

**SENATE**

*Tuesday, February 20, 2018*

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. H. R. Ian Roach who is ill.

**SENATOR'S APPOINTMENT**

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

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ANTHONY THOMAS  
AQUINAS CARMONA, O.R.T.T., S.C.,  
President 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: MS. STACY CUMMINGS**

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

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

**UNREVISED**

by section 44(1)(b) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, STACY CUMMINGS, attorney at law, to be temporarily a member of the Senate with effect from 20<sup>th</sup> February, 2018 and continuing during the absence of Senator Ian Roach by reason of illness.

Given under my Hand and the Seal of the  
President of the Republic of Trinidad and  
Tobago at the Office of the President, St.  
Ann's, this 19<sup>th</sup> day of February, 2018."

### **AFFIRMATION OF ALLEGIANCE**

*Senator Stacy Cummings took and subscribed the Affirmation of Allegiance as required by law.*

### **INSURANCE BILL, 2016**

Bill to repeal and replace the Insurance Act, Chap. 84:01; to reform the law relating to insurance companies; to regulate insurance businesses and privately administered pension fund plans and for other related purposes, brought from the House of Representatives [*The Minister of Finance*]; read the first time.

### **PAPERS LAID**

1. Response of the Auditor General of the Republic of Trinidad and Tobago to the Twelfth Report of the Public Accounts Committee, Second Session (2016/2017), Eleventh Parliament, on the Examination of the Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the Financial Year 2016. [*The Minister in the Ministry of Finance (Sen. The Hon. Allyson West)*]
2. Response of the Auditor General of the Republic of Trinidad and Tobago to the Thirteenth Report of the Public Accounts Committee, Second Session

- (2016/2017), Eleventh Parliament, on the Examination of the Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the Financial Year 2016 with specific reference to the Ministry of Finance. [*Sen. The Hon. A. West*]
3. Response of the Auditor General of the Republic of Trinidad and Tobago to the Fourteenth Report of the Public Accounts Committee, Second Session (2016/2017), Eleventh Parliament, on the Examination of the Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the Financial Year 2016 with specific reference to the Ministry of Energy and Energy Industries. [*Sen. The Hon. A. West*]
  4. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Telecommunications Authority of Trinidad and Tobago for the year ended September 30, 2010. [*Sen. The Hon. A. West*]
  5. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Telecommunications Authority of Trinidad and Tobago for the year ended September 30, 2011. [*Sen. The Hon. A. West*]
  6. Annual Audited Financial Statements of Portfolio Credit Management Limited for the financial year ended December 31, 2016. [*Sen. The Hon. A. West*]
  7. Annual Audited Financial Statements of the National Information and Communication Technology Company Limited for the financial year ended September 30, 2017. [*Sen. The Hon. A. West*]

8. Annual Audited Financial Statements of MIC-Institute of Technology (MIC-IT) formerly Metal Industries Company Limited, for the financial year ended September 30, 2011. [*Sen. The Hon. A. West*]
9. Annual Audited Financial Statements of MIC-Institute of Technology (MIC-IT) formerly Metal Industries Company Limited, for the financial year ended September 30, 2014. [*Sen. The Hon. A. West*]
10. Annual Audited Financial Statements of National Entrepreneurship Development Company Limited (NEDCO) for the year ending September 30, 2015. [*Sen. The Hon. A. West*]
11. Annual Audited Financial Statements of National Entrepreneurship Development Company Limited (NEDCO) for the year ending September 30, 2016. [*Sen. The Hon. A. West*]
12. Ministerial Response of the Ministry of Finance to the Ninth Report of the Public Accounts (Enterprises) Committee, Third Session (2017/2018), Eleventh Parliament, on the Examination of the Audited Financial Statements of the Telecommunications Services of Trinidad and Tobago Limited (TSTT) for the Financial Years 2008 to 2016. [*Sen. The Hon. A. West*]
13. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Children's Life Fund for the period from Commencement of Operations to September 30, 2012. [*Sen. The Hon. A. West*]
14. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Students' Revolving Loan Fund for the year ended December 31, 2005. [*Sen. The Hon. A. West*]

15. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Students' Revolving Loan Fund for the year ended December 31, 2006. [*Sen. The Hon. A. West*]
16. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Students' Revolving Loan Fund for the year ended December 31, 2007. [*Sen. The Hon. A. West*]
17. Ministerial Response of the Ministry of Public Utilities to the Ninth Report of the Public Accounts (Enterprises) Committee, Third Session (2017/2018), Eleventh Parliament, on the Examination of the Audited Financial Statements of the Telecommunications Services of Trinidad and Tobago Limited (TSTT) for the Financial Years 2008 to 2016. [*The Minister of Public Utilities (Sen. The Hon. Robert Le Hunte)*]
18. Annual Administrative Report of the Export-Import Bank of Trinidad and Tobago Limited (EXIMBANK) for the year ended December 31, 2015. [*The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan)*]
19. Annual Administrative Report of the Export-Import Bank of Trinidad and Tobago Limited (EXIMBANK) for the year ended December 31, 2016. [*Sen. The Hon. F. Khan*]
20. Fortieth Annual Report of the Ombudsman for the year 2017. [*The Vice-President (Sen. Nigel De Freitas)*]
21. Sessional Review of the Second Session (2016/2017), Eleventh Parliament of the Republic of Trinidad and Tobago. [*Sen. N. De Freitas*]
22. Response of the Service Commissions Department to the Fifth Report of the Joint Select Committee on Local Authorities, Service Commissions and Statutory Authorities (including the THA), Third Session (2017/2018),

- Eleventh Parliament, on an Inquiry into the Efficiency and Effectiveness of the Police Service Commission (PSC). [*Sen. The Hon. F. Khan*]
23. Ministerial Response of the Ministry of National Security to the Fourth Report of the Public Administration and Appropriations Committee, Second Session (2016/2017), Eleventh Parliament, on the Examination of the System of Inventory Audit within the Public Service. [*Sen. The Hon. F. Khan*]
24. Ministerial Response of the Ministry of National Security to the Third Report of the Public Administration and Appropriations Committee, Second Session (2016/2017), Eleventh Parliament on an Examination of the System of Inventory Control within the Public Service. [*Sen. The Hon. F. Khan*]

## **JOINT SELECT COMMITTEE REPORTS**

### **(Presentation)**

#### **Public Accounts (Enterprises) Committee**

**Sen. Wade Mark:** Thank you, Madam President. Madam President, I have the honour to present the following reports as listed on the Order Paper in my name:

#### **National Entrepreneurship Development Company Limited**

Tenth Report of the Public Accounts (Enterprises) Committee, Third Session (2017/2018), Eleventh Parliament, on the Examination of the Audited Accounts, Balance Sheets and other Financial Statements of the National Entrepreneurship Development Company Limited (NEDCO) for the financial years 2008 to 2014.

#### **National Maintenance, Training and Security Company Limited**

Eleventh Report of the Public Accounts (Enterprises) Committee, Third Session (2017/2018), Eleventh Parliament, on the examination of the Audited Accounts, Balance Sheets and other Financial Statements of the

National Maintenance, Training and Security Company Limited (MTS) for the financial years 2008 to 2016.

## **URGENT QUESTIONS**

### **East Port of Spain Protest**

#### **(Measures taken to Guarantee Safety of Persons)**

**Sen. Wade Mark:** Thank you, Madam President. To the hon. Minister of National Security: In light of the recent protest action in East Port of Spain, what urgent measures are being put in place to guarantee the safety and security of persons who live in and travel through this area?

**The Minister in the Office of the Attorney General and Legal Affairs and Minister in the Office of the Prime Minister (Hon. Stuart Young):** Thank you very much, Madam President. Madam President, what we saw unfold yesterday was most unfortunate, but immediately our law enforcement agencies moved into action. We had the first responders go and contain what was taking place. That was further supplemented with not only specialized forces from the TTPS, but also the Trinidad and Tobago Defence Force, and they continued working for the next 24-hour period as a unit and managed to bring under control what was taking place.

Madam President, the joint forces of the Trinidad and Tobago Police Service and the Trinidad and Tobago Defence Force have put into place and into action their plans to deal with this situation. There continue to be a number of investigations taking place and we saw, fortunately, a return to normality within a very short period of time.

**Sen. Mark:** Madam President, could the hon. Minister indicate to us, how long would these joint forces remain stationed in the East Port of Spain community?

**Hon. S. Young:** Madam President, there are actually at least two camps of joint

patrols and joint forces in the East Port of Spain area, so those would remain because they are there permanently, and it will be supplemented as needs be.

**Sen. Mark:** Madam President, could the hon. Minister indicate whether the Government has analyzed some of the problems that might have given rise to the protest that occurred yesterday, and what action the Government would be taking?

**Madam President:** There are two questions.

**Sen. Mark:** Okay, Madam President.

**Madam President:** One.

**Sen. Mark:** One. Thank you, Madam President.

**Hon. S. Young:** The answer is yes, and the Government as it has already informed the people of Trinidad and Tobago, and as we have heard from the police service, and as this incident has once again highlighted, the Government is moving to bring anti-gang legislation to the Parliament. The Opposition are the persons who have stood in the way of that thus far. The Trinidad and Tobago Police Service and the public recognize that this important piece of legislation is an important tool in the arsenal of the fight against what we saw yesterday, where an alleged gang leader, gang member was shot by the police service, and that is what led to the protest. So if the Opposition wants to take the responsibility of keeping the citizens of Trinidad and Tobago in the dark and preventing anti-gang legislation, that is their choice. [*Desk thumping*]

**Madam President:** Next question.

**Sen. Mark:** I cannot respond to him.

**Madam President:** Next question, Sen. Mark.

### **East Port of Spain**

#### **(Measures to Protect Garbage Truck Drivers)**

**Sen. Wade Mark:** Madam President, through you, to the hon. Minister of Rural

Development and Local Government: In light of reports that a garbage truck driver was threatened into dumping garbage on the street in East Port of Spain yesterday, what measures are being put in place to protect garbage truck drivers working in the said area?

**The Minister of Rural Development and Local Government (Sen. The Hon. Kazim Hosein):** Thank you very much, Madam President. The incident yesterday was a very unfortunate and regrettable one, for us all at a national level. The Ministry of Rural Development and Local Government does not see this type of behaviour as a norm, and for the future we are strongly against this type of behaviour. Many of the residents of that area work at the Corporation, and have time and time again cooperated with the Port of Spain City Corporation and the Municipal Police on a daily basis.

The Ministry of Rural Development and Local Government is committed to ensuring safety of all workers, contracted or otherwise. We aim to avoid these types of isolated incidents in the future by continuing to work closely and building ties within the community. I thank the hon. Member for his question, and the concern for the citizens' safety which we both share. Thank you.

**Sen. Mark:** Madam President, could the hon. Minister indicate whether his Ministry intends to meet with the relevant union to discuss future developments involving a similar situation probably reoccurring? Does the Government intend to meet and treat with the unions to address that question in the future?

**Sen. The Hon. K. Hosein:** Thank you very much, Madam President, and I thank the Member for his supplemental question. As soon as the incident occurred yesterday, I requested an update from the Mayor of Port of Spain, and these talks we have are ongoing, but I made a special request yesterday to meet with the union and the Mayor. It was supposed to be today, I had commitments, and I will try for

tomorrow, but they are aware of our meetings as soon as possible.

**Upper Laventille, Oxford Street and George Street Health Centres  
(Cancellation of Appointments)**

**Sen. Wade Mark:** To the hon. Minister of Health: In light of the closure of three Health Centres (The Upper Laventille, Oxford Street and George Street Health Centres) as a result of yesterday's protest, what urgent measures are being implemented to ensure that patients whose appointments were cancelled are otherwise facilitated?

**The Minister of Health (Hon. Terrence Deyalsingh):** Thank you very much, Madam President, and let me bring some clarity to the issue. It was not three health centres closed, it was four. One, the Upper Laventille Health Centre: Yesterday was an antenatal clinic and pap smear day. All those patients have already been rescheduled to Monday. These are non-acute, non-life threatening cases.

Success Laventille: Yesterday was GP clinic day. It was a walk-in clinic day. Seventy-one persons were seen and 22 dressings done. The facility was then closed at 12.00 noon. There is no rescheduling to be done because yesterday was a walk-in clinic, non-acute, non-life threatening. George Street: Yesterday was also a walk-in day. Fifty-six patients were seen, 19 dressings done. The facility was then closed at 1.30 p.m. It has been reopened today as has Success Laventille, as has Upper Laventille. Because it was a walk-in clinic, non-acute, non-life threatening, there is no rescheduling to be done.

The fourth one, Oxford Street, which was in the heart of the problem, was quite properly closed yesterday and remains closed today. However, yesterday was a walk-in clinic and today is a child welfare clinic. Again, non-urgent, non-life threatening and they will be rescheduled.

May I add, Madam President, clinic appointments are never for acute or life-threatening cases. All these cases are always facilitated at a secondary or tertiary facility like the Port of Spain Hospital, Eric Williams and the Arima District Health Facility. So none of the four health centres that were affected were seeing any acute cases or life-threatening cases, and in two of the cases, Success Laventille and George Street, no rescheduling has to be done. Upper Laventille has already been rescheduled for Monday, and we will open Oxford Street tomorrow for child welfare.

**Madam President:** Minister, your time is up.

**Hon. T. Deyalsingh:** Thank you. [*Desk thumping*]

### **Boodoo Highway**

#### **(Action Taken re Residents' Plight)**

**Sen. Wade Mark:** I would go directly, Madam President. To the hon. Minister of Works and Transport: In light of recent protest by residents of North Oropouche Road, Sangre Grande who are pleading for the road known as Boodoo Highway to be repaired, what action is being taken by the Ministry to alleviate the plight of the said residents?

**The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan):** Thank you, Madam President. Madam President, the Ministry of Works and Transport is responsible basically for the highways and the major roadways. Boodoo Highway, it may be called Boodoo Highway, but it is not a highway. It is actually—[*Interruption*]

**Madam President:** Hon. Minister, just a second. Hon. Members, the time for Urgent Questions has expired. Would you allow the Minister to finish his answer?

**Hon. Senators:** Yes.

**Madam President:** Yes? Minister, continue.

**Sen. The Hon. R. Sinanan:** Boodoo Highway is actually a private development and the road is referred to as Boodoo Highway. It is an orphan road. It has never been handed over to the Sangre Grande Regional Corporation. There have not been any requests from the councillor to the Ministry of Works and Transport for any assistance, and my information from the Chairman of the Sangre Grande Regional Corporation, the road was not placed by the councillor on his list of priority. I thank you.

### ORAL ANSWERS TO QUESTIONS

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Madam President, the Government is pleased to announce that it will be answering question No. 17, question No. 34, question No. 35 and question No. 44. We seek a two-week deferral to question No. 15 and question No. 32.

*The following questions stood on the Order Paper in the name of Senator Wade Mark:*

#### Acquisition of Laptops for Secondary Schools

##### (Details of)

**15.** Could the hon. Minister of Education state:

With respect to the Government's decision to acquire laptops for use in secondary schools, can the Minister advise as to the following:

- a) the number of laptops acquired as at September 30, 2017; b) the total cost of said laptops;
- c) the name of the foreign supplier or manufacturer of said laptops;
- d) whether there is a local agent for the supply of the laptops; and
- e) if the answer to (d) is yes, the name of the local agent and the commission fees paid to said agent as at September 30, 2017?

#### Increase in Crimes at UWI

**(Measures to be Implemented)**

**32.** Could the hon. Minister of National Security state:

Given the increase in crimes against students at the St. Augustine Campus of the University of the West Indies, can the Minister advise as to what security measures are being implemented to address this situation.

*Questions, by leave, deferred.*

**Prime Minister's Travel**

**(Details of)**

**17. Sen. Wade Mark** asked the hon. Prime Minister:

Can the Prime Minister state:

- a) how many times he has travelled abroad on official business over the period June 01, 2016—September 30, 2017; and
- b) the total cost of such foreign travel including that of the official delegation accompanying the Prime Minister?

**The Minister in the Office of the Attorney General and Legal Affairs and Minister in the Office of the Prime Minister (Hon. Stuart Young):** Thank you very much, Madam President. Madam President, the Prime Minister has travelled eight times over the period June 01, 2016 to September 30, 2017. The total cost of the Prime Minister's travel, including that of the official delegations is \$2,025,323.32.

The visits and trips are as follows: On the 2<sup>nd</sup> to the 4<sup>th</sup> of the sixth month, the Seventh Summit Heads of State and the Government Association of Caribbean States in Cuba, six persons accompanied the Prime Minister at a total cost of \$129,544.50.

That was followed by the Thirty-Seventh Regular Meeting of the Conference of Heads of Government of Caricom in Guyana—10 persons

accompanied—\$157,310.40. So for 10 persons that travelled with the Prime Minister, \$157,310.40.

The third visit was when he travelled to Jamaica, a contingent of 14, and that was \$249,447.47.

The fourth trip was when he went to Caracas, Venezuela, to sign with President Maduro a cross-border gas—that was in December 2016, 16 persons went—\$242,138.91.

The fifth trip was another Caricom Heads of Government Meeting in Guyana—11 persons—at a cost of \$188,572.07.

The sixth trip was a trip to Houston where he completed the discussions with respect to upstream gas contracts. He met with Shell, EOG and bp. Seven persons travelled with him at a cost of \$269,059.62.

The seventh trip was his trip to Chile where 15 persons travelled with him at a cost of \$599,178.03.

The eighth trip was another Heads of Caricom Meeting, nine persons in Grenada at a cost of \$190,072.32.

Madam Speaker, those eight trips totalled \$2,025,323.32, and what the country has seen and the taxpayers have seen is a significant savings in the cost of a Prime Minister travelling on official business during this period. [*Desk thumping*]

**Sen. Mark:** Could the hon. Minister inform this House what were some of the tangible benefits accruing to the people of the Republic of Trinidad and Tobago as a result of this expenditure of over \$2 million, Madam President?

**Hon. S. Young:** Thank you very much, Madam President. Absolutely. For example, the trip to Jamaica was a necessary trip. The Jamaicans had been complaining, the business community, that they had been neglected by the

previous administration for the five-year period and, in fact, there was a deterioration in the relationship between Trinidad and Tobago and Jamaica between 2010 and 2015. The Prime Minister led a delegation there along with the Minister of Foreign and Caricom Affairs, including one of the Members of the Opposition. That relationship was mended and now we have as a result, free trade taking place once again. [*Desk thumping*]

The trip to Houston, again, as a result of the neglect of the former administration with the energy sector, when we came in there were a number of expired contracts. There was no upstream contract and no upstream supply of gas to NGC from the year 2019 going forward because the former administration did not see it fit to negotiate a single gas contract during their term in office. So, again, the Prime Minister managed to go there and secure gas for Trinidad and Tobago from 2019 going forward. [*Desk thumping*]

**2.00 p.m.**

The trip to Chile, again, it was an invitation of the former President, Michelle Bachelet, and they are the largest trading country in South America. As a result of that, there is now a whole host of opportunities for Trinidad and Tobago, and they are the single largest importer of Trinidad and Tobago LNG. [*Desk thumping*] Madam President, all of the Caricom trips, the tangibles are—once again, the former administration, and we remember the Leader of the former administration making a most insensitive comment about Trinidad and Tobago not being an ATM for our Caricom neighbours, once again Trinidad and Tobago is at the forefront of leadership of the Caricom and is now well respected once again. [*Desk thumping*]

**Madam President:** Sen. Mark.

**Sen. Mark:** Could the hon. Minister provide this House with information as it

concerns negotiations for gas prices that occurred in Houston, Texas involving the Prime Minister and officials from EOG, Shell and bpTT? Could you tell us if the Prime Minister engaged in gas price negotiations with those multinational corporations whilst he was in Houston, Texas?

**Madam President:** Minister in the Office of the Prime Minister.

**Hon. S. Young:** Madam President, as has been said time and time again, including in the Parliament, what took place there was the culmination of protracted negotiations that had been taking place between NGC, bp and EOG for a long period of time. If these negotiations were not concluded, Trinidad and Tobago would not have an upstream gas supply to NGC, and therefore its whole downstream industry would have come to a complete crash. What the hon. Prime Minister did there is out of the influence of his position and his office. He went there and we were in contact throughout with the technocrats at the Ministry of Energy and Energy Industries, and at NGC, and with the highest levels of leadership of both EOG and bp, we managed to conclude prices for gas going forward from 2019. In fact, in the meeting with the EOG President and the various vice-presidents, as soon as the discussion had been concluded and a gas price agreed from 2019 to 2023, the President turned immediately to his vice-presidents and said, begin the continued exploration of additional wells in Trinidad and Tobago. That type of leadership had been lacking for many years in Trinidad and Tobago. [*Desk thumping*]

**Sen. Mark:** Could the hon. Minister indicate whether it was lawful or illegal for the Prime Minister to negotiate gas prices in which it was moved from \$240 per standard cubic feet to close to \$5 with the EOG that is today resulting in a crisis?

**Madam President:** Sen. Mark, I will not allow that question. You have one more question if you need.

**Sen. Mark:** Madam President, since the hon. Minister has indicated to this House that the Prime Minister negotiated and concluded new gas prices, could he inform this House what were these new gas prices that the Prime Minister negotiated and concluded with these multinational corporations without technocrats at his side?  
[*Desk thumping*]

**Madam President:** Minister in the Office of the Prime Minister.

**Hon. S. Young:** Thank you very much, Madam President. I would like to correct the record, as usual the Leader of the Senate Bench has misled the population of Trinidad and Tobago. There is absolutely no gas price to Trinidad and Tobago of \$5 by EOG. I can only assume that is an attempt to mislead current things going on. He did say it was \$5 from EOG. [*Crosstalk*] Madam President, it was completely legal what the Prime Minister did, and as a citizen of Trinidad and Tobago we would like to thank him for assisting in the conclusion of these negotiations. [*Desk thumping*]

### **Oil Waste Dumping in Chaguaramas**

#### **(Details of)**

**34. Sen. Wade Mark** asked the hon. Minister of Energy and Energy Industries:  
Can the Minister advise as to what steps have been taken to identify the persons/organizations responsible for the recent dumping of oil waste in Chaguaramas?

**Madam President:** The Minister of Energy and Energy Industries. [*Desk thumping*]

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Thank you, Madam President. Madam President, on Sunday 15 October, 2017, the Ministry of Energy and Energy Industries received a report of an oil spill at Carrera Island, Chaguaramas. Following the receipt of the report, the Ministry

of Energy and Energy Industries immediately initiated action to clean up and arrest the oil. In parallel, the Ministry of Energy and Energy Industries in concert with the Institute of Marine Affairs, the Environmental Management Authority, the Maritime Services Division and the Trinidad and Tobago Coast Guard conducted aerial and maritime surveillance to determine the source of the spill and whether it was an ongoing event. The source of the spill was not identified from the aerial and marine surveys. As a consequence, oil samples were collected from the oil-affected area at Chaguaramas by the IMA and EMA for the purpose of oil fingerprinting. The samples were found to be a characteristic of bilge oil and not crude oil or refined oil in origin.

Bilge oil represents a mixture of fuel oils and waste oil immersed in waste water in ships and barges. Oil samples were then taken for fingerprinting from the vessels which were docked at Chaguaramas on the 14<sup>th</sup> and 15<sup>th</sup> of October, 2017, and which were potential sources of the oil spill, as well as inland oil storage and remediation facilities. The fingerprinting of the oil spill at Chaguaramas showed similarities with samples taken from one of the vessels and an almost identical match with the samples taken from the slop tank of another vessel and in the storage pit of an inland remediation facility. Based on this evidence, the oil spill has been narrowed to the vessel with the identical match, and, accordingly, appropriate action is now being pursued against the owner of that vessel, may I say, both criminal and civil. [*Desk thumping*]

**Madam President:** Sen. Mark.

**Sen. Mark:** Madam President, could the hon. Minister indicate to this House what was the cost to the taxpayers of the cleaning up of this oil spill that was released by this vessel, or these vessels that he has provided to this honourable Senate?

**Madam President:** Minister.

**Sen. The Hon. F. Khan:** Madam President, the cost is just slightly above TT \$2 million which we plan to invoke civil proceedings to recover for damages.

**Madam President:** Sen. Mark.

**Sen. Mark:** Could the hon. Minister indicate to us the name of the company or agency that was responsible for carrying out this clean-up of the Gulf as a result of the oil spill that would have resulted in that \$2 million bill?

**Madam President:** Sen. Mark, that question I will not allow. That does not arise.

**Sen. Mark:** Now that we have been told that the vessels have been identified that were responsible for this oil spill and narrowed down, could the hon. Minister share with us, Madam President, the names of these vessels that were identified?

**Madam President:** Minister.

**Sen. The Hon. F. Khan:** Madam President, I am advised by the attorneys that it will be inappropriate to name the vessels at this point in time before actual action is taken on behalf of the State and the Ministry of Energy and Energy Industries.

**Madam President:** Sen. Mark.

**Sen. Mark:** Could the hon. Minister indicate, therefore, when does the Government anticipate through the appropriate authorities to commence proceedings of both a criminal and legal nature, Madam President, against those owners of the vessels identified by the hon. Leader of Government Business?

**Madam President:** Minister.

**Sen. The Hon. F. Khan:** Madam President, I cannot give a specific time but we will be acting with dispatch in this matter, and I would say in the shortest possible time.

## **Basel II Accord**

### **(Details of)**

**35. Sen. Wade Mark** asked the hon. Minister of Finance:

Can the Minister inform the Senate of the following:

- i. whether the Basel II Accord is applicable to Trinidad and Tobago or is it only applicable to the G-20 member states;
- ii. the rationale for this country's adopting said Accord for the Banking sector;
- iii. the likely impact on consumer loans and mortgage rates if and when the Basel II Accord is fully adopted by the Central Bank; and
- iv. whether adopting such an Accord requires legislation for it to be effected?

**The Minister in the Ministry of Finance (Sen. The Hon. Allyson West):**

Thank you, Madam President. Madam President, the Basel II Accord is applicable to Trinidad and Tobago. Although Basel II is a voluntary standard, given its enhancements, it has become the standard adopted by a wide range of countries. The Basel II Accord was issued by the Basel Committee of Banking Supervision in 2004, and like its predecessor, Basel I, was initially designed for internationally active banks in the G-10 nations. However, following its release, over 100 countries have adopted Basel II, either in whole or in part. In this regard, a number of countries in the Caribbean, for example, Barbados, Bahamas, Bermuda, Cayman Islands, Antigua and Barbuda; and in Latin America, for example, Argentina, Brazil and Costa Rica have adopted Basel II. Compared to its predecessor, Basel II significantly improves the risk sensitivity of the capital adequacy framework as it treats with a wider range of risks facing financial institutions, including operational risk, interest-rate risk in the banking book, and credit concentration risk. Basel II better aligns capital requirements with the risk to which banks are exposed, and promotes more robust risk management and transparency.

The implementation of Basel II/III framework has the following objectives

aimed at strengthening financial stability and modernizing supervisory standards in Trinidad and Tobago:

- (a) to establish minimum capital adequacy requirements and quantitative triggers for prompt corrective action;
- (b) to provide incentives for licensees to improve risk and capital management by enhancing the risk sensitivity of capital requirements banks must add more capital as they take on more risk; and
- (c) to ensure that licensees continue to maintain adequate high quality capital in excess of the regulatory minimum requirements and the capacity to absorb significant unforeseen losses.

As reported in the Central Bank's 2016 Financial Stability Report, the bank rolled out phase one of the Basel II/III implementation plan to financial institutions licensed under the Financial Institutions Act of 2008 in November 2014, with an implementation date of 2018.

Adoption of the Basel II Accord is not likely to have an impact on consumer loans and mortgage rates. Banks currently hold capital in excess of the minimum requirement, and based on impact studies conducted banks will not be required to inject additional capital to meet the minimum capital requirement. However, it is noted that in the short term the cost of implementation could increase as some licensed institutions implement new systems and processes to implement Basel II. Regulations will be required to give effect to the Basel II capital adequacy standard, specifically section 9(1) of the FIA, 2008, states that the Minister, after receiving recommendations of the Central Bank may make regulations for, among other things, prudential criteria. In addition, section 9(3)(a) of the FIA states that regulations made in respect of prudential criteria include capital adequacy and solvency requirements, and capital ratios in relation to licensees, financial holding

companies and members of financial groups. In accordance with section 9(2) of the FIA, the regulations would be subject to negative resolution of Parliament. Thank you, Madam President.

**Madam President:** Sen. Mark.

**Sen. Mark:** Madam President, could the hon. Minister in the Ministry of Finance indicate whether the deadline given by the Governor of the Central Bank to the International Monetary Fund offer an implementation date of June 2018? Would that particular date, Madam President, be met by the Government of the Republic of Trinidad and Tobago to have this Basel II implemented?

**Madam President:** Minister.

**Sen. The Hon. A. West:** Thank you, Madam President. To the best of my knowledge, we are on target to meet the date set, Madam President.

**Madam President:** Sen. Mark.

**Sen. Mark:** Would the Minister not agree that having regard to the costs that it would result in implementing this Basel II Accord that this course would obviously be passed on to consumers in the Republic of Trinidad and Tobago? And if that is so—*[Interruption]*

**Madam President:** No, let us ask the first question, whether the cost—*[Interruption]*

**Sen. Mark:**—whether the cost—

**Madam President:** Yes.

**Sen. Mark:**—will be passed on to consumers as a result of the cost of implementing Basel II?

**Madam President:** Minister.

**Sen. The Hon. A. West:** Madam President, the banks that operate in Trinidad and Tobago that are licensed under the FIA have been acting in accordance with the

provisions of Basel II for quite some time, so we do not expect significant incremental costs in 2018. It is possible that they may pass on the cost, Madam President, but having looked at what is required we do not anticipate that it should require an incremental or increase in cost to the customer, but the banks are at liberty to pass on costs as they do from time to time.

**Sen. Mark:** Madam President, could the hon. Minister indicate whether the Government intends to embark on a programme of education and sensitization to the population as it relates to the implementation of Basel II given what you have described as its implications?

**Madam President:** Minister.

**Sen. The Hon. A. West:** Madam President, the education of the public on financial matters of this nature are generally handled by the Central Bank of Trinidad and Tobago. They do have an education programme and we expect that in due course they will advise the public as to the relevant implications of the standard. [*Desk thumping*]

**Madam President:** Sen. Mark.

**Sen. Mark:** Madam President, seeing that this is a voluntarily association of countries in the G-20 grouping, would it mean, Madam President, that we are compelled to adopt this Basel II Accord, or are we willingly proceeding to adopt that particular accord? Is there a compulsion, Madam President, for us to adopt that Basel II Accord?

**Madam President:** Minister.

**Sen. The Hon. A. West:** As I indicated in my initial response, Madam President, it is voluntary. We are not required to do so, but having regard to the fact that we are part of an international community and that our banks do have corresponding banks outside of Trinidad and Tobago, it would be prudent of us to adopt these

standards. It also provides greater protection for the public of Trinidad and Tobago since it requires the banks to observe certain protocols with respect of risk. Thank you, Madam President. [*Desk thumping*]

### **Sandals Tobago**

#### **(Details of)**

**44. Sen. Saddam Hosein** asked the hon. Prime Minister:

Can the Prime Minister indicate whether a feasibility study was conducted for the Sandals Tobago project before the execution of the Memorandum of Understanding and if yes, what is the projected return on investment when the project is realized?

**Madam President:** Minister in the Office of the Prime Minister. [*Desk thumping*]

**The Minister in the Office of the Attorney General and Legal Affairs and Minister in the Office of the Prime Minister (Hon. Stuart Young):** Thank you very much, Madam President. Madam President, a financial feasibility for the proposed Sandals and Beaches Resort in Tobago was presented by SRI, Sandals Resorts International, to the Government before execution of the memorandum of understanding. This feasibility study showed a positive return on investment of the order of 10 per cent, exclusive of other benefits such as local improved airlift to and from Tobago, international marketing of Tobago, purchase of local goods and services in Trinidad and Tobago, stimulation of the local agricultural sector, increased tourism tours, and all of the other benefits that redound with a project of this nature.

**Sen. Hosein:** Can the Minister indicate what is the monetary value of the 10 per cent that he referred to?

**Madam President:** Minister in the Office of the Prime Minister.

**Hon. S. Young:** Not at this stage.

**Madam President:** Sen. Hosein.

**Sen. Hosein:** Can the Minister indicate the capital cost of the Sandals project?

**Madam President:** Minister.

**Hon. S. Young:** Not at this stage.

**Madam President:** Sen. Mark.

**Sen. Mark:** Madam President, could the Minister, not at this stage, tell us what—  
[*Interruption*]

**Madam President:** Sen. Mark, I will refuse that, sorry.

**Sen. Mark:** Sorry. Could the hon. Minister indicate to this House, Madam President, through you, what is the cost, or what was the cost of the feasibility study that was conducted?

**Madam President:** Minister.

**Hon. S. Young:** Zero dollars to the taxpayers of Trinidad and Tobago.

**Madam President:** Sen. Mark.

**Sen. Mark:** Could I also ask the hon. Minister which entity or organization was responsible for conducting this feasibility study at zero dollars to the people of Trinidad and Tobago?

**Hon. S. Young:** Madam President, that was answered in the original answer, the persons who incurred the cost for the presentation and for the feasibility study, Sandals Resorts International.

**Sen. Mark:** Madam President, before you leave—[*Interruption*]

**Madam President:** No, I am here.

**Sen. Mark:**—may I advise that I am invoking Standing Order 27(15) as it relates, Madam President, to question 15. I think that was the one that was deferred for another period of time. Madam President, as I am on my legs, can I ask you to

invoke Standing Order 27(16) as it relates to Question No. 13, which has been languishing, as you know, for a considerable period of time.

**Madam President:** Hon. Members, in respect of those two questions, Standing Order 27(16) will be invoked.

### **DEFINITE URGENT MATTER**

#### **(LEAVE)**

#### **National Security Framework of Trinidad and Tobago**

#### **(Failure of Government)**

**Sen. Wade Mark:** Madam President, I hereby seek your leave to move the adjournment of the House today, under Standing Order 17 for the purpose of discussing a definite matter of urgent public importance, namely the failure of the Government to adequately ensure that the national security framework of Trinidad and Tobago is effective and efficient. The matter is definite because it pertains specifically to the failure of the Minister of National Security, and by extension the Government, to protect visitors during the Carnival season, as well as dispose of terrorist cells which have infiltrated our nation as confirmed by the Prime Minister.

The matter is urgent because in the event that the Prime Minister's information is true, terrorist cells, whose mandate is to disrupt the social fabric of Trinidad and Tobago, are running loose throughout our nation.

Additionally, the Government's lack of decisive action, as indicated by the release of suspected persons linked to an international terrorist organization, is facilitating the development of these terrorist cells.

The matter is of public importance because the Government's failure to protect foreign travellers during the Carnival season has left a dark stain on our celebrations, and this will negatively impact our nation's foreign-direct investment. Furthermore, Madam President, the lives and well-being of every man, woman and

child are at risk when an internationally recognized terrorist cell infiltrates the nation. Every citizen must be vigilant in this dark hour, and the impetus is on the Government to rid our nation of this looming threat. I so move, Madam President.

*[Desk thumping]*

**Madam President:** Hon. Senators, I have considered the Motion and I am not satisfied that this matter as presented qualifies under this Standing Order. However, the Senator may wish to raise this matter under Standing Order 15.

**MISCELLANEOUS PROVISIONS (MUTUAL ASSISTANCE IN  
CRIMINAL MATTERS, PROCEEDS OF CRIME, FINANCIAL  
INTELLIGENCE UNIT OF TRINIDAD AND TOBAGO,  
CUSTOMS AND THE EXCHANGE CONTROL) BILL, 2017**

*Order for second reading read.*

**The Attorney General (Hon. Faris Al-Rawi):** Thank you, Madam Speaker, I beg to move:

That a Bill to amend the Mutual Assistance in Criminal Matters Act, the Proceeds of Crime Act, the Financial Intelligence Unit of Trinidad and Tobago Act, the Customs Act and the Exchange Control Act, be now read a second time.

Madam President, Trinidad and Tobago finds itself in the middle of globally tumultuous times. We find ourselves as an island state, two islands comprising our State, faced with the ramifications and effects of freedom of movement, freedom of trade, and, indeed, the application of a form of ingenious enterprise by disingenuous people at times. In Trinidad and Tobago, we are not immune from the scourge of terrorism, from its associated linkage to the financing of terrorism, and more importantly, equally importantly, to the linkages to the cohort of money laundering and corruption. The world itself, Madam President, has bound itself

together under several organizations. We as a country find ourselves involved in bilateral relationships and multilateral relationships where we are called upon as a nation to subscribe to and to apply principles which can better the lives of our citizens in this country. This Bill constitutes one of the measures, an umbrella of measures designed to bind up tighter to obligations and reciprocal enforcement provisions which guide our country.

This Bill, in seeking to amend five pieces of law and in two regulations, this Bill seeks to treat with eliminating the financing of terrorism, and therefore the entity of terrorism being starved. This Bill seeks to treat with the issues of money laundering, tax evasion, suspicious transactions and open-border crossflow mechanisms. This Bill finds itself very relevant in Trinidad and Tobago, in particular in light of recent day's events. We find ourselves discussing as a Senate this afternoon, the very material of concern which successive Governments have had on their minds and which no doubt future Governments will have equally on their minds.

So, Madam President, to put this in some form of context closer to the heart of the Bill, we are in the middle of working Trinidad and Tobago's requirements out, our obligations are being tested, our efficiency is being tested, our technical compliance is being tested by two very important entities. That parent entity is the Financial Action Task Force, which is, of course, a combination of approximately 190 countries around the world in association having adopted the FATF 40 recommendations and the 11 immediate outcomes, and we find ourselves as a sub-regional group in a FATF-style body regional group, that this an FSRB, called the Caribbean Financial Action Task Force where 25 countries have come together, adopted the FATF style regulations, taken the 40-plus recommendations and the 11 immediate outcomes and said that these 25 countries, of which Trinidad and

Tobago is a part, and indeed a leader, should be tested against the FATF methodologies.

This exercise commenced, Madam President, in the year 2005, and, indeed, by April 2010, Trinidad and Tobago underwent FATF testing, in what is referred to as the third round mutual evaluation process, where Trinidad and Tobago saw itself graduate from negative reflection by the passage of the Anti-Terrorism Act, the Financial Intelligence Unit of Trinidad and Tobago Act, the implementation of the Financial Obligations Rules, and the implementation of the Proceeds of Crime Act, four very important pieces of legislation, and of course, the FIU regulations that are associated with the FIU Act.

**2.30p.m.**

In April 2010, Trinidad and Tobago saw itself ticking off the boxes in what is referred to as “technical compliance”, and that technical compliance is: Do you have, as a jurisdiction, the laws to treat with the financing of terrorism being prohibited, terrorist activity being prohibited, that proceeds of crime should in fact be forfeited on to the State, so that if a crime is committed that you have that, that financial institutions and non-designated financial institutions and persons, that is persons described under Schedule 5 of the Proceeds of Crime Act, that you find yourself in a position of an obligation and a sanction, and so we graduated.

In the period April 2010 to September 2015, Trinidad and Tobago underwent its third round merged to fourth round mutual evaluation by FATF, through the CFATF as its SFRB. And in January 2015, Trinidad and Tobago was assessed by the international observers appointed by CFATF and FATF because they worked in tandem with joint group operation to see whether we had achieved success, not only in the technical compliance requirements—that is, do you have a law?—but also in the efficiency or operational success requirements of testing

whether your laws are at work or not. That fourth round mutual evaluation exercise in January 2015 really was a landmark one, because Trinidad and Tobago pushed itself forward to be the first country in the CFATF enterprise to be tested for fourth round mutual evaluation.

Unfortunately, the first in the line-up was Trinidad and Tobago as a country testing waters which the rest of the world had not yet tested. Personally, I do not think it was prudent for Trinidad and Tobago to have volunteered itself to be first in line, but the fact is that we were. The observations that came about in our Mutual Evaluation Report which was presented at the plenary in November 2015 and then adopted by the CFATF plenary in June 2016, demonstrated that Trinidad and Tobago was not ready for fourth round mutual evaluation, quite simply put.

The take-away from that fourth round mutual evaluation is that Trinidad and Tobago found itself placed into two jeopardies which we are feeling right now. Number one, because of the parameters of analysis and the results produced, we were bound to go into something called “enhanced follow-up”. The FATF methodology indicates that if you had not scored well in the methodology bracketing, that is, if you have eight or more non-compliant or partially compliant ratings for technical compliance, if you have low or moderate levels of effectiveness in seven or more of the 11 effective outcomes, or if you have a low level of effectiveness for four or more of the 11 effective outcomes, associated immediate outcomes, that you will be placed in something called “enhanced follow-up”. That is the first jeopardy.

The second jeopardy is that you may find yourself, depending upon the size of your economy—if the size of your economy is over US \$5 billion—you are obliged to be considered as an individual entity whose jurisdiction may be deemed to be causing a risk to the international framework, and you go into something

called the “ICRG methodology process”, the International Corporation Review Group process of the Financial Action Task Force. So Trinidad and Tobago found itself, number one, in enhanced follow-up in the CFATF process and number two, in the ICRG identification in the FATF process. So we are under two forms of regulatory supervision.

That required us to undergo a system where we are obliged to implement the observations of the fourth round mutual evaluation report and, secondly, we are obliged to make sure that our systems work. It is not good enough that you have laws relative to the proceeds of crime. How many cases do you have that are successful? How many anti-terrorism cases have you prosecuted? How many money laundering cases have you prosecuted? The effectiveness of your laws are equally unchallenged, but the effect of being first in line, as we were put into that position by the last Government in the fourth round mutual evaluation process, is that the international agencies are now misinterpreting the FATF methodology and determinations, and our banking sector is placed in a position where they are fighting de-risking and removal of security backing and security and brokerage firms on a global level, because nobody quite knows how a fourth round entity should be treated.

That comes about because it is quite convenient for some of the international entities to de-risk you, not because you deserve to be de-risked, but rather because your market lacks appetite, and therefore what is an expensive method of operation for larger entities elsewhere, correspondent bankers elsewhere, et cetera, you may find yourself, as Trinidad and Tobago is right now finding itself, in a situation where the banking community is suffering loss of corresponding banking, and where the securities and exchange market manoeuvring between jurisdictions that are elsewhere, find themselves cut off. So that is the background and context to

this particular piece of law, this Bill which proposes these amendments to these five laws.

Specifically, Madam President, Trinidad and Tobago went to work, upon receiving its mandate from the Caribbean Financial Action Task Force, the Fourth Round Mutual Evaluation Report. Specifically, the Government went to immediate work to identify all the areas of technical compliance that had to be met. This Bill treats with that. Specifically, Trinidad and Tobago saw the move towards our courts for two things: one, to improve the system in which the cases must move, that is, the criminal justice system, de-clogging, identification of backlogs, alternate measures, introduction of rules, et cetera, and more importantly, by looking at the laws which have to be operationalized in the courts and deciding how we could simplify them.

This has been the work product in large part brought about by the reflections of something called the National Anti-Money Laundering—financing of terrorism—Committee. It is called the NAMLC Committee, which is a multipartite committee of several government agencies, including the Director of Public Prosecutions, the Central Bank, the securities exchange, the Attorney General, the Finance Ministry, the Ministry of National Security and a number of other entities sitting at the table and coming up with a reflective consideration of the laws.

Specifically, Madam President, the Bill today proposes to treat with the following recommendations from the FATF recommendations and the following immediate outcomes. Number one, recommendation 3, which treats with money laundering offences; two, recommendation 19, which treats with how you manage high risk countries; three, recommendation 27, which deals with the powers of supervisors; four, recommendation 28, which deals with regulation and supervision

of non-designated financial businesses and persons, NDFBPs as they are called; recommendation 29, which specifically relates to the Financial Intelligence Unit; recommendation 32, which treats with cash couriers; recommendation 37, which treats with mutual legal assistance; recommendation 40, which treats with other forms of international cooperation; immediate outcome 2, which treats with international cooperation; and immediate outcome 6 which treats with the Financial Intelligence Unit. And these five pieces of law that we propose are to be amended and the two FIU regulations which are to be amended, squarely relate to each of those recommendations and immediate outcomes.

So let us dive into the meat of the Bill. I would like to say that the Bill is deceptively simple. I would like to say that the Bill belies the potential and impact for the changes of law that are recommended. It may not be that obvious to people as to how strong an impact this law may have, but permit me, Madam President, to put this into some sharper context.

Clause 2, which treats with the Mutual Assistance in Criminal Matters Act, Chap. 11:24, in the Bill we are proposing that we repeal, remove from the laws of Trinidad and Tobago, section 22(2)(k). Section 22(2)(k) is a strict prohibition against Trinidad and Tobago, under the Mutual Legal Assistance Act, accepting matters which concern taxes. So 22(2)(k) says a request shall be refused where it:

“...relates to a criminal offence under the tax laws of a Commonwealth country...”

Now that particular provision, of course, has its genesis in the convention of the Inter-American Convention of Mutual Assistance in Criminal Matters—that is squarely out of Article 9 there. But the world has so moved on against prohibition for inclusion of tax matters for criminal assistance/mutual assistance, that the world is now met with the Global Forum, the Financial Action Task Force, the

European Council, the international and bilateral and multilateral treaties which treat with tax reciprocity, et cetera. The whole world has moved away from this, and our mutual evaluation reports, specifically at paragraph 4.10, determined that Trinidad and Tobago was in default of its obligations to allow for the free flow and assistance in relation to tax matters, criminality in tax matters, and the recommendation was made that this is to be removed.

The Government agrees, the National Anti-money Laundering Committee, the NAMLC committee agrees, the Director of Public Prosecutions agrees that this matter should in fact be removed, but in particular, it falls to be in harmony with the TIEA 1989, the Tax Information Exchange Agreements of 1989 and 2016/2017, the inter-governmental agreements which we entered into as a country back in 1989, and then with the United States in 2016/2017, treating with what everybody knows now as the FATCA position. It also finds harmony with the Global Forum position where we, as one out of 145 countries, find ourselves in the peculiar and unusual and terrible position of being the only country in that entire grouping to be in default of the Global Forum formula, which is the European equivalent of the FATCA arrangements. So we propose that this be deleted. There is precedent globally for this factor, and we think that this is something that is worthy of support.

The next clause, Madam President, really is a dynamically and significantly important clause and this is to treat with amendments to section 44 and section 53 of the Proceeds of Crime Act. Dare I say that this is of nuclear proportions, and the reason is to be found in the language of the definition of what is “criminal property”, and what is considered as “money laundering” under the Proceeds of Crime Act.

The Proceeds of Crime Act, Chap. 11:27 at sections 44 and 45 in particular

are very instructive, and I invite all Members of this honourable Senate to consider it. Part II of this Act treats with money laundering. Section 43 treats with the definition of “criminal conduct” and importantly, “criminal property”.

Criminal property in subsection (1) of that section 43:

“means property which constitutes the benefit to a person from criminal conduct or represents such a benefit in whole or in part whether directly or indirectly.”

Criminal property is immaterial whether it was carried out for criminal conduct or it benefited in terms of criminal conduct, and criminal conduct constitutes an offence in Trinidad and Tobago. If it occurs outside, it is also to be treated in that way.

But section 44 reads as follows:

“An offence committed under section 45 shall be known as a money laundering offence and the term ‘money laundering’ shall be construed accordingly.”

The existing law says that the offence of money laundering is an indictable offence.

Section 45:

“A person who knows or has reasonable grounds to suspect that property is criminal property and who—

engages directly or indirectly, in a transaction that involves...criminal property; or

receives, possesses, conceals, disposes of, disguises, transfers, brings into, or sends out of Trinidad and Tobago, that criminal property; or

converts, transfers or removes from Trinidad and Tobago that criminal property,

commits an offence of money laundering.”

Madam President, this offence of money laundering, the tie-back definition to criminal property, the tie-back definition to criminal conduct, applies to every single example of criminality in Trinidad and Tobago. And therefore, it anchors into the financing of terrorism, to terrorist activities. It anchors into corruption, into white collar, blue collar, brown collar corruption. It treats with corruption and illegality in the police service, prison service, immigration, customs. It treats with criminality in business enterprise. It treats with cartel-type behaviour, even though that is not a strict concept of law, but incorporation and facilitation under the bid-rigging provisions which will no doubt become very important as we operationalize the public procurement legislation. But suffice it to say the Proceeds of Crime Act, the concept of money laundering is a massively important prospect for sobering Trinidad and Tobago into lawful conduct and behaviour.

That, Madam President, finds itself in the deletion of the offence of money laundering being an indictable offence, and now with the substitution as we propose it, that that in fact is an offence to be treated either summarily or indictably. And why is that? Because when we look to the performance indices of money laundering cases, of forfeiture cases, et cetera, there are, according to matters coming from the Financial Investigations Bureau, 27 matters for money laundering, 359 charges. But none of these matters have reached the state of final conclusion—none. In fact, some of them started as far back as 2012, and this is a direct tie-back to the state of difficulty that this country has in an effect, a consequence to crime being applied because the matters are almost never ending in the indictable procedure route. Directly out of the Office of the DPP, at the NAMLC committee, the recommendation came for the move to the inclusion of these matters as summary offences, which is what this Bill proposes.

This ties in, as will become evident in the couple of months ahead of us, with the Government's squarely focused agenda on following the money in crime. If it is going to be difficult to catch a criminal with a firearm or with drugs or with other aspects, following the money is going to become the avenue by which we can see some effect, more particularly when that is built upon the back of a removal of preliminary enquiries and a hybridizing of offences and the route for summary offences.

Madam President, the time is particularly short in this House, so I may have to skip a little bit faster as I am being warned about time. But suffice it to say in our mutual evaluation report our effectiveness under IO 7, immediate outcome 7, and under recommendation 3, demonstrated that we had to do something with this.

So we have in these amendments not only proposed adding in the summary route to this, but we have also taken care of another observation under the mutual evaluation report which is the need to harmonize the quantum of the offence, the quantum of the sanction for the offence in keeping with the anti-terrorism legislation. And that is why the quantum expressed in this Bill in respect of the summary offence and the indictable offences have been elevated and moved upward so that they are now in harmony with the Anti-Terrorism Act.

Clause 4 treats with amendments to the FIU Act and its regulations, and it traverses a number of issues. Simply put, we update the legislation in the reference to language, specifically with the new terminology that we make reference to in the reference to the Egmont Group. The Egmont Group is 152 financial investigation units that work together in tandem globally, and the reference in clause 4(1)(a) of the Bill to the amendments in section 2 to take care of the new reference to the Egmont Group is meant to tidy up language and consistency concerns.

Secondly, when we amend by insertion of patterns, trends and typologies as

we see in clause 4(1)(b)(i) and clause 4(1)(b)(ii) where we insert definitions, we are now adding in “tactical and strategic analysis for trends and typologies”. These are terms of art used in the FIU/Egmont Group context to allow for a different type of report and generation.

But, Madam President, the impact of the FIU must be factored in what we are seeing coming out of the FIU right now. Statistically the FIU finds itself now, as a result of improvements facilitated by this Government, with a 342 per cent increase in compliance examinations, when we compare the periods 2013 to 2017. We find ourselves with a 58 per cent increase in suspicious transactions and suspicious activity report submissions. But really if one were to look at the Financial Intelligence Unit report, the most recent one laid in the Parliament for the financial year ended September 30, 2017, let us put this into context in Trinidad and Tobago, the FIU has told our country that Trinidad and Tobago has witnessed an unprecedented development in its FIU transactions, where we have jumped effectively from the year previously for the period—the cumulative money value for the entire period 2011 to 2016 for suspicious transaction reports and suspicious activity reports, was TT \$4.5 billion. Listen to this: For the last year that figure jumped to \$22.045 billion. We have jumped from \$4.5 billion for the cumulative period 2011 to 2016, and in one year we have seen roughly \$22.1 billion worth of suspicious transactions and activity reports. And because of the improved reporting requirements, we have seen approximately \$13.6 billion of that stopped by way of effective intervention for just reporting the positions.

So the amendments that we bring today for the FIU speak to the need for improvements, not only in the type and methodology of reporting, but very importantly as well in allowing the Director of the FIU the ability to act in a spontaneous manner, to have action of the Director’s own motion. That is

specifically to take care of the situation where the FIU Director was sitting there, legislatively incapable of informing of the need for someone else to be aware of something. This marries in with the TIEA, FATCA, Global Forum reciprocity and spontaneity provisions, and so the Bill provides for this.

Madam President, in the amendment to the regulations, particularly regulation 19, we allow for that tie-in between the parent law spontaneity and the regulations spontaneity. Clause 4(1)(c) of the Bill amends section 12 of the FIU Act. In amending section 12 of the FIU Act, we are proposing for again an adoption of summary process for matters where we have disclosures required, and one must approach the court for the court's assistance for a disclosure order being made, and we have prescribed in this law that it should be done on a summary route, again to increase the effectiveness.

Clause 4(1)(d) of the Bill treats with amending section 17(1), and that is again to take care of the phenomenon of how reporting is done. Reporting is not only done by the FATF entity itself, but it is also done by the nine FSRBs, FATF styled regional bodies, CFATF just being one of those nine. So we are allowing for jurisdictions to be required to take knowledge and cognizance of recommendations coming out of the FSRBs themselves.

Clause 4(1)(e) of the Bill importantly treats with amendments to section 18G of the FIU Act. Now section 18 falls under Part IIIA, which is the supervisory authority, and section 18 of the FIU Act is a very important position for Trinidad and Tobago, because it is there that we find the obligation to uphold and to find assistance for the Proceeds of Crime Act, the Anti-Terrorism Act, the Financial Obligations Rules, and the general provisions of law which require reciprocity, and those laws which fight evasion, financing of terrorism, terrorism and the proceeds of crime.

What we are allowing here is an improvement to secure compliance. Specifically, we are allowing for due process to go to work. We are allowing for a warrant to be issued for a police officer, in circumstances where the FATF and CFATF felt that Trinidad and Tobago could do more to allow for cooperation by listed businesses and scheduled persons in Schedule 5 of the Proceeds of Crime Act.

The general law on the outside is that there should be no need for a warrant, that people should have automatic entry. We are not trading our sovereignty, nor our position in respect of our Constitution. We have maintained the fact that you must have permission to enter places. You can go so through the voluntary participation of the entity whom you are knocking on the door of, or if they refuse you can go to the court and have a court issue a warrant allowing you to go in. But to allow for the answering of questions, which is a supplementation to subsection (1)(b) of section 18G, which is the existing law, we have provided for the warranting to say you must comply, you must give information, you shall not wilfully obstruct. We make it an offence for wilful obstruction or for misrepresentation, et cetera. But very importantly, in recognition of the right against self-incrimination, which is a constitutionally entrenched right, we have made sure that:

“Nothing in this section shall be construed as requiring any person to give any information which may incriminate him.”

That is in the new (2E), therefore avoiding the need for any trampling of any constitutional right and relying quite properly upon the due process provisions, and what could even call it the Suratt principle of the law going no further than it ought to and it being proportional.

Madam President, I jump quickly to the inclusion of an amendment to the

provisions for the regulations. In the parent Act, section 27 is where you put out that you may have subsidiary law or regulations made, but there was an omission in the parent law, such that section 63 of the Interpretation Act prevailed. And section 63 as we all know by now says it is going to be a summary offence and your maximum penalty that you can suffer is going to be \$500 if you breach a regulation. We have proposed to amend that to improve the regulatory sanctions, by allowing for the inclusion of an exception to section 63 of the Interpretation Act.

We have taken in the regulations an approach to harmonize the regulatory time frames and prescriptions in line with the Companies Act. The time frame of six months, et cetera, was just too long. We have harmonized it with what a notice of change of directors or secretary or registered office is under the Companies Act, and we have harmonized that down to the 30-day prescription periods that we have in the other laws of Trinidad and Tobago, bringing it in line with the securities industries Act and also fulminations that we have had in the House relative to the insurance laws.

Madam President, may I ask, do I end at 3.10?

**Madam President:** Yes.

**Hon. F. Al-Rawi:** Ten minutes to do justice to some big clauses.

Clause 5, the Customs Act. Customs is the fourth largest contributor to the GDP of Trinidad and Tobago. Customs is responsible for the supervision of the payment of taxes and customs duties. VAT flows from that; customs duties flow from that; income tax flows from that. But in Trinidad and Tobago, we have an archaic system of customs regulation, where our post audit function lies impotent. Because under the current laws in the Customs Act we only have the ability to stop the particular shipment at the point in time. Under the current Customs Act, there

is no obligation or requirement to keep your documentation for the same period as you are required to keep it for the Income Tax Act, which is six years.

**3.00 p.m.**

Under your Customs Act, the customs officer and the importer in equal circumstances where they do not have to keep their information for the necessary periods of time. Under the Customs Act it is not an offence to treat with the evasion in a major sense of some of customs duties, et cetera, and there is rampant criminality in having a weak post-audit environment under the customs laws. And again, this particular amendment to the Customs Act, the proposed amendments are, in my humble opinion, the Government's humble opinion of significant importance to Trinidad and Tobago and in this Bill.

Specifically, number one, we broadened the definition of the territoriality of the operation of the customs laws and we bring it in harmony with our laws which treat with our territorial waters which are wider in scope. That is bringing us in harmony with the rest of the world.

Number two, we improve the post-audit function as we see in clause 5(b). We are allowing in 5(b)(i) that we move from one year from data entry to adjust value to six years. So that if you find that someone has dodged, that you can actually now say, if within the six-year period which is familiar to every businessman in Trinidad and Tobago because that is your income tax prescriptive period, if within the six years we find out that new information concerning goods or for any other reason that you have not declared properly, that you can fall to the supervision of the law. And that is very importantly tied to what the Ministry of Trade and Industry does and what customs does and what finance does, as we marry the ASYCUDA system. Because now declarations are on hand and now the Customs has a much more whole of government approach to see who is actually

telling the truth or not.

Madam President, we also allow for the provisions to parallel amendments which we are making to section 228 in clause 5(d) of the Bill. What we are specifically doing is we are making sure that there is now a power to refuse entry or delivery as opposed to just treating with the goods that are now coming in. Because six years later, five years later, if you have found out that you have been treated, you now have the authority as exists elsewhere in the Caribbean and in the models of law that we have looked at, including the Caricom laws, where you can actually say, "Well hold on, you got away on the last occasion, we have now found out that you did not tell the truth, we have analyzed your provisions, but now your goods will be kept on hold." But that is not done in an arbitrary fashion. That is done in a fashion where we say you have the right to go to the Tax Appeal Board and we prescribe that. And we are also balancing it in the law where we are saying now, you not only have that right, but we are making sure that the Customs must keep its records for the same six-year period, so that you can have the ability to find errant officers and corrupt officers, as well as tax evaders and errant people in society and therefore, there is proportionality and balance in the whole of law amendment approach that we are taking.

Madam President, we are seeking as well to ensure that we treat with some of the things which ought to be prohibited. In today's world of criminality, the importation of bulletproof vests, scopes, firearm accessories, these things ought to be regulated. This Bill now causes a prohibition without licence of the commissioner in those circumstances except if you are a licensed firearm holder and there are certain declaratory positions that have to happen.

Madam President, we are giving further teeth to the post audit mechanism in clause 5(d)(i). Specifically, as I have referred to earlier, we are moving from three

years to six years for record keeping, and we are ensuring that you are required to produce the information in a much shorter time, no longer three months to produce the information. Thirty days or such time as may be extended, tightening the post audit arrangements.

Madam President, we are also allowing for the establishment of a criminal offence for failure to provide information. This is essential to getting section 228, which we are amending, working. There are offences prescribed in every other jurisdiction except Trinidad and Tobago, and so we have adopted the offence prescriptions in the existing Customs Act to be found in section 212 onward where you have the penalty at \$125,000. I understand that that is a maximum penalty and not the absolute penalty, it is within the discretion of the court or the comptroller in certain circumstances to apply less.

Madam President, we are allowing for the insertion of the provision of orders or mutual cooperation between Customs entities. Very importantly, Trinidad and Tobago and the United States of America did a first in class, first in time precedent-breaking, ground-breaking cooperation. On the 21<sup>st</sup> of September, 2016, the US and the Trinidad and Tobago Government signed the first Customs Mutual Assistance Agreement in Trinidad and Tobago, and this Bill proposes that these forms of mutual agreement can come into effect by way of declaration of an Order subject to negative resolution of Parliament so that we can have the benefit of international cooperation meeting the requirements, not only of the CFATF and the FATF—

**Madam President:** Attorney General, you have five minutes.

**Hon. F. Al-Rawi:** Thank you, Madam President. Five minutes left—we are allowing for amendments to the Exchange Control Act. Specifically, there was a loophole, bearer negotiable instruments which effectively are as good as cash, an

instrument of value worth US \$10,000 or US \$5,000 or £50,000 as a bearer negotiable instrument, is a larger form of a dollar bill; the bearer has the value.

And our laws did not provide for the regulation either in import or export for bearer negotiable instruments. This was a specific observation by the FATF joint group exercise and the CFATF exercise, and what we have done is we have harmonized how Trinidad and Tobago treats with cash and bearer negotiable instruments by applying the US \$5,000 imposition limit.

There has been discussion as to whether we as a country should raise it to the US \$10,000 limit as other countries have, no doubt that is something that can be attended to in terms of further considerations in any finance Act, for instance, year on year, that is something which the Government is looking at actively, but for now the requirement is to harmonize it with cash and with other forms and instruments.

Madam President, this Bill gives us a whole lot. This Bill allows Trinidad and Tobago to begin to position itself to where we want to go. If we are serious about treating with the scourge of crime in this country, one of the best ways to treat with it is to follow the money. One of the best ways to treat with it is to simplify money laundering. One of the best ways to treat with it is to simplify the post-audit function in Customs. One of the best ways to treat with it is to improve the Financial Intelligence Unit which has shown such a marked increase in performance in this tenure of this Government. One of the best ways to treat with it to fill the lacuna in the Exchange Control legislation. One of the best ways to treat with it is to understand that this comes in a whole-of-government legislative approach where we are simplifying the manner in which the courts operate, where we have analysed the backlog on provisions, where we are improving the criminal administration system, the justice system, where we are delivering more capacity

as we march to the end of February, and the beginning of March we will be opening a Family and Children Division of the court. For the first time, this country will see the opening of courts in Trinidad and Tobago. [*Desk thumping*]

Nineteen pieces of law amended, all regulations done, 13,000 people interviewed, two court buildings procured out, because it is related to the criminal justice system. If you start to hive off and make systems work better, if you take 100,000 cases from the motor vehicle and road traffic arena and hive those out, if you impose new rules of court and you start to make that work, we are headed in a whole-of-government perspective towards a solution, Madam President.

And I urge hon. Senators to take avail of the opportunity to lift us out of the circumstances that we are in, to have the international agencies observe us as a Parliament taking steps in the right direction. The Government is interested and open-minded with respect to the submissions that this honourable House will present. We are interested in seeing the law move in the right direction, not because others tell us we need to do it, Madam President, because we know we should do it, it is common sense that it happens. And in those circumstances, I beg to move. [*Desk thumping*]

*Question proposed.*

**Sen. Wade Mark:** Thank you very much. [*Desk thumping*]. Madam President, let me begin by saying that we too, like the Attorney General, agree that we should eliminate the scourge of crime in our country, and we too agree that we should follow the money. We are also in favour of improving the FIU and its operations to make it more effective, but I want to tell you that we must all remember that we function under the rule of law, and you yourself as an attorney-at-law would understand the importance of the rule of law. There are certain fundamental principles, universal principles that govern that concept, apart from accountability

and just laws. You have to ensure that there is open government and you also have to ensure that there are mechanisms in place where you have resolution to dispute via impartial tribunals or bodies.

Madam President, when we examine the provisions of the current piece of legislation that is before us, several provisions we find to be extremely draconian, we find several of them to be oppressive and we find several of them infringe on the citizens' fundamental human rights and fundamental freedoms. And what is more alarming, there is no certificate attached to this piece of legislation that would require a special constitutional majority because of those violations that I will share with you in a short while.

Madam President, I want to indicate that Trinidad and Tobago is not standing very well on the concept of the rule of law internationally, we are trending downwards in the rule of law.

Madam President, I want to invite you to a publication called the World Justice Project Rule of Law Index 2017 to 2018. And I want tell you, in this particular publication on page 6, it says—their definition of the rule of law goes like this:

“Effective rule of law reduces corruption,…”

—which we support. It:

“...combats poverty and disease, and protects people from injustices large and small. It is the foundation for communities...of peace, opportunity and equity underpinning development, accountable government, and respect for fundamental rights.

...the rule of law...”—is not just the rule—“...of lawyers and judges. But...”—all members of society as stakeholders.

I just want to put that on the record and I will point out to you as I move on where

we are trending downward in terms of the rule of law internationally as defined by this publication.

Madam President, the Attorney General in his presentation made reference to the Mutual Assistance in Criminal Matters Act. I am sure that my colleague mentioned this matter of, in fact, it is a first amendment to the Act which is the Mutual Assistance in Criminal Matters. And very, very simply, he tells this honourable House that international advice says that we must remove subsection (k) which deals with—right now the law says we shall refuse, so the Government is now saying, we delete (k) and make, what he calls—remove this is a criminal offence, a request that is, under the tax laws of a Commonwealth country. So, we are removing this and the basis for its removal is to follow the money and to deal with tax evasion.

But I want to remind him about legislation that we have passed. No employee of the Board of Inland Revenue who has sworn to an oath of secrecy can give out any information of any taxpayer in this country. And I want to remind you, Madam President, some of my colleagues will elaborate on this a little further. But I want to remind this House that when we dealt with FATCA, the Government had to bring an amendment to the Board of Inland Revenue in order to make exceptions. This Government is seeking to amend this Act by leaving out the Board of Inland Revenue.

So, I want to advise the hon. Attorney General that there are gaps in this legislation that require critical attention and evaluation, and I want to say from the very outset, we on this side will be proposing that this matter be sent to a joint select committee [*Desk thumping*] so that we can have a greater degree of searchlight and floodlight on its provisions.

Madam President, I want to also let you know from the very onset, that

whilst we support the hon. Attorney General, we cannot, in any way, ignore the Constitution of our Republic, and when we make legislation and we seek to pass new laws, the supremacy of the Constitution must be recognized and particularly sections 4 and 5 of the Constitution.

Madam President, if I invite you to join me and we journey to clause 2 of this legislation, it deals with, what is called section 3, proceeds of crime. Now, the Attorney General avoided that section somewhat, although he gave a little insight, but what the hon. Attorney General did not share with us is that under the current Proceeds of Crimes Act, there is only what is called an indictable offence, but the Government has now decided to go with both summary and indictable. And whereas in the past the indictable was \$25 million and/or 15 years imprisonment, the Government has now moved that to the summary portion of the Act, and the Government has now introduced on conviction, on indictment, a new provision that says \$50 million and imprisonment of 30 years.

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

Now, the hon. Attorney General did not share with this honourable House what is the basis for this draconian shift in the legislation because we have to understand there is something called human dignity in this country. And I also want to recognize very early, Madam President, that in Constitution of the Republic—Mr. Vice-President, I beg your pardon. In the Constitution of our Republic, there is section 5 of our Constitution and subsection (2)(b) states that:

“Without prejudice...”

That is (2):

“...to subsection (1), but subject to this Chapter and to section 54, Parliament may not—

(b) impose or authorise the imposition of cruel and unusual treatment or

punishment;”

This is a provision in law and therefore, the Attorney General and the Government just cannot increase the fine from \$15 million to \$50 million and from 15 years to 30 years. You have to come here and justify that because we are arguing and submitting to you, Mr. Vice-President, this is in violation of section 5 of our Constitution.

And I would like to share with you, if this section as we are arguing is breached, then section 13(1) kicks in. It kicks in because you need a special three-fifths majority if you are going to “impose cruel treatment and unusual punishment”.

I also want to remind you that we are signatory to what is called the International Covenant on Civil and Political Rights which states that:

“No one...”

—in Article 7:

“...shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

That is a human right, and we are a signatory to this human right under the civil and political covenant.

Mr. Vice-President, I also want to let you know and maybe the Attorney General can refer to this particular judgment by Justice William Brennan in 1972 in the case of *Furman v Georgia* in the US court. And what he was able to establish is that there are four essential areas that we must look at when we are defining cruel and usual punishment.

The first one he indicated in that judgment is:

“The ‘essential predicate’ is that a punishment must not by its severity be degrading to human dignity, especially torture.”

That is the first principle that we must be guided by. The second principle is:

“A severe punishment that is...”—obviously inflicted in a fully arbitrary fashion.

This is an arbitrary imposition on the country and this Parliament. The hon. Attorney General offered no justification and/or rationale for this particular imposition. That is why I started off by outlining that Trinidad and Tobago is run and governed by the rule of law. And in spite of whatever might happen in this country, I want to warn this Government, we in the Opposition are the watchdogs of the people’s constitutional rights [*Desk thumping*] freedoms, and no terrorist plot or riot in Port of Spain will get us to underwrite and to undermine and to subvert the fundamental rights and freedoms of the people of this country. [*Desk thumping*]

Mr. Vice-President, we have seen this happen in many jurisdictions, they use fear and security tactics in order to abridge and subvert the rights and freedoms of the citizens. That will not happen so long as the United National Congress is alive in this country. [*Desk thumping*] I want to warn the Government about that.

Let me go to the third principle.

“A severe punishment that is clearly and totally rejected throughout the society.”

And the final principle:

“A severe punishment that is patently unnecessary.”

Mr. Vice-President, the United States Supreme Court through this judgment set the standard that a punishment will be cruel and unusual if it is too severe for the crime, if it is arbitrary, if it offends society’s sense of justice or if it is more effective than a less severe penalty.

So, we are arguing very early in this submission that the Government of Trinidad and Tobago has brought forward legislation, Mr. Vice-President, that when we examined it, infringes citizens' fundamental rights. And if you are going to institute measures, you must be able to come and justify and you must offer the proper rationale for why you are doing so, not because FATF tells you that or CFATF tells you that. Our Constitution is supreme in the Republic of T&T, and we must protect sections 4 and 5 jealously at all times. [*Desk thumping*] That is the first area.

The second area I drew to your attention, Mr. Vice-President, if you want to remove 22(k), please amend the Inland Revenue Act and come with a special majority. You cannot go and ask a Board of Inland Revenue worker to simply give up information on your taxes or my taxes, that is a breach of my rights, and you must get the constitutional majority for that breach [*Desk thumping*] if you are going there. And does that not tell you why the Government wants to bring something called a Revenue Authority where the politicians will be able to appoint their friends and families so they could do whatever they want at the Board of Inland Revenue? That and God's face you will never see in Trinidad and Tobago.

So, Mr. Vice-President, this is what is at stake here, the rights and freedoms of people, but we always recognize that there is security and there are rights. We must balance both. We must not go at the extreme of tossing over the rights of the people at the expense of security, never must that happen in our country.

Mr. Vice-President, I want to give you the third example of rights being infringed. I go to clause 5 of this legislation, it is customs amendment. Could you imagine? We are not living in Iraq, Syria or any banana republic. This country is ruled by law. I want you to come with me, journey with me to clause 5(ii), (2B) of this legislation and read what this Government has proposed in this legislation. I

want to read for you, Mr. Vice-President, what is being proposed.

“Where an importer receives notice of an adjustment in accordance with subsection (2A) which results in further duties or taxes being payable and the importer or consignee fails to commence proceedings before the Appeal Board within six months from the date that he received notice of the adjustment, the Comptroller may refuse entry or delivery of subsequent shipments of the importer or consignee who has not paid the adjustment in addition to commencing proceedings under section 246 for recovery of same.”

That is not only draconian, that is oppressive, that is against the people’s fundamental rights to property. [*Crosstalk*] Sorry about that. Thank you.

So, Mr. Vice-President, if somebody brings in goods and services or goods here and they are undervalued and you go and do something and you understand, look they say, “You have to pay more”. [*Crosstalk*] No. Look, in other words, what they are saying if you fail to commence duties and taxes, they are paying further duties and taxes. That is what it is saying, Mr. Vice-President.

So if you are being asked to pay further duties and taxes, why are you asking me that if I do not commence proceedings in the Tax Appeal Board, the Comptroller of Customs is going to have the power to deny me the right to import goods and services into this country as a businessman? This is an attack on the business community of this country, this is what this is. [*Desk thumping*] And we have done our research. There has been no consultation with the business community on this provision. That is why we are asking for this matter to be referred to a joint select committee so that businessmen can come before us and deal with this matter.

So, Mr. Vice-President, we are saying we cannot support such draconian

measures. You want to take me to court, take me to court. You want to take a businessman to court because he under-invoiced his duties and taxes and you have now discovered that and he is refusing, take him to court, but you cannot refuse the businessman the opportunity of continuing his business. How can you deny the businessman further consignments of the importation of goods. You cannot do that, and we cannot agree to that particular provision. You cannot do that.

**3.00 p.m.**

And I want the hon. Minister of Trade and Industry to speak on this matter, because this is about trade facilitation and whether we are withholding the second consignment whose documents and papers are not in order. We argue, Mr. Vice-President, it is a violation of property rights and therefore it is unconstitutional. And I want to ask the hon. Minister of Trade and Industry when she speaks, the hon. Minister that is, whether this is a practice in other Caricom countries, or is it another case of Trinidad and Tobago doing its own thing against Caricom, and we are part of Caricom? Let us know if this exists in other Caricom countries, Mr. Vice-President. Do you know, Mr. Vice-President, that in Caricom we look for harmony and therefore, we would like to know whether this amendment is consistent with what obtains in other Caricom countries? We have done some preliminary investigations and it is not. This is a standalone arrangement that we have been able to discover and if we are wrong we are prepared to be corrected. That is what we would want. It appears this is a hodgepodge cut and paste arrangement that we have in the legislation before us, and we cannot support those measures, Mr. Vice-President.

Mr. Vice-President, we would also like to ask the hon. Attorney General—I have what is called—on the one hand, Mr. Vice-President, we are being told in this clause 5 subclause (1)(a), they are removing the provision that says that you can

hold documents from one year to six years. That is what this amendment is about, six years now. They moved from one year to six years. But to tell you how this is a hodgepodge cut and paste arrangement, the Government of Trinidad and Tobago forgot that there is a law in Trinidad and Tobago—I think it is 78:03, if I am not mistaken, Mr. Vice-President—it is the Customs Brokers and Customs Clerks Act. I go to regulation 10. Regulation 10 says that:

“All records and papers described in subregulation (1) shall be retained and preserved by every customs broker or the employer of a customs clerk for a period of three years.”

So here it is we are amending the Customs Act from one year to six years, but the Customs Brokers and Customs Clerks Act says three years. Cut and paste hodgepodge, and there is no thinking in this piece of legislation. That is why we are asking it be referred to a joint select committee. [*Desk thumping*] The customs brokers are not even aware of these changes that are being proposed here, Mr. Vice-President, and therefore the Government has to be very, very careful of what they are doing. We are on all fours with the hon. Attorney General. We have made it very clear in the UNC, those who do the crime must do the time, and we like you are going to follow the money [*Desk thumping*] because we know a lot of money is going in all directions under your administration, so we too want to follow the money. So, we are on all fours with the hon. Minister, Mr. Vice-President.

Mr. Vice-President, the hon. Attorney General referred in his presentation to the FIU. The FIU is a very important organisation. But, Mr. Vice-President, when I look at the reports of the FIU, they have been crying out for resources, crying out for expertise, crying out for staff, crying out for training. Mr. Vice-President, under the watch of this PNM Government, suspicious transaction and other

activities moved from \$5 billion in 2016 to \$22 billion in 2017. What is happening, Mr. Vice-President? In other words, more criminal activity is taking place under the PNM in Trinidad and Tobago according to the FIU than ever before. That is what—this is what this is about, [*Desk thumping*] more organized drugs.

Mr. Vice-President, the organized drug trade; the underground economy, the black economy is alive and well under the PNM. We remember a contractor who imported some US \$5 million, in what? He bring in Bristol board. Bristol board he brought in here. That fella I understand was a financier of the PNM. [*Desk thumping*] I would not call his name. I know his name. So why does the AG not follow the money in that ply board? These are things that are happening under our very eyes. So therefore, if the Government is serious about following the money, there are many things taking place in this country. Follow the money! There is a highway being built from Cumuto to Manzanilla, \$400 million in the forest, and we are getting information that there is a 10 per cent kickback for the next election; \$50 million or \$40 million. That is what town is saying. Because people are now saying this is a highway to nowhere.

**Hon. Senator:** What is the kickback from Point Fortin?

**Sen. W. Mark:** No, you must investigate that, man. I say those who do the crime must do the time. That is my position! That is the position of the UNC. [*Desk thumping*] I am saying follow the money in terms of the Cumuto/Manzanilla highway. Follow the money. And I have some more information on that as well. But I am leaving these things for the appropriate time, because time longer than twine, and we would deal with the PNM on the political platform at the appropriate time. [*Desk thumping*] We cannot give you everything here. We have to reserve some for the masses who will make a decision on the future of this Government

called the PNM.

So, Mr. Vice-President, if you look at the—I told you about this document, Trinidad and Tobago is doing very poorly internationally. Very, very poorly. It is trending down in the rule of law. We are, according to this report, out of 113 countries we are number 48, and we are last in the Caribbean. I think Suriname beat us and Guyana. But after Suriname and Guyana, everybody else is ahead of us in terms of the rule of law. Mr. Vice-President, may I advise you, some of the elements that are used by this international organization in determining how this thing is measured, because we need to understand how this is being measured. Mr. Vice-President, how is this thing being measured? It is being measured in the following ways:

1. Constraints on governmental powers;
2. Absence of corruption;
3. Open Government;
4. Fundamental rights;
5. Order and security;
6. Regulatory enforcement;
7. Civil justice;
8. Criminal justice.

These are the elements that make up this index, and Trinidad and Tobago in 2017/2018 recorded a minus 0.01 trending downward in terms of the rule of law. That is what this report is showing. And you cannot come here and bring legislation to simply whimsically and arbitrarily interfere with the rights of the citizens and do not give us justification and a rationale as to why you want to do so. You cannot do that. You would not get the support of the United National Congress in arbitrarily removing the rights of the people in this country. [*Desk*

*thumping*] You would not get it. [*Desk thumping*]

So, Mr. Vice-President, there is another area I would like to bring to your attention. It deals with what the hon. Attorney General dealt with in his final closing remarks. It is—I would tell you the actual section, Mr. Vice-President—clause 5, subclause (e), section 259A. The Attorney General referred to mutual agreement and treaties involving the United States and Trinidad and Tobago. I want to remind the Attorney General, treaties are approved by the Congress of the United States, after a president gives his initial signature. In Trinidad and Tobago, what we are being asked to do here, is to give the Minister of Finance the power to engage in any kind of treaty arrangement outside of our jurisdiction, and when he does that, and he puts his signature, it would then be subject to a negative resolution.

So, our rights, our sovereign rights can be signed away by the Minister of Finance or any Government Minister, in this instance the Minister of Finance, and Mr. Vice-President, the only time you and this Parliament and the people would be aware of it, is when they issue a legal notice, and we have under the Standing Orders 40 days within which to bring a negative resolution to negative or to annul that treaty or that agreement. Mr. Vice-President, that is wrong. We do not want any negative resolution. We serve notice, Mr. Vice-President, that in the JSC it will be changed from “subject to negative” to “subject to affirmative”. We want an affirmative resolution. Before the Minister can sign, he must come to this honourable Parliament and debate and justify what he is doing on behalf of the citizenry of the Republic of T&T. He cannot go out there whimsically and sell out Trinidad and Tobago and our sovereign rights and then we have to come and fight through a negative resolution.

But you see the PNM is a very conservative party. They were never

interested in modernization. We had Standing Orders for 53 years with the terms like Governor General, Her Majesty The Queen. It took a UNC administration to revolutionize our Standing Orders in this country [*Desk thumping*] because the Government was never interested in making that kind of modernization. I brought a resolution here, Mr. Vice-President, a Motion, for parliamentary autonomy, to give the Parliament more power and more strength. And what was the response of the PNM? Negative. They are not interested in giving people power. This is a secret order in the form of a party that runs our country, but I want to tell you, Mr. Vice-President, secrecy leads to tyranny. Secrecy leads to tyranny and any Government that is committed to secrecy is committed to hiding things that they do not want the public to know and that could lead to tyranny and chaos in a country. One of these days we will talk about the terror plot and how they handled it, but this is not for today.

So we are asking, Mr. Vice-President, that under 259A, we would like to see this matter of the Minister negotiating with a foreign state and possibly signing off our sovereign rights, we would like that to be brought to the Parliament, Mr. Vice-President.

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

**Sen. W. Mark:** Thank you very much, Mr. Vice-President. We would like that to come to the Parliament and be subject to an affirmative resolution.

Mr. Vice-President, when we return to power very shortly, or to office, we will bring about parliamentary autonomy and independence for this Parliament because it was a job in progress. It was interrupted by the PNM. We will have to continue that. And one of the things that also would be required is revolutionary changes to our Constitution. The Parliament must be entrusted with the power to ratify treaties and any agreement. You can initial those agreements. You can

initial treaties, but you must not sign them as the end of the journey. The end of the journey, Mr. Vice-President, must come with the Parliament. The Parliament must give its total approval to all treaties and to all decisions that are designed to commit Trinidad and Tobago, one way or another, to any matter outside of our borders or jurisdiction.

So, Mr. Vice-President, these are concerns that we have with the legislation that is before us. My time is up and I just want to reiterate in a very tight way our major concerns, one:

- this Bill contains a number of draconian, oppressive measures;
- this Bill infringes sections 4 and 5 of the Constitution;
- this Bill takes away people's property rights that we cannot sustain and support; and
- this Bill gives to the Minister of Finance power to sign away our sovereign rights as a nation.

We are saying that that must come before the Parliament at the first shot or blush via an affirmative resolution, Mr. Vice-President. That is what we are proposing and we are suggesting.

[MADAM PRESIDENT *in the Chair*]

So, Mr. Vice-President, I know that you have to move and the hon. Madam President, has returned and I would want to—Madam President, now that you are back, I am about to take my leave, and I want to thank the hon. Vice-President and yourself, for giving me the opportunity to bring to the attention of the Government some of our concerns as an Opposition, as the alternative government, as the watchdog of the people's rights and freedoms. [*Desk thumping*] We brought these concerns, and as the Attorney General has admitted, he is open and he is willing to

listen. Only time will tell if that is true or that is false.

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

**Sen. Dr. Dhanayshar Mahabir:** Thank you very much, Madam President. Madam President, this is a very large Bill because it deals with a number of different pieces of legislation, and fortunately colleagues on my bench will address matters which will not be my focus today. I will not focus on clause 2, the Mutual Assistance on Criminal Matters Act. I suspect colleagues will focus attention on that.

I want, Madam President, to pay some attention to clause 3 of the Bill, the Proceeds of Crime Act, as amended. The Proceeds of Crime Act, as amended, now makes money laundering a summary offence, and it carries with it very heavy penalties. The penalties are \$25 million and imprisonment for 15 years on a summary offence and on conviction on indictment to a fine of \$50 million and imprisonment for 30 years. So these are really very heavy fines and penalties. The reason, in my mind, for these very heavy penalties is that there is a need for some deterrents. When one sees a fine of \$50 million, one immediately knows that there are serious consequences to engaging in the act of money laundering.

But I ask myself, Madam President, a few questions. Who or which agency of the State will actually investigate and prepare the case of money laundering against an individual or maybe even a corporation? Is it the Fraud Squad? Is it the Anti-Corruption Investigations Bureau (ACIB)? And, while the penalties are indeed draconian, how sure as a society are we that cases will actually be prepared and brought to trial by agencies competent to so do? It would certainly help if we were given some data and information on how many cases similar to these have been prepared at least for prosecution and were successfully prosecuted. How much, of course, time would it take to prepare a case of money laundering? And,

with your leave, Madam President, I know the Attorney General has, in fact, referred to section 45 of the Proceeds of Crime Act, and I want to repeat again, 45(1) says:

“A person who knows or has reasonable grounds to suspect that property is criminal property and who—

(b) receives, possesses, conceals, disposes of, disguises, transfers, brings into, or sends out of Trinidad and Tobago, that criminal property;...

commits an offence of money laundering.”

So, the legislation itself is really very wide.

But, Madam President, since we are now making this particular offence a summary offence in addition to an indictable offence, carrying a very large penalty in the summary courts of \$25 million and imprisonment for 15 years, I had cause to refer to the Summary Offences Act, and again with your leave, Madam President, when I examine the Summary Offences Act, section 42, section 42 says:

“All cases punishable under this Act of—”

And I refer to 42(d):

“receiving any chattel or money or valuable security knowing it to have been stolen or otherwise unlawfully come by or obtained;...

may be prosecuted at any time within twelve months after the commission of the offence.”

So what I saw in this Summary Offences Act, section 42, 42(d) in particular, is a time limitation for an offence which is identical to 45(1)(b), receives criminal property, and here he is receiving property that is unlawfully come by, and I was simply wondering whether the provisions of 42(d)—and I am sure the Attorney General will address this issue—which imposes a time limitation of within 12

months from the commission of the offence, will be waived in this particular piece of legislation on the Proceeds of Crime Act.

Because, Madam President, when one looks at the history of prosecuting white collar crime in Trinidad and Tobago, money crimes, we know it takes time to prepare the case, and if a loophole exists where an individual has the option of either summary or indictable and his lawyer says, “Well, it is going to be tried in the Summary Courts”, the authorities must present that case within 12 months of the date the offence is alleged to have been committed. And if they cannot do that, then it is possible that we have a very heavy penalty of \$15 million if it is on summary conviction a fine of \$25 million and imprisonment for 15 years. But the probability of someone ever being convicted in the Summary Courts of money laundering seems, given the current state of our investigative arms in this type of crime, the probability seems to be zero and it appears to me that we would have a law—we are in this Parliament, going to pass a piece of legislation, the enforcement of which is going to be extremely difficult or almost impossible, similar to the death penalty. The death penalty is on the books, but simply for the State to execute has been a great challenge.

And so I want to recommend—I have not tabled any amendments, I leave it entirely up to the judgment of the hon. Attorney General—if in fact a loophole exists with respect to what is contained in the Summary Offences Act and what we are proposing in the Proceeds of Crime Act, I want to propose to the Attorney General for his consideration that in section 53(1), where we are saying:

- “(a) on summary conviction, to a fine of twenty-five million dollars...; and
- (b) on conviction on indictment, to a fine of fifty million dollars and to imprisonment of thirty years.”

I am recommending a subsection (c):

“where 42(d) of the Summary Offences Act does not apply in this instance”.

Because, Madam President, my concern is a loophole exists, and a good lawyer or any attorney—I am not a lawyer at all and I am seeing a loophole. So, I am saying, if I am convicted of money laundering under the Proceeds of Crime Act, I immediately would tell my attorney, “I want to be tried under the summary offences”, and I play for time, a year would elapse, and given the passage of a year, I would say well, the time period has elapsed and therefore I go free. And, I am sure the Attorney General will address that particular concern.

You see, Madam President, the FCB/IPO is still hanging. That is white collar crime. We have had so much white collar crime in Trinidad and Tobago, and we know it takes time to prepare the case. So, I really would be comforted in defending the public interest if the Attorney General can advise what are the steps taken by the State to ensure that the investigations on money laundering can be conducted in a timely manner? Which arm of the State, because right now I am not sure whether it is the Fraud Squad, or the ACIB, or the director—who actually is doing the investigation on money laundering? I know with respect to securities fraud it is the SEC, they have not really brought a case to prosecution ever in the 20 years of their history. So, I am not sure that we would be able to prosecute anyone. But, as a deterrent the draconian penalties identified by Sen. Mark certainly should act as a signal that the State is very serious about these offences. So, I really would like to hear what the AG would say with respect to the time limitations, and the meshing of the Summary Offences Act with the Proceeds of Crime Act.

Madam President, let me focus on clause 5 which is the Customs Act. And in the Customs Act, I too looked at the Customs Act (2B), according to the Bill we

have under clause 5, (2B). It says that, and Sen. Mark did read it out, but I would read because I want to propose an amendment for the consideration of the Attorney General. It says:

“Where an importer receives notice of an adjustment in accordance with subsection (2A) which results in further duties or taxes being payable and the importer or consignee fails to commence proceedings before the Appeal Board within six months from the date he received notice of the adjustment, the Comptroller may refuse entry or delivery...”

I want to propose that:

“...and the importer or consignee fails to commence proceedings before the Appeal Board within six months from the date he received notice of the adjustment without just cause...”

Right now, the Comptroller of Customs may, not that he shall, he may refuse cargo, perhaps which are on route already from being landed and sent to the importer. And I think it is important to provide the importer, the consignee, some kind of recourse as to why he did not pay the duties on the one hand—because we are talking of a six-year period. Someone imported into Trinidad and Tobago a container on which the customs has now indicated there was under invoicing therefore duties which were due to be paid to the State were not dutifully duly paid to the State. That was in January of 2012.

It was found out today, six years later, that this situation has arisen, but between 2012 and now, a number of things could have happened to the consignee or importer. Reasonably, he could have retired and someone else has taken over the business and in the transition they have not had the time to look at this particular matter. The importer may have fallen ill; the importer may have died and the business may have been sold.

**4.00 p.m.**

So I think that if we were to impose the penalty but provide the importer or now an individual who may have inherited the business or who now owns the business an opportunity to show just cause why he did not initiate proceedings before the appeal board within six months, then his attorney, his legal representative can indicate that we are not disregarding your notice, but there are extenuating circumstances which warrant the delay and we therefore would want you to allow our containers to be imported, or our duties to be paid and we will be addressing the matter.

You see as it reads, Madam President, the Comptroller of Customs may refuse entry and I would like to know the conditions, what is going to guide him or her on refusing the entry of new cargo. Is it that he asked for a bribe and it was not paid and he says, “Oh, the law tells me I may, and therefore I will”, or is it that it is left up to judgment? I would like some fetters to be placed, and I would like the importer, as errant as he or she may be, to be given an opportunity to show just cause as to why he did not initiate the proceedings or the appeal, why he did not pay the duties in the first instance. He perhaps did not pay the duty, perhaps he may be emerging out of bankruptcy. Madam President, there has to be an addition there of just cause and I would like the Attorney General to give that some consideration.

Madam President, I want to focus on the Exchange Control Act, as amended. Bearer negotiable instruments: A similar situation arose when we were debating a while back—I think you were in the Chair—the interest payments on judgment debts. At the time the Bill was dutifully passed. The Government proposed to reduce the interest rate from 12 per cent to 5 per cent, and the question that arose was simply, okay, what is the rationale and what is the anchor? From what I recall

in that debate, my own—and it has bearings to what I am going to come to, I wish to assure you. What I did propose was that when we in law make these kinds of adjustments, we should anchor them for transparency and for the removal of arbitrariness. My own proposal then was that we link the interest rate that is to be paid on a judgment debt to the repo rate administered by the Central Bank. The Central Bank is an arm of the State, quasi-independent arm of the State and it is an objective rate.

I recall my colleague Sen. Shrikissoon indicating that I think he would have preferred to see the rate anchored to the prime rate and we did debate as to whether it should be prime or repo, but there was no debate on an anchor. We said it should be anchored on something that is transparent.

So, Madam President, I want to link that to what is being proposed in clause 6, the Exchange Control Act. In clause 6, there is the provision that if someone imports or has any one of these negotiable instruments: a bank draft, a negotiable bond of US \$5,000 or TT \$20,000 in currency. I cannot see the relationship between US \$5,000 and TT \$20,000. It violates something in my field—and you must forgive me, I do not always get the opportunity to practise some economics in the Senate. So I will take this opportunity because it has direct bearing.

There is a concept in economics known as, purchasing power parity (PPP). What does PPP say? It is the basis for exchange rate determination. And my colleagues who were students of mine, Sen. Obika, was a former student who would have gone through this and other economists here would understand—Sen. Henry teaches the subject – that there is a relationship between exchange rates based upon this thing known as PPP. And we ask ourselves, if US \$5,000 is spent on a bundle of goods in the United States, how much would it cost to purchase that bundle in Trinidad and Tobago? Is it going to be \$20,000 or is it going to be

\$30,000?

**Sen. Khan:** That is Big Mac.

**Sen. Dr. D. Mahabir:** Well, that is the Big Mac. Sen. Khan understands the Big Mac exchange extremely well. It is PPP. The reason our exchange rate, Madam President, is what it is, is that it says that if something costs US \$5,000 in the United States, it should cost at a rate of exchange of 7:1, \$35,000 in Trinidad. Because if it does not, there will be flows of goods and services to bring the rate back eventually into that PPP dynamic.

At US \$5,000 and TT \$20,000, the hon. Attorney General is implicitly imposing an exchange rate of TT \$4 for one US. And I would recommend if we are to respect at least nominal exchange rate in Trinidad and Tobago, it should at least be US \$5,000 and TT \$30,000. It makes more sense and it respects the current existing nominal exchange rate arrangements that we have. That is, so five and 30 in my mind makes more sense than five and 20, US \$5,000, TT \$20,000. It should be US \$5,000 and I think TT \$30,000, so that there will be some parity with respect to the value of both instruments.

But, Madam President, my issue is not just with that. It is with what is standard practice and harmonization. In Trinidad and Tobago, whenever an individual has an instrument in excess of TT \$60,000, if it is \$59,999 and he wishes to make a deposit in a bank, he does not have to sign a declaration on the source of funds. The regulation issued by the Central Bank says 60,000 and over. And if you have a bank draft of 60,000 and over, you are going to have to declare the source of funds. Anything less than that is free of that regulation.

And in addition, when one undertakes foreign travel, you travel to Canada or the United States, in the customs declaration they ask whether you have any instruments in excess of CAN \$10,000 or US \$10,000. And if it is in excess you

do have to declare it and sign a form and make the necessary declarations. If it is less you do not have to do it.

So I think that if we are to harmonize with respect to international norm and banking practices locally, the figures here, under the Exchange Control Act, should really be US \$10,000 and TT \$60,000. I raise this purely for the consideration of the hon. Attorney General and if he is keeping with his US \$5,000 as the limit for these bearer negotiable instruments which would have to be declared, I recommend it be US \$5,000 and TT \$30,000, five and 20 simply do not follow the Big Mac index that Sen. Khan has alluded to.

Madam President, I was very short and I just raised these matters for the attention of the Attorney General. Thank you very much. [*Desk thumping*]

**The Minister in the Ministry of Finance (Sen. The Hon. Allyson West):**

Madam President, I thank you for giving me the opportunity to join in this debate. My contribution will also be very focused on substantive issues and I will give my colleagues the opportunity to deal with the others. Trinidad and Tobago recognized early as 1997 that it required to engage in a global approach to tackling certain criminal activities plaguing the country. Undoubtedly, the decision to do so would have been influenced by global pressures because we do have obligations to the rest of the globe, but I have no doubt that it would also have been influenced by the fact that we recognized that the battle against certain crimes cannot be tackled by any individual country. It has to be done on a more global scale. And if that was applicable in 1997, it is even more applicable now.

To this end, Trinidad and Tobago introduced the Mutual Assistance in Criminal Matters Act in 1997. This Act allows for the provision of assistance to Commonwealth and via a process to non-Commonwealth countries. More importantly from my perspective, it allows Trinidad and Tobago to receive such

assistance from other countries on the basis of reciprocity. And my focus is not so much on our obligation to our international partners but what we can receive in return under the legislation, because we do need the assistance of the world in combating these crimes.

Historically, many of the requests received from Trinidad and Tobago, especially from the United States of America, were mainly drug-related. Over the years we have received numerous requests from various jurisdictions, including the United Kingdom in Great Britain, the United States of America, Canada, Germany, the Netherlands, Israel, Singapore, Norway, Spain and Caricom. Major crime such as drug trafficking, human trafficking, terrorism, money-laundering and tax evasion, have spawned international criminals who are not limited by physical boundaries and do not contain their activity to a specific jurisdiction. The world is their crime scene and as such the authorities in a single jurisdiction are out of their depth in seeking to address the activities of such persons.

They are constrained by issues, these are authorities in any individual country, are constrained by issues of sovereignty and jurisdiction and this creates a losing proposition, because on the one hand you have an international criminal who is not constrained by borders and on the other side you have a government or a nation that is so constrained by borders and sovereignty. So we have to overcome that and level the playing field if the authorities in any country is to have any hope of combating this scourge. The international criminal knows no boundaries and no country has a realistic chance to combat international crime. So we have to look beyond boundaries and adjust the normal approach to sovereignty.

Since 2002, a meeting in Fort-de-France, Martinique, it was recognized that an urgent need existed to strengthen international legal cooperation within the Caribbean. So we are bringing it closer to home. The seminar addressed the

challenges that the Caribbean faced from the growth of drug trafficking, the increase in international organized crime and the threat of terrorism. This seminar recognized the need within the Caribbean for mutual assistance in criminal matters. Our legislation allows us to provide and, as I said, more importantly for me, it enables us to receive such assistance. It allows us, one, to obtain government to government assistance in criminal investigations and prosecutions and, two, to identify and recover proceeds of crime, that is, literally to follow the money.

While the main focus of the legislation and mutual assistance activity to date has been in respect of acts that threaten our physical well-being, that is, drug trafficking, human trafficking and terrorism, financial crimes are more and more becoming a focus of the global stage as they threaten the financial well-being of the many for the benefit of the few and they also finance the activities that threaten our physical well-being.

As such, crimes such as money laundering and tax evasion are receiving more and more attention and this of course is a particular interest to me. If we are minded to believe that even with a vastly improved tax authority and an efficiently functioning financial intelligence unit, that Trinidad and Tobago can tackle issues like tax evasion and money laundering on its own, we have merely to consider the recent findings and rulings in respect of countries that fall under the jurisdiction of such power houses like the IRS. Even entities like the IRS, which is globally viewed as an entity to be feared, has acknowledged that it needs international assistance in identifying these kinds of crimes with respect to its citizens.

Recently, for example, the European Union Commission ruled against Apple in a tax matter determining that it owed \$14.5 billion in back taxes related to its business in Europe and Ireland. At the same time, the United States of America is accusing Apple of shielding \$74 billion in profits over the last four years. A

gentleman by the name of Clark Mindock, a breaking news reporter for the *International Business Times*, an online Newsweek publication stated in an article on October 06, 2015, as follows:

“America’s largest companies are harboring more than \$2.1 trillion in profits overseas to avoid paying taxes stateside...The accumulated profits, if repatriated from places that include Bermuda, Ireland, Luxembourg and the Netherlands, would amount to an estimated \$620 billion in U.S. tax revenue. The study, which was...reported by Reuters, was able to calculate those figures by reviewing Securities and Exchange Commission filings from the companies. Around three-quarters of Fortune 500 companies, take advantage of tax havens abroad.

The names on the list are...recognizable to many. At the top was Apple, which...”—he claimed or which was reported had kept out of its tax filings an amount totalling—“\$181.1 billion. Microsoft holds \$108.3 billion offshore in five tax havens...Pfizer...\$74 billion in 151 tax havens. General Electric has around \$119 billion overseas in...tax havens.”

What is the relevance of this to us? At least one of these companies is operating in Trinidad. And if it is depriving the US, under the ambit of the IRS, of income, should we not assume that we are also potentially being deprived income that we should be receiving through taxes?

“Tax evasion”—Mr. Mindock wrote, is—“ a big problem for the IRS”—it—“keeps billions out of the federal coffers each year...

The issue clearly benefits the wealthiest members of society as they are the only ones capable of taking advantage of the tax evasion opportunities. The practice has been criticized for fueling inequality since it allows the rich to amass”—further—“wealth.

It is hardly a problem just for the United States. Countries such as France and Spain also have publicly dealt with tax fraud and tax evasion recently.” So this is a problem that has been recognized globally by, as I said, power houses of tax authorities like the IRS. If matters like this do not persuade us that little Trinidad and Tobago needs help in combating international crime, including the crime of tax evasion, then I do not know what will. And as criminals get more sophisticated so must our laws. This is why we must return to Parliament at this time seeking amendments to the legislation so that we can keep up with the activity of the criminals and be able to combat those activities as they become more and more sophisticated. So among the amendments that the draft Bill is proposing is an amendment that opens the door to allow Trinidad and Tobago to share and via reciprocity to receive information related to criminal offences under the tax laws. And the first one I will look at is the one that Sen. Mark and to a lesser extent Sen. Dr. Mahabir paid attention to.

At the moment, the legislation allows us to refuse, this is Trinidad and Tobago, it allows us to refuse to provide information in relation to crimes under a tax law unless the offence is committed by way of an intentionally incorrect statement or intentional failure to declare income derived from any offence covered by the convention on mutual assistance. This sets the bar really high because it suggests to me that the country seeking the assistance of its international partners needs to establish the basis for that request on a bar that seems similar to a criminal intent matter, and therefore, it renders receiving information on tax offences to be very difficult. And so in that context, dealing with the matter of tax evasion on an international scale is very difficult. So we are trying to adjust that bar to make it easier for us to receive information on tax invasion matters.

If we are to successfully combat this crime, we have to be able to more

freely share and receive information and other assistance. As stated, persons who commit such crimes operate with no national borders. If tax and other authorities continue to be hamstrung by those borders the criminals will win every time. The amendment therefore seeks to allow for the freer sharing of information in respect of tax matters. When you look at the challenges that we are currently facing in terms of our tax selection, this problem that we need to address and the need to address the problem comes into sharper focus. For example, Prof. Theodore in 2017 prepared a report which indicated that the Inland Revenue is under collecting tax revenue by \$15 billion. In doing that report he focused on corporation and income tax and VAT, in respect of activity recurring within Trinidad and Tobago.

So, when we put that in the context of the fact that Trinidad nationals are required to declare income on their worldwide profits, that \$15 million in my estimation is an understatement because it does not take account of the activity conducted outside of Trinidad and Tobago by Trinidad citizens when they earn income outside to bring it in and declare it and pay tax on it. When you also put that in the context of the fact that the Board of Inland Revenue collected in 2017, \$37 billion and you consider that \$15 billion is at least what they failed to collect, you will see what we are talking about in terms of magnitude and the impact it would have on Trinidad and Tobago if we allow the authorities more power to go after the money that is being kept out of the Treasury, illegally. We have lots of avenues of this happening. We have withholding tax that we should be collecting from foreigners who provide services in Trinidad, a lot of it we do not collect. It was easier to collect when we had the exchange control provisions and you had to apply to the Central Bank for approval and to buy foreign exchange and so every application that went to the Central Bank for approval you had to get the Board of Inland Revenue to confirm that you had paid your withholding tax. With the

removal of the requirement for that application process, the ability for us to identify and ensure collection of withholding tax basically disappeared. It is very much an honour system with the limited checks and balances brought about by the audits that the Board of Inland Revenue would conduct from time to time.

So that is a huge hole that we need to fill and if we are allowed to collect information from our international partners, we may be able to come some way in addressing that. We have international companies that earn income in Trinidad. We again—the tax that they have to pay in respect of that income is largely based on a voluntary compliance basis. So they tell us how much income they earn, they tell us what their expenses are. Yes, we have the ability to conduct audits but we are dealing with the world of the likes of Apple and the likes of GE and the likes of Amazon who have the wherewithal to be able to control what we see, to determine what kinds of invoices we get, to set prices between one another so that they set—they have a related company based on a low tax or no tax jurisdiction imposing a huge cost on services to a Trinidad company. So the Trinidad companies' profits are very low and the profits are syphoned into the low tax jurisdiction. How do we combat that if we try to do it on our own? We need to be able to more easily access information that would allow us to properly assess the real profits earned by these international companies.

We have a report indicating that the oil companies have been significantly understating their income by billions of dollars each year. How do we get that information in a way that allows us to collect the correct amount of taxes due from these companies if we cannot seek the assistance of our international neighbours? And we cannot seek that unless we are prepared to reciprocate and provide them with information, and this is why we are seeking to amend the legislation to lower the bar for the provision of tax information to our international company so that we

can by reciprocity receive that kind of information from them to allow us to properly collect the taxes due, not only from nationals, but from international players who operate in the country. That is essential.

So I would recommend to you a reconsideration by any of you who are minded to object to that clause. I would ask you to revisit your consideration of that and give us the support that we need to get that in place so we can enhance and tighten our tax compliance activity.

Moving on to the next provision that was discussed, duties and taxes on importation by Customs. So duties and taxes on importation and exportation are based on the value of goods. Currently, the tax that we collect, the way the system operates is based on an honour system. The importer declares his value and because of the process, because of the volume faced by Customs and for various other reasons, more often than not, the value proposed by the importer is accepted by Customs and the goods are imported on that basis; honour system. There are some checks and balances in place but they are inadequate.

At the moment the Comptroller has the opportunity to revisit the value accepted by a customs officer and adjust that value, but he must do that within a year of the importation. We are saying that this is not a sufficient period. The intention of the Government as we have clearly indicated is to move towards the introduction of a Revenue Authority. The Revenue Authority—one of the things it will do is allow for and promote and encourage greater synergies between the two main revenue-collection organs of the State. It will encourage things like or promote things like joint audits and other compliance activity. The Board of Inland Revenue in its legislation may raise an assessment against a taxpayer where it discovers that that taxpayer understated its income within a six-year period. So the board currently has six years and it can even go beyond six years if it can

establish that there is fraud or wilful neglect. So let us stick with the six-year limit.

So we have a situation where you can have a customs officer and a Board of Inland Revenue officer going out to a customer identifying that there has been a problem on the declaration of goods on importation and so on, that, yes, impacts the Board of Inland Revenue's activity and so may lead to an adjustment in the tax assessment but also impacts the duty that should have been paid in respect of customs.

**Madam President:** Minister.

**Sen. The Hon. A. West:** Why not—[*Interruption*]

**Madam President:** Minister. Hon.Senators, at this stage we will take the break and we will return at 5.00p.m. Minister, you have used up 22 minutes of your speaking time. So we are suspended until 5.00p.m.

**4.30p.m.:** *Sitting suspended.*

**5.00 p.m.:** *Sitting resumed.*

**Mr. Vice-President:** Hon. Minister in the Ministry of Finance.

**Sen. The Hon. A. West:** Thank you, Mr. Vice-President. I would not be too much longer, I just have a couple of additional points to deal with. So I was on the issue of extending the period given to the Comptroller to adjust assessments. So, Mr. Vice-President, the legislation gives the authority to the officer who is handling the importation to assess the value of the goods and allow them entry based on that assessment. Now, there are any number of things that could influence that process on a particular day, especially when you have an officer who is dealing with high volume, rapid pace, demands by importers to get these things addressed quickly. So that the legislation, quite reasonably, gives the Comptroller the power to review this in a calmer atmosphere and determine whether an adjustment should be made to the assessment that was raised by the officer.

And what we are saying here is that having regard to the circumstances, it is reasonable to extend the period that the Comptroller may exercise that authority, from the one year that currently exists, to six years. It is coterminous with the period given to the board, as I said, to make adjustments, and we must remember that during this period, the importer has had use of this imported item, has probably sold or manufactured or whatever he has done in relation to it, has withheld from the coffers of the Government for this period, taxes that are properly due to the Government. So having regard to that, Mr. Vice-President, we think that the provision that is being proposed is quite reasonable and we highly recommend it.

Sen. Mark raised the concern about the—what he considers to be the unreasonable approach that allows the Comptroller to deprive an importer of the ability to get access to his goods if an additional assessment is raised, no appeal is filed in respect to that assessment, then the Comptroller can say, well any further imports that you are seeking to bring in will not be allowed in. Now, Mr. Vice-President, if you put this in context, you have somebody who has brought goods into Trinidad and Tobago, has under-declared the value of those goods, has deprived the Government of taxes properly due to the Government, has been assessed to additional duties, has had six months during which he can determine “Yes, I will challenge this assessment or no, I will not challenge the assessment” and he fails to do that. In those circumstances, is it not proper for the Comptroller to take the necessary action to collect the taxes that have been outstanding? And in that context, it cannot be said to be unreasonable that the Comptroller, at that point, can say until you settle the taxes that are outstanding, that have been outstanding for some time, that you are probably aware were outstanding because you are the person who understated the value of the goods, that you cannot just continue to

import goods at will until you settle those outstanding taxes. There is nothing to me that is unreasonable about that. [*Desk thumping*]

Sen. Mahabir suggested that we would wish to adjust the language somewhat to say that the Comptroller may withhold the goods if no appeal is filed before the Tax Appeal Board without just cause. Now, my concern about making an amendment like that is that you place a burden on the Comptroller to satisfy himself that the importer did not have a just cause before he can act. I think the burden is properly placed on the importer, if he has a just cause, to bring it to the attention of the Comptroller and therefore I would, with respect, not recommend that we go with the amendment suggested by Sen. Mahabir. Because one, the importer does have six months to bring an appeal if he has a problem with the assessment and in my view, that is more than adequate time. It certainly is more time than a taxpayer objecting to a normal assessment by the Board of Inland Revenue has to bring it to the Tax Appeal Board. Six months, to me, is more than enough time and this is six months from him receiving notification of the adjustment. And, in the event that the Comptroller is found to act arbitrarily, I am sure that the very importer can challenge the decision of the Comptroller before the court. But to put the burden on the Comptroller to satisfy himself that the importer does not have just cause before he can act, it seems to me is hindering the Comptroller unnecessarily in the fulfillment of his duties. So I would recommend that we steer clear of that proposed adjustment.

The further amendment that is being proposed to the Customs Act is to give the Customs and Excise Division greater power to request documentation in respect of importation and exportation. The period in respect of which a request can be made is being extended from three to six years, and the burden to keep books and records for the period of six years is being placed on the range of people

who are generally engaged in the process of importation and exportation. These include: the importer and the exporter, the agent, the customs broker, the warehouse keeper, the port or transit shed officer, and there is a relatively significant offence for failure to collect.

Again, Mr. Vice-President, I would recommend that we move forward with this adjustment. It is reasonable in the circumstances. The person who has knowledge of the true value of the items and the nature of the items imported is the exporter and those persons acting on his behalf and those persons who have temporary control of the goods during the process of importation. So, it is reasonable to give the Comptroller a reasonable chance to collect the correct amount of duty, to put the onus on these people to keep proper books and records for a reasonable time to give the Comptroller the time to do his assessments and due diligence and determine whether he has been collecting the correct amount of funds.

So, Mr. Vice-President, these are essentially the provisions that deal with the tax issues related to this mutual offences Bill and the ones, of course, on which I am particularly focused. I think it is generally appreciated that Trinidad and Tobago is significantly under-collecting the taxes that are properly due to the country. We have a \$10 billion deficit and if we were able to collect the taxes, even that have been identified in Prof. Theodore's report of last year, that deficit would be wiped out. We would not need to borrow from wherever, we would not need to spend huge amounts on interests, people would not be concerned about the fact that we are moving closer and closer to the IMF, perhaps. So it is incumbent on us, if we want to be a self-sufficient country, if we want to return to prosperity, if we want growth and development, that we get the power that we need to collect the taxes that are out there that are properly due to the Government and that are

due more from the people who could most afford these taxes. The people who bear the burden of the taxes in Trinidad and Tobago tend to be the people who are least able to afford it because they are the salaried people who have very little options in avoiding taxes. So we want the power to go after the people who have the real funds that are due to the Government and these provisions will allow us—take us some way in getting us to that point.

So, Mr. Vice-President, on those grounds, I recommend to the Senate that we accept the amendments that are proposed, the Bill that is before us currently, and I thank you, Sir. [*Desk thumping*]

**Sen. Khadijah Ameen:** Thank you very much. Mr. Vice-President, it is with humility that I rise today to contribute to this debate on a Bill entitled an Act to amend the Mutual Assistance in Criminal Matters Act, the Proceeds of Crime Act, the Financial Intelligence Unit of Trinidad and Tobago Act, the Customs Act and the Exchange Control Act. I say with humility because I get the feeling, today, in this debate, that we should have some sense of collaboration because from the onset and from the speakers who have gone before me, I think Members of every Bench thus far—the Opposition, the Government and the Independent—have indicated their support in principle for the Government's ability to deal with criminal matters as it pertains to the Acts listed.

So to begin on that positive note, Mr. Vice-President, and to reiterate the Opposition's support for the principles of transparency and good governance as it relates to these matters, I want to remind the Members that all of the Acts listed today for amendments are, by and large, the creature of previous UNC administrations who initiated, implemented, put them into law, played a major part into these becoming law. In fact, the record will show that during the term of the United National Congress, the terms of the UNC under the first Government, Mr.

Basdeo Panday from 1995 to 2001 and then under Mrs. Kamla Persad-Bissessar as Prime Minister from 2010 to 2015, we saw a number of pieces of legislation, major legislation and institutions coming into being to deal with increased transparency, to deal with money laundering, to deal with financing of terrorism, illicit money, proceeds of crime, coming into being.

So in addition to the five being mentioned today, there are some other examples: the Integrity in Public Life Act, the Judicial Review Act, the Equal Opportunity Act, the Freedom of Information Act, the procurement legislation. All of these are major pieces of legislation which I think contributed positively to governance in Trinidad and Tobago and that were brought by the UNC Government. [*Desk thumping*] The general principles in the original pieces of legislation are noble and any reasonable citizen or Member of this House would not be against strengthening the State's ability to implement these principles into governance and giving the State greater ability to enforce those laws.

In asking the Senate to consider these amendments, I must say that compared to what happened in the Lower House, today, the Attorney General gave a lot of explanation and a lot of justification as to why the Government felt the need to bring these measures. I think it is important for us to consider the shortcomings of the existing legislation as encountered by those agencies who have responsibility for its enforcement. We must weigh the good intention against the reality of the impact: what really happens on the ground; what happens within those institutions; what are their hurdles and how will the legislation improve and strengthen on their ability to enforce the law.

But, Mr. Vice-President, we must be careful in going after any type of criminal activity whether it is violent crime, white-collar crime that we are not placing a noose today that could be tightened tomorrow around the neck of the

rights of citizens which are guaranteed and protected in the Constitution. We must balance going after the lawbreakers with protecting the rights of our citizens and that, Mr. Vice-President, is one of the concerns that I have which I will come to a little later. When we create legislation—I mean, many times in debates, we talk about the fact that we must give consideration to every possible scenario, that we do not make laws only for today, we make laws for the next generation, we must presume the worst could happen, and Mr. Vice-President, I want to say from the on start that I am presuming nothing except the most impeccable and noble intent by the current Government. But we must be careful that we are not opening doors for future government, future holders of high office, whether it is in Government or within the enforcement agencies, for there to be any form of malicious prosecution, for there to be discrimination, inequality, abuse of power of any kind and witch-hunting. It is easy to use phrases such as “Follow the money”; you talked about—“You stereotype people who have gold chains around their neck” to show that you are not only going after one class of people.

But in fact, many of the people who strongly advocate—well, I should not use the word advocate, but they talk about finding the perpetrators and dealing with people who benefit from the proceeds of crime, they themselves are benefits of the proceeds of crime; they themselves are benefits of ill-gotten gains and the phrases that they use to constantly engage in that political attack on their opponents, it defeats the purpose that we are here for today. Mr. Vice-President, what we should be looking at today is the ability of the Financial Intelligence Unit, the Director of Public Prosecutions and the Judiciary to deal adequately with the matters of money laundering, illicit money and Proceeds of Crime Act before them.

Clause 2 of the Bill proposes to remove one of the many powers granted to

the Central Authority by:

“...deleting section 22(2)(k)...”—of the Act—“which empowers the...Authority to refuse a request that relates to a criminal offence under the tax laws of a Commonwealth country.”

And that section states that:

“...a request for assistance under the Act duly made by a Commonwealth country...

...shall be refused if, in the opinion of the Central Authority—

(k) the request relates to a criminal offence under the tax laws of a Commonwealth country, save that the assistance may be granted if the offence is committed by way of an intentionally incorrect statement, whether oral or written, or by way of an intentional failure to declare income derived from any other offence covered by the Inter-American Convention on Mutual Assistance in Criminal Matters...”

Mr. Vice-President, for the benefit of the members of the public following our debate, mutual assistance is that process which countries use to obtain government to government assistance in criminal investigations and prosecutions. This type of government to government collaboration and assistance can be used to identify and to recover proceeds of crime. We always hear stories of offshore accounting where people bank their moneys in different countries and while there are countries who have very strict and very robust taxation systems, there are people who also try to evade taxation by banking their moneys in different countries.

All of our requests, all requests for extradition and for mutual assistance, that government to government assistance that are made to our country, to Trinidad and Tobago, are coordinated by the Central Authority Unit which is a part of the

Office of the Attorney General. The unit plays a very key role in the foreign and local authorities to obtain persons—when persons seek to sever their sentence and so on and any sort of relation they have with extradition, but the unit only deals with requests for assistance in criminal cases but they are also responsible for sharing confiscated, forfeited or seized assets with other countries, returning the money to the rightful owner, the negotiation of mutual legal assistance agreements, international cooperation agreements and other treaties with—well, treaties with other countries.

My question surrounding this amendment has to do with the sovereignty of Trinidad and Tobago as a Republic: How does this—removing that discretion that we now have? To me, it affects the sovereignty of our Government, of our State. The State has a duty to protect its citizens, and I want to be very careful that my words are not twisted or misinterpreted, that the Government should protect criminal citizens or wrongdoers from facing justice. It is very possible for a citizen of Trinidad and Tobago to face malicious prosecution from another government, from another country. People go to other countries and because of their volatile political situations, people get involved in political movements, social movements, civil unrest movements and can become a target of another government. I am just creating a scenario, Mr. Vice-President.

If we strip ourselves, as a state, of the ability to protect our own citizens from a foreign power, we are losing or giving up on our ability, not our ability but responsibility, as a Government, to protect our citizens. I know the Attorney General mentioned that there is the requirement—in justifying that removal, he indicated that there is a requirement from the regional, the CFATF but, Mr. Vice-President, I beg to differ. There are other countries, in this region, who are part of the agreement who have similar governance models to Trinidad and Tobago who

have retained that ability to protect their citizens, and all it does is give the State the power of discretion. So if the authority believes that a citizen is involved in wrongdoing or is in fact the investigation or the request for information is justified, then by all means, you proceed with enforcing the law and cooperating with the foreign authority. But in the event, if perchance, a citizen of Trinidad and Tobago is a victim of malicious prosecution by any foreign government, we must have that power of discretion to protect our citizens and this is a matter that I think we need to give closer consideration to. I am asking, I mean, what is the advantage? What advantage does it create for us, Trinidad and Tobago, to surrender that power of discretion that the Central Authority now has by deleting this clause from the Mutual Assistance in Criminal Matters Act?

Mr. Vice-President, I also had some concerns concerning clause 3 of the Bill which proposes to simplify the prosecution of the offence of money laundering. In two steps, it would no longer be an indictable offence and thereby, of course, you must delete section 44(2) and by making the offence triable on both summary conviction and on indictment. Mr. Vice-President, while the statement: “the Bill proposes to simplify the prosecution of the offence of money laundering” is laudable, my question has to do with the previous statement by—sorry. My first question has to do with the Judiciary’s ability to deal with cases before it. The Attorney General indicated that many of these cases take a number of years to come to an end. Well, many criminal cases take a long time to come to an end. In fact, almost every type of case in the court, at present, take a very long time. I do not recall the Judiciary or the Chief Justice, in his statements, his annual statement at the beginning of the law term or any other time, indicating that they have encountered challenges with efficiently dealing with these types of cases.

While I agree that you would want to speed up justice, in fact, every sort of

wrongdoing, every matter that goes to the court, you would want to increase the efficiency of the court, I am asking if to simplify the prosecution of money laundering is—it sounds like a simplistic sort of solution and I think it is important for us not to compromise justice and fair trial. Of course, there is the presumption of innocence until proven guilty but the fact is, once a person is accused, they are in the court of public guilty and we have had a number of persons in public office as well as in the business sector, in the private sector, who would have been involved or rather charged with these types of criminal activities and from the moment they are charged, in the public opinion, their reputation goes to zero, it affects their ability to earn a living and in fact, it affects their family and we have seen cases. I recall a former Government Minister, where 12 years after he was charged, the case came to an end and he was freed.

So these are things that I am in principle in support of, improving the amount of time that it takes to settle these matters, not only money laundering and white collar crime but all matters because I also know of young people who would have gotten into trouble with the law at the age of 19 and at age 36, the matter is still before the court and it affects their ability to apply for jobs and so on. So it goes across the board. But when you take it to the magistrate, how much more efficiency do you anticipate? Has the Judiciary been involved? Have they been consulted? Have they identified this as a major issue?

We have had trial by judge and jury, we have had debates here about trial by judge alone and I understand the thrust to improve the efficiency of the Judiciary, but we also must improve the capacity of the DPP as the Director of Public Prosecutions and the Financial Intelligence Unit to ensure that the prosecution is strong because many of these cases stay very long in the court, yes, even if they are resolved quickly. But I think if the prosecution has greater capacity in terms of

case preparation, in terms of case management, their accommodation not only to store documents but to comfortably house well-qualified, adequate staff, their infrastructure, there were some matters revealed when the DPP came before a Joint Select Committee with regard to their ability to effectively do their work. Do we really, truly get justice in a flawed system, even with the best intent? So I think those are matters for us to consider.

I want to support the call by Sen. Mark with regard to a joint select committee on this matter because I think it is important for us to bring persons from these various agencies before the committee to get their input and their recommendations first-hand. Because, as I said, in principle, the Opposition is in support. In fact, because we piloted these—the parent legislation was brought by the UNC when we were in Government.

Mr. Vice-President, the other point I wanted to mention was the Financial Intelligence Unit. The Financial Intelligence Unit of Trinidad and Tobago is another example of good law that was passed by a former UNC administration, and it establishes the Financial Intelligence Unit of Trinidad and Tobago and further, it implements the recommendations of the Financial Action Task Force on money laundering and the financing of terrorism.

**5.30p.m.**

Mr. Vice-President, recently the term “financing of terrorism” has become a sort of catchphrase and I want to say that while I agree with the idea of ensuring that we have continued collection of financial intelligence from banks, from other financial institutions, the amendment is seeking to give the FIU the ability to investigate any person on its own motion. While that is commendable in terms of giving them more power, at present, the FIU would investigate matters where, for instance, a financial institution flags a suspicious transaction and they bring it to

the attention of the FIU, giving them the ability to now investigate on their own motion, I think it must have some conditions. There must be some conditions.

So what triggers this investigation? A person could be called in to be asked some questions and believing that: “Well, I ain do nutten wrong” and you go and you end up becoming involved in something that is much bigger than you. So, I think that it is important for us to have some discussion as to what are or what could be some of the triggers, what formal mechanisms we could put in place, in terms of conditions to justify the FIU beginning that investigation on its own motion. Again, the protection of citizens and the rights of citizens I think are also important to balance.

But by all means, I am in support, in principle, of the Financial Intelligence Unit continuing its work to ensure that improper movement of money is monitored and dealt with by the State and the authority.

One of the other things, I know the Attorney General mentioned the latest report of the Financial Intelligence Unit and I wanted to ask— there were some recommendations. I was just looking for it but, Mr. Vice-President, I just want to—I recall reading it, I am not sure if it was in that 2017 report because I did also read that report and basically there are some shortcomings that the FIU would have identified that prevented them from doing more, in terms of prosecution, and we ought to look at those to make reasonable recommendations to include in law.

The principles in this, I think are sort of similar to what we had discussed in FATCA, where you can have that sort of malicious prosecution, political victimization, discrimination taking place; the possibility that that could happen. It may not be under the current director. It may not be under the current Government, but we must protect our citizens by putting good law in place. The violation of human rights privacy must be balanced with strengthening the

institution if we want to give them more powers.

Mr. Vice-President, when it comes to anything, of course, that tramples on the rights, the question now arises as to whether we need a simple majority or we need a special majority to deal with this particular part that may have some impact on the rights of citizens. So that is something I want to consider.

My other point I wanted to mention has to do with the—that is clause 5 of the Bill, which seeks to amend section 23, with the addition of a new subsection that gives the Comptroller of Customs the power to refuse entry or delivery of subsequent shipments of an importer where an adjustment is made to the value of his goods and he has not paid the adjustment and fails to commence proceedings before the Appeal Board within six months of the date of notification.

Mr. Vice-President, I listened to the previous speaker, Minister in the Minister of Finance, Sen. The Hon. Allyson West speak about Customs and its ability as an income generator for Trinidad and Tobago, but like the licensing office, Comptroller of Accounts is probably the—I do not know which is worse in terms of allegations of wrongdoing by public officers who are supposed to protect the interest of Trinidad and Tobago. And, there are many instances where importers have no choice but to engage in these activities, if they want their business to survive. The powers given to the Comptroller of Accounts are delegated to officers who conduct their day-to-day duties.

My concern, Mr. Vice-President, is the abuse of power that presently takes place within Customs that is very rampant, and I am not afraid to say so, and any person who has had to even collect a barrel from their grandmother knows about these things, if somebody sends down a barrel and you have to go to Customs. But, Mr. Vice-President, on a bigger level, there are businessmen who import goods on a daily basis and there have been a lot of opportunities and actual

instances of abuse of power and that is what I think we have to guard against. In my view, this sort of gives the officers, the corrupt elements within the Customs Department, the opportunity to push the importers further against a wall.

This, Mr. Vice-President, could be another tool that they use as a sort of—to hold you to ransom. So, in the instance where you are asked to pay some sort of bribe to allow your goods to come in or you do not participate with them or give them the money that they ask for, they could use this power to hold you to ransom. And even now, without this, they do it.

So, Mr. Vice-President, I think it is common knowledge that there is a cartel. There are people who operate, and I want to be very clear, there is a corrupt element. That does not mean that every Customs Officer is corrupt. I am not casting any aspersions on the Comptroller of Customs. I am saying that his powers could be delegated to any officer and I think it is public knowledge in Trinidad and Tobago that there are corrupt elements within Customs that could abuse the further powers being given.

So, Mr. Vice-President, we must ensure that there are mechanisms to prevent that sort of collusion. Sen. Mark mentioned the legislation with regard to the clerks and customs brokers. So I would not repeat that but certainly that undue influence for business alliances and conglomerates to be involved in that cartel as I called it earlier. Mr. Vice-President, I just want to reiterate that I am not casting any aspersions on the holder of any office within that or any other body in our country, in this debate.

Mr. Vice-President, the other—I just wanted to add to a point made by Senator, I think it was Sen. Mahabir, with regard to the Central Bank exchange control. There are already very extensive controls that exist, in terms of state apparatus, and I do not see the need, perhaps other speakers on the Government

side may explain a little more, but I think there is no need for that sort of interference. We have standards from the Central Bank and I think that if we let them operate to their standards there is no need for this level of intervention.

My question with regard to this: How many corrupt criminals will this new amendment catch? What difference are we trying to make? How will law enforcement be further empowered when it comes to prosecution? Those are things that neither of the two speakers before me on the Government side mentioned, but I am sure that hopefully someone else may.

Mr. Vice-President, there was also the part with regard to the value. Well, Sen. Mahabir made that point. I do not want to repeat, but just to indicate that TT \$20,000 is close to US \$2,800. The rate fluctuates, even though now we do not have an official rate, but I too agree that we should give consideration for having something similar to the US \$10,000. The value should be similar in terms of TT \$60,000—\$65,000, which would be more in line with the US and Canadian amounts.

We must ensure that we are not putting—while we want to protect from wrongdoers and fraud and money laundering, that we are not in fact putting measures in place that will be a deterrent for legitimate earners to come to Trinidad and bring their money and spend their money in Trinidad. So that is something that I think we have to balance.

So, Mr. Vice-President, while the Attorney General indicated that this Bill is simple, there are in my view, some implications for the rights enshrined in the Constitution with some implications, with regard to the sovereignty of our nation and I think we have to balance the power of the State in this function. To keep our nation as a functioning democracy, we must be able to continue to strengthen.

And I want to say that the Attorney General spoke about the FIU's record, in

terms of implementation and prosecution and he indicated that the increased number of cases mentioned meant that the FIU was more efficient, in terms of finding wrongdoers, and you know, Sen. Mark indicated that it might just mean that there are more wrongdoers during the PNM's term in office. But whether either one is correct, the fact is that any legislation that deals with white collar crime and in fact crime on a whole, must be strengthened, government to government. In my view, it should not be a competition as to who did what. We must each, in our time in office, because no person sits as Attorney General forever or a Prime Minister forever. We ensure that whatever we add or contribute benefits the nation in the long run.

And so as we treat with this issue of criminality across borders, of improving our ability to collaborate with international bodies and other governments, I want us to keep the best interest of the citizens of Trinidad and Tobago in mind. With those words, Mr. Vice-President, I thank you for the opportunity to contribute.  
[Desk thumping]

**Sen. David Small:** Thank you very much, Mr. Vice-President, for giving me the opportunity to join in the debate on this Bill that seeks to amend several pieces of legislation: the Mutual Assistance in Criminal Matters Act, the Proceeds of Crime Act, the FIU Act, the Customs Act and the Exchange Control Act. Mr. Vice-President, I noted very well in the AG's presentation this afternoon, he made a key statement that I totally subscribe to, that Trinidad and Tobago finds itself in globally tumultuous times.

Mr. Vice-President, in looking at where we are as a country, one of the things that I always, you know, advance is that in terms of trying to fix a problem, the first stage in fixing a problem is acknowledging that there is a problem and then acknowledging the scale of it; not just saying there is a problem, but

acknowledging the full extent of the problem.

Mr. Vice-President, if you permit me, before I go into the introduction of my contribution, I want to quote from an article in today's *Express* written by Rickie Ramdass. He is quoting from a judicial officer who gave a ruling. I want to quote. It says:

“This society is plagued with the disturbing reality that prohibited goods, which include narcotics and firearms, are imported with impunity. These prohibited items do not fall from the sky and the reasonable inference is they are either smuggled through porous areas along the nation's coastline or they are allowed in by complicit and/or complacent officials who fail or refuse to detect same...”

And it goes on.

Mr. Vice-President, I am a normal, regular person. I like to acknowledge the reality of the situation because, let us not put sugar on it, we have serious problems in this country that need us to really focus and try to find, and everything may not be perfect. I am on record here, Mr. Vice-President, as saying several times, I will accept a 70 per cent solution because it allows us to move forward. We will never get everything right the first time., and even after multiple attempts it still may not be perfect but we need to move in that direction.

Mr. Vice-President, I am just one person here today and I have the privilege of being able to come to this Chamber and be able to contribute. And I think that one of the things, the first thing, I want to talk about, is the fact that this Bill is an omnibus Bill, and advocates of omnibus Bills would argue that the packaging of multiple amendments and provisions allows for greater legislative efficiency and perhaps, enhances the chances of a Bill being able to be successful.

The challengers of omnibus-type legislation will also argue that it potentially

denies Members of the Legislature of the ability to thoroughly examine all of the individual pieces of provisions. I believe there is merit in both arguments and I think the reality of where we are with the way in which the Parliament as we are currently structured works, omnibus Bills are probably one of the ways you would really only get things moving in a reasonable timeframe. So I am not necessarily enamoured of sitting at home with four or five volumes of the *Laws of Trinidad and Tobago* trying to look at the amendments and then have all of the parent Acts in the various volumes. It is part of the job. Rather than be looking at one Act, you are looking at four or five parent Acts to try to understand what we are doing. It adds a layer of complexity to the work that we are doing.

And I think, from the view of the small man in the street, Mr. Vice-President, I think that is where my concern is. For the average normal person like myself, listening to these debates, if we were talking about one issue, sometimes could get very complicated. When we are talking about multiple issues subsumed within one Bill, I think it adds a level of ambiguity to those who are not legally trained, who do not understand the legislative system and process. And I want to put that on the record. And I am not saying that it is wrong. I am just saying that that is what it is. All that does, Mr. Vice-President, it places pressure on us, certainly people in my particular experience, to be laser focused and to be very clear about what we are doing here because these things have impacts.

Mr. Vice-President, I want to say that this Bill has to do, the first issue, with the Mutual Assistance in Criminal Matters Act. That was a Bill, when it was passed, it was passed to deal with the increasing levels of transnational organized crime and it allowed for the facilitation of cooperation for the apprehension of criminals. Given the crime situation in the country now, in all honesty, we need all the help we could get. I am on the record here, Mr. Vice-President, as saying that

crime is out of control in this country and that white collar crime, well that does not exist, because as far as I am concerned or I have seen, it does not exist. So there is no white collar crime.

Mr. Vice-President, if you check the records, and I think you should, with the greatest of respect, Trinidad and Tobago is likely to make this year's edition of the *Guinness Book of Records* for having the longest running stock exchange that has yet to proffer a matter for prosecution for insider trading or any type of offence whatsoever. The Trinidad and Tobago Stock Exchange should be held out as an exemplar for other stock exchanges around the world to follow.

Mr. Vice-President, financial fraud, money laundering is more than rampant in this country. When I speak to the amendments that have been proposed, affecting the FIU Act, the shocking details of the extent to which our financial system is being used and manipulated for illegal activity is utterly mindboggling. When we sit here and we talk about \$22 billion, perhaps, for me that is \$22,000 million. I am trying to figure out 22,000 is a lot of money for me. What persons or what ilk of persons are able to try to move around \$22billion in this economy in 12 months? What are you doing? What are you doing?

Mr. Vice-President, the history of this country is replete with examples, Clico, HCU, FCB IPO; all sorts of people doing all sorts of things and not a man has made a jail as yet. They have not even reached the courthouse.

Mr. Vice-President, I am realist. I have accepted. I have accepted that at least in my lifetime that nobody will ever make a jail for these scandalous acts that have raped and pillaged the economy of this country, whilst critically reducing the opportunity for regular citizens of this country. The rich are getting richer and fatter and the poor are being squeezed and squeezed and squeezed.

The Bill before us, Mr. Vice-President, also proposes amendments to the

Customs Act and the Exchange Control Act. Given that these areas have been a long time under suspicion for being a route for the transmission of criminal activities and criminal proceeds, these are provisions in here that I have one or two things to say about, but I support.

Mr. Vice-President, on many occasions in this Chamber, and I believe in the other place, the words discrimination, nepotism and corruption have been mentioned in many contexts. However, I believe that in the vast majority of situations in the past, there is one piece missing and that has to do with the punishment for those allegedly performing such acts. Until someone cuts a jail for these, we are destined to repeat. All of these things are destined to be repeated. That is just the nature of it.

Because when you have a situation when people can do things with impunity and no penalty is being applied, the daily ongoing banditry by the banks, it will never change, but I will keep talking about it. The daily banditry, the citizens of this country are being held hostage by the banking sector. And what? David Small talks about it. My good colleague Senator across there is having a laugh at it, but I mean that is the reality and I will talk about it. Because Mr. Vice-President, in Trinidad and Tobago nobody really cares because if somebody really cared, I believe somebody would have done something. I believe nobody really cares.

Mr. Vice-President, clause 2 of the Bill is the Mutual Assistance in Criminal Matters Act. I think that is something that is critical in protecting our country, because the way in which things are happening in this country, information, the sharing of information and the ability of the policing arms and all the state security arms to get information that may be very difficult to get, otherwise it is something that is absolutely critical.

The amendment before us allows for broadening or removing some of the strictures around the information that could be shared and the premise of this, in my view, Mr. Vice-President, is the fact that criminals continue to evolve in the way in which they do what they do and they use other jurisdictions to flee to or to hide their ill-gotten gains. So I support the opportunity to widen the information that could be shared under this arrangement. And I understand there may be some concerns, but Trinidad and Tobago does not exist in a vacuum.

Mr. Vice-President, I recall I was one of those persons who would always advocate “Follow the money”. Because I believe that that is how you catch people and it is not just a statement out in the air. There is a former US Attorney General called Loretta Lynch. She also used that phrase a lot and she used it to good effect. Some very good people in some very big places in a world international organization have felt the effect of a concerted effort to follow the money. It works. It works and it can work.

Mr. Vice-President, I think that the Proceeds of Crime Act is clause 3, and a key effect of the amendment is to increase the penalties for those found liable for holding criminal property and I suppose in some context it simplifies the process. I would like to see that that process is used to go after the \$22 billion, people; the people who are trying to use all our finances. Go after them, because the man in the street like me has nothing to fear. Why? I do not have a billion dollars to funnel through the system. Okay? The man in the street who is living month to month has nothing to fear from this. That is my respectful position. The man in the street who is working every day, struggling to make ends meet is lucky to have \$2,000 much less for \$2billion. So, the people who are able to manipulate the system and have billions of dollars to transmit through the system, those are the ones who need to be able to say: “Whoa, perhaps somebody is trying to do

something". The man in the street like me, I am unconcerned. I have zero concerns about this because I have no money to funnel to go anywhere. I am trying to keep my kids in school and keep my head out of trouble.

But I believe, Mr. Vice-President, I advocated to the Attorney General also that I recall in the United Kingdom there is a special police unit that conducts investigations and what they do, they turn up at your door. They conduct their investigations. They turn up at the door: "Hello, UK Police Force." And then they say: "All of the things that are in your position, could you demonstrate that you obtained these items legally?" Failure to satisfy them, means arrest, forfeiture of the items and public auction of the items. BBC has a TV series. You can find it on YouTube. It is called Ill-gotten Gains. It is a remarkable effort by the UK police to go after people who have shown themselves to be living a lifestyle that their legal earnings cannot support.

They look at the records. You are supposed to be earning this much. You have a yacht. You have two Bentleys. There is no way you could be living this lifestyle legally and if you cannot prove that you earned that money legally—I have heard the hon. Attorney General say that that type of legislation is coming, I am looking forward to it because I believe that is one of the things we have to address. And I think one of the key things is that the burden of proof in that particular set up is on the party who is accused. The police just say: "Here, we have the information, you prove it, if you cannot prove it to our satisfaction." So let us see how that works.

Mr. Vice-President, I am also very clear and I have said it again and I keep repeating myself, persons who are involved in crime are not involved in crime for being involved in crime. They are involved in crime for the proceeds, the things that they get from crime. That is what they are in crime for.

Mr. Vice-President, we have to be real about what is going on in Trinidad and Tobago now. There are people who, just like you and I. You and I may get up in the morning, go for a sweat in the gym or whatever and get organized and get to work. Their whole objective, the plan for the day and the week is what is the crime I am going to commit today or the crime I am going to commit. They have no other activity than crime. That is their whole activity, nothing else.

And the problem that we have as a society, Mr. Vice-President, is that the family and friends of these persons are in fact active accessories to this crime and it is a societal problem. I do not have a thought about how we can immediately fix that. But when you live in a situation where you know a family member or friend is providing you with money or food or whatever and they are getting it from crime, that is a societal problem that we have to target and we have to tackle because what we end up with, Mr. Vice-President, is the proverbial good boy explanation. "He was a good boy. He provided." Yeah?

I do not know when we are going to get—Mr. Vice-President, for the record I was born in Rose Hill for the few people in here who know where Rose Hill is. Rose Hill is up the street, East Dry River. So I tell people about being—I do not want to hear about this victim of circumstances. That does not work for me. I do not accept it. I do not subscribe to it in any way.

The most thing I had in my household, my mother is a saint. Bless her heart, she is still alive. My father passed. We had a lot of love in the house. "Ah get plenty licks when I was a lil boy to get inside de house before six o'clock and try to do your school work and try to hold yuh road straight. As de ole people used tuh say: hold yuh road straight. Yuh going here, go straight dey and come back."

**6.00p.m.**

So people who want to claim that they have challenges about victim of

circumstances, I do not support that. Because there were lots of things happening in circumstances where I was growing up, and I held my road straight. So do not blame other people for your weaknesses and your failings. So, forgive me for digressing, Mr. Vice-President.

Criminal property, Mr. Vice-President, I think that one of the things that I always remember that, one of the biggest pieces of criminal property in this country was something called diesel.

[MADAM PRESIDENT *in the Chair*]

People did not understand that diesel from Trinidad and Tobago's Petrotrin refinery was being sold on the high seas. Selling at \$1.50 at the point and then guys were selling it. I mean, the extent to which people have been creative with crime in this country is amazing, it is amazing, and these are not hijackers, these are guys in white collars, who have worked out a way to defraud the State and the people of Trinidad and Tobago. And that is what we are dealing with.

So, Madam President, welcome, it is always a pleasure. I apologize for starting without you. [*Laughter*] Madam President, forgive me. I am well behaved, I very rarely give trouble.

Madam President, I am in the midst of warming up. So that the clause 4, the FIU Act, again I looked at the amendments in here and I support them because, the FIU is a tremendous resource, Madam President, and things happen in Trinidad and Tobago that very few people pay attention to, and when some guy in the Senate here asks questions, the silence is deafening. So, I just leave it alone, I could only ask questions.

Madam President, the FIU prepares a quarterly suspicious transaction report, and in the early life of this report, the quarterly reports were unremarkable. In particular, the suspicious activity in US dollar transactions was \$1.2 million in a

quarter, \$2.7 million in a quarter, 1.0, US \$595,000 in a quarter. However, in a quarter, in the period April to June 2014, that particular quarter, the STR report showed US \$32 million in suspicious transactions.

It is only a pure coincidence, Madam President, that that was the same quarter in which the way in which foreign exchange was being distributed in this country was adjusted. And I am not a conspiracy theorist, Madam President, I just ask a question: If all along the previous reports were going in one particular direction, and then in one quarter, immediately as the controls, the way in which foreign exchange was distributed by the banks was changed, that is the quarter where you saw a virtual tenfold increase in suspicious transactions? I am just looking at the data and the data suggests to me that something went awry. But, I have no real explanation for it, other than to say, I like the data and I support the work which the FIU is doing and I support many of the actions that we are taking here in terms of the way in which the amendments have been worded. Several of them have provided for cleaner, stronger language, they have increased the flexibility of the FIU, and I think that the particular clause where it says, I think it is clause 4(1)(b)(iii) where “the FIU may upon its own motion or upon request”, I think this is important because it allows them to be able to act in real time. I think that the issue with crime is that we have to understand that crime and criminals, the way in which they do things keeps evolving, it keeps improving. And giving the FIU the ability to adjust and be flexible in real time is important. I also believe that the clause 4(1)(e) where it strengthens the enforcement and evidence gathering capability and I support that.

Madam President, I am running quickly here. Because the Bill is quite involved, I will not be able to cover all the areas, because it is just a lot of issues inside of there. I now go to clause 5, Madam President, the Customs Act. I looked

at this particular clause and I do not want to repeat some of the things that people have spoken about, because I have some of the similar concerns. But, I have a question that I would like to address, let me get to the correct section of the Bill.

Right, where it speaks to, Customs Act amended, the section where it deals, where the subsection relates to "firearm accessories, shall not apply to a holder of a Firearm Users' Licence under the Firearms Act", and this has to do with the ability to access, to bring in accessories. So I am asking the question, if you are a licensed firearm user and you have one firearm, does it mean that you can bring in unlimited holsters, and scopes, and other things? I am not sure.

So, I understand why in the thinking, in the drafting, you said that the ability to bring in accessories should not—you allow firearm users' licence holders to be exempt from that. But, I am saying you should be exempted to one. Rather than, I am a holder of a firearm users' licence, I bring in ten scopes, I bring in ten holsters.

So I think there is something in there that probably can use some tightening up if the Government is looking at it because I believe it should have a qualification or a limitation. If you have two firearms, you should only be able to bring in two sets of accessories per three years or whatever, something along those lines; some kind of limitation. It is open-ended here, so what it means is I can go to the—order what I want, show the authorities my firearm users' licence and I can bring in a whole container of accessories, because there is no limitation as it is currently structured here.

A couple other little things, nothing too major because I believe also that the issue where we—this whole issue of trying to make sure that our Customs system is tighter. I think we have to accept that at least parts of the system are broken, and like the colleague before me, Sen. Ameen, I do not want to cast aspersions on individual officers or anything like that. But, there are parts of the system that are

broken, and I think we have to accept that.

And that having provisions in place—I also asked about if someone is under-invoicing, is under-invoicing an accident? I ask sometimes, the dumb questions, because I like to be the dumb person in the room. Under-invoicing from where I sit is not an accident. Under-invoicing does not happen accidentally; people are deliberately trying to avoid the moneys that they are supposed to be paying to the Government of Trinidad and Tobago.

So that, if there are requirements for them to pay the difference and to do whatever is required under the Act, I support that. Put the pressure on them, put the pressure on them, because we are not dealing with babies here. We are dealing with experienced businessmen. Under-invoicing cannot be by accident, there may be one accident out of a hundred. But I suspect of one hundred people under-invoicing, the majority of people under-invoicing are deliberate because they are trying to evade the taxnet and that is not something we should encourage, because we are too soft on some of these people, too, too soft.

Madam President, yes I have one other item that I want to flag. And that is to do with the Exchange Control Act, clause 6. So I agree, I listened to Sen. Mahabir, the whole issue of the US \$5,000/TT \$20,000; I believe some harmonization is required. But, I have a question for the hon. Attorney General, because I looked for the definition of “person”. What happens in other countries, and I went to the US Customs Border Protection, the UK Customs and Border Protection websites; the ability to bring—in the US is 10,000, but it is per family, in the UK, it is 10,000 euros, but it is per family, and it says cash. But they define cash as cash and all the other things that—the bearable instruments. It is the same in the US, it is cash, but cash is defined as cash, actual bills and all the other instruments that can be converted into cash.

But, the issue is that it is per family because what you do not want is that four adults in a family turn up at the airport and say well, each of us has 10,000 or 5,000 or whatever. In all the other jurisdictions, I checked Australia, New Zealand, Canada, everywhere I checked, whatever the limit is, the limit applies for family. Once the family is flying together as a group—flying together, it is not 10,000 per person. So if, unless of course, I will be guided by the hon. Attorney General, if in the Bill here, “person” means has a definition to include family, that is fine, but I believe we need to qualify it because that will be a gap. That will be a gap in the way in which the current Bill is worded.

Because, I think that our citizens of Trinidad and Tobago tend to be very creative people, just look at our wonderful Carnival, the people are very creative, they are very creative for good things and then sometimes they are very creative for not so good things. And, I think that people, the same way I am not an attorney, I am not legally trained, I can look at this and find gaps and I think people would have found gaps in some of these things.

So, those were a couple of the things that I think needed to be addressed. Because, perhaps I travel often and when I travel with family, I am very clear, in terms of per family, and even in the way in which we structure our immigration form. If you go to other places, it is one form per family, but when you return to Trinidad it is one form per person, whether it is an infant or not. So, I mean, it has to be that—and you have to list at the back but you still have to do one for each person. That is tedious.

So those are things that we can think about, if we really want to fix the system. Let us fix all parts of the system; fix all of the bits and pieces. Why have somebody who is travelling with four or five family members, full out four or five forms? They can full out one form and say this is the declaration for the whole

family. It is cleaner and that is it.

But that is only me, Madam President, because I believe that Trinidad and Tobago is a place where we have tremendous opportunity, but we have tremendous mischief, we have tremendous mischief. For want of a better phrase, I think, Madam President, there are a lot of people who are very good, many of them advocates at finding loopholes in the existing legal framework and that is their job.

As the hon. Minister of Energy and Energy Industries would hear me say, I would say that listen, the oil companies who are here and they are doing what they do, they have been able to work the system and they are trying to seek the best interest for their shareholders, all that needs to be happening on our end, is that we should be trying to seek the best interest of our shareholders. And that is all, and it is not anything to get angry about, it is about holding our position.

As I begin to wind up, Madam President, I must exhort all to my continued consternation at the apparent lack of action, of prosecution of matters for which there seems to be a world of evidence pointing towards wrongdoing. We are passing the legislation, but the prosecutions from previous things are not obvious. When I looked at the FIU Report of 2017 and you see how many—the number of persons charged for money laundering, I think it is a total of nine? You know, and the previous year, it was a total of seven persons charged, exactly where those things are, I do not know, several for money laundering. But here is the big number, of the persons charged for money laundering for the period October 2016 to September 2017, the value is US \$25,000.

So, okay, something is happening, but not enough is happening. In a situation where as the Attorney General—all of us have the same FIU report, \$22 billion, people tried to get that out of the system. Where does \$22 billion reside in Trinidad and Tobago that is doing nothing? That you want to get it out of

Trinidad and Tobago, or do other things with it? I perhaps, because I am a regular, normal person, I do not get it. My colleague across the table will say well: “Smalley, I know you are a man, you like to earn well”. I will say: “But I do not earn that well”. [*Laughter*]

And it is perhaps just as well that I do not earn that well. Because I believe that in order for us to fix the problems in this country, we have to target all in the various areas and we have to apply—we have to first institute penalties that are harsh and seem to be harsh. Because here is what, people are doing things in this country with impunity, they are doing it with impunity. And I believe that the only way to fix this is to try to keep targeting these various individuals, and organizations, and entities and try to plug the gaps in the various pieces of legislation that we are trying to do today. Strengthen the pieces of legislation, that is what we are trying to do today. Look at places where people have found ways to attack the system.

Madam President, my other major concern has to do with the degradation of my quality of life as a citizen in this country, and it is a real concern, because the current state of the country is degrading my ability to enjoy Trinidad and Tobago. And that is my own personal experience, other people may have other experiences. My ability to enjoy Trinidad and Tobago has been degraded and continues to be degraded. A lot of it has to do with people who are committing crimes, and there are levels of crime.

**6.15 p.m.**

There are the guys who are running around doing all sorts of hold ups and whatever, but there are the other guys who are stealing from the State, just systematically stealing from the State. I sit in another place in this building, Madam President, and I see the information there and my mind is like, how can

people do this systematically over a period of time and then they get away? They just walk away.

So, Madam President, it should not be lost on anyone that there is a link between unfettered criminal activity of all types and a reduction in our living standards. We have to understand that. The fact that living standards in Trinidad and Tobago are going in a negative direction is because we are not able to get at the people who are doing it, and it applies to white collar crime, blue collar crime, all types of crime because they all have different but similar effects. They affect and degrade the quality of life of the citizens of our country because we must not forget that white collar criminals destabilize our economic system and systematically reduce the ability of the Government to ensure that resources are evenly distributed as possible. That is what they do. The economic criminals reduce the ability of the Government to do its job. The economic criminals in this country: the banks, starting with them going down the line. The economic criminals. [*Interruption*] Forgive me, Madam President, I withdraw. Madam President, forgive me. I became a bit impassioned and I seek your kind understanding.

Madam President, as I start to wind up, the current state of affairs is that those who have are having more, and the average citizen is having less, and I believe that the package of legislation here, I do not believe that it is the cleanest or it is the best package that I have ever seen, but I believe that it is a step in the direction that takes us into a place where we can start to put some controls on what is going on and that is what I am here for. If nothing else, my record here will show that I am supportive of things we could try to find a way to put some controls on the way in which the country is getting away from us and we can pull it back. Yeah? I want us to be able to pull it back.

And, Madam President, given that you have been very pleasant with me and allowed me to speak, I want to thank you for the opportunity to be able to join in this debate and to share a few words and thoughts and concerns, and I want to say this, Madam President. Every day I make peace with the Father. I wake up in the morning and I give thanks for everything, Madam President. I am a simple guy. I believe that nothing is granted to anyone. Tomorrow is granted to no man. So I come and I try to make the best of every day. So, Madam President, I have tried to give of my best, and I want to thank you for the opportunity to join in this debate today. Thank you very much. [*Desk thumping*]

**Sen. Dr. Lester Henry:** Thank you, Madam President, for allowing me to participate in this debate this evening at just after 6.00. I must say that any Bill that seeks to enhance our ability to get a grip on the criminal element—either blue collar, white collar or of any collar—is something that is likely to have my full support, and we have been consistent with these types of Bills, both in Opposition and in Government. I remember sitting on that side and lending my support to many, many Bills brought by the then Government at the time, and some of it is touched on or further enhanced with this Bill today.

Now, after listening to Sen. Ameen, Sen. Mahabir and, lastly, Sen. Small, I think I should probably sit back down and let us all congratulate the Attorney General and go home by 7.00 [*Desk thumping*] because actually they provided very good support for the Bill, and despite some caveats and so on, this seems to be a pretty well-crafted and well thought out Bill, omnibus Bill, as Sen. Small put it. So I would just briefly, in terms of lending my support, point out a few issues that I think could be useful in terms of our understanding of the problems that we are facing, the issues that we are dealing with.

I mean, I have been involved in issues of money laundering and financial

services at the academic level for quite a long time and my first presentation on money laundering and countering terrorist financing probably goes back more than 10 years. And I have also been involved at the regional level in terms of the Cariforum EU conferences on financial services because this is a very big issue for not just Trinidad and Tobago but for the Caribbean, because you know Caribbean Islands are always accused of either harbouring tax criminals or harbouring money launderers, and many of our smaller neighbours in the region suffer the consequences more so than us, when they are threatened to be blacklisted and grey listed and all these things. And many of them, I have learnt from attending the forums, begin to feel that they are being victimized by the bigger powers, the people in control of the FATFs and so of the world—in many respects, they feel powerless to push back, and to a large extent that is true. Our ability to push back against recommendations of these international entities is very restricted.

So we must comply to a large extent, but there is a good side to it. It is not all negative in that we are not just complying for complying sake. We are complying because of what some of the previous speakers mentioned in terms of the scourge of international terrorism and money laundering and associated criminal activity.

Now, money laundering and so on, which this Bill partially seeks to address, is a serious crime as Sen. Small was alluding to. In our context here in Trinidad and Tobago, maybe the \$22 billion that is being referenced, is a symbol of not just the fact that Trinidad and Tobago may be a conduit country like most of the Caribbean—what I mean by that is the Cayman Islands, Bahamas and all the other offshore financial centres are usually referred to as conduit countries, where money passes through but it does not stay, by the international entities. They refer to them as conduit as opposed to havens where the money actually ends up. And in the

case of Trinidad and Tobago, there is some indication that we are both; we are a conduit for international money but we are also a haven for the money, in the sense that our financial system is much more developed than some of the smaller territories. Our banks are slightly bigger and there is stuff you could buy in Trinidad and Tobago that may not be available or may be too difficult to access in other parts of the region.

Now, the problem with money laundering is that—one of the economic problems Sen. Small was alluding to it, but I would put a little more flesh on it—is that it distorts prices. One of the reasons we care about money laundering from an economic perspective is that it distorts prices, and I would just give two examples as to why we need to address this issue even from a purely economic point of view.

One, is the problem in our real estate market. We know from past experiences here and internationally that one of the attractive markets for money launderers and drug dealers and so on is real estate. And what happens in small territories especially, is that when these people with their ill-gotten gains try to clean their money, launder it, they push up the prices of properties and they price poor people out of the market. Okay? So that is one of the significant negative economic consequences of money laundering, and we have seen some evidence of that, because I have had studies done under my watch on money laundering and the impact on the economy as late as 2016 by one of my MSc students.

And then, going further back, I also did studies on the housing market and housing prices in terms of trying to explain why the prices of certain houses were so high even in areas where the average income does not seem to be able to support house prices of that value. Because there are certain parts of the country where if you go to the official statistics, if you could get them, average income is \$7,000, \$8,000 and you have the average price of a house being \$2 million and \$3

million. How could they afford that? And that is something that has stuck out over the years, and I would not call the regions because I do not want to stigmatize anyone, but money laundering distorts prices and, as I said, real estate is just one example.

The other important price that money laundering distorts is the one that is very important to all of us, the foreign exchange, the price of our dollar. And as many of you know—in fact, all of you are probably familiar with the problems that are going on right now where you are hearing people exchanging the TT dollar for as much as 7:1, 8:1, and I have heard as many as 10:1. Yeah, call it murder. *[Laughter]* So we know that, and where that is coming from, the proliferation of certain entities, certain businesses over the recent years.

I am sure many of us know if you read the mutual evaluation reports from FATF or CFATF, it is all there. They make reference to all these things—the proliferation of what they call listed businesses in terms of casinos, certain restaurants and so on—and the restaurants double as casinos as well now— and bars and so on. So there is need to get a grip on this because many of these people take no account of the impact that they are having on the local economy because they want to get their money out and many of them are from foreign origin, from other countries, that are operating in Trinidad and Tobago, so it means nothing to them, what happens here.

So if they get a lot of money—and we have to consider casino money, money laundering, because as far as I know it is still illegal. Right. A casino is still an illegal operation in Trinidad and Tobago. So proceedings from it have to be illegal. And when those people offer the average person \$7 and \$8, \$9 and \$10 for a US dollar it puts pressure on all of us, because our exchange comes under pressure, and we in the Government get the feedback, well, every minute, that you

are going to devalue, you are going to depreciate the dollar. I get it all the time because people think somehow I know, so they come up and ask me all the time. They want to get the inside information and they keep asking me—some businessmen, anywhere I go they ask well, you know, you must know, you know. “The Minister is going to devalue tomorrow when he talks in Parliament, right?” And I said, well what do you want? If you devalue or let the currency depreciate—whichever terminology you prefer—what is going to happen? I said I know what you want. You want it to go to 10:1 or 12 and I say you will make a few millions because you are going to bring back some US you took out before. [*Crosstalk*] So you are going to make a few millions, because you are going to bring it back at the higher exchange rate.

You bought it at probably \$6—took it from the Central Bank when the Central Bank put money into the system. You were fortunate enough to get in the queue and you got it at the Central Bank rate, and then if it goes to 10:1, you bring it back in, you make \$4 just so on each US dollar. I mean, I have been studying this for quite a long time, so I know how it works.

And I told one businessman in particular, I say, “So okay, you are going to bring back a few million US, convert that, make TT \$3 million or TT \$4 million and what are you going to do with it after? Are you going to migrate?” Your business is here, you live here, what is that all about? Do not put the country in jeopardy by trying to force an issue when it is not necessary. We have known for 20-something years, we lived with a relatively stable exchange rate at around \$6.25, \$6.30. So we know it is possible, and we know that speculation is really what is driving the demand for this devaluation or depreciation on the part of many in the business community and others.

So Trinidad and Tobago, as I was saying, is a potential conduit in terms of

people passing through money, especially from the drug trade and also transitory individuals who are here short term looking to make a quick buck, convert to US and go on their merry way. So because of our market and the size of the financial system, we could be doubled as a conduit and a haven country.

Now with respect to the mutual evaluation report which is consistent with what is in the Bill, especially as it refers to the FIU, we have shown significant improvement over the years. When I started looking at these things it was kind of embarrassing to look at a mutual evaluation report and out of 40 recommendations, the country used to be compliant in two and three. You used to just see a big set of “NCs” going down the list—noncompliant, noncompliant, and over the years—I am talking about over an extended period we have made significant progress, and I think this Bill today is another step in that direction. That is why I think it should be fully supported by all present here.

Some areas in which we still need to take a close look at, as flagged in the mutual evaluation reports, are the issues of credit unions in terms of the ability of credit unions to really monitor and evaluate and keep track of their customers and implement any kind of risk assessment in terms of their exposure to money laundering and especially money laundering, particularly with the credit unions.

The other entity that they flagged that we have a lot of work still to do is the non-profit organizations. And this one is particularly relevant from the point of view of financing of terrorism, because as some of you are quite aware, in the international arena a lot of financing of terrorism goes through non-profit organizations. We have some work to do in that area because a lot of the—if you look at the recommendations—I have them here. I would not take time to read them precisely—but they talk about the lack of regulation, a lot of requirements that these non-profit organizations have in terms of being able to identify potential

money that may end up in financing terrorism. So we have some work to do in that and one of the FATF's recommendations is based on that. Well, of course, they have quite a bit.

In terms of the international cooperation, I think they extensively point out our weaknesses in terms of sharing of information and, in fact, our ability to share information is what this Bill is trying to help correct in some way. We still have somewhere else to go. As I said, it is a step in the right direction.

One of the things that several Senators have raised, starting with Sen. Mahabir about the TT \$20,000 and the US \$5,000, I know the Attorney General is quite good at defending himself, so I would not say much on it, but it was a question of Sen. Mahabir mentioning purchasing power parity. Really, it is a step further. He was really referring to the law of one price. So that if something is US \$2 and the exchange rate is \$6, then it should sell for \$12 in Trinidad and Tobago. That is absolute purchasing power parity. That is the Big Mac index that he referred to. But I understand from the Attorney General, it is a question of harmonization with other laws that are under consideration and will be dealt with at a later stage. So preference is given to this formulation only for the purposes of this Bill today, but in the complete package it will be explained.

So, I would not detain the House any further. As I said, based on the last three speakers, both on Opposition and Independent, I think it is a very positive Bill. It is a step in terms of our ability to deal with some of these issues that I described and we, once again, congratulate the Attorney General in doing some excellent work here. I thank you, Madam President. [*Desk thumping*]

**Sen. Saddam Hosein:** Thank you very much, Madam President, and I thank you for the opportunity for allowing me to join this debate on this Miscellaneous Provisions Bill, 2017. And, Madam President, this Bill seeks to amend five pieces

of primary legislation, that is, the Mutual Assistance in Criminal Matters Act, the Proceeds of Crime Act, the Financial Intelligence Unit of Trinidad and Tobago Act, the Customs Act, the Exchange Control Act and one Order, which is the Exchange Control (Import and Export) Order 1993 made under the provisions of the Exchange Control Act.

Now, Madam President, this omnibus Bill touches and concerns the heart of the issues of money laundering and terrorist financing. And I go on record to say, that the United National Congress—this great party which I am a member of—we stand strongly for the fight against crime and, in this case, the fight against money laundering and terrorist financing. But the ramification of this Bill is that the rights and privileges of our citizens are being interfered with, and we on this side would defend the rights of those citizens in this Parliament. We will continue to ensure that the Bills that this Government brings do not unnecessarily trample on the rights and privileges of our citizens and that proper legislation is brought to this Parliament, and if proper legislation is brought, we would support it. [*Desk thumping*]

Madam President, recently Trinidad and Tobago has been brought on the international stage, and not for the greatest show on earth, but what could have been the greatest disruption of the greatest show on earth. Trinidad and Tobago has now become viewed under a microscope when we conduct our business as we have been named the country with the highest per capita rate of ISIS recruitment in the western hemisphere by the US Department of State Country Report on Terrorism, 2016.

Madam President, terrorist organizations, their survival are dependent on the funding that they receive and the money must be coming from somewhere. So when we look at this Bill, it looks as though from a first glance that much is being

done, but on a closer examination, this Bill is just the tip of the iceberg. When you look at the Fourth Report of the Mutual Evaluation Report of Trinidad and Tobago on Anti-Money laundering and Counter Terrorist Financing Measures, June 2016, it outlines 40 FATF recommendations, and under each recommendation there are further recommendations, which I would call sub-recommendations.

So why it is that we are only dealing with the recommendation that deals with mutual assistance? There are 39 other recommendations that we could have dealt with. So I am asking why it is that this Bill is being brought in a piecemeal manner? Why do we not sit down together and discuss all of those recommendations and the sub-recommendations that were made by the CFATF committee? And if you are serious about the fight against terrorist financing and money laundering, we should sit down with all the stakeholders—the business community, [*Desk thumping*] the Judiciary, [*Desk thumping*] the Criminal Bar Association, [*Desk thumping*] the Law Association and the public at large.

Madam President, let me go into the nuts and bolts of this Bill. From the same report, the fourth mutual evaluation report, at page 112, paragraph 4.10, under the rubric “Recommendations on International Cooperation”, it was recommended that the Mutual Assistance in Criminal Matters Act need to be amended to provide as follows—and there were four recommendations:

- “for clear and efficient processes for the rapid provision of assistance where a request is made;
- remove the restriction on provision of assistance in the case of certain tax offences;
- remove the discretion from the Central Authority for refusal of assistance; and

- expand the basis on which confiscation orders can be made.”

Now, of these four recommendations, the Attorney General brought one, and that is, the removal of the restriction on the provision of assistance in the case of certain tax offences. Why have we not considered the other three?

- “for clear and efficient processes for the rapid provision of assistance where a request is made;”

That is a practical recommendation.

Also, we operate in such a reactive manner that there is nothing proactive being done by this Government. And I say that— when we look at the amendment that is currently before us, I would read section 22(2)(k). It says that:

“Such a request shall be refused if, in the opinion of the Central Authority—

- (k) the request relates to a criminal offence under the tax laws of a Commonwealth country, save that the assistance may be granted if the offence is committed by way of an intentionally incorrect statement, whether oral or written, or by way of an intentional failure to declare income derived from any other offence covered by the Inter-American Convention on Mutual Assistance in Criminal Matters;”

Now, Madam President, under the current construct, these are exceptions where assistance can be granted. So it is not that we have currently section 22(2)(k) operating that the Central Authority can just blanketly say, no we cannot lend the assistance. There are two exceptions, the first being that if the offence is committed by way of an internationally incorrect statement we can, in fact, grant that assistance or if there is an intentional failure on the person to declare income,

and these two exceptions go directly towards the issue of tax evasion. The offence of tax evasion, it is a predicate offence to that of money laundering. So, therefore, the current construct, as I said, does not give the Central Authority the power to mandatorily refuse to grant the assistance. They can currently do so for money laundering offences. Nothing prevents assisting a foreign state that requests information for money laundering.

Now, Madam President, we must also look at the FIU's operation within the ambit of this legislation. They are the body responsible for the collection of financial intelligence and information analysis, dissemination and exchange of such financial intelligence and information among law enforcement agencies. When we look at section 8(3)(f) of the FIU Act, it empowers the FIU to give financial information relating to money laundering and terrorist financing to foreign entities. So the FIU may, in fact, disseminate these financial intelligence and information to local and foreign authorities and affiliates within the intelligence community. So now we have an amendment where the FIU now can do so on its own notion. So, therefore, Trinidad and Tobago, we have the capacity in order to lend the assistance to those foreign states.

When we look at section 30 of the Anti-Terrorism Act, it also empowers the Attorney General under that Act to share information with regard to terrorist financing to foreign entities and states.

Now, Madam President, one issue that arises here is something called dual criminality and the removal of section 22(2)(k) is not the end all of the matter. So, if the Bill is passed in this House today and we removed the section, when a state makes a request to Trinidad and Tobago for any tax information matter, the Central Authority does not just comply with that request and grants the information. What happens is that section 22(3) of the Mutual Assistance in Criminal Matters Act

now is engaged where the Central Authority does have the power to determine if the offence that they require assistance on is a similar offence in Trinidad and Tobago.

**6.45 p.m.**

So, therefore, what criminal conduct they are asking for information on must be an offence in the foreign state and it must also be an offence in the domestic state, which is Trinidad and Tobago, which is what we will usually term as an extraditable offence. So, therefore, the Central Authority, even if we remove this section, does have a discretion to deny lending assistance on any requests to a foreign state. When we look at the fourth report of the mutual evaluation at page 164, paragraph 747, it states that:

“The MACMA”—which is the Mutual Assistance in Criminal Matters Act—“provides a wide range of powers for Trinidad and Tobago to provide MLA. ”—which is the Mutual Legal Assistance—“The issues of dual criminality and certain tax offences being subject to refusal can hinder the provision of MLA. However, there is a wide discretion given to the Central Authority that can mitigate these deficiencies.”

So then I ask, why are we removing section 22(2)(k) if the Central Authority does have that discretion? [*Desk thumping*]

Now, when information is being traded between states the issues of privacy and confidentiality arise, and when we look closely at the Income Tax Act, section 4 of that Act, it provides, and I quote, section 4(1):

“Every person having any official duty or being employed in the administration of this Act shall regard and deal with all documents, information, returns, assessment lists, and copies of such lists relating to the income or items of the income of any person, as secret and confidential...”

Therefore, this section deals with the manner in which citizens' information is to be dealt with. It must be done in a secretive and confidential manner. That is the operations of the Board of Inland Revenue, they are not subject to the direction of any Minister or official of Government.

In an article dated Tuesday 06 June, 2017, of the *Trinidad Guardian*, the Attorney General, when giving an address to the Global Forensic Institute on the Caribbean Fraud Conference 2017, said this, and I quote from the article:

That—"the secrecy provision in the Income Tax Act has to be opened up to allow for certain prescribed entities to access information for law enforcement purposes and to ensure 'somebody is guarding the guards'.

He said the proposal"—which is the need to open up the Income Tax Act—"requires a special majority and there is a Miscellaneous Bill before Parliament for prosecution of tax evasion matters in a reciprocal arrangement."

So I ask the Attorney General, having made that announcement in June 2017, has the position now changed that we do not need to create an exception to section 4 of the Income Tax Act? Why was an exception created under the FATCA Act? Section 8 of the FATCA Act created an exception to section 4 of the Income Tax Act where information can be now distributed towards the United States Government—the IRS.

So I would argue that the amendment, if it is passed in its current form would be deficient in that there would be difficulties in implementation as the Board of Inland Revenue now can say, well, look, section 4 operates, we cannot give you that information. We must also look at other pieces of legislation that this touches and concerns. Look at the Data Protection Act, under section 6 of that Act we have general privacy principles. What about section 55 of the Financial

Institutions Act, and I must say that these three legislation, exceptions were created for them under the FATCA legislation, section 8 of that legislation. So these are questions that the Attorney General, I hope, would address in his winding up. So I would say that the amendment is not enough if the Government wants to get serious in the fight against money laundering and terrorist financing in the international arena. So is it that we are hurriedly pushing through this amendment so that we can just be deemed to be compliant where the mechanics of the entire process is defective? This cannot be. [*Desk thumping*]

Now, Madam President, a distinction must be made between mutual assistance and that of extradition, and the reason I raise this point is because the debate on this Bill in another place certain statements were made regarding extradition, and I think that I would like to address it. I hope that you would give me the opportunity to do so. I quote from the *Hansard* dated 17 November, 2017, and the Attorney General says that:

“The Mutual Assistance in Criminal Matters Act, Chap. 11:24, is the Act which says how Trinidad and Tobago will...”—[*Interruption*]

**Hon. Al-Rawi:** Madam President, I must rise, regrettably on relevance, because this is not a debate in the House, nor was it raised here, and therefore the relevance to this debate because if one is to be honest that answer that is now about to be read was my own explanation as to why the other Members got it wrong in confusing extradition. So it is untidy, and I ask for your guidance on that.

**Madam President:** Sen. Hosein, continue. [*Desk thumping*]

**Sen. S. Hosein:** Madam President, as I was quoting:

“Trinidad and Tobago will treat with mutual legal assistance requests. People may know it as extradition requests, best as a feature that is popular in Trinidad and Tobago. How other jurisdictions will treat with those

requests from Trinidad and Tobago, how the Commonwealth jurisdictions will be treated and how the non-Commonwealth jurisdictions will be treated. In section 22 of the Act, section 22(2)(k), there is a specific provision which says that a request shall be refused where it relates to a criminal offence under the tax laws and it goes on.”

And then the Attorney General goes on in the same debate to say that:

“...the removal of this prescription which allows the Attorney General to refuse matters for extradition which are related to crimes of tax laws.”

Then in an article dated June 2016, commenting on this Bill, he said that we will extradite persons who are deemed to be wanted in a foreign jurisdiction for tax evasion. Currently, the law as it stands is that the Government could say no if an extradition request is made for tax evasion purposes. He said, adding that the discretion is currently being reviewed.

So, basically, the Attorney General is saying that we cannot extradite anyone where it involves matters of tax offences. Madam President, I would like to say that is in fact not the position. The position is that any state that requests an extradition for a person with regard to tax evasion can in fact be extradited. [*Desk thumping*] Section 5 of the Extradition Act states that the offence must be an extraditable offence, and, as I said earlier, the offence must be an offence in the foreign state and it must be an offence in the domestic state, and there must be a treaty operating between the both countries. So that is the requirements for the extradition of a person.

Now, when we are looking at the request under the Mutual Assistance in Criminal Matters Act, Madam President, it is totally different because in that it says that all that has to occur is that one foreign state just makes a request and we will determine whether or not we lend the assistance. Under the Extradition Act,

the request has to satisfy certain formalities and some of those formalities are that it must be an extraditable offence, they must attach a warrant—[*Interruption*]

**Madam President:** Sen. Hosein, we are not dealing, though, with the Extradition Act. So while I have allowed you to deal with the *Hansard* and to understand what you are saying, do not go into the Extradition Act, okay, because it is not relevant really to this debate.

**Sen. S. Hosein:** Thank you for your guidance, Madam President. I would just like to quote from the Mutual Assistance in Criminal Matters Act and to show that there is a difference, and section 6 of the Act says—if you would just allow me to quote the section:

“Nothing in this Act authorises the extradition, or the arrest or detention of any person for the purpose of extradition.”

And I end there with respect this to this point.

So, Madam President, we must look at the enforcement of the legislation now, because under the mutual evaluation report they have noted that there is need for clear and efficient processes for the rapid provision of assistance where a request is made. And they had alluded that we need to amend the legislation to provide for rapid assistance, because a foreign state cannot be asking us for information and we let it sit on the Central Authority's desk for three, four, five years, that person would be long gone and evade, and probably go to several other jurisdictions and commit similar type crimes. That is one of the recommendations that the Attorney General should have brought to this Parliament. Also, there are other amendments such as the removal of the dual criminality because there are other countries that seem to be going that way, such as South Africa where they have removed that requirement for dual criminality. Now, these are issues, again, and gaps that we are seeing in the legislation. So this is an even stronger case for

the fact that the Attorney General should have referred this matter to a joint select committee for us to consider and deliberate on it. [*Desk thumping*]

Now, Madam President, I want to go on to the other Act that this Bill seeks to amend, and that is the Proceeds of Crime Act, and the current law as it stands is that the offence of money laundering is actually a strictly indictable offence, and the amendment to this Act now seeks to make it a hybrid offence. The sanctions for the summary offence and the indictable offence has changed. So they have added the summary offence to be: a person is to be fined \$25 million and to five years imprisonment on summary conviction, and a fine of \$50 million and to 30 years imprisonment on indictment. One of the reasons the Attorney General stated for the inclusion of money laundering to be regarded as a summary offence is due to the backlog at the Magistracy with dealing with preliminary enquiries, because, as we all know, every indictable offence, they must go through that preliminary enquiry and sometimes it gets delayed. There are certain ways that this could have been circumvented where paper committals are now being used to try to fast-track the procedure.

The Attorney General also alluded to the use of the Criminal Procedure Rules, I think the Attorney General needs to do an evaluation in the courts and find out how many magistrates and judges are actually using those rules. I am saying that this amendment actually does not solve the problem of the backlog because these hybrid offences are laid as indictable offences and the only way that these offences can actually be tried summarily is by the consent of the person being tried, and this is stated clearly in the Summary Courts Act. A reasonable person who is charged with the money laundering offence, they appear before the magistrate and the prosecution recommends that they go summarily with this charge, do you think that person is going to say, well, yes, I want my matter to be

heard here in the Magistrates' Court and I will be fined \$25 million and 15 years imprisonment? No. They know that the system is delayed, so obviously they will choose to remain in the indictable procedure so that they can get several years for that preliminary enquiry to be up, and then they have the option to now be tried before a judge and a jury where they probably think that they might see more justice.

So, is it that this provision is actually really going to help the backlog, because we are looking at these persons, still retain the right to determine whether or not they want to be tried indictably or they want to be tried summarily. This raises even more issues because in Trinidad and Tobago under the mutual evaluation report it says that the jurisdiction has recorded three cases of money laundering that has resulted in charges being brought against five individuals. All these cases are currently pending. The information is that there are no arrests for stand-alone money laundering offences, all of these have been coming out of predicate offences. There is a lack of priority given to the investigation for the offences in money laundering, and none of the cases of which persons have been charged with money laundering have been adjudicated by the court, and this creates a difficulty determining whether these cases have been properly investigated. In the absence of convictions for money laundering, despite the passage of legislation for 14 years, it is not possible to say conclusively that matters are being properly investigated. The absence of convictions of the offence means that no sanctions have been applied by the court, and the offence of money laundering is not given priority in the court system.

So I ask, Madam President, that since there have been no convictions, how can we be sure that persons who are convicted now, their convictions are safe? And since there are no convictions, you now come and increase the fine from

\$25million to \$50million, you doubled it, 15 years imprisonment to 30 years imprisonment without a single conviction. We must also look at the environment in which matters operate in this court. The Magistrates' Court is already burdened, they lack resources, CAT reporters, recording system. Some Magistrates' Courts do not even have a building. Imagine the San Fernando Magistrates' Court—I believe that court falls under the constituency of the Attorney General, and that building has become so uninhabitable that they are forced to be under a shift system. They can only sit for a limited period of the day, and we want to now convict persons to pay \$25 million or 15 years imprisonment, when we have a court system that does not even work, Madam President. [*Desk thumping*]

I want to suggest to the Attorney General that we look at models from all over the world, because we on this side, we are not about just creating problems but we are about offering solutions, and one of the solutions I think that we should offer is one of specialized anti-corruption courts. There are certain jurisdictions around the world that set up these courts because of the complexity with regard to the prosecution, the investigation, and the determination of tax offences matters. There have been, in 2015, 17 jurisdictions that have set up these courts. They are Afghanistan, Bangladesh, Botswana, Bulgaria, Burundi, Cameroon, Croatia, Indonesia, Kenya, Malaysia, Nepal, Pakistan, Palestine, the Philippines, Senegal, Slovakia and Uganda, and three other countries, Mexico, Tanzania and Thailand. So the world is moving progressively towards being serious about prosecuting these types of crimes. I do not want the Government to come and say that, well, we have no money to set up these courts, because there is evidence where there have been international donors who have been heavily involved in providing training, financial support, and other assistance to these institutions, and these are independent donors, such as USAID, the United State Agency for International

Development; the UNODC, the United Nations Office on Drugs and Crime, and the UNDP, which is the United Nations Development Programme. All of these organizations have helped countries set up courts in place in order to prosecute these types of crime, and I am saying that we need to have a similar system because magistrates in Trinidad and Tobago, they may not be trained in order to determine these crimes unless they have undergone serious training because these are very complex fiscal matters, Madam President.

Part of the criminal justice system is the investigation arm of it, and we must look at the role that the SSA has in this. I have a timeline of events, by Act 4 of 2016, the remit of the SSA was expanded to give it powers to deal with matters of money laundering and terrorist financing. And then there was the restructuring exercise that took place around November 2017, and now the SSA is exempt from the Freedom of Information Act. So, Madam President, we now have this body that is collecting information regarding money laundering and banking information and we cannot ask any questions regarding the SSA. [*Interruption*]

**Madam President:** Sen. Hosein, now you are going into the realm of irrelevance because this debate has nothing to do with the SSA and Freedom of Information, so I would ask you to get back on point, please.

**Sen. S. Hosein:** Yes, please, Madam President. Madam President, a lot has been said in this debate about “Follow the money”, and I going to say that this Government must follow the money in the “fake oil” scandal. [*Desk thumping*] They must follow the money in “ferrygate”. They must follow the money for the suspicion transactions of Government Ministers, and they must follow the money for the award of Government funds to their relatives. [*Desk thumping*] We must follow the money, Madam President, and we must follow the money for the \$2 million found in the plywood—they must all face the full brunt of the law. They

must face the \$25 million and the 15 years imprisonment, or the \$50 million.

This brings me to another point, Madam President—how much time I have again?

**Madam President:** You have until 7.16, so you have 11 more minutes.

**Sen. S. Hosein:** This is the last Act that I will be dealing with, this is the Financial Intelligence Unit Act, and I want to go straight to clause 4(e) of the Bill. I consider this to be a very dangerous amendment, please, Madam President, because it goes to the heart of a citizen's right to silence, and a citizen right to be protected against self-incrimination. The clause actually proposes to give a police officer—no rank specified—the power to apply for a warrant in order to provide information to him. What is interesting is that, ordinarily, if a police officer stop you on the road you have a right to say, no, I am not giving you any information. That is your right, you have a right to remain silent. Even if you are detained or you are charged by a police officer you still have that right to remain silent, and that is found in the Judges' Rules which the police officer operates with. That is the caution that they administer to a suspect or someone that they have charged.

In the case of the FIU, they may require any person—you are not charged yet, you know, you are not detained. They come and they say, they need you to provide documents, they need you to provide information, they need you to provide explanation on any information, and a warrant can be obtained by them to do this, and if you obstruct their duty your penalty is \$10,000, you know, or 12 months imprisonment. So what about a person who chooses to exercise his right to remain silent, is that obstructing the police from executing that warrant? What about if I say that I am not going to give you any information because my lawyer is not present, is that obstructing the police in executing their warrant? The mere fact that there is one section of the FIU Act that says that it protects you against the

right to self-incrimination is not enough because when would a person know that he is not incriminating himself, because these fiscal matters are very complex, and I keep saying this because of how regulated the industry is. The information that they give, they may not actually be aware, or even the police officer may not be aware that person is incriminating himself. And these are rights that have been pronounced by the court, the right of silence and the right against self-incrimination.

In the case of *Vasquez v The Queen*, [1994] 1 WLR 130, it was said that the protection of fundamental rights and freedoms in the Constitution should be construed generously, an extent to related rights and freedom so as to include the right to pretrial silence and the privilege against self-incrimination. In Trinidad and Tobago, our Court of Appeal in *Hayden Toney v PC Joseph Corrapse*, Magisterial Appeal No. 68 of 2008, Justice of Appeal Bureaux said the right of silence and privilege against self-incrimination forms part of the due process provision set out in section 4(a), and the right to the protection of the law set out in 4(b); these are constitutional rights. There is a similar provision to what is being proposed in the FIU Act that is in the Anti-Terrorism Act, and that is section 24 of the Anti-Terrorism Act where the police officer can make an application to get information out of the person, so there is a distinction now between the FIU and the Anti-Terrorism Act. Under the Anti-Terrorism Act these are the safeguards that they have included in that legislation for obtaining such, I would say instrument or device in order to extract information from persons. First, the officer must be a rank of Inspector or above. In this case, they have not indicated what rank the officer should be. Secondly, it is not a warrant that the Anti-Terrorism Act operates under, the police officer actually has to go before a High Court judge in Chambers and get an order, and the application can only be made by consent of the

Director of Public Prosecution. Now in this case, the police officer can just go to the magistrate and get the warrant.

The order must have conditions, for example, the examination should be done under oath, the time and place for the examination and the documents that they require the person to produce. Also found in section 24 is upholding the right in non-disclosure of information that is privileged. It also gives the judge the power to rule on objections to answers given or produced in the interview, and a person may retain—and it also includes that a person may retain and instruct an attorney-at-law at any stage of the proceedings under that section, and that the attorney-at-law so retained may attend and represent the person named in the order when he is being examined. [*Interruption*]

**Madam President:** Sen. Hosein, you have five more minutes.

**Sen. S. Hosein:** Thank you very much. So, Madam President, these are the safeguards that are given to a person under the Anti-Terrorism Act, why is it that these exact safeguards were not placed in this FIU amendment? So we must take measures to ensure that we do not interfere or trample on person's rights. This sets a dangerous precedent when a corporal can go to a magistrate and get a warrant and compel a person to give this information, and then if you do not, you are liable to \$10,000 and 12 months imprisonment; you cannot do that.

So, Madam President, in conclusion, my recommendation is that this Bill should be properly brought before a joint select committee because as it stands there are several issues that need to be ventilated and ironed out. We must get the stakeholders involved. This Bill has far-reaching consequences and there are a lot more recommendations that were not included, so I ask the Government to dialogue so that we can stop passing piecemeal legislation. I thank you, Madam President. [*Desk thumping*]

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

**Sen. Taurel Shrikissoon:** Thank you, Madam President, for allowing me to contribute to this debate at this time. The Bill before us is a very comprehensive one that deals with a number of different Acts, but before I begin my contribution, I would really like to commend the Government and the hon. Attorney General for piloting this Bill, bringing this Bill to the House. And as I communicated with the Attorney General a little bit earlier today, I was particularly happy with the way in which he presented and which he piloted the Bill, because he presented it in a form that could have been easily understood and followed according to the way in which the Bill was laid out. So I found it to be a strength of his presentation, and I commended him for this because it really facilitated an understanding. So to the Attorney General, and to the Government, by extension, hats off to you all with respect to that.

While on the notion of commendations, I also would like to say that I enjoyed Sen. Hosein's contribution as well, and there is some degree of overlap with his and mine, him having some concerns with some areas of the law before us, or the Bill before us. But I would like to say at the outset and to take a position where Sen. Small left off, am I happy with where Trinidad and Tobago is at, and the answer is, no. Am I happy with the direction in which we are going, and to me on a daily basis it is getting a little scarier, and as a result of that, I am unhappy with the direction in which we are going. As a citizen am I comfortable, do I feel safe, am I fearful, and the answer to those questions would be, I am scared, and something has to be done.

**7.15p.m.**

If we leave everything unregulated or we do not seek to address it in some way or fashion, if we do nothing, then nothing will happen, nothing will change.

Therefore, if this Bill will allow us some element of change, that we could introduce into society some element of regulation, and it offers some element of hope, a glimmer of hope for citizens, then most certainly I will support the Bill.  
[*Desk thumping*]

Thank you. I do not know which Bench you are on, [*Laughter*] but you are welcome, thank you. I really would like to hope that this piece of legislation being presented here offers a ray of hope for Trinidad and Tobago, and if it does, I welcome it.

So in an attempt not to be repetitive with respect to what has been said before, this Bill that is brought before us today is entitled an Act to amend the Mutual Assistance in Criminal Matters Act, the Proceeds of Crime Act, the Financial Intelligence Unit of Trinidad and Tobago Act, the Customs Act and the Exchange Control Act, and they have all been listed and mentioned by all of the speakers before.

But the point that I want to get at here with respect to these Acts here is that all of them pertain to transactions which involve Trinidad and Tobago and other islands or countries around the world. So that the request for information or the amendments being sought here today most certainly involve a regulation of what is going on externally, or as Trinidad and Tobago connects and transacts externally with other agencies. If this is one way in which we can regulate activity in Trinidad and Tobago, then I welcome it.

So to get to clause 2 of the Bill—clause 2 of the Bill seeks to remove a condition under which the Central Authority can refuse assistance if the request relates to a criminal offence under the tax laws of a Commonwealth country. The Attorney General explained why this was necessary to be removed. I also heard an argument being put forward by Sen. Hosein, of which I cannot really make a

judgment call on it because of their legal background, but what I would say is that I do recall around December 2017, the European Union blacklisted Trinidad and Tobago with respect to Trinidad and Tobago being identified as a tax haven. One of the criteria that they would have used is that of information sharing and cooperation.

So, therefore, am I happy as a citizen with Trinidad and Tobago being blacklisted? And clearly the answer is no. Why? Because I do not want it for Trinidad and Tobago and it also makes trading more difficult, because when your institutions that represent you belong to a country that has been blacklisted, obviously it will make trading harder, and specifically to the business community it makes life harder. So do I want to belong to that? And the answer is no and therefore it has to be fixed. It has to be fixed. So with respect to the EU blacklisting Trinidad and Tobago, and if you followed up that report in January, the EU also offered an amended list where certain countries were removed from that list, but Trinidad and Tobago was not. So therefore why has Trinidad and Tobago maintained its position on that list? And it is because we did not fix it, and so we need the fix it.

So with respect to that, I am saying if the removal of the clause allows for information sharing, then I welcome it because it places Trinidad and Tobago in a more positive light. But more specifically, and it is a topic that I have raised in this House on multiple occasions, if we are to promote Trinidad and Tobago as an international financial centre and attract investment, it cannot be that Trinidad and Tobago is on a list or blacklisted for financial transactions or not being able to cooperate with agencies on information sharing. It is a clash. It is two different directions, so it has to be fixed.

So to the Government, while you are attempting to fix it, in positioning

Trinidad and Tobago and also in crafting your strategies, you need to be clear-cut that these obstacles along the way that will present itself, as you chart a course for Trinidad and Tobago, should be fixed up front and not in a reactive manner like this. So that is a concern that I would have, but I am happy that it is being addressed. It is just that I would have wished that we would have done it in a proactive style rather than being presented in this way and now we are going to fix it.

Many presenters before me referred to the FATF report or the mutual round evaluation report, and Sen. Hosein quoted a lot from it and I too would have looked at it. So I am just going to touch on it in an attempt not to repeat everything that he said. But with respect to clause 2 of the Bill, recommendation 37, page 163 of the report says:

“There appear to be no unreasonable and unduly restrictive conditions except where it relates to a criminal offence under the tax laws of a country...”

So the report was very specific that this is really an obstacle and the report has identified that this area needs to be addressed. It is in my view that the removal of this in clause, as in clause 2 of the Bill, really addresses the concern raised and therefore I accept the recommendation of the report as well as the action of the Government to address this concern.

Clause 3 of the Bill seeks to amend the Proceeds of Crime Act. Again, the major amendment here is to now list money laundering as a hybrid offence that can now be probably tried summarily or indictably if I am correct. Again, if I go to that FATF report, it says here on page 6 of the Executive Summary, it says:

“Money Laundering Investigation and Prosecution:”—Law enforcement agencies—“in Trinidad and Tobago considered the risk associated with”—

money laundering—“as being medium to high. The jurisdiction has recorded three cases of”—money laundering—“that have resulted in charges being brought against five individuals.”

I can go on to read the rest, but Sen. Hosein quoted extensively from this aspect, but just to highlight his main points and the report it says:

“...no arrests for stand-alone”—money laundering—“The investigation of”—money laundering—“is not properly prioritized by”—law enforcement agencies.

There has been an absence of convictions. The absence of convictions has led to the courts not applying sanctions and the offence of money laundering:

“...is not given priority within the Court system.”

Here is the point: If it is that this level of activity concerning money laundering is going on in Trinidad and Tobago and it has such a high incidence, so much so that it is recognized that even through the court system it is not been adequately addressed, then the question is: If the charge is now being classified as a hybrid offence that the charge could now be laid indictably or summarily, would that really lead to the result that we want? And given the problems of the Magistrates' Court, and even one person earlier said today if you really understand the challenges of the Magistrates' Court you would not even want to go there. So then would it really yield the result that we are looking for? And I am questioning that.

Now, the motive is good and from the report we are answering a call from the report to address an issue, but whether or not we are addressing the issue to bring about a desired result or are we addressing the issue to bring about compliance? [*Desk thumping*]

Now why would I say this? Many speakers before me quoted from the FIU report and even the hon. Attorney General, and in that report it says here if we

examine the number of suspicious transaction reports or suspicious activity reports, we realize that in 2011 we just had 303, but by 2016 it was 739, and in 2017, 877 suspicious activity reports. This had a cumulative value in 2017 of \$22.2 billion. Then how is it with such a high incidence of suspicious activity reports we are unable to charge and convict? And I have a question with that, because if it is 877, if we just take 300 working days in a year that is an average of three per day. So if we have an incidence occurring at three per day, how is that our system that we have is unable to prosecute, convict and apply sanctions? Is it that the Magistrates' Court that everyone is saying it is not the right modus operandi to prosecute, given the backlog there, will it help? I do not really think the answer is yes.

To quote from the FIU report again, if you look at corruption, including misbehaviour in public office, carried a value of \$132 million in 2017. So it is telling us that while we are saying that we need to fix Trinidad and Tobago, some of the actions of people or those like us who hold office are also not conforming, and we are helping or we are putting Trinidad and Tobago in a bad, bad position. We are contributors. So it is not just about the general public but all of us. We need to evaluate it and look at it. So we need to address that.

I am saying here today, if the charges can now be laid summarily or indictably, would it bring about a desired result? That is my question. Would it bring about the change? I want to say that I do not believe it would. Then what is the corrective action? So we are at the same place although the legislation would be passed.

The report also says, the FATF report or the mutual round report says on page 10: further recommends that there is no law for facilitating as an ancillary offence to money laundering.

So then the question is, as Sen. Hussein said, yes you are amending the law,

but then if we are amending the law because of the report, why are some concerns of the report addressed and some are not? [*Desk thumping*]

On my last point with respect to this area of the Bill, clause 3, it says here and I want to say this, if you look at the penalties assigned to anti-gang and terrorism you would realize that with money laundering and the charge is laid summarily, 15 years and \$25 million. With money laundering indictably, 30 years and \$50 million. With financing terrorism, 25 years but \$5 million. So I am saying, I am raising the flag, how is it that we can introduce the possibility of a charge being laid summarily, having a penalty of 15 years and \$25 million, but a charge of financing terrorism has a 25-year jail term but \$5 million in penalty? It is saying to me that the law is not equitable because the charges are related but the penalties are not. So I am asking, can we look at this to bring some bit of equity in the law.

Clause 4 of the Bill seeks to amend the FIU Act, the Financial Investigations Unit. One of the amendments is saying that the FIU shall collect information as required for tactical analysis in order to generate activity patterns, trends and typologies, investigative leads and identify possible future behaviour.

So today, if we are introducing the use of statistical derivatives in terms of trends and typologies to indicate some elements of pattern of behaviour that is occurring then I am endorsing it. I am saying yes, let us be able to use statistical data as well as technology to determine whether or not patterns exist, and this can lead us into a new area of discovering and even detection.

Clause 4(1)(b) of the Bill seeks to introduce the words the FIU may “on its own motion or upon request” disseminate financial information. This is new to this Bill and the words “on its own motion or upon request” are being included. That is in section 8(3) of the Act. But if you go to section 8(1) of the Act which

outlines the functions of the FIU, it is saying here and this in its pure form:

“The FIU shall be responsible for the collection of financial intelligence and information and the analysis, dissemination and exchange of such financial intelligence among the law enforcement authorities...”—and so on.

So if it is that section 8(1) is saying the FIU can disseminate, why is it in 8(3) we are now saying it can disseminate on its own motion. I am confused, because 8(1) is giving the FIU the authority to disseminate. It clearly says so. It says it:

“...shall be responsible for the collection of financial intelligence and information and the analysis, dissemination...”

So if the FIU in 8(1) is saying that it can disseminate, why do we need to now include the words “on its own motion”? [*Desk thumping*] And even if you want to include it, it should be included on the functions of the FIU which is in 8(1) and not in amending 8(3).

Clause 4(d) of the Bill seeks to make amendments to section 17 of the Act as it pertains to publication of countries that are not fully compliant with anti-money laundering and counterterrorism. The law says, 17(i), the FIU shall publish as frequently as necessary by:

“...Notices in the *Gazette* and in at least two newspapers in daily circulation in Trinidad and Tobago—

a list of the countries identified by the Financial Action Task Force, as jurisdictions that have strategic anti-money laundering and counter financing of terrorism deficiencies;”

So that is the new amendment and I am good with that.

The part I have a little bit of concern with is lower down. It says here that according to 4(d) subsection (ii), the FSRB, which is a FATF-style regional body, is also publishing a list. Now, if FATF is publishing a list and FSRB, which is a

FATF-style regional body, which is saying here that it is modelled after FATF—then if FATF is presenting a list, why does the FSRB have to also present a list? I am confused. And if both entities are submitting lists and publishing them, then which one should we really be paying attention to? I am really confused. If we are following FATF, then let us go with FATF, and if it is FSRB, but FSRB is functioning like a FATF-style body—that is the acronym for it—so then why the need for a second list? I am unsure.

Clause 4(e) of the Bill was referred to by other speakers, and it pertains specifically to a warrant being issued to acquire information from a listed business where the listed business refuses to give consent to access the information. So that you want to get information from the listed business, they are refusing, you go to court and a warrant is issued. I am okay with that up to there. But where I have the concern, and probably the legal minds around me can help me here, is where it says later on, amendment (2B) for this clause says:

“A warrant under subsection (2) may include the requirement to provide a police officer with any information or any explanation on the information...”

I am unsure if a warrant can mandate someone to explain something. Can you imagine a man being served with a warrant, his mental frame or his state of mind, and then being told that he has to answer? I would think in a situation like that, if I was ever placed there, I would want to be cautious about what I say. But then a policeman cannot force me into an explanation due to the presentation of a warrant. So I would say, if the warrant is necessary, it is a warrant to search the premises probably or collect information, but the explanation cannot be included. It cannot be included. I have not ever heard of a warrant being issued for someone to explain.

**Sen. Mark:** That is a police state. [*Desk thumping*]

**Sen. T. Shrikissoon:** So I am concerned about that. And the thing about it is that many of us refer to the Constitution and section 4 and section 5 of the Constitution, but as one person rightly says, if you understand what the Constitution is, the Constitution is really a contractual obligation between the State and the citizen. That is what the Constitution is. So if it is you are doing something unconstitutionally then you are violating the contract. [*Desk thumping*]

The Customs Act, clause 5. Madam President, clause 5 of the Customs Act seeks to really introduce an extension of time period for recordkeeping for those who import and export merchandise. The hon. Attorney General was very correct in saying that the tax laws of the country require you to hold your documents for six years. So if you are now asking those who import and export to hold their documents for six years, I am okay with that as well, because all you have done is harmonized and then you are allowing a paper trail to be used in the event that there is a query or concern. I am okay with that.

The problem I am having with this clause is where it says, I think in 23(2)—where this clause seeks to introduce an addition to the Customs Act 23(2B) which states where the Comptroller has adjusted the value of goods previously imported up to six years prior, and if the importer has not paid the new dues then his future shipments can be withheld. I think Sen. Mark also addressed that.

If it is you want to ask the importers and exporters to keep the records for six years, I am okay with that, but to say that we can go six years backwards and interfere with a valuation then, and then hold a business person to ransom if he has not appealed the matter for future shipments to come, that timeline cannot be right, because that is anti-business at a time when our economy needs business. [*Desk thumping*] So I do not think any member of the private sector would really subscribe to a penalty being assigned to them for an invoice that is six years old. It

speaks to the deficiency of the customs unit.

If it is that the customs unit requires more time than the one year, one year, two years, fine, but it cannot be six years. It cannot be six years. Even this aspect of the Bill did not go on to say whether or not the time period will be applied retroactively or post the proclamation of the Bill.

**Hon. Al-Rawi:** For it to be retroactive it must say so.

**Sen. T. Shrikissoon:** I thank you for the correction. So therefore, it is saying now that if it is not said retroactively then it is saying that the only time this is possible is in 2023, that if you come back to six years then you will be addressing the time period now. That is just too much of a long time to hold someone to ransom, and then saying that you have to pay the dues, and saying if you do not pay the dues and you do not appeal the matter, we are going to take your future shipments. I do not think that is right. I do not think that is right. So while I agree with the six years for recordkeeping, I am asking the Government to reconsider that time period for readjusting the value of the merchandise that you want to tax.

What about if the supplier of that shipment who is external to Trinidad and Tobago goes out of business or has been out of business, then how do we get the information to support it? And in the absence of information you are going to hold the future shipment? Who is going to pay the demurrage and the detention fees at the port? I am not sure who is going to do that. So that is antibusiness. So it brings me to another point with respect to the Customs Act.

One area of the Customs Act seeks to introduce—clause 5(c) of the Bill seeks to amend section 45 of the Customs Act with respect to the prohibition of items to be imported. These include:

“(c) firearms, ammunition, bullet-proof vests and firearm accessories including—

- (i) lasers;
- (ii) lights;
- (iii) holsters;
- (iv) scopes;...” —et cetera.

Again, I would like to agree with this amendment to say that, okay we need to exercise caution and we need to restrict the importing of these items. But I want to read an excerpt from an article written by *Bloomberg Businessweek* on January 30, 2018. Now, remember this part of the Bill is seeking to restrict the importing of firearms and ammunition and its accessories. It is entitled:

“Venezuelan Pirates Rule the Most Lawless Market on Earth

Venezuela and the island of Trinidad and Tobago are separated by only 10 miles of water and bound together by the most lawless market on Earth today. Playing out at sea and on the coasts, it is a roiling arbitrage—of food, diapers, weapons, drugs, and women—between the desperate and the profit minded. Government is absent,...”

The article is saying this and this was from an investigative reporter. It goes on to say at the end of it:

“With the help of a local investigative reporter, I was able to speak with a Trinidadian smuggler...”—and I do not want to say his name.

It says here that he was:

“...well-spoken man who appeared to be in his 40s.”

Look what he says here:

“‘They asked whether they should kidnap you.’—meaning the reporter—  
“He delighted in shocking me by quoting the prices he gets from criminal gangs for automatic weapons acquired from the Venezuelan armed forces: \$7,000 for an AR-15, \$40,000 for an FAL...”—I do not know what it is—

“\$2 a round for military-grade ammunition.”

So it is saying that while you are trying to strengthen the Customs Act and prohibit the importation of firearms and ammunition, the source is not really there.

In strengthening the law you are not really plugging the artery for which these ammunitions are coming into the country. So we can strengthen the law for the sake of compliance, but will it have an impact, will it have an effect? And I doubt it very much given there is an unregulated port and border for which access to this equipment can be attained. So whether or not the amendment to the law will bring about the desired result, again I question that.

Sen. Small raised the argument about the Firearm Users' Licence and how much accessories, whether or not they can bring it in what quantities for the purposes of resale. I am not going to get into it, but I think it is an area that needs to be addressed.

The last part of the Bill speaks of the amendment to the Exchange Control Import/Export Order and the Exchange Control Act that speaks of bearer negotiable instruments. It is saying here that there was probably a loophole with respect to funds coming into the country with respect to this instrument. Again, I commend the Government for recognizing that this is an area that needs to be addressed, and so brought the necessary law to plug this loophole. Whether or not it was from the FATF report or not, at this point in time it is a loophole that needs to be addressed, and the Government is addressing it. So I respect that and I support it wholeheartedly.

However, all that the new law is saying is that if someone seeks to bring in a bearer negotiable instrument that has the value of US \$5,000 or exceeds TT \$20,000 it needs to be disclosed. While I support it, I would like to say that disclosure by itself is insufficient, because all that you have done in declaring it is

to say that I have it. Once you have done that, you would have completed or fulfilled your end of obliging to the law. What is being done with this money? Where is it going to be deposited? Are you leaving the money or are you investing it into an asset? Is it going into a financial institution? Do you have it with you for precautionary reasons and taking it back out of the country when you leave? A disclosure does not tell you that. All it is saying is I have it. What is going to be done with it, we do not know.

Therefore, if funds are going to be entering into the country via this form then it needs to be tracked; it needs to be traced. And for what use would the money be put then? You should also say it. Whether or not if you choose to take it back out of the country when you are leaving, you should also say that. If you are bringing it in, disclosure is insufficient, let us get approvals to bring it in, in the first place. That way we would know where the funds are going. A disclosure of having it with you is insufficient in my mind. So while you are saying, yes, we are correcting or strengthening the law, then what is being done with the funds we do not know, and that needs to be addressed in my mind.

Madam President, as I wrap up, I would just like to say in terms of summarizing what I have said before, I am supporting the amendment of clause 2 with respect to removing the inability to cooperate. Let us cooperate; I agree with that. With respect to clause 3 and money laundering and the offences now being laid summarily or indictably, I am unsure as to whether or not that would bring about an effective change, especially when we have an occurrence of roughly three suspicious activity reports per day and we are unable to prosecute and convict in the existing system.

With respect to clause 4, I agreed with the trends and typologies to be used to demonstrate the relationship or to unearth relationships. However, with respect

to the dissemination of information on its own motion, I think that was adequately addressed in 8(1) of FIU Act.

The publication of countries, I said I am unsure of the difference between the list published by the FATF group and the FSRB. With respect to 4(e) where a warrant is being issued to collect information, I have great concerns with a warrant empowering a police officer to acquire information in the form of an explanation. I have a concern with that.

With respect to clause 5 in the Customs Act, I agree with the harmonization of the six years for recordkeeping, but totally disagree with the ability of the Comptroller of Customs to adjust the value of an invoice six years old and to hold future shipments at ransom if unpaid.

With respect to clause 6 of the Bill, I am saying with respect to bearer negotiable instruments, while I commend the Government for bringing it here and plugging a loophole, disclosing it is insufficient. Where the funds will be deposited and the use of the funds and the approvals by the relevant authority to bring the funds into the country should also be sought.

With those few words, Madam President, I thank you.

**7.45p.m.**

**The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon):** Thank you very much, Madam President, and let me say that I will be pretty short. I just feel as Minister of Trade and Industry that I must respond to some of the comments made. Let me start by thanking—

#### **PROCEDURAL MOTION**

**The Minister of Energy and Energy Industries (Sen. The Hon. Sen. Franklin Khan):** Madam President, in accordance with Standing Order 14(5), I beg to move that the Senate continues to sit until the conclusion of the contribution of the

Member, and then the completion of the matters to be raised on the Motion for the Adjournment.

*Question put and agreed to.*

**MISCELLANEOUS PROVISIONS (MUTUAL ASSISTANCE IN  
 CRIMINAL MATTERS, PROCEEDS OF CRIME, FINANCIAL  
 INTELLIGENCE UNIT OF TRINIDAD AND TOBAGO, CUSTOMS AND  
 THE EXCHANGE CONTROL) BILL, 2017**

**Sen. The Hon. P. Gopee-Scoon:** Thank you very much, Madam President. Again, let me start by thanking Sen. Taurel Shrikissoon for his out front support for the Bill. I know—[*Crosstalk and laughter*] Yes. He has indicated his out front support. The Senator did, in fact, raise some concerns which, and also the other Senators on the Independent Bench. Indeed, none of these persons who spoke from the Independent Bench have indicated their lack of support for the Bill, but there are concerns which were raised and I am sure the hon. AG will, in fact, address these in his winding up. The problem, of course, came with the Opposition side.

And let me just respond to Sen. Saddam Hosein who seemed to be so concerned as to whether or not we will, in fact, we will be following the money on a number of issues. And, Sen. Hosein, let me again give you the assurance, Sen. Hosein, that we will, in fact, be following the money on a number of issues including, number one, the spurious highway to Point Fortin \$7.2 billion project. [*Desk thumping*] We will follow the money on that matter. We will follow the money in terms of bid rigging in the \$1.6 billion WASA Waste Water Treatment Plant [*Desk thumping*] at the Beetham. We will follow the money with regard to the high construction cost of the Couva hospital with \$400 million being spent on consultancy fees, 40 per cent of the total project cost being spent on consultancy

fees. [*Crosstalk*]

**Madam President:** Members, please. Minister, please. Members, please, we have had a fairly calm sitting and let us just continue in that vein until the contribution of the Minister is over. Continue Minister, please.

**Sen. The Hon. P. Gopee-Scoon:** Again, we will follow the money on squandermania at SporTT. We will follow the money on all of the over-priced construction projects under the last Government. We will follow the money on the feeding frenzy at AG's office and I can go on and on and on. [*Crosstalk*]

But, Madam President, I am not going to be long, but I will not be in the House next week as I will be on grandma duties. [*Desk thumping*] I am over the moon, I could not help [*Laughter*] but say that I had a grandson who was born just before we came to the House today. [*Desk thumping*] Thank you, everyone. It is a boy. Okay. [*Crosstalk and laughter*] Let us get back to—I mean, and I will be short because we were up all of last night.

But I want to congratulate the hon. AG [*Crosstalk*] and I know you have concerns, many of you on the Opposition side, that there was not enough depth to this first Bill which is the Miscellaneous Provisions Bill, 2017, dealing with amendments to a number of pieces of legislation, but I give you the assurance that this is only one part of the continuing efforts by our Government to fight corruption and to address all of the transnational issues that are in front of this country at this time. So that I say to you that there is going to be a suite of legislation dealing with anti-corruption matters and this is going to be brought before the House within this parliamentary session.

And we spoke about—Sen. Shrikissoon brought up the issue about the Bloomberg report. We are concerned, we are all concerned and hence the reason why this Government is openly committed, and we have said so to the public that

we are committed to dealing with the scourge of crime overall. We are committed to dealing with money laundering and the financing of terrorism and all of the associated ill and horrific events that beset us at these times, and we are committed to covering these offences and dealing with these matters from every angle, and this is what this first piece of legislation is about.

We are going to be very, very, very focused on following the money whether or not the money is obtained through money laundering, narco dealing, human trafficking, terrorism or general criminality, this Government is committed to dealing with these issues.

And thus again, this is a continuation of the work which we did between 2005 and 2010. And I want to correct Sen. Khadijah Ameen that the Financial Intelligence Unit Act was, in fact, put forward by our Government in April of 2010. Am I right, AG?

**Sen. Ameen:** Madam President, just 42(9).

**Sen. The Hon. P. Gopee-Scoon:** Yeah. You can correct after.

**Sen. Ameen:** I am asking a Standing Order.

**Sen. The Hon. P. Gopee-Scoon:** No. No. When I am finished you will—But it was, in fact, put forward. AG, am I correct? Yes? April 2010, the Financial Intelligence Unit Act, and there were other several pieces of legislation which our Government did in fact—a previous PNM Government brought into force, that is the Anti-Terrorism Act and also the Financial Obligations Rules and the Proceeds of Crime Act and so on. I am not going to deal—

**Sen. Mark:** Remember the Public Order Act?

**Sen. The Hon. P. Gopee-Scoon:** As you speak and, Sen. Wade Mark, as you have raised your voice, let me address your concerns. You said that this piece of legislation was draconian and it was very cruel and very—

**Sen. Mark:** I never said cruel.

**Sen. The Hon. P. Gopee-Scoon:**—that there was very cruel punishment attached to it. Those were your words. You said it was very oppressive and so on and I do not think—

**Hon. Al-Rawi:** Act 11 of 2009.

**Sen. The Hon. P. Gopee-Scoon:** “Orrrr”, the AG has now corrected me, Act 11 of 2009, the Financial Intelligence Unit Act under a previous PNM Government. Thank you, hon. AG.

**Sen. Mark:** I thought you were talking about cruelty.

**Sen. The Hon. P. Gopee-Scoon:** Yeah. So, you were speaking about the—

**Sen. Mark:** A cruel Act. Sorry, grandmother.

**Sen. The Hon. P. Gopee-Scoon:** Yeah. And my disappointment is with you, Sen. Mark. My disappointment is with you, [*Crosstalk*] that you do not understand the complexity of money laundering and all of the other transnational crimes that are before us. [*Crosstalk*] And he is making light of it, Madam President, so these are very serious issues. I place on record that the Opposition seems to be making very light of some very serious transnational crimes which are facing the country and which are impacting—and all of these issues are, in fact, impacting on the Government’s ability to attract investments. This is a very, very interconnected world and therefore, anything that happens in this country hits the international scene immediately, and to make light of this matter and to consider it and to treat it in such a trivial manner is unpardonable. Unpardonable and unforgiving. [*Crosstalk*] So that I want—

**Sen. Mark:** Sorry, Ma’am.

**Sen. The Hon. P. Gopee-Scoon:** And in fact, the seriousness of it was raised by Sen. Taurel Shrikissoon when he highlighted the fact that in December the EU

backlisted us as a tax haven. That is a serious matter, and this is why we have had to bring these pieces of amendments to the several pieces of legislation. We are committed and that is the point that I am making. We must deal with the issue of money laundering once and for all, once and for all. And again, because it is connected with narco trafficking and all of the other areas of concern.

And it is in the jurisdictions around the world a dealing with implementing new laws and determining new methods to combat and to reduce money laundering practices, and we must not be a stranger to these acts at all. As I said, we are all interconnected and several jurisdictions have gone up front and they have in fact as I have said before they are implementing new laws and legislations and regulations and governance arrangements and Trinidad and Tobago will not be a stranger. We must, in fact, be committed. All of these negativities, in fact, affect all of it the citizens of Trinidad and Tobago, all of us in our everyday lives. And also, it is also impacting on our economy in a very serious way.

And Sen. West did, in fact, bring up the whole question on its relation on taxes and tax evasions. I am not going to go into that. But indeed, Trinidad and Tobago is a developing country and we have to comply with global forum and international best practice and all of the compliance standards in finance and taxes if we wish to grow and if we wish to attract investments and if we wish to trade internationally, and I am going to speak a little bit more at the end of this.

So when Sen. Ameen speaks about witch-hunting and she brought up the issue of sovereignty, let me tell you, there is no question of sovereignty when you are thinking of criminal activities at all. The criminal mind does not think of borders, they do not think of sovereignty, they penetrate every border across the globe. So sovereignty has no issue when we speak about these transnational crimes, absolutely no issue at all. And therefore, I do not want to say that it is

naive, but the fact is these [*Crosstalk*] yes, sovereignty deals with the protection of your citizens, but criminality knows no borders. They know no borders and therefore, it is a non-issue the question of sovereignty in a case like this. Absolutely not.

So, some of the provisions in the Bill we have already addressed and it is no point bringing up that. But the whole question freedom of exchange of information must happen, and to the extent that spontaneous exchange of information must be allowed to take place because some of the matters are so serious that you have to deal with it as it comes up and therefore, the law must make provision for the spontaneous exchange of information.

We are required to be globally compliant, and I made that point already. And for example, with FATCA, the free exchange of information was necessary to ensure that compliance existed between Trinidad and Tobago and the US. I make the point, again, that all of these features are absolutely necessary in today's world, and it is the exchange of information between jurisdictions that will help to keep citizens safe, not only citizens in Trinidad and Tobago, but citizens across the globe, and as legislatures we must know the importance to these types of exchanges.

And again, I make the point of seriousness of money laundering because there are numbers of cases that are already before us. My understanding is that there are about 17 cases before us and about 54 charges before the court, so this is not a trivial matter and it must deal with. Some of these cases have been before the court since 2012 and we therefore have to put all the provisions in place to deal with these matters.

The point was made, again, about deleting section 22(2)(k) again, which dealt with the refusal of the request for giving of information. And again, I want to

make the point that this is keeping with global practices to allow for the exchange of information to ensure that the criminal offences are, in fact, abated. It is a reciprocal process. You are going to have foreign criminals entering Trinidad and Tobago and committing crimes and we are going to be forced to request information to deal with the matters. There is a strong element of reciprocity in all of this and we are obligated to deal with it.

There was the concern, about after 5.00, clause 3 which deals with the fines, the very serious fines of \$25 million, very high fines of \$25million and to imprisonment for 15 years now being amended to a person who commits an offence under section 5 being liable both on a summary conviction to a fine of \$25million and to imprisonment for 15 years, and be on conviction and indictment to a fine of \$50 million and to imprisonment for 30 years.

And again, I want to support the AG, again with the double approach, the fact that these offences will be triable both on summary conviction and on indictment. And it is noted that the AG, at least in the Lower House did note that it is the DPP who will determine which procedure each case would attract.

And I bring to the attention of this honourable House that this new clause is similar to many in other jurisdictions. It is not at all something that we have come up with. It is certainly in the UK legislation where the offence of money laundering can, in fact, be tried on either side.

And I want to bring up one point with regard to the number of cases before us and I should have said it. We had introduced before the question of the preliminary enquiries, and it was in 2017 that the hon. AG had brought to the Parliament the indictable offences pre-trial procedure which sought to abolish preliminary enquiries and to provide for the pre-trial procedure in respect of indictable offences and for ancillary matters. And again, it was heavily disputed

by the Opposition and, of course, no solutions were offered. And I want to say that all that we speak of today implies that this is a matter.

You speak about the justice system, several of you on the Opposition side brought up the fact that the justice system is not ready and so on, and we are not saying no to that, but the point is, when we do, in fact, bring forward legislation that is going to help the justice system and to move these cases along, we will need the support of the Opposition and this piece of legislation, I am sure it will be brought back to Senate sometime soon, hon. AG, and we expect—you complained about the justice system. We expect that we would, in fact, have your support—this is the Opposition—when it is brought back to this Senate sometime soon.

Again, I know that there was concern with regard to section 23 of the Customs Act and the question of the substitution of the one year with the six years. And I want to say that as the Minister of Trade and Industry, again, because of the whole scourge of money laundering, and listen, we are not dealing with \$20 and \$1,000 offences, eh, in terms of the amount of money that is being moved and so on. We are dealing with large offences, substantial offences, and therefore, I do not consider as Minister of Trade and Industry that this is, in fact, an onerous term at all.

Again, the point was raised about how long the importer is required to keep his documentation. I take no issue with the fact about the six-year period. In any event, if you are holding tax records for six years I see no problem with holding on to customs documentation for six years as well, and this is the extent to which we have to go and it is very important and I support the hon. AG.

I also support the inclusion of the question of appeal within six months. There is that process that is being allowed for, the process of appeal, that within six months, that is ample time, and anybody who feels that they have been dealt with

harshly, there is a six-month period to bring the matter before and therefore, again, I do not consider this to be draconian at all, and there must be consequences for committing all of these terrible crimes as well. And I also do not consider it draconian in terms of the refusal for the delivery of subsequent shipments by the importer. It is not draconian having regard to the severity of the offence that we are dealing with.

The Opposition weighed heavily on the question of the three-fifths majority. There is absolutely no clause or right established in the Constitution that is going to be infringed. In fact, the three-fifths majority is absolutely not needed. There are no provisions in the Bill which encroach on rights of the citizens of Trinidad and Tobago as stipulated in the Constitution. There is absolutely no encroachment, there is nothing in the Bill which can be construed as requiring any person to give any information which may incriminate him. That is well laid out in clause 4 of the Bill. If I can quote again, nothing in this section shall be construed as requiring any person to give any information which may incriminate him. So there is absolutely, absolutely no infringement on the right of any citizen of Trinidad and Tobago, absolutely.

So that the whole question of the three-fifths majority, as I said, does not arise at all and there is absolutely no trampling on anyone's private or personal right or so. I mean, what this calls for that persons, importers and so on to abide by the law. It is a very fine line here, you either abide by the law or do not abide by the law, and sometimes the comment is made by many citizens of our country that we are concerned about the discipline in our country. You speak about the watchwords of our country, discipline and production included, and really we have to take these matters seriously.

So that even in terms of importing/exporting and in the conduct of one's

business, discipline is important, discipline is absolutely important, people must abide by the law and therefore, I can take no issue with this whole question of your I suggestion—sorry, I take great issue with your suggestion that a three-fifth majority is required. People must make their declarations properly. You are importing goods, businessmen are importing goods, you make the declarations, you make your declarations truthfully and fairly. All of these things speak to transparency, honesty and so on. Declarations by all importers must be made. All of these matters of under-invoicing, I as Minister of Trade and Industry will not support those kinds of activities at all.

So anybody who wants to hide in other people's name and under-invoice and all that kind of nonsense, they are the people who have to worry. They are the people who have to worry. What we have to worry about are those persons who are offended. You see the offenders, they are in trouble, and this is what we are dealing with, but we have to speak to all of the people of Trinidad and Tobago who are, in fact, offended by the scourge of money laundering and all of these other transnational crime. It is a thin line. You are either supporting—the Opposition, you are either supporting the offender or the offended, and I can tell you on this side [*Crosstalk*] we are supporting those offended. [*Crosstalk*]

**Madam President:** Sen. Mark.

**Sen. The Hon. P. Gopee-Scoon:** As Minister of Trade and Industry—[*Crosstalk*]

**Madam President:** Sen. Mark, please, please, refrain from what you are saying. Okay? Minister, continue.

**Sen. The Hon. P. Gopee-Scoon:** Thank you. Again, I make reference to the Bloomberg report and many other reports that may have been out there in the public domain. And we must all be concerned about country's reputation. And our country's reputation will be affected by money laundering and terrorist-

financing activities and other criminal activities if we do nothing about it. And I go back to our commitment to deal with these matters. Our country's reputation is important for our revenue streams, for sustainability, for economic growth, for diversification which we talk of all the time, you all speak about it. So, for business-process outsourcing, for all of these areas of diversification which we speak to. So therefore, we have to be serious about our country's reputation, we have to and I expect each of you on the Opposition side to think about this within your contributions, your country's reputation, your economy, the growth, our sustainability, our ability to upkeep all of the social programmes. When our revenue streams fall, all of these programmes are impacted, so we must be concerned.

And it is that no investor will risk, invest in our country, and I am talking about local investors, foreign investors, no investors will risk putting their money into this country if we are not attempting to deal with fraudsters and money launderers, if we are not dealing with all of the anti-terrorism activities that appear to be out there. We cannot, cannot allow these activities to go unnoticed, our reputation is at risk and it is damaging if we do not deal with these matters.

So, we need to maintain some level of confidence, investor confidence, confidence in our country, confidence by our citizens and so on. As I said, these things affect our financial system and I think the point may have been raised earlier and it is therefore, critical that they are dealt with.

I want to say that in the Ministry of Trade and Industry all of these matters are, in fact, very impactful on our economy and by extension, as I said before, the investment climate and the trading environment. We are trading with our global partners, all of us through the WTU are pretty much on a virtual trade facilitation system and platform and therefore, we must ensure that there is compliance, there

is collaboration if we do, in fact, want to increase our trading activities.

So that in the Ministry of Trade and Industry, we are continuing to come up with policies to, in fact, improve our trading activities and to attract investments to this country and therefore, we must support the hon. AG and the Government in bringing forward these matters and dealing with them. Bills like these are absolutely necessary to uplift our profile and to ensure that our country remains a very secure and stable country where the law works. That is what we are concerned about.

So that again, let me just say that in concluding, the work of the Ministry of Trade and Industry continues to be very, very, very important to our overall economic growth and the health of our economy. I want to say that there are a number of systems that we are working on, policy arrangements that are going to assist with improving the trade and investment environment.

And you would have learnt, Madam President, and I have spoken about it over and over about the single electronic window. We are out of that single electronic window system. We are, in fact, dealing with the customs and the entry of goods into Trinidad and Tobago, the export of goods out of Trinidad and Tobago, the whole question of an integrated risk-management system to ensure that our trading system is, in fact, very, very efficient. We are reviewing all of our trade laws and ensuring that we operate in a trading environment that is transparent and that is within the law, Madam President.

Again, the operationalization of the port scanners we trust will be in place in a matter of months or so. Our electronic funds transfer framework which ensures, again, the very transparent e-payment systems. We are, in fact, facilitating all of these improvements, again, to fix our incentive framework—sorry—to fix our investment framework and our trade framework as well. And therefore, very

importantly the whole question of compliance remains on the front burner. We have to ensure that we do everything to ensure that we are globally transparent and compliant. I cannot speak any more about the inter-connectivity between countries and that anything that happens in Trinidad and Tobago today is in a matter of minutes on the international arena and therefore, we will continue as a Government, we will be resolute in bringing forward continuing legislation to deal with following the money. We are resolute, as I said, in dealing with these matters and to try the necessary individuals in a timely fashion.

As I said, if you are a law-abiding citizen, if you are a law-abiding company and you are doing what is right, then you will have no need to worry about these pieces of legislation which are now brought before the House, the amendments now before the House. Maybe I cannot understand the concern and why the Opposition will not support it, but as I said, as long as you are law-abiding citizens or businesses, you would have no issue with all of these changes in the legislation that we are bringing before you. If however, there is breach of the law and there is corruption and bid rigging and cartel behaviour or if you have gotten a bribe or if you have gotten things through conspiracy, then you have every right to be afraid, and we are going to be dealing with you effectively. Those who are the loudest objectors, we have a concern, we have a concern and therefore, we take note, we are listening and are going to be dealing with all of these offenders.

Madam President, I wish to thank you and give you the commitment of the Ministry of Trade and Industry, again, to improving our revenue streams of this country, to add into economic growth, to add into sustainability of our revenue streams and the overall economic streams of our country. Thank you so much.

*[Desk thumping]*

**ADJOURNMENT**

**UNREVISED**

**The Minister of Energy and Energy Industries (Sen. The Hon. Sen. Franklin Khan):** Madam President, I beg to move that this Senate do now adjourn to Tuesday 27 February, 2018, at 1.30p.m. During that session we will conclude the debate on this Bill. And for your information, Madam President, next week Tuesday is the fourth Tuesday of the month and by mutual agreement we have decided to defer Private Members' Day.

**Madam President:** Hon. Senators, before I put the question on the Adjournment, leave has been granted for two matters to be raised on the Motion for the Adjournment. Sen. Mark.

**8.15 p.m.**

**Quarrying Industry  
(Foregone Revenue Shortfalls)**

**Sen. Wade Mark:** Thank you very much. Madam President, the matter that I am happy to raise this evening addresses the issue of revenue shortfalls that have been literally foregone owing to the absence of mechanisms in the quarrying industry by the Government of the Republic of Trinidad and Tobago.

Earlier on you would recall the hon. Minister in the Ministry of Finance speaking about the \$10 billion deficit, and saying to us in this honourable Senate that we must do everything in our power to collect our taxes. I wish to ask the hon. Minister of Energy and Energy Industries, why between 2001 to 2015 scores of quarry operators have been operating illegally in our country, and once you are operating illegally in our country, you do not pay royalties, Madam President. And the evidence is now showing that there are scores of individuals who have been operating in different parts of our country without any licences, denying the country in the process, denying the Treasury in the process of much needed revenues.

Quarrying Industry  
(Foregone Revenue Shortfalls) (cont'd)  
Sen. Mark

2018.02.20

Based on a minerals policy issued by the Ministry of Energy and Energy Industries sometime in 2015, we were told that just under \$150 million remain outstanding by quarry operators. This is not to mention or to include their failure to pay corporation taxes, their failure to pay Green Fund Levy, their failure to pay Business Levy, as examples. But there were some changes in the regulations we understand, and with those changes there were increased fees, licence fees were increased, bonds for performance and rehabilitation were also increased. And we are advised, Madam President, that just in terms of licence fees and bonds performance and rehabilitation fees, or bonds, the country is losing about close to \$140 million between the last few years.

So here it is, the External Patient Programme is under stress, the School Feeding Programme is under stress, you have a lot of challenges in terms of cutbacks in many Ministries and agencies of State, and, Madam President, we have a quarry industry that is owing the taxpayers of this country and the Treasury and the Consolidated Fund close to \$500 million. What is the Government doing about that? It is money that we have to collect. Why is the Government not taking steps, Madam President, to regulate the quarrying industry by issuing licences to those illegal operators? When I say illegal operators, Madam President, those are people I am talking about who have had licences, their five-year period up, they have reapplied, and they are still awaiting new licences. So, it is not to say they never had licences; they had, but those licences expired. Then we have a new category called new applications or applicants, and we understand, Madam President, because again, they have not been able to be given their licence, for whatever reasons and challenges, they too might be there engaging—we do not know to what extent they are because the Ministry is under severe pressures as it relates to

Quarrying Industry  
(Foregone Revenue Shortfalls) (cont'd)  
Sen. Mark

2018.02.20

its Minerals Division.

Madam President, would you believe that the Auditor General in his 2016 report to this Parliament on the accounts of the Republic was able to reveal that the quarrying industry, and the regulator for that industry, that is the Ministry of Energy and Energy Industries, were not able to establish weigh bridges to measure production outputs in that industry? Everything, Madam President, is being done on the basis of the goodwill of the extractors or the owners of these quarries. So, here it is our environment is being destroyed by these quarry operators and we are not collecting royalties. We are not collecting corporation taxes, we are not collecting Green Fund Levy, we are not collecting Business Levy, and then in terms of licences, and performance bonds, and rehabilitation bonds, we are not collecting those fees.

So, I call on the hon. Minister of Energy and Energy Industries. What is the Government doing? We learnt at a meeting just a couple of hours ago, that sitting in the LRC of the Government is a Bill called the Miscellaneous Provisions (Illegal Quarrying) Bill—enforcement quarrying Bill. That is what we were told at a public hearing recently. That Bill has been with the LRC since 2016. Because, Madam President, there are criminals operating in the quarrying industry today and they operate with impunity because of the inability of the Government and its agency to enforce the law against those operators, and they are stealing from the public purse. They are not providing the royalties because they are doing it illegally, Madam President.

So, the reason I am raising this matter today is because I know Trinidad and Tobago is in a very tight fiscal revenue situation. And, Madam President, we have sitting in this country millions, hundreds of millions of dollars to be collected.

Quarrying Industry  
(Foregone Revenue Shortfalls) (cont'd)  
Sen. Mark

2018.02.20

And I want to know what the Ministry of Finance is doing about this? I want to know what the Ministry of Energy and Energy Industries is doing about this? Rather than take advantage of poor people, where they cannot get proper services at the health sector level, where the School Feeding Programme, as I said is under attack, as example. Madam President, where today as we speak, cancer patients through that External Patient Programme are under pressure.

So, I call on the hon. Minister of Energy and Energy Industries to tell this Parliament what measures—

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

**Sen. W. Mark:** Yeah, what measures are being taken? Thank you very much, Madam President.

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Thank you very much, Madam President. Madam President, this is, I must admit, an extremely timely Motion on the Adjournment. The Ministry of Energy and Energy Industries through its Minerals Division, supervises 90 active quarry operations, the majority of which are in northeast Trinidad where the most prevalent type of material mined is sand and gravel. Other types of material mined includes blue limestone in the Northern Range, yellow limestone, clay and red sand in Central Trinidad and the site in Tobago, that is the Studley Park quarry.

The operators of these mining operations are required to submit quarterly quarry returns of mining data and evidence of royalty payments to the Ministry. Verification of the information is achieved through site visits conducted by personnel from the Ministry's internal audit unit and the Minerals Division. The operators' books and records are perused, checked and verified to ensure data correlates with the returns. Where there is a liability to the State, the operators are

Quarrying Industry  
(Foregone Revenue Shortfalls) (cont'd)  
Sen. The Hon. F. Khan (cont'd)

2018.02.20

so informed and requested to settle their outstanding amounts. For the renewal of mining licence, the operators is required to pay all outstanding royalties.

Madam President, over the last, I would say, decade or so, the system seems to have collapsed, and by assumption of office, as the Minister of Energy and Energy Industries, I decided to take a focused look at the quarry industry because there is significant revenue leakage. I do not like to compare the former regime with this current regime, but let me just quote a piece of statistic here: as a result of a greater focus on data collection in receivables management, revenue from the sector increased in 2014. Hear this, oil price was crossing “ah” hundred dollars, the economy was over heating, construction was in a boom, 2014. Under the UNC the quarry industry paid royalties of a mere \$1,398,000. Imagine that! I am pleased to announce despite our challenges that in 2017, which was last year, in a downturn, minimal construction going on in the country, save and except a couple key projects, because of efforts we have put in place now, still in its embryonic stage, still has far to go, we collected \$7,865,000 [ *Desk thumping* ]

There is still outstanding a very large receivable of approximately \$92,000,000 in unpaid royalties by operators on state land. Regrettably, \$48 million, or half of that, is owed by the National Quarries Company. But, what makes matters worse, and I would not call names because we are going after them, the other half which is \$40-something million also, there are 21 operators who owe more than \$1 million in outstanding royalties. So if you take the other \$40-something million, half of that is owed by 21 quarries which are very large quarries, and if I only call their names you would shudder to think that companies of that nature could be owing the State so much of money. But, we have contacted them and we tell them that is grounds for the termination of their licence, and we

Quarrying Industry  
(Foregone Revenue Shortfalls) (cont'd)  
Sen. The Hon. F. Khan (cont'd)

2018.02.20

are going after them in a very, very serious way.

However, we have some challenges in the Ministry of Energy and Energy Industries in terms of staffing, because as we speak the Minerals Division is very understaffed. On the official establishment there are vacancies—the minerals establishment which was created by Cabinet in 1998 and 2000 calls for one Director of Minerals, two Senior Geologists, one Senior State Counsel, six Geologists, one Geo-Science Surveyor, four Mining Inspectors, two Mining Survey Technicians, two Geological Assistants, eight clerical staff, and 17 daily paid field crew. The current establishment is one Director of Minerals, one Senior Geologist, one Mining Inspector, two Mining Survey Technicians, two Geological Assistants, two clerical staff, and we have people on contract called Quarry Management Officers, who are holding on temporarily. And what is so painful about this, Madam Speaker, is that—

**Sen. Baptiste-Primus:** Madam President.

**Sen. The Hon. F. Khan:** Madam President—the Ministry of Energy and Energy Industries was given delegated responsibility by the Public Service Commission, which empowered the Permanent Secretary to go out and recruit these people.

We had advertisements out. We shortlisted the names, and lo and behold the Public Service Association filed an injunction to block this. I spoke to the President General Watson Duke himself, and I said, “How could you do something like that and deny young Geo-Scientists and Geologists out there, coming out of school, bright like a bulb, and deny them the opportunity to work in the sector”, and hopefully that injunction would be heard later this week, and we hope that it is thrown out and we could go ahead with the recruitment of the staff.

So, Madam President, there are challenges in the sector, and royalty

Quarrying Industry  
(Foregone Revenue Shortfalls) (cont'd)  
Sen. The Hon. F. Khan (cont'd)

2018.02.20

payments, to me is fundamental. I have raised it with the oil companies, because we have instituted a royalty system for gas now. If you heard in the last budget debate the Minister of Finance imposed a 12.5 per cent royalty on gas, because when you are dealing with a wasting resource, a non-renewable resource, the taxation system has to take place on volume and not profitability. And in any extractive industry, whether it is a coalmine in Pennsylvania, or iron ore mine in Australia, you have to pay royalties, because when you extract that non-renewable resource from the earth, it is not replenishable. And anytime a company—I can make a concession on corporation tax, I can make a concession on any other form of taxation, a Green Fund Levy, but the most fundamental principle of extractive industry taxation is the payment of royalty.

Madam President, through you, I want to give the country this assurance, that I have taken this matter very, very seriously, and we are putting steps in place to recover as much of this outstanding royalty as we can possibly do before we become very draconian and revoke the licence of some of those quarry operators.

I thank you. [*Desk thumping*]

**Economic Development Advisory Board**  
**(Sudden Resignation of Former Chairman)**

**Sen. Taharqa Obika:** Thank you, Madam President, and I must say it brings me no pleasure to bring this private Motion—this Motion on the Adjournment regarding the need for the Government to properly explain the sudden resignation of the former chairman of the Economic Development Advisory Board, and the potential adverse impact of the resignation on the work of the board.

Why I say that is because as a student and a practitioner of economics, it really is a sad day when a prime minister could decide not to listen to his advisors

so much so that the advisor decides that it is time to go. And I quote from an *Express* article on the 12<sup>th</sup> of January, Friday, an article by Leah Sorias, the President of the Trinidad and Tobago Manufacture Association:

“Alcazar, in a statement yesterday, said Farrell’s resignation”—that is Terrence Farrell—“was a loss to T&T’s diversification agenda.”

Now, this is from no other than the head of the Manufacturing Association. Now, if you understand the importance of manufacturing to our economy, especially our agro-based manufacturing sector, we would understand that it means jobs. So, if the head of the manufacturing sector says that it is an indictment on the diversification agenda of the entire economy, it means that we can look forward to an even more bleak job situation worsening in this country. And I want to look at some other examples; we have a former Minister in the Ministry of Finance saying that nobody is talking about what the Prime Minister said, and it is in reference to the speech at the beginning of the year. Now, the speech of a prime minister at the beginning of the year sets the tone for the drive and the energy of the Executive, the persons who sit opposite us, and in House, in developing and doing their work programme.

But, when you look at an article written by Andre Worrell in the *Guardian* of January the 11<sup>th</sup>, 2018, the *Business Guardian*, he mentioned that it is smoke and mirrors. He said:

“There is, however, a tremendously deceptive aspect to some of the rhetoric of the Prime Minister.

In the first instance, the Prime Minister’s proclivity for listing ‘development projects completed and/or in progress’ is a great example of misdirection for one simple reason: how will these projects, as a form of significant capital

expenditure, end up yielding any revenue for the State? Additionally, there seems to be an unhealthy obsession with building things for the sake of simply doing so.”

So, what is the material benefit? Basically, these people are saying, what is the material benefit to the economy? And, the answer is none. When the times are hard you should really focus your attention on matters that bring revenue.

Now, the resignation of the Advisory Board chairman confirms the obvious, that the Rowley-led Government administration, the economic policy is aimlessly adrift [*Desk thumping*] and is a massive failure. Now, the woeful economic performance that we have seen, 20,000 jobs lost as attested by the Central Bank Economic Bulletins of 2015, '16 and '17. Twenty thousand jobs lost since they came into office has resulted in mass suffering of the struggling classes of Trinidad and Tobago. [*Desk thumping*]

The tax to recovery—the tax to tax to recovery—the word tax has to be repeated more than recovery in this case—wished economics has resulted now in a GDP which is below 2006 levels. We have regressed 12 years under this Government.

Now, the business community has complained ad nauseam about the paucity of the Government's—and the Minister of Finance has been reduced to scrapping publicly with members of the business community, heads of different sectors. The recent move by the Government to increase the Treasury Bill limit, not for stabilization purposes, not for balancing shortfalls in cash in terms of timing, but rather for expenditure, will distort our debt profile significantly. [*Desk thumping*]

And Dr. Farrell's citing of inaction by the Government points to what we in the United National Congress have been saying all along, that the Minister of

Finance and the Prime Minister are on frolics of their own [*Desk thumping*] and they have no desire to heed expert advice. So the resulting decline in the non-energy sector—they are always talking about the energy sector, what of the non-energy sector? That is where the diversification agenda gets teeth. There is nothing to show, and the decline is clear in the September of 2017 Economic Bulletin of the Central Bank.

But, the Dr. Rowley PNM administration has one alternative, call elections now. [*Desk thumping*] In the words of that calypsonian from Buenos Ayres, Mr. Weston Rawlins himself, he say, “He calling dem and he not getting no answer”. [*Laughter*] But I could tell Mr. Cro Cro, he “doh” have to drive the flashy Benz all the way to Parliament to get redress. Just come to Obika and I will bring the issue up.

**Hon. Senators:** Yeah, yeah, yeah. [*Desk thumping*]

**Sen. T. Obika:** I “does” see him in Point by Frisco junction all the time. [*Laughter*]

So there is a new normal in oil prices. The Prime Minister in his address at the beginning of the year, on the 7<sup>th</sup> of January, 2018, is still focusing on the lows of \$30 a barrel. That was two years ago, February, we are now approaching the end of February 2018, when the new normal is above \$50. If you look at the EIA right now you would see that the West Texas Intermediate spot prices are trending above \$60 a barrel, for even the lower price benchmark crude, which is the West Texas Intermediate.

So, the Prime Minister needs to get with the programme. He is now living in the past. And it also shows that the Prime Minister is confused. In the same statement he said:

In these difficult times Government gets voluminous and divergent advice from a variety of quarters, none of which is without some element of negative side effects.

Well, obviously. That is why you have to run the economy. You do not run an economy—It is not a wishful thing, you wave a magic wand and things happen. But obviously we could understand his problems, because now he has fired—he has forced, it is called constructive dismissal. [*Desk thumping*] He has forced his advisor to resign. The advisor himself, Dr. Farrell said I have resigned because I am not satisfied with the progress that the EDAB has made under my stewardship since its inception two years ago. This is a man fed up and frustrated as the title of the article, on Thursday 11<sup>th</sup> January, in the *Express*.

Now, let us go to the diversification agenda. The TTMA already laid waste to the diversification agenda of this Government. Laid waste to it. So, if the TTMA can do so, and we have been warning the Government ad nauseam, here comes again another warning. Now, the Minister of Trade and Industry has now left—I pity the Minister of Trade and Industry, to scrape up a few dregs [*Laughter and desk thumping*] to report investments of less than US \$400 million, both in local and foreign, whilst under the People's Partnership Government led by the hon. Kamla Persad-Bissessar recorded over US \$5 billion, only in foreign direct investment. [*Desk thumping*] And, I said at the beginning, it grieves me, and I get no pleasure in bringing this forward, because right now if you look, the trade policy of the country has lapsed as at December 31, 2017. The Government of Trinidad and Tobago is following no trade policy at the moment. We are a ship rudderless, motionless, and we are at the whims and fancy of the ocean. [*Desk thumping*] This is a sad day. [*Desk thumping*]

Now, I heard the Minister of Trade and Industry talking about policy, I am not sure if she—she needs to check back the Ministry. The PS probably misinformed, the policy has lapsed. I am sorry for—the workers in the Ministry are good, you know, but maybe they are not resourced properly under this Government. [*Desk thumping*] The last policy was done, 2013 to 2017. We know who was in power in 2013.

Now, let us look at different sectors: sports, failure; tourism, failure—I would come to the details shortly—interconnectivity to the Tobago economy, failure; managing Petrotrin and fake oil, failure; gas due to poor negotiations, CNC fighting with NGC, another failure. A Prime Minister must never circumvent his Executive and go and negotiate. He should be the last resort. Farmers' assistance, failure—

**Madam President:** Sen. Obika, your time is up.

**Sen. T. Obika:** No, I, I have, I—

**Madam President:** Senator!

**Sen. T. Obika:** I thank you very much.

**Madam President:** The Minister of Planning and Development. [*Desk thumping*]

**The Minister of Planning and Development (Hon. Camille Robinson-Regis):** Thank you very kindly, Madam Speaker. Madam Speaker, I am very happy to be here to respond to—

**Sen. Haynes:** Welcome.

**Hon. C. Robinson-Regis:** Thank you—what I thought would have been a Motion as described by the Order Paper, but obviously the Senator went off on a frolic of his own.

Madam Speaker, sorry Madam President, before I go into the details of my

response, I just wanted to say that I thought it would have taken Sen. Obika a little longer to become as jaded as his leader Sen. Mark, but obviously it is taking a much shorter time to become jaded and to become a pedlar of misinformation and improper advice to the public of Trinidad and Tobago. And, Madam President, we on this side have become so accustomed to those who are opposed to us on the other side, speaking flawed logic, as my colleague has said, that I was really taken aback that in less than two months, Sen. Obika has already joined that team in such a deep-seated way that his logic has become flawed, that he has joined the group that leads to fake information, to deception, to deceiving the public. It is very, very amazing to me.

**8.45 p.m.**

As a matter of fact, I was very surprised that he did not talk about the \$400 million that was misused by the Ministry of Sport; that he did not talk about the \$7 billion that was spent on a highway that is yet to be finished and is being finished by us; that he did not talk about the situation that has led us now to be developing an energy policy that is really to the benefit of the people of Trinidad and Tobago and not to the benefit of the oil companies. Because under the last administration, all they did was try to ensure that the oil companies took and took and took from Trinidad and Tobago whilst they spent all the money. So much so, that today we are still in overdraft at the Central Bank, Madam President.

Madam President, we are in a situation today and if Sen. Obika were honest, [*Crosstalk*] he would stand and be able to say— [*Crosstalk*]

**Sen. Obika:** That is not parliamentary language, Madam.

**Hon. C. Robinson-Regis:** Madam President, if Sen. Obika were honest—

**Sen. Obika:** That is unparliamentary language.

Economic Development Advisory Board  
 (Sudden Resignation of Former Chairman)  
 Hon. C. Robinson-Regis (cont'd)

2018.02.20

**Hon. C. Robinson-Regis:** Madam President, if Sen. Obika, I repeat—  
*[Interruption]*

**Madam President:** No, Minister, please. I would ask you to rephrase what you are saying because you may be implying improper motives to the Senator. Sen. Obika as well, please, if you want to invoke a Standing Order there is a proper way to do it. *[Crosstalk]* Shouting from your seat will not do it. Okay? Continue Minister.

**Hon. C. Robinson-Regis:** Madam President, if Sen. Obika were being fair to the people of Trinidad and Tobago in the discharge of his duty, he would admit that the situation in which we find ourselves is totally on the shoulders of the Kamla Persad-Bissessar administration. *[Desk thumping]* And Madam President, if you would allow me, under Standing Order 42(11), *[Crosstalk]* under Standing Order 42(11), I would like to be allowed to read, thank you very kindly.

Madam President, Dr. Terrence Farrell resigned on the 8<sup>th</sup> of January, 2018, by letter to the Prime Minister. His statement on resignation as Chairman of the Economic Development Advisory Board is as follows:

I speak for myself and not for the other members of the EDAB who are all independent professionals and can therefore speak in their own right. I have resigned because I am not satisfied with the progress that the EDAB has made under my stewardship since its inception two years ago. That assessment is personal. I tried to set high standards for my own performance and I do not think I have been able, as Chairman, to attain those standards.

In my view, the macroeconomic developmental and diversification challenges facing this country are serious and require urgent concerted action based on sensible plans which have the highest priority and should be

implemented with focus and resolve. I had indicated in a newspaper interview when I took up the responsibilities at the EDAB that I did not expect that all its recommendations would become policy and be implemented, but that by my own standards a reasonably high percentage should be. I have not been able to achieve that. It is not that the EDAB has done nothing. It has submitted the following to the Government:

1. In accordance with our primary mandate in our terms of reference, a draft diversification strategy and roadmap was submitted for consideration in March 2017.

2. The following advisory notes were submitted:

Responding to the declining revenue scenario;

Tripartite discussions on adjustment;

Accelerated deepening of relations between Trinidad and Tobago and Cuba;

Establishing a heritage fund;

Preliminary proposals for the pursuit of neutrally beneficial opportunities between Trinidad and Tobago and Venezuela;

Revisiting current macroeconomic policy management;

Engaging the Trinidad and Tobago and West Indian diaspora;

Encouraging business process outsourcing and global ICT enabled services;

Support for international fine cocoa research centre; Redraft of the national innovation policy;

Assessment of Alutech industry initiative;

Proposal on steelpan manufacturing industry for export.

In addition, the EDAB has worked extensively on policy areas related to Vision 2030; port sighting and relocation study; renewable energy and energy efficiency; waste management strategic plan for the agriculture sector. The record of most of these activities is available on the website.

These submissions, notwithstanding, there remains a large volume of work which is incomplete and I am acutely aware that several persons remain with a lack of progress on their ideas and proposals. Parenthetically, I together with three other members of the advisory board and other independent professionals were appointed to a Committee to review wholly-owned state enterprises. That work which covered 44 enterprises as well as TSTT, was completed in six months and the report submitted.

My own expectations of high level engagement followed by swift implementation on these and other policy issues have not been realized.

Working within the public service environment requires an acceptance of a certain pace of work and a degree of patience with which I am clearly not blessed. Others, better endowed with these qualities, may succeed where I by my own standards have not.

I thank the Government for giving me the opportunity to be of service which I and all other members gave in the spirit of volunteerism and wholly without compensation of any kind. Mrs. Camille Robinson-Regis, Minister of Planning and Development, was always accessible and whenever her pressing duties made it possible, gave her time and personal support to our work. Mrs. Paula Gopee-Scoon, Minister of Trade and Industry, has also been supportive of our work.

I would also like to thank my fellow members of the advisory board for their

Economic Development Advisory Board  
(Sudden Resignation of Former Chairman)  
Hon. C. Robinson-Regis (cont'd)

2018.02.20

tremendous support and advice; the staff of the secretariat, Mr. Tomas Bermudez and staff of the IDB, the UNDP, the EU delegation and the Ambassadors and staff of the Embassies of China and Japan, for their support and encouragement; the business community, especially Ronald Hinds and Gabriel Faria. The CEOs of various government agencies—  
*[Interruption]*

**Madam President:** Minister, your time is up.

**Hon. C. Robinson-Regis:** Thank you, Ma'am. Just to say, this is what Mr. Farrell said from his own mouth about his resignation. *[Desk thumping]*

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 8.53p.m.*