They brought a Bill in 2007, Equal Opportunity. Mr. Speaker, can I read clause 31 of that proposed Bill in 2007—Equal Opportunity Bill? Clause 31 states:

“A person who submits to the Commission a frivolous and vexatious complaint commits an offence and is liable, on summary conviction, to a fine of one hundred thousand dollars and to imprisonment for two years.”

So imagine, as a member of the public, you submit a complaint to the Equal Opportunity Commission, a poor man will not have lawyers and engineers and technical people at his disposal, he feels he is victimized—“I did not get a particular good and service. I did not get a contract. I was treated unfairly. I was treated on the basis of race. I was victimized because of my religion.” You do not have all the facts, you cannot marshal evidence as a Senior Counsel. If you are found to be frivolous and vexatious, \$100,000 fine or two years in jail, and this was a Bill proposed by the People’s National Movement.

Mr. Speaker, when I checked my records, this Bill was approved by the Cabinet, January 11, 2007, 9.35 a.m. Attending the Cabinet meeting and voting to confirm this as law and take to the Parliament, hon. Patrick Manning, John Jeremie, Penelope Beckles, Roger Boynes, Colm Imbert, who is here today in the Parliament, Jarrette Narine, John Rahael, Anthony Roberts, the hon. Camille Robinson-Regis, Minister of Planning, sat in Cabinet and approved this. Dr. The Hon. Keith Rowley, Minister of Housing, sat in the Cabinet and approved this, and today tells us, “We have law already, whistle-blowing legislation. Vote fast”. *[Interruption]* “We have whistle-blowing legislation. We bringing that first thing under a new PNM government”, and in 2007 you supported legislation for a \$100,000 fine, two years in jail for anyone with a vexatious complaint to the Equal Opportunity Commission.

This is what we deal with, Mr. Speaker. Another Member of that Cabinet at the time, Sen. The Hon. Christine Sahadeo—Sen. The Hon. Joan Yuille-Williams. These people are still at large. They are still at large and seeking to get in the Government of Trinidad and Tobago. They are still at large. Mr. Speaker, might I point out to you just one more example, I do not want to because we are talking about governance, transparency. There is a page during the build-up to the campaign in the Opposition on the last occasion, I saw a list of people with pictures coming, and they said they all support the Member for Diego Martin West. Mr. Speaker, it was the Manning Cabinet. If they had supported the Member for Diego Martin West then, they did not need an election; they would have gotten rid of him on time.

3.00 p.m.

These are the same people who were in the Cabinet, who wanted to punish innocent citizens who made a complaint found to be vexatious. “Member for St. Joseph, what you say about that? Mr. Speaker, if he waiting for Chaguanas to be a city—”[*Laughter*]

Mr. Speaker, the former administration proposed something else, the Integrity in Public Life (Amdt.) Bill, 2009. In this Bill, they proposed—I do not want to go through here, because it is not that relevant to everything:

“A person who—

- (a) makes or causes to be made a false complaint to the Commission;... commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment for five years.”

This is whistle-blowing, that citizens cannot exercise their right to make a complaint? That is whistle-blowing?

In 2009, who was in the Cabinet that approved that? Approved March 19, confirmed 2009. My good friend, the Member for Diego Martin Central, stood as the Minister of Social Development, very much present. The Member for Diego Martin North/East, in the Cabinet. My friend, the Member for Port of Spain South, was in the Cabinet when they confirmed.

Mr. Roberts: Point Fortin also?

Hon. Dr. R. Moonilal: I think the Member for Point Fortin was out of the country. The Member for Point Fortin was not there on the day. She was on official business abroad.

Mr. Roberts: Checking Obama. [*Laughter*]

Hon. Dr. R. Moonilal: Mr. Speaker, so the Integrity in Public Life Act—they wanted to punish citizens \$500,000 for making a complaint. When ordinary, poor citizens, who will be the ones most likely to be victimized, will have no redress. They cannot pay lawyers. I draw these to your attention, because today we are in support of legislation that deals squarely with the whistle-blower, in this case.

I want to say, and the Minister said it, you jump so quickly onto something, because you know—I cannot use the example of a dog and a bone—but you see something and you feel it is meat, so you grab it quickly and you forget everything else. The Minister said, while we came from the other place—the Minister was very clear, we came from the other place where we built a consensus, and I do not expect amendments. But the Minister went on to say, “If you have amendments, they are compelling amendments, we have to look at them.” I mean, if there is something written here, and instead of putting red they put white, we have to look at it. But we have built consensus on these matters. We do not expect to have amendments, when we have already dealt with it. So, Mr. Speaker, these are the matters before us.

Sen. The Hon. Dr. Tewarie made reference as well to that very difficult period in our history 2002 to 2010, and particularly that time when UDeCOTT, Calder Hart, reigned and brought havoc onto the governance of this country. I am the Minister with responsibility for UDeCOTT; I have been so for several years. I am also the Minister with responsibility for the HDC; I have been so for four years. There was a time in this country, “if you looking for bobol and you looking for scandal and you looking for everything that bad, you have to look to UDeCOTT. If yuh looking for it, look for UDeCOTT”. UDeCOTT was—I do not know—like a proscribed organization. There was a man there like the emperor and he spoke only to God, nobody else.

There was a man there who conducted his business and he had no regard or respect for any Minister, and the Cabinet approved, I cannot say like rats. The Cabinet approved everything this man dictated, because this man spoke only to God, and when they convened the Cabinet, they had no say. If the Executive Chairman of UDeCOTT say is so, is so, and no line Minister had any control of “nothing”, absolutely nothing.

Mr. Speaker, there were line Ministers, several, and many of them are at large today. I would just want to read from a letter from one line Minister, just to give you the picture and then come to the issues. I have in my hand a letter from the:

Public Procurement Bill, 2014
[HON. DR. R. MOONILAL]

Friday, July 04, 2014

“Minister of Planning and Development

November 13, 2006

Mr. Calder Hart

Executive Chairman

Urban Development Corporation...”—and so on, addressed.

This letter is written by Camille R. Robinson-Regis, MP, Minister of Planning and Development, this is what the then Minister had to say:

“Dear Mr. Hart,

I wish to express my utter dissatisfaction and disappointment with the inordinate delays by UDeCOTT in providing information requested by...”—my Ministry to answer—“Questions posed to Ministers in Parliament, and...”—to prepare—“status reports for Cabinet relating to projects being implemented by UDeCOTT. In some cases...information has been outstanding for several months, and this despite...reminders...”

This is a Minister addressing a Chairman:

This situation is not only disrespectful, but has also occasioned great embarrassment to the Minister of Planning...”—which is she—“and to the Government in general...this state of affairs cannot...continue. I am, therefore, directing...”—you to provide to my office the following information...

Review of proposed responses to Question 7 and 24 on the Order Paper...”—and so on.

“Status reports on...

Academies for the Performing Arts...

...International Waterfront...

Reconstruction of Prime Minister’s Residence

Construction of...National Carnival Entertainment Centre

The reports should indicate:

(i) the process under which contractor...were selected”

Mr. St. Joseph, this sounds familiar?

Mr. Sharma: “Nah, nah, nah, he is a new PNM.”

Hon. Dr. R. Moonilal: “the process under which contractor...”—was—“selected”

(ii) rationale and authorization for variation...”

Today the gentleman, the Member for St. Joseph, said, “So what?” We had a variation from—“how much de Brian Lara start at?”—\$175 million to \$1 billion; the Tobago hospital, Scarborough started from \$120 million to \$770 million. My friend, the Member for St. Joseph said, “So what?” But if they are returned to power, it is also “So what?”.

Here is Minister Robinson-Regis asking for reports on variation, who authorized that. Mr. Speaker, at that time circulating was a White Paper on reform for the Public Sector Procurement Regime. So since 2006, eight years now, the People’s National Movement fighting, in one form or another, to deal with procurement issues. But their Executive Chairman would not support them. Robinson-Regis asked for a report on the construction of the Brian Lara; when it is going to be completed; what is the cost of overruns to date. She says:

“I wish to again request...quarterly status report...”

Mr. Speaker, this is the governance that we had.

I want to tell you, before I go to the Uff Commission recommendations—today I want to tell you—if an officer in UDeCOTT has to travel to go to Grenada, they need the permission in writing of the Minister of Housing and Urban Development. If you need to travel, you need permission from a Minister, “you cyar even travel”, so far less other matters.

The F&GP in this Government, on several occasions my colleagues know, they would summon HDC or UDeCOTT, “Come to us, make a presentation, explain this, explain that. We are not satisfied with a figure for something,” and UDeCOTT will march into a room of the F&GP and seek to defend their position with clarity, and take their advice from Ministers of this Government. It does not matter. They may be Ministers of State in that meeting, they are entitled to question the Chairman of HDC, to question the CEO.

None of them will come and say, “So what?” None of them will come in that meeting and dare tell us that they know the Prime Minister and they spoke to the Prime Minister or the Minister say so or no. That is how we manage this country. That is the sound governance we talk about. So today you come now and talk about, “So what?”

This administration led by Mrs. Persad-Bissessar, the Member for St. Joseph introduced it, and I must tell you, yesterday the Minister of Labour and Small and Micro Enterprise sought and obtained an injunction returning immigration

Public Procurement Bill, 2014
[HON. DR. R. MOONILAL]

Friday, July 04, 2014

workers back to their jobs. They are on their jobs now, after lunch. [*Desk thumping*] Then they might want to know what took us so long. We met, we treated, and we dialogued, for several days over their issues.

Hon. Member: For how long?

Mr. Seemungal: As long as it took.

Hon. Dr. R. Moonilal: Health and safety matters and so on. When it became clear that action needed to be taken, the hon. Kamla Persad-Bissessar took action, took strong action, and they are back to work. [*Desk thumping*] We did not beat up anybody. We did not act outside of the law. We did not grab any trade unionist by their pants, and drag them with their manhood being squeezed. [*Laughter*] We did not do that. We did not jail. We did not go on the street with tear gas and beat up anybody on the street, any trade union leader. We met and treated with those trade union officials. We met and treated with them, when the time came we acted within the law and protected the interest of citizens of Trinidad and Tobago. Even the workers now are back at work. [*Desk thumping*]

Mr. Speaker, in their procurement business, I wanted to again indicate that they undertook procurement. Member for St. Joseph you were not on the compound then. [*Laughter*] The Member for St. Joseph will not know, so I want to tell him. When they undertook to build the Diplomatic Centre, the Prime Minister's Residence, we found in the UDeCOTT cupboards another complex that they were building, a massive complex, including residential housing in Guanapo. This is the map that was under the custody of UDeCOTT at that time, that taxpayers' money was being used for a sideline item under the guise of the Diplomatic Centre and the official residence. [*Dr. Moonilal displays map*]

What few people know is that behind the religious compound a massive bungalow was being contemplated. Today I can inform this House that had it not been for the intervention in May 2010, this was \$25 million gone. [*Desk thumping*] At Guanapo, \$25 million of taxpayers' money was going. You know in auctions how they say, "Going, gone". [*Crosstalk*] May 24, 2010 saved the country losing \$25 million. Mr. Speaker, they take this lightly. They say, "So what?" If they are returned, there is no guarantee that we will not have the same—no guarantee that we will not have the same. [*Crosstalk*] Yes, Mr. Speaker, there is no guarantee.

We are subjected every week, in the House and out of the House, from Members opposite—and I must say, my friend, the Member for Chaguanas West,

has emerged as a local paragon of virtue, and has emerged as a corruption buster of some sort, [*Laughter*] and is proudly the editor of a paper that comes out I think every fortnight, is it? And every week some mark here—Mr. Speaker, no offence—some mark here, some mark there, some corruption thing here, and they attack us from all angles.

I looked in my newspaper the other day and I was shocked to see a headline on June 30, 2014:

“Antiguan minister declares ILP will be next TT Government” [*Laughter*]

My friend, the Member for Chaguanas West, his party invited some good gentleman from Antigua. The gentleman came here and was baited and misled into making statements.

3.15 p.m.

Mr. Speaker, I just want to put for the record because a lot of people saw that and were disturbed. I have in my hand here a letter dated July 03, 2014, addressed to the hon. Mrs. Kamla Persad-Bissessar, Prime Minister of Trinidad and Tobago. Mr. Speaker, the letter says:

“Dear honourable Prime Minister

I write to apologise to you and your Party for remarks made at a Convention of the Independent Liberal Party.”—[*Interruption*]

Dr. Browne: Mr. Speaker, Standing Order 36(5).

Hon. Dr. R. Moonilal: Mr. Speaker, they accused us—[*Crosstalk*] they are accusing us from all angles of not following transparency and integrity. This is one attack on the Government. The writer says:

“I write to apologise to you and your Party for remarks I made at a Convention of the Independent Liberal Party on 30 June 2014.

In retrospect, I recognise that the remarks were inappropriate and I withdraw them unreservedly.

The remarks were entirely my own - reflective of an earlier personal relationship - and do not represent the position of my party or my Government.

My Prime Minister,...Gaston Browne, and the Antigua and Barbuda government, including me, are committed to working in close friendship with you and your government in the mutual interest of our two countries and the Caribbean Community....”—[*Laughter*]

Public Procurement Bill, 2014
[HON. DR. R. MOONILAL]

Friday, July 04, 2014

“With deep apologies.

E.P. Chet Greene

Minister of Trade, Industry and Commerce”

Look what you put this man through. This man is a Government Minister—a few days in Antigua and Barbuda. My colleague, Mr. Speaker, he is now—this man has probably not settled into his brand new office yet, and “nearly get fire”.
[*Laughter*]

Mr. Speaker, my friend from Chaguanas West, you cannot take persons like this, bring them to Trinidad, you know, put them on a stage and tell them—say this, say that, say the other—and you know, this man could have been revoked. His appointment could have been revoked. For what? This gentleman is a friend of Trinidad and Tobago. The Government of Antigua and Barbuda is a friend of Trinidad and Tobago, and they understand protocol and diplomatic relations. They understand responsibilities. But this is a new Minister. And, Mr. Speaker, the Member for Chaguanas West would have his time. A former Minister in this country had spoken about “newness”, but, Mr. Speaker—[*Interruption*]

Mr. Speaker: If you could connect.

Hon. Dr. R. Moonilal: Yes. Sure.

Mr. Speaker: I think—hold—the Member for Diego Martin Central raised objection under 36(5). I would ask you to connect to the Bill, please.

Hon. Dr. R. Moonilal: Sure. Mr. Speaker, I want to move on and to say that we are being accused of bad Government from all quarters, and regrettably our friend from Chaguanas West brought a very decent visitor to our country and misled him in this matter, “chain him up” as the young people say. He has apologized, and let me move on to some other matters.

Mr. Speaker, the Uff Commission Report, I want to get back to that, dealing with our procurement matter. I am proud to say that the Uff Commission made 91 recommendations, 45 applied directly to UDeCOTT, and all 45 recommendations applying to UDeCOTT have been implemented [*Desk thumping*] by the Government of Trinidad and Tobago—all. Mr. Speaker, I have the document in my hand and I propose to read because we talk about the Uff Commission Report, we talk about recommendations, and some persons inside and outside the House will again bring their mantra, “What are you doing about good governance? A commission report takes so much money—are you implementing?”

Mr. Speaker, the recommendations spoke to issues, the money assigned to public construction projects and so on should not be corruptly diverted—the Minister spoke about that. At UDeCOTT, a team comprised of chief financial officer and the internal audit department has reviewed the financial procedures and processes of UDeCOTT with the objective of closing gaps and removing all opportunities for corrupt practices where they existed before.

Mr. Speaker, the second recommendation:

“Management roles should only be performed only by experienced persons, who should be motivated to take positive and pro-active decisions...”

Mr. Speaker, at the UDeCOTT—an organization-wide job-analysis exercise was conducted with all job descriptions and persons’ specifications. This ensures that relevant skills and qualifications needed for each position will be duly noted when recruiting, either internally or externally. The chief personnel officer and the HR committee shall be following this procedure when recruiting.

They have also put in place training and development programmes to upgrade skills of our persons there.

Mr. Speaker, recommendation 3:

“There must be proper definition of the tasks and functions to be undertaken by project managers. Where separate roles are to be performed by different managers, there must be clear delineations between the functions of...parties...”

Mr. Speaker, at the UDeCOTT, general conditions of the FIDIC 1999 pertaining to engineering and client consultant model service agreement are in place. Project management service documents issued by UDeCOTT, Mr. Speaker, they have been issued on December 14, 2011.

Recommendation 4, it speaks to:

“Good project management...”—again.

I do not want to read out all the recommendations in detail; they are in the report. Relating to recommendation 4, the policy and procedures document has been issued on December 14, 2011.

Recommendation 7 relates to UDeCOTT again.

“The provision of utility services should be properly planned and co-ordinated...to avoid such services being unavailable on the completion of projects. Procedures should be put in place to facilitate the efficient co-ordination of all utilities...”

Public Procurement Bill, 2014
[HON. DR. R. MOONILAL]

Friday, July 04, 2014

At the UDeCOTT the project managers through the programme director, chief construction engineer, inform the utility companies of new projects assigned to UDeCOTT, and facilitate planning requirements for the provision of these services.

UDeCOTT project managers continue to liaise with the utility companies during the design/build stage, and also during approval stage. In the case of design/build projects, the designers do the following-up on the approval process with the utility companies.

Mr. Speaker, recommendation 8 deals with value for money. The programme director liaised with the legal department to review appropriate penalty provisions to be included in RFPs to ensure that there is value for money. We received formal instructions from the programme director, legal head. These are included for any approved recommendations made by the board of directors.

Mr. Speaker, recommendation 9 deals also with value for money.

Recommendation 10:

“The employment of foreign contractors and consultants, when appropriate, should be accompanied by appropriate programmes for training of local personnel, both in construction techniques and extending into design management issues...”

Mr. Speaker, the programme director, chief construction engineer and project managers at UDeCOTT monitor foreign consultants and foreign contractors to ensure that the training of local professionals is done.

The training of the end users personnel for the maintenance of the facilities is presently being done through contract administration. A performance appraisal of foreign consultants and contractors is implemented when there are specific foreign contracts awarded.

Mr. Speaker, in passing I can tell you, at the San Fernando Teaching Hospital which we built as a partnership with an Austrian construction company, locals are skilled persons. Local labourers, in some cases and other skills, work side by side with foreigners, and today some of the most technical jobs in building and fitting out hospitals can now be undertaken by local persons in Trinidad and Tobago.
[*Desk thumping*]

Mr. Speaker: Hon. Members, the speaking time of the hon. Member has expired.

Motion made: That the hon. Member’s speaking time be extended by 30 minutes. [*Hon. E. McLeod*]

Question put and agreed to.

Hon. Dr. R. Moonilal: Thank you. Mr. Speaker, another sensitive recommendation for housing and other projects in Tobago. In Tobago, arrangement should be put in hand to transport and stockpile materials for more economic provisions to the construction site. Mr. Speaker, as you know, we have also had complaints over the years that in Tobago building materials have a way of walking away. They get up and they run away from a construction site.

Mr. Speaker, UDeCOTT in response to that recommendation: Our programme director, chief construction engineer and project managers upon receiving instructions of a breach of contract regarding the timeline agreed to by contractor for completion of a project, and any other breaches that may arise, the legal department would notify the contractor in writing of UDeCOTT's intention to initiate legal proceedings against the contractor. The said letter would include an option for settlement with UDeCOTT. If a settlement cannot be had, legal action will be undertaken.

So, Mr. Speaker, at no UDeCOTT project in this country we expect gravel and sand to walk away and find themselves on other private construction sites and so on. That is not something we expect that will happen under our watch because of the implementation of recommendation 12.

Mr. Speaker, recommendation 13: Sites for housing and other projects:

“should be appropriately surveyed and detailed plans for siting of houses drawn up before contracts are tendered.”

Mr. Speaker, at UDeCOTT—and I might say at HDC—we ensure that all site investigation surveys are done prior to tendering of all projects. As far as housing is concerned, this is done in close liaison with the board.

Mr. Speaker, I want to say again in passing, we have just visited a few days ago a massive housing complex in Princes Town that was started by this administration. How many houses?—500 housing units at Fairfield Estate in Princes Town. I think the contractor is NH construction. And you know what they told me there? They said, this is an HDC site with a difference. I say, “Well the houses are beautiful and so on. It looks very nice”. They have kept the topography beautiful, hill and hollow and so on. They say, “no, no, is not that we talking about, you know. This is a site where we have all approvals before. We did not build the houses and then go for approval after”. There are sites in housing in this country, Mr. Speaker, that do not have any approval at all. “Doh” have EMA approval. “Doh” have building approval, have no approval. No, Mr. Speaker, that is why today we have this problem that we have to shift, to move ownership title to the HDC.

Mr. Speaker, in Princes Town, Fairfield, I am told that all approvals are in place—Town and Country Planning, local government approval, T&TEC, WASA. So when we are finished with our 500 units, you have units with all your approvals. And that is a first for Trinidad and Tobago and the Housing Development Corporation. [*Desk thumping*]

Mr. Speaker, other proposals in the Uff Commission deal with rules requiring signed or formal contracts should either be enforced, amended or ignored—but not ignored—sorry. This continues, and we have outlined a policy between our procurement department and tenders committees.

Mr. Speaker, we are linking now our procurement department to our tenders committee. And the tenders committee is far and apart from the board, where you expect political appointees to be. So that everything is done in its own pigeonhole. We do not overlap. This is why we do not have this bacchanal with board members and this committee and that committee and so on because of the implementation of recommendation 14.

Recommendation 15:

“...contracts must not be let without adequate security being available in the event of failure or insolvency of the contractor. As a minimum there should be a secure right of recourse exceeding the aggregate of all sums paid to the contractor.”—at UDeCOTT.

In accordance with local industry standards, agreed to by the associations such as the JCC and the Contractors Association, UDeCOTT already collects a bond covering advances paid towards mobilization and a performance bond, each bond covering 10 per cent of the contract sum. UDeCOTT shall also only be paying out money for works actually completed and certified by the engineer of record who is now required by UDeCOTT to carry appropriate indemnity insurance.

3.30 p.m.

Mr. Speaker, all of that is to protect taxpayers' money. Additionally, the high interest rates and the need for a collateral required by the banks in Trinidad and Tobago is being addressed. This would make it extremely difficult for local companies to participate in our projects if we insist on higher levels of security. Under the circumstances UDeCOTT believes the measures in place provide the

Corporation with adequate security.

You see, Mr. Speaker, at the UDeCOTT and at the HDC, we do not go with OJT contractors. You know, Mr. Speaker, I want to say, the former administration had this way, with taxpayers' money, you bring in contractors who have no proven record in building houses, building any building for that matter and, because you have some other intention—I do not know what the intention is—you give contracts to people; you give them five houses to build, they build half a house and they leave it at that; five years later you are struggling, and you pay out the money for five houses, eh, you do mobilization payment for five houses, you end up with a half of a house; you are struggling to change contractor, money gone, contractor gone, the contractor in question is a good teacher who never built a house, the contractor in question is a retired friend of somebody. Mr. Speaker, that is what obtained before us.

Today, we go through pre-qualifications for large contractors; we go through “pre-qual”, even for the smaller, what we call, “infill contractors”. Mr. Speaker, people come up to me all the time, “I want to build house.” Well, you know in my job, anybody who come up to me is either they want a house or they want to build a house. Everybody. That is how it is. People come up to me and want to build house, I say, “Very nice, have you built house before? Yes, we build house.” Good, well there is a system, you have to prequalify. “Well, we cyar get into that.” “Why?” Because there are stringent rules and regulations to get into that. You just cannot pop up by the door. You know the Minister, “we building house”. It does not work like that.

Hon. Member: It used to work like that.

Hon. Dr. R. Moonilal: It used to work like that. Today, even for the smallest amount—at the UDeCOTT—the same thing.

Mr. Speaker, there are some people, with great respect, they build a bus shed, but they would come “by we now and say, well, you building a fire station, we want to build the fire station”. Building a fire station, these are technical things, international standards. If you put a post in the ground, two treaties in Geneva and London, you need to consult when you are building fire stations. [*Laughter*] But they think it is a shed. But, formerly that was how it operated. Today, you have to put the contractors with proven records, and it means sometimes new people cannot easily break in to the system. That is a downside, which you try to help, but it is taxpayers' money. Those assets go by the tune of \$80 million. “That is not hundred dollar thing you doing.”

Public Procurement Bill, 2014
[HON. DR. R. MOONILAL]

Friday, July 04, 2014

At the EMBDC we also have a system in place, large contractors, medium, small, and we tell people, contractors, “play in their section”. If you are a small contractor, operate in that domain, “doh watch nobody else”; if you are a large contractor, try your best not to get into anybody else’s domain.

But, Mr. Speaker, as we go along, always there are challenges once you are dealing with procurement, you are dealing with accountability, transparency, there will be challenges, because people will find ways and means, you know. So, we always have challenges, and so my colleagues opposite, sometimes they come and my friend, from Chaguanas, of course, he comes. He may come later in the day with another mark to “buss” of some contractor buying a Rolls Royce or a Jaguar or something like that, and all of that is fine.

That is fine, we do not bother with that, but if there are issues of procurement, we insist that there is a tenders committee. We insist that UDeCOTT, EMBDC, HDC, that the tenders committee decides, makes recommendations. The board decides. Legal advice is sought. At all these companies, pursuant to the Uff Commission requirements of tightening these institutions, anytime in doubt, consult lawyer; get legal advice on what you are doing, because it is taxpayers’ money.

Mr. Speaker, I want to continue with my recommendations because they are a lot to read out here. But the people at HDC will be very upset if I spend my entire time with the recommendations for UDeCOTT. I just want to move to the HDC.

Mr. Speaker, 16 recommendations apply directly to the HDC, and I am proud to say, all 16 recommendations of the Uff Commission have been implemented at the Housing Development Corporation. [*Desk thumping*] All 16, I have my report. And let me say something else as I am passing, because my friend the Member for Diego Martin West will be happy, he will be elated to know that pursuant to the passage of the Housing Development Corporation Act—I think my friend opposite, I am not sure if he brought that to Parliament or not, but he was around at the time when we moved from the NHA to the HDC.

Dr. Rowley: I was around?

Hon. Dr. R. Moonilal: You were in and around the block somewhere.

Dr. Rowley: I piloted that Bill.

Hon. Dr. R. Moonilal: Oh, Mr. Speaker, he piloted the Bill. [*Interruption*] Well, good for you.

Mr. Speaker, the captain and the pilot was involved in that. [*Laughter*] Well, I would be happy to let you know, and you know the Bill, you piloted it. It

provided for a pension plan to come into effect two years after you piloted. It was only two days ago that the new pilot implemented a pension plan for HDC workers. [*Desk thumping and laughter*] HDC workers, we signed their pension arrangements which—[*Interruption*] Mr. Speaker, he says it took some time. [*Laughter*] We will ask him to check on that Malaysian plane, but I want to say to you, in 2006, they passed the Bill. The pilot is opposite. They said in that Bill, “two years after coming into effect”, but the pilot was evicted. [*Desk thumping*]

Mr. Speaker, the Member for San Fernando East pressed the eject button and the pilot left, and [*Laughter*] since 2006 that remained. It was this week under this pilot that we signed the pension plan for monthly-paid and daily-paid workers, [*Desk thumping*] pursuant to the Bill he passed in 2005 or 2006. What are these fellas, Roget and them, saying about that? Pension—HDC, and I want to come back to my Uff Commission, they want to distract me, eh.

Miss Mc Donald: “Yuh fraid Roget”—[*Inaudible*]

Hon. Dr. R. Moonilal: Madam, on the political platform, we will deal with him. We will not bring the Parliament into that language I wish to use. This is not for Parliament.

Miss Mc Donald: “I find all yuh taking long.”

Hon. Dr. R. Moonilal: On the political platform—we have the file. We will deal with him.

Mr. Roberts: We are not afraid.

Hon. Dr. R. Moonilal: No, we will deal with him, because, you see, Mr. Speaker, that gentleman is supporting the Member for Diego Martin West. I do not know if he has stopped supporting him now, but was supporting the man and talking about governance and fair play and good governance, while he nearly caused a fatal injury.

Mr. Roberts: Shhh.

Hon. Dr. R. Moonilal: All right, “ah finish, ah finish”. Mr. Speaker, leave that for the political platform, let me get back to the HDC matter. Recommendation 76, 77, 78:

“The Housing Development Corporation...should clarify and make public its rules for the procurement of housing development projects.”

Mr. Speaker, pursuant to the powers conferred by the Act in 2005, the board of the HDC has made tender rules. These rules are adhered to in the HDC’s

Public Procurement Bill, 2014
[HON. DR. R. MOONILAL]

Friday, July 04, 2014

procurement process. These rules are available at no charge to members of the public from the HDC office. If you go into the HDC office, say, “I want your rules”. [Interruption] Mr. Speaker, I will confirm the year, but I am sure it was not 2006.

Hon. Member: What year?

Hon. Dr. R. Moonilal: No, the Act is 2005, Sir. [Inaudible] Yes, pursuant to the Act.

So, Mr. Speaker, the Act was adopted by the Parliament, but not implemented. Clearly, we had to come and implement the pension, implement the public access to tendering rules and so on. You can go and pick it up now.

“Procurement rules for housing development”—recommendation 77—
“should ensure that, in respect of land not in the ownership of the HDC or other employing agency, adequate security exists in respect of any monies to be paid on account of work carried out by the contractor.”

Mr. Speaker, we implemented that recommendation.

The HDC requires as a precondition for entering into all construction contracts, that the contractor provides the required security including advance payment guarantees and performance bonds which are valued at 10 per cent of the contract sum. HDC has also embarked on an aggressive programme to have any outstanding lands on which HDC projects exist to be vested in the HDC.

In fact, since 2010, with the good cooperation of the Attorney General, 26 sites have been vested in the Housing Development Corporation.
Recommendation 78:

“Procurement rules for housing development should ensure that...”—a formal contract is in place, complying with minimum prescribed standards of formality before any money may be paid.

Mr. Speaker, this is a disgraceful matter to come to now. Under this former administration, a high operative at the HDC would call a contractor and say, “How much units you building there? How much?” He say, “50”. He say, “no, no, no, I talk to the boss, make it 100.” That is how they conducted business. They would go on a site—a former operative there—he see the contractor, they building apartments, three floors, he say, “Look, you could do more, man, put up ah next floor.” [Laughter] And they conducted their business like that, Mr. Speaker.

Mr. Peters: That is an “extempo” builder.

Hon. Dr. R. Moonilal: Yes, they were “extempoing”. That is why Las Alturas in Morvant, \$16 million have to blow up; Member for St. Joseph, that would hurt your heart—[*Interruption*—what he say?—So what? [*Interruption*]

Sixteen million dollars at Las Alturas for a tower done without the geotechnical studies done. Nobody could live in that place. You cannot put dog to go inside there. We will have to blow up that. That is procurement. That is procurement à la PNM.

Mr. Speaker, the HDC today ensures that a letter of award and formal contract outlining contractual obligations of the contractor and HDC is executed prior to the commencement of all works regardless of the value of the works. We state the terms and conditions. Mr. Speaker, there are lands now ready for construction, contractors come to me, “We want to go, we want to start working tomorrow.” I say, “Me?” I call HDC, I say, “What is the slowdown?” They say, “Boss, approvals are not in place, contract administration is not sorted out with the contractor yet.” I tell the contractor, I say, “Boy, you hold on, you know. Hold on.”

I have a line I share with all the CEOs and Chairmen in my Ministry, “I prefer you are slow than you crash.” And if you deal with these matters and you jump into everything without proper—Mr. Speaker, I want to tell my friend the Member for Diego Martin West—he might have been the pilot there too, I do not know—in Mayaro, Eric Williams went up there in a Princess motor car. He promised the people a fire station in 1964, and then he went by somebody house up in Mayaro for drinks, and today, the Member for Mayaro—look him there—I had to hide from him during the corridor of Cabinet at some time. If I see him coming down one place, I shift and go in a room and lock the door [*Laughter*] because he would come up to me, “What about the Mayaro fire station? What about the Mayaro fire station?” I told him, I said, “Mr. Man, you would get this fire station, just wait, we have to get it right.” I am proud to announce that construction started on the Mayaro fire station. [*Desk thumping*] It started.

Mr. Speaker, we try our best to get it right. You are dealing with about \$90 million there. That is not calling two contractors and telling them go and build a shed and “we go park up a fire engine.”

The Member for Point Fortin, her own administration, did precious little to build the Point Fortin Hospital. Minister Khan has informed me, I have informed UDeCOTT—Mr. Speaker, by the first or second week in August we want to be in Point Fortin turning sod for the Point Fortin Hospital. [*Desk thumping*] Arima

Public Procurement Bill, 2014
[HON. DR. R. MOONILAL]

Friday, July 04, 2014

Hospital, we want to turn sod within a month or two, and, you know, I want to make the point boldly now. There is no project that UDeCOTT or HDC has turned sod for in four years and the project never started. How much time they turned sod for the Point Fortin Hospital? Twice? Three times? Four times? *[Interruption]*

Mr. Speaker, on two occasions they turned sod to build the Point Fortin Hospital, “it doh have a Panadol on the site that they turned”. *[Laughter]* Two times they turned the sod. Under this administration, I have turned sod in UDeCOTT and HDC at no spot and we did not go on to construct. None. *[Laughter]* Because we do not do that. We do not do that at all.

“The Member for Point Fortin getting it good, you know,” she is getting a highway to Point Fortin. I see you pour it, enjoy it with the Member for Tabaquite. A highway to Point Fortin, hospital in Point Fortin, new procurement legislation, *[Interruption]* school, you never had it so good in Point Fortin. Many of my colleagues opposite—I noticed in Morvant, Minister Peters went turning sod for a community centre, they come every week and they complain we are not doing anything in their constituency. When I opened the papers, I see the Member for Arouca/Maloney by a bridge; I see the Member for Point Fortin by a highway; I see the Member for Laventille by a community centre and they complain we are not doing anything for them, and then they come—*[Interruption]*

Miss Mc Donald: “And where you see Port of Spain South?”

Hon. Dr. R. Moonilal: I see funeral in Port of Spain South. *[Laughter]* Mr. Speaker, in HDC—procurement rules, Mr. Speaker. Let me get back to procurement, procurement is the matter, ma’am.

Miss Mc Donald: Not you, I want him to answer me.

Hon. Dr. R. Moonilal: “Contracts for housing development should contain provisions”—*[Interruption]*—Mr. Speaker, I want to speak on procurement, please.

3.45 p.m.

Mr. Speaker, contracts for—how much minutes I have extra from the normal—

Mr. Speaker: You have until 3.54 p.m., nine more minutes.

Hon. Dr. R. Moonilal: Mr. Speaker,

“Contracts for housing developments should contain provisions for liquidated damages to be payable in the event of delay by the contractor...”

That is Uff Commission recommendation 80. The FIDIC contracts used by the HDC contain provisions in the appendix to tender for delay damages which state how much is payable each day to the HDC, for a period beyond the contractual completion date.

There is a particular site I believe, in Carlsen Field, if I am not mistaken, where we had to move a whole contractor away from a site and bring in a new contractor because of delays. “Contractors get job, hot and sweaty, they happy, they cannot complete the job.”

Mr. Speaker, let me tell you something, cleaning up the mess of this PNM was not an easy task, you know. It was not easy. And we continue, it is not easy, you know. On a next occasion I will tell you about Pan Trinbago Headquarters, “where two floors are for normal size and the third floor is for midget playing pan. The third floor is for midget, two floors for normal size”.

I will tell you about the gas to liquids in Pointe-a-Pierre. Let us talk procurement, Member for St. Joseph. Gas to liquid building, \$400 million gone there.

Mr. Roberts: So what.

Hon. Dr. R. Moonilal: So what. Pan Trinbago Headquarters, about \$40 million gone.

Mr. Roberts: So what.

Hon. Dr. R. Moonilal: Las Alturas, \$18 million to destroy—“so what”, they say. Brian Lara, cost overrun on the Government—and I want to tell you about the Government Campus. Today, I am happy to report we have outfitting contracts at the Government Campus where we will have space there by the end of this year, for several Ministries. We have started the outfitting. [*Desk thumping*]

Mr. Speaker, my friend from St. Joseph forgot when we came into Government we had a sinkhole of about \$25 billion in the Clico and Hindu Credit Union. If we did not have to deal with those billions in Clico and HCU we might have outfitted the building about four years ago. [*Desk thumping*] When I went to Minister Dookeran, I said, Minister Dookeran we have to outfit all these buildings, like a million square feet of area. He said I want to help you. Clico, HCU—we were owing. When we came in they left us at the dinner table. You talk about, what, “bequited” or “bequetted” or something—

Mr. Roberts: Bequeath.

Hon. Dr. R. Moonilal: “Yes, tell us what we bequeath, what they bequeath we.” You left us at the dinner table with the bill. [*Laughter*] When we arrived in Government, “contractors collar us at the Diplomatic Centre, push me in a corner and say we owing them \$5 billion from what they build for you”. You left the party without paying the bill.

Mr. Speaker, the Member for St. Joseph knows sometimes you go for dinner and the bill comes and your colleague, at that time he wants to go to the washroom, [*Laughter*] just when the bill is upon you. This is what they did to us. They never came back, we had to pay \$5 billion there. [*Desk thumping and laughter*] \$25 billion in Clico. And then come to tell us, “What happened to the space we left?” We bequeath this, we bequeath that, we bequeath that, what did you bequeath?

Mr. Speaker, I have two matters here in the few minutes—five minutes.

Mr. Roberts: Six minutes.

Mr. Speaker: Six minutes.

Hon. Dr. R. Moonilal: Six minutes. Mr. Speaker, I have two matters here that I can raise easily with you and I will tell you the matters right here. What we bequeath, let me tell you what you bequeath. You go and rent a building, Ramsaran Street in Chaguanas, No. 74. Rent a building, they took a building by Cabinet Minute in 2005, Cabinet approved. The expenditure of \$7 million to outfit a building which they were renting for \$120,000 a month. Mr. Speaker, when we checked the records, the building was not completed. The building was just not completed. They were renting it for the Judiciary. And then, if that was not good enough, there was a complaint that they did not provide funding for that building.

Mr. Speaker, there is so much things I could say about this, but I want to get on to a next one quickly, and that is One Alexandra Street—

Hon. Members: “Ohhh lawd.”

Mr. Roberts: Al-Rawi, boy.

Hon. Dr. R. Moonilal: Mr. Speaker, One Alexandra Street, on the eve of the general election in May 2010—on the eve of the general election in 2010, they came to Cabinet to approve rental of this property—on the eve of the election. A property to be rented in the tune of over \$800,000 a month—[*Interruption*]

Mr. Roberts: “Ohhh good.”

Hon. Dr. R. Moonilal:—while this property was refused planning permission development to develop. A notice of refusal of permission to develop land, 45-46 St. Vincent Street.

Mr. Roberts: Al-Rawi.

Hon. Dr. R. Moonilal: It was refused planning permission. Records show that the building site does not conform to the required site for developmental standards and the drawings provided. And they went to Cabinet busy. They talk about section 34, this is section 34. They went busy. Even for this property, the Town and Country Planning indicated in a letter on March 11, 2013 that they have no records to show that there was a change of use granted for this building, Mr. Speaker. So when we did our checks this is what we found.

Hon. Members: So who is the owner?

Hon. Dr. R. Moonilal: The owner of the property, NJ Nahous Investments Limited. And in an email—I give you this one to leave, in an email dated—you like email, I know that—Thursday, August 12, 2010, between the property head at the Ministry of Public Administration, to legal head, Mr. Speaker, in reference to One Alexandra, they said in October 2009, Cabinet approved the lease rental for a period of five years.

Mr. Roberts: What!

Hon. Dr. R. Moonilal: At a rental of \$866,000.

Hon. Members: Wow.

Hon. Dr. R. Moonilal: The Ministry took possession, 2009, but, Mr. Speaker, remarkably there was a Cabinet decision in 2010. The Ministry took possession before, but Cabinet decision came after. But this one is what I like. The draft lease was submitted by the landlord and in bracket, Faris Al-Rawi is who I have been dealing with.

Mr. Roberts: “Ohhh lawd.”

Hon. Dr. R. Moonilal: The Ministry of Local Government expressed serious reservations about the cost of the rental of this building. The head of legal said, “The person I was dealing with is Faris Al-Rawi.” It is who he is dealing with.

Hon. Members: That is the one who is in the Senate?

Hon. Dr. R. Moonilal: That is the one, Mr. Speaker, who walks around town with a towel in his pocket, on TV every morning, is the co-host of a morning show. Every morning he is co-hosting a morning show on TV with “ah towel in he

pocket”, and is an expert on everything. One Alexandra—today, if we cannot, if we have difficulty outfitting that building it is because that building itself never received proper approvals. [*Desk thumping*] We are not sure if you go in there, I do not know if the walls are straight or not straight, I am not saying anything about that, these are technical matters.

We have had problems with outfitting that, Mr. Speaker, because of the delay in approvals. At almost \$1 million a month, the Cabinet on May 19—no, the 25th, the 24th was an election, 23rd, 22nd would be weekend. That is the week—Thursday—when they should have been campaigning to save their necks, they rushed to Cabinet, they rushed—Member for St. Joseph you hear that, they rushed to Cabinet when they should have been trying to save their seats. “If they did take that Cabinet out, they might ah get a seat again.” And they rush to give Faris Al-Rawi a rental accommodation in Port of Spain, five days before a general election. That is the governance they speak about. But, Mr. Speaker, much, much more I will say on another occasion. [*Desk thumping*]

Mr. Jack Warner (*Chaguanas West*): Thank you, Mr. Speaker, and I want to say that everything I heard from the last speaker in the last few minutes was really a rehash of things said already, time and time again. And the fact is that this Government came in to correct those perceived excesses or wrongs. But no one expected that you would remove one evil by another evil that is even twice as worse as the one removed. [*Desk thumping*] And that is my point, Mr. Speaker, but I will not spend too much time on those issues which are at the public domain for time immemorial.

I want to say two things however, of the last speaker. And the first thing I want to say is that—and let me make it quite clear, that the Member for Diego Martin West can speak for himself, of that I am sure. But I do not think it is fair to say that, because you have a clause in the Equal Opportunity Commission that talks about frivolous applications and the penalties, that is synonymous with whistle-blowing. It just does not make sense.

Dr. Rowley: It makes sense to him.

Mr. J. Warner: But it does not make sense. And to come here and tell us and to see people thumping a table and thumping the desk and to say to this Parliament that the Equal Opportunity Commission has a clause about vexatious applications and that is synonymous with whistle-blowing, something has to be wrong. I am in the wrong place.

The second thing I want to say, Mr. Speaker, Chet Greene. It is unfortunate to bring Chet Greene in this meeting, but I guess the last speaker was acting on instructions. The fact is, Mr. Speaker, I have known Chet Greene for the last 30 years, and he came in December to open the convention of the ILP at the Centre of Excellence. He was then the party chairman and senator. He is now a Minister of Sports, Trade, Industry and Commerce and Culture and so on, and also party chairman—and he came back to, of course, the first anniversary of the party. No one has to tell Chet Greene what to say. He is free to say what he wishes. And if after the Heads of Government meeting in Antigua, these past few days, he is asked to apologize, so be it. And if it is a big issue on procurement, well then fine. If Chet did something wrong on procurement by coming here and speaking, then fine. But the fact is, that has nothing to do with procurement.

Mr. Speaker, it is possibly fortuitous that this Bill has come to us here almost one year after the Chaguanas West by-election. Because, Mr. Speaker, for the Chaguanas West by-election you saw the most brazen, you saw the most boldfaced abuse of the Treasury in the history of this country. And it was a collective abuse by the entire Cabinet, all of them came to Chaguanas West—*[Interruption]*

Mr. Deyalsingh: And St. Joseph.

Mr. J. Warner: And St. Joseph. You are right. It had nothing to do with procurement. Mr. Speaker, we saw road paving taking place left, right and centre. I say again, in Chaguanas West and in St. Joseph for election. To this day, in St. Joseph, contractors have not been paid for paving the roads of St. Joseph.

Mr. Deyalsingh: Correct.

Mr. J. Warner: *[Crosstalk]* I coming to that. In Chaguanas West something called URP Agriculture, where they had 258 projects, 118 in Chaguanas West alone.

Mr. Deyalsingh: Wow.

Mr. J. Warner: At a cost of \$48 million. And the Member comes to this Parliament and says everybody has been paid. And to this day those contractors have not been paid after four audits, including one by the Central Audit, and coming to talk about procurement.

Mr. Speaker, that was the time when every Cabinet Minister in his tinted Prado would come and deliver food cards left, right and centre—*[Interruption]*

Mr. Deyalsingh: And bounce down people.

Mr. J. Warner: Yes, you are quite right. Food cards left, right and centre for election, and talking about procurement. The fact is, Mr. Speaker, I want to say, if ever a Government needed procurement in this country, this Government needs it. [*Desk thumping*] And before I forget, the last speaker was talking about housing and getting, of course, “people coming to him with their five house, getting a half house”. Under that speaker’s reign, the Member for Oropouche East, you have the manager of FCB a company called Nubak, building houses.

Hon. Member: What!

Mr. J. Warner: Building houses.

Hon. Member: Who?

Mr. J. Warner: Nubak Company, N-U-B-A-K Company. The manager of FCB, Chaguanas is a contractor building houses.

Mr. Imbert: FCB in Chaguanas.

Mr. J. Warner: Yes, and I would say on the platform also, yes, FCB again. And he is there talking about contractors giving out house. The fact is, this Government was put there to correct these excesses. I was part of that, Mr. Speaker.

Mr. Deyalsingh: New politics.

Mr. J. Warner: We sprinted into power. We were catapulted into power on the issue of institutionalized—[*Interruption*]

Mr. Speaker: Hon. Members, by agreement, between the parties here, it has been agreed that we should take our tea at this time and resume at 5.00 p.m. Members are anxious to take in a major game, and in those circumstances, hon. Member, we have agreement on both sides that we will have an early tea and we shall resume at 5.00 p.m. So you shall continue your contribution, hon. Member, at 5.00 p.m. This sitting is now suspended until 5.00 p.m.

4.00 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

[MADAM DEPUTY SPEAKER *in the Chair*]

Mr. J. Warner: Madam Deputy Speaker, thank you very much. Before the break, Madam Deputy Speaker, I made the point that the issue of procurement, I

said, has come almost one year after the Chaguanas West by-election, and I showed the point where during that election there was an abuse of the Treasury in the worst possible way. I also spent some time talking about Chet Greene and the meeting in Antigua with the Heads of Government, and then I went on to talk about the fact that if any Government needed procurement, this Government did.

I made the point that in the Chaguanas by-election, 118 contracts were given out for \$48 million with no procurement whatsoever, none whatsoever, and today those guys have not been paid and they have put been out to slaughter, to pasture, sorry, because of the whims and caprices of one man. Madam Deputy Speaker, as late as this week, an engineer called Sebastian was trying to do, again, another audit, 25 per cent, 50 per cent of the work and so on, and that is where we are because, again, no procurement.

Madam Deputy Speaker, in those days I walked through Chaguanas West, Felicity, marching, Monroe Road—and by the way, Madam Deputy Speaker, I want to publicly congratulate the Monroe Road Government Primary School for getting their full 100 per cent passes, 20 out of 20. Eighteen for five-year schools—the best in the country—Hillview, St. Augustine and so on. I want to say that the school is in the heart of my constituency and the principal is Mrs. Jacqueline Warner-Murphy, and her staff I want to say congrats to them.

Having said so, I walked Chaguanas West in those days and was appalled, was appalled I said, at the Ministers in their Prados, tinted glasses and so on, were just squandering the patrimony of this country. Food cards were going like crazy whether we were hungry or not, and as they say again, in St. Joseph too, no different. And to come now to talk about procurement, in the twilight of his stay in Parliament, makes a mockery of this whole situation. I made the point also, Madam Deputy Speaker, and I said, of course, whistle-blowing is not the same thing like the Equal Opportunity Commission and I showed why, and I made the point particularly to—the Member for Diego Martin West can speak for himself and he will in due course I imagine.

So there I was when we ended and, Madam Deputy Speaker, I said also too that if any Government ever needed procurement, this Government did. Because we came—I was there then and I want to say here for the record, I put them here, so I know what I do and I did. They could say what they want, they could run, they could hide, I put them there. *[Laughter]* Madam Deputy Speaker, we came on a wave of trying to correct the excesses of the past Government. We talked about Calder Hart, we talked about Rao, we talked about Ken Julien, over and over. All these people we called, and we did not know—*[Interruption]*

Miss Mc Donald: Ken Julien?

Mr. J. Warner: Yes, Ken Julien also. We called them ad infinitum and we came to do good. I did not know then, as I do now, that we came to exchange tweedledum for tweedledee. I did not know then that we came to move one evil for another evil, as I said before, that was twice as bad. I will tell you why, Madam Deputy Speaker. You heard the Member for Oropouche East say that some Governments took 15 years to have this legislation, and he is boasting—on his back and so—patting himself, it took them four years. Madam Deputy Speaker, he has missed the critical point. It should not have taken four years because that was the major issue upon which we came into Government. Corruption, state-sponsored corruption, institutionalized corruption, we came on that issue.

And the second thing, if other countries already have this system of procurement as an Act, all we have to do is to look at what they have, extrapolate from them what we need for here and make an Act. So to say they took 15 years and you took just four makes no sense to me. But the fact, if we took four years to do it, all these four years, what were we doing to show our scorn, our concern, that there is no procurement policy?

Madam Deputy Speaker, I have a record—and you know, my friend, the Member for Oropouche East, says that every week—he said fortnight as if he does not know—the *Sunshine* “bussing mark” and so on. I want to tell the Member for Oropouche East and the entire bench on that side, that *Sunshine* is only relevant because of them. [*Desk thumping*] If you have no “mark to buss”, Madam Deputy Speaker, there could be no *Sunshine*. If there was no “mark to buss”, the “Sunshine Hour” would have flopped, would have been a failure.

Mrs. Gopee-Scoon: But you “bussing mark” on we.

Mr. J. Warner: [*Laughter*]

Mrs. Gopee-Scoon: “Doh worry, doh worry.”

Mr. J. Warner: All right, all right, all right. Madam Deputy Speaker, if there was no “mark to buss”, the programme, “The Game Changers” on 102.1 would not have been successful. If there was no “mark to buss”, the programme “National Consultation with the Public” on new 97.5 would have collapsed, and do not forget I say the “Sunshine Hour” on 91.9. These shows are successful, and the paper too, because there is “mark to buss”. So let me “buss” one more today, and now, as I am on my feet.

Madam Deputy Speaker, I want this House to tell me if this Government was so concerned about procurement—[*Interruption*] “Aye, aye, aye, please!”

Mr. Imbert: Colombia score.

Mr. J. Warner: So what happen? Colombia is for the Member for D’Abadie/O’Meara, not you. [*Laughter and desk thumping*] Sorry.

Tell me, Madam Deputy Speaker, how in four years a company that in 2010 was virtually bankrupt, in less than four years could get \$2 billion in Government contracts. Let me read them out for you because this company has 52 companies, you know, and takes part in bid rigging and so on, known to all of them, and I will talk about the kickbacks just now. Right.

Madam Deputy Speaker, listen to this for the *Hansard*. I will take my time for the *Hansard*. The projects named:

1. Design and installing of 59 hydrological stations to upgrade WRA’s hydrological network: company it is given to SIS; employer, WASA; contract sum, \$1.6 million.
2. Tender for the design/build services for the National Development Centre for Persons with Disabilities: company, SIS; employer, CISL; amount, \$12 million.
3. Design, supply and installation of pre-engineered buildings at Febeau Village Government Primary School: company, SIS; employer, EFCL; amount, \$15 million.
4. Design, supply and installation of pre-engineered buildings at New Grant Government Primary school: company, PWFL—PWFL means Phoenix Welding & Fabricating Limited, company SIS. So PWFL gets the contract from EFCL for \$1.5 million.
5. Design/build services for potable water and waste water system at the Sangre Grande Hospital: company it is given to, SIS; employer, Eastern Regional Health Authority; contract, \$3.5 million.
6. Motor Vehicles Authority: company given to, SIS; employer, NIPDEC; \$202 million—and that will go up just now.
7. Malick Secondary School: again, company, SIS; employer, EFCL; \$1.7 million.
8. WASA—Lange Park waste water treatment plant: company given to, SIS; by whom, WASA; amount, \$6.8 million.

9. Upgrade work to the Irwin Park recreation ground: PWFL, again, that means Phoenix Welding & Fabricating Limited; given to them by who, the Sports Company; amount, \$100,000—that small.
10. Upgrade works to the Penal recreation ground: the company given to, PLCL. PLCL means Point Lisas Construction Limited which is, again, a part of SIS.

Mrs. Gopee-Scoon: A subsidiary.

Mr. J. Warner: A subsidiary of SIS. Who gave them the contract, Madam Deputy Speaker? The Sports Company. For how much? One hundred and thirty million dollars. I am halfway through, you know. I am halfway through and this is only—ah coming just now.

11. Refurbishment of Arima Wastewater Treatment Plant WTC 88/202: company given to, SIS. By whom? WASA; \$8.4 million.
12. Couva-Preysal interchange landscaping & beautification: company given to, PLCL. By whom? National Gas Company; \$25 million.

Mrs. Gopee-Scoon: Landscaping?

Mr. J. Warner: Landscaping honey, \$25 million. These are things that do not come here and you want to talk about the procurement, and to come here in the last months, 10 months before you leave office, it is better to fool people, but I am not finished yet. Let me continue.

13. Lower Cumuto recreation ground: PPMDL, again, a branch of SIS and the company was given it by NGC for \$9.5 million.
14. Dubisson Park recreation ground: PPMDL—subsidiary of SIS—given by NGC—NGC, you know, grounds—\$5.4 million.

Mr. Deyalsingh: To do what?

Mr. J. Warner: To do what?

Mr. Deyalsingh: To cut grass?

Mr. J. Warner: To cut grass.

15. Gasparillo Park recreation ground: PPMDL; given to them by NGC for \$3.2 million.
16. Exchange recreation ground: PPMDL; given to them by NGC for

\$500,000. No, sorry, for \$5 million.

17. Corporate campus: given to PPMDL, again by NGC—NGC is a Ministry now, you see—for \$500,000.
18. California youth facility: given to Midway Company.

Midway company is one of the companies called Midway Construction Limited of SIS.

Mr. Imbert: Midway?

Mr. J. Warner: Midway Construction Limited. [*Crosstalk*]

Miss Mc Donald: Member for St. Augustine, you know all of that?

Mr. J. Warner: Well I will give you a copy because do not mind they call you the 3 per cent political leader, you cannot be part of this. You cannot be part of this. You cannot be.

19. California youth facility: given to them by NIPDEC for \$5 million.
20. Los Bajos youth facility given to Midway Construction Limited by NIPDEC for \$2 million.

And, of course, Madam Deputy Speaker, the Beetham Wastewater Treatment Plant which I was dying to talk about on Private Members' Motion that day, I am dying to talk about it. I have the facts here. That was given to them for \$1.2 billion.

21. Kanhai Presbyterian Primary School: given to PWFL by EFCL, again, for \$24 million.

Madam Deputy Speaker, the list goes on and on and on and I have more here.

Mr. Deyalsingh: You have more?

Mr. J. Warner: If I have more? But I do not have the time. For \$2 billion, and I am not finished because I called only 14 companies. SIS has 52 companies, and I tell you from a box drain to the Beetham Wastewater Treatment Plant, they want all.

Mrs. Gopee-Scoon: To landscaping.

Mr. J. Warner: To landscaping. Madam Deputy Speaker, I ask you: where is procurement? If you were so gung-ho on procurement, why in the last four years you were not practising this? But you come this year in the twilight of your years

Public Procurement Bill, 2014
[MR. WARNER]

Friday, July 04, 2014

in Parliament, when you have one foot outside the Parliament, you come here to come with a Bill that, of course, has no relevance to the last four years gone past.

5.15p.m.

It cannot make sense, Mr. Minister, but this is not all, Mr. Minister, this is not all. The fact is—I do not mind if it is for election bag and so on, I have heard that too, but the point I am saying to you is, at the end of the day nobody is fooled, nobody is fooled.

Madam Deputy Speaker, look, I have here invoices for work given to SIS in Tobago. They went to Tobago to deliver food cards in the day, ostensibly, and to campaign against the THA in the night. All the invoices here, one employee refused to sign them. A junior clerk signed these invoices and he was paid for them, \$2 million. A junior clerk, look it here. I had planned to go to the Integrity Commission with these things, but I have been before it, it makes no sense. It makes no sense right now. I tired go there. So, I do not even go—[*Interruption*] I am going to *Sunshine*, Member for Oropouche East, and who want to read could read. Look it here.

Madam Deputy Speaker, I have copies of invoices, awards made to contractors, Member for St. Augustine, by the Tenders Board in the Ministry of Works and Infrastructure where the Minister voided the contractor and said give somebody else. I have copies of that and I will publish it, right? I have copies of that, and the list goes on and on and on. I ask myself—[*Interruption*]—I have copies. I ask myself: What have I done? What have I done? What have I done by removing one evil and putting another evil? Because, at the end of the day, we came here to make this country better. We came here because the people of this country were against the PNM. They were against Calder Hart and we came here to correct that, not to create other Calder Harts. That is what we have done. This procurement Bill, which we are going to go through in a few minutes, will not solve the problem. I would tell you why, Minister.

Minister, you know you said, when you came, that you would not accept any amendments to the Bill. I want to say it had a joint select committee, you said it went through the LRC and you said it went through the other place. I want to say to you that I have a political party called the Independent Liberal Party. I am not on any committee in this House, not a single one. So, therefore a joint select committee did not have me; it could not get my views. Chaguanas West is also an important constituency.

Minister, I am not in the LRC, worse yet, Minister, I have no Senator in the other place; therefore, it is wrong to deny me the right to make amendments to this Bill. [*Desk thumping*] I had absolutely nothing to do with this, nothing at all. When I left Claxton Bay at 11 o'clock last night, I went to my house and stayed up all night to go through this Bill and I feel offended that you would tell me that my work was a work in vain, because the fact is I have more than two dozen amendments on this Bill that I would like to put to this House, so I begin here and now.

Mr. Deyalsingh: People of Chaguanas West are irrelevant.

Mr. J. Warner: They are relevant, 10 months from now they will find out.

Madam Deputy Speaker, I go to clause 6(2). Clause 6(2) talks about the rights of innocent third parties. This concerns me because third parties are not so innocent.

You all know that in this country there are people who function as brokers where a lot of contractors are concerned. As such, sometimes contractors get contracts and they have no shovel, no equipment; they do not know what a rake is; they are journalists and so on; they are given to pave roads.

Mr. Deyalsingh: Or a bank manager.

Mr. J. Warner: They are bank managers, giving people houses. That is the contract and they give it to somebody else to do. That person could claim, easily, that they are an innocent party because they do not know about the terms of the contract and so on. I am saying therefore that this presumption of innocence for third parties is wrong. I am against, therefore, the fact that third parties could claim that they had no idea of what transpired. That is wrong.

Madam Deputy Speaker, I go to— In fact, before I even say where I go to, the solution, therefore is—I give solutions. The solution is that contractors, if they have to have third parties, they must say who they are. Therefore, they must say who their subcontractors are and declare them. Therefore, it is in this way, you would be able to, of course, stop the corruption at that level. Right? Therefore, they have to declare upfront. So if a bank manager gets to build houses and so on, he must say who the real house builders are, because I know of no bank manager who could build a house except the one in Chaguanas.

Mr. Deyalsingh: FCB.

Mr. J. Warner: Yes, FCB.

Public Procurement Bill, 2014
[MR. WARNER]

Friday, July 04, 2014

Then, too, Madam Deputy Speaker, I want to go to clause 11(10)—Before I go to 11(10), I want to go to clause 10(b). Clause 10(b) says:

“a member...”

“the Procurement...” so and so and so:

“...who shall be the Chairman;”

and it says:

“a member with qualifications and experience in accounting;”

I find the term “qualifications” to be nebulous, especially these days where guys have all kinds of certificates and we do not know where they come from. So, I would prefer this to say with an accounting degree from a recognized university, as against “qualifications”. We have been burnt already.

Hon. Member: It is too broad.

Mr. J. Warner: It is too broad, it is nebulous. A professional accountant, but to say just “qualifications” says nothing.

Madam Deputy Speaker, I go to (g); (g) says:

“a member with qualifications and experience in any other field relating to procurement;”

That, too, is too open. What that says? That says nothing. Again, it is too broad. Therefore, I am not in favour of that particular clause, right? Even in (h). In 10(h) they say:

“no more than four members who represent the interests of the community, women, youth, religion or civil society.”

Four members, but five interest groups. I would have thought you could have five members opposite the four interest groups, but that mathematical thing is for them, it is for them.

I go to clause 11:

“The Regulator shall be appointed for a term of seven years and is eligible for reappointment, except that he shall not serve more than two consecutive terms.”

This, I am suggesting here, is in conflict with clause 9 and it means that the person involved, the Regulator, after his first seven years could have four years,

and that is not what is intended here.

Madam Deputy Speaker, I go to clause 10—this is a gem.

“The salaries and allowances of the Regulator and other members shall be determined by the Minister...”

by the Minister:

“...subject to the approval of Parliament.”

In the first case, my Member for Port of Spain South will tell you that “shall” in law means the ultimate authority.

Miss Mc Donald: Mandatory.

Mr. J. Warner: Thank you very much, counsel. Shall, in law is mandatory, and to have the Minister determine the salaries of the regulator and the board members is madness. I am saying this is an attempt to possibly bypass the Salaries Review Commission. This is an independent body and it is supposed to do its work. If when this was studied they were arguing with the SRC, that is okay, but do not take it out in the Bill. This should not, at all, be allowed to be in a Minister’s hand. This board, this regulator, is as independent as the Integrity Commission, as the EOC and why should a Minister have this authority?

I continue. I go to clause 13(1). Clause 13(1) says:

“The functions of the Office are to—

- (a) establish a comprehensive database of information on public procurement...”

What is that? What is that, “a comprehensive database”? That is relative. What is comprehensive to one might not be to the other. Therefore, you must spell out including such things as cost overruns, delays, the cost of delays and so on. List what the database will have. Again, it is too vague.

In the same clause 13(g):

“The functions of the Office are to—

- (g) provide best practice advice...”

—best practice advice—

“...in the conduct of procurement activities...”

What is “best practice advice”? What does it mean? What does it mean?

Miss Mc Donald: Nebulous language.

Mr. J. Warner: Very nebulous. Because, in any event, you should have the guidelines long beforehand to tell you about it, but what is “best practice advice”? I do not know. I am saying, again, this is too serious a Bill for this level of nebulous language.

In fact, I did not see anywhere here, Madam Deputy Speaker, any creation of a pre-qualification handbook. I may have missed it, I may have missed it, but one would imagine that you would have had a pre-qualification handbook so Members would know the dos and don'ts and so on that go with this. Nowhere at all, in this, had that been mentioned. About half past two, half past three this morning, I may have missed it.

I continue. On clause 15—this is a joke, you know. How this could pass LRC, the other place, Joint Select Committee? Anyhow, it is not passing the Member for Chaguanas West.

Clause 15(2) has to be an error. Hear what it says:

“The Regulator shall preside and in the absence of both, the member of the Board elected to preside by the other members present...”

—shall become deputy chairman and so on. Something is missing here.

What it wants to say is that the regulator shall preside and in his absence his deputy shall preside, and in the absence of both—I am sure that is what you want to say, but he is not saying that here. Nothing here makes sense because you have not mentioned who is this “both”, b-o-t-h. Let me say it properly, both, both. [Laughter] Who comprises “both”? Therefore, go back to this and correct it, please. You know I have to be particular.

Clause 17(1):

“A member of the Board or a committee who has a direct or indirect interest in a matter under consideration by the Board or committee shall disclose the fact of his interest at the earliest opportunity...”

That makes no sense, “at the earliest opportunity”. That is too general. That should read where the information is available; at the earliest opportunity when the information is available. Totally different. Then the next one clause 17(2)—how this could pass the lawyers, I do not know, because I am a bush lawyer. I have about 25 pre-action protocol letters and I have to attend court for all, and the way the *Sunshine* going I may have 24 more just now, but I am not stopping.

5.30 p.m.

17(2), and listen to this next one:

“A member of the Board or a Committee who knowingly or willingly fails to disclose his interest in accordance with subsection”—given—

“a fine of five hundred thousand dollars and imprisonment for one year.”

Now, I find the fine is high, too draconian, but that is their business if they want to do that, I would not be around in any case for this thing, that is all right. But the point I want to make, Madam Deputy Speaker, “where a Committee knowingly or willingly”, I would like to add the words “or negligently”, because you could say you did not know, but if you were negligent that was why you did not know, then that is your fault. So, therefore, “who willingly or knowingly or negligently”, I would like to ask to be included. Thank you.

I continue, Madam Deputy Speaker, I go to clause 24(2)(a). I am not convinced that it makes sense, Madam Deputy Speaker, and would like the Minister to look at clause 22(a), because I believe that clause 22(a), in terms of the total value of contracts as awarded by public bodies, that I am saying if this is correct, it does not make much sense. Because a guy could get a contract to build a waste water treatment plant, and the fine is \$5 million, that is peanuts as against \$1.2 billion. So this, when you come through this, it does not make sense, but again I say, I could be wrong, check it and see, because this here makes no sense to me.

Under 24(c)(v):

“with respect to the procurement for a project, a brief description, the awardee, the value, the scope of works and the expected deliverables of the project;”

I am suggesting—and lessons learnt as a consequence of the management of procurement contracts—I am suggesting, Madam Deputy Speaker, that you also include a list of all the prequalifiers who did not qualify so as, of course, to alert them and others of where they went wrong, why they did not qualify, that also would be helpful.

In clause 24(3), and this is a gem, 24(3):

“A report under subsection (1) need not include details of contracts less than two million or contracts...”—so and so and so.

Public Procurement Bill, 2014
[MR. WARNER]

Friday, July 04, 2014

Madam Deputy Speaker, almost all the contracts in the regional corporations are just below \$2 million; that is where, of course, they get all the racket and become millionaires overnight. [*Crosstalk*] Madam Deputy Speaker, 1.99 receipts of those contracts are for—and I am saying, therefore, do not put any ceiling—“all contracts”, remove the ceiling of \$2 million; “all contracts”, I am saying, must be reported, and they must include the details of those contracts. I am saying here a big “no”, do not—I will not agree, the Member for Chaguanas West will not agree to excuse any contracts \$2 million and under, put all. Because when you get four at 1.999, it is \$7.6 million, that is four box drains you get, and it is broken up into packages and phases and so on, and so on. We all know about this, right So I am saying again, this is wrong. It should be taken out.

In clause 29(c), it says that:

“A procuring entity shall ensure that suppliers and contractors—

- (a) have the legal capacity...
- (b) are not insolvent...”

But the point I am making here:

“(c) have not, and their directors or officers have not, been convicted of any criminal offence;”

Madam Deputy Speaker, I am saying that this is too broad. A man may do “ah two pull” 15 years ago, [*Laughter*] “ah two pull” 15 years ago, and because of that he is not allowed to be a director. It is too broad.

[MR. SPEAKER *in the Chair*]

I am saying, therefore, Mr. Speaker, that this should be qualified, and put a time frame, 10 years, 15 years as the case may be, but do not let it be open ended, because some people can reform themselves, right, can reform themselves.

Mrs. Gopee-Scoon: Especially when it is “ah two pull”.

Mr. J. Warner: That is correct, if it is “two pull”. [*Laughter*]

Under (f), 29(f):

“meet relevant industry standards.”

As determined by whom? You say that, of course, that these guys can be directors and so on, and they must “meet relevant industry standards”. I ask you, as determined by whom? What criteria are they using? What measurement, Mr.

Speaker, the Committee's or some specific measurement? Whose criteria? This remains unclear and, therefore, I am saying this has to be corrected.

Mr. Speaker, I go to 29(8), I read:

“A procuring entity may require a supplier or contractor that was pre-qualified in accordance with this Act to demonstrate his qualifications again in accordance with the same criteria used to pre-qualify such supplier or contractor.”

I am saying that “may” suggests that the Committee can decide on which contractor, this discussion should be allowed, and which should not be allowed. The word “may”, I am saying again should be “shall” or nothing at all. I am saying again, my counsel from Port of Spain South would tell you that “may” gives you a discretion which you should not have.

Miss Mc Donald: That is right.

Mr. J. Warner: Thank you very much, counsel.

Miss Mc Donald: Member for St. Augustine, you know that too and “shall” is mandatory.

Mr. J. Warner: That is right. And on 29(10), I am saying put something there that tells the contractor what his shortcomings are. He will be none the wiser if he is not told what his shortcomings are and, therefore, put something here under (10), of course, (11) that tells him what are his shortcomings.

I go to 34:

“Where a procuring entity is of the opinion that a submission is abnormally low, it shall request, in writing from the supplier or contractor, details of the submission that gives rise to concerns as to the ability of the supplier or contractor to perform the procurement contract.”

I am saying not “ability of the supplier”, but “the accuracy”, because the fact is, he has given a low bid, and he has to now show and prove based on concerns, how this bid is so low and, therefore, not as to “his ability”, “as to the accuracy of his bid”, and change the word “ability” to “accuracy”.

35 (1)(a) this is a gem, and it says—*[Interruption]*

Mr. Speaker: Hon. Member. Hon. Members, the speaking time of the hon. Member for Chaguanas West has expired.

Public Procurement Bill, 2014
[MR. WARNER]

Friday, July 04, 2014

Motion made: That the hon. Member's speaking time be extended by 30 minutes. [*Mr. N. Hypolite*]

Question put and agreed to.

Mr. J. Warner: [*Desk thumping*] Thank you, Mr. Speaker. Thank you colleague, and those who supported my extension.

To 35(1)(a), it says:

“A procuring entity shall accept the successful submission unless—

(a) the supplier or contractor presenting the successful submission is disqualified in accordance with section 29;”

But, Mr. Speaker, when you go to 29, 29 has (1), (2), (3), (4), (5), (6), (7), (8), (9), (10) subclauses and after 10 subclauses, you have (a), (b), (c), (d), (e), (f). What are you talking about? Which part of 29? 29 is too big a clause. Tell us 29(a), clause so and so, but it is too big. So to tell me, clause 29 does not tell me anything. You have 10 subclauses here and then you have five subparagraphs. Which specific clause are you talking about, or the entire clause? It cannot be, that does not make sense. Therefore, I am saying that is too broad. Turn it down to a particular part of the clause, so to enlighten us further.

Mr. Speaker, I go to 36—just a minute please. You see if I were in the Joint Select Committee, this would never happen. [*Laughter*] If I were a Senator, if I were a Member of the other place, this would never happen; now so, “allyuh” home. 36(1):

“Upon the entry into force of a procurement contract or conclusion of a framework agreement, a procuring entity shall promptly publish on its website...”

What is promptly? What is promptly? Promptly to me, might not be promptly to you. And I am saying, therefore, put a time frame, within 14 days, within a month, but to say “promptly” does not tell us anything, and then to say “on its website or in any other electronic format”, do not say “or”, say “and”. So it is “website and any other” he has, because you want to have as wide information as possible, and in that sense, therefore, I am saying this is needed.

And under 36(2), Mr. Speaker:

“Where the information referred to in subsection (1) is unavailable, a complaint may be made to the Regulator.”

And then what? So you complain, but there are no penalties. So you complain and

then what? Look how many years the Auditor General has been complaining, year after year—[*Interruption*]

Mrs. Gopee-Scoon: Who shall take whatever action.

Mr. J. Warner:—definitely, and say “who shall take whatever action” and tell us, but the complaint is lodged and then nothing happens. I am saying, therefore, that needs to be beefed up, because if not, it means failure will go unchecked and that is wrong.

PART IV, 41(4), I do not know if 41(4)—I will like the Minister, when he is summing up, to tell me, if 41(4) covers false reports to the Regulator by state entities, or if 41(4) is only put in there to complain about bid rigging and irregularities. So, therefore, I need to know if this, of course, takes in the state entities or if this is only for those persons who are complaining about, relative to bid rigging and irregularities. This does not tell me anything.

Mr. Speaker, I go to 48:

“The Office shall not make a report which concludes that a public body or a person has failed without reasonable justification to fulfil a duty or obligation under this Act unless reasonable notice has been given...”

Again what is reasonable notice? I am asking for the Bill to be more specific. The Bill has to be more specific; “reasonable notice” is again, too nebulous.

5.45 p.m.

I go to 49(8):

“The Office may dismiss an application and shall lift any suspension applied, where it is of the opinion that the application is manifestly without merit or was not presented in compliance with the deadlines set out in subsection (2).”

I ask, on what basis would there be no reference to the applicant? Does the applicant not have a right to be heard? Does this not suggest a lack of natural justice? You cannot dismiss an application unless the person has a right to be heard and, therefore, you should have here that after due process, so and so and so, then of course, this happens. But to say it is dismissed out of hand is not giving the person a right to be heard and I again call my counsel, Member for Port of Spain South, natural justice suggests—[*Interruption*]

Miss Mc Donald: That is right.

Mr. J. Warner:—the person has a right to be heard. Thank you.

Miss Mc Donald: That is right. Due process.

Mr. J. Warner: Due process. I mean, this is frightening; very, very frightening, you know; very, very frightening. What I am saying is, we come here today to rush this through the Parliament, hoping to say we achieved 90 per cent of our promises. At the end of the day, I am saying this needs more thought.

I was going through some notes this morning and I want to find out, again, if the Minister could tell me, if the Bill covers when we have a networking of board members who use their offices to influence contracts. I looked and looked here, but I did not see it.

Let me give, for example—I am just giving you this for what it is worth—Mr. Speaker, there is a member on the payroll of Phoenix, he drives an SIS vehicle. That same member is a board member on NEC and NGC. That same member used to be also at PTSC as a board member. When SIS got the contract to bring in 100 buses, he then moved from that board and went to NEC and NGC.

I am asking—his name is Gordon N. P. Ramjattan. He works for SIS. His card tells you—I have his card here—his card says—this is his call card; it says, Gordon N. P. Ramjattan, President and CEO of Phoenix Project Management and Design Limited. SIS.

Mr. Deyalsingh: Which is a subsidiary of SIS.

Mr. J. Warner:—of SIS. So he goes from board to board. He goes to PTSC board. SIS got 100 buses to come in. He leaves PTSC; he goes to NEC; he goes to NGC; he works at Phoenix. Mr. Speaker, does this cover that? Yes, they get billions of contracts. That is correct. How this happens?

Mr. Speaker, another one at CISL, a fellow called Joe Ramkissoon. He is chairman of CISL. Mr. Speaker, I hate to say it. Joe is my friend, but it is wrong. So Joe Ramkissoon from CISL. CISL gives the National Disability Centre to be built by SIS. Who is the chairman of CISL? Joe Ramkissoon. Who he works for? He works for SIS and his office is on Kinow Street, Chaguanas. How does this Bill cover that?

Mr. Speaker, another one called Gulab Maharaj, a board member of RBC. Gulab Maharaj even has an SIS vehicle and he, of course, gives, again, contracts to SIS while they are on the board. These board members, Mr. Speaker, they are rotated and, in fact, sometimes they are told, even before they get the appointment, what board they are going on. I ask you, Mr. Speaker, how could

this be right? What does this say in terms of procurement? Mr. Speaker, this is—boy!

Mr. Deyalsingh: You have more?

Mr. J. Warner: If I have more? But you see I do not want to rob *Sunshine* of anything. [Laughter] *Sunshine* has to sell, you know. “If I ha more.” Mr. Speaker, in a nutshell, I cannot say more because, you see this here, this is scandalous. This piece, this is scandalous.

I want to say here this afternoon that I was part of a Government that came to change the country for the better. I honestly felt that when I worked diligently to do that, I was doing the correct thing. I walked throughout the length and breadth of this country and I made sure, at every turn, that I was very critical of the levels of corruption, whether real or imagined, that was out there in the public domain. I never thought that we would have reached the stage where we are today. As such, I said it outside when I apologized to the nation for the error I made. I want to put it in *Hansard* now.

I apologize for the error I made because I genuinely thought that when I did what I did in 2010, I was doing it for the better of this country and the legacy we would have left would be a legacy for our children and our children’s children, that would make us proud.

Let them cuss me about FIFA if they want, Mr. Speaker, and Concacaf. One day Concacaf and FIFA will cuss me for them, but right now Concacaf and FIFA “aint even care bout me”. So let them cuss me for Concacaf and FIFA.

Today, the Members here rushed to see Brazil. I could not be concerned about Brazil because I made a break there and then that I had to come here to let my bucket down to do what is right. Mr. Speaker, I tried, I failed, I formed the ILP to try again. I thank you. [Desk thumping]

The Minister of Legal Affairs (Hon. Prakash Ramadhar): Thank you very much, Mr. Speaker. I want to congratulate the Member for Chaguanas West on his very entertaining style—[Interruption] No, no, I say that with all due respect—to issue a long line of comment and statements and we accept, without any confirmation, a lot of what was said as fact and, if there is any wrong that has been disclosed by the Member, then I think that those wrongs must be investigated and be rectified. [Crosstalk]

They may steups; they may fret; they will complain, but this Government, under Prime Minister Kamla Persad-Bissessar—and the Member for Chaguanas

West will well remember the many times the Prime Minister warned her Cabinet that if there is any element of impropriety or corruption found in any Minister, they shall have to leave the Cabinet and the Prime Minister has acted repeatedly. So while others may complain and they may grumble, this Government came in on a promise to fix the wrongs of the society and today marks a significant step towards doing just that.

Mr. Speaker, you know, I do believe in rebirth and reform and it is important to learn that it is a possibility that yesterday was in fact yesterday; today is today and tomorrow shall be tomorrow. However, there must be consistency in the actions of one if one is to be believed.

I remember early in our administration—and I am sure the Member for Chaguanas West may have done things with the best of intentions, but certainly not with the best of process. I recalled, as he was speaking, an issue where a contract for, I think, \$80 million or \$90 million was awarded at the airport for, of all things, the provision of lights, which would have been very important and necessary. But what I do remember and maybe I am wrong and maybe my friend, the Member for Chaguanas West might correct me if I am, that there was no process that was susceptible to transparency in the award of that contract. Indeed, the Prime Minister herself had to recall that award and have it done in the right and proper way. That was but one example early in our administration.

I do recall the issue of the procurement of the planes, the ATRs, which was subject to a lot of uncertainty and in some quarters suspicion, a billion-dollar expenditure. I am hearing now the provision of work and a name has been repeated often in this Parliament, but I have heard nothing about whether the process by which that work was granted was subject to any proper procurement process or that it was not. It is just listed as if something untoward or illicit, illegal or corrupt happened there. And we are left now to hear about \$2 billion in work, but without a fact as to whether anything wrong happened there. We are left with suspicion.

I want to tell you something: suspicion is probably the most dangerous and poisonous thing in a society, although it is very good when it is exercised by a clean heart and an intelligence with a will to find facts. If suspicion, however, is used as a cover, as a smokescreen for an agenda to destroy someone or to destroy some organization or to raise yourself by casting these words that create doubt where there is no merit, well then it is the most awful of things.

I say this country needs to appreciate this thing called suspicion and the perceptions that go with them. When attacks are launched against a government

repeatedly and statements are made without facts and there are allegations without merit—because I have always made the call that if you have information of wrongdoing, then it should be investigated by the necessary and constitutional authorities to do so. Because what you will have then, is if I do not like you or it suits my purpose to destroy you, I will just run either frontally or underground or by some other means, in some media form, allegations and you could pay the price for that with your political life or with your reputation.

And to have heard my friend, the Member for Chaguanas West, suggest that he is the victim of, how many pre-action protocols? Twenty-five?—and you may get 25 more. Well I can only imagine the persons whose names were called who were led to issue pre-action protocol letters how they must feel. And the day will come when their names may very well be vindicated in the courts, or if they are guilty of wrongdoing, I hope the institutions of State take care of them.

Just this week I saw a friend of mine, a man I have great respect for, the Court of Appeal had to raise his award for libel against him to \$.8 million. I know the agony of this man that he had gone through for the years when allegations were made against him without fact and without basis, but because he was in a very vulnerable position in an industry that was the subject of a lot of ridicule, he had to bear it. They went too far with him and he decided he was going to fight them. He took them through the courts and he won because those who published the lies against him, or the defamation against him they did it without proper process.

The matter went to the Court of Appeal and they affirmed that he was wronged and raised the award against him. But how many of us in the society have the opportunity or the resources to fight for your name? How many of us, really? Sometimes I hear things in the Parliament that make your blood crawl and you cringe a bit because if it is true, how awful it is, but if it is not true, how more awful is it? We attack people across the board. And I am standing here holding brief for no one other than the brief for truth.

6.00 p.m.

So, I want to ask: how do we fix things in the society, Mr. Speaker? We came in on a promise as the Member for Chaguanas West told us, to fix the things that we had seen wrong—the issues of corruption, the perception of corruption, the allegations of corruption—and we knew the system did not work—where the country felt that it did not get value for its money—and there were those who were gaining far more than they should have by being, as they say, friendly with or having the right connections, and the average Trinidadian felt powerless, and

Public Procurement Bill, 2014
[HON. P. RAMADHAR]

Friday, July 04, 2014

their voices were not being heard on matters. But, today, I want to suggest that this Government has bit the bullet. We have taken the bull by the horn and against all of the odds, we have decided not just to talk about things, but to bring change to this country.

Mr. Speaker, it was not an easy road, and my friends on the other side know full well that one of the first things this Government did was bring this legislation to the Parliament in 28 days to show the commitment of the Prime Minister and the Cabinet of this country. [*Desk thumping*] As a responsible Government, as a responsible Parliament, it was put to a joint select committee of which my friends from the PNM were an integral part. I shall not burden you with the history of their running away from their responsibility, coming back in only when it was unavoidable, delaying the entire process.

When that was ended—[*Crosstalk*—you could call it teeth—anyhow, I am not going to entertain myself with you. Mr. Speaker, we had consultations with many sectors of the society where they participated in a real effort to get the best law that we could. Mr. Speaker, the Minister—and I want to congratulate Minister Tewarie for making the effort [*Desk thumping*] to not just draft legislation and bring it to the Parliament. He took the time to consult with the stakeholders—those who have to live with this thing from now and into the future—to the extent that he asked that the LRC entertain a visit from the Joint Consultative Council, the JCC, and they sat with the lawyers from the CPC's department and they told the LRC what they would like, what they did not like. We tried as best as we could to make this thing better, so that when it came to the Parliament we would have had a buy-in from all the stakeholders, so there will be law for them and for the society that they understood and participated in making. That was a very refreshing effort on the part of the Minister and of this Government.

It is no surprise that when it went to the Senate—the ability now to work with others and let them know that this law came from them—that it was passed unanimously, and today we are here. I am certain my friends on the other side will support it. Of course, nothing is perfect and as we proceed, there are issues—and as the Minister has rightly said—if there is a burning issue that needs attention, he is certainly open to it, but we must go forward because the time for action is not behind us, but it is certainly coming to a point when it may be too late. And we have promised—and as the Leader of the Congress of the People—to reform the society and we do so in many ways, but one of the most significant really would be by legislative change.

And as I grew up in this nation, as many of us, we had heard about corruption—Government after Government, administration after administration, complaint after complaint—but nobody was willing to do the work to fix it or to make it right and today, to me, is a vindication for having come into the politics because today, by the passage of this legislation—whether it is today or next week or in the very short or near future—we would have made a quantum leap, a fundamental change in the way this Government and future governments will do business—whether it is a greater transparency—so the society will know what is happening with their dollars.

So that when allegations are made against this Government about the billions or the hundreds of billions spent and it just says because of the reputation of past Governments and a reputation put onto this one that when Government spends money as a right, that the money is stolen or there is corruption, I say we must put an end to that, and this is an effort towards that end because no society will develop unless the citizens have faith in their government and the institutions of state.

We are creating here, by this legislation, a new institution that will help police and protect the taxpaying dollar. I want to applaud all those who have worked in the past to help develop this. [*Desk thumping*] I want to applaud all those who participated in its passage, and all those who have improved it along its way. So, Mr. Speaker, I did not intend to rise to speak very long on this matter except to compliment this Government of which I am a very proud member. We are not perfect, but the ambition of this Government is to bring change.

My party started in 2006 on the basis of something called “new politics” that nobody seemed to be able to identify or define. Let me just say for the record that new politics is about old spirituality, where your leadership of a nation is imbued with values of integrity, honour, decency, truth and consistency. And in this effort, by legislative change, Mr. Speaker, the new politics of which the COP has spoken about bringing now into law, an institution that will help protect, like the integrity—[*Interruption*]

Mr. Deyalsingh: How he could suspend you?

Mr. Roberts: “Leave me out ah all yuh business.”

Hon. P. Ramadhar: Mr. Speaker, could I have your protection?

Mr. Speaker: Yes, you have my full protection, please.

Hon. P. Ramadhar: Thank you very much. I am making the point, Mr. Speaker, that this Government is now living the dream of many in my party. [*Crosstalk and laughter*] That is abuse; that is abuse.

Mr. Roberts: Do not let them distract you. Leader, do not let them distract you.

Mr. Deyalsingh: Leader! [*Laughter and desk thumping*]

Hon. P. Ramadhar: Yes, Mr. Speaker, the institutions of state: I recall as a very young man when the issue of the Integrity Commission—the idea of it had come about, and the fear factor in many in the society—the fear factor in the society about the Integrity Commission—but all of those who had honest ambition knew it was the right thing to do, and that administration put it forward. I want to look now at the history of the Integrity Commission to say that it has been a watchdog because they may not have had a lot of successes in terms of prosecutions—[*Interruption*] Lord, whispering!

Mr. Speaker: Hon. Members, I am hearing a lot of whispering across, and I would like to hear what the hon. Member is saying, and if I could ask Members to pay attention to what the Member is saying, I would appreciate it very much. Continue, hon. Member. [*Desk thumping*]

Hon. P. Ramadhar: Thank you, thank you, Mr. Speaker. I know it is very uncomfortable for them eh, very, very uncomfortable, but whether it is uncomfortable or not, this thing is going to happen. It must happen because the time for it has come. It has come.

Dr. Rowley: “Aie-yaie-yaie. Yuh hear talk.”

Hon. P. Ramadhar: You will hear talk and you will see action and you will see law as we transform the society. The Integrity Commission was a quantum leap in the administration of what is right and proper in society—the Integrity Commission. Let us understand integrity. Integrity is not just about the talk, but the action that goes with the talk. [*Desk thumping*] So, Mr. Speaker, look how long ago it was that that legislation came into being, and since that time till now there is nothing to compare, and this legislation, in terms of its magnitude, is effectively of the same standard and quality of the introduction of the Integrity Commission to Trinidad and Tobago. [*Desk thumping*]

Many had thought that it was a pipe dream that this would never happen. In fact, sceptics in my party believed that this promise will not ever see the light of

day, but it is happening, it is happening, and there are many other things that are happening in this term as we had promised. Others may giggle and they may make all sorts of, you know, negative comments when the Minister has reminded us that the manifesto promises of 2010 to 2015, almost 90 per cent delivered. [*Desk thumping*] Now, that is an amazing, an absolutely amazing performance record.

Constitutional reform will come into this Parliament Chamber in the next session of Parliament. These two things: constitutional reform and procurement legislation are landmark bits of legislative change and parliamentary reform which we have seen. This Government came in on an agenda to reform Trinidad and Tobago. It has already produced, and it is producing now and it will continue to produce in this term. I look forward now into the next term of this Government 2015 to 2020 [*Desk thumping*] because the population will see, as we proceed to the election of 2015, that we are a Government, contrary to all of the allegations made against us, contrary to all of the suspicion and perception put onto us, that we deliver on our promises, and the restoration of faith that this Government by its performance would have given to Trinidad and Tobago is a very good thing and must be applauded. [*Desk thumping*]

Mr. Speaker, whistle-blower legislation: people saw it in movies, they read about it in other countries, but they never expected it to have come. Even my friends, I am sure, did not appreciate. My friend, the Member for Oropouche East, had to bring us into the reality that whistle-blower legislation is an integral part of the procurement legislation.

Dr. Browne: You are reminding us.

Hon. P. Ramadhar: Yes, I have to remind you. This is huge, it is monumental, and we sit quietly and we debate as if it is a normal bit of legislation; this is not. This changes the direction of a society from one that was bereft of men of integrity in high office where corruption was the order of the day. I am hearing allegations throughout, but what I want to tell you, when we came in in 2010 nobody had the button to switch off corruption in Trinidad and Tobago; nobody had that and, therefore, if there is corruption that may have continued at a lower level, it was not with the participation of the Cabinet and, certainly, not of the Prime Minister.

Dr. Rowley: What!

Hon. P. Ramadhar: Because I want to say it. If we were, then we would have made no effort to bring legislation like this; we would have made no effort to strengthen the FIU; we would have made no effort to strengthen the SEC and the other tremendous bits of legislation that will act as a noose around the neck of the corrupt and the dishonest in society.

So, Mr. Speaker, I want to just say that to me, personally, today marks a bit of vindication of having come into the politics. [*Crosstalk*] Yes, vindication, yes it is important. For those who care; for those who know that if you promise something you have to deliver upon it [*Desk thumping*] unlike administrations of the past. [*Desk thumping and crosstalk*] As we proceed into the next election, the truth has got to be restored to this nation. I keep making that point every time I speak because it is important. I say, as a friend of mine told me years ago “don’t tell meh show meh”, and this Government has told us what we intend to do, and by us proceeding on this legislation and other bits, we are showing that we mean what we say.

So, Mr. Speaker, I want to congratulate all again and Minister Tewarie, singularly. I know the sort of work that he personally put into this—the dedication and commitment over a long period of time in the face of all sorts of adversity, criticisms and condemnation. Sir, you have delivered for this nation. I am proud of you as a member of the COP. [*Crosstalk*] He is a member of the COP. [*Crosstalk*] Yes, it is part of the agenda of my party that we came in— [*Interruption*]

Mr. Speaker: Please, please.

Hon. P. Ramadhar:—on a partnership on the basis of the policies of my party. It has been given—sorry— [*Interruption*]

6.15 p.m.

Mr. Speaker: Hon. Members, please, this is not a fish market. [*Interruption*] No. I am talking to you. [*Desk thumping and laughter*] Let us conduct ourselves in a dignified manner, please. The hon. Member is on his legs and it is a whole chorus of disturbance. [*Interruption*] Yes, I would not go there. Hon. Member, continue, please.

Hon. P. Ramadhar: Thank you, Mr. Speaker. I was just making the point that this is a fulfilment of an agenda of a partner in the Partnership, and I am very proud to participate in this. I am saying it finally, and I thank you, Mr. Speaker,

for your kind indulgence. As uncomfortable as they are, as noisy as they will wish to be, they will have to live with this legislation into the future. Mr. Speaker, I thank you. [*Desk thumping*]

Mr. Colm Imbert (*Diego Martin North/East*): Thank you, Mr. Speaker. Mr. Speaker, would you—[*Interruption*]

Mr. Speaker: I do not think he needs any help. [*Laughter*] The Member for Diego Martin North/East needs no help.

Mr. C. Imbert: Is this a fish market, Mr. Speaker? This is a fish market.

Mr. Speaker: The Member for Diego Martin North/East is seeking my protection and he has my full protection. Continue, hon. Member, please.

Mr. C. Imbert: Mr. Speaker, having listened to the last speaker, who managed to acquire the magnificent total of 1,473 votes in a national election for a national party, that is allegedly part of a coalition Government, 1,473 votes—what is that? Forty votes from each constituency. Mr. Speaker, I am satisfied that of those 1,473, at least 1,373 came from the UNC, [*Desk thumping*] about 100 were members of the COP, because they have dual membership in that place. You know, it is shocking, shocking.

You know, that is why the hon. Member for St. Augustine could not refer to a single clause in the Bill, completely unfamiliar with its provisions. Unlike the Member for Chaguanas West who took the time to go through it and to discover a number of anomalies, errors of omission and commission, flaws, inaccuracies and things that just do not make any sense. Unlike the Member for Chaguanas West, the Member for St. Augustine, I am certain now, has never read this legislation, has never followed this debate and has never followed this process of procurement legislation. I had to watch the travesty of the Member for D’Abadie/O’Meara, suspended from that party, banging the table—a suspended member banging the table, “I am a leader”, 1,400 votes—making a mockery of parliamentary practice in this country.

Let me move on, Mr. Speaker. [*Interruption*]

Mr. Speaker: I need to protect the Member for Diego Martin North/East from his own team. [*Laughter*] Allow the Member to speak in silence, please.

Mr. C. Imbert: Mr. Speaker, they live in cloud cuckoo land on that side, cloud cuckoo land. A suspended member banging the table and saying, “I am a leader”, [Laughter] and the leader got 1,473. Mr. Speaker, I got 17,500 votes, [Desk thumping] 12 times more than him, and the only reason I got 17,500, I had two opponents, some of the others had one.

You know, this is just an absurdity, so let us bring this whole thing back to reality. In 2012, in or around June 2012, the Minister of Planning and Sustainable Development, with great sound and fanfare, laid a document called the House of Representatives Paper No. 13 of 2012, Report of the Joint Select Committee appointed to consider and report to Parliament on the legislative proposals to provide for public procurement and so on, and on page 19 of that document, paragraph 11 reads as follows:

“Against this background the following recommendations are made by the Government of Trinidad and Tobago for the establishment of a modern procurement system:”

And there are a number of recommendations but the first one that jumps out at me is:

“That Framework legislation rather than prescriptive legislation is recommended;

That such Framework legislation should come to Parliament together with...regulations...”

We do not have any regulations. This document was a farce, a pretence, that a hybrid model involving a system with centralized, as well as decentralized elements, would be more practical. [Interruption]

Mr. Speaker, could you kindly control the Minister, he has just uttered a very insulting word. I will repeat what he said, he said I am demonstrating my ignorance. Now, he is a guest here and he has no right to make those kinds of comments in this House. More than 8,000 people voted for me, nobody voted for you, know your place. So when you hear—[Interruption]

Mr. Speaker: All right. Please! Please! Hon. Member! Hon. Member! I think the temperature is rising here and let us just calm ourselves. Look, hon. Members, may I appeal to the Government Bench, in particular, let us not engage in too much crosstalk. I think the crosstalk is what brings about the responses. I would ask Members to take notes, those who have to speak, and even though we may not

like what the Member is saying, he has the right to speak under our Standing Orders. Okay? So allow him to speak in silence and show the respect that is required. Continue, hon. Member.

Mr. C. Imbert: Thank you, Mr. Speaker. This document is dated May 21, 2012, and it was laid in this Parliament by Sen. The Hon. Dr. Bhoendradatt Tewarie, Chairman, Joint Select Committee—so if anybody is misleading anybody, it is the author of this document, this was laid in this Parliament.

So let us move on, Mr. Speaker. In this document laid by the Minister in 2012, the Minister indicated:

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

The—“Regulator be responsible for establishing centralized rules and regulations that will...guide procurement matters...”

And it goes on to say:

The—“Regulator be responsible for investigating and resolving complaints from any party involved in public procurement;”

It also indicates:

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

Mr. Speaker, not one of those policy recommendations coming from the Government has found its way into this public procurement Bill, not one. The regulator will not be reporting to the Public Accounts Committee. The regulator will be doing far more than simply investigating. The regulator is not given the power to employ dispute resolution, and there are no regulations that have been laid in this Parliament. So this is our point of departure. During the debate, the Member for Port of Spain South asked the Minister what model of procurement legislation he was following and what country he had borrowed this legislation from, and the Minister said, “Oh well, we picked pieces from here, there and everywhere, from Australia and from Canada, and from Singapore and from Jamaica”. [*Laughter*] Mr. Speaker, all of that is not true, entirely untrue. Untrue, Mr. Speaker. Totally untrue. [*Interruption*]

Mr. Speaker: Hon. Member, I keep saying over and over, we should never accuse another Member of speaking untruths in our Parliament. All hon. Members are honourable, and I just want to guide Members. If, for instance, the Member has misled the Parliament, there is a provision in our Standing Orders, contempt, bring a Motion, but I think it is not parliamentary to accuse any Member of speaking untruths in this Parliament, or things are not true. You can use better language in order to get your point across. Okay, hon. Member? Continue, please.

Mr. C. Imbert: Yes, Mr. Speaker, and on that note, I heard the Member for Oropouche East in his contribution, very dramatic contribution, indicate that in the UNC party they have a caucus and that they deliberate on legislation, and they meet and they discuss and they take a position, so that when they come to Parliament they are united and they never have any diversion in the party of the UNC, whether it is in this place or the other place. Mr. Speaker, now that is not true because I was in this Parliament as a Member of the Government from 2002 to 2010, and I have routinely sat in this House when you, hon. Speaker—you were not a Member of this House at the time—between 2002 and 2010, routinely, when the UNC party, headed at that time by Mr. Basdeo Panday and containing such hon. Members as Mrs. Persad-Bissessar, and so on, routinely, would vote with the Government on certain pieces of legislation. After a lot of discussion and negotiation we would arrive at consensus in this House, only for the legislation to go to the other place, and the UNC Senators in the other place would vote against the legislation and completely reverse the position taken by the UNC in this House.

That was routine, on endless occasions. There was absolutely no consensus between the votes of the UNC in the Lower House and the votes of the UNC in the Upper House. They were at odds, diverse, extreme positions in complete contradiction to each other, and I have to hear the Member for Oropouche East say that in their party they never had a situation where one House will contradict another House. That is just not true, and you, Mr. Speaker, will know that is not true. You will very well know that.

So anyway, let us go back to what is going on here. I heard the Minister say that he borrowed bits and pieces of legislation from all over the world. Mr. Speaker, that is incorrect, inaccurate, false, misleading and bogus. If you go into the African continent—and I only have four countries here. I have the Public Procurement and Disposal Act of Kenya. I have the Public Procurement Act of the Republic of Tanzania. I have the Public Procurement and Disposal Act of Uganda, and I have the Public Procurement Act of Ghana, and they have cut and

paste and copy word for word—word for word from these Acts in the African continent. Word for word!

It is not Australia. It is not New Zealand. It is not the European Union. It is not Poland. It is not Sweden. It is not France. It is not the United Kingdom. It is not Jamaica. It is not the United States. It is Ghana, Uganda, Tanzania and Kenya, because, you see, in the African continent about 10 years ago the various countries came together and they all enacted procurement legislation along a particular model, and if you look in each country, all of the clauses are repeated and all of these clauses have found their way into our procurement, and it is a poor copy. It is a poor copy because one of the errors made by this Government is, in copying from these bits of legislation in the African continent, and I am talking about complete word for word you know, they have not copied the checks and balances against excesses of power that those countries put in. They forgot to copy that part.

So, for example, Mr. Speaker, because, you see, this legislation is not a creature of them, you know, they just hand it over to other people and they just close their eyes after that. That is why the Member for St. Augustine cannot speak about a single clause in the Bill, because he has no understanding of what is in this Bill. It really is quite disappointing, quite disappointing. You see, in the Public Procurement and Disposal Act of Kenya of 2010, revised in 2010, the first thing that I found missing from this legislation is here, and it is a public procurement review board.

6.30 p.m.

They do not read anything. The Chairman of the Legislative Review Committee, I am satisfied after four years, I can say this without any fear of contradiction, he does not pay any attention to the legislation that is supposed to come under his purview. He does not pay any attention, because the first thing that jumped out at me with this legislation—let me tell you something, Mr. Speaker, I consider the Minister's actions to be entirely disrespectful to us in this House who represent the aspirations of the 1.3 million people in Trinidad and Tobago. This is the elected House; the population voted for us, and to start legislation as important as this in the other place, instead of here, where the representatives of the people reside, is entirely disrespectful. It is compounding the disrespect, having started it in the other place, where nobody in that place is elected and does not represent the electorate, come here now and tell us—that is why I asked the Minister, “Are you going to entertain any amendments?” and “de man tell me no”. So you are a non-elected person, you tell me the other place

Public Procurement Bill, 2014
[MR. IMBERT]

Friday, July 04, 2014

“decide dis already, so allyuh in this Lower House, allyuh could just”—
[*Interruption*]

Mr. Deyalsingh: Could just rubber-stamp it.

Mr. C. Imbert:—you know, “just do wha yuh want, but we ent taking you on.” Completely disrespectful, arrogant and contempt of the highest order. [*Desk thumping*] Let me put Members on notice, one of the amendments I intend to circulate is an amendment to the Bill to create a review board. I might as well read that into the record. I have patterned it after the review board in the Public Procurement Act of Kenya. I have fashioned it after that, because I like the wording. I have looked at nine different Acts that have review boards in them, all over the world, and I like this wording.

Miss Mc Donald: “Allyuh hear depth.”

Mr. C. Imbert: I am recommending this, Mr. Speaker, a new clause, and a new clause 52:

“The Public Procurement Review Board is hereby established.

53. The Review Board shall consist of—

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

A three-man review board, Mr. Speaker:

“54. The members of the Review Board shall be appointed by the President in consultation with the Prime Minister and the Leader of the Opposition and shall hold office for three years.

55. A member of the Review Board may resign his office by letter addressed to the President.”

I have drafted the whole thing.

“56. The President may remove a member of the Review Board from office, upon being satisfied...”

And I have taken the wording from this Bill, our Public Procurement Bill—if he is bankrupt, incapable of performing his duties, convicted of an offence, et cetera,

et cetera.

“58. The procuring entity and any other person who was entitled to be given an opportunity to make representation under sections 49, 51 and 56...”—of our Act—“may request the Review Board to review the Order or decision of the Office...”—this is the office of the regulator.

A request for a review may be made within 21 days after the order was made.

“The Review Board may dismiss a request if it is of the opinion the request is frivolous or vexatious.

The Review Board shall meet to conduct a review within twenty-one days after receiving the request for a review, and the parties are the person who requested the review, the procuring entity and such other person who may have an interest in the opinion of the Board.

The Review Board shall complete its review within 28 days after receiving the request for review.

Upon completing a review, the Review Board may do any or both of the following—

Confirm, vary or overturn the order or decision of the Office of the Regulator and order payment of costs as between the parties.

A party to the review may appeal the decision of the Review Board to the High Court.”

This is absolutely necessary because I do not think people opposite understand what they are doing.

You are putting into our laws, for all time, an independent regulator who is accountable to no one. He is not elected by the population. He is not appointed by the population. He is not appointed by the Government. He is appointed by another non-elected person, the President of the Republic. This person, who is not elected and is not accountable to anyone, can stop a procurement process, suspend a procurement process, cancel and overturn a contract award by any state agency, government department, statutory authority, et cetera. You see, the Members opposite do not understand what they are doing. You are putting in place an individual, appointed by the President, not by you, who could stop every single contract in this country. When the contracts are stopped, what does the aggrieved party do? They have to go in the court. Let me give you some examples of what happens when you go to the court, Mr. Speaker.

Public Procurement Bill, 2014
[MR. IMBERT]

Friday, July 04, 2014

There was a contract awarded for the construction of the interchange at the intersection of Uriah Butler and Churchill Roosevelt Highway, sometime around the year 2000. John Humphrey was the Minister. *[Interruption]* No it was not Junior Sammy, it was Spancrete and Pres-T-Con were the two parties involved. Pres-T-Con was awarded the contract, and Spancrete went to court and filed for judicial review. The judge made his decision six years later, 2006. In all that period of time, that contract just hung in space.

Miss Mc Donald: They could shut the country down.

Mr. C. Imbert: Of course they could shut the country down. You see, they do not understand what they are doing. When you look at any other institution, in any developed country, developing country or any progressive country in the world, you must have an appeals process. You must have an intervening body before you go to the court.

Dr. Gopeesingh: Member, will you give way?

Mr. C. Imbert: Sure.

Dr. Gopeesingh: We both were members of the Joint Select Committee, and I do not remember you making that sort of comment, but now that you are making it, even though you have the appeal board and one is not satisfied with the appeal board, it goes to the court eventually. What you are saying, the court took six years in this Spancrete matter, what prevents the same thing from occurring, even though you have the review board? It is another step again to it. Could you answer that?

Mr. C. Imbert: I got the point. Firstly, let me refresh the Member's memory. I just read from the report of the Joint Select Committee, not the one you chaired. They threw you out and they put in the Minister. *[Laughter]* In that report, the regulator—no, facts are facts, they threw you out and they put the Minister—and the fact is in that report what was recommended, and it made eminent sense—and I will come to Jamaica in a little while and show you why the Minister was not speaking accurately and was not being forthright when he said he had borrowed from Jamaica.

In that report, which was laid in this Parliament as official government policy, the regulator could not overturn a contract award. All he could do is investigate and report. That is why there was no need for any appeals tribunal or review board, because the regulator was not clothed with these supernatural powers. You have to understand what you are doing.

You are an elected Government, you might want to build a school, you might want to build a hospital, you might want to build a highway, like the Point Fortin Highway, but you are now going to clothe this person, who is not elected and not appointed by you—because when I looked through all these Acts here, the vast majority, the procurement authority is appointed by the Cabinet. The Chairman is appointed by the President and some of the other positions are appointed by the President, but a number of the members are appointed by the Cabinet, because you have to understand, you are running this country. You are the Executive authority.

Dr. Gopeesingh: Then himself to himself.

Mr. C. Imbert: Mr. Speaker, we have three arms of the State in this country. We have the Legislature, Judiciary and the Executive, and the Executive has the responsibility to run the country. So you have come up with this thing where you have decided now, this supernatural regulator, who is not elected and not appointed, the Government has no say in the appointment of this person, and you cannot remove him either—let me pause, because in Jamaica, I will show you why the Members opposite, the hon. Minister, et cetera, did not use the Jamaican legislation in arriving at the place we are today. In Jamaica, the Contractor-General can be removed, following a resolution of the Parliament, and that makes absolute sense.

The Contractor-General’s Act 15 of 1983, 17 of 1985 and 1 of 1999—this is Jamaica—and let us go to the provision “Removal from office”:

“A Contractor-General may be removed from office...”

And this is missing from this Government’s legislation. That is why I tell you, “dey cut and paste”, but they did not do it properly:

“A Contractor-General may be removed for...

(c) trading with the Government of Jamaica without the prior approval,...of Parliament...”

Look at what trading means:

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

So in Jamaica if you “ketch” the contractor-general providing a service to any government department—gone!—but that is not in this Bill. This supernatural regulator, which the Parliament cannot do anything about, which the Government

Public Procurement Bill, 2014
[MR. IMBERT]

Friday, July 04, 2014

cannot do anything about, he could trade, he could enter into contracts with any government department. He just has to declare his interest, Mr. Speaker, that is all, but in Jamaica “dey ban him”. This is what we should have in this country.

What they also did is they stated that:

“A person appointed Contractor-General shall devote his full time to the appointment and shall not accept paid employment in any other capacity during any period in which he holds office as Contractor-General.”

Mr. Speaker, I am insisting that goes into this Bill.

Hon. Dr. Tewarie: That is in the Bill.

Mr. C. Imbert: “Look, Mr. Speaker, I talking to you.”

Now, let us go back to the removal of the contractor-general. A contractor-general may be removed, as I said, for trading. So he cannot trade. He cannot provide services to any government department, and that makes sense because he is the supreme regulator. He will decide whether yes or no, contract go or contract stop:

“(4) If each House of Parliament by resolution decides that the question of removing a Contractor-General from office ought to be investigated...”

So it is not the Parliament removing the man or the lady, as the case may be, it is the Parliament coming to the conclusion that a prima facie case has been made out for the Contractor-General to be investigated, to see whether he should be removed:

“(a) the Governor-General...”—in our case this would be the President—“shall appoint a tribunal, which shall consist of a chairman and not less than two or more than five other members from among persons who hold or have held the office of a Judge of a court...”—and so on.

“(b) that tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to the Governor-General whether the Contractor-General”—should—“be removed from office for inability as aforesaid or for misbehaviour or for trading as aforesaid.”

In Jamaica, they have been doing this since 1983, so they have 30 years’ experience in the whole concept of some regulatory person looking at procurement.

In Jamaica they realized that after you appoint this man, you cannot do anything about him. So if it turns out that he appeared on the surface to be a very

competent and a very reasonable person, and he is appointed by the President, and he is inside now for seven years and then he runs amok and he decides well, “he stopping everything, because yuh breach paragraph 29:2, (v)(7), yuh breach dat, you did not follow that to the letter, so he stop it. And he just decide he shutting down de country because he doh like de government dat is in power at the particular time.”

We, with this law, cannot do anything about it, but Jamaica, with 30 years of experience, have put a framework in place where the Parliament, if they decide the contractor-general—in our case it will be the regulator—is not acting in the public interest, the Parliament by resolution will call upon the Governor-General—in our case, the President—to create a tribunal of judges to investigate this individual and see if he is misbehaving. Mr. Speaker, that has to go into this Bill, [*Desk thumping*] because we are handing over such tremendous power to this man. I wonder if the hon. Members opposite know what they are doing because—let me read the clauses in the Bill where you are giving this man supreme power, Mr. Speaker.

6.45 p.m.

And it starts in clause 50, Mr. Speaker, where the office of the regulator will be allowed to do this:

“A supplier or contractor may apply to the Office for review of a decision...taken by a procuring entity...”

Now a “procuring entity” is everybody. So it is every local government body. It is every statutory authority. It is every state enterprise. It is every government department. It is every entity that is given public funds, following on what my honourable friend said, it is every entity controlled by the Government; every entity performing a public function; it is almost every entity in Trinidad and Tobago.

And a “...supplier or contractor may apply to the Office...”—of the regulator—“...for review of a decision...”. And hear what this supreme regulator can do, this person who is not answerable to Parliament. We “cyar do” nothing. He could be running amok outside there, we “cyar do” nothing.

“The Office may, within three days of the receipt of an application for review—

Public Procurement Bill, 2014
[MR. IMBERT]

Friday, July 04, 2014

order the suspension of the procurement proceedings...

if and for as long as it finds such a suspension necessary..."

You just stop, and to protect the interest of the applicant—so the man who made the complaint, not in the public interest, you know, not in the national interest, not in the Government's interest, it is in the interest of the man who made the complaint. The office of the regulator can suspend for as long as it finds it necessary. And having suspended—that bad enough, Mr. Speaker—it then goes and makes a decision.

"In making"—a—"decision with respect to an application that it has entertained,"—this is subclause 50(10)—"the Office may take one or more of the following actions,...

prohibit a procuring entity from acting in a particular manner,...

require a procuring entity that has acted or proceeded in a manner to act,"—in another—"...manner...in compliance with..."—what they say—

"overturn the award of a procurement contract or a framework agreement that entered into force in a manner...not..."—consistent—"with the Act"—well that is in the opinion of the office, of course.

"direct that the procurement proceedings be terminated;" and

"take" any—"such other action as is appropriate..."—Mr. Speaker.

So the supreme regulator, not appointed by Parliament, not appointed by the Government, not accountable to the Parliament, not accountable to the Government, not accountable to the people, can suspend procurement, stop a contract, overturn a contract, and "crapo smoke your pipe", Mr. Speaker.

And that is why when you look in other countries, what they have done, when they give a procurement authority or a regulator, or whatever you want to call the person, the authority to suspend procurement or even overturn an award, they have an appeals body, Mr. Speaker.

And to answer the question of the hon. Minister from Caroni East. In these other countries, the appeals body must make its decision within 28 days or 21 days, there is no delay, and then you can go to court. But you have already passed through two stages. So, you would have passed through the regulator, and then—*[Crosstalk]* Mr. Speaker, they could say what they want, you know. There is no appeals tribunal in this Bill, Mr. Speaker. The aggrieved party appeals to the regulator. The same man who makes the decision, and that person decides whether I agree with you or I "doh" agree with you. And if the regulator confirms his decision, you have to go in the court. There is no intervening appeals tribunal

looking at what the regulator is doing.

And what makes matters worse, Mr. Speaker, in most of these other countries, the regulator is a creature of Government. He is appointed by the Government. Some members of the board are appointed by the President as I said, the chairman appointed by the President, but the other members appointed by the Government. And then you have an appeals tribunal that looks at decisions made by the regulator.

Now what they are trying to do, Mr. Speaker, is to avoid lengthy delays and extreme cost. Because you could imagine how much it cost—[*Interruption*]

Dr. Gopeesingh: Sorry to interrupt you. But just for one minute. If, as you are saying, that you are following this what you are saying, and the Government goes to appoint, you give the Government the authority to appoint the regulator, is that not against the idea of transparency and accountability where the Government appoints it, rather than the President?—or Cabinet appoints rather than the President?

Mr. C. Imbert: Mr. Speaker, I not giving way to the Member for Caroni East again because he is not asking sensible questions. I am not arguing against the appointment of the regulator by the President. Let me make it clear so that you would not ask me those kinds of questions again. I am not opposing the appointment of the regulator by the President. What I am saying is since the President—the decisions of the President—cannot be challenged in a court, and he will appoint the regulator, and that is the end of that; until the President decides he is going to remove this regulator, that regulator is there. I am not challenging the appointment of the regulator by the President.

What I am trying to tell you is that, when you set in motion a runaway train like that—it is a runaway train—you have the President who is not elected, appointing a regulator who is not elected either, you must have an appeals tribunal—a check inside of there. Look, in Trinidad and Tobago, we have the Tax Appeal Board. Why do you think we have a Tax Appeal Board in Trinidad and Tobago? Because it is recognized that the income tax—the Board of Inland Revenue, from time to time, may make mistakes, and you do not want every time the Board of Inland Revenue decides to impose an order on a particular individual and start to garnishee on their income, that that person has to run to the court for injunctive relief. You put a body in between the Tax Appeal Board to look at decisions made by the Board of Inland Revenue, Mr. Speaker. Our legislation is replete with this kind of structure, Mr. Speaker.

Public Procurement Bill, 2014
[MR. IMBERT]

Friday, July 04, 2014

And I am going to repeat it because the Members opposite seem to have a little trouble understanding the concept. Let us start from the beginning. How is this super regulator going to be appointed, Mr. Speaker? Because I get the impression that the Members opposite did not read the Bill. That is the impression I get, Mr. Speaker. [*Crosstalk*] Yeah. I get the impression that Members opposite did not read the Bill—[*Interruption*]

Dr. Gopeesingh: You cannot say that.

Mr. C. Imbert: I am saying—of course I can say “I get that impression”. You cannot tell me that I cannot get an impression. Now, Mr. Speaker—you cannot tell me that I am wrong either because when I listen to the questions coming from the Members opposite, it is clear to me, that even if you read it, you do not understand it.

So, let us go to the appointment of the regulator, Mr. Speaker. Let us see how this regulator is appointed. Let us put this into the record so that the public will understand. At least the public will understand and maybe the Members opposite do not care to understand, but the public should understand. Office of Procurement Regulation:

“There is hereby established as a body corporate the Office of Procurement Regulation...

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...”

Now, the Member for Caroni East is experienced enough to know that when this form of words appear in legislation, it means the President acting in his ultimate—[*Interruption*]

Dr. Gopeesingh: Advice on.

Mr. C. Imbert:—it is not “advice”. Mr. Speaker, I am shocked! When you look at other bits of legislation, it says “the President acting on the advice of the Prime Minister” would appoint A or B. This does not say that. It says,

“the Office shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition...” [*Crosstalk*]

He does not have to take any advice or even listen to what the Prime Minister or the Leader of the Opposition has to say. [*Crosstalk*] Yeah. Okay. Right. That is the intention. So, the President who is not elected—[*Interruption*]

Dr. Gopeesingh: Yes. He has not agreed to that.

Mr. C. Imbert: Mr. Speaker, could you stop that babble taking place between those two Ministers, please.

Mr. Speaker: Yes. You have my full protection.

Mr. C. Imbert: Well, I am not sure, you know. I am not sure.

Mr. Speaker, you know, every time you corner them, they say, “well you agree to that”. Mr. Speaker, I am dealing with facts because I am speaking to the public, so they will be educated and understand what is going on in here because we are making laws. Because we made the Integrity in Public Life Act, and every one of them they will tell you privately that they bitterly regret having enacted some of the provisions in the Integrity in Public Life Act.

We made the Environmental Management Act, and every one of them will tell you privately that they regret some of the powers that they clothed the Environmental Management Authority with, this Parliament, because you know, it sounds nice, you know, create this entity that has these supreme powers, that is not answerable to any Minister, and then next thing they are just shutting down project after project after project, Mr. Speaker. We have made errors in this Parliament before, and I am simply highlighting what I see as another fundamental error that this Government is falling into error. So, let us move on.

“The Office shall be...appointed by the President after consultation with the Prime Minister and the Leader of the Opposition...”—and let us go on.

“...the Procurement Regulator shall...possess—

a degree...”—so, so, so and then—

“The President, after consultation...shall appoint a member as Deputy Chairman...”

So, the President appointing the whole board, the chairman and the deputy and the regulator, Mr. Speaker. And then it goes on to say:

“The Regulator shall be appointed for a term of”—seven—“years...”

It is not even up to seven years, you know. It is seven—it is a whole seven.

“...and is eligible for re-appointment...”

And it goes on to talk about the circumstances, how you could remove these people, and it is only the President.

“The President may remove a member...upon being satisfied that the member—

is...bankrupt;

(b) is incapable of performing the duties...”—and so on.

Public Procurement Bill, 2014
[MR. IMBERT]

Friday, July 04, 2014

So, the Parliament has no say in the appointment of the regulator, and the Parliament has no say in the removal of the regulator, and the Government has no say in the appointment or removal. Fine. We are not fighting that. This is what you want, this is in the Bill. But having done that, understand the magnitude of what you have done. You have now handed over your development programme to a non-elected individual. You have handed over your \$8 billion development programme to a regulator appointed by somebody else, who could only be removed by somebody else, who has the power to suspend, who has the power to overturn, who has the power to stop, who has the power to vary contract awards in every single government office in this country, Mr. Speaker.

Now, what kind of crazy Parliament would put a system like that in place without having a check and balance? So you have an intervening authority. Because what is going to happen here, if the Government is not satisfied—let us go to a situation where a regulator is appointed. And as I have said he starts off good, but eventually the regulator is led astray—for one reason or another, enjoying his powers or even worse, for other reasons—the regulator is led astray, and he starts to behave in a strange manner, and he starts to stop projects and suspend procurement just on a whimsical complaint, Mr. Speaker.

And you decide: well you know, what is going on here?—“yuh know, I trying to build a road; ah trying to build a hospital; ah trying to build a school; and every time ah try something, a man make a complaint and the regulator stop the process”, Mr. Speaker. The whole government development programme will simply grind to a halt. So what is going to happen?

The Government has a very important project, let us say the Couva Children’s Hospital, for example. And somebody complain and say I “doh” like how that procurement is being done. The regulator says—stop! Cease! Halt! And then he goes through and he says, “you did not follow regulation 29(2)(1)—overturn!” The Government decides that the regulator is wrong. This is a very important project for the welfare of the country, of the nation. They decide that the regulator has fallen into error. What happens? Government has to sue the regulator because there is no appeals process here. The office of the regulator has made their decision, you know. You could challenge it, you know, but when you are finished with the challenge, the regulator tell “yuh”—“I confirm my decision or I confirm the decision of the entity”. What you have to do now? You have to go to court.

So the Government will have to go to court and sue the regulator. Who is going to defend the regulator? Who is paying the legal fees for the regulator? How does this fall within the State Liability and Proceedings Act? Because if a

Minister is sued under the State Liability and Proceedings Act, the Attorney General steps in and takes over. So the respondent becomes the Attorney General. If they sue the Minister of Works and Infrastructure, under that Act, the Attorney General has to come in and take over the case, so the Attorney General defends the action.

7.00 p.m.

But, in this case, when you are suing the regulator—because you do not like what he did, who is defending the regulator? The Attorney General? You understand the problem? So, that is why you need to have an appeal board. So, the appeal board is the one that makes the final decision and that is the decision that you challenge when you go to court.

Because if you look at the Kenyan model, the regulator makes a decision, you challenge the decision of the regulator, the regulator confirms his decision, you go to the appeal board and the appeal board either confirms or overturns the decision of the regulator.

Mr. Speaker: Hon. Members, the speaking time of the hon. Member for Diego Martin North/East has expired.

Motion made: That the hon. Member's time be extended by 30 minutes. [*Miss M. Mc Donald*]

Question put and agreed to.

Mr. C. Imbert: Mr. Speaker, I will talk slowly because Members opposite have to understand. I understand, in conversation with some of them that they had an appeals tribunal in the Bill before and they took it out for some obscure reason. "Somebody say they doh want it and they take it out", and that is not the way you should run a country.

If you have something good in a piece of legislation and some stakeholder come and complain and say "take that out", you just take it out? [*Interruption*] Mr. Speaker, the Minister is a guest here, I just wish he would stop shouting at me across the floor. [*Interruption*] I am talking to you, and I would ask you to control the Minister, Mr. Speaker.

Hon. Member: You continue insulting the man.

Mr. C. Imbert: Mr. Speaker, would you ask hon. Members—look, I cannot talk with them talking. Could you tell them to stop talking?

Hon. Member: Go home.

Mr. C. Imbert: "Yuh hear dem?"

Mr. Speaker: All right, okay. Members, let us, again—may I appeal to Members not to engage in crosstalk, once again, and allow the Member to speak in silence. Continue, hon. Member, please.

Mr. C. Imbert: Thank you, Mr. Speaker—*[Interruption]*—“aah”, will you be quiet!

Mr. Speaker: Please! Please, Members!

Mr. C. Imbert: Yes, Mr. Speaker, thank you. If you have an appeals tribunal that is the final decision maker and the decision of that tribunal is then challengeable in a court of law, you remove the regulator from direct contact with the State. So, the State is not taking action against the regulator, the State is taking action against the appeals tribunal.

Let me go back to the amendment that I am going to propose. That is in here.

A party to the review may appeal against the decision of the review board to the High Court within twenty-eight days after the decision is made.

So, the process is, a state enterprise invites tenders, awards a contract. An aggrieved contractor goes to the regulator and challenges the decision of the state enterprise. The regulator, through its process, can order suspension of the procurement and tell everybody “stop, do not proceed with this matter” and they make their decision. That is what happens here now, and then after that, if the person is still aggrieved, they have to go to court, Mr. Speaker.

Then, if it is the State that is the aggrieved party, the State has to sue the regulator under this law. But, if you put an appeals panel in place, the appeals panel is the one who will review the decision of the regulator and, it is then the appeals panel that will be subject to judicial review by the court.

That is how it is done. You cannot do it any other way. Because you cannot have an unseemly situation where the State is suing the regulator. As I said, who is going to defend the regulator? The regulator should be immune from suit, and that is why you put an appeals tribunal in place so that when the aggrieved parties go into court, they are challenging the appeals tribunal, not the regulator. They go to the tribunal to appeal the decision of the regulator. “I cyar put it any more simpler than that.” It is in all the progressive legislation all over the world.

Now, Mr. Speaker, to show you how Members opposite do not understand what they are doing, this whole demand for procurement legislation of this type with a regulator, albeit in the beginning, the regulator was only going to review

and report, which is what the Jamaica contractor-general does. He just reviews and reports, he does not overturn, so we have gone a step further to give the regulator these powers to overturn and stop contracts.

This whole thing, Mr. Speaker, in Trinidad and Tobago, came from one case and the case is, and it is necessary to read that case into the record. That is the case of *NH International v the Urban Development Corporation of Trinidad and Tobago*, Court of Appeal action No. 95 of 2005. And in March 2006, Justice of Appeal Warner, as she was then—[*Interruption*]

Mr. Warner: Me?

Mr. C. Imbert: Justice of Appeal, Margot Warner—delivered the decision on behalf of the majority, and the majority in that panel was deceased Justice of Appeal Kangaloo and Justice of Appeal Warner, and I will go straight to the end of the decision, Mr. Speaker.

This was a case where an aggrieved contractor was upset over an award of a contract for the head office of the Ministry of Health. The contract was awarded to Hafeez Karamath, and NH International was unhappy about that and took it to court, and I go now to the end of the decision. And this is Justice Margot Warner speaking on behalf of the majority:

“A review of the cases indicate that judicial review of the decisions of a public body will not be appropriate where—

The decision is commercial in nature...”—or—

“Where its decisions are not subject to duties conferred by statute.”

The importance of the decision was that it followed the case law all over the world, that state enterprises that are not creatures of statute, they do not exist in a law. They are created by the Corporation Sole. They are limited liability companies or private companies created by the Corporation Sole, but they are not in a statute, they are not like a regional health authority or another creature of statute.

The significance of this case, which put an end to attempts for judicial review of contract awards by state enterprises, was that unless the tender rules, the procurement framework, was in a law the court could not intervene unless you could prove fraud. So, unless you could prove that a member of the board of the state enterprise took a bribe or something like that, the court was restrained from intervening and substituting itself for the decision makers in that state enterprise.

So, the contractors in Trinidad and Tobago hit a roadblock. They could not challenge the decisions of state enterprises with respect to procurement, because state enterprises are not governed by statute. And that is the law in England, that is the law in New Zealand, that is the law in Australia, it is a whole body of case law which had arrived at that conclusion, Mr. Speaker.

So, what the contractors were pushing for was that tender rules for all state enterprises be put into law. And that was the whole point of these two years that we spent with the Joint Select Committee. We spent two years working out: how are we going to put into law tender rules that would apply to all public bodies? Because from the time you do that, from the time you put into a law that tender rules in the statute would apply to all public bodies, then a contractor could go to court.

So, what we were doing as a country going along a road to facilitate a request coming from the industry, that, look, we feel all sorts of irregularities are taking place within the public procurement sector, but we are blocked from contesting these matters in court, because all of these state enterprises are not amenable through judicial review. Unlike the Airports Authority, the Port Authority, Trinidad and Tobago Electricity Commission; these are all creatures of statute, so that you could go and challenge a decision of the Airports Authority, because its tender rules are in its law. But you cannot challenge the decisions of the National Gas Corporation, for example, because they are not in law.

So, what the industry was saying, look, it is about time we join the rest of the world and we put tender rules into law and make it applicable to every single public body—whether it be state enterprise, government department, statutory authority, whatever. And there was agreement by all sides that we do this, and this is what we spent these two years working out the nuts and bolts of this thing, and we arrived at the place where we all agreed that we are going to get this regulator in place, and this regulator, through a process, will determine what the tender rules should be and they will find their way into a statute, Mr. Speaker.

But somewhere between 2012 and now, this thing has just mutated. So, in addition to the industry now being able to go to court and get injunctive relief and ask for a contract to be quashed, overturned, that a contract award be made to contractor A instead of contractor B, somewhere along the road, this thing mutated and now in addition to tender rules being put into law, which is what they asked for, you are now also creating the office of a regulator who has powers even beyond the court. He could suspend, he could overturn, he could do whatever he wants, and accountable to no one, Mr. Speaker.

So, the pendulum has gone from here, where the industry felt that they were hard done by, they were disadvantaged, because if they want to challenge a contract award by a state enterprise, they were blocked by the case law. They could not go inside unless they could prove fraud. So, the industry felt they are at a real disadvantage. All kinds of things going on in state enterprise, but we cannot get the court to intervene because this public law element is missing from the process.

We say, “fine, we go put all the tender rules in law and we will make it applicable by law to all state enterprise”. And if you look in this legislation, you will see that the legislation takes some time to go through to describe what is a public body. It would be all the state enterprises and bodies that receive public funds that are doing public purposes and so on, Mr. Speaker.

So, it captures virtually everything. So, this has achieved that objective. But now, we come with this creature called the regulator which bears no relationship to the contractor-general in Jamaica who has these supreme powers to stop every single project in Trinidad and Tobago. I think as a country we will be very, very foolish to put in place a system that could eventually stymie the development of Trinidad and Tobago, and put the President in a very difficult position, because the only person who could remove this creature is the President.

So, if you find that a regulator is not acting in the public interest, you will now have to go and appeal to the President, and you should not have to do that. That is why in Jamaica they have a provision in their law, that if both Houses—it has to be both—the Upper House and the Lower House, agree that you should ask the President to appoint a tribunal to investigate the contractor-general, in their case, the Parliament has a role to play, because the Parliament represents the people.

So, if projects cannot get off the ground because you have a mischievous regulator or a foolish regulator, the Parliament can intervene and pass a resolution that, look, we would like you, Mr. President, to appoint a tribunal of retired judges or whatever and let us investigate the conduct of this regulator, because all of our road projects have stopped, all of our hospitals have stopped, because the regulator has decided that the procuring entities are not following the guidelines.

So, as I said, this is very, very serious business. This is not something to play with. This is not something to play politics with. Because all through my contribution, I hear the Minister mumbling and grumbling about, “it in the law, we have it in the law”. Well, let us go to the law and we will see it is not there. Let us check and see if this appeals tribunal is in there. And we go straight to Part V, “Challenge Proceedings”. And what does Part V say, in clause 49, it tells us

Public Procurement Bill, 2014
[MR. IMBERT]

Friday, July 04, 2014

that persons can challenge a decision. So 49:

“A supplier or contractor may bring challenge proceedings where it is alleged that –

a procuring entity made a decision or took action that is not in compliance with this Act,”

And then you go through, there is a process, they apply to the regulator for review of a decision taken by the procuring entity.

But, who reviews the decision of the regulator? The regulator is the one who could stop procurement, who could overturn a contract, who could reverse a contract award. Who reviews him? The only person that reviews the regulator is the court. The tribunal is missing, and let me go back to the Kenyan Act, Mr. Speaker, and let me read into the record what they have. They have a procurement oversight authority, same as us. They have a public procurement oversight advisory board, “kind ah similar to what we have”. And they have a public procurement review board. Three entities, Mr. Speaker.

7.15 p.m.

So you have one that deals with coming up with the guidelines and tender rules. Another one that looks at what is going on and sees whether state enterprises are following the rules, and you have a third one that reviews decisions taken by their regulator before you reach the court. Because who has \$500,000 to pay a Senior Counsel to go in the court and then when you reach there it could reach Court of Appeal and it could get to the Privy Council.

Who has millions of dollars? Which contractor—there are few contractors that have millions and millions of dollars to go through a process through the court, Mr. Speaker. And that is why in all progressive societies—in England, for example—Mr. Speaker, how much more time do I have?

Mr. Speaker: You have until 7.30 p.m., 15 more minutes.

Mr. C. Imbert: Fifteen more minutes, no problem. In England, Mr. Speaker, they created something called adjudication about 15 years ago, and they have an Act called an Adjudication Act. You know why?—because every time a contractor felt aggrieved he had to go in the court, and when he reached there they are lined up with all the murder cases and the grand fraud cases. It is the same thing in Trinidad and Tobago, you know, where you know you have to go and line up and get a date.

So, you are going to court and they might give you a date a year from now. So it was the same thing. So they created a process of adjudication and they have a list of registered adjudicators in England who are qualified people, qualified in procurement, and they decide disputes. So if you have a dispute between employer and contractor, before it gets to the court you go to the adjudication board in England and they adjudicate and they use alternative dispute resolution and so on, and half of the things do not get into the court. Because people recognize how dangerous it is, how expensive it is to get into litigation, especially in a country like Trinidad and Tobago where they tell us—I think in the Magistrates' Court, how many? It is two or three hundred thousand pending matters in the Magistrates' Court. I “cyah” talk for the High Court and so on, how many pending matters they have.

We as a country should be trying to minimize the matters that go to the court, not increase them. If you listen to the Chief Justice, if you listen to the judges, they are all overworked, Mr. Speaker. They have a huge caseload, if you listen to them. And now we are trying to introduce a system where every time somebody is aggrieved with the decision of the office of the regulator—court. So we are just adding work for lawyers and more and more casework for the judges.

And while I am on that, I will show you how we did not follow the Jamaica model at all. Because in Jamaica, Mr. Speaker, and I was quite intrigued looking at it, I saw, very, very interesting, in the provisions that they make in the Jamaica Act for the emoluments for the contractor-general. I will find it in due course, but in Jamaica they have a whole section on the pension arrangements for the regulator. To show you the kind of esteem they hold the regulator in, Mr. Speaker—and under The Contractor-General Act, “Pensions and gratuities”:

In this schedule, “pensionable emoluments” has the same meaning as in the Pensions Act and includes salary and house allowance.

And as I go on, Mr. Speaker, for the purposes of this paragraph:

A person who completes seven years as the Contractor-General shall be paid a pension at an annual rate equivalent to his annual pensionable emoluments upon retirement.

This is in Jamaica. And we are here making a set of noise, “ah” sorry to digress. In Jamaica the Contractor-General just has to work for seven years, full pension equal to 100 per cent of his pensionable emoluments which is his salary and his housing allowance, Mr. Speaker. And that is to tell you how I know they did not copy the Jamaica Act, because I did not see that in our Act, and if it is

Public Procurement Bill, 2014
[MR. IMBERT]

Friday, July 04, 2014

anything about pension emoluments—come on, people need to read and they need to do some research and understand what is going on in other progressive countries.

So let me go back now to the matter at hand before I allow my vexation to—anyhow let me allow it to take over. Mr. Speaker, I saw a member of the Salaries Review Commission on television supporting the strike by the airline pilots. Yes—[*Interruption*]

Mr. Deyalsingh: Gerard Pinard.

Mr. C. Imbert: Yes, a member of the Salaries Review Commission, the consultant for the striking airline pilots who shut down Piarco. And I heard a member of the Salaries Review Commission saying the pilots are right, because they have been waiting for too long, for a couple of months, to get their entitlements. So they call a strike, they could strike, they have the right to strike. Pilots—he is a member of the Salaries Review Commission, Mr. Pinard, but he has us waiting for 20 years. You see the schizophrenia that we have to deal with, Mr. Speaker, schizophrenia. I mean, how on earth is a member of the Salaries Review Commission allowed to be the industrial relations spokesman for pilots engaging in illegal industrial action, in this country? Anything could happen in this country, you know, Mr. Speaker. But let us go back to the legislation.

Mr. Speaker, I have a series of amendments that need to be made to this legislation. We need to put in this appeals tribunal. Now, as far as I am concerned, if the Government will demonstrate good faith, we can pass this law, and I have heard this nonsense—sorry, I will take that back, I apologize for that word. I heard this allegation that, you know, if we make amendments the Bill will lapse. Mr. Speaker, the Parliament does not prorogue until August 01. And it is my understanding that the Senate is going to meet every Tuesday and every Wednesday from now on until August 01. And if we make amendments here, I heard the Member for Chaguanas West raise a number of very sensible points, some of which I decided not to repeat because I had—for example, this thing about industry standards. What that mean?

Mr. Warner: Nothing, nothing.

Mr. C. Imbert: What industry standard? Who is making that? There are a number of points there, but my concern is this issue about the fact that we must put in some kind of appeal process, Mr. Speaker, that will look at the decisions of the regulator, not the decision of the procuring entity, the decision of the regulator, because this regulator person could shut this country down. And this is

how we want to go as a country? Because I heard the Minister say everybody want this thing. The Senators want it, the civil society wants it, yes, everybody wants it, it is true, they want it, yes, but it is only when the thing starts to operate that you will understand what it is.

So, since we now want a system where public procurement can be challenged, where public procurement is subject to scrutiny, where there is transparency, where there is justice, where there is value for money—since that is what we want as a country and we all want that, let us not make any error about that, that is what we all want. We need to put sensible checks and balances in place to protect this country against the excesses of a rogue regulator. Because, Mr. Speaker, you know, some people who are appointed to office they are real nice before they are appointed to office, you know. They nice you know.

Hon. Member: Like PNM.

Mr. C. Imbert: No, no, whatever. It does not matter. I mean, I am appealing now to the persons opposite who may have a little bit of common sense. Some people who are appointed to office in this country, before they are appointed they are nice, they are charming, they are accommodating, they are reasonable and as soon as they get into office they turn beast and you cannot do anything about it. You cannot do anything about it, because there is no way of getting them out. You put them in and you cannot get them out. So if we are going to put in—
[*Interruption*]

Hon. Member: Like for Brian Lara.

Mr. C. Imbert: Whatever—if we are going to put in this office of this regulator who will have the power to stop procurement, overturn contract awards, suspend procurement exercises, and we as a country have decided that that is what we want. I am assuming that when the Minister said that everybody, all the stakeholders want this, all right, so they want it, fine. But we must be civilized, sensible and sophisticated about what we do. There is no point in cutting off our nose to spite our face, as the saying goes, Mr. Speaker.

So, I am going to propose—I have already drafted the amendments, but I am proposing that we put in this law as stated in the Joint Select Committee report, tabled by the hon. Minister, that we make it explicit that the office of the regulator reports to the Public Accounts Committee. We do not leave it to chance, we make it explicit in the law that the Public Accounts Committee, as the Minister had indicated in his JSC report, and I will read the Minister's words. And these are his

Public Procurement Bill, 2014
[MR. IMBERT]

Friday, July 04, 2014

words. You know, as he said, we run out of the committee and we refused to sign the report, so these are your words. So let us read what the Minister had to say:

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

And it makes sense, because the Public Accounts Committee, according to our Constitution, is chaired by a Member of the Opposition.

So that is a perfect check and balance. It has a majority of Government Members, it is true, so you have the proper balance in there. The Public Accounts Committee cannot be a rogue committee. The chairman cannot operate as a maverick because you have a majority of Government Members on the committee, but at least it is chaired by a Member of the Opposition.

So I am asking that the law be amended to operationalize this commitment given by the Minister on page 20 of the Report of the JSC. That is the first thing.

The second thing I would ask for, Mr. Speaker, is that we tighten up on this power that the regulator has, to suspend proceedings, because it is open-ended. Because this clause in the Bill, clause 50(4) I believe, which says that:

“The Office may...order...suspension of...procurement...if and for as long as it finds such a suspension necessary...”

You have to put a time frame, 21 days, 30 days, you have to put something in there. You cannot just leave it up to the regulator. He could suspend procurement for as long as he wants. So we need to fix that. It is ambiguous. You know, if you interpret it one way, you might think, well, all right it is governed by another clause. But if you look at it on its own it is ambiguous. So we need to tighten up on this power of the regulator to suspend procurement. Just put a time frame, he has to do it as soon as he issues a directive, for example, or makes a decision, suspension is automatically lifted. Put that in. That is actually what I said:

The suspension of procurement proceedings shall be lifted immediately upon issuance of the decision of the office under subsection (10).

That is what I am recommending. And then of course I have the entire review board.

Mr. Speaker, if the Government is willing to listen I have drafted most of this already, I hope that my hon. friend behind me will do us the courtesy of drafting some amendments.

Mr. Warner: Sure.

Mr. C. Imbert: I think the ILP must at least have one lawyer at its disposal—
[*Interruption*]

Mr. Warner: We have several.

Mr. C. Imbert: Well, whatever, so if—at least one, if my hon. Member, friend behind will draft his amendments, I will complete the drafting of mine, Mr. Speaker, and I give an undertaking here today, I will send my proposed, and these are proposals, because that is how we do business inside of here Minister, I am making a proposal, you could toss it in the bin if you want, but it is a proposal. I will send my proposed amendments to the Leader of Government Business and copy them to the hon. Minister for your consideration.

And I am asking the Government now, since we have all agreed that this is a watershed, we agreed that it is a watershed, let us make it a proper—let us not make it a tsunami, let us not make it a tornado, let us not make it a flood, let us make it a real watershed where for once, Mr. Speaker—

Hon. Member: “North/East yuh good.”

Mr. C. Imbert: No, I am serious, for once the collective heads in this Parliament came together, looked at a Bill which had some very good points in it, but needed some—I am not going to say tweaking, needed some surgery—got together, put their heads together and came up with a procurement system that everybody in this Parliament and the public at large will be proud of, so that people will look at Trinidad and Tobago as a model for procurement in the world. I thank you, Mr. Speaker. [*Desk thumping*]

Mr. Deyalsingh: Well done, well said.

Dr. Moonilal: You supporting the Bill, yes or no?

ADJOURNMENT

The Hon. Minister of Housing and Urban Development (Hon. Dr. Roodal Moonilal): Mr. Speaker, at this time I want to move that this House do now adjourn to Friday, July 11, 2014, at 1.30 p.m. and on that day it is the intention of the Government to debate the Planning and Facilitation of Development Bill, 2013 and to deal with the amendments brought from the Senate to the Nurses and Midwives Registration (Amendment) Bill, 2014. Mr. Speaker, I beg to move.

Leave of Absence

Mr. Speaker: Hon. Members, I would like to revert to, with your leave, announcements, the item “announcement”. I received communication earlier on, this is from the hon. Mrs. Kamla Persad-Bissessar, Prime Minister and Member of Parliament for Siparia. She has asked to be excused from today’s sitting of the House. The leave which the Member seeks is granted.

I just want to reiterate the point that the Member for Diego Martin North/East would have made earlier, and that goes for the Member for Chaguanas West, that whatever amendments you have if you can have it properly typed up and sent to the Leader of Government Business.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 7.32 p.m.