

SENATE

Tuesday, May 09, 2017

The Senate met at 1.30 p.m.

PRAYERS

[MADAM PRESIDENT *in the Chair*]



LEAVE OF ABSENCE

Madam President: Hon. Senators, I have granted leave of absence to Sen. Foster Cummings who is out of the country. There is a swearing of a temporary Senator to be done but we will do it later in the proceedings.

JOINT SELECT COMMITTEE

(APPOINTMENT OF)

Cybercrime Bill, 2017

Madam President: Hon. Senators, I have received the following correspondence from the Speaker of the House of Representatives:

“May 05, 2017

Sen. The Hon. Christine Kangaloo
President of the Senate
Office of the President of the Senate
Level 2, Tower D
International Waterfront Centre
1A Wrightson Road
PORT OF SPAIN

Dear President of the Senate,

Establishment of Joint Select Committee

At a sitting held on Friday May 05, 2017 the House of Representatives agreed to the following resolutions:

1) “Resolved:

That in accordance with Standing Order 64(1)(c), the Cybercrime Bill, 2017 be referred to a Joint Select Committee to be established for its consideration and report.”

2) “Resolved:

That in accordance with Standing Order 64(1)(c) that this House appoint six (6) Members to sit with an equal number from the Senate on a Joint Select Committee to consider and report on the Cybercrime Bill, 2017;

That this Committee be mandated to report within eight (8) weeks by Friday June 30, 2017;

That subject to the concurrence of the Senate on this matter, the following six (6) Members be appointed to serve on the Joint Select Committee on the Cybercrime Bill, 2017:

Mr. Faris Al-Rawi, MP

Maj. Gen. (Ret.) Edmund Dillon. MP

Mr. Fitzgerald Hinds, MP

Ms. Shamfa Cudjoe, MP

Dr. Roodal Moonilal, MP

Mr. Barry Padarath, MP

I respectfully request that the Senate be informed of these decisions at the earliest convenience please.

Respectfully,

Bridgid Mary Annisette-George

Speaker”

CRIMINAL PROCEDURE

UNREVISED

(PLEA DISCUSSION AND PLEA AGREEMENT) BILL, 2017

Bill to establish a system of plea discussions and plea agreements and for matters incidental thereto, brought from the House of Representatives [*The Attorney General*]; read the first time.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Tobago House of Assembly for the year ended September 30, 2015. [*The Minister of Finance (Hon. Colm Imbert)*]
2. Second Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Sangre Grande Regional Corporation for the year ended September 30, 2008. [*Hon. C. Imbert*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Sangre Grande Regional Corporation for the year ended September 30, 2009. [*Hon. C. Imbert*]
4. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Point Fortin Civic Centre for the year ended September 30, 2004. [*Hon. C. Imbert*]
5. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Point Fortin Civic Centre for the year ended September 30, 2005. [*Hon. C. Imbert*]
6. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Penal/Debe Regional Corporation for the year ended September 30, 2012. [*Hon. C. Imbert*]

7. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Penal/Debe Regional Corporation for the year ended September 30, 2013. [*Hon. C. Imbert*]

8. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the South-West Regional Health Authority for the year ended September 30, 2006. [*Hon. C. Imbert*]

9. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the South-West Regional Health Authority for the year ended September 30, 2007. [*Hon. C. Imbert*]

URGENT QUESTIONS

San Fernando Oncology Centre

(Chemotherapy Sessions)

Sen. Wade Mark: Thank you, Madam President. To the hon. Minister of Health: Can the Minister state what measures are being taken to ensure that chemotherapy sessions at the San Fernando Oncology Centre will not be cancelled due to a shortage of pharmacists?

Madam President: Minister of Health, you have two minutes.

The Minister of Health (Hon. Terrence Deyalsingh): Thank you, Madam President. This is a recurring problem in San Fernando in the years 2013 and 2014. It has its genesis in the refusal of the then HR Advisory Ministerial Committee, in 2012 and 2013, to approve allowances for pharmacists who mix chemotherapy. That is the genesis of the problem. No patient is being denied chemotherapy. They are being sent to St. James—if they so choose—Sangre Grande or Eric Williams Medical Sciences Complex. I want to reiterate. No patient is being denied chemotherapy. Before the central location was St. James.

What I want to tell the honourable House is one, we have had already made

arrangements for chemotherapy to be mixed at St James and be sent to San Fernando. Two, in the short term again, patients have the options of going to St. James, Eric Williams or Sangre Grande. Next week, training for two additional pharmacists in the mixing of chemotherapy starts and they will be fully trained within two to three weeks. And the long-term solution that I am taking to Cabinet is a position to pay or to reconsider how we treat with pharmacists and paying the allowance to mix chemotherapy. Something which was refused to be done in 2012 and 2013.

Sen. Mark: Madam President, could the hon. Minister indicate how soon will this measure, that is the measure to ask the St. James treatment or the St. James centre to mix whatever chemotherapy treatment or portions, be in place?

Hon. T. Deyalsingh: Thank you. Madam President, I could say truthfully and honestly that measure has already been put in place and there should be—bring some relief to the folks in San Fernando as early as tomorrow or the day after. But I want to reiterate, the patients have the option to go themselves to St. James, Eric Williams or Sangre Grande to receive their chemotherapy.

Sen. Ramdeen: Thank you. Madam President, through you, can I ask the hon. Minister? St. James, Sangre Grande and Eric Williams are very distant for people who live in the very far south. Has the Ministry of Health considered making any transportation arrangements for persons to be able to access, during the interim period when things are putting in place, for persons who live in the far south to access health care at St. James, Eric Williams or Sangre Grande?

Hon. T. Deyalsingh: Thank you. May I repeat what I said earlier? Before the decentralization of chemotherapy, all patients had absolutely no problem in going to St. James. For this short time of two to three weeks, that decision to provide transport rests with the South-West Regional Health Authority and it is

something that will engage their attention. But they can also go to Eric Williams which is much closer than St. James to receive their chemotherapy.

May I add, some patients have decided, of their own free will, not to go to any of the three centres and that is regrettable, but as I said before, before the decentralization, everyone had to go to St. James and we are making arrangements now for the chemotherapy to be sent to San Fernando so no one has to leave San Fernando to go to St. James.

Truckers Association Protest

(Details of)

Sen. Wade Mark: Thank you, Madam President. To the hon. Minister of Works and Transport: In light of the recent protest by members of the Truckers Association on the unsuitability of the inter-island barge and its impact on them financially, what measures are being taken to avert any further inconvenience to said truckers?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Thank you, Madam President. The Government recognized that the barge and the Atlantic Provider are not the most suitable vessels to meet the needs of the truckers and by extension, the people of Tobago. However, several options have been submitted to the Port Authority which are being evaluated at this time and a recommendation will be made to the board. The board of the Port is scheduled to meet with the Truckers Association this Friday, at which time, all issues will be discussed. Thank you.

Sen. Mark: Madam President, may I ask the hon. Minister whether he is aware that there is an impending food crisis as a result of this situation affecting the truckers and impacting on the people of Tobago?

Sen. The Hon. R. Sinanan: Madam President, I have no evidence of a food

shortage in Tobago at this time. Thank you.

Sen. Mark: Madam President, will the Minister undertake immediate measures to ascertain from reports I have received that there is, in fact, an impending food crisis since he is not aware, would he undertake the responsibility of investigating that matter?

Madam President: Sen. Mark, I would not allow that question.

ANSWERS TO QUESTIONS

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Madam President, the Government is pleased to announce today that it will be answering all questions, save and except Question No. 71 to the Minister of Planning and Development. For this, we ask for a two weeks extension.

Madam President: Question No. 71 is deferred for two weeks.

WRITTEN ANSWER TO QUESTION

HIV/AIDS in Trinidad and Tobago

(Details of)

65. Sen. Rodger Samuel asked the hon. Prime Minister:

Can the Prime Minister provide the following information on HIV/AIDS in Trinidad and Tobago as at December 31, 2016:

- a) the total number of persons infected with the disease;
- b) the total number of persons being treated;
- c) a detailed breakdown of the cost of said treatment;
- d) a detailed breakdown of treatment programmes for persons living with the disease; and
- e) new preventative programmes implemented by Government Agencies?

Vide end of sitting for written answer.

ORAL ANSWERS TO QUESTIONS

The following question stood on the Order Paper in the name of Sen. Paul Richards:

Building Codes

(Details of)

71. Can the hon. Minister of Planning and Development indicate what is being done to ensure compliance with building codes throughout Trinidad and Tobago?

Question, by leave, deferred.

Enterprise Village, Chaguanas

(Precepting of Soldiers)

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

In light of the recent deployment of soldiers in Enterprise Village, Chaguanas, can the Minister indicate whether steps are being taken to precept soldiers?

Madam President: Minister of National Security, you have five minutes.

The Minister of National Security (Hon. Maj. Gen. Edmund Dillon):

Thank you very much, Madam President. At present, no steps are being taken to precept soldiers in Trinidad and Tobago.

Missing Teenagers

(Details of)

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

What measures are being put in place by the TTPS to address the increase in the number of teenagers who have gone missing for January 2017?

The Minister of National Security (Hon. Maj. Gen. Edmund Dillon):

Thank you, Madam President. Hon. Members are advised that as per data received from the Trinidad and Tobago Police Service, 41 teens were identified as missing in January 2017. Of these, 37 have since been accounted for and the Trinidad and Tobago Police Service has assured that officers are working vigorously to locate the remaining four.

It is apparent, Madam President, that a large percentage of the teens deliberately leave home of their own free will and due to domestic issues. Hence, the Trinidad and Tobago Police Service is mindful that there is a need for interventionist strategies to positively engage teenagers and encourage them to make better choices. To this end, a key intervention is working with young people through the Police Youth clubs. Efforts to educate, guide and mentor them and provide them with useful options to address their domestic concerns.

Madam President, at the same time, the Trinidad and Tobago Police Service will continue to use electronic billboards to alert the public and young people about missing persons. The aim of this initiative is two-fold. Specifically, to support the police initiatives to locate these persons and engage public involvement and secondly, to have a deterrent effect on teens leaving home without giving proper account of their whereabouts.

Additionally, the Trinidad and Tobago Police Service continues to engage parents and guardians to keep good relationships and open communication with children and teens in their care. By paying attention, giving options and not orders and educating them about problem-solving skills, youths can make informed decisions about who they associate with and the dangers and consequences associated with making poor decisions.

Sen. Mark: Yes. Could the hon. Minister indicate what the current status of the remaining youths or teens that are missing is?

Hon. Maj. Gen. E. Dillon: Madam President, the police continue to engage this situation to locate the teens that are missing.

Sen. Mark: Madam President, could the hon. Minister indicate to us whether he can identify those remaining teens, the numbers? Is it five? Is it six? What is the status of these missing teens? How long have they been missing? So if he could bring the country up to date with a status report.

Hon. Maj. Gen. E. Dillon: Madam President, in my original answer, I said there were four out of the 41 teens missing during the month of January and there are four still so missing. The police continue to try to locate their whereabouts.

Sen. Ramdeen: Madam President, through you, to the hon. Minister: Has the Ministry of National Security or any other Ministry investigated what has been the reason for this staggering increase of 41 teens going missing in the month of January alone?

Madam President: Sen. Ramdeen, I believe the Minister, in his original answer, responded to that.

La Brea Oil Spill

(Details of)

50. Sen. Wade Mark asked the hon. Minister of Energy and Energy Industries:

Following the January 22, 2017 oil spill in La Brea and several others in the months prior, can the Minister advise on Petrotrin's plans to prevent any further oil spills in La Brea?

Madam President: Minister of Energy and Energy Industries, you have five minutes.

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you, Madam President. Following the oil spill at La Brea on the

22nd of January, 2017, Petrotrin has been active in the clean-up of the affected beaches and surrounding areas. With respect to the environmental issues including oil spills, which have occurred in the Gulf of Paria, a collaboration committee between the EMA and Petrotrin has been established.

Post-monitoring studies are to be conducted, including sediment analysis of the affected La Brea beaches and identification of all offshore oil pollution sites and natural oil seeps near shore and offshore between Mosquito Creek and Icacos. The development of a green fund project for the decommissioning of offshore facilities and the abandonment of offshore wells that can pose a significant impact on the marine environment has also been initiated.

Petrotrin has developed a structured approach to managing operational risks and maintaining the integrity of its operation given the nature of its legacy installations. To this end, Petrotrin has implemented an asset integrity management system that includes a risk-based approach to the maintenance of all its asset to ensure reliability and efficiency. In keeping with this approach, Petrotrin's planned preventive maintenance activities include regular inspection of its plant, equipment and infrastructure facilities. These inspections involve:

1. Ultrasonic test;
2. Visual checks;
3. Corrosion analysis; and
4. Leak testing and detection.

Madam President, asset integrity intervention projects are subsequently prioritized based on risk assessment. I thank you.

Sen. Mark: Madam President, could the hon. Minister indicate to us what is the status of the asset integrity assessment report or project that you mentioned that is so critical to ensuring that we do not have any future oil spills?

Sen. The Hon. F. Khan: The asset integrity report, while it did try to identify assets that are risk focused more on the asset integrity management system of the various companies. The information was shared with Petrotrin and they are now working on a more robust asset integrity management system because it is in the system that you will identify the risk profile of each installation that potentially are at risk for spills and that process is ongoing.

Sen. Mark: Madam President, could the hon. Minister indicate whether there is any time frame to have this exercise concluded having regard to the risky nature of the oil business and Petrotrin in particular?

Sen. The Hon. F. Khan: There is no specific time frame because it is an on-going exercise. The installations and facilities that are at greatest risk obviously will come ahead of the class and come on top of the ladder, and when those are dealt with and a preventative maintenance and possibly replacement of remedial work is proposed, then you go down to the next tier.

Sen. Mark: Madam President, is the hon. Minister satisfied with the measures thus far to prevent any future oil spills, particularly in the La Brea community and its environs?

Sen. The Hon. F. Khan: That is a loaded question and you know my whole persona is to be honest. Based on the historical track record of the last 18 months or so, I am not particularly happy with Petrotrin performance in terms of the frequency of oil spills in the Gulf of Paria. But as we speak, significant improvements are taking place in the asset management system at Petrotrin.

Sen. Ramdeen: Madam President, through you, to the hon. Minister of Energy and Energy Industries. Minister, having regard to the number of oil spills from the La Brea to the Icacos area over the last few months, since this question has been posted, what steps have Petrotrin taken to compensate those fishermen

who are affected every time these spills have taken place, if any?

Madam President: Okay, Sen. Ramdeen, I would not allow that question.

Reduction in Food Importation Bill

(Details of)

68. Sen. Paul Richards asked the hon. Minister of Agriculture, Land and Fisheries:

Has Government's policy on agriculture resulted in a reduction in the food importation bill over the last eighteen (18) months; and if yes, by how much?

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Thank you, Madam President. I thank Sen. Richards for his timely question. Over the 18-month period from October 2015 to March 2017, CSO figures show a reduction in the food import bill. Over the period, the average value of food imports was \$542,555,434 or the equivalent of US \$79.8 million at current US rates monthly. In the 18-month period prior to October 2015, food imports averaged \$570,107,188 monthly or the equivalent of US \$89.5 million at 2015 rates.

In effect, Madam President, in 18-month period, October 2015 to March 2017, Trinidad and Tobago experienced a reduction in the food import bill to the equivalent of US \$180 million or just over TT \$1 billion. Thank you.

Sen. Richards: Thank you, Madam President. Can the Minister identify if the reduction, a commendable reduction in the food import bill is due to an improvement in local food production or reduction in imports due to a lack of forex?

Sen. The Hon. C. Rambharat: Madam President, I would attribute the reduction in the amount of just over \$1 billion over the 18-month period to five

possible—five areas. One is the increased availability, particularly at farmers' markets of local food production at better prices. Second one is the challenge in accessing foreign exchange coupled by the availability of import substitutes locally. The third one is lower pricing, particularly in the area of wheat which is a major import into this country. Lower pricing over the last three years but I say, at the same time, that we can expect an increase in the wheat prices owing to the mild winter and the colder spring the US has just experienced in the wheat producing areas. The fourth is the strategic work of the food import committee appointed by the Ministry in 2015 to monitor and advise on work that can be done to reduce the food import bill, and the fifth area is the closer attention we have paid, as a Government, to food safety issues, particularly as it relates to imported meat into the country. Thank you.

Sen. Richards: Thank you, Madam President. Can the Minister also indicate if there is a particular area of food crop that we have seen an improvement in production of and local use?

Sen. The Hon. C. Rambharat: Madam President, the key area for the reduction of the food import bill is in the area of vegetable production. There are times when, in dry weather in particular, we have found the need in the country to import because of the low availability in the country of particular types of vegetables and the work of the farmers, particularly in the dry season, has led to increased availability in that particular season. Thank you.

Madam President: Sen. Mark, you wanted—?

Sen. Mark: No, no.

Madam President: Sen. Richards. Yeah?

Sen. Richards: I was moving on to the next question, Madam President.

Brazilian Meat Imports

(Guarantee of Standards)

69. Sen. Paul Richards asked the hon. Minister of Trade and Industry:

In light of the recent ban on corned beef imported from Brazil, how does the Ministry intend to guarantee the public that imported food placed on supermarket shelves has met the standards for human consumption?

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, I answer this question on behalf of the Government. The recent issues involving imported meat from Brazil reinforces the need for inter-ministerial collaboration on food safety standards. The current measures which are being reviewed involve:

- The Ministry of Agriculture, Land and Fisheries which issues import permits for meat and meat products. This permitting process incorporates certain preconditions in respect of food safety which must be met by exporters and importers.

- Secondly, in the case of non-meat products, the integrity of the food safety systems involve the Customs Division, Ministry of Trade and Industry, particularly the Consumer Affairs Division and the Bureau of Standard and the Ministry of Health, particularly the Public Health Department.

- And in the case of both meat and non-meat imported food products, the integrity of food safety standards is addressed by inspections of import documents by the Customs Divisions and periodic inspections of imports, regular public health surveillance of retail outlets by the Public Health Department, investigations by the Consumer Affairs Division and the Bureau of Standards, and

monitoring by the Ministry of Agriculture, Land and Fisheries and the Ministry of Trade and Industry.

Thank you.

Sen. Richards: Thank you, Madam President. Can the Minister indicate if particular emphasis is being placed on some food stuff that some retailers may be keeping on shelves past what is acceptable in terms of health standards, safety standards?

Sen. The Hon. C. Rambharat: Madam President, one of the areas being addressed by the combination of the Ministry of Agriculture, Land and Fisheries, the Ministry of Trade and the Ministry of Health is the area of labelling on products, in particular, the identification of expiry dates on products, and it is the responsibility of the Ministry of Health, the Public Health Department, with support from consumer affairs, the Bureau of Standards and the Ministry of Agriculture as required, to ensure that goods which are offered for retail sale for the purpose of consumption adhere to the food standards, in particular, the expiry date, and the Public Health Department is charged with the responsibility of ensuring that those food products which have passed the expiry date are taken off the shelf. Thank you.

Sen. Richards: Thank you, Madam President. I hope this next question falls within the remit of the original question. Are the Ministries paying particular attention to food stuffs such as energy drinks which also may have adverse health effects which are not being addressed in Trinidad and Tobago?

Madam President: No, Sen. Richards, I would not allow that question.

Strategic Services Agency Audited Accounts

(Details of)

76. Sen. Melissa Ramkissoon asked the hon. Minister of National Security:

Can the Minister state whether the accounts of the Strategic Services Agency have been audited over the last five years and if not, why?

The Minister of National Security (Hon. Maj. Gen. Edmund Dillon):
Thank you, Madam President. The accounts of the Strategic Services Agency have not been audited over the last five years due to constraints faced by the agency. However, accounting statements for 2010—2016 are at various stages of completion. The following factors have contributed to the non-compliance:

- In 2011, there was the unsystematic dismantling of the Strategic Services Agencies and the Special Anti-crime Unit because there was this merger between the SSA and SAUTT, the Special Anti-crime Unit of Trinidad and Tobago, and as such, the accounting system was in a sort of disarray.
- Between 2012 to 2014, following the merger of the Strategic Services Agency and the SIA for the period 2012 to 2014, the sanctioned strength in the accounts department was eight officers. However, the actual strength was, in fact, four officers. There was a shortage of officers in the accounts department.
- In 2014, the accounts department of the SSA was engaged in the preparation of arrears of salaries and allowances for staff of both the SSA and the SIA, and gratuity payments were present on previous staff for the period 2008 to 2014.

2.00 p.m.

Madam President, in 2015, the Strategic Services Agency was reconfigured or restructured to incorporate the National Security Training Agency, the National

Intelligence Agency and the National Operations Centre. This exercise placed greater constraints on the staff of the accounts department.

In 2016, the sanctioned strength in the accounts department was increased by one—from eight to nine officers—however, the actual strength fell from four to three officers. The existing accounting software is, in fact, being upgraded right now, Madam President.

In 2017, to date, once the following are achieved, it is envisaged that the outstanding financial reports would be prepared in the shortest possible time for submissions to Auditor General's Department. The vacant positions in the accounts department are expected to be filled before the end of the present fiscal year, Madam President.

Sen. Ramkissoon: Thank you, hon. Minister, for that explanation. Madam President, through you, if it is not being audited, it had been noted for the last laid report—the Auditor General's Reports in Parliament—that it has seen that \$10,660 have been paid to an audit function. Now, if that is the case, why is it then now we are paying this fee and we are not receiving reports for it? Thank you.

Hon. Maj. Gen. E. Dillon: Madam President, the reports cannot be laid for the mere fact that the reports have not been completed. We are working right now to complete the reports from 2010 to 2016, and we are doing that assiduously, Madam President.

Sen. Ramkissoon: Madam President, I understand there is the case where we have a shortage of officers. Are there any different measures that the Ministry is looking at to ensure that section 10 of the SSA Act is enforced where there are reports laid annually?

Madam President: Sen. Ramkissoon, I would not allow that question. The answer has been covered previously.

Sen. Ramkissoon: One more question, Madam President. Can the hon. Minister share with us—because in the last laid report by the Auditor General there was mention of special projects being done by the SSA. Does the Minister have any information that he can share with this honourable Senate on those special projects, because the last project we saw was about \$6 million in cost? Thank you.

Madam President: Sen. Ramkissoon, I would not allow that question. Sen. Ramkissoon, next question.

Strategic Services Agency

(Measure of Success)

77. Sen. Melissa Ramkissoon asked the hon. Minister of National Security:

What metrics has the Ministry been using over the last five years to measure the success of the Strategic Services Agency (SSA)?

The Minister of National Security (Hon. Maj. Gen. Edmund Dillon): Thank you, Madam President. Madam President, prior to January 2016, the performance of the Strategic Services Agency was gauged through the identification of targets and monitoring of the degree to which they were being achieved. This process involved frequent discussions involving key SSA personnel, senior executives and relevant heads of division of the Ministry. Focus was placed not only on the successes of the agency, but also on identifying areas that require strengthening and making the necessary changes for improvement.

Today, Madam President, this Government has, in fact, established robust metrics to monitor and evaluate the performance of the Strategic Services Agency in four areas namely: stakeholder, financial, internal processes, and learning and growth.

Indicators have been established to measure the achievements of the agency

in key areas under the four identified spheres as follows:

1. Under stakeholder perspectives, the indicators look at the development and sharing of critical intelligence; efficient and effective activities to combat serious and organized crime, which include inter alia, effective coordination and collaboration with international partners on security issues and bilateral and multi-lateral meetings; the development, deployment and maintenance of specialist national capabilities, including covert intelligence, technical apparatus, agency operations and services which would also provide assistance to its partners; identification and disruption of serious and organized criminal groups, individuals and vulnerabilities which present the highest risk and cannot reasonably be tackled by our partners.
2. Under financial perspectives, the indicators look at the activities that encompass the development, implementation and evaluation of a plan for the provision of services and capital assets established. This involves the monitoring and control of finances; the planning and development of financial arrangement; the review and evaluation of financial management processes.
3. Under the area of internal processes perspective, the performance indicators focus on leadership, employee training, team building and cultural attitudes related to both individual and organizational self-improvement. This incorporates the following: development and strategy; development of targeted operation against organized and serious crime and the management of critical operations; the development of information capital, that is databases, information systems, networks and technology infrastructure.

4. Under the sphere of the learning and growth perspective, this includes: leadership, employee alignment and teamwork and knowledge management. This perspective incorporates, Madam President, human capital, that is, skills, talent and knowledge; organizational capital including culture, leadership, employee alignment, teamwork and knowledge management.

Madam President, we have established a monitoring and evaluation unit within the SSA and also within the Ministry of National Security to monitor these metrics.

Sen. Ramkissoon: Thank you, Madam President. Hon. Minister, you shared some highlights on major activities being done by the SSA. Now, as per section 13 of the SSA Act, there is a provision for an annual report to be laid to highlight these major activities and projects being done. The last laid report was in 2013. How then is the Minister aware of these metrics and these measures that are being done on a yearly basis? Thank you.

Hon. Maj. Gen. E. Dillon: Madam President, I mentioned in my answer that prior to 2016, the metrics were not in place really to give a real understanding as to the performance. What I mentioned is what we are now putting in place since 2016, and I mentioned the different spheres since this Government took over. Right? This is where we are going to look at the metrics to evaluate the performance of the Strategic Services Agency. I went through at length the spheres that we looked at.

Sen. Ramkissoon: Thank you, Madam President. Hon. Minister, one of the measures that was mentioned in the last report was a national supply reduction strategy for 2014 to 2024 and this was done by the Drug Strategy Department. Is one of the measures to look at this again or is to implement? Thank you.**Hon. Maj.**

Gen. E. Dillon: Madam President, I would say that the areas that I mentioned in terms of the metrics are all covered. In terms of operational that would fall under in terms of operations and capabilities and they would all be measured as I mentioned before given the four spheres.

Sen. Sturge: Can the Minister of National Security indicate, given what he has said about an evaluation unit within the SSS, can the Minister indicate: what was the impact of the non-proclamation of the SSA (Amdt.) Bill, 2016 on the SSA?

Hon. Maj. Gen. E. Dillon: Madam President, I am unable to say what is the impact of that strategy.

Forensic Science Centre

(Details of)

83. Sen. Wayne Sturge asked the hon. Minister of National Security:

For the period January 01, 2017—March 31, 2017, can the Minister advise:

- a) how many autopsies were conducted at the Forensic Science Centre;
- b) of such numbers, how many were deemed unnatural deaths and how many murder; and
- c) how many autopsies were deemed inconclusive?

The Minister of National Security (Hon. Maj. Gen. Edmund Dillon):
Thank you, Madam President. Madam President, for the period January 01, 2017 to March 31, 2017 a total of 278 autopsies were conducted by the pathologists assigned to the Trinidad and Tobago Forensic Science Centre. Of this total, 268 were conducted at the Forensic Science Centre in Port of Spain and 10 at the Scarborough Regional Hospital in Tobago.

The Pathology Subdivision of the Forensic Science Centre classifies the manner of death as natural, unnatural or undetermined. These are defined as follows: natural deaths are due to illness or internal malfunction of the body; unnatural deaths are influenced by external sources. In instances where the cause of death cannot be determined due to an advanced state of decomposition or when further investigation or analyses are required, for example, toxicology or histology to determine or confirm the cause of death, the death is classified as undetermined.

Unnatural deaths are further classified as homicide, suicide or accidental. Specifically, homicide covers deaths caused by another person and includes all incidents of shooting, stabbing and beating whether or not it involves self-defence of any or of the parties involved. In other words, homicide is an umbrella term that covers the act of one human killing another which could be murder or manslaughter.

Murder, however, is the legal term which speaks to the unlawful killing of another person with the intent to do so, thus Senators are advised that the classification of the cause of death as “murder” is a legal determination which does not fall under the remit of the Trinidad and Tobago Forensic Science Centre.

Accordingly, the Trinidad and Tobago Forensic Science Centre is unable to state how many of the autopsies conducted by its pathologists during the period January 01, 2017 to March 31, 2017 can be classified as death attributable to murder. Nonetheless, it can be determined that of the 278 autopsies conducted during the period in question, 218 cases were classified as unnatural deaths of which 153 would be homicides.

During the period under review, Madam President, the cause of death in 18 of the autopsies conducted by the pathologists assigned to the Forensic Science Centre were undetermined, Madam President.

**Forensic Science Centre
(Autopsies Conducted)**

84. Sen. Wayne Sturge asked the hon. Minister of National Security:

Can the Minister inform the Senate how many autopsies were conducted at the Forensic Science Centre for the period January 01, 2016 to December 31, 2016?

The Minister of National Security (Hon. Maj. Gen. Edmund Dillon):

Thanks again, Madam President. During the period January 01, 2016 to December 31, 2016, a total 1,126 autopsies were conducted by the pathologists assigned to the Trinidad and Tobago Forensic Science Centre. Madam President, 1,102 of these autopsies were conducted at the Trinidad and Tobago Forensic Science Centre in Port of Spain and 24 at the Scarborough Regional Hospital in Tobago, Madam President.

Sen. Chote SC: Through you, Madam President, to the hon. Minister. Does the Minister or can the Minister tell us whether there is a limitation on how many autopsies a pathologist can do in any given day?

Madam President: Sen. Chote, I will not allow that question.

Sen. Chote SC: As it suits you.

JOINT SELECT COMMITTEE

(APPOINTMENT OF)

Cybercrime Bill, 2017

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you, Madam President. Madam President, having regard to the correspondence from the Speaker of the House in relation to the establishment of a Joint Select Committee to consider and report on the Cybercrime Bill, 2017, I beg to move that the Senate concur with the House of Representatives in the

establishment of the committee and that the following six Senators be appointed to serve:

1. Sen. Clarence Rambharat
2. Sen. Dennis Moses
3. Sen. Michael Coppin
4. Sen. Wade Mark
5. Sen. Melissa Ramkissoon
6. Sen. Paul Richards

Question put and agreed to.

ARRANGEMENT OF BUSINESS

Madam President: Hon. Senators, we will now revert to an earlier item on the Order Paper, which is the swearing-in of the temporary Senator.

SENATOR'S APPOINTMENT

Madam President: Hon. Senators, I have received the following correspondence from His Excellency the President, Anthony Thomas Aquinas Carmona O.R.T.T., S.C.: "THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

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

TO: MR. NDALE YOUNG

UNREVISED

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

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, NDALE YOUNG, to be temporarily a member of the Senate, with effect from 9th May, 2017 and continuing during the absence from Trinidad and Tobago of the said Senator Cummings.

Given under my Hand and the Seal of the
President of the Republic of Trinidad and
Tobago at the Office of the President, St.
Ann's, this 8th day of May, 2017.”

OATH OF ALLEGIANCE

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

CIRCULATION OF BULLETIN (USE OF MOBILE DEVICES)

Madam President: Hon. Senators, before I call on the Minister of Finance, I just want to remind Members of the Senate about the bulletin that was circulated in respect of the use of mobile devices in the Chamber, and I also want to remind Senators of Standing Order 42(11), which prohibits a Senator from reading a speech.

OFFICE OF PROCUREMENT REGULATION (DETERMINATION OF SALARIES AND ALLOWANCES)

The Minister of Finance (Hon. Colm Imbert): Thank you, Madam

President. I beg to move Motion No. 1 standing in my name:

Whereas it is provided by section 11(9) of the Public Procurement and Disposal of Public Property Act, 2015 (hereinafter called “the Act”) that the salaries and allowances of the Procurement Regulator and Members of the Board of the Office of Procurement Regulation shall be determined by the Minister of Finance, subject to the approval of Parliament;

And whereas the Report on the Determination of Salaries and Allowances of Members of the Board of the Office of Procurement Regulation was laid in the Senate on April 25th, 2017;

Be it resolved that the Salaries and Allowances contained in the Report on the Determination of Salaries and Allowances of Members of the Board of the Office of Procurement Regulation be approved.

Madam President, this section in the Public Procurement Act is really, in my view, an anomaly. This Act, as I said, in the other place, was passed with a lot of heat, and as a result of the emotion associated with it, it appears that insufficient scrutiny was given to several sections in the Act. In this particular one, what should have been done was that the salaries should have been subject to the negative resolution of Parliament, but I think if a Member had an objection they could have filed a Motion to negative rather than engaging in a full-fledged debate in both houses of Parliament. But be that as it may, this is what the Act says, that the salaries and allowances of the Procurement Regulator and members of the Board of the Office of Procurement Regulator shall be determined by the Minister subject to the approval of Parliament.

The report that has been laid provides for a total compensation package of the Regulator of approximately \$85,000. In coming up with this package, the compensation packages for the Auditor General and a puisne judge were used as

benchmarks. The report also recommends for the Deputy Chairman of the Board, the Procurement Board, which is a part-time position, a salary of \$13,000 a month and a transportation allowance, and for ordinary members of the Procurement Board a salary of \$9,830 and a transportation allowance.

Now, if I go to the Salaries Review Commission Report, and we look at the salary of the President of the Republic, his salary is \$64,270 per month. I look at the salary of the Chief Justice, his salary is \$50,350 per month. If I go to the Public Service Commission which is used as a benchmark for the board, the members of the board, the salary of the Deputy Chairman of the Public Service Commission, if that person is part-time, is \$13,000 a month, exactly the same as what we are recommending for the Deputy Chairman of the Board of Procurement Regulation.

I go to the Prime Minister, his salary is \$59,680 per month. With respect to Cabinet Ministers, the salary of a Cabinet Minister is \$41,030 per month, therefore the salary of the Procurement Regulator—Office of the Procurement Regulation if you want to call it that—is more than a Cabinet Minister, more than the Minister of Finance, more than the Attorney General. It is just a little below the salary of the Prime Minister and the President. It is more than the Auditor General.

If I go now to the salary of the Auditor General who has the onerous responsibility of auditing the public accounts of Trinidad and Tobago, the Auditor General's salary is \$38,920 per month and a puisne judge salary is \$37,300 per month. So that the recommended salary for the Regulator is more than a puisne judge, more than the Auditor General, more than a Cabinet Minister and close to the salary of the Prime Minister, almost identical to the salary of the Chief Justice and just \$14,000 less than the salary of the President of the Republic of Trinidad and Tobago.

And, therefore, Madam President, I was astonished, bearing in mind these

facts, that persons should think that an appropriate salary for the Regulator who will be a public officer, a public servant, should be of the order of \$100,000 a month. What I found very hypocritical is that if we, the Government, had recommended a salary of \$100,000 a month for the Regulator, those who are criticizing the salary now—the \$50,000 salary as being much too low—would have been screaming to high heaven about the elitist recommendation to give the Procurement Regulator \$100,000.

I find some of the comments that are being made to be preposterous. This is public service, Madam President, and one expects that one would be looking for somebody of character. That is what you are looking for. You are looking for somebody of high integrity, of high morals and someone of character with the necessary competence to fill this position.

Madam President, I also have noticed in the public domain commentary about the salary of someone such as the CEO of the state oil company, apparently in excess of \$150,000 a month. I can tell you that when we came in we discovered that the previous Government had agreed to a salary for someone who is the president or CEO of a subsidiary of a state enterprise, with very little to do, they had approved the salary of that person at \$100,000 per month. This cannot continue in this country. It just cannot.

You cannot tell the Minister of Finance, for example, that a salary of \$41,000 per month is appropriate when the Minister of Finance has to deal with 53 state enterprises and 50 subsidiaries in addition to all of the other responsibilities that the Minister of Finance has, and tell the Minister of Finance that \$41,000 is more than enough for that individual—whoever he or she may be—and then to come and say that the Procurement Regulator whose responsibilities are a fraction of the responsibilities, for example, of the Prime Minister whose salary is just

\$9,000 more than the Regulator or the Chief Justice whose salary is the same as the Regulator, to come and say that this person's position is so special, it is so onerous that you must give this person a salary of \$100,000, Madam President. In fact, I consider these comments to be outrageous.

The other point that is in the public domain that needs to be cleared up, there was an allegation made by a former Government Minister, now a Member in the other place, an absurd allegation, that the current Government and the current Minister of Finance are interfering with the appointment and the recruitment of the Procurement Regulator, because I had indicated in the other place that we were assisting His Excellency the President with the engagement of a consulting firm who would then proceed to advertise or to headhunt, as the case may be, and prepare a shortlist of some approximately 20 suitable candidates from which the President would make his appointment. When I indicated this in the other place that the Ministry of Finance was assisting the Office of His Excellency by procuring a consulting firm to assist in the search for a suitable person to be the Regulator, there was a hue and cry from the UNC to the effect that we were interfering with the recruitment of the Procurement Regulator, another highly hypocritical statement.

2.30 p.m.

Because, Madam President, I have had the cause to look at the minutes of the meetings of the oversight committee for public procurement reform, appointed by the previous Government, the UNC Government, and the members of that committee included Mr. Timothy Hamel-Smith, your predecessor; Mr. Reynold Cooper, who was the head of the public service at the time; Mr. Dhanpaul, the Permanent Secretary in the Ministry of Finance; Mr. Victor Hart; Ms. Indrani Rampersad; Mr. Omar Daniel, Mr. Ravi Suryadevara—I believe that gentleman is

associated with AMCHAM; Mr. Winston Riley, Mr. Lutchman, and so on. At the third meeting of the oversight committee for public procurement reform, chaired by the former President of the Senate and the head of the public service, the chairman reported to members of the committee, and this would have been on the 10th of July, 2015, before the last general election, the chairman reported to the members of the committee, the UNC appointed committee, that there had been a meeting with His Excellency the President, the current President, on Thursday the 2nd of July, 2015, and among the key discussion outcomes was the request for assistance from the Ministry of Finance, where the Ministry of Finance would be involved in the creation of a job description for the Regulator, placing of the advertisement for the Regulator, assistance in reviewing the applications by the committee, and eventually submitting names for the consideration of His Excellency.

So that on the last occasion, the former Government was deep into the process of engaging a consulting firm, creating the job description, reviewing applications for the post of Regulator, and creating a shortlist for His Excellency. That is what they did, and, therefore, any comment by any former UNC Minister that we are interfering is pure hypocrisy. What we are doing, we have taken a hands-off approach, and what we are assisting His Excellency with is merely the engagement of the firm. Unlike the UNC, who were going to shortlist the names and hand the names to His Excellency, the President, we are simply recruiting the firm, and the firm will do the invitation of applications, interviews, and the creation of a shortlist, and so on. The Ministry of Finance will have nothing to do with that, we are simply procuring an appropriate consulting firm. So our process is far removed from what they were doing. They were actually deeply involved in creating a shortlist of suitable applicants to give to the President. And, yet, I have

to hear that we, in this PNM Government, are interfering with the recruitment of the Regulator; just complete hypocrisy.

The other point I would like to make, Madam President, is that we expect that in these difficult financial times that these salaries that we hear about of \$180,000 a month, and \$200,000 a month, which appeared to have been the benchmark in the good “ole” times when oil was \$100 a barrel under the UNC, these salaries have to come down. This country can no longer afford to pay a chief executive in a state enterprise \$200,000 a month. We have to cut back. Everybody has to cut back, Madam President, [*Desk thumping*] we cannot continue like this. And I am just disappointed that persons would insist that a public servant would receive a salary that is higher than the President, higher than the Chief Justice, higher than the Prime Minister, higher than the Attorney General, higher than the Auditor General, higher than Cabinet Ministers. I am just disappointed that persons would even suggest that in this day and age when the economy of Trinidad and Tobago has suffered a loss of \$20billion in revenue, Madam President.

When oil money was flowing out of their ears, when it was nothing to award billion-dollar contracts for all sorts of things, that was when they could come up with these ideas. When I look in the notes, Madam President, they were actually proposing that \$100,000 be the low end of the scale. Depending on who you get, you go up to \$150,000 or \$200,000; this is what the UNC was doing. When I look in their notes they were saying that the \$100,000 salary for the Procurement Regulator should be the low end, and the UNC was of the view, go up \$150,000, \$200,000, Madam President. These things are just unacceptable, absolutely unacceptable. And what we have done, this matter went to the Chief Personnel Officer, and the Chief Personnel Officer, on the 23rd of June, 2015—and what is interesting about all of this, while the implementation committee, the public

procurement reform oversight committee, appointed by the former Government, chaired by the former President of the Senate, were talking about a minimum salary of \$100,000 for the Regulator, on the 23rd of June, 2015, the Chief Personnel Officer—this is under the UNC—wrote to the Permanent Secretary in the Ministry of Finance and the Economy and gave the approved guidelines for the terms and conditions applicable to the position of Regulator, Office of Procurement Regulation, and this is what the CPO recommended in June, 2015; for the first two years, a salary of \$35,000; for the third year, a salary of \$37,000; a housing allowance of \$8,500 per month, and gratuity of 20 per cent of basic salary.

So that the former UNC Government received this document from the Chief Personnel Officer, which recommended a salary of the order of \$35,000, yet, they were of the view, when I read their correspondence—they tossed this in the bin, this recommendation from the Chief Personnel Officer, and they are of the view that it should be \$100,000 plus. I am sorry, Madam President, the country simply cannot afford these excessive emolument packages. We simply cannot afford these compensation packages, especially in the—[*Crosstalk*] Madam President, I am hearing a constant drone from Sen. Sturge, I seek your protection, Madam President.

Madam President: Sen. Sturge. Continue, Minister.

Hon. C. Imbert: He cannot help himself.

Madam President, we also looked at the duties and responsibilities of the board, and we felt, having looked at it very, very carefully, that a comparable board should be the Public Service Commission, because this would be a part-time entity that might meet once per month, and would look at issues that came before it in terms of complaints, objections, and so on, to procurement exercises, and so on. We felt that because the stipend, or the salary for the part-time chairman of the

Public Service Commission, which has similar onus, responsibilities—it is \$13,000—that we felt that this was an appropriate stipend for the Deputy Chairman, who is not a member of management, but simply the member of a board. The distinction needs to be made, the Procurement Regulator that we are proposing a package, total package \$50,000 salary and \$35,000 of allowances, because we looked at what had gone before, we looked at what the CPO came up with, we looked around the public service, we did not operate arbitrarily; we looked at what the Auditor General's package is, we looked at what a puisne judge package was. We thought that this person would have quasi-judicial functions, and we have come up with a package that is a total of approximately \$85,000. Included in that \$85,000, as I indicated, would be the salary of \$50,000, and then some allowances, similar to what these other persons in a comparable category would get.

So we are recommending that in addition to the \$50,000 salary that the Procurement Regulator would get a chauffeur allowance of \$7,500 per month, a housing allowance of \$12,000, a contact allowance, continuing education allowance of about \$10,000 a month, actually \$118,000 per annum, a travel grant of \$69,000 per annum, or, approximately, if you worked that out on a monthly basis about just below \$6,000 per month travel grant for overseas travel, in addition to the contact allowance and the continued education allowance, medical benefits similar to a Cabinet Minister, and gratuity of 20 per cent of gross salary, and the other benefits, such as vacation, and so on, in line with typical allowances in the public service. With respect to the Deputy Chairman of the board, as I said, we believe this to be a part-time function, they would meet once a month, and we have put to the Senate, a part-time salary of \$13,000, transportation allowance of \$1,140, and the members of the board, again, meeting once per month, \$9,830. I

can tell you that this is similar to an A-class state enterprise board. This is a little more, actually that would be received by a member of an A-class state enterprise board, a large state enterprise board, \$9,830, and a transportation allowance of \$1,140 per month.

We believe, in consideration of the totality of the circumstances, since what we are looking for is somebody of high moral fibre, and somebody who is willing to do public service, that these packages are appropriate. Let me also give an update on where we are with the implementation of the Act. One of the key issues that needs to be resolved is what we are doing today, Madam President, so that His Excellency can proceed after the firm has been outsourced, and advertisements are in progress for that, to engage the firm. After the firm has been engaged and the applicants are presented to His Excellency, the compensation package would also be available to him, and he can proceed to make the appointment, which is necessary. Without a Regulator you can have no implementation of the Public Procurement Act, and that is why I said that, perhaps, it might have been better that this matter would have been subject to negative resolution.

We also are in the process of procuring office space for the Office of Procurement Regulation, and we have also come up with organizational charts, organizational structures for the procurement entities that will now be required in all of the Ministries and Departments. We have come up with the five different categories, a large, a medium, a small, a basic and a minor, because there are some Ministries and Departments, all they do is procure paper or office supplies, and so on, so that they would not need a large procurement entity, a procurement unit with a large number of specialized staff, and that sort of thing. Some Ministries would need a very large procurement unit, like the Ministry of Works and Transport, for example. They will need a large procurement unit, but some would not. For

example, if I took the Ministry of Tourism, they may not need a large procurement unit, because the flexibility will still be there for Ministries and Departments to use state enterprises to procure on their behalf, if they so choose.

The Government has also re-engaged the United Nations Development Programme as a consultant, so they would advise on the roll-out of the public procurement Act. And from this year, 2017, the UNDP has been working with the various senior officers charged with the changed management and the changed process that will occur, with respect to accounting officers, towards building capacity in preparing a procurement and disposal handbook, as required under section 30 of the Act, setting internal controls for efficiency and effectiveness in the procurement and disposal process, and the preparation of special guidelines, as also required by section 30, in particular section 30(2) of the Act.

The UNDP consultants have met with key stakeholders in Ministries, Departments, and state agencies to understand the unique challenges that each entity will face, to look at those that undertake significant construction activity, or are involved in significant procurement outside of the construction sector, and also assist in training, training of trainers, training of internal auditors, who will be required to support accounting officers on the level of compliance that is now going to be required to be met. With respect to the Central Tenders Board, we consider the transition of the staff of the Central Tenders Board to be of critical importance in this entire process. Under section 66 of the Act, they may opt for voluntarily retirement from the public service, transfer to the Office of Procurement Regulation, or they can remain in the public service and be redeployed.

We have established an interdepartmental transition team, headed by the Ministry of Finance, to look at all of the needs of the Central Tenders Board staff

as they transition towards whichever option they choose to select. The Ministry of Finance has also met with the relevant trade union in February of this year, and a decision has been taken that the technical staff, those who wish to remain in the system, will be deployed throughout Ministries and Departments of the public service, following the repeal of the Central Tenders Board. In fact, we were told that there are some 15 to 20 contract officers that will be available for redeployment, and these will be redeployed to various Ministries and Departments as required.

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

Question proposed.

Madam President: Sen. Mark. [*Desk thumping*]

Sen. Wade Mark: Thank you very much. Madam President, I listened very attentively to the Minister of Finance, and he made a lot of statements that I will want to debunk. He talks about hypocrisy, I will show you who is the hypocrite; I will demonstrate, Madam President, where the Ministry of Finance is attempting to hijack, kidnap, this whole procurement process and, in the final analysis, determine who is their man, [*Desk thumping*] or woman, or who is the person. So all this talk about whose idea, I want to ask the hon. Minister, through you, if he was so committed to quoting extensively the work of the oversight committee, why did you disband it when you came into office? [*Desk thumping*] That particular committee, Madam President, was committed to transparency, accountability and proper oversight, [*Desk thumping*] but the first act committed by that Minister was to disband and get rid of this particular committee. And he comes here with crocodile tears, literally crying [*Desk thumping*] and attacking, Madam President, all the good work that was done by the oversight committee, and giving the impression that the President—using the President in a very convenient style,

surreptitious style, in order to accomplish his own objective. [*Desk thumping*] I do not know who the Minister of Finance believes he is fooling. He is not fooling us. We know what the Minister of Finance is about, and we know what the Government is about.

Madam President: Sen. Mark?

Sen. W. Mark: Yes, Madam.

Madam President: Just have a seat. Could you just—the microphones in this Chamber work very well, so could we just take it down a little bit, please.

Sen. W. Mark: Well, you know, this is a very important topic.

Madam President: I do so know, but could we just take down—Sen. Mark, just take it down a little bit.

Sen. W. Mark: Well, I will try. I will try to take it down. I do not know if it will come down, but I will try to bring it down.

Madam President: Sen. Mark, you know if it does not come down then I will do what I have to do.

Sen. W. Mark: You will put me to sit down, I would imagine.

Madam President: So, Sen. Mark, continue.

Sen. W. Mark: Yes. I know I have the right to speak in this Chamber.

Madam President: Sen. Mark, please take your seat. No one is restricting your right to speak, but it is my responsibility to maintain order in this Chamber, and I am asking you to, please, just take down your tone a little bit, or maybe you may have to turn off your microphone and just speak. Continue, Sen. Mark.

Sen. W. Mark: I take objection to what you have—

Madam President: Sen. Mark?

Sen. W. Mark: Okay.

Sen. Baptiste-Primus: Have some behaviour.

Sen. W. Mark: All right. Well—

Madam President: Sen. Mark, just continue, please.

Sen. W. Mark: Let me proceed, please, thank you. Thank you. Madam President, I have made the point that I intend to expose this Government today. Madam President, why did the Minister disband the oversight committee? He must tell us why he did that. [*Crosstalk*]

Madam President: Minister.

Sen. W. Mark: Why did he disband the committee? Why he did not continue the committee, because he has quoted extensively from the work of the committee. So one would have thought that if he was interested he would have continued, even with new membership, Madam President.

Madam President, may I indicate very early that we are dealing with a law, it is called Act No. 1 of 2015, and I want to tell you that the Ministry of Finance, headed by the Minister of Finance, is described in the definition and interpretation section as a public body, and, therefore, the Ministry of Finance is subject to the Procurement Regulation and the Procurement Regulator. [*Desk thumping*] So this attempt by the Minister of Finance—and, you know, Madam President, I want to challenge him, you know, I want him to produce the evidence in this Parliament to prove that the President of this country asked him and his Ministry for assistance. Produce the evidence, [*Desk thumping*] let us see the correspondence, Madam President, in which that request was made, because he quoted the President. He stated that the President asked for his assistance. [*Interruption*]

Hon. Imbert: You go and ask.

Sen. W. Mark: So you must bring the evidence, I do not have to ask him anything, you must bring the evidence.

I want to also indicate, Madam President, that the law is very clear, the only

role that the Minister has to play in this legislation is what he is attempting to do today, and that is under section 11(9). He will bring a report to look at the salaries and the allowances of the Regulator and other members; that is his role. He has no role, Madam President, in advertising for a recruitment agency, [*Desk thumping*] to have expressions of interest indicated, so that, for instance, the Ministry of Finance under the Minister of Finance can then, Madam President, determine who will be, or who will comprise the shortlist at the end of the process. I would like to ask the Minister, I am not dealing with what request came to him, you know, Madam President, I am asking the Minister where in the legislation he derived that power. [*Desk thumping*] I am challenging him that nowhere in the legislation does the Minister have the power to do what he is doing.

I do not think it is fair for him to come and tell you, and this Parliament, that all he is doing is issuing proposals for an agency and, you know, at the end of the day the President will determine everything else. Well, Madam President, I have a document, which I will pass on to every person, including the media, it is a secret society, a lodge, virtually established, Madam President, as it relates to this advertisement. I went on the website of the Ministry of Finance searching for this document and I could not get it. Some good Samaritan sent it in my mailbox, and that is how I was able to get this secret document that was issued in the name of the Minister of Finance and the Ministry of Finance.

I want to tell you, Madam President, this document headed the Government of the Republic of Trinidad and Tobago, Ministry of Finance, General Administration Division, is dated April the 10th, 2017. [*Interrupted*]

Hon. Imbert: You working.

Sen. W. Mark: I working? I exposing. That is what I am doing here today. [*Desk thumping*] Madam President, “I eh wuking, I exposing yuh.” Madam

President, hear what is the headline—Madam President, let me tone it down. I want to tone down here.

Sen. Baptiste-Primus: So long she asked you to—Madam President.

Sen. W. Mark: Yes, I am doing it now. “I toning down”. Madam President, I am toning down. You know, I am a trade unionist like my friend across there and we have loud voices. Madam President, hear what it says:

Selection of a recruitment agency for the invitation and review of expressions of interest for the position of Procurement Regulator/Chairman of the Board of the Office of Procurement Regulation.

Madam President, the Ministry of Finance is seeking expressions of interest, and they are seeking to engage the services of a recruitment agency to invite and rank—Madam President, it is not only to invite, you know, it is to invite and rank expressions of interest for the position of Procurement Regulator/Chairman of the Board of Procurement Regulation.

Madam President, I am asking the hon. Minister a second and a third time, where in the law does he have that power? The Minister does not have that power. He has arrogated, as he has done in many instances in the past, a power that he does not possess. The law does not give him it, so he has done it on his own. And, you know, Madam President, hear this interesting part, as I bring down the temperature:

Proposals must be delivered to the tender box titled: recruitment agency, Office of the Procurement Regulation which will be located on the ground floor, Eric Williams Finance Building, no later than Wednesday the 19th of April, 2017, at 4.00p.m.

/s/ Director Corporate Services

3.00 p.m.

This went out, Madam President, without your knowledge, without my knowledge, without the citizens' knowledge. Here is the document issued by the Minister of Finance called Request for Proposal. Here it is—[*Senator waves the document*] Request for Proposal. He sent out this document not only here, but throughout the region. It is here, I will quote for you. It went throughout the region and it went internationally, doing what?—usurping the functions of the President, who is the person under the legislation with responsibility for appointing the Procurement Regulator. Right?

So the question here is this, we understand, Madam President, when this was first issued and I want to read again for you:

Reference is made to above-named subject—
—which I mentioned.

The Ministry amended the expressions of interest and has therefore terminated the previous procurement process dated March 07, 2017. [*Desk thumping*]

So, Madam President, they had a previous document that they issued which they have amended. This one that they issued dated April 10th, followed on one that was dated March 7th. Why is that, Madam President? The Minister has to answer, he has to answer. And, Madam President, I want to debunk, as I told you, the argument that the Minister tried to sell a short while ago, that his only responsibility is to recruit an agency and the President will take it from there. Madam President, let me read for you and for the world what this Minister is seeking in this proposal. I want to deal with the scope of the services required.

Madam President, the Minister is advertising for the said positions in the local, regional and international print and electronic media. It is local, it is regional, and it is international. It goes on to tell you that it would include among other

things the Caribbean Procurement Institute, Caricom, Jamaica *Gleaner*, *LatinFinance* and economic *New York Times*.

Madam President, I do not know if you are aware, when the Minister is referring to this particular body called the Caribbean Procurement Institute. Madam President, you know what is the procurement institute of the Caribbean? The last time I learnt about this particular body, this body, the founder of this body is a lawyer, the name escapes me at this time. This lawyer was previously involved in the Piarco Airport Commission of Enquiry representing the commission, I think it is Margaret Rose. And the Uff Commission of Enquiry into the construction industry representing Dr. Keith Rowley, our present Prime Minister.

Now, Madam President, this is the body that is being asked, we are advertising to that body to. So *The Gleaner* is being used, *LatinFinance* is being used, the *Economist* is being used, *New York Times* is being used and something called the Caribbean Procurement Institute is being used led by a woman called Margaret Rose. [*Desk thumping*] So, what is this thing about?—and this is being done by the Ministry of Finance. For who and for what?—the Procurement Regulator, the Deputy Procurement Regulator, all the officers of that body making up the board. That is what is at stake here.

Madam President, it does on further to tell you how dangerous this whole thing is. This recruiting agency that the Minister says is a very innocent body, hear what it does. It is going to receive electronically the CV through a secure medium of all the applicants. That is the agency, you know, not the President, Madam President, not the Office of the President, but the recruiting agency recruited by the Ministry of Finance. It goes on:

Through the screening of applicants including reviewing CVs, qualifications, background, criminal record and references to ensure that

candidates have backgrounds of the highest integrity.

Who is doing that, Madam President?—the recruiting agency, recruited by the Minister of Finance and reporting to the Minister of Finance. Madam President, what this agency will do and not what the President will do or the Office of the President will do, this agency will create a shortlist of approximately 20 qualified and experienced candidates with attached CV for the position with justified rankings.

So, Madam President, they are going to be responsible for ranking and screening and creating the shortlist. They will vet the persons who have been shortlisted. They have the capability of allocating staff and resources, and when all this is done they will meet with the Office of the President and the Permanent Secretary, Ministry of Finance with final recommendations.

Madam President, this Government is seeking to undermine and subvert and to compromise the Office of Procurement Regulation. [*Desk thumping*] That is what is at stake. It is not only the salary that we are talking about, which we will spend a little time on because that is important, but we are talking about a situation where the whole process is being hijacked. Madam President, do you know what this means? If the Minister is getting—and Madam President, as I am on this point, let me tell you who is issuing this procurement document for expressions of interest. It is an Administrative Officer IV, one Mrs. Gillian Harvey of the Ministry of Finance, Level 7, Finance Building, Port of Spain.

Madam President, you understand what I am talking about? This is the selection of a recruitment agency for the invitation and review of expressions of interest for the position of Procurement Regulator/Chairman of the Board of the Office of Procurement Regulation. And, Madam President, not even the Permanent Secretary, you know. It is an ordinary Administrative Officer IV. It tells you the

contempt that the Government of this country has for this office called the Procurement Regulator [*Desk thumping*] and the procurement regulation board. That is the contempt that we are demonstrated, that the Government is demonstrating in this instance.

So, we want to make it very clear, Madam President, that this proposal that the Government has brought here this evening to deal with the determination of salaries and other allowances for the Procurement Regulator, we are submitting that the Government has organized this process in a way to fail. It is designed to fail. Because how can you in accordance with the law of the country take from the President of this country these responsibilities? You would know, Madam President, under the Act who is responsible and it comes under 10 subsection (2) of the procurement law, Public Procurement and Disposal of Public Property. And I quote:

“The President, after consultation with the Prime Minister and the Leader of the Opposition shall appoint a member as Deputy Chairman of the Board...”

He shall also appoint all the other officers including the Procurement Regulator.

This particular office holder is so critical to this particular function of Procurement Regulator that the drafters and framers of the law made it very clear that this particular office holder shall not be subject to the direction and/or control of any authority. [*Desk thumping*]

So, Madam President, listen to the conflict of interest, listen to the disaster. The Minister of Finance and his Ministry and all the state enterprises falling under Corporation Sole under the law are described as public bodies, all public bodies are accountable and responsible and fall under the jurisdiction of the procurement

regulation board. Here we have a situation where the Minister of Finance is subject to the procurement regulation board; he is subject to the Procurement Regulator, but the Minister has set up an agency to recruit the Procurement Regulator and the officers making up procurement regulation. [*Desk thumping*]

Madam President, it is a clear conflict of interest. That is why I am saying the PNM is not interested in making this legislation work. [*Desk thumping*] And he seems to be very annoyed with us having the right to debate the terms and conditions of the regulator. The Minister dismisses the law by saying it should be subject to negative resolution. So the hon. Minister could have done whatever he wanted to do and then if we are lucky to see in the *Gazette* and it comes here, we can then come with negative resolution; barring that, it escapes us.

I am so happy that the People's Partnership made sure that was in the legislation so we could come here and [*Desk thumping*] debate that matter. I support that fully. And that is the commitment to accountability and to transparency. That is what this thing is about. So, you just cannot come here crying, as I said, crocodile tears and trying to compare apples with grapes. So, he talks about the Prime Minister, Chief Justice's salary, the Prime Minister's salary, his salary. He is probably dissatisfied with the amount of money he is getting right now.

Madam President: Sen. Mark—

Sen. W. Mark: Well, all right. Cool.

Madam President: No. Sen. Mark.

Sen. W. Mark: Yes.

Madam President: Please take a seat. You are making reference to a Member of the Parliament, so please do so respectfully. And also, let me just caution you again, stop shouting, please.

Sen. W. Mark: I am not shouting.

Madam President: Sit down, please.

Sen. W. Mark: I am not shouting.

Madam President: Please.

Sen. Baptiste-Primus: How could you?

Madam President: Please, stop. Minister. Sen. Mark, I told you already, please lower your voice. All right? I am saying it again.

Sen. W. Mark: I am not—

Madam President: Sen. Mark, please. Sen. Mark, I am not going to have to caution you again.

Sen. W. Mark: Okay, Madam.

Madam President: Hon. Senators, we will suspend for 15 minutes.

3.15 p.m.: *Sitting suspended.*

3.30 p.m.: *Sitting resumed.*

Madam President: Sen. Mark, you have 12 more minutes.

Sen. W. Mark: Thank you, Madam President. Madam President, I would like to suggest to the Minister of Finance that instead of seeking to undertake the responsibility of advertising for positions within the Office of Procurement Regulation on behalf of the President of the Republic, what we would like to advocate is that a budget be allocated in the Office of the President [*Desk thumping*] so that the President can do his work. We would like to suggest that.

We go further and we call on the Government to appoint the United Nations Development Programme as an independent body and that is already contracted to the Ministry of Finance to not only advertise those posts, but to shortlist those posts and to work very close with the Office [*Desk thumping*] of the President so that there can be neutrality, there can be independence in this appointment process

and there can be confidence and transparency. So, Madam President, these are areas that we believe the Minister should pay particular attention to.

Madam President, I also wish draw to your attention that there is a provision in the actual advertisement which when you analyze carefully seems to be in violation of the Central Tender Board Act, and I refer to Central Tenders Board Act, 71:91, section 12(1) and section 12(1)(a) and (b) respectively. I do not believe that the RFP is in conformity with the present Central Tenders Board regulation specifically with respect to the limits set on the Permanent Secretaries or on an officer under the particular regulations that I have quoted, which is regulation 12(1)(a) and (b). Madam President, it is to be noted that the RFP is not signed by the Permanent Secretary. It is signed by the director of corporate services and questions from aspirants are to be addressed to an Administrative Officer IV. So, I want to draw this to your attention and to the House's attention, Madam President.

Madam President, I also would like at this time to indicate when we are comparing the question of the methodology employed by the Minister of Finance, and he was very short on that. He did not go into any real detail as to what is the methodology. He talked about the CPO being employed and he went on, the hon. Minister that is, to look at, for instance, the salaries of a Prime Minister, a President, a puisne judge, the Auditor General, he looked other office holders, Cabinet Ministers inclusive.

But, Madam President, I would like with your leave to suggest that if we are to compare and to make a proper assessment on the value of the office of this particular Procurement Regulator and the Office of the Procurement Regulation, it is incumbent upon us to look at the functions and the responsibilities and when we look at the functions and the responsibilities of the Office of Procurement Regulation they are very onerous. We have estimated that because of the pilferage

that takes place in this society over the years, this office holder and the board could end up saving this economy close to 12 per cent of its annual GDP. And we are talking about close to \$20billion.

So in those circumstances, I am suggesting that there should be consideration where the Minister should go back to the drawing board. So, we are looking at some comparators that the Minister could examine in determining a reasonable package for this particular office holder.

I am asking the hon. Minister to look at what this RIC director receives. I am asking because that is a regulator, this gentleman here, the Procurement Regulator, he is a regulator. So, let us compare regulators with regulators. “Doh” tell me about the Prime Minister and the Chief Justice and a puisne judge. So, we are saying TATT is a regulator. Let us look at TATT and see what the CEO obtains or secures there; let us look also at the Securities and Exchange Commission and see where the CEO gets there; look at the Governor of the Central Bank, a regulator. My information is that a governor receives over \$100,000 a month. So let us look at a governor of the Central Bank as an example. And, Madam President, why not look at the director of the Financial Intelligence Unit. So what you do, you make a broad analysis and you do a proper evaluation. And what we would like to suggest—*[Interruption]*

Madam President: Sen. Mark, you have five more minutes.

Sen. W. Mark:—thank you very much. Madam President, what I would like to suggest on behalf of the Opposition is that the Minister withdraw this document. *[Desk thumping]* We will ask the Minister to do a proper market survey; we would call on the Minister to employ a professional team like either Hollis Rajkumar or PricewaterhouseCoopers or some other important agency that deals with compensation packages for top office holders; and let us see how we can address

this matter. I cannot propose a number, you have to do a proper market survey and get the comparators in place in order to arrive at a proper arrangement. [*Desk thumping*]

So in closing, Madam President, we want to reiterate the following: the Minister of Finance is not in place to conduct any interview through an agency [*Desk thumping*] that he is going to recruit. It is a direct conflict of interest and the Minister is subject to the procurement regulation. So it cannot be himself talking to himself. And we are also advancing, Madam President, that the Minister should allocate a budget to the Office of the President for purposes of recruitment, and we are also saying that the UNDP should be recruited by the Office of the President seeing that they are already involved in the process and they have a lot of knowledge and experience and they have a sense of independence when it comes to the question of procurement and procurement management and legislation and the systems that they ought to put in place to ensure that there is transparency and accountability.

So in those circumstances, we call on the Minister to reconsider what he has brought before us this evening. We ask him to withdraw this matter this evening [*Desk thumping*] and we ask him to go back to the drawing board, do the necessary comparators, do the necessary market survey, come up with a more objective approach and not an emotional approach that we saw here this evening in this presentation. And we believe that because of the significance of this office, we believe that we owe it to the country to ensure that we not only have somebody of integrity and impeccable character and good moral fibre, but we have to ensure that that person is above board. Madam President, I thank you very much. [*Desk thumping*]

Madam President: Sen. Small.

Sen. David Small: [*Desk thumping*] Thank you very much. I appreciate the opportunity to be able to join in on this debate. And in my conception this afternoon, Madam President, I had prepared in my mind to do a relatively brief talk because I believe that the matter is straightforward before us.

I must say though that having listened to the previous speaker some issues have arisen, and they sound that some ventilation is required, but I am not privy to the documentation or the process so it is impossible for me to comment, other than I think that some additional information should be forthcoming to help us understand. I have nothing in front of me, I heard things said, but I think that something needs to come so that we could help to understand.

Madam President, we are talking about the terms and conditions to the regulator. And I want to say up front that I understand the situation of the hon. Minister of Finance. I think I am on record here as saying on many occasions that I have no envy for the current holder of that position. The hon. Minister is in an unenviable position trying to manage the current economic situation, and I believe in all honesty that he is doing an excellent job. That is my honest assessment in spite of everything. That is my view. It still does not change the fact that I disagree with several things that the hon. Minister said, but I come from the good school, Madam President, I have learnt to disagree respectfully.

So that, you know, I think, that where we are as a country, we are at a crossroads. We have the opportunity here to do something different and to fix things. And I want to say the frame for some of what I am going to talk about, Madam President. My frame is that I think I am on record here in this Parliament, I have said on more than one occasion, public officials are grossly underpaid. That is my frame. Public officials in this country are grossly underpaid and successive administrations have grappled with it because of the public furore and all the

various public speakers, they tend to bend towards that will and just leave it as is or work with whatever the SRC works out which is completely out of kilter, irrelevant, has no standing, no basis whatsoever, and I am going to deal with that substantively.

So, Madam President, I had the privilege here when this Act No. 1 came and I took part in the debate, and I was very clear about my support for the Bill and about making sure on this issue about the regulator, that the regulator is paid properly, because we want to make sure that we attract. And I agree with the Minister, he wants somebody with character, but he also wants somebody with competence, somebody who has this professional grounding to be able to come and drive this process. And I believe that that requires, in my respectful view, a compensation package that would attract a particular type of individual.

And, Madam President, we are talking here about the whole issue of regulations, of procurement in the country. We are taking a new course here. We are charting a new course to have a body, an entity and a regulator who is in charge of trying to make sure that the regulation of procurement in this country keeps on course. And I think that the fact that the regulator will be ultimately responsible and accountable to this Parliament, to everybody here sitting in this chair, he is accountable here for procurement, public procurement exceeds \$20 billion. And when you have one person having to come here and answer questions across that spectrum, that is a massive responsibility, it is massive, in my respectful view.

I think that the proposed salary, Madam President—the terms and conditions—is pegged to civil service positions which while I understand, I understand, because it is a comfort zone, it is a zone that the persons who are looking at this are comfortable with and there are easy comparators. But I believe that this does not take us in a new direction; rather, it keeps us within what we are

accustomed to. And I believe if we stick to what we are accustomed to, we may not get what we are looking for and it may actually defeat the purpose of the entire legislation.

Madam President, my thinking—if you will permit me to share—is that I think that this position should remain attractive to experienced and qualified persons interested in taking on this onerous task. And the current peg, in my respectful view, may not allow us to get the type of candidate that we are looking for who can bring a fresh perspective. We have a series of institutions here in Trinidad and Tobago who are used to doing procurement in a particular way, and that way tends to not be correct in some instances.

3.45 p.m.

Madam President, I perform—I say every day, I come here and I try to give of my best. I try to see where there are things that I have the opportunity to comment on, or drive a process. I try to give of my best. My own experiences here in this Parliament, enquiring into the procurement practices of state enterprises, in some cases has revealed a deeply entrenched subculture of deceit and corruption, all with the aim of personal enrichment at the cost of the taxpayers. Persons in these entities, some of them, their entire ethos is about trying to make sure they themselves and their circle are enriched, and it appears that the persons who are funding that bill are me, you and everyone else in this building, and everybody walking in the street. People go to work with that whole objective to steal. And why? They continue to do it and they get away with it scot-free.

The really disturbing part about this culture of corrupt practices in procurement is that many of the individuals seem to think that they are not doing anything wrong, and because the State has what they consider to be unlimited resources, so what? The State could pay. Getting someone—a regulator—to

institute a process that unwinds decades of accepted corrupt practices, and replaces it with a transparent, accountable process that focuses on getting value for taxpayers' funds is a Herculean task, in my view. I respectfully submit, that the proposed terms are significantly below what is needed to get that level of talent.

I believe also, Madam President, that we should be seeking to attract a professional who has a grounding in the private sector where procurement tends to be a much more regimented and controlled activity. This is what should be part of the target of the exercise. Because those of us who have understood public procurement processes understand the weaknesses. There are people who prey on the weaknesses. But you will find in almost any private sector entity, procurement is a rigidly regimented activity where rules and procedures have to be followed, and if they are not followed there are penalties. People lose their jobs. In public sector procurement, all sorts of things happen and almost nobody loses their job. So that, Madam President, there is also a major consideration that the regulator—at least in the first instance—would be having to help build out an entire new entity and ensure that the focus is on ensuring accountability for State funds. He is building out an entity from scratch. It does not exist. I think the hon. Minister of Finance in his contribution indicated that they are now looking for a building, and once the regulator is eventually on board and all their stuff is sorted out then we are going to work out the staffing. He is going to have to start from scratch with nothing. Nothing! Zero. I mean, just the nature of that, starting an entity from zero is difficult.

And, Madam President, the other obvious issue, perhaps it is difficult for me to coin—I have to try to be correct—is that given the endemic leakage of funds into private hands via corrupt procurement actions, underpaying who will in effect be the procurement czar, for want of a better term, could be a recipe for disaster.

We may end with more of the same rather than a new dispensation. [*Desk thumping*] And that is my fear, Madam President. I try to think positive thoughts. I wake up every morning, I make my peace with the Father, and I am thankful for everything that I have achieved, and I try to do good things every day, but I am also fiercely understanding of the reality of Trinidad and Tobago as it is. I am fiercely—and probably I am starting to get worn down by my interactions with entities and persons who lie and steal and they just do it boldly. So that a procurement regulator having to come in to try to bring some sanity to that is a really, really, difficult job.

Madam President, the Procurement Regulator's mandate is to review procurement of all State purchasing entities, and make recommendations for improvements where appropriate review complaints from potential suppliers in respect of procurement for goods, review complaints from the administration of contracts, and ensure the provision of alternative dispute resolution. It is a wide range of activities that this one person is ultimately responsible for, as with any entity there may be people who are helping him do things but the ultimate responsibility rest with the regulator. It is a huge responsibility. The Procurement Regulator, in my view, is responsible for making a positive and substantial contribution to openness, fairness and integrity of the procurement system by providing a neutral, independent mechanism for ongoing review of the procurement practices of Government departments, and all other entities, and for addressing the various complaint. This is a massive responsibility, and I posit that the proposed remuneration arrangements are inadequate to attract that type of person.

Madam President, I want to stick to my frame. My frame is that public officials in this country are woefully underpaid. I am on record of saying that and I

will probably get all sorts of taps, and bad blogs, and whatever, but that is my view. I have the opportunity with respect to offer my view. As I have advocated on more than one occasion, the salary levels of the members of the Judiciary, in my view, and based on comparisons around the Commonwealth, in a previous discussion in this place, are well below the mark, not to mention the abysmal pension arrangements for retired judges who are hurting, and after having given yeoman service to this country.

Madam President, I looked at the document that was circulated and I saw that the linkage was to the position of Auditor General and puisne judge. So, I think that if it was in another jurisdiction linking the salary of the Procurement Regulator to the Auditor General would actually be perfectly fine. Why? Because the Auditor General in other jurisdictions is properly remunerated. So, let me give an example, if you permit me to go to my notes: In Canada, the Auditor General receives a base salary of \$334,000 a year, by comparison, the Prime Minister of Canada salary is \$170,000. In the UK, it is called the Comptroller and Auditor General, earns £215,000 a year, and the Prime Minister his base salary is £149,000 a year, and I dove through the website—and one of the reasons is that these are specialist positions requiring persons of extreme talent to come to drive a key Government process. So that, there is no linkage to random positions. You try to attract the talent and then you pay what the market is calling for you to get that talent, and I am not saying that we are able to do these kinds of numbers, but what I say, the principle that is being applied in other places who have tried to get things working is that they understand that to get people in specialized positions to performance specialized large tasks you need to be able to remunerate them properly. What the Prime Minister gets is irrelevant to that discussion. [*Desk thumping*]

A knock on of that, Madam President, let us say, for the sake of argument, the Motion goes as is and the Procurement Regulator starts at a base salary of \$50,000, and then he has to recruit senior auditors. Here is what could happen, Madam President. The Procurement Regulator might find himself in the awkward position of having to pay senior professional staff higher levels than his own to attract the skilled and experienced persons needed to get the job done. Perhaps we need to understand what a senior auditor goes for in Trinidad and Tobago, and I could tell you \$50,000 is not going to cut it. I operate in the real world, in the real market, and a \$50,000 base salary for a senior auditor, they would just look around at you and say, well—at least in the private sector that is not money. That is gas money. So that I do not want us to be—I do not expect the—

Hon. Senator: Gas money?

Sen. D. Small: Gas money is an extraneous term. The point I am going to, Madam President, is that I believe that by keeping it at this level, you may find that the regulator finds itself in a very awkward position. He may have to hire his juniors and pay them more than what he is earning. So that \$50,000 base salary starting—I understand the total package about \$85,000, nowhere near. I respectfully argue that the Office of Procurement Regulator is singular. It is only one. It has demanding responsibilities, and is invested with a high degree of autonomy, and requires a multiple of the base to which is now being proposed. And what that number is? It is not often, I would always say that I have to be careful in agreeing with my colleague in the Opposition. But, I think Sen. Mark hit on something that I am going to talk to later, and I agree totally, that there needs to be some professionalism attached to the exercise of how we calculate this number. It cannot be looking at true civil service position and then attaching a peg. I am not enamored of that approach.

Madam President, as I talk about the peg, the other issue of import which is, I looked at the job responsibilities of auditor general and puisne judge and then I try to line them up—using a Microsoft Word page compare—with those of the Procurement Regulator, there is almost zero correlation. It seems to be that they are completely unrelated, and it seems to be a revision of the approach taken by the—I hope to soon be disbanded Salaries Review Commission, the complete lack of any apparent sound human resource comparison and analytic basis for the profession requirements is surprising.

We have been provided with no metrics or any evidential rigorous analysis that would suggest that the proposed salary has a sound empirical basis. [*Desk thumping*] And I want to hit on this, Madam President, because we are going in a different direction. If we are doing it, let us try to do it properly. [*Desk thumping*] That is all I am saying. I am not doing it to target a number, but if you could have provided me with the matrix and the number comes out as \$50,000, then I would not be able to say anything, I will say, well, okay, I can justify it. I can see what is there. But by saying it is pegged to a puisne judge, or to an auditor general, that does not seem to be the approach that we should be using.

Madam President, I am on record here in this Chamber on multiple occasions—[*Interruption*]

Madam President: Minister, please!

Sen. D. Small:—pointing out that they type of incremental and arbitrary ranking of salaries of important positions have had and continue to have a deleterious effect on the moral of persons appointed to many of these positions. The history of unscientific salary adjustments or determination—[*Interruption*]

Madam President: Hon. Senators, I am listening very intently to Sen. Small, and I ask that everyone else do the same and do it in silence. Sen. Small,

continue.

Sen. D. Small: Thank you very much, Madam President. It is not often I have to get your protection, but I am always thankful for it. I appreciate it very much.

Madam President, as I continue, I was saying that the history of unscientific salary adjustments or determinations that bear zero analytical rigor by the SRC seems to now be extended to the Office of the Procurement Regulator. Madam President, that is the history. I have looked at almost every recent report by the Salaries Review Commission and I read it and then I dump it in the shredder, because there is zero analysis. Nothing. I can find nothing that makes any sense. And I am on record of saying it, because all they do, they look at it and they add 9 per cent, or whatever, and that is it. What we need here, quoting from Sen. Mark, but also from my own notes, is that we need to get somebody in here to do this properly.

The other point I want to raise, Madam President, is that while—I have noted from the hon. Minister of Finance that the Procurement Regulator is a civil service position. But, this procurement agency is really a special purpose entity. It is a special purpose entity. It has one purpose, and I think that given the high profile that the head of this entity will have, not to mention the scrutiny his actions will have to bear, the head of this special purpose entity will be under intense examination. Everybody in this country is concerned about procurement, and you get somebody in there who is just mildly competent, as much as he may be a patriot and willing to do the work, my leaning would always be towards competence, and you have to pay for competence. You have to pay.

So, Madam President, I have said one or two things. I am sure I have plenty time, I did not plan to speak long, but I wanted to just be concise and focus on the

Motion. Regarding the salary and terms for the deputy and other members of the board is even more shocking. I hate to digress, Madam President, but one argument I have heard is that these positions are part time. I think my views on the whole notion—with the greatest of respect—because a post is being deemed part time, that it is automatically attached—must be attached to a significantly reduced remuneration is simply illogical. It is illogical. I do a lot of part-time work, Madam President, and I could tell you it is some of my most well-paid work. I would say as a good example, if I am preparing for a Joint Select Committee on Monday, as I did yesterday, I spent 20 hours on the weekend preparing for that. People would only see that I am there for two hours, but I spent 20 hours reading through this much material going through spreadsheets to be ready.

So that, if you check it, I am only there for two hours, one day a week, that is not the way to check it. It does not—it cannot work. But this part-time fallacy, Madam President, endures, because there is a fixation on what is perceived as time on the job. What is always missed is the professional effort required to prepare for that time on the job. It is illogical to assume that you should be remunerated this way only for what is seen, but the behind the scenes preparation has to be a factor. So, if one would see you are meeting one day a month, but you get this much material to read, it takes time. It takes time. I could only speak for myself, but I work very hard and making sure that when I come to this Chamber, or I am in other parts of this building and I have to speak on something, I am well prepared. It takes a lot of time, a lot of effort [*Desk thumping*] to bring my professional experience to bear.

I have said on more than one occasion, Madam President, if I were to bill the Parliament on my hourly consulting rate it would shut down the Parliament. [*Laughter*] Even just for the time that I am speaking here, not to mention the

committee meetings and other stuff. But, I want us to separate these things, because part time is an illogical thing. There is no logic to it. If you want to apply it like that then it cannot work. It cannot work.

Madam President, I just want to try to kill this thing—forgive me, that is unparliamentary language. Forgive me, I withdraw. Madam President, analysis of the history of this part-time fallacy, that term was coined by a former head of the SRC, and there was zero, and I mean zero rigor or analysis to support it. It has been perpetuated widely, and for those managing the course, it is in my respectful view, a convenient get out of jail free card to call things part time and attach a lower number to, it works for everybody. But the person who coined that term, when you go back and read through the SRC reports, and say, how did he arrive at this part-time calculation? There is nothing to support it. He said it and it is recorded but there is nothing to support it. And I often say, Madam President, I live in a different world. If I say something I have to be able to defend it, and I have to be able to show the basis, otherwise it is just there. There is no basis to it. So, the fact that the members of the board meet once or twice a month should not be the focus. The critical factor is professionalism. The integrity and the courage to do the right thing in the face of a system with a robust history of embedded corrupt practices. This should be the basis for the remuneration package as opposed to the proposal currently before us.

Madam President, as I had alluded to, as I begin to wind up, my very short, but I hope very concise contribution on this issue. I want to say I understand the challenges of the Minister of Finance, but I also am of the view that we are trying to do something, that we are charting a different course. We are trying to set the stage for an entity here that would effectively change the way in which we do business in Trinidad and Tobago. The impact of this procurement office through

the regulator could be huge. It could have a huge impact. It could allow—the Minister of Finance could stop worrying about that, his hair will get more grey because the savings on procurement could be massive. But we have to make sure that we try to get an individual with the correct competence. And I agree with the Minister, we need somebody with character otherwise we are going to get challenges, you are going to end up with some of the fellas we have now.

So, some of my thoughts, Madam President, certainly, in terms of whatever strategy it comes with, the salary or the term, the salary should be in a band, and the salary should have an automatic adjustment factor. Because you cannot set a salary and then it is fixed, and it should not require coming back here all the time. If CPO does this all the time with contract persons, they attach a salary and say, listen, every year it goes up by 3 per cent, or whatever. That is not a unusual thing. That could be easily done. But, I agree with Sen. Mark on this issue wholeheartedly, that process requires a professional agency to conduct a proper compensation procurement analysis to a certain remuneration for this position, based on the expect job responsibilities. I think that what has been presented—and this is not a knock on the people who have done it. I think they have done it within the frame that they are used to.

All I am saying, is perhaps you should need to step out of that frame and understand that this is a process that allows or has the potential to change the way we do business in Trinidad and Tobago, and perhaps we should consider trying to do it differently, and try to understand the type of individual we are trying to attract, and while there would always be the argument, if you put the salary too high, every John, Dick and Mary would probably try to apply for it, because the money looking big. But I think that the selection process will weed out people who do not meet the standard. I am not necessarily very worried about that. What I am

worried about is we are putting or agreeing to have a number in there in terms of what the Procurement Regulator is going to earn that really and truly will not allow us to get somebody in the professional competence that is required, the experience.

Madam President, my ability as a professional to be able to pick up a document and rip it apart in a couple hours, it took me 27 years to get here. It did not just happen. I can get someone to give me something now and I can rip it apart, and I can give conclusion, and I can support what I have to say. But that does not come easily, and in my case, not cheaply. And I want us to apply some type of appreciation for that, so that while we are looking for someone who has Trinidad and Tobago at mind, and we want somebody to have the strong character, I believe competence in the job is so critical, and the experience of trying to get really competent people is that, I think that in other parts of this building I have seen where the Parliament committees have had to hire consultants, and the consultant fees are what they are. They are certainly not the fees if you extrapolate the consultants' hourly fees by an average working day, \$50,000 is just a drop in the bucket, and that is what we want. Because when we are doing work here in other parts of this building we want people with the competence to come and drive the process, to give us recommendations, give us the benefit of their experience.

So, I believe that, as I begin to wind up, this Motion is well intended. I do not think that there is any mal intent here in the Motion, but I struggling because in my understanding, in my short experience as a professional in Trinidad and Tobago, and doing work in other parts of the world, I understand what goals in terms of you are trying to fund the best fit, and in trying to find the best fit there will always be a marriage between understanding what you can afford, but also understanding what is needed to get the right person. So, you always have to look at what you can afford, but then you have to look at what is really needed, and I

think that is where we need, in my respectful view, to have the proper independent party, there is lots of them; HRC—this is an easy exercise because they would have all the latest and they could do this in a couple of days, and do a comparative analysis, look at the position, the requirements for the position and come up with a number or a range that allows us to have a number that has some empirical bases that if it comes I can say, okay, they did this, and they looked at the numbers, this is what they used, and I could understand the basis. What has been prepared for us, I am not comfortable with it, but, again, I am only one voice and I want to be able to say that I understand the challenges, but I have had the privilege of expressing my view, and now that I am finished expressing my view, I want to thank you for the opportunity for speaking, Madam President. [*Desk thumping*]

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, Thank you very much for the opportunity to join the debate on this Motion. I enjoyed Sen. Small's contribution almost thoroughly, until he got to the point of saying, I agree with Sen. Mark— [*Laughter*]

Hon. Senator: Yes, I agree with that.

Sen. The Hon. C. Rambharat:—and I stopped writing.

Madam President, around May 16, 2016, about a year ago, the Ministry of Agriculture, Land and Fisheries found itself in the news regarding what was described in the media as the proposed retrenchment of about 60 daily-paid workers. And in having to deal with that matter the Ministry, as far as I know, engaged the services of an industrial relations consultant, and from time to time as Minister I received updates from the leadership of the Ministry regarding this matter among many other matters.

This morning I had an interaction with the consultant, now that we are

nearing the one year mark, and I was quite surprised to know that after providing almost a year of services, after being part of the Ministry's team that have met with the representative union on 11 occasions, and after examining in great detail the Ministry's relationship with its daily-paid workers and its representative unions, I was quite surprised to find out that this consultant had not been engaged as yet. One year after rates have not been agreed. The consultant has not billed, and a matter of this nature would no doubt find its way into the Auditor General's report for this particular period.

And, Madam President, if you followed the newspaper reports recently on the Auditor General's Report for 2016, you would see this same Ministry featured in relation to a matter of grave national concern. A matter in 2014 when guns were procured by the Ministry ostensibly for the use of the Praedial Larceny Squad, and those guns having been paid for and having been signed as being received, could not be located. And were it not for the work of a whistle-blower, this matter would have rested permanently. Those guns would have found its way unto the streets and none of us would be any wiser. But on account of a whistle-blower I was able to initiate the investigations, which are still ongoing, the guns were located and placed in safe keeping, and we await the results of those investigations.

But in that context, Madam President, this matter of procurement is a very important matter for the country. Because routinely the Auditor General has reported on the fact that buildings are rented without written leases, goods and services are procured without the appropriate documentation, and accountability throughout the public sector is something that simply does not exist. And a lot of people look to us, the Members of Parliament, for accountability without recognizing that the responsibility in the public sector rests in the hands of public servants, and Ministers and politicians exercise a certain level of authority. But

when it comes to matters relating to procurement and financial accountability, that responsibility rest in the hands of public officers.

And this legislation, long in making, makes particular offices accountable, and not just accountable in the sense of the risk of job loss, but accountable in the sense of facing potential criminal prosecution, prison time, and hefty fines.

4.15 p.m.

So it is in that context the Minister of Finance brings this Motion, and this Motion, Madam President, as I often say, sometimes in the debate it is often about something else. And this Motion essentially has three elements which the Minister of Finance directs our attention to. And the first is that, under section 11(9) of the Public Procurement and Disposal of Public Property Act, 2015:

“The salaries and allowances of the”—procurement—“Regulator and...members”—of the board of the Office of Procurement Regulation—“shall be determined by the Minister”—of Finance—“subject to the approval of”—the—“Parliament.”

And whether we agree or disagree, we have views on how else we could determine the salaries and allowances.

The Motion sets out the authority upon which the Minister of Finance brings this Motion and that authority is rooted in the legislation which was passed by this Parliament. And it is rooted in section 11(9) and it gives to the Minister of Finance the responsibility to determine the salaries and allowances which are the subject of this Motion.

And the Minister of Finance acting in accordance with section 11(9) has produced a report and that report has been laid in this House. And on the basis of that report, and in accordance with the Minister's power, under 11(9) we are asked to approve the salaries and allowances contained in that report. And that is simply

what this Motion sets out to do.

This is not the moment, Madam President, and I draw reference to my contribution on the retirement allowances for Senators. This is not the moment when we debate the continued relevance of the Salaries Review Commission. This is not the moment when we debate the issue of part-time and full-time employment. In fact, in that debate I said that is a matter for the Salaries Review Commission. What is before us is the exercise of the authority under 11(9) of the Minister of Finance, a report that sets out salaries and allowances and a request to this Senate that we approve the Motion put forward by the Minister.

Madam President, this is an important Motion and it is a further step in giving life to this procurement regime that we have longed for. I do not need to trace the history of the legislation. It has gone through a robust Joint Select Committee process. We all had the opportunity to debate. We had an opportunity to amend the legislation to deal with the term of Office of the Procurement Regulator. And today we are called upon to deal with the issue of compensation, because when one reads the Act, the Act is very clear. Fundamental to the operation of the procurement regime is the creation and operationalization of the Office of the Procurement Regulator. And once we go through this process of fixing the compensation; and once we go through the process that is set out in the legislation for the recruitment and once the Procurement Regulator is in place, the legislation can be brought to life so that we can protect the interest of the taxpayers' of this country.

So this Motion is fundamental to the movement forward. We have done the heavy lifting already and what is before us is a simple determination of whether the Motion put forward by the Minister of Finance is acceptable to this Senate so that we can move forward. And the Motion sets out, in defence of the Motion, the

Minister of Finance has offered some comparatives.

Madam President, we can tour the universe in search of comparatives. We can argue that the Petrotrin CEO's compensation, president compensation, or the CEO of NIDCO, we can argue various comparators, but I do not think it is correct for us to say that the Minister of Finance has not provided some sort of basis for determining the compensation he has suggested or recommended in the report. He has selected as his comparators, the compensation paid to a puisne judge and he suggested other comparators. And again we may argue up and we may argue down, but section 11(9) gives the Minister of Finance the responsibility for determining the compensation, the salaries and the allowances. And he has done so in the context of certain parameters and certain levels of compensation that are well known to us.

Madam President, so often I have to refer to Sen. Mark's histrionics and it was very clear today that in his effort to get to the 40-minute target, Sen. Mark did not have much to advance by way of an attack on the Motion. And so he roamed beyond into the recruitment, and I saw something brought to my desk relating to the recruitment—into the recruitment process and the choices of persons who were part of or will be part of an—and all over, all over. [*Crosstalk*]

Madam President: Sen. Ameen.

Sen. The Hon. C. Rambharat: Never, never for once rooting his argument in the context of the legislation from which this Motion arises. And that is why I use the word histrionics, all over, all over, rambling and roaming and never for once getting into the legislation and the Motion before us.

And when we talk about the comparators, Madam President, it is possible to offer various comparators, for example, the Commissioner of Police, who has significant responsibility in the country in relation to a particular context in which

we find ourselves on a particular national security context. And if today we were debating the compensation for the Commissioner of Police we would be all over the place in terms of determining or in terms of offering the compensation. It is a position of significant responsibility. Nobody could argue otherwise.

Likewise, if we were dealing with judges and their compensation, we would be discussing the fact that this current compensation ought to be increased and we would be finding ourselves using comparators from other countries and dealing with the particular context. But the Minister of Finance has set out his argument in relation to comparators that he has used and while we can argue that other comparators should have been used, he has dealt with the requirements in determining a salary and the allowances that are recommended for the position of Procurement Regulator.

In relation to the comparators, for example, Madam President, of all that I have heard and even the ones that I have talked about, to me no office, no office in this country has the level of responsibility, for example, of the Executive Director of the FIU. When you consider the role and responsibility and the gravity of matters that cross the desk of the Executive Director of the FIU, the FIU head should be paid a billion dollars.

When you go to the 2016 report of the FIU and you see, for example, that—there were 739 suspicious transactions reported, a total value of 805 million. And that was a low year by the way, Madam President. When you look at those transactions, 739, they can be broken into two categories. One category deals with completed transactions. Those were transactions deemed to be suspicious in relation to money laundering, terrorist financing or some other of the activities discovered by the FIU. And there were 685 transactions in that category and the average value of one of those transaction was \$685,000. What it means when you

look at the compensation for the head of the FIU, the Executive Director, it means that one suspicious transaction reported to the FIU exceeded the value of the directors' compensation for a year.

And all it requires is that the director overlooks a few of those transactions. If a director of the FIU was so minded and it is even far more significant when you look at transactions which were not completed, transactions which did not go through and in that 2016 report there were 54 transactions which were not completed and the average value of each transaction that was not completed was \$6.3 million. That is, those are transactions which are to be investigated by the FIU under the watch of the Executive Director.

So we are dealing with—when you look at the period 2011 to 2016, the FIU received approximately \$4 billion in suspicious transactions reports, on average between the 60-month period 2011 to 2016 the FIU received on average suspicious transaction reports to the tune of \$70million a month.

So that is significant. Those numbers are very significant, and we can make an argument for the holder of that office to be compensated in relation to the responsibility, the trust and the level of transactions being dealt with, but no argument like that has been advanced. The compensation of the head of the FIU is based on comparators within the public service. It is rooted in the existing compensation of comparable position. It is not related to the value of the transactions. It is not related to the risks involved. Thank you.

Madam President: Hon. Senators, at this juncture we will suspend for 30 minutes and we will resume at 5.00 p.m. May I just encourage Senators to return promptly at 5.00p.m. A quorum in the Senate is 10 Senators.

4.30p.m.: *Sitting suspended.*

5.00p.m.: *Sitting resumed.*

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

Mr. Vice-President: Minister of Agriculture, Land and Fisheries. [*Desk thumping*]

Sen. The Hon. C. Rambharat: Thank you very much, Mr. Vice-President. Mr. Vice-President, when we took the break, a much needed break, I was making the point that we can argue comparators into the small hours of tomorrow morning, and we could make the case for a much higher compensation package for the regulators and the other persons affected in the Motion. But there will be no end to that argument, and I was using as one example, the position of Executive Director of the FIU and the onerous responsibilities and the deep level of trust that has been imposed in the holder of that office.

And those factors I am sure, there is no value that could be placed on it. And I outlined the economic value of the oversight of the head of the FIU, closing that argument with the point that when you look, for example, at that one category of transactions which were stopped, the average value of a transaction of that nature reported in the 2016 report was over \$6million.

From what I have heard so far, Mr. Vice-President, from the two previous speakers—essentially their arguments go way beyond this Motion. And I have picked up three particular points. One is that, I have heard an argument against section 11(9) itself, and I have referred to section 11(9), and one line which gives the Minister of Finance the responsibility to determine the salaries and allowances to be paid to the regulator and the other office holders. But this Motion is not about changing section 11(9).

There may come a day, Mr. Vice-President, when upon reflection we or another group of legislators may wish to prescribe the basis upon which a Minister of Finance determines the salaries and allowances of the office holders. That day

may come. It may come in the form of an amendment to 11(9); it may come in the form of regulations which set out the manner in which the authority under 11(9) is exercised. But today is not that day. This is not a debate for an amendment of 11(9). This debate is in respect of a Motion in which the Minister of Finance has properly exercised his authority under the existing 11(9). [*Desk thumping*]

The second point, the second argument I have listened to is an attempt to prescribe in some level of details the manner in which the Minister exercises his authority under section 11(9). This is not an authority that the Minister has imposed upon himself. This is not a whimsical exercise of authority. As I said before, this authority rests in 11(9) and I have listened to an attempt to go back into section 11(9) and prescribe the conditions, to determine conditions upon which the Minister must act. And with all due respect to the previous speakers I say again, today is not the day for that and that is not before us today. And the third argument and I say argument in the loosest possible way, because it came from Sen. Mark, what I picked up was an attack on the Minister of Finance and the Ministry of Finance in the advertisement for consultants to give effect to the law and the Minister of Finance had said that assistance was sought from His Excellency the President.

And, Mr. Vice-President, we accept that there are limitations in terms of the administrative competence of that particular office and there may be a day when we are, or legislators in this Senate, dealing with that responsibility, we have given His Excellency, because it is us. We are the ones who have given His Excellency that responsibility in the legislation without going further and if it is we wish to leave the recruitment exclusively in the hands of His Excellency the President, then we need to say that and we also need to prescribe or determine or identify the ways in which that office could do a recruitment of this nature without having to deal

with a Minister or a Ministry to provide the technical, administrative and financial support.

But that is not before us today. Before us is a Motion containing three elements. The first is the exercise of the Minister's power under 11(9). Secondly, the reference to a report laid in the Parliament and third, a request for the approval of salaries and allowances for positions set out in the legislation in which the Minister of Finance has made a determination and a recommendation to the House.

And listening to the arguments and the comparators, it ends up being an issue of subjectivity versus objectivity. I have given you one example, the FIU. But there are so many, Mr. Vice-President. For example, the OSH agency, an agency charged with protecting the workers of this country, their lives and their limbs for dealing with, for example, energy infrastructure, having oversight over the integrity of the energy infrastructure; offshore and on land.

And anybody charged with the responsibility for oversight of safety and the health and the lives of workmen and working people in this country ought to attract using the arguments I have heard so far, the compensation that no Minister of Finance and no Parliament can fix, because to what price do you attach to a leg and to a life? And then you have the Comptroller of Customs for example, somebody who currently earns less than what is recommended for the Procurement Regulator; somebody who oversees billions of dollars in goods arriving into the country and for whom an argument could be made that we need to buy the trust of this person and compensate them in a manner that they will never turn a blind eye. And when we go through, the Chairman of the Board of Inland Revenue, the Commissioner of VAT, billions of dollars collected and uncollected, seen and unseen, numerous opportunities to turn a blind eye and to what price? What is the compensation do we pay to ensure that VAT is collected in the manner that it should be as

prescribed by the law?

The Commissioner of Valuations, somebody on a daily basis determining the rental price, the lease payments on properties which the State rents; somebody who would play significant role in the administration of the property tax; somebody who deals on a daily basis with billions of dollars in assets; the Commissioner of State Lands; somebody for whom every parcel of land has a million or a multimillion dollar value. A medical chief of staff in any one of the nation hospitals, to what price do we attach a life in one of those hospitals? And I could go on. Every customs officer, customs officer of every rank, police officers of every rank, exercising positions of trust and responsibility and in many cases positions in which they stand in defence of billions of dollars in assets, in revenues, in penalties and in the case of the DPP, for example, value for which you cannot put a price and we never make the argument that the value of the work or the value of what this person presides over ought to be reflected in a particular level of compensation. And it is a question of subjectivity and objectivity.

And what the Minister of Finance has done, is on a very objective basis, positioned the Procurement Regulator amongst a group of salary earners in this country and persons to whom allowances are paid and he is determined on the basis of the power given to him without restriction or prescription in section 11(9) of the legislation to determine that compensation. And before us, notwithstanding our emotions and the various arguments that we may bring in relation to what the future of this process may look like, the Minister of Finance has exercised his responsibility properly, rooting his Motion in section 11 and advancing first a report and now a request that we approve a compensation package which, Mr. Vice-President, will advance the cause of modern procurement legislation in this country and leave only for the people in whose hands this legislation falls to do

what is right by the taxpayers of this country. I thank you very much. [*Desk thumping*]

Sen. Khadijah Ameen: Thank you very much, Mr. Vice-President. Mr. Vice-President, I thank you for the opportunity to contribute today as we in this Parliament seek to approve the report of the salaries and allowances for the Board of the Office of Procurement Regulator.

Mr. Vice-President, I must begin by saying that the former Government must be commended for taking the visionary step in 2013 and 2014 [*Desk thumping*] to formulate the legislation which is not only based on principles of good governance and accountability, but was done through a very rigorous process including consultation with the Opposition and with all the stakeholders to bring this very efficient, very effective piece of legislation into being. [*Desk thumping*]

Mr. Vice-President, we are here because section 11(9) of that Act states that the salaries and allowances of the regulator and other members shall be determined by the Minister and be subject to the approval of Parliament.

I am happy that there was a part of that that said that it would be subject to the approval of the Parliament, because the Parliament continues to be a check and balance regardless of which political party is in Government. [*Desk thumping*]

5.15 p.m.

And it is important for us to consider procurement because we must ensure that our citizens get value for money, goods and services that are procured through taxpayers' dollars and we must not only say we are transparent, we must appear to be transparent at all times. And all of our citizens, all of our stakeholders, whether they are contractors, government agencies, private organizations or the ordinary citizen, must know and feel that procurement in the State sector is a transparent and fair matter.

But, Mr. Vice-President, we cannot discuss what salary would be given to the regulator and the board without speaking of implementation of all that is required to have the full implementation of the procurement legislation. This discussion, this approval of the salaries, is somewhat of a partial step in the full implementation. However, I feel that while we have good legislation, it is important to have full implementation and full support to ensure that it reaps benefits. To that end, I just want to quote attorney at law Timothy Hamel-Smith who was part of a joint select committee meeting on January 08, 2016. He said, and I just want to quote:

“Equal in importance to getting the text of the procurement legislation right, is ensuring that the legislation is implemented efficiently. Without proper implementation the best legislation in the world will be of no practical use. In implementing the legislation there must be a focus on achieving the end result of providing better goods and services for the people of Trinidad and Tobago. While the goals of transparency, accountability and best value for money are vital, it is easy to see these as ends in themselves, as opposed to tools for achieving the ultimate goal of delivering the best goods and services to the people of Trinidad and Tobago.”

I want to speak a little bit on that. I want to ask this afternoon: Why is the implementation of procurement legislation in Trinidad and Tobago taking so long? The Parliament's action today is to approve the report to determine the salaries and the allowances of the members of the board, and this, as I said, is a partial move, but there are too many other questions as to establishing the structures that would provide for the full operationalization of the procurement legislation, that Act 1 of 2015.

Mr. Vice-President, I am concerned that this Government seems to be stretching that implementation process. [*Desk thumping*] I just want to reiterate that along the timeline in terms of before we got to today's debate, you had on the 13th of November, 2015, the Parliament, the Lower House, approved a joint select committee, and the following Friday the Senate approved the appointment of that Joint Select Committee—that was the Friday, November 17th. This was in 2015.

In May of 2016, the House of Representatives approved the Joint Select Committee's amendments. We then went to March of 2017 where the Parliament approved the change to the term of office of the regulator. Clearly, there are a number of outstanding issues, and this Government has been in office for 18 months and I feel that they really are dragging out this process. [*Desk thumping*]

Mr. Vice-President, I just want to quote the SIRC, which is the Social Issues Research Centre, which is an independent not-for-profit organization based in Oxford in the United Kingdom. And they put a different approach in terms of the five principles of good governance. They spoke about commitment to vision, value and guided by a strategic plan. To date, this Government continues to prove that they have no plan; [*Desk thumping*] no plan for dealing with crime; no plan for managing the economy; no plan for getting it right.

The SIRC spoke of clarity of roles and responsibilities. That, too, is another matter with a number of incidents in the public domain concerning this Government's performance. The SIRC spoke of being focused on human resources. Our human capital should be our greatest treasure, the citizens of this country. And yet what do we see from this Government? Every day, increased unemployment, more workers being sent home, more people being retrenched and the circumstances and the environment in the country, forcing those in the private sector—companies in the private sector—to lay off workers. Very little value for

our human resources.

They speak also of being transparent and accountable for outcomes and results. And this is where we go in again to transparency, and not only being accountable, but ensuring that our citizens know that the Parliament, that the Government, that the Cabinet, is accountable. And they speak of effective financial control.

Mr. Vice-President, this procurement legislation, as developed by the People's Partnership Government, is indeed a testament of our commitment to transparency and ensuring accountability for taxpayers' moneys. I want to point out that Transparency International's Corruption Perceptions Index scores, there was some discussion sometime earlier this year. I think they published a report in January. And I just want to quote a brief line from an *Express* article:

“Corruption Perceptions Index 2016 shows that...”

Mr. Vice-President: Sen. Ameen, the date of the article?

Sen. K. Ameen: The article is January 27, 2017. Sorry, Mr. Vice-President:

“Corruption Perception Index 2016 shows that, based on the results of surveys conducted in 2014 and 2015, T&T's score has dropped from 39 to 35 with 100 (perceived to be very clean) and zero (perceived to be highly corrupt) and its ranking has slipped from 72 of 168 countries in 2015 to 101 of 176 countries in 2016...”

Mr. Vice-President, also in another daily newspaper, the *Guardian*, around that time, you had the JMMB's managing director and CEO commenting on the latest publication from Transparency International. And he said and I quote—well, he called for good corporate governance in private and in state enterprises. And Sen. Small touched on a point I wanted to make, which is that very often wrongdoing goes on, particularly within state enterprises.

What nurse does not have a hospital sheet in their house? Which government worker does not take pencils or stationery for their children? Whatever benefits people see as being part of the benefits to their job, they do it without thinking of accountability, and the fact that taxpayers' dollars would have procured these items that they are taking for their own personal benefit. And the culture of seeing nothing wrong with that is exactly what is wrong with that.

Mr. Vice-President, I want to go back to the fact that this Government is dragging its feet to fully implement this legislation. All these delays will cause the current systems that are in place at various institutions to be abused, for want of a better word, because there was a need in the first place, based on the failure of those very systems, that is why the procurement legislation came about. And I have to ask the question: Is the Government using this delay in an effort to benefit from the absence of procurement legislation within various state agencies? [*Desk thumping*] These state agencies are issuing contracts. They are purchasing equipment. They are procuring services of different types.

When you have reports of the wives of senior Government Ministers getting millions of dollars in contracts, [*Desk thumping*] I ask myself if a delay in procurement legislation implementation is benefiting the current Government. When you have well-known PNM financiers, whether they are given a contract to provide a barge or whether they are being given a contract to do—

Sen. Sturge: Power-washing. [*Desk thumping*]

Sen. K. Ameen:—power-washing of a stadium, construction of government campuses, Mr. Vice-President, you have to ask the question whether the implementation is a delay tactic. [*Desk thumping*] You have a situation with TSTT providing a bailout to Massy Communications of \$255 million. [*Desk thumping*] And we want to talk about principles of good governance. And I am asking, after

almost 20 months of being in Government, why does this Government continue to drag its foot, while they boast? We have heard this Government—[*Interruption*]

Mr. Vice-President: Continue, Sen. Ameen.

Sen. K. Ameen: Mr. Vice-President, this Government is trying to hoodwink the population and the local population, as well as international governments and agencies and the international community into thinking that they are committed to this procurement legislation becoming enacted, when they really are just doing things in snippets and dragging their feet.

Sen. Sturge: “Spinning top in mud.”

Sen. K. Ameen: We have heard them boast that they support the procurement legislation, yet millions of dollars of services and assets have been procured by this Government in the past 18 months without the regulations that should be implemented. Again, a delay tactic. No haste, no priority by this Government. “Spinning top in mud.” [*Desk thumping*]

Mr. Vice-President, this issue is very relevant to this debate because, as we move to approve this part of the legislation we must ask ourselves: Why is this entire process taking so long to be completed? We must ask why and the Minister ought to account, not to the Opposition but to the nation. I am sure he would be able to provide a draft schedule of his implementation, the steps involved and a plan, a time frame by which he expects to have that done. He has a lot, and I trust that he will be very honest in his declarations to us.

Sen. Sturge: Yeah. “He just tell us is tomorrow.”

Sen. K. Ameen: Mr. Vice-President, the delay in implementing this legislation brings about further wastage of government funds. It is important for us as a Senate to consider the need for the Government to hasten its steps to have this legislation fully implemented, all the various procurement units within each state

agency mobilized and activated. The question is: When will this be fully active in Trinidad and Tobago? When will this be fully workable?

There was an article in the *Trinidad Guardian*, April 20, 2015, Mr. Raymond Ramcharitar, and it was entitled: "A Look at the Procurement Act". He said:

"The Act seeks to reform the procurement laws of Trinidad and Tobago in keeping with principles of good governance, such as accountability, integrity, transparency and value for money."

Mr. Vice-President, I want to reiterate, the key term is that the Act seeks to deliver value for money, a principle that the People's Partnership worked assiduously to ensure that we have—value for money for all our citizens. And while the Members who have contributed from the other side have indicated that, you know, today we really are only dealing with the approval of the salary, I am saying that we cannot just approve today and not know, or not have these questions answered.

Given the current economic conditions there ought to be an additional effort by the Government to show value for money. We have had the drawdown of money from the Heritage and Stabilisation Fund to fund Public Sector Investment Programmes. So this country is taking from our savings to fund PSIP. This PSIP is made up of a lot of government transactions. You have Ministries; you have state agencies engaging—going into contracts for construction. You have the purchase of equipment. You have the rental of equipment. But we must ensure that the money taken from our savings, although that is not something we agree with that should be done—the money taken from our savings should be used effectively and the citizens must be given a full account. So to this regard, I hope that the Minister will be able to tell us, tell this nation, if he has a workable plan, a schedule, if he can give any details as to his schedule to fully implement this procurement

legislation. And I call on this Government, I call on the Minister today to take all steps to speedily implement the procurement legislation. [*Desk thumping*]

I now come to the issue of comparing the regulator—the method outlined by the Minister to determine the salary and allowances arrived at. The Minister made reference to the salary of the President who holds the highest office in the land; the Prime Minister. He spoke about the allowances and salaries of the Cabinet Ministers and reiterated that this is a public—he spoke about the Public Service Commission and so on—the head of the Public Service Commission, I believe.

Mr. Vice-President, while the Prime Minister is the head of Cabinet and the President is the holder of the highest office, the roles and responsibilities are very different to that of a legislator, and to say that a—sorry, to that of a regulator not a legislator. To say that a regulator should not get a salary higher than a Minister or higher than a President or Prime Minister would just be going based on your own gut feeling, your own personal opinion. And I am happy that Sen. Small referred to similar situations of individuals in foreign jurisdiction. He spoke about Canada, which I had noted here to mention, where people who are regulators and who operate at the head of similar regulatory bodies, their salaries could be more than that of the Prime Minister of that very same country. So to use that as a rationale may be based on your own thinking and not necessarily on best practice.

So, Mr. Vice-President, I want to say that if that was the method used to calculate, it may have been with good intent but it certainly is—it loses all—it really “cyar hold water”. That explanation, that basket, “not holding” any water right now. I think it is important, again, to ensure that the salaries are up to par, to ensure that the regulator, the members of the board, the deputy-chairman—the deputy-chairman has \$13,000. That is the salary of the chairman of a regional corporation. [*Desk thumping*] And I do not know if it increased since I was last

there, but it just goes to show that, you know—it really makes you question whether these people will be encouraged to give in to temptation, especially where we operate in a culture where it seems to be normal, as we outlined it in the licensing office. As the Minister had indicated with the licensing office, it seems normal to pay bribes and to be involved in corruption. And these are things that you must ensure that our regulators and our board are not tempted to do. You must be able to attract individuals with the right qualifications and, of course, those who are willing, with the experience as well, but those who are willing to give of themselves to that type of service. And I think all of us in this Parliament, on the Government, Opposition, as well as on the Independent Bench agree to that.

What does an auditor in the private sector, who has similar functions, receive in terms of salary and allowances? How do we send this Procurement Regulator, this board, that is getting that salary to deal with, let us take for example, the CEO of UDeCOTT? UDeCOTT is an agency where a lot of contracts and construction and a lot of procurement takes place. The CEO of UDeCOTT gets \$65,000. You are sending a board, whose salary is far less, to go and check up on this UDeCOTT, and we know what has happened in UDeCOTT over the years.

So you also have the general manager of Nipdec—and I am using Nipdec and UDeCOTT because they do a lot of construction for Government, and the general manager of Nipdec gets \$58,250. Again, far more than the \$50,000 as recommended by the Minister. And I am saying that we must use a professional comparison, professional way of determining, and while section 11(9) of the Act gives the Minister the authority, it does not indicate how he should determine the salary. And I am saying that the Minister must be transparent and above board.
[Desk thumping]

While it is important for us to develop the best packages to ensure that we

attract the best people, we do not want a scenario where the individual believes that he or she is underpaid. You can have people who will take the job and they will “leggo de wuk in no time” and you have discontinuity; you have the system itself failing and you will have good legislation being defeated by poor implementation. On the other hand, I know that in a time of so-called recession where we have so many job losses, the reception in our society for Parliament to give approval of an exorbitant salary and luxurious allowances would perhaps be—is something that is being considered by the Government. But quite frankly, they have done a number of things that have not pleased the population either and they have not rioted, as the Minister said before. But the right thing is the right thing and it ought to be done.

It is really irresponsible to approve a salary range, to approve a figure, a remuneration package, without fully drawing reference to the roles and function of the regulator, and we must look at, not the protocol order list of Trinidad and Tobago. To me, that is a poor scale to judge. It is not based on who ranks higher on the protocol listing that they should get a higher salary. We must compare regulators to regulators. We must look in Trinidad and Tobago at the regulators and the regulatory bodies in Trinidad and Tobago and see what their salaries are like. We must look at jurisdictions outside of Trinidad and Tobago where best practices are in place, where their rankings, for instance, in the Corruption Perceptions Index is not in our bracket, where they are ranked high in terms of good governance and take example from them.

Comparing apples with—

Sen. Sturge: Oranges.

Sen. K. Ameen: “Ah doh even want tuh say oranges because oranges are fruits as well.” This is comparing apples to rice. So I think we really ought to have

a proper analysis of the functions, and I am saying that even though the Act says that the Minister would determine, I am saying that it is not the Minister personally, that he should have a firm, or just the same way as he is recruiting a firm to do the recruitment—which I will come to shortly—he should look at a method of having one of those agencies, a company, who does this professionally in terms of analysing the responsibilities and recommending the salaries and the remuneration.

Mr. Vice-President, I must touch on some of the roles of the regulator that I see as very important because the office of the procurement regulator has to prepare, to update and to issue handbooks. That would be manuals that would begin to standardize how things are done in every state agency. If you consider every Minister in their own Ministry would have the headache of only the agencies in their ministry, but the Procurement Regulator has to deal with every one of them, and this is not just about bringing about accountability and integrity and so on, it is about changing the culture and changing the way things are done in Trinidad and Tobago. And that is the vision when that procurement legislation was drafted. While it was piloted by the People's Partnership Government, the Opposition participated. There was full participation, not only to the Opposition, but others as well. And we must ensure that this good legislation reaps benefit.

Mr. Vice-President, the regulator also has to look at the structure in each state entity and to begin to change the environment, to create an environment where proper procurement practices will be facilitated. Because in some agencies the wrong way of doing things is the standard way of doing things. There are some agencies where, "if a bribe doh pass", nothing happens. It becomes almost standard.

There are unofficial fees that people pay contractors—citizens pay—to get

services from government agencies, to get favours, and this is considered absolutely normal. There are many contractors who calculate a fee in their expenses for paying even the clerk who “does” process the cheques in the various finance departments. It happens in ministries, it happens in regional corporations, it happens in state enterprises, and you are talking about the clerk who is ensuring that the cheque is typed up. And “yuh eh even reach tuh de man who approving de project and signing off.” Because if your project is not signed off on, you would not get pay. And it goes right through. It goes through and through. You are talking about this regulator changing the way these Ministries and Departments operate in general.

5.45 p.m.

The Minister mentioned that the Central Tenders Board will be repealed. I am happy he spoke about the transition for the staff there and the fact that their representative unions are part of the process, which is something that I had noted here to mention. So I am happy that he mentioned it.

Mr. Vice-President, the office of the regulator would also have to deal with standardizing bidding documents, procedural forms, documents for use in public procurement, and the disposal of public property. That as well is an issue that every state agency I think has challenges with, how do you dispose of a truck because the engine is not working and then eventually you sell it and it stays 10-plus years on the road. Is it really an asset that you should dispose of? It happens throughout where you have issues like that, and you must provide methods and mechanisms for this to be dealt with. The regulator will also be tasked to ensure that there are model contracts for procurement, standards, best practices in public procurement. They must ensure that you have a comprehensive database, and this is required by the Act.

In essence, the regulator has to be given the support by the State to undertake this, which I think is a really radical change in the reporting process, the things that he need to carry out in the public sector; the proper analysis for each entity—each state entity, Mr. Vice-President—to create proper methods that are required to facilitate proper procurement. Implementation is one but, again, providing the support is very critical because if you approve a salary today and you appoint someone and you put them there without the support, without the resources that is required, you will be defeating the legislation. I have observed that the Government has been finding one delay tactic after another, and they seem to be benefiting from this procurement legislation not being fully implemented. [*Desk thumping*]

Mr. Vice-President, the report—[*Interruption*]

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

Sen. K. Ameen: Thank you. The report speaks about setting competence levels, setting training standards, certification requirements and so on. The regulator also must ensure that documents are circulated to all suppliers and contractors, which brings me to an issue that came up earlier with the very recruitment of the regulator. Earlier, Sen. Mark spoke about a notice that went out from the Ministry of Finance that was signed by the Director of Corporate Services inviting persons concerning the selection of a recruitment agency for the invitation and review of expressions of interest for the position of Procurement Regulator/Chairman of the Board of the Office of Procurement Regulation.

Mr. Vice-President, I want to ask the question: How did the Ministry of Finance determine who they will send this invitation to? That is a question that the Minister must answer. [*Desk thumping*] I trust that the Minister would be able to give that information in his winding up because I am sure he will want to justify

why he chose this method, and I am sure he might indicate to us that he has the best interest of the country at heart and he may want to explain, but certainly even that is a form of selection. A selection that the question comes as to whether the Minister has the authorization to make that kind of choice and decision. The good governance principles with respect to accountability and transparency, Mr. Vice-President, best value for money, again, comes into question.

I want to endorse Sen. Mark's point that the Ministry of Finance ought to provide the funding for the Office of the President to carry out this recruitment exercise in its entirety and stay hands off. If there is a request from the President, the Minister ought to present it to the Parliament. If the Minister recognizes that he has no such power, he ought to indicate that to the President and perhaps, as we have suggested, provide the funding so that the Office of the President could carry out their duties as required in the law. [*Desk thumping*]

Mr. Vice-President, I am not in a position to support the recommendations, or to vote against it, or to vote in favour. I am saying this because I really feel the Minister ought to review this and make the recommendations based on a professional analysis of the requirements of the office and the similar regulators in Trinidad and Tobago, and other jurisdictions before making a recommendation. [*Desk thumping*] So, Mr. Vice-President, I will be willing to look at such a recommendation, but I am not in a position really to say yea or nay to the recommendations made today.

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

Sen. Dr. Dhanayshar Mahabir: Thank you very much, Mr. Vice-President. Mr. Vice-President, I shall be very short. Much has been said and, one, of course, does not wish to repeat ad nauseam what has gone before. But let me start by reiterating a point Sen. Ameen raised earlier, and it refers to the perception of

corruption index. In Trinidad and Tobago, we were ranked number 72 in the world in 2015, and in 2016 we moved from 72 to 101. So that when Transparency International undertook its analysis of its group of 170-odd countries, Trinidad was not doing well and that is just between 2015 and 2016.

This perception of corruption, however, measured by the international institute, suggests that Trinidad and Tobago has to work on improving its image to the global economy especially when it comes to the ease of doing business, and when it comes to factors such as whether multinational corporations, or foreign investors are going to be asked to pay additional fees when they come to interact with officials in Trinidad and Tobago. Corruption, of course, we know takes a number of forms. It can take the form of actual kickbacks and bribes, or it can take the form of overbilling for goods and services which have been procured. We need to remind ourselves that procurement is really the purchasing by the State of things. These things are goods—we will procure a range of them—and they are also services—a range of services too—medical services in addition to medicines.

What is the office of the Procurement Regulator meant to do? What does a regulator do? He sets the imposition of rules, backed by penalties, aimed at modifying behaviour, because there is a view that when we looked at the purchasing by various agencies of the State to the tune of some \$20 billion, I would imagine that only the transfers obligation of the Minister of Finance is greater than the sum total of all goods and services purchased by all arms of the State including state agencies and there is, therefore, a need to establish rules and regulations which govern this \$20 billion worth of annual purchasing.

Why are these rules important? They are important because if they are implemented, then it is likely that the \$20 billion that it cost the Minister of Finance to pay for goods and services may cost \$19 billion. The office of the

Procurement Regulator, which would establish these regulations which will monitor the process of how all arms of the State acquire their goods and services, should result in significant cost savings. How much, of course, we do not know, but there is that perception that when the Government purchases, or arms of the State purchase goods and services, they overpay. Two things will happen: you will pay \$100 for an item of merchandise which in the competitive marketplace should cost \$50, or you might pay \$100 for a substandard item of merchandise which may ordinarily have cost \$25.

So that this office will oversee the procurement processes of all arms of the State and there should be, therefore, cost savings to the Minister of Finance which will result in a net gain, allowing the Minister of Finance to use the savings to purchase more goods, or to use the savings to finance his myriad needs, and we understand, therefore, the need to have an office like that. We did have an office similar, Central Tenders Board, but over the years not much seem to have happened given the various demands on procurement. That office seems to have become more and more irrelevant to the times and we need to upgrade, and we need to update, and we need to understand that we are procuring more and more complex goods and services. In order to do that we need to build a new institution, and building an institution, a regulatory institution, Mr. Vice-President, is something with which I have some experience.

As a former Chairman of the Public Utilities Commission which mutated into the Regulated Industries Commission, I was the Chairman at the time which oversaw the transition. I can tell you it takes a tremendous amount of effort to get an organization going, and the Executive Director of that agency was going to be charged with the day-to-day operations of the entity. The day-to-day operations of a regulated industries commission is a very complex exercise. It is an exercise that

requires a tremendous amount of skill, experience, expertise and knowledge in the regulation of electricity rates, telephone rates, water rates, understanding rate bases.

[MADAM PRESIDENT *in the Chair*]

Madam President, I want to draw to the Motion at hand. In building up that regulatory agency, I found—that was somewhere in the 1990s. So I have been in the business for a little while. I found that there was no one in Trinidad and Tobago with the expertise then of what was an executive director—what we are calling now as the Procurement Regulator—for the day-to-day operation of an organization. And so, expertise was found from an agency known as Ofwat through the good offices of the British High Commission. They simply sent one of the regulators from the Office of Water Services called Ofwat to assist me to build the agency, and that was, of course, at no cost. That individual was then available to assist the person we were able to recruit to get the agency going.

The office of the Procurement Regulator is going to go through a similar type of teething pain experience and, Madam President, we do need to ask ourselves one thing. We know the qualities that we want from this particular individual. We are quite familiar according to the Act with the qualifications, but really what we are not aware of is this: What is the supply of these candidates in Trinidad and Tobago? Is there an abundance of these individuals, or is there a shortage? This is, in labour economics, asking ourselves what is the market like for procurement regulators? We know the market is not a very large one. Unless we understand the market for regulators we will not be able to know what the Minister is offering is adequate or inadequate. This is the problem I have. [*Desk thumping*]

The Minister is bringing a Motion and I am not clear as to whether the sum that he says he can afford will buy me the regulator. The Minister has said he can

afford this \$50,000, but is that going to be the cost, or is it going to be more or less? Sen. Small has indicated that from his experience regulators are going to cost much more. I suspect we may be able to get regulators for less, but unless we undertake a thorough review of what the characteristic is of the person who is best suited for running this organization, and building this organization, and we have a profile of this individual, we will not know whether the proposal of the Minister is efficient or inefficient. And so, I am being asked to approve a Motion, and I do not have the background information to justify the Minister's proposal. [*Desk thumping*] Will I get the value at \$50,000?

You see, the analysis of the Minister was that he is linking it to the puisne judge, and the Chief Justice, and the President, but these are all separate and distinct markets. The market for a judge is different from the market for the principal of a university for example. The market for the regulator has to be seen within the context of regulatory agencies, and it is quite likely that we may not be able to get someone who is in Trinidad alone. We may have to go to the Caribbean, and we may have to tempt someone who has years of experience in this field away from his current employ and induce him or her to take up the challenge of building the regulatory agency in Trinidad and Tobago.

How much will that cost? I can only know, Madam President, once an agency has done the appropriate recruitment exercise, they have sent out the ads and they have taken individuals with interest—we have seen 20 of them—we have assessed these 20 people and we have said of the 20, 10 persons seem very, very comfortable with the position that we have, and let us see how much it will take. We interview, and then at a point in the interview—I did all of this. I have experience at the PUC. I interviewed—and then I would ask: So what are you looking at by way of compensation? And the response would be, from a seasoned

practitioner, I will accept the market rate. Well, of course, you have to know what the market rate of the regulator is, and when you find out you may find that the market rate may be radically different from what the Minister is proposing.

So if I were to accept the Motion of the Minister and I say well \$50,000 is what we are going to pay the person, but we undertake a recruitment exercise and we find that that will not buy me the talent that I want, then I am going to be stuck with somebody who is not ideally suited for improving our corruption index from 101 to, hopefully, 51. The Minister has brought me a Motion without the necessary background research as indicated by Sen. Small. [*Desk thumping*] We need to get that, and I would recommend, therefore, that we do not bring the cart before the horse, that we send out our ads.

I would have liked to see, for example, Madam President, the ads go out, the CVs of some of these people, and then an interviewing process where a question is asked with respect to compensation, and we are able to then determine we will be able to get a very effective regulator for the salary proposed by the Minister. What should lead the Minister's Motion? Should the Minister lead it by his ability to pay, his affordability, or should it be led by the range of talent out there and what the market says they should be paid? So that is the concern I have with respect to setting a fee, and we may or may not be able to get the individual who is best suited for building this critical regulatory agency.

Madam President, the issue of perception is very important. When transparency indicated that we have moved from 72 to 101 with respect to perception, it is people's views. Whether it is so or not I cannot say, but when they did their field work there is a perception, there is a feeling. How do we disabuse citizens in Trinidad and Tobago, and in the rest of the world, that Trinidad and Tobago is not as corrupt as you think we are, that we need to minimize this

perception? Well, the Act No. 1 of 2015, the procurement legislation Act of which—I mean, I was together with Sen. Small in the previous Parliament when it was raised again, issues arose again. So we have been involved with it for quite a while. There was a view that the regulator should be at arm's length from the Executive arm of Government, that you can never ever have a clear separation, but as far as it is practicable the regulator should operate at a distance from the agencies that he is regulating.

And so, it is for this reason there was in the Act this position that the office of procurement, the chief regulator then, should be recruited by the Office of His Excellency the President which is not a part of the Executive of Trinidad and Tobago, but it is really considered, according to our Constitution, to be a part of the Parliament. Our Parliament is made up of the Office of the President, the Senate and the House of Representatives according to the Constitution. And by having the Office of His Excellency the President recruit this Procurement Regulator, there was a feeling—I was a part of the legislative process—that the perception, that this regulator is going to somehow be captured by the Government, by the Executive, by the politician, will be minimized. It was important for perception that the regulator be at an arm's length from the Executive.

We understand the Executive pays for everything in Trinidad and Tobago. It pays for the Parliament, it pays for the Judiciary, but the way we are so constructed it is yet possible that the office of the Procurement Regulator, the chief regulator, can in fact, having been recruited by the Office of His Excellency the President, demonstrate to the general population that this Regulator is not under the control, real or imagine, by any political party, or the Government, and it can go some ways to ensuring that the country's perception in that perception index can

somehow be improved.

So it is important, therefore, when I read the document that it is the Ministry of Finance that went through the process, I think that this is a step in a direction which is not taking us where we want to go. We want to have an objective institution, we need to start it right, we need to staff it right, and we need to build public confidence in Trinidad and Tobago that this particular office finally will eliminate the kinds of malpractices we have seen, or we imagine we see in the procurement, in the state, and in the disposal of public goods as well.

So my own recommendation is this: I think it is important that the recruitment process itself be undertaken under the auspices of the Office of the President as per the Act. It should not be that the Ministry of Finance is sending a shortlist from which will be selected. That certainly will not do much for the perception. It will act as though, once again we are building a regulatory agency which will be captured by the arms of Government, which is not what we want. And so, I endorse the recommendation. Let us provide a budget to the office as the spirit of the Act would want us to do, and let that Office of His Excellency the President use whatever agency they wish to choose. It could be the UNDP, it could be any HR agency, but it should be left up to that office simply to get a subvention from the Ministry of Finance for the purpose, and let the shortlist be sent to the Prime Minister and the Leader of the Opposition, having been determined by the Office of His Excellency the President.

I think if we can follow the letter and the spirit of the Act, we will start on the right path to getting this particular agency going and functioning, and really minimizing the waste. Five per cent waste seems to be on the small size, what is the overbilling on the Government? I do not know. I myself, I am eager to see a very effective office which will finally be able to demonstrate to Trinidad and

Tobago that if we get procurement fair, then the cost to the taxpayer is going to be minimized.

Madam President, the reason I am focusing on process is this. I think that we have seen in the past something similar. There was an attempt to recruit a police commissioner, bypassing the constitutionally charged body which was the Police Service Commission, and going out to a recruitment agency. That was overturned, of course. The Constitution was very clear, and what simply had to be done is to ensure that the agencies which are charged with that responsibility simply be resourced appropriately. The Police Service Commission needed to be resourced appropriately, and similarly the office of the Procurement Regulator and the chief procurement regulator, I am of the firm view, should be recruited by the Office of His Excellency the President as per the Act and the Ministry of Finance should be immune from this particular process if we are to minimize the perception of corruption.

So, Madam President, I think the ball should go back with respect to procedure to the Office of His Excellency and, second, I really would like to see that notices go out, CVs come in, interviews undertaken, it can be very quick—I was able to do this thing in a few months. In about three months I know the shortlist of 10, I was able to see what it would take to get them on board, and then I determined. Since I want a very good office, I will come to the Parliament indicating that from the range we will be able to get for X dollars a Procurement Regulator, and then I will be prepared to support the Motion. But as it is, I cannot support this Motion because it is not based on the kind of analysis that would make a very sound and good judgment on the matter.

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

6.15 p.m.

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you, Madam President. It is an honour to join this debate on the Motion of the Salaries and Allowances of the Procurement Regulator and the members of the board of the Office of the Procurement Regulator.

Madam President, one of the secrets of success in institutions and in companies, and I guess in Government and in societal development, is role clarity, and if you do not understand role clarity, you will cross-wire the circuit and a cross-wired circuit will explode. That is electrical engineering.

We passed a Bill, Bill No. 1 of 2015, under a UNC administration. Under the PNM administration, our first actual legislative input was to set up a joint select committee to propose amendments to the Bill and we passed the relative amendments. So I will deal with that shortly. And today, here we are debating the salaries and allowances of the regulator. I concur entirely with the Minister of Finance that that is not fundamentally the role of legislators. Okay? That has to be relegated down to executive authority and to implementation.

We cannot tie up our parliamentary time. If you check the legislative agenda with fundamental legislation. The next legislation supposed to be coming to this Parliament is whistle-blower and I will deal with perception of corruption. But when we tie up a whole night, when we should be debating other things, on what should be the salaries and allowances of the Procurement Regulator, which is a public service function, we do not understand role clarity. This legislation is flawed, in the sense that it says that this has to come to Parliament. So as the Minister of Finance says, it has to come to Parliament, that is the law. It has come to Parliament and we will debate it for however long you require.

I just want to make the point, Madam President, that there is a fundamental difference between the Central Tenders Board Act and the procurement legislation,

Public Procurement and Disposal of Public Property Act. The Central Tenders Board did in fact award contracts. In the public service, there is a PS limit, which I think is \$1 million, then there is a ministerial tenders committee which I think is \$2 million, and then the—[*Interruption*]—Well, in corporation, there is the CEO's limit. But in central government, it is equivalent to the PS's limit.

And then there are matters that go to the CTB and then the state entities, which are the special purpose state companies and the run-of-the-mill state companies have their own procurement systems in place. They are governed by a board of directors who should have supervisory authority there and oversight authority, but this legislation is trying to bring everything together because it is the public purse at the end of the day and we need that oversight. So, in essence, it is good legislation.

Now, the TTIT—Sen. Ameen had mentioned in 2016, our score dropped to 35 and we were ranked 101 from 72. Just for the politics because anytime I stand here, I make one political statement and that survey was done in 2014 and 2015, just to have the record straight. But what the Transparency International Institute said is that we do not have infrastructure in place. So corruption may not be happening, you know, but it will be perceived to be happening because you do not have the institutional infrastructure in place and obviously that is legislation. Okay? Because you could have a whole society, like say Thailand, where 95 per cent of the population is Buddhist, good, and a significant part of the population is Buddhist monks. So if Buddhist monks are running a procurement system, the chances are there will be no corruption even though if you have no legislation.

In our situation here, we feel and the agencies of oversight feel more comfortable if there is the legislative framework governing your behaviour, because man, in whatever incarnation he is, if he does not have oversight, if he

does not have penalties for wrongdoing, he will misbehave. You know, Voltaire, the French agnostic, once said if there is not a God, man should create one because it is only the fear of God that keeps man in check and this is the principle of legislation in the context of the procurement legislation.

I just want to go on record also as saying the parent legislation was passed in early 2015 and the amendments did, in fact, make two fundamental changes which add to the transparency of the legislation. The first is the establishment of the Public Procurement Review Board. Now, that is fundamental because outside of that, even though you could have gone to the Procurement Regulator to adjudicate on a matter of a grievance, if you did not like what the Procurement Regulator adjudicated on, your recourse was the court and we know the system of the court as we speak—how long it takes and how expensive it is to get justice. So this concept of the Public Procurement Review Board I think adds to the transparency, it increases the cycle of time for adjudication and for adjudication of supposedly—not impropriety but justice to prevail where somebody feels that they are aggrieved.

And secondly, we made it abundantly clear that Part VIA which states disposal of state property to avoid all ambiguity, 57A said:

“Notwithstanding the State Lands Act and any other written law to the contrary...the disposal of—

- (a) State Land;
- (b) real property owned by the Government;
- (c) real property owned by State-controlled enterprises; and
- (d) real property owned by a statutory body, responsibility

for which is assigned to a Minister of Government.”

—shall all be subject to the regulations made by the Minister under section

63. So we added transparency to that exercise.

So, we are in a good territory right now, you know, because what the transparency people are saying, once we proclaim the procurement legislation, once we bring whistle-blower legislation to the Parliament—and it is on its way—and once we deal with campaign financing, I think we will be on a good stead for reducing our perception of corruption index. The whistle-blower legislation, I think, is already before a joint select committee and this administration did, in fact, hold a preliminary meeting with some agencies to deal with the campaign financing reform, and the Prime Minister has gone on record and gave the commitment that before the next election takes place, campaign financing reform will be part of the laws of Trinidad and Tobago.

So, Madam President, this administration wants to proclaim the procurement legislation. In doing that, we have to put certain infrastructure in place. That is the reason today that we bring this Motion for the approval of this honourable House in terms of the salaries and allowances of Procurement Regulator. The Minister of Finance, in his opening remarks, did, in fact, indicate that as we speak, procurement units are being established in all government agencies and state enterprises. He categorized them three-fold: small, medium and large. His example was the Ministry of Tourism. They probably buy photocopying paper, whatever, whatever, but their procurement function is not elaborate and it is not expensive. Okay? Then there are medium-sized Ministries, probably Ministry of Trade and Industry, the Ministry of Energy and Energy Industries, probably somewhere between small and medium in terms of procurement, but the large Ministries, obviously the Ministry of Works and Transport, Ministry of Rural Development and Local Government; those that procure a lot of goods and services and award significant contracts.

On the state sector side, massive expenditure. It is not only UDeCOTT, it is NIPDEC, it is NIDCO. They procure on behalf of government agencies. But then you have people like Petrotrin, billions of dollars—NGC. I mean, I do not want to regurgitate what has been said for so many times. I heard somebody mentioning about power-washing the Brian Lara Stadium, “doh go there” because we could talk about waste-water plant, [*Crosstalk*] “ah billion dollars”. A contract awarded for \$400 million higher than the lowest bidder. The lowest bidder was a reputable international company in matters like these. As we speak, the project is stuck. We have one point something billion dollars tied up. [*Interruption*]

Madam President: Sen. Ameen, I think you spoke already in the debate. Okay, yes. Minister, continue.

Sen. The Hon. F. Khan: Madam President, in excess of \$1 billion tied up, there is not even an off-take agreement with Point Lisas to sell the water. I mean, that is the ridiculousness that happened in this country over the years. This procurement legislation and matters pertaining thereto will obviously attempt to streamline some of the wildness that was going on in Trinidad and Tobago. Okay? And as a people we have to understand. The Minister of Finance, you know, I sympathize with him every day because the revenue stream is no longer there. “People, put dat in yuh pipe and smoke it, yuh know.” We will be dealing with the mid-year review next week.

This country is under serious stress, serious financial stress and we are trying to manage the economy in a way by cutting expenditure, trying to maximize revenue, increase efficiency and optimization in the dollar that we spend. So we are establishing the procurement units. The salary of the Procurement Regulator, hopefully, will be passed tonight. Okay? And then the next process is the recruitment of the Procurement Regulator himself or herself and the appointment

of the board by the President.

Sen. Rambharat mentioned it and I just want to repeat what he said. His Excellency asked the Minister of Finance for some assistance. The Minister of Finance is not recruiting the agency that will be charged with the recruiting of the Procurement Regulator. They will not be making the short-list for him. All he is doing is sourcing the firm that will do the recruitment and the firm that will be doing the recruitment will report directly to His Excellency, and His Excellency will get the short-list, he will do what he has to do that is given to him under the Act, the powers to appoint the Procurement Regulator and the board is appointed at his own discretion in consultation with the Prime Minister and the Leader of the Opposition.

Let me just make my typical controversial remark [*Laughter*] because there is a tendency that is creeping into this Parliament that independence means *solamente* the Office of the President. There are three arms of Government: the Legislature, the Executive and the Judiciary. The Queen of England has absolutely no executive authority. The throne speech she reads at the opening of the Parliament is written for her by the Prime Minister. That was a monarchy, you know. From the days of Oliver Cromwell, it collapsed and then they have reached where they are today, that the Parliament and the Executive has the authority. The Queen has none. We have modelled ourselves through the Governor General and now the President.

And there is this tendency that the Executive must not do anything and for it to be transparent, it must be appointed by the President. We cannot go that way because the Executive is accountable. Because when the Executive is account—check how America operates. The President has the power to implement Executive Orders. The only thing the President cannot do is to declare war which has to be

approved by Congress. Other than that, he has Executive authority and the Legislature, or the Congress and the Senate, passes the laws. And because the Executive is accountable to the people because you cannot put Executive authority into the hands of a non-elected office. That is the principle of democracy.

So we, as legislators, let us be careful. “Doh come here” and rant and rave and say the Parliament must do this and the Parliament must do that and the Parliament must—the Parliament has its role, the Parliament has its responsibility to make legislation and to provide oversight to the Executive. But for heaven’s sake, let the Executive do its job and if you do not like how the Executive has done its job, every five years, the system gives you a chance to determine what happens to the Executive. Vote them in or vote them out. “Form yuh own political party and contest an election.” But once you win an election, the process of winning an election gives you the right of Executive authority to run the lands for five years. Granted there must be checks and balances and that is what the Parliament provides.

Madam President, let me deal with my good friend Sen. Small. “Doh geh frighten yuh know, Smally.” [*Crosstalk*] All right, good. I concur with him that public officers are grossly underpaid but it is the system we are trapped in and how do we break the mould is really the challenge of governance that this society faces. Okay? I could deal with my next radical point “yuh know”, the role of the Service Commission but I will leave that for the while. But I will tell you something.

Do you know, through you, Madam President, who is the highest paid leader in the world? The highest paid leader in the world, not how much money they have, you know, the highest paid salary leader in the world. The Prime Minister of Singapore and in Singapore, the public service pays higher salary than the private sector and people migrate from the private sector to the public service. Your prize

ambition, as a young professional, is one day to work in the public sector. I mean, Singapore is in a league by themselves. The second highest paid leader in the world is the Prime Minister of Hong Kong. Again, modelled along the same lines as Singapore and then we go down to the President of United States and the Prime Minister of England and what have you.

But we, here, have been locked into a paradigm of fairly low remuneration packages for public officers. That has to do with the whole structure of the Service Commission in the early days, it has to do at a higher level with the Salaries Review Commission, and how they treat remuneration, okay, and the whole issue of parity. Because while Sen. Small made some very interesting points, the point that he would have missed is that if you go too much higher than the norm, there is something called parity. There is something called parity and then, how do you justify in the context of parity, how you can take a Procurement Regulator and pay them \$250,000 a month, and then jobs that are equivalent, with some level of equivalence that Sen. Rambharat so eloquently articulated this evening, how do we deal with it? So, as I said, to break that mould is a big challenge but it is my concerted opinion that the package that is being offered to the Procurement Regulator is reasonable. It is fair by public service standard and it is still in the top percentile of the public service remuneration packages that exist.

So, Madam President, this simple piece of legislation before us, this simple Motion—and before I conclude, I just want to compliment my colleague on this Bench, Sen. Rambharat, for what I think was an excellent contribution because what he really did, he articulated the position of 11(9) and saying that the legislation already gives the Minister the power to determine the salary and then in the context of the salary, he drew very, very, good comparisons of equivalencies of position, the portfolio they handled, okay, the remuneration package that they

have. Because it is probably a flawed piece of logic to say because of the size of the responsibility you carry, in terms of the numeric of the dollar value of the responsibility that you carry, that should be an indicator of your salary and that logic really does not hold in its entirety.

The other issue of the Procurement Regulator that I would want to draw to your attention is the fact—Sen. Mahabir articulated quite a lot of views on the qualification of the Procurement Regulator, whether you will be able to source somebody of that calibre based on a salary like that and what have you. But even in this context, I do not want to overly be critical of the legislation but the Procurement Regulator, on 10(1)(a) states that:

“...who shall be the Chairman and who shall have at least ten years’ experience in matters relating to procurement and possess—

- (i) a degree from an accredited University in a field relating to finance, economics or law; or
- (ii) a degree from an accredited University in accounting or an equivalent professional qualification in accounting;”

And that is all it says, you know. It says nothing about engineering, it says nothing about science. It says nothing about anything else. Because there are now universities that offer specific degrees in procurement. You can do a Master’s in procurement, you can do a Bachelor’s degree in procurement, you could probably do a PhD in procurement. So this is a grammar school-type of qualification here, you know, because everything from the grammar school is a degree in law or accounting, law or accounting, law or accounting. They do not even have an engineering degree here.

You could have come through an engineering degree. [*Crosstalk and laughter*] And I see I have struck a chord with Sen. Ramkissoon. Okay? Well, let

me say geology, also. Okay? So you could have a science degree, then do a Master's in procurement and then have 10 years' experience in the field and technically speaking, you do not qualify for this job, you know. And that is really the true skill sets that you need you know, because most of the bigger contracts are engineering-based, save and except Sen. Ramdeen's fees which will qualify for laws. But outside of that, most of the big contracts are engineering-based, either construction, it is either process plant and equipment, the refinery upgrade, the gas optimization plants in Pointe-a-Pierre, the ultralow sulphur diesel plants. All these are billion-dollar contracts based in process engineering, based in civil engineering, based in chemical engineering.

But this is the legislation we have. With the passage of time, there will be revisions. But I want to appeal to this honourable House and this Government is serious about proclaiming the legislation. We are putting things in place as quickly as possible. The Prime Minister has gone on record that he wanted the legislation proclaimed by the end of March, we have slipped slightly on that but he has given the Cabinet the strict instruction that this legislation should be proclaimed in the shortest possible time. So, Madam President, with those few words, I thank you very much for allowing me this time. [*Desk thumping*]

Sen. Gerald Ramdeen: Madam President, good afternoon and it is an honour to join this debate that has been presented by the Minister of Finance to approve the report on the determination of salaries and allowances of members of the board of the office of Procurement Regulator.

And, Madam President, in preparing my contribution this afternoon, I want to direct a bit of Jamaican patois to the Minister of Finance that was very popular when I was in college some time ago, and it is to take this Motion and "wheel" and come again. [*Desk thumping*] Because when I present this afternoon, Madam

President, as a Senator, we took an oath to uphold the Constitution and the law and no technicality about what is covered by the Motion or what is not covered by Motion is going to prevent these Members on this side from discharging that responsibility. And having heard the Minister of Finance this afternoon, there is much wrong with what is presented before us.

Now, I want to deal with one issue straight away that was raised by the Leader of Government Business in comparing the leader of Singapore and the leader of Hong Kong with what transpires in Trinidad. We are in Trinidad, we are not in Hong Kong and we are not in Singapore. [*Desk thumping*] Now, when the Minister of Finance presented this matter in the other place, at a very wee hour of the morning, we got a history in the meaning of “hypocrites” and a history in the meaning of “dissembler”, and I want to join in that conversation this afternoon and say if ever there was any action that could be described as hypocritical, it is the actions of the PNM with respect to the procurement legislation. [*Desk thumping*]

Madam President, this Minister of Finance presented this Motion and made us believe by calling out figures of the salary of the President, the Chief Justice, a puisne judge, the Prime Minister, Cabinet Minister, Auditor General, that we are in a position, as a country, that we are not able to pay more than what is described in this Motion as to the terms and conditions for the Procurement Regulator. But, Madam President, that is a bit difficult for me to understand because this is a Government that was willing to pay a lobbyist \$16 million for two years, [*Desk thumping*] and when you check \$16 million for two years, the monthly salary of the lobbyist is \$666,000.

6.45 p.m.

So, how are you justifying paying the lobbyist, \$16 million in two years? The lobbyist must be doing—but if you calculate that, Madam President, the

Regulator is doing nothing in comparison to what the lobbyist is doing. Madam President, \$666,000 a month and telling us that we must be careful because of the times that we are in.

This is a Government that was prepared to spend 450 on Soca on the Seas and telling us about, we must be careful of what we are spending because we cannot pay anymore. We must be in touch with the economic times that we find ourselves in. This is a Government that is prepared to spend \$10 million on a walkover, and we must pay the regulator \$50,000. That, that is hypocrisy. [*Desk thumping*] But you see, Madam President, this Government suffers from one ailment and it is called honesty and trust.

Hon. Senator: Just like you.

Sen. G. Ramdeen: When the Minister of Finance was presenting this—
[*Interruption*]

Sen. Baptiste-Primus: In the prisons.

Madam President: No, Minister, come on.

Sen. Baptiste-Primus: I am awfully sorry, Madam President.

Sen. G. Ramdeen: Madam President, when this Minister of Finance was presenting this Motion this afternoon—I am not only going to say that I would stand corrected by the *Hansard*—but I heard the Minister of Finance say that the Ministry of Finance was simply recruiting a firm. They were not doing anything else but recruiting a firm. That is what I heard.

But, Madam President, I want to quote the Minister of Finance in presenting this matter in the other place when the Minister of Finance on the 6th—last week Friday—on the 6th of May, 2017, said this—[*Interruption*]—That is Saturday, sorry. As I indicated previously, the President is empowered under section 10—
[*Interruption*]

Madam President: Sen. Ramdeen, could you have a seat.

Sen. G. Ramdeen: Sorry.

Madam President: You are making reference to what has taken place in the other place, and that is allowed but do not go into debating.

Sen. G. Ramdeen: No, no.

Madam President: Okay? Yes. So you understand the distinction.

Sen. G. Ramdeen: I accept Madam President's ruling. Madam President, I just want to make it clear, I am on the very simple point of what the Minister said today in relation to the very narrow issue of what is the role of the Ministry of Finance. The Minister said today that the Ministry of Finance was simply selecting a firm. What concerns me, Madam President, is to just get at the truth of what is the role of the Ministry of Finance in this process because this is what the Minister of Finance said in the other place.

“The President has requested the assistance of the Ministry of Finance, as he did in the past, under the previous administration and we have a team at the Ministry, as was the case in the past who are assisting His Excellency to build a pool of suitably qualified and experienced candidates from which he may move forward to make his selection.”

Now, Madam President, this really is a very important point because it borders and it touches and concerns the legality of this process, and I will get to why. This is the most important thing that the Minister of Finance said:

“We are hopeful that we can present His Excellency with at least 10 suitable candidates, ranked in order of merit, for him to exercise his discretion and we would not, of course, be telling him who he should select. That is a matter entirely for the discretion of the President.”

Now, Madam President, it cannot be right that the Minister of Finance is

telling the Parliament that in one place he is saying we are selecting the people, ranking them and sending them to the President, and in this place today we hear that the Minister of Finance is saying, we are not doing that, we are simply selecting a firm and the President will do everything thereafter. [*Desk thumping*] So we do not know where the truth lies. And, you see, it does not stop there, because I want to put on the hat that I normally wear, a legal submission on this matter, which is this.

The Ministry of Finance is embarking on a process, and I want to warn, if I can, the Minister of Finance, that he is embarking on a very dangerous course because we have had cases in this jurisdiction where the courts have ruled that a procedure such as this, when you embark on such a procedure where you interfere with the independence of the selection process that is statutorily laid down to be independent, it will be struck down by the courts. [*Desk thumping*]

Madam President, the parent legislation that this Motion arises from has a specific section that protects the independence of the position of Regulator. It is section 13 of the Act and section 13(2)(b) Madam President, says that:

“In the exercise of its functions, the Office shall—

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

Madam President, when you go to section 10(1):

“The Office shall be governed by a Board which shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition and shall comprise no less than eight and no more than eleven members as follows:”

Madam President, just for completeness, when the President, exercises his

functions under section 80(1) of the Constitution, section 80(1)(b):

“(b) after consultation with any person or authority other than the Cabinet.”

That is one of the very limited circumstances in which the President acts of his own motion. The reason why this was placed in the legislation was to protect the appointment of the position of regulator, and that was so because we wanted to insulate the person and the process of appointment from political interference.

Madam President, there have been three very recognized decisions, two of the Privy Council, that have warned the Executive in the way in which they exercise this power, but the most recent of those decisions, Madam President, is one that should be very familiar to this PNM Government, because it was a decision of the High Court that struck down the two Orders of the Parliament that sought to appoint a Commissioner of Police. [*Desk thumping*] And why it is important for us to remember that is because in those Orders it did not deal with a situation that was as open as the one that the Minister of Finance is trying to perpetrate on the Parliament. It was one whereby the Orders specifically allowed—the Parliament approved the Orders—the Minister to perform a particular role in relation to the appointment.

In the case that we have now, as Sen. Mark indicated, there is nothing that the Minister can point to by virtue of legislation or subsidiary legislation or regulations that gives him the power to exercise which he proposes or has already exercised in this matter. In the case of the Orders in the Commissioner of Police matter, the Orders themselves authorized ministerial action in the appointment process.

Madam President, we have been reminded in this jurisdiction, over and over, about the importance of preserving the independence of certain institutions. If ever

there was an institution in which we should preserve the independence of and we should ensure that there is no political interference, it is the Office of the Regulator under the procurement legislation. [*Desk thumping*]

Madam President, for the education of the public, we have had this situation occurring in 1982 in Endell Thomas. We had it in 2006 in Cooper and Balbosa where the Cabinet was told—after 60 years of doing the wrong thing—could not set the examinations. And now this Government in 2016—the said Government that brought similar Orders that were struck down—is coming again to interfere with the selection process in the procurement legislation. [*Desk thumping*]

And, you see, Madam President, it begs the question. It really begs the question, because the hon. Minister of Finance is a man who is very learned in the law. He has two LL.M.s with distinction he says. So he is not a man who is only an engineer. And, you see, the Minister of Finance is a very intelligent man, perhaps the most intelligent on that side and, therefore, it begs the question as to whether this is something that was really overlooked or is this really the last nail in the coffin of the procurement legislation that is being put here by the PNM? [*Desk thumping*]

One cannot help but think that the Leader of Government Business said that the Cabinet led by the Prime Minister said that we must implement the procurement legislation, but 19 months on we cannot appoint the regulator. We are now debating what his salary, his terms and conditions are. I will get to that because you see, Madam President, one has to wonder whether these terms and conditions were set in this manner so that you could only procure a certain type of individual to this particular position. [*Desk thumping*]

The Minister of Finance said we want to get someone—I had it written down here, Madam President—we want to get someone of a particular character,

of a particular integrity and honesty. Well, having laid out that as the guidelines and having seen the price that the Government places on these particular values, we understand who they want to put there as the Procurement Regulator [*Desk thumping*] because what they have done, Madam President, is very intricately, surreptitiously and, perhaps, maliciously, maneuvered this process in such a way that when the list comes to the President His Excellency, it is basically a fait accompli. The President is not going to choose. He is not going to be able to exercise the functions that he is supposed to exercise under the procurement legislation.

And, you see, we must judge the Government on their history, because it is all well and good, as Sen. Rambharat said, this is legislation that we need that we have longed for. That is what he said. This is legislation that we have longed for, but the PNM were in Government for 45 years, 47 years. They did not long for it when they were in Government to bring it?

You see, when the procurement legislation was passed, there were certain pieces of legislation that mark our legislative history as a Republican democracy. And do you know what they are, Madam President? The Integrity in Public Life Act, passed by a UNC administration; [*Desk thumping*] the Judicial Review Act, passed by a UNC administration; [*Desk thumping*] the Freedom of information Act, passed by a UNC administration and the procurement legislation passed by a UNC administration. [*Desk thumping*] So, it is not a consequence that legislation that strengthens our democracy, that gives rights to our citizens, that underpins the rule of law, is legislation that is somehow coincidentally is always brought to the Parliament and is always pushed by a UNC administration. [*Desk thumping*] So, again, for the PNM to come today and do as though they are responsible for the procurement legislation—hypocrisy at the highest.

For two years—we must not forget—they went and delayed and delayed this legislation. When they could not delay it anymore and they were in Government, do you know what they did? They formed a review board to undermine the Regulator, then after that you cut down the terms—cut it from seven years to five years. What it is that this Government is afraid of? If you are willing and you have not done it in 19 months, are you going to do it in the next 19 months? Are you going to leave it for us to implement it when we get back into Government in 2020? [*Desk thumping*]

Madam President, I am one that believes that you get what you pay for. If you want quality, you have to pay for it. So this idea of setting \$50,000—you know in law there is a saying you have a conclusion without any primary facts?—that is what this report represents and this Motion represents. It is a conclusion that we must just come here and simply pass this Motion and bring into being the Procurement Regulator. But do you know what we will end up like? We will end up like the mess that the Judiciary is in today in the public conversation that we are having, because it is a direct—[*Interruption*]

Madam President: Sen. Ramdeen, please, please, do not bring the Judiciary into this debate. Okay?

Sen. G. Ramdeen: Madam President, the Motion that is before us tells us that the measurement against which we have come up with this figure of \$50,000 is that we have used a puisne judge and the Auditor General—[*Interruption*]

Madam President: Sen. Ramdeen, please, I have made a ruling and what I am saying to you is—you did not make a reference to the salary, you were making a reference to the Judiciary, and I am asking you to desist from that in your continuing contribution. Okay?

Sen. G. Ramdeen: As you please, Madam President. The reason why we

are unable to attract people to the offices that are of importance in this country, one of the principal reasons why is because of the salary that is offered to those positions. In every sphere of life, whether it be legal, medical, engineering, science, whatever it is, you pay for what you get. [*Desk thumping*] If you want quality you have to pay for it.

Madam President, let me put in terms what it is that the Government is offering to the Procurement Regulator, but before I get to that it is important for the public to understand that the position of Procurement Regulator, do you know what they have to do? What he is in charge of? The regulation of:

- (a) the Office of the President;
- (b) the Parliament;
- (c) the Judiciary;
- (d) every Ministry or department or division of a Ministry;
- (e) the Tobago House of Assembly, or a division of the Tobago House of Assembly;
- (f) a Municipal Corporation established under the Municipal Corporations Act;
- (g) a Regional Health Authority established under the Regional Health Authorities Act;
- (h) a statutory body, responsibility for which is assigned to a Minister of Government;
- (i) a State-controlled enterprise;

And I would get back to that.

- (j) a Service Commission established under the Constitution or other written law;

- (k) a body corporate or unincorporated entity—
 - (i) in relation to any function which it exercises on behalf of the State; or
 - (ii) which is established by virtue of the President's prerogative, by a Minister of Government in his capacity as such or by another public authority;

Madam President, it gives us no comfort for the Minister of Finance to tell us about the Chief Justice, the Prime Minister, the Auditor General because none of those functions in any of those offices can compare to what the position of regulator has to do under this piece of legislation. [*Desk thumping*] The Motion itself sets out at page 6 what are the functions of the office. Many of the Senators who have come before me, Madam President, have gone into them.

But, Madam President, let us put this into reality. Without us being given any material by the Minister of Finance so that we could understand in terms of human resource what a person who does this type of function would be able to attract as a proper salary, because I can say from where I sit, having studied the legislation, there is no other office in any conglomerate in this country whether it be Massy or ANSA, in any Ministry, in any authority, in any statutory corporation that has a heavy burden to carry and discharge like the office of Procurement Regulator. So there is no comparison. [*Desk thumping*]

And having said that, Madam President, let us put it in perspective. What this Government is offering on an advertisement locally, regionally and internationally, is a salary of US \$7,000 a month and for the Deputy Chairman and the members, US \$2,000 a month to perform this kind of function, and you expect to attract who? What quality of person do you expect to attract for that kind of salary? And, therefore, you have to ask the question: Has it been put at that figure

because you already have an intention to attract only a particular class of person—and when I say class of person, I mean in terms of qualification—so that at the end of the day, we may end up in a debate right here wondering what is happening with the procurement regulation.

Because, Madam President, this procurement Act was preceded by the Central Tenders Board, you know. Let us not forget that. In 1961, it was enacted. But do you know what the PNM did? [*Crosstalk*] In order to defeat the provisions of the Central Tenders Board, it was the policy of the PNM to set up special purpose state enterprises throughout the country under every Ministry. You have the Ministry of Sport and Youth Affairs. I wonder if anybody ever went in the office that the Ministry of Sport and Youth Affairs that the Minister sits in when they used to rent a building on lower Abercromby Street? It was in shambles.

When you go on the top of Henry Street, you should see what the Sports Company was doing. You should see the difference in what the special purpose state enterprises were getting and what the Government Ministers had to suffer in. And do you know what that was? That was a creation of the PNM to beat the Central Tenders Board. [*Desk thumping*] And you see what this Motion represents? This Motion represents a creation of the PNM to beat the policy of the procurement legislation to get someone there who will be able to implement properly the aims and objectives of this particular piece of legislation.

Madam President, if one were to go to the *Express* today, an article written by Miss Anna Ramdass. This article seeks to get the views of the former Head of the Public Service, Mr. Reginald Dumas, on this particular issue.

Madam President: Sen. Ramdeen, what is the page? [*Crosstalk*]

Sen. G. Ramdeen: It is page 9, Madam President. I am obliged. Madam President, I do not think anyone would question the views of Reginald Dumas.

Yesterday in the Judicial Committee of the Privy Council, he was upheld as a citizen who was fighting to uphold the rule of law. The Court of Appeal in Trinidad said he was somebody who demonstrated civic republicanism, something that is very strange to those on that side.

Sen. Samuel: Good governance.

Sen. G. Ramdeen: Good governance. A man who—[*Crosstalk*]—So let me put on the *Hansard* what the former Head of the Public Service had to say about this. He is a man who is much more experienced than me in this field, so let us hear what he had to say. [*Interruption*] Madam President, perhaps there are others who would like to contribute and more eager than myself, I do not know. Dumas said—[*Interruption and crosstalk*]

Madam President: Continue, Senator. **Sen. G. Ramdeen:** I do not want to be unkind, so I would continue. Dumas said:

“...given the importance of the post...”

—referring to the post of regulator—[*Interruption*]

Madam President: Please, can I listen to Sen. Ramdeen? Those who do not wish to hear him you can leave the Chamber. If you continue I may ask you to leave the Chamber. Continue, Sen. Ramdeen.

Sen. G. Ramdeen: Thank you for your protection, Madam President. [*Desk thumping*] With respect to this issue, Madam President, and what is being offered, Mr. Dumas was interviewed about this said Motion and the terms and conditions of the Procurement Regulator and this is what he had to say:

“It is an extremely important post, especially when the leakage in corruption comes essentially through procurement, through contracts and so on where people can slap all kinds of fees and percentages on.”

A matter referred to by the Leader of the Independent Bench.

“That person who has to supervise all of that not only has to be a person of great intelligence, not only a person who has the proper professional background but, above all, a person of great integrity and courage because that person will have to be resisting all kinds of inducements to misbehave and I do not think that \$50,000 a month plus perks amounting to \$85,000, and worse, the amount the deputy is being offered. I don't think those are sufficient.’ he said.

‘I do not think those salaries are sufficient...the fact that you meet once or twice per month...’”

A matter that Sen. Small touched on:

“...to me is not the important thing. The important thing is your knowledge, your willingness and your courage to stand up in the face of what is bound to be a series of pressures being brought to bear on you to do the wrong thing,’...

‘To pay the deputy \$13,000 to me is totally, ridiculous.’ he said, as he noted that the former Petrotrin president took home a salary of more than \$170,000 as reported but more in the vicinity of \$200,000.”

Madam President, anyone who reads the procurement Act and anyone who understands the function that has to be performed by the office of the Procurement Regulator, and anyone who understands what it would take to manage the procurement of a public body as defined under this Act can in no way present these terms and conditions and expect to get someone who has the character, the integrity and the courage to perform the functions in the way that as a Parliament and as a country we expect this Act to be operationalized. It is a very, very serious matter, Madam President.

I just want to close off the point with respect to what the Ministry of Finance

is doing and make reference to the document that was passed so graciously by Sen. Mark. I just want to touch on one point. I am not going to quote from it because it has been dealt with already, Madam President. This is a document that emanated on the 10th of April, 2017, for perhaps one of the most important posts that is going to be created in our country. On the 10th of April it is sent out and the last line reads:

Proposals must be delivered to the Tender Box titled, Recruitment Agency, Office of Procurement Regulation, which will be located at the Ground Floor, Eric Williams Finance Building no later than Wednesday the 19th of April. So you have nine days? You send this out and in nine days you expect to get persons who would consider taking up this position. Does that not speak for itself, Madam President, that when it was sent out those who were expected to apply must have already known about what is going on? [*Desk thumping*] They would have already had their tender ready to just drop in the box. What kind of consideration can you have locally, regional and internationally in nine days?

So the Government cannot come here and try to fool the Members on this side or the public, more importantly. If you have a genuine aim and intention to properly implement this legislation, the duty is upon you and it does not take that much to do it right. The Government has a duty to do it right and to get it right, and we have a duty and we will discharge that duty in telling the Government how they can get it right.

I warn again the Minister of Finance today that if he embarks upon this course of allowing a firm to be retained by the Ministry of Finance and go further to select people, as he said, and present a list of persons to His Excellency and expect that that process is going to withstand constitutional and legal scrutiny in a court of law, he is very much misplaced, Madam President. [*Desk thumping*] If it is

that he proceeds, as the Attorney General did—and we understand, Madam President—we will discharge the duty to provide good legal advice to Government because we understand that that is an area in which there is a lot of weakness on that side, so we will provide that.

So, today, I advise the Minister of Finance, do not go down the same road that the Attorney General went down. [*Desk thumping*] Do not follow that path. Follow a path that is more legally sound and do what is right. Do what the law requires; do what the public procurement and disposal of public property requires; do what the intention of the Legislature was when this legislation was brought and please “wheel and come again” with something that we can support. [*Desk thumping*]

7.15 p.m.

We have always been accused, Madam President. We have always been accused of not assisting and just opposing, but as you can see today we are always prepared to join with the Government in the interest of the people of Trinidad and Tobago. Because we understand in a short time to come we will be there and they will be here, [*Desk thumping*] and we expect that when they are here they will do as we did and assist them in doing the right thing. But we might not need that assistance, Madam President, because when we are there, there will be competent people holding the offices that they now occupy. [*Desk thumping*]

Madam President, this is a very landmark piece of legislation, a landmark piece of legislation that will strengthen our democracy, and that the aim of which is to save our country in the times that we find ourselves in. So that, if I can make reference, Madam President, to two more pieces of material here.

Madam President: Sen. Ramdeen, you have five more minutes.

Sen. G. Ramdeen: Five more minutes, I am obliged, Madam President. Two more pieces of material, Madam President. Madam President, I do not think the Government understands the risk that it takes in not finding the right person and putting a square peg in a square hole for once.

I would just give a few examples so that the population, and you, Madam President, can understand how important a role it is for us to perform and get this right. I want to refer to a letter written by none other than Wayne Daniel Sturge, on the 4th of January, 2016, to the Integrity Commission. And you know why I refer to this, Madam President? Because Sen. Sturge, in this letter—[*Interruption*]

Madam President: Sen. Ramdeen, what is that letter? Is that letter now the subject of an investigation, perhaps, by the Integrity Commission?

Sen. G. Ramdeen: I do not know, Madam President.

Madam President: Well, I am sure that the letter was written with some sort of purpose in mind, and if that is the case I would ask that you not read it.

Sen. G. Ramdeen: Sorry. Sorry. Sorry.

Madam President: That you not read it, just in the event there is some sort of investigation going on. Okay?

Sen. G. Ramdeen: I am very much obliged, Madam President. I will leave Mr. Sturge's letter and go to something that has much more weight, which is the statements of the then Cabinet Minister, Dr. Keith Christopher Rowley, on Monday, October 19, 2009, so that we could understand, Madam President, what happens when things go wrong and we do not have procurement legislation properly effected. I only want to quote two things from the—this is the *Hansard* of the Commission of Enquiry Bill, and this is what Dr. Rowley had to say then:

“What galls me about all this is that I stood here on this side of the House saying to the Government on the other side that the Cabinet was

facilitating wrongdoing. When I said that, there were people saying no. Now people are in jail all over the world over that. Right now, I am saying to my colleagues, what the commission of enquiry is looking at is 10 times worse than what happened with the Piarco International Airport and it is even more brazen.”

And then Dr. Rowley warned:

“I was saying this is the time when the Government’s policy, as espoused, is that we will create a number of special purpose companies.”

Madam President: Sen. Ramdeen, excuse me, of what relevance is this to the—

Sen. G. Ramdeen: It is relevant—

Madam President: Let me just finish. We are dealing with the terms and conditions of the board, the regulator, if you are making a quotation, if you are referring to something, please quickly tie it up to what we are dealing with, and you have very limited time as well.

Sen. G. Ramdeen: I am obliged, Madam President. The point I was making is that this country has lost too much because of the failure of the people who have ruled this country for 47 years to implement procurement legislation. This country was privileged to have an administration that had the courage to implement legislation like this. Now it has fallen into the hands of the Government to get it right, and the Government has a duty to the people of this country, to all of the people that they govern to get it right, and then we will support legislation that is in the best interest. So go, do what you have to do. Do what is right, get someone who can give us a proper report of what someone who discharges these responsibilities is entitled to, and we will support such legislation. I thank you, Madam President.

[Desk thumping]

Madam President: Sen. Ramkissoon. [*Desk thumping*]

Sen. Melissa Ramkissoon: Thank you, Madam President. I must say that I was not going to join this debate, but after listening to Sen. Khan, he proudly reminded me about how important procurement is to engineers, and how much we deal with it and depend on specialists in the procurement sector that I felt that I should just point out two points before taking my seat.

So, Madam President, yes, procurement, especially, we are here to talk about a report on the determination of salaries and allowances of members of the Board of the Office of Procurement Regulation. This was a report issued by the Ministry of Finance, and the reason we are here to talk about this is because of section 11(9) of the Procurement Act, which states that the salaries and allowances of the regulator, and other members, shall be determined by the Minister, but subject to the approval of Parliament. So this is why we are here today.

I must say, after listening to all the speakers, I have to say I am happy that we have this piece of law written in, because I do see some merit in listening to the different persons, Senators' points on the importance of why it should come before us that we could look at it, not only at the salaries point of view, but the selection of this regulator, and how important it is because it is a new entity we are bringing. A new creature we are trying to create to be an oversight, or a strong body that is now going to regulate us on how we should view our projects, how we should operate, especially, since this is going to change our public sector workings, especially, since Sen. Khan spoke about all the big Ministries, like the Ministry of Works and Transport, Ministry of Energy and Energy Industries, all these areas that will be using the procurement legislation actively. And we really want to have that oversight person who is experienced. Yes, the law says that the chairman should have a degree in finance, economics or law, but there will be a member who

will be from the engineering faculty from civil in the review board. So we do have that aspect in it.

When the point was made that that is all we are asking for, it reminded me of a scenario I had to deal with recently, where sometimes, because you are a procurement specialist, Madam President, and you are only seeing numbers and figures, and you are not really seeing the project, and you are only thinking lowest bidder, lowest value, you are not seeing quality for money, we fall short. That is why the law speaks for the experience, and that is why at the discussion about value for money, is it that we are capturing it in this report for the Procurement Regulator and the Deputy Regulator? Because a scenario that recently happened is where we had a project for a compressor. The compressor needed a small filter, when it had to be procured they did not have the size of the filter, just the size. So they are thinking, okay, well, there is something similar, say, a cheaper filter, because the filter they needed was expensive. Cheaper filter, let us use it, but it had a different size, you know, that size caused the compressor to mash up and fail, thousands of dollars is now lost because now we have down time, we have to shut down, we have to repair, we have to get a new system up. All these things when a filter, Madam President—and, again, the procurement person did not realize the flaw in choosing something different. He was thinking, okay, well, it is a filter, filter is a filter, but, no, different size and specifications.

So during the debate on the Procurement Act in 2015, I did speak heavily on the regulations, and how this is very, very, very important, how we write it, how we expect persons to red-flag items and address issues. And now we are here to talk about how we are going to pay this person who is going to regulate this, or write the regulations and be this person who we have to put as our main person to point out areas of concern. In this report, Madam President, the context for the

proposed salaries and allowances, they spoke that the Procurement Regulator was benchmarked against some salaries that were set out in the Ninety-Eighth Report of the Salaries Review Commission.

Now, in 2017, January 31, 2017, in this said Senate, we discussed the determination of allowances for Senators, and during that debate I raised an issue with the SRC, which is the Salaries Review Commission, and, unfortunately, again, I need to highlight this concern. In 2014, in the *Hansard* record, on the 8th of July, 2014, the Ninety-Eighth Report of the Salaries Review Commission was debated, or brought up in a debate where it was heavily criticized by legislators.

Now, Sen. Khan, not to pick on you or anything, but because you spoke about this during your remit, you spoke about the role of legislators, and we have to remember what we say here and the consequences, and the weight in which with what we say here. We spoke against—well, not we, because I was not a part of it, but the Members of the Senate spoke against the Ninety-Eighth Report of the Commission. The Members of the Government, as well as, the administration, they wore a different hat then, but they spoke of how much they disagreed with the report, and how it was not something that they could base fact on. It is written in the *Hansard* for all to look at. In January 2017, I asked what changed that we now trust the Salaries Review Commission, and I did not get a response. So, again, we are basing our whole debate, or the salaries and allowances on the Ninety-Eighth Report, and I do not know why we would do such a thing, because that is not the latest report, because I think there is the One Hundred and First Report.

It shows our lack of consistency as a Senate, or a body, and it also shows confusion to members of the public who are looking on and wanting to know, okay, we are looking at an independent body that we are trying to create, something that is different, something that is new to our country, and we want to

base it on international standards. So, how can we be so contradicting, and my point is, have we changed something in the Ninety-Eighth Report, or is it that we understand it better now. Because I believe the Salaries Review Commission issued a report that they said that they stood by what they wrote after the Members of Parliament had criticized it. So is it now that we no longer hold those strong views against that report, because we are basing our debate today on that Ninety-Eighth Report. I feel that is something that we should definitely address.

My second point, Madam President, is I really thought today was a very simple day in terms of we are just going to speak about the salaries and review, and we were also going to look at the allowances, and we understand that this is something written into a law that will come before Parliament and it would be passed, but, after understanding, there are always three and four sides to a story. In Trinidad and Tobago, I do not know why we always have different sides, I am not sure, but it is only after Sen. Mark highlighted to the Members that there was a letter circulated by the Ministry of Finance to hire an agency to select members, or recruit members of the public to fill, or to rank regulators or procurement specialists so we could see who is best suited for what we should think that we need, and I was wondering why. Maybe the Ministry had all good intentions because they are trying to assist the President, or assist the Prime Minister in selecting persons who they could bring forward the names, but I kind of find it is strange that we took, or the administration took that approach, because I am not seeing it in any other Ministry that they are taking this proactive approach in matters where the law says that the President, under the guidance of the Prime Minister and the Opposition Leader, will choose this regulator.

I find it so strange that the Ministry took it upon themselves to create an ad that went out without public knowledge, really—well, I did not know about it, I

know other Members knew about it—that would invite Members now to say, okay, we have a list and we would like to rank you so we would propose this listing. And I am not sure why they went that way to get this proposed listing. I am not sure if they were going to share it with the Opposition Leader so they can agree before taking the names to the President, but it puts the President and the role of the President in a kind of uncomfortable light. It no longer shows a light of this is somebody totally independent of parties. This is not really showing something that, I have been chosen to serve in this capacity of a regulator, that did not go through the arm of the Executive. I think the fear that I wanted to share is by the way it was done, because it affects the process. As I said, it may have been well intentioned in every right.

So, Madam President, we do not want—this is the first time we are doing this, we are trying to get it right. I am very happy that it is the first time that it came before Parliament for us to look at. Again, I am not sure why we used the Ninety-Eighth Report, but it was used. And, also, we need to know if this is something that we want to keep independent, and as a role of legislation you need to be careful of that, then we should also be aware what the role of the Ministry of Finance should be.

Madam President, Sen. Dhanayshar spoke about the different bodies that can be used, all parties know this, so, I think, honestly, that after hearing the arguments put forward in this debate, it is more showing that the Opposition's arguments are stronger in this debate. [*Desk thumping*] I got some support for that. [*Desk thumping*] But I am not saying it in terms of to get that support, it is just that the debate, listening, sitting here, listening to the different Members contribute, the voice of the Opposition in this debate seems very much stronger, and I would have to say that the leaning to, again, supporting this report laid before us today. With

these very few words, Madam President, I thank you. [*Desk thumping*]

Madam President: Sen. Lewis. [*Desk thumping*]

Sen. Ayanna Lewis: Madam President, it is an honour to contribute to this Motion on the approval of the report on the determination of salaries and allowances of members of the Board of the Office of the Procurement Regulation. I want to thank God for health and strength to be in the Senate today, as well as the hon. Prime Minister, the hon. Dr. Keith Rowley, for his confidence in my ability to serve as a Senator. And with this unique privilege, I will make every effort for my contributions to be of value to the people of Trinidad and Tobago.

We came into Government during a very dark time. The UNC left us with millions and millions of dollars in debt, with outstanding back pay to public servants, unpaid contractors, many poorly procured signed agreements with no funds allocated to it, wasteful corrupted programmes, like LifeSport, and, worst of all, a depleted Treasury. The PNM Government is now repeating history by doing what is best for this nation, and bringing it back to the economic powerhouse of the Caribbean, as we have been for many, many years. This Motion on Procurement is part of the PNM's process to returning good governance back to Trinidad and Tobago. We are now at homestretch with this procurement legislation, and with one simple, yet important ingredient—[*Interruption*]

Sen. Sturge: Point of Order, 42(11).

Madam President: Sen. Sturge, Members, Sen. Lewis is making her maiden contribution, and leeway is given to Senators who present their maiden contribution. Continue, Sen. Lewis.

Sen. A. Lewis: Thank you. [*Desk thumping*] So we are at homestretch with this procurement legislation with one very simple, yet important ingredient, which deals with the allowances and salaries of the board members of the OPR, which is

referred to as the Office of the Procurement Regulation.

So, before I proceed, Madam President, I must commend the Minister of Finance, the hon. Colm Imbert, for the good work he has done, thus far, in the country's finances. [*Desk thumping*] Our country, for the first time in five years, which was reported in the papers on Sunday, has experienced a surplus, according to the Auditor General's report for the public accounts of the Republic of Trinidad and Tobago for the financial year 2016, where our expenditure was less than our revenue. In respect to procurement, history would show that the hon. Prime Minister, Dr. Keith Rowley, and the PNM have always been serious about procurement legislation in this country, and the fight against corruption, [*Desk thumping*] and we will see the opposite when it comes to the UNC.

In a media release dated the 2nd of February, 2012, as Opposition Leader, the hon. Prime Minister, Dr. Keith Rowley, said, and I quote, and I will list a few things:

The UNC "Government is moving 'with indecent haste to improperly award a number of huge multi-billion dollar contracts ahead of the enactment of'—the—"new procurement legislation"—which it anticipates will put strictures on the non-transparent processes which are currently being engaged in these programmes and projects.—"We refer"—as he was referring—"to the Invaders Bay Land Development Project and the more recently"—at that time, 2012, the—"Rapid Rail Project".

The Prime Minister went on to say:

As Opposition Leader, a protest is aimed at highlighting to the national population the deceit of the UNC Government in this matter of procurement, and calls on the citizens to be vigilant and vocal with respect to these and similar developments.

So he continued, and he said:

We demand that the Government cease all activity with respect to hurriedly initiating the award of any major contracts before the Parliament passes new procurement legislation.

Let me fast-forward to 2016, where the Prime Minister, the hon. Dr. Keith Rowley, was invited by the British Prime Minister, David Cameron, to attend a major anti-corruption conference that was held in London on May 12, 2016. Madam President, the history of this discussion and the groundwork for all began under the People's National Movement when it comes to procurement with the drafting of the Green Paper, and then the White Paper in 2004 and 2005, respectively.

So when you hear about public procurement and disposal of public property, we think of the following objectives in mind, one, to promote the principles of accountability, integrity, transparency and value for money; two, to promote efficiency, fairness, equity and public confidence; and, three, to promote local industry development, sustainable procurement, and sustainable development in procurement and the disposal of public property.

So when we peruse the Uff report, and when I perused the Uff report into the Commission of Enquiry into the construction industry of Trinidad and Tobago, a lot of groundwork would have been done from then to now, and our procurement procedures would have changed drastically from then to now. The Uff report would have also noted that looking back over a period of time that the major corruption cases that occurred in Trinidad and Tobago had all been in the procurement process, and, more so, in the construction procurement, for example, Piarco Airport scandal.

Madam President: Sen. Lewis, just a minute. Leader of Government

business.

PROCEDURAL MOTION

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. Madam President, in accordance with Standing Order 14(5), I beg to move that the Senate continue to sit until the completion of the business at hand.

Question put and agreed to.

OFFICE OF PROCUREMENT REGULATION (DETERMINATION OF SALARIES AND ALLOWANCES)

Madam President: Sen. Lewis.

Sen. A. Lewis: Victor Hart, he was chairman of the Trinidad and Tobago Transparency International at the time when the Uff report was done, that was in 2010, and he noted that while measurements of corruption was impossible, estimates of its extent have ranged between 5 and 10 per cent of gross production amounting in the world's construction sector to about, between US \$300 billion to US \$600 billion. So in reviewing this Motion at hand, and reviewing the board of the OPR, there is no need for us to really invent the wheel, or reinvent the wheel, there are many state enterprise with existing procurement and project management units. Some of these state enterprises would have had experiences with doing almost all the functions as outlined in the Act. For example, part of the requirement is to promote the use of technology in public procurement. And we see that TSTT would have already embarked on public procurement through e-procurement websites. Another function we have noted, or I have noted in the board is that you have to keep a database of contractors. We have a lot of state enterprises that already have an existing database of contractors, and once the Act is fully proclaimed the board can then engage these state enterprises, and, as least, access

the current existing contractors list.

So, UDeCOTT is a state enterprise everyone could learn lessons from. The organization went through the worst when it comes to improper procurement in the past to what it is today, at least on this administration. So, Madam President, there is a big difference between the two procurement procedures that were adopted for the refurbishment of the Brian Lara Stadium, for example, as compared to what would have transpired prior to 2010—well, in the Uff report, to be specific. The UK system through the Crown Agents specialists category engages groups of persons in specialist areas involved in procurement from various organizations, and I will allow them to impart their expertise in the specific areas. So, for example, in our context, a professional involved in the construction procurement, one will engage a professional from, say UDeCOTT or NIPDEC, right, or any other state enterprises that deals with construction, and these persons would be paid a stipend, and that is what is done in the UK.

So when one looks at the report on the determination of salaries and allowances, the salaries suggested are not irrational as touted on the other side. Madam President, in my own research I noted that the average pay for a senior procurement manager in this country, with at least minimum of 10 years' work experience, would range up to the mid-thirties, \$30,000, and that is full time and that is with perks. So the pay is all dependent on the industry, and the pay of mid-thirties would be someone who executes a more demanding industry, like the construction industry.

So I did a comparison, I was looking at the functions of the Office of Procurement Regulation, as well as looking at the job spec of the most senior project, well not project but the procurement person in an industry, and I saw similarities, and these are the persons that would more than likely apply for a

positions such as the Procurement Regulator.

7.45 p.m.

So, for example, you know, part of their range, a part of their job spec is to direct and coordinate all activities of procurement departments; to ensure that tender documentation is compliant. And we could see that here as well in the functions of the Procurement Regulator.

Someone who I know well did their masters in procurement and they shared their thesis dissertation with me and the topic chosen was on developing an action plan for the Procurement Regulator of Trinidad and Tobago. The thesis was quite in-depth in reviewing the draft legislation, at the time it was 2014, which formed part of the legislation or most of the Act as we know it today. So for the purposes of this debate I would just briefly state the findings that I saw on the role and remuneration of the regulator.

So the thesis noted that the regulator must not only ensure compliance, but must be the change agent for the implementation of current procurement best practice. It went on to say that the regulator must be able to remove the tumour of waste and inefficiencies from the 53-year-old culture that has been entrenched in the way the public is set up to procure goods and services.

It also noted that the lack of standard procurement processes across public bodies using public moneys present definite gaps in the accumulative spend and the inability for Government to derive benefits from the economies of scale on this accumulative spend contribute to the wastage of public funds.

So, Madam President, the thesis continues and it looked at three countries that is governed by the Westminster system, and what they adapted in terms of their procurement regulatory model. And the UK, the United Kingdom model, they created something called the Crown Commercial Service. Jamaica looked at, and

of course created the Office of the Contractor General, and the Canadian model they established a department of Public Works and Government Services. So the dissertation also went on to look at the composition of the board of the OPR and saw the importance of proper remuneration for full-time regulators, but it did not state a benchmark as to what the remuneration package should be. Right? But it also stated the importance of having a Procurement Regulator trained in procurement and, of course, we see in part of the requirements in the Motion presented that the procurement contact allowance continuing education is valued at \$118,000 per annum. So the person who gains that position can continue their studies. Right?

So, our procurement legislation sort of mirrors Jamaica and Kenya based on the legislation I would have seen online. Jamaica, in reforming their procurement model, encountered somewhat of a situation like this today. With the implementation of the Contractor General, they noted that there were problems in recruiting and retaining suitably qualified and experienced staff due to the lack of approval from the commission of Parliament on the structure and compensation of officers of the Office of the Contractor General. Unfortunately, well that was their situation then and hopefully it would not be our situation today.

So, Madam President, this Senate would have debated, without objection, and agreed to Trinidad and Tobago attaining full membership to the Andean Development Bank which is CAF. We debated that in Parliament recently, and it is common knowledge that CAF follows the rules of the procurement practices in the country in which it finances, and it also benefits, of course, stakeholders and we know that CAF is currently in conversation with UNDP, and would have had conversations with UNDP for training in procurement in countries such as ours. So it is our intention, of course the Government's intention, to utilize the benefits of

being a full member to access these funds, so part of that would be the approval of this simple Motion today.

As a project manager what concerns me most in executing any project is delivering my project on time, within budget with no corruption, and with the ability to take seriously the code of ethics in construction and to execute it using best practice in procurement.

So when I perused or looked at the history of the UNC in all phases, I will just touch, just lightly, in the project life cycle, there were cases that had persons wondering. For example, when you look at the project planning phase or the design phase of a project, and this is where procurement takes the main lead in the development of tender packages, and this is where there is a possibility of exaggerated budgets that may occur, and we have seen that in the past five years, I would not go into detail. Also, when you look at the project implementation in the execution phase, this is when all moneys are expended and easiest phase where manipulation of valuations can be done and moneys can be siphoned out of the State. And we saw that in a sort of way with the implementation of the Point Fortin highway when the original budget as compared to the actual expenditure was a drastic difference between the two values.

So, history has shown that the UNC has never been or the last Government has never been really serious about fighting corruption because it was littered with a lot of corruption and extraordinary unethical practices when it came to procurement.

So, Madam President, we need to be clear what the role of the regulator is not, and it should not be confused with the role of a CEO of an energy company or construction or a manufacturing company, for example. The regulator's role as described in this Motion and report is someone with oversight of the procurement

processes and procedures in the Ministries, as well as the state enterprises in the country.

So members of the OPR must be someone of good character which would have been mentioned earlier in the debate; and no amount of persons can change a corrupted person into a good person; no amount of money, sorry, can change a corrupted person into a good person or a law-abiding citizen; no amount of money can create someone of sound character.

So this is a position of service as was mentioned before by the hon. Minister of Finance when he brought this Motion in the other place. These members must constitute people of high ethics, moral values and integrity. And therefore, the argument that the low pay will encourage corruption on the part of the board members, I would say that paying a Procurement Regulator \$200,000 will not, if they are corrupted in spirit, change that person's character. Right?

I also had the honour of servicing on a couple boards and I chaired a tenders' committee on one of those boards. I could tell you that being a director on a state board is hard work if you are doing it correctly. And I saw it more as national service and I have the same view, I share the same view for the board of directors on the Office of Procurement Regulation board.

So the State Enterprises Performance Monitoring Manual gives guidelines on procurement and I envisage a detailed guideline once this Bill is fully proclaimed, once the Office of the Procurement Regulation is finalized.

And it was noted earlier in the debate that the Transparency International Corruption Perceptions Index performance ranked Trinidad and Tobago as 101 out of 176, but in the past five to six years we have not really changed or jumped out of the 30s. So our average for the last five to six years has been 37.8. So the argument today of it being at 39 and dropping from 35 it does not make a

difference because it is more or less the same.

So therefore, Madam President, we have to do more and we are doing more with being in this House today. Transparency, accountability and value for money will not occur without the full proclamation of this legislation and the PNM is very serious about this.

So in wrapping up, Madam President, I want read into the *Hansard* an excerpt from the UN Secretary General at the time Kofi Annan who spoke in New York on 31 October, 2003. And it was a statement on the adoption by the General Assembly of the United Nations Conventions Against Corruption and it stated the following:

“Corruption is an insidious plague that has a wide range of corrosive effects on societies. It undermines democracy and rule of law, leads to violations of human rights, distorts markets, erodes the quality of life and allows organized crime, terrorism and other threats to human security to flourish.

This evil phenomenon is found in all countries—big and small, rich and poor—but it is in the developing world that its effects are most destructive. Corruption hurts the poor disproportionately by diverting funds intended for development, undermining a Government’s ability to provide basic services, feeding inequality and injustice, and discouraging foreign aid and investment. Corruption is a key element in economic underperformance and a major obstacle to poverty alleviation and development.”

So, in conclusion, Madam President, the taxpayers of this country have suffered a great deal of haemorrhaging of public funds through poor and improper procurement strategies, and it is necessary that this Motion is approved today which I fully support with all the recommendations by the Minister of Finance, and

with that I say, I thank you. [*Desk thumping*]

Madam President: Please allow me to congratulate Sen. Lewis on her maiden contribution. Sen. Samuel. [*Desk thumping*]

Sen. Rodger Samuel: Madam President, I too am thankful for the opportunity to join in this debate on this Motion and the report to deal clearly with the salaries issue that pertains to the public Procurement Regulator and the report on the Determination of Salaries and Allowances of Members of the Board of the Office of the Procurement Regulations.

And, Madam President, I must comment on statements made by the hon. Minister of Agriculture, Land and Fisheries, the hon. Clarence Rambharat, in his defence of the Minister of Finance's finding and suggestions with regard to the salaries. He continued to quote Act No. 1 of 2015, 11(9), but he tended and attempted only to quote it partially. He kept leaving out the part that says that though it was the remit of the Minister to determine the allowances and the salaries, he kept leaving out the part that says "subject to the approval of Parliament". And "subject to" meant that it was dependent or it was conditional on the approval of Parliament. And it is important, [*Crosstalk*] yeah. Well, he kept leaving it out so I felt it was necessary to have the full statement rather than a partial statement that can be misunderstood.

But, Madam President, in the document published by Raymond & Pierre entitled "Public procurement pressure" and it was something being dealt with regard to the pressures being placed on Governments to deal with public procurement. The document stated in short that:

"The complete overhaul of our country's public procurement system is ungently required, given the...reports of large-scale theft and waste of public money."

It continued:

“This last administration lost public confidence due largely to the high levels of corruption, as revealed in the Uff Enquiry into the Public Sector Construction Industry.”

And if I did not mention what was revealed in the Uff enquiry into the public sector construction industry, the average person hearing me would have taken for granted that this article was speaking about the PP Government. But this article, Madam President, talking about squandermania and theft was published on the 27 November, 2014, and referred clearly to what took place in the Government of 2007 to 2010. [*Desk thumping*] So, Madam President, for many, many, many, years this country has been plagued with what I term procurement inefficiencies. We have suffered tremendously and it has cost the country billions of dollars over many years. And this is not me attempting to point a finger, but it is for me attempting to speak the reality, [*Desk thumping*] the truth of what exists in Trinidad and Tobago and what existed in Trinidad and Tobago for many, many, many years.

And it would say to all of us that reaching to this point of the selection of a Procurement Regulator and a board would cause us as a people and as a Parliament and as a Government that runs the country to be very careful in how it approaches the whole issue of selection, because the issue of trust has always been a serious problem in Trinidad and Tobago. The issue of trust has caused, in so many instances, harm, or a lack of trust has caused harm in our society's operation. So to deal with procurement and the Procurement Regulator, as well as the board we should not want to leave any stone unturned, we should be sure that we are doing the right thing, [*Desk thumping*] we must be certain that we are not leaving a society wondering if this situation, and how the process takes place, is transparent

across the board.

We must not allow this to fall like so many other things where there are questions and then, Madam President, we have to amend what we amended and then we amend what we amended and we continue to do that. But we want to make sure that this happens right and correctly and we do not have to look back at it and say, we made mistakes. [*Desk thumping*] It is important for us to know that.

It means, Madam President, that in the process of implementing such an important position in our country, we must not give the citizen the idea that it is politically interfered with. And though the Act clearly defines the role of the Ministry or the Minister of Finance, as well as the Office of the President, the operations of it and the process of dealing with it must be as clear as the Act says it, that the Minister of Finance looks at salary and the appointment is through the Office of the President. [*Desk thumping*] It must be clear, there must be no overlap whatsoever, and we must ensure that there is no overlap.

And, Madam President, like my learned colleague Sen. Ramdeen, I too paid particular attention to the both presentations of the hon. Minister of Finance as he shared what he shared in the other place, as well as what he shared in this place. I too paid particular attention and there are some inconsistencies in what he shared in both places, and I am certain that in his wrap up he would want to clear up the inconsistencies that he presented in both places, there and here.

And Sen. Ramdeen already quoted what was said in the other place with regard to the selection and what they or we intended to do. We intended to hopefully present His Excellency with, at least, 10 suitable candidates. And it is important for me to look at that because today in this House we received a circular that appears to come from the Ministry of Finance, a circular advertising for agencies to be part to the process, dated April 10th, but then it was really amending

a previous invitation dated March 7th.

And, Madam President, it would be good to know why was there need for an amendment to, or what was the date of the request of His Excellency to the Ministry of Finance, and that will determine if this letter of request preceded the request of the Ministry of Finance which will say to us that the Ministry of Finance may be or would have been doing something differently before a request was made. It would be good to have that cleared up to ensure that the date and the times would be concurrent with what the President requested. And maybe the request of President for assistance, was the President asking for the Ministry of Finance to give financial assistance or to help him [*Desk thumping*] set up—[*Interruption*]

Madam President: Sen. Samuel, there have been several speakers before you and I want you to just remember the contributions that have been made prior to your contribution. Okay? You have now spent about 10 minutes, you have been dealing with process. Just as you proceed, just remember that we are dealing with the terms and conditions and a report that that is the subject of this Motion. Okay?

Sen. R. Samuel: Sure. I am guided by you, Ma'am. Madam President, and there is a reason that I touched on those things, there is a reason and I am not going to linger on it, but there is a reason I touched on it. And the reason I touched on it was that it was the Minister who brought it to the fore about the process, I did not bring it to the front. Okay, Ma'am.

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

Sen. R. Samuel: But I understand you.

Madam President: Yes. Thank you. Just take a seat for just one minute. I get the impression that you are countering. All right? I just want to say, even if—right now we are dealing with relevance and we are dealing with the issue of tedious repetition under the Standing Orders, I am not invoking it yet, I am just

giving you some advice as to how you proceed in your contribution. Okay?

Sen. R. Samuel: Yes, Madam President. So lest or everything I said next may appear to be repetitious, I would like to talk about responsibility. And in a document State Enterprises Performance Monitoring Manual what we find in such a manual, Madam President, are the enterprises and the responsibility of the Procurement Regulator. And when I looked at it, it is vast. We are dealing with remunerations, and remunerations must always match responsibility. [*Desk thumping*] It is important for us to understand that and that is why we take this very important. It is important to look at the energy sector and we see some six energy and energy-based industries. We see financial institutions; manufacturing and agro-based industries service oriented all falling under the remit of the Procurement Regulator.

Madam President, and these are one—all of these that I am calling are owned 100 per cent by the Government of the Republic of Trinidad and Tobago. You have some 29 service oriented industries. We have transportation and communication, we have so many of them that they are responsible for. And it is important for us to realize that though we talk a lot about procurement, the question is: do we really want effectiveness? We say we want effectiveness, but we base our salaries and our allowances on what exist and not what should exist. If we understand the market today, we understand that the average individual that is qualified is looking for a present-day assessment. They are looking for salaries that are based on 2017, they are not looking for salaries based on 2009 or 19-something.

So it means in order to attract people, to attract the right people we are going to have to now—and Sen. Mahabir clearly defined the issue of what is the present status and salary brackets for people who are considered to be procurement

regulators even in the region. And when you know that then that would guide what we offer on the market.

Now, Madam President, I am quite concerned that without knowing salaries that are offered on the market, a letter was sent out for organizations to tender to procure or to look into people who are interested in the post without even determining salaries. And I would have thought that you would know the salaries and then you go on the market and advertise that based on that and you find the people who would apply. But a letter was sent out in advance of the salary determination, and that makes it very suspicious. [*Desk thumping*] Very curious. I am not accusing anyone, but it is, from my standpoint causing me to be very curious, as to why a letter would be sent out in advance. And the agencies to apply by the 4th—the 19th of April without salaries being determined is something that I would love to be cleared up by the hon. Minister of Finance, very, very, very, very, very, very clear.

Madam President, so I agree with Sen. Small that if we want the best people for the job, it means that we are going to have to pay them well, pay them in such a manner that they are not subject, or hopefully they will not be subject to bribes and all kinds corrupt practices, because then you would want to hold them accountable, and if at the end of the day these people are to be taken before the court for corrupt practices, then it would not have been because they were not paid effectively.

8.15 p.m.

So, Madam President, the questions that I am asking to the hon. Minister has to do with the timing of everything. Letters have gone out, and I have said that before. The letter from the President, I have said that before. And if the hon. Minister can clear that up today, it would enlighten all of us as to what the system was [*Desk thumping*] how things went from the President to the Minister. And,

Madam President, one other suggestion, if this continues—and we are hoping that this is withdrawn—then Madam President, why is it not that the advertisements for agencies to look into and to seek people of interest—the moment they get a listing of these agencies with a deadline—why is the list not then turned over to the President?

And then the President and his body can now choose one of these agencies and release it out of the hands of the Ministry of Finance, so those agencies, or the agency, will now deal directly with the Office of the President [*Desk thumping*] and not deal with the Ministry of Finance who has to then go through the process and then choose and give the President 10 names. It is then recommended that the moment a list of agencies are collected the Ministry of Finance should now withdraw themselves by submitting that list to the President, and the President and his body must now make the choice of which agency through the right process and then from there on the agency must be in direct contract with the Office of the President of the Republic of Trinidad and Tobago. [*Desk thumping*]

Madam President, I make that suggestion very seriously, so that there would be no idea of some interference by the Ministry of Finance, or the Minister of Finance, or any kind of suggestion that there are some kinds of shady operations taking place to corrupt the process of the office of the Procurement Regulator.

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

Sen. H. R. Ian Roach: Thank you, Madam President. It was not my intention to speak tonight, but listening to the contributions made I think I may just have to intervene and make a short contribution. There is a lot that has been said and I have no intention of repeating, because I came in here thinking that this was a very straightforward Motion, but again, being in Parliament nothing is as straightforward as it may seem at the first take.

If I stick to the sole purpose of this Motion, it is to approve the remuneration package for the Procurement Regulator and other members of its board. Madam President, let me just say from the commencement that the office of the Procurement Regulator and the other members of the procurement board, they may not be considered public servants, but they are in fact carrying out a public duty and public functions, and it may be considered to be in the service of the public.

Madam President, in very rare circumstances in Trinidad and Tobago, in my years here, in the various office and sectors of the public service there are very capable persons, very highly qualified persons in specialized areas, and I am always of the view that—which has been said by some inside of here—compared to the private sector, they are not necessarily adequately compensated. There is always an opportunity, there is always a need to improve the terms and conditions of employment for public servants who carry out very important and critical functions in serving the State of Trinidad and Tobago, and which they have done from the time of our independence. The issue that I have seen popping up here really and truly when you clear out all the other comments, side comments and so forth, is basically a suspicion and an uncomfortableness in the fact that the Minister of Finance, even though he is empowered under section 11(9) of the Act, which states that:

“The salaries and allowances of the Regulator and other members shall be determined by the Minister, subject to the approval of Parliament.”

—which is why we are here, seems to unearth a certain amount of anxiety by other Members outside of the Government.

But this is something that is expected, because in Trinidad and Tobago we have grown to become very suspicious of all politicians, on whatever side they may be occupying, unfortunately so. It may very well be their own doing. The

report, as it sets out, states the salaries of the Regulator and the other members. I would say quickly, that I am not an expert on the adequacy and the appropriateness of the quantum that is being offered here. I would leave that for more informed persons and agencies that will be able to deal with it.

What you have here is that the Minister is given a certain responsibility, the Act is quiet as to the ways and means of going out in making the determination of the remuneration. If we were a more trusting society, I guess this level of uncertainty and uneasiness may not have been ventilated as much as it has been ventilated for the entire afternoon of this debate. Be that as it may, I seek more clarification if in the instance of the hon. Minister making, which he has outlined, the nature of the package which totals—it starts at \$59,000 and I think it ended up to be eighty-something thousand dollars as the case may be. What has been said about the fact that it is an inadequate salary because of the remit and the responsibilities of the Procurement Regulator is so robust, in terms of magnitude it covers large procurement sums of the State that may, subject to the person—the regulator being induced—to be seduced to fraudulent practices or corruption. But, let me hasten to say as well, that money, no matter what level of income one receives, if one is intended to be dishonest, one will be dishonest. So, the level of remuneration cannot be the indicia alone that will serve to protect one, in whatever office one occupies, from being corrupt. There are a number of other things.

However, I think what is important is that whatever process is engaged, which the Minister has now laid out here, and probably subject in his wrap up to further clarification, it accords with the best practice, it is transparent and it is subject to scrutiny. We are here to determine and scrutinize what he has put before us. It is being said that an agency, outside the Ministry of Finance or the Minister himself, should have done this. There are also questions about the fact that the

process of engaging or shortlisting the potential members of the board, including the regulator, should not in any way have anything to do with the Ministry of Finance, and that it should be for the sole remit of the President, as I think in section 10 of the parent Act, which gives the President the sole right to make an appointment of the regulator and the board.

If that is the case, even if, as it stands now and it is being suggested, the Minister through whatever agency that is being designated to do this recruitment on shortlisting, if it is presented before the President and the President is not satisfied with what is before him, there is nothing in the Act to stop the President from having his own selection. It seems to me quiet where that is concerned. So, the President still has that authority to come up with a regulator of his own choice after, of course, in keeping with the remit of the section, which means after consultation with the Prime Minister and the Leader of the Opposition.

So to me, I do not want to underscore the contributions made by fellow Senators that has that as a major concern, but to me it is making a lot about not much, because it can be dealt with in the regulations here. There is supervision there. As I said, if it is the fact, because the Act is silent and the Government—as they say—today is making the determination, the President has the final say, not the Minister of Finance. Whatever mechanism is used, the President is the person that has the final say, according to the Act.

It is unfortunate that we do not tend to look at things in a very broader picture, because at the end of the day, if I was the Government, in scrutinizing to determine if this is the best way to go about making this determination, I would just put myself in the Opposition, and let the Opposition themselves put themselves in the Government and see what would be the best for the people. What would be the best in the best way of keeping tabs and supervision over a process that people

believe can be subject to tampering, and manipulation, and political influence. Is this the best solution that we have at this point in time? To me, those are the things that are really supposed to concern us, and with a very open mind, in a very open mind.

I also believe in terms of the salary, the appropriateness of the salary, there should be some sort of a provision made in the present situation that the salary could be adjusted to as the circumstances—the economic environment—improve, if it could be increased it should be increased. Provisions should be made periodically to revisit it and increase it as such. What I know, and which all of us here will appreciate, once you give somebody something it is difficult to take it away from them. So, if you peg a salary at a very high level in this environment that is quite challenging at this point in time, and the situation instead of bettering, which we hope it will better, worsens, it will be difficult to keep that, or to ask that person to take a cut into what is being offered.

To me what one should pose at this point in time is to get a salary that is reasonably affordable in the circumstances. I am not saying in any instances where—I mean some colleagues spoke about other comparators in other countries, in the region, and such, but Trinidad is a unique society in many respects. We have been more fortunate than many of our colleagues, and to make comparisons with them most times may not necessarily reflect the realities of our situation, and therefore we need to look at really what is our current situation economically. I will have to be consistent, because in a debate earlier on, I did make some comment about when they were seeking to increase—I think it was Sen. Mahabir had brought a Motion, which I did not support, calling for, I think, the increase of salaries or remuneration. I stand to be corrected. And I want to be consistent here, this is not about increase, but this is about the nature, what value you should put on

the office of the Procurement Regulator.

The office of the Procurement Regulator, like the Director of Public Prosecutions, like the Chief Justice, like the Police Commissioner, and like a number of other serious offices in the country is quite significant, and the remuneration they are receiving certainly does not always go hand in hand with the level of responsibility. But, public service certainly calls for some level of sacrifice. We all make sacrifices in here as Senators. You heard it here as Sen. Small was saying that the money that he makes in terms of his private practice, Parliament would not be able to afford to pay him. So, he is making a contribution here publicly in assisting the process for our State to run a certain way, and therefore one cannot always, especially in environment that is now, peg a salary in a realistic way, however it is determined, and hopefully it is determined in a competent way, that it can stand scrutiny of any subterfuge, to be any significantly high salary at this point in time.

I heard the hon. Minister, when he was opening the Motion, spoke about the remuneration package of other state chairpersons, and CEO's, and so forth, and he said that it cannot continue, and I agree that cannot continue. That has to be revisited, but it is difficult to take away things from people when you give them it. It will always cause an alarm. So, why not let us be reasonable in setting a salary in a process that is transparent, that can be accounted for, and from there as the economic environment lends itself to a betterment and improvement, then we can revisit it, and look at it. And most persons professionally—you tell me there are a lot of eminent judges, so to speak, in our Judiciary, extremely bright and talented persons.

Lesser persons than their capabilities are in the private practice making much more money than they on a daily basis, on a yearly basis, but yet they make

yeoman service in contributing to the public, to the State of Trinidad and Tobago. It is a sacrifice, and therefore everybody cannot always be given exactly what is due to them in the public sector. And all I am saying, I am hoping that the Minister in his wrapping up will address that. The concerns are really and truly, the fact that he has taken the liberty—I mean, it is not specified in the Act, so he is not acting outside the remits of the legislation—to assist, as he says, the short listing of potential candidates for the President to review and make the final determination. And the arithmetic, the way in which the salary was determined in the circumstances, if that is the best way or if, again, assistance can be sought outside or taken on board some of the views, some of the suggestions that have been made by other Senators in terms of an agency, or some competent person in that area of determination of salaries. It may be something to be looked at and brought on board.

But, outside of that, I think it is time that we put forward and get this legislation in force. It has been talked about by all on both sides, the former Government, the present Government, and whatever we need to do, we just need to get it done now at this minute. A lot of talk has gone on and we need to come to a conclusion now and just act. Put it in force. And as somebody said—one of the Senators, I do not know which side said again, I think it was Sen. Khan, that if at the end of the day this Government is viewed as not delivering as expected, they have five years, and after five years the public will talk, and make a determination, that is what has happened in last administration. And I remembered when I said that people were in uproar, but that is how the public in Trinidad and Tobago has come deal now with politicians. If you are not delivering on your promises, and you are not bettering the lives of persons, you are not transparent, you are engaging in more skullduggery and whatever it is that goes on, they are going to be

disturbed, and they are going to register their protest five years from now.

Hon. Senator: Not only in Trinidad, but all over the world.

Sen. HRI Roach: All over the world, as you say, that is what is going on right now. People are less tolerant because they are more informed, and therefore this legislation before us, I think, I am listening with an open mind still because I have not concluded one way or the other, it is a limited scope to discuss, there is nothing to amplify about it. It is very, very straightforward. I will listen to what the Minister has to say, and I will make my decision accordingly.

I thank you very much for my contribution. [*Desk thumping*]

Sen. Daniel Solomon: Thank you, Madam President, for giving me the opportunity to make my small and humble contribution at this late hour—I hope I would not be too repetitive—to make a contribution on the report on the determination of salaries and allowances of members of the board of the Office of Procurement Regulation.

Madam President, we have to ask ourselves at this late hour, is it really the case that this Government is really interested in moving forward with this procurement legislation post-haste? It seems to me that it has been some 21 months since the PNM Government has been in power and yet still here we are debating about whether the salary of the Procurement Regulator would be appropriate or not. We have to ask ourselves, if this Bill is approved what will be the next step? What steps have been undertaken thus far in relation to this procurement regulation? And are we prepared as a Government and a people to indoctrinate and bring together this huge mass of new legislation, as my colleagues on the Independent Bench have pointed out? It is a massive task in developing a new institution from scratch. And therefore I would urge this Government to make major advances and increase in their speed in dealing with these matters, and

implementing this new procurement legislation. [*Desk thumping*]

When we look at the functions in considering this Motion, the functions of the Regulator are listed in section 13(1), and I do not propose to go through all the functions, but they are quite extensive and have a major amount of responsibility, a major amount of public bodies and state enterprises with which to relate to. And if I could just draw, Madam President, to your attention, section 13(1)(f), (g) and (k); and item (f) says:

“promote the use of technology in public procurement and the retention and disposal of public property;”

—(g) states:

“provide best practice advice in the conduct of procurement activities, including the promotion of electronic transactions;

—and (k) states:

“determine, develop, introduce, maintain and update related system-wide databases and technology;”

So, Madam President, taking it from a different angle and being in the modern world of technology that we are, has this Government—and I would ask the Minister of Finance to say, whether this Government has in fact made any investments in the implementation of the electronic technology that is required to properly implement this type of legislation. [*Desk thumping*]

Now, we have had from the World Bank, who were part of the Joint Select Committee on the procurement, a number of suggestions, and if I can just state from the source of the worldbank.org, this has actually been done before in the Maldives in 2007, while they were moving towards—[*Cell phone rings*]

Madam President: Senator, just a minute. I think I just heard someone's device. Did I just hear someone's device go off? Okay. Continue, Sen. Solomon.

Sen. D. Solomon: Much obliged, Madam President. As has happened in the Maldives in 2007, while they were moving towards enacting procurement legislation, they actually commissioned an electronic government procurement readiness assessment and road map. And I would make the humble suggestion to this Government that that might be something that they should follow, because the assessment focused on the degree of readiness of the Government to actually incur public procurement using electronic government procurement. So, they were moving from a paper-based manual—[*Interruption*]

Sen. Khan: Madam President, 46(1), please.

Hon. Senator: “Oh gosh, oh gosh.”

Sen. D. Solomon: This has to do with the functions—

Madam President: No, no, Sen. Solomon, a Standing Order has been invoked, let me rule on it. Sen. Solomon has just begun his contribution. Let me just see how it goes. Sen. Solomon, you are mindful of what I have said to other speakers. Continue, Sen. Solomon. [*Desk thumping*]

Sen. D. Solomon: Much obliged, Madam President. There were nine key components when considering the implementation of electronic government procurement systems, and these are the nine areas that I am asking the Government, if they have in fact addressed any of these areas in their preparation for the implementation.

Because, the PNM Government is very good at talking, but they are not actually very good at implementing anything. [*Desk thumping*] And these are the nine areas which they must look at:

- Government leadership.
- Human resource planning.

- Procurement planning and management.
- Procurement policy.
- Procurement legislation.

Hon. Imbert: Madam President, 46(1), we are dealing with the salary of the Regulator, not the implementation of the procurement Act.

Madam President: Sen. Solomon, I am attempting to tell you to go to what is relevant and what is before this Chamber. I am giving you a little leeway, but you cannot go into a nine-point plan or whatever it is. You have to be relevant. Please try and be relevant to what is before us.

Sen. D. Solomon: Madam President, the long and short of it is that this Government needs to make proper preparations, because the procurement element is a statewide, nationwide system. I would encourage them to make—
[*Interruption*]

Sen. Roach: Madam President, excuse me.

Madam President: Senator, I am sorry, just take your seat. Members, those who are restless in the Chamber, please leave the Chamber. We are nearing the end of the debate, let us listen to Sen. Solomon in silence. But, I am not going to say this again, please. Sen. Solomon, continue. [*Desk thumping*]

Sen. D. Solomon: Much obliged, Madam President. [*Desk thumping*] The procurement legislation, one has to ask oneself, what would be the state of affairs if this procurement legislation had actually been in place at the time when this Government started awarding contracts.

On *Trinidad Guardian*, March 5th, we heard about a lobbyist—

Madam President: Sen. Solomon, no. I really now have to ask you—I have warned you before. I have to ask you now to be relevant to the matter at hand.

Okay? And the matter at hand deals with the salary—the terms and conditions.
Okay?

Sen. D. Solomon: Madam President, much obliged. If I may turn my attention to the letter which Sen. Mark had revealed today, dated April 10, 2017. In the second paragraph it says:

The Ministry of Finance amended the expressions of interest and has therefore terminated the previous procurement process dated March 7th, 2017.

I would ask the Minister of Finance what was the previous procurement process? What had happened? When has it actually taken place? Who was informed? And why was this process aborted?

Madam President, the other thing that is interested is the RFP that is attached to this letter actually deals with, it says that the submissions should be closed by Wednesday the 19th of April, 2017. Which means that this process is actually completed, and we have not seen any advertisements—at least I have not, and I read the papers every day. Was this advertised locally? Was it sent out to preferred bidders, preferred companies? Can we have the names of the firms that applied? Who has been successful? Who has been shortlisted? Has a firm actually been selected? Where has it been advertised? What is interesting is in the third paragraph on the RFP, it reads:

“The Ministry shall determine the most recent”—[*Interruption*]

Hon. Imbert: Madam President, I ask you to rule on 46(1) again. This has nothing to do with the salary of the Regulator.

Madam President: Sen. Solomon, please! This is the last time that I am going to make the request. Please deal with the matter at hand. The issues that you are raising have been ventilated by previous speakers. Okay! So, you need to come

now and deal with the matter at hand.

Hon. Senator: Back out, back out.

Sen. D. Solomon: Madam President, the final point I would make, is that the Ministry of Finance does not belong in this process. Yet still on the last paragraph of the RFP, it says that they reserve the right to reject all proposals, and on that point I rest my case. [*Desk thumping*]

The Minister of Finance (Hon. Colm Imbert): Madam President, just let me reiterate some facts. I would just like to put them back into the public domain.

A lot has been said about the Ministry of Finance getting involved in the recruitment of the Procurement Regulator. I want to reiterate that when one reads the Minutes of the Third Meeting of the Oversight Committee, it was very, very clear that His Excellency the President had approached the oversight committee in the last administration to assist him to select a firm, and also to produce a shortlist for his consideration.

And as Sen. Roach has quite succinctly said, the Act is very, very clear, the legislation is very clear, that it is the President who appoints the regulator after consultation with the Prime Minister and the Leader of the Opposition, and those words are very well established. The meaning of those words, “after consultation with the Prime Minister and the Leader of the Opposition”, and what they mean is that it is entirely within the discretion of the President to decide who he wishes to appoint to this particular position.

The President is under no pressure, under no direction, or any other influence from any person or body with respect to these types of appointments. I can report, again, that when we resume this process under this new Government, and I am stating this for the record—Sen. Mark, through you, Madam President—His Excellency the President reiterated his request for assistance from the Ministry

of Finance, first made to Timothy Hamel-Smith and other members of the oversight committee in July 2015, to build a pool of suitably qualified and experienced candidates from which he may move forward with an informed selection. So, for the record, His Excellency the President, in meetings within recent times reiterated his request to the Ministry of Finance's team—I was not present, the Minister of Finance would not be present in these meetings, the Minister of Finance, my predecessor, was not present when Timothy Hamel-Smith met with His Excellency in 2015.

And this Minister of Finance was not present when the Ministry of Finance's oversight committee, the new one, met with His Excellency in 2017, and His Excellency reiterated the request that he be assisted. And the whole point is, that whatever assistance may be rendered to His Excellency, to allow him to make his decision, at the end of the day, as very clearly and succinctly point out by Sen. Roach, it is the President's decision. We are not involved in the selection process.

8.45 p.m.

With respect to the allegation that the Minister of Finance is usurping the power of the President by issuing a request for proposals, I wish to put on the record that the Office of the President submitted comments on the wording of the request for proposals and two staff members from the Office of the President were members of the evaluation team for the selection of the recruitment agency in this year 2017. So that deals with those issues which were of no foundation whatsoever.

Now let me move to the—all of this furore, noise, about what the salary should be. A very wise person sent me a number of messages while Members of the Opposition were talking today, a very wise and senior public officer sent me some comments and I think they capture the misconceptions, that there is a view

that the regulator will be directly involved in procurement. He will not. The regulator's job is simply to ensure that Ministries and Departments comply with the Procurement Regulations. And the regulator will be provided with an office, staffed with experts who will assist him or her to simply ensure compliance by Ministries and Departments.

So it is—cannot in any way be equated to the functions of the Governor of the Central Bank and I move now to the Contractor General in Jamaica, which is the regional template for this whole question of a regulator regulating the award of contracts. And if one goes to the Jamaican experience the Contractor General Act in Jamaica is very, very, simple. The Contractor General Act of 2001 and in section 11 of that Act, it spells out that the terms and conditions of the Contractor General was broad powers, more powers I daresay than our regulator will have, that the terms and conditions shall be:

“...not less than the emoluments which may, from time to time, be payable to a Puisne Judge.”

So they did not waste time in Jamaica. They just say it will be the same as a judge.

So, they and, Madam President, for the benefit of hon. Senators on the lower bench opposite who have no idea of regional salaries, when you convert into Trinidad and Tobago dollars, the salary of a High Court judge, a puisne judge in Jamaica, the salary of a High Court judge in Jamaica is TT \$26,000 a month. And Mr. Christie, Mr. Greg Christie who served with distinction as the Contractor General in Jamaica for seven years, transcending different Governments and different political administrations, he received a salary equivalent of TT \$26,000 per month. And he was able to perform his functions, he has a reputation for being a fearless and competent and impartial regulator of the award of contracts in

Jamaica at a salary of TT \$26,000 per month.

I do not understand why hon. Members opposite would want to promote a situation, where we have a public servant, because this is what this is, it is a public servant who like any other branch of any other person within the Government system will have available to him consultants and experts to advise on complex and technical matters. But this person performs the function of a review. All the regulator is required to do is to issue guidelines for the invitation of tenders and the award of contracts and to review the performance of the various procurement entities within the system as to whether they are complying with the guidelines and the regulations that may be issued with respect to the conduct of the procurement process in the public service.

That is what the regulator will be doing. I can assure you there will be a long line of people, highly competent citizens of Trinidad and Tobago who would most certainly apply for this job with this package of \$85,000 per month. There will be a long line of distinguished [*Desk thumping*] honourable persons of high moral integrity and high character and unblemished reputation with the necessary competence. Mr. Christie in Jamaica was a lawyer, but we may get an attorney with some experience in procurement, we may get a practitioner in the field, we may get somebody with qualifications in procurement, but I can assure you there will be a long line of highly distinguished and competent Trinidadians and Tobagonians who will be applying for this job and who will be happy to do this public service for a compensation package of \$85,000 per month.

You cannot equate a regulator, somebody who is simply performing a review function and not engaging in procurement themselves. The CEOs of all of these energy companies they actually get involved in the actual procurement. The CEO of Petrotrin, the President of Petrotrin is involved in the procurement of

thousands of barrels of oil, of millions of dollars, the actual tendering and decision-making and selection and award of contract for the procurement. This regulator does not have that function and you must stop giving people, you know, this sort of glorified God-like status.

This is a very straight forward function and a very straight forward job and as Sen. Roach had said, I could not put it better myself, it is better to start at a reasonable level. When you look at the salary of a High Court judge in Trinidad and Tobago the salary is \$37,000 per month. The judges get tax free salaries, so when you build that up to what a taxable salary would be, you get \$49,900 and we have pegged the salary of the regulator at \$50,000. So it is more or less exactly the same as the salary of a High Court judge when you take into account the fact that judges get tax free salaries. And that is the benchmark that we use. And that is the benchmark used in Jamaica for the last 15 years and their system has worked. It has worked where the regulator gets the same salary as a High Court judge it has functioned. There was no question of not being able to attract talent.

There are many people, all of you who are here with all the “ole talk”, what is the salary of a Senator? What is the salary of a Senator? But 8.53 in the night you are all here because you all are doing public service. [*Desk thumping*] And you might make a set of noise like my good friend Sen. Small had said, well the salary too low, but you are still here. You did not quit and go home, and, Madam President, even though the salary being proposed for the regulator is more than my salary—[*Interruption*]

Sen. Sturge: You are talking too loud.

Hon. C. Imbert:—I am still here. I am still here at nine o'clock at night. I believe that this package—[*Interruption*]

Madam President: Sen. Sturge! Sen. Sturge, Minister, please have a seat.

Sen. Sturge—[*Interruption*]

Sen. Baptiste-Primus: He is mocking the Chair.

Madam President:—I am hearing you and be careful because I am hearing you, okay. I think it is either you want me to hear you, okay. So just be careful and I am not going to get up again on this matter. Continue, Minister of Finance.

Hon. C. Imbert: Thank you, Madam President. As I said, we are all here. We are all being paid salaries that most of us think are lower than they should be. But we are here because we want to do public service, we want to give back to our country. At least that is what I believe. Whether it is Members of the UNC, or Members on the Independent bench, or members on my side, I believe we are all here because we want to give back to our country. This is an important job, what we do here. And I expect that the person who is finally selected as the regulator would have the same mindset, would understand that this is an important job and that they would want to give back to their country and ensure integrity and morality in the conduct of public affairs. I believe these terms are perfectly adequate.

As Sen. Roach has pointed out, the country is going through difficult times and it is better to peg these terms and conditions at a particular level, and in the future and I am serving notice, I will at some point in time in the future come and seek the approval of the Senate to amend that particular section so that it is by way of negative resolution and there can be periodic reviews and adjustments to the salaries and allowances of the regulator and the Board of the Procurement Regulation. I am serving notice that I intend to come and seek the approval of the Senate for that, because that is how it should be.

So, as the country's situation improves, as the economy improves, we can revisit this. But right now, at this point in time, for a public servant, for somebody

doing public service at the highest level, I think this package is more than adequate, more than adequate, and I ask for the approval of all Senators present.

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

Madam President: Minister, there are certain words that you have to use.

Hon. C. Imbert: Certainly.

Madam President: Just four words, Minister.

Hon. C. Imbert: I did say, I beg to move.

Madam President: You said it. Oh, I apologize. I am sorry.

Question put.

Madam President: Is anyone calling for a division?

Sen. Mark: Madam, could I apologize? Madam President, may I apologize to you and call for a division.

The Senate divided: Ayes 17 Noes 6

AYES

Khan, Hon. F.

Gopee-Scoon, Hon. P.

Baptiste-Primus, Hon. J.

Rambharat, Hon. C.

Sinanan, Hon. R.

Moses, Hon. D.

Hosein, Hon. K.

Lester, Dr. H.

Singh, A.

Coppin, W.

De Freitas, N.

Baksh, Miss A.

Dookie, D.

Lewis, Miss A.

Young, N.

Roach, HRI

Richards, P.

NOES

Mark, W.

Solomon, D.

Ameen, Miss K.

Sturge, W.

Samuel, R.

Ramdeen, G.

The following Senators abstained: Dr. D. Mahabir, Mr. D. Small, Mr. T. Shrikissoon, Miss M. Ramkissoon, Miss S. Chote SC, Mr. S. Creese, and Miss J. Raffoul.

Question agreed to.

Resolved:

That the Salaries and Allowances contained in the Report on the Determination of Salaries and Allowances of Members of the Board of the Office of Procurement Regulation be approved.

ADJOURNMENT

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Madam President, I beg to move that this Senate do now adjourn to Monday the 15th of May, 2017 at 1.30p.m. At that point in time we will be doing the mid-year review.

Madam President: Hon. Senators, before I put the question on the

Adjournment, leave has been granted for a matter to be raised on the Motion for the Adjournment of the Senate. Sen. Mark, you have 10 minutes.

Biological Weapons Toxin Convention

Sen. Wade Mark: Thank you very much, Madam President. Madam President, I rise on a very important matter that deals with the need for the Government to take immediate steps to prepare and submit our country's first Confidence-Building Measure declaration under the Biological Weapon Convention.

Madam President, this is the 10th anniversary of Trinidad and Tobago acceding to the BWTC, which is the Biological Weapons Toxin Convention. This Convention as you know was opened for signature in 1972 and it entered into force in 1975. Currently, there are some 175 States Parties to the BWC. Trinidad and Tobago acceded on July 19, 2007, thereby becoming a full State Party.

Madam President, in 2011, Trinidad and Tobago enacted extensive domestic legislation given effect to the BWC in domestic law. After the second review conference of the BWC in Geneva, in 1986 it was decided that all States Parties should submit annual Confidence-Building Measures declarations to the BWC secretariat. These declarations provide an important means for States Parties to update the BWC secretariat on ongoing steps taken by these State Parties to ensure compliance with obligations under the BWC itself.

Madam President, for example, we in Trinidad and Tobago regrettably have yet to submit a CBM, which is the Confidence-Building Measure declaration, to the BWC secretariat, notwithstanding the fact that it has been a BWC State Party for 10 years. There is growing concern and indeed considerable consternation within the international community of emerging evidence that certain non-state

actors, including terrorist groups may be seeking to acquire biological weapons or biological weapons manufactured capability including: ISIS—and we know we have a lot of nationals fighting with ISIS—Boko Haram, and Al-Shabazz. Here in Trinidad and Tobago we have a particular challenge at the present time with the relatively high documented number of individuals leaving Trinidad and Tobago to join ISIS, in Iraq and in Syria.

Madam President, whilst Trinidad and Tobago has acceded to the BWC and has introduced extensive domestic legislation in 2011, what has happened is that none State Parties have been accessing and acquiring weapons of a biological nature which can do a lot of harm to States and to our region. So, the time has come when Trinidad and Tobago must be able to live up to its obligation through its submission of its CBM declaration to the secretariat.

Madam President, what is also very noteworthy is that Trinidad and Tobago has a very important leadership role to play, vis-à-vis, other Caricom states. Madam President, as a host country Trinidad and Tobago is the Head Office of the Caribbean Public Health Agency, CARPHA, which has received important support from the Government of Canada in 2014 and up to this time as we speak.

And therefore, Madam President, this is an additional reason why Trinidad and Tobago should take steps to remedy this long oversight period and to take immediate steps to prepare and to submit Trinidad and Tobago first Confidence-Building Measures declaration under the BWC during the course of the 10th anniversary of us becoming a State Party to this crucial international treaty, which as I said, Madam President, represents a clear danger to humanity.

Madam President, I saw in *The Independent* newspaper of London, which was sometime in 2003, to tell you, for instance, what was happening on the soil of

T & T. The headline was:

“Trinidadians Islamic group threatens to use chemical and biological weapons.”

So I believe that the time has come for our Minister of Foreign and Caricom Affairs to give an undertaking that Trinidad and Tobago will do what it has to do in submitting through the BWC secretariat, our first Confidence-Building Measures declaration. Madam President, that would go a long way in assuring not only the world, but we as a leader in the Caribbean that we are taking our responsibilities under the biological Bacteriological Toxin Weapon Convention very seriously given that challenges that we face and the world face and even our region face in the area of chemical and biological weapons that could be placed in the hands of non-state actors and as I said, ISIS is one of them, the next one in Somalia and you have Boko Haram and you have a lot of Trinidadians, Madam President, as I said who have gone to Syria and Iraq and they have been exposed to training in chemical and biological weapons and they are returning to T & T.

So I raise this matter, Madam President, to get a response from the hon. Minister of Foreign and Caricom Affairs as to how Trinidad and Tobago is going to be dealing with this matter and as we are celebrating our 10th anniversary it would be a very appropriate moment for us to really submit our CBM, which is a Confidence-Building Measures declaration under the Biological Weapons Convention. I thank you very much, Madam President. [*Desk thumping*]

The Minister of Foreign and Caricom Affairs (Sen. The Hon. Dennis Moses): Thank you very much, Madam President. I am pleased to have the opportunity to provide an update on Trinidad and Tobago’s effort to comply with the stipulations of the Convention on the Prohibition of the Development,

Production and Stockpiling of Bacteriological and Toxin Weapons and on their Destruction, commonly known as the Biological Weapons Convention or (BWC) or sometimes known as Biological and Toxin Weapons Convention (BTWC).

The Convention, opened for signature in 1972 and entered into force in 1975, effectively prohibits the development, production, acquisition, transfer retention, stockpiling and use of biological and toxin weapons and is a key element in the international community's efforts to address the proliferation of weapons of mass destruction.

In June 2007, the Government of Trinidad and Tobago agreed to accede to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological and Toxin Weapons and on their Destruction. The implementation of an adherence to the provisions of international conventions not only requires the support of the political directorate but also the collaboration of several Ministries and the development of the technical and legal capacity to administer effectively and comply with such obligations.

Article I of the Convention requires States Parties to not develop, produce, stockpile or acquire microbial or biological agents or toxins of types and in quantities that have no justification for prophylactic, protective or other peaceful purpose. The prohibition is further extended to weapons, equipment and means of delivery designed to use such agents or toxins for hostile purpose.

Article II imposes on States Parties an obligation to destroy or divert to peaceful purposes all toxins, agents, weapons, equipment and means of delivery in its possession or under its control. Additionally, under Article II a State Party undertakes not to transfer any of the agents, toxins, weapons, equipment or means

of delivery specified in Article I of the Convention.

I go further, Madam President, by referring to Article IV of the Convention. Each State Party shall take any necessary measures to prevent and to prohibit the development, production stockpiling, acquisition or retention of the agents, toxins, weapons, equipment or means of delivery as specified in Article I of the said Convention.

In order to fulfil these obligations, Trinidad and Tobago needed to enact legislation and adopt administrative measures to ensure that the provisions of the conventions are implemented effectively, domestically, that is.

Notably, this convention provides for cooperation, consultation and scientific exchange among States Parties. States are obliged to consult and cooperate with another in resolving any issues which may arise regarding the objective or application of the provisions of the convention. Such consultation and cooperation may also be undertaken within the framework of the United Nations in accordance with the charter.

Madam President, additionally, States Parties to the Convention undertake to participate in the fullest possible exchange of equipment, materials and scientific and technological information for the use of bacteriological agents and toxins for peaceful purposes. The Convention requires each State Party to affirm the stated objective of effective prohibition of chemical weapons.

In this regard, it is noteworthy to mention that Trinidad and Tobago has ratified the Convention on the Prohibition of the Development, Production, Stockpiling and use of Chemical Weapons and on their Destruction. This Convention entered into force for Trinidad and Tobago on June 24, 1997.

9.15 p.m.

The recent advances made in biotechnology have led to the hostile use of biological agents to cause poisoning and deliberate disease. A disease outbreak in one territory poses a threat to all neighbouring countries. In light of recent attacks and threat of attacks involving use of biological agents, the Ministry is of the view that the universal application of the convention is crucial to its effective implementation. Accession by Trinidad and Tobago to the Biological and Toxin Weapon Convention does not only reflect the country's condemnation of the hostile uses of biological agents and toxins, but also serves to demonstrate its commitment to international humanitarian law norms as well as to international peace and security.

Madam President, submitting a Confidence-Building Measure or CBM Declaration is a reporting requirement of all state parties to the BWC. Furthermore, it is also indicative of Trinidad and Tobago's political assurance of upholding its commitment to promote international cooperation in the field of peaceful biological activities. Since acceding to the convention in 2007, Trinidad and Tobago has not yet submitted a CBM declaration under the convention. However, Trinidad and Tobago remains committed to the principles of peace, security and as part of its vision 2030, recognizes the inextricable link between security and development.

Although a declaration has not yet been filed, Trinidad and Tobago has been attempting to build its human resource capacity to undertake the commitment. The Ministries of Health and National Security have participated in regional capacity-building activities which were held to reinforce the capacity of States Parties to implement their obligation of the BWC in the areas of legislation, control regimes, regulations, guidelines and enforcement.

Notably, Madam President, Trinidad and Tobago does not disavow the broader commitment to undertake and implement measures that would aid in the efforts to curb the proliferation of biological, chemical or even nuclear weapons. The Government acknowledges that in order to demonstrate its commitment as a responsible member of the international community, fulfilling requirements such as these are of critical importance. On May the 8th of 2012, the Parliament assented to the Bacteriological (Biological) and Toxin Weapons Act, Act. No. 4 of 2012, which gives domestic legal effect to Trinidad and Tobago's obligation under the Biological Weapons Convention by prohibiting the use of biological agents and toxins as weapons and criminalizing any such use.

The Act also gives the Ministry of National Security the mandate to establish bacteriological and toxin weapons committee. The Ministry of National Security is now in the process of finalizing the regulations to be made pursuant to the Act, which will later be submitted to Parliament for its approval. The regulations shall be subject to the negative resolution of Parliament. Thereafter, the Act will come into operation after it has been proclaimed by the President.

The next steps involve moving towards the submission of the declaration—the CBM declaration that is—and for the nomination of a national contact point to have the responsibility of collating the final declaration for submission to the Implementation Support Unit of the BWC Secretariat. The National Contact Point is expected to coordinate national implementation of the convention, communicate with other State Parties on relevant international organizations, facilitate information exchange of universalization efforts and prepare submission of the CBMs.

Given the inherent nature of this Convention, Madam President, and other

Matters on the Adjournment
Biological Weapons Toxin Convention
Sen. The Hon. D. Moses (cont'd)

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like-minded obligations, the efficacy of the national focal point is dependent on collaborative effort and support provided by other domestic focal points within the relevant government agencies and ministries that have a tangential role in the implementation of the biological weapons convention.

Madam President: Minister, your time is up.

Hon. D. Moses: Allow me to thank you very much. I was just about to end.
Thank you. [*Desk thumping*]

Question, on adjournment, put.

Hon. Senators: Division.

The Senate voted: Ayes 17 Noes 13

AYES

Khan, Hon. F.

Gopee-Scoon, Hon. P.

Baptiste-Primus, Hon. J.

Rambharat, Hon. C.

Sinanan, Hon. R.

Moses, Hon. D.

Hosein, Hon. K.

Henry, Dr. L.

Singh, A.

Coppin, W. M.

De Freitas, N.

Baksh, Miss A.

Dookie, D.

Lewis, Miss A.

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Biological Weapons Toxin Convention
Sen. The Hon. D. Moses (cont'd)

Young, Mr. N.

Roach, HRI

Richards, P.

NOES

Mark, W.

Solomon, D.

Ameen, Miss K.

Sturge, W.

Samuel, R.

Ramdeen, G.

Mahabir, Dr. D.

Small, D.

Shrikissoon, T.

Ramkissoon, Miss M.

Chote SC, Miss S.

Creese, S.

Raffoul, Miss J.

Question agreed to. [Desk thumping]

Madam President: Before I just make my final statement about adjourning the Senate, may I just point out to Members that each Senator is entitled to his or her vote and when the vote is announced it should not be, in parliamentary practice—should not be met with any sort of reaction. And I have seen some reactions and I will leave it at that.

Senate adjourned accordingly.

Adjourned at 9.24 p.m.