

SENATE

Tuesday, March 13, 2018

The Senate met at 1.30 p.m.

PRAYERS

[MADAM PRESIDENT *in the Chair*]

JOINT SELECT COMMITTEE**(APPOINTMENT OF)**

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

“March 12, 2018

Dear President of the Senate,

‘Establishment of Joint Select Committee’

At a sitting held on Friday March 09, 2018 the House of Representatives agreed to the following...:

1. ‘Resolved:

That in accordance with Standing Order 64(1)(c), the Constitution (Amendment) (Tobago Self-Government) Bill, 2018 be referred to a Joint Select Committee to be established for its consideration and report by July 31, 2018.’

2. ‘Resolved:

That subject to the concurrence of the Senate on the establishment of the Joint Select Committee on the Constitution (Amendment) (Tobago Self-Government) Bill, 2018, the following six members be appointed to serve with an equal number from the Senate on the Joint Select Committee to consider and report on the Constitution (Amendment) (Tobago Self-Government) Bill, 2018:

UNREVISED

Mrs. Camille Robinson-Regis, MP

Mr. Fitzgerald Hinds, MP

Ms. Shamfa Cudjoe, MP

Mr. Terrance Deyalsingh, MP

Ms. Ramona Ramdial, MP

Mr. Rudranath Indarsingh, MP.’

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

Respectfully,

Bridgid Mary Annisette-George

Speaker”

SUSPENSION OF STANDING ORDER 76

(ANTI-GANG BILL, 2018)

The Attorney General (Hon. Faris Al-Rawi): Madam President, in accordance with Standing Order 112(1), I beg to move for the suspension of Standing Order 76 in relation to the Anti-Gang Bill, 2018.

Question put and agreed to.

ANTI-GANG BILL, 2018

Bill to make provision for the maintenance of public safety and order through discouraging membership of criminal gangs and the suppression of criminal gang activity and for other related matters, brought from the House of Representatives [*The Attorney General*]; read the first time.

PAPERS LAID

1. Second Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Sugar Industry Labour Welfare

- Committee for the year ended September 30, 1999. [*The Minister in the Ministry of Finance (Sen. The Hon. Allyson West)*]
2. Second Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Sugar Industry Labour Welfare Committee for the year ended September 30, 2000. [*Sen. The Hon. A. West*]
 3. The Second Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Sugar Industry Labour Welfare Committee for the year ended September 30, 2001. [*Sen. The Hon. A. West*]
 4. Second Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Sugar Industry Labour Welfare Committee for the year ended September 30, 2002. [*Sen. The Hon. A. West*]
 5. Audited Financial Statements of the Sports Company of Trinidad and Tobago Limited (SPORTT) for the financial year ended September 30, 2017. [*Sen. The Hon. A. West*]
 6. Annual Report of the Trinidad and Tobago Securities Exchange Commission for the year ended September 30, 2017. [*Sen. The Hon. A. West*]
 7. Annual Administrative Report of the Port of Spain City Corporation for the period October 2014 to September 2015. [*The Minister of Rural Development and Local Government (Sen. The Hon. Kazim Hosein)*]
 8. Annual Administrative Report of the Port of Spain City Corporation for the period October 2015 to September 2016. [*Sen. The Hon. K. Hosein*]
 9. Annual Administrative Report of the Business Development Company Limited for the fiscal year 2009/2010. [*The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon)*]
 10. The Annual Administrative Report of the Business Development Company Limited for the fiscal year 2010/2011. [*Sen. The Hon. P. Gopee-Scoon*]

11. Annual Administrative Report of the Business Development Company Limited for the fiscal year 2011/2012. [*Sen. The Hon. P. Gopee-Scoon*]
12. The Annual Administrative Report of InvesTT Limited for the year 2014. [*Sen. The Hon. P. Gopee-Scoon*]
13. Annual Administrative Report of ExporTT Limited for the fiscal year 2014/2015. [*Sen. The Hon. P. Gopee-Scoon*]
14. Children's Community Residences (Children's Homes) Regulations, 2018. [*The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan)*]
15. Children's Community Residences (Rehabilitation Centres) Regulations, 2018. [*Sen. The Hon. F. Khan*]
16. National Policy on Sport 2017-2027. [*Sen. The Hon. F. Khan*]

JOINT SELECT COMMITTEE REPORTS

(Presentation)

Human Rights, Equality and Diversity

Mental Health and Family Life of Remandees

The Minister of Rural Development and Local Government (Sen. The Hon. Kazim Hosein): Thank you. Madam President, I have the honour to present the following report:

Sixth Report of the Joint Select Committee on Human Rights, Equality and Diversity, Third Session (2017/2018), Eleventh Parliament on an inquiry into the Impact on Mental Health and Family Life of Remandees at the Remand Prisons.

Support to Victims of Domestic Violence

Sen. Saddam Hosein: Madam President, I have the honour to present the following report:

Seventh Report of the Joint Select Committee on Human Rights, Equality and Diversity, Third Session (2017/2018), Eleventh Parliament on an Inquiry into the status of the implementation of the recommendations of the 2015 report of the Joint Select Committee on Human Rights, Diversity, the Environment and Sustainable Development on the examination of programmes and services which provide support to victims of domestic violence.

Public Administration and Appropriations Committee

Inventory Control and Internal Audit Systems

Sen. Wade Mark: Madam President, I have the honour to present the following report:

Tenth Report of the Public Administration and Appropriations Committee, Third Session (2017/2018), Eleventh Parliament on an Examination into the Inventory Control and Internal Audit Systems within the Public Service with specific reference to Follow-up to the Third and Fourth Reports of the Public Administration and Appropriations Committee.

URGENT QUESTIONS

Suspension of Passenger Ferry Service

(Measures to Address)

Sen. Wade Mark: Thank you, Madam Speaker. To the Minister of Works and Transport: In light of the suspension of the passenger ferry service between Trinidad and Tobago, can the Minister indicate what immediate measures are being taken to address this problem?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Thank you, Madam President. In the interest of public safety, the Port Authority of Trinidad and Tobago has decided to temporarily suspend the operations of the

passenger ferry until all outstanding work is completed.

The *T&T Express* has been the lone passenger vessel in service and has been making the crossing in approximately four hours, and is overdue for its statutory maintenance programme. The *T&T Spirit* was expected to resume the service on March 13th, however, there are still some outstanding work to be addressed and is now expected to resume operations on or before March 22, 2018.

At this time, persons who wish to travel from March 23rd and onward can purchase a ferry ticket at the terminal or at the remote agents or online.

During the period March 13th to 22nd, only tickets for the *Cabo Star* can be purchased. The Authority is committed to providing this essential service and will accommodate all passengers on flights from Caribbean Airlines at no extra cost to the passenger.

The vehicles of passengers with confirmed tickets will be accommodated on the daily sailing of the *Cabo Star* and all ticketholders with vehicles will be shuttled via PTSC to the Piarco International Airport and the ANR International Airport, accordingly, at no additional cost. Persons without vehicles may go directly to Caribbean Airlines where they will be accommodated for the specific date of travel as listed on the confirmed ferry ticket. Thank you.

Sen. Mark: Madam President, could the hon. Minister indicate, what percentage of the travelling public would be impacted upon by this situation that has occurred, involving the withdrawal of the *T&T Spirit* from service, given the amount of passengers that would use that service on a daily basis?

Sen. The Hon. R. Sinanan: Madam Speaker, all passengers with confirmed tickets will be accommodated on the air-bridge. I repeat, all passengers with confirmed tickets will be accommodated.

Sen. Mark: Madam President, could the hon. Minister indicate whether CAL will

be putting on additional flights to accommodate the extra passenger load given this situation that we are faced with?

Sen. The Hon. R. Sinanan: Thank you again, Madam President. My information is that CAL will be putting on extra flights and will be bringing in additional airlines to accommodate all passengers who want to travel to Tobago.

1.45 p.m.

Shutdown of Tobago Businesses

(Measures to Avert)

Sen. Wade Mark: To the hon. Minister of Trade and Industry: Given reports of an imminent shutdown of Tobago businesses due to the problems on the sea bridge, can the Minister inform the Senate of the measures being implemented to avert this problem?

Madam President: Minister of Trade and Industry, you have two minutes.

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon): Thank you very much, Madam President. Let me say that the Government understands the concerns of the business community of Tobago and, certainly, the effect of the current matter of the ferries on the economy of Tobago, but really there is no need for a shutdown, even though we admit that the situation is one that is critical. The genesis is the ferry matter and that we accept.

The Government has found solutions to the ferry matter—and the Minister of Works and Transport had spoken to these solutions—one being the purchase of the *Galleons Passage* which arrival we expect pretty soon. The point is there is no need for a shutdown. What would a shutdown do? It would only further have a negative effect on the economy.

But the point is, this Government remains committed to finding solutions and, again, what is necessary is constant engagement and collaboration. There has been

engagement and collaboration at the level of the Prime Minister, and only this morning, the Tobago House of Assembly met—and this is the Division of Finance and the Economy—this morning with the business chamber in Tobago. There were some frank and fruitful discussions. I know that there is a communiqué which I do not want to speak to, but I know that there is a communiqué which will be released to the public this afternoon, and let us wait to hear what are some of the outcomes of the discussions held this morning.

Sen. Mark: Madam President, could the hon. Minister indicate what measures her Government intends to take in the event of a shutdown by businesses in Tobago because that is the direct question that was posed? [*Desk thumping*] So we want to know what measures are being taken, Madam President.

Sen. The Hon. P. Gopee-Scoon: Let me say to the goodly Senator that there is unlikely to be any shutdown because there has been engagement, as I said, as early as today, on the whole question of the issues surrounding the business persons and the impact of the ferry issue on the economy. I do not want to pre-empt the results and the outcome of those discussions this morning, but what I can say to you there will be a communiqué issued this afternoon and you can listen in. I doubt very much there is going to be any question of a shutdown in Tobago for those two days.

Sen. Mark: Madam President, without revealing too much, could the hon. Minister indicate what was this engagement about and who are the parties involved in this engagement from the business side and from the Tobago House of Assembly?

Sen. The Hon. P. Gopee-Scoon: Thank you very much. Mr. Joel Jack, the Assemblyman with the responsibility for Finance and the Economy would have been in that meeting, and I believe that all the members of the Tobago business

community would have been there. My understanding is that there were deep and lengthy discussions on the solution to ferry issue, yes, but it went further to how we can move to help restore business in Tobago. So that the discussions were open and frank. But, at this point, what we call for is more collaboration and engagement so that we find solutions to the issues at hand. And let me give you my commitment, even as Minister of Trade and Industry in Trinidad and Tobago, I liaise constantly with Mr. Joel Jack who is the administrative secretary, the Assemblyman, with responsibility for these issues and, again, I think everyone is determined to resolve the issues, to move on and to strengthen the Tobago economy.

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 all three questions listed on the Order Paper.

Lashley Report on the Operations of Petrotrin (Details of the Restructuring Plan)

- 56. Sen. Wade Mark** asked the hon. Minister of Energy and Energy Industries: Having regard to the concerns of the OWTU about the restructuring recommendation arising from the Lashley Report on the Operations of Petrotrin, can the Minister inform the Senate of the following:
- i. what are the key elements of the restructuring plan; and
 - ii. does the plan include privatization?

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. Madam President, the Board of Directors of Petrotrin has been given a mandate to return the company to profitability and its management as a private commercially oriented company. In

this exercise, the Board of Petrotrin is in consultation with stakeholders with a view to securing a sustainable turnaround of the company to return Petrotrin to viability. The board has also built on the work presented by the team appointed by Government to review the operations of Petrotrin and to make recommendations for its restructuring, better known as the Lashley Report, which was submitted on June 01, 2017. These discussions are ongoing with frequent updates to the Government and all stakeholders.

At this time, the board is examining a number of strategic alternatives and has not selected privatization or any other of those options, but will make that selection in consultation with all relevant stakeholders. Given the complexity of the matter, no definite timeline has been set for the completion of this exercise. However, given the serious financial position of the company, an early report by the board is expected. Thank you.

Sen. Mark: Madam President, could the hon. Minister indicate to us what are some of these strategic alternatives that the board is currently considering?

Sen. The Hon. F. Khan: Well, just to whet your appetite, obviously, one of the recommendations is to split the company into business units: one for refining and market, one for exploration and production. There is also another view from stakeholders that exploration/production be further subdivided into exploration and production, land and marine, which includes almost solely Trinmar operations.

There is also a view articulated by the union that you have a human resource division, and they are even saying you put the Augustus Long Hospital as a separate business unit. Petrotrin has long tentacles into the community of Pointe-a-Pierre and Marabella. It has extremely long tentacles in the communities of the south-western peninsula from Fyzabad straight down to Cedros. So the decisions that are ultimately made, obviously, will have to be in the best interest of the

stakeholders and, in particular, the shareholders which are the people of Trinidad and Tobago, but we are taking serious cognizance of the impact: what decisions would be taken on the lives of the community that impact directly on Petrotrin's operations.

Sen. Mark: Madam President, in light of the gravity of the financial situation facing Petrotrin, can the Minister indicate whether the board has been given a timeline within which to report and to implement final recommendations?

Sen. The Hon. F. Khan: We are given no specific timeline but save and except there has been the beginning of a restructuring exercise where a transition team has been set up with various members of the board accepting positions of Executive Director and the engagement of other third-party officials in the search for a new management team. That mandate has been given a maximum period of six months. So I think in six months' time there should be great clarity as to the future of Petrotrin and what the options are.

Sen. Mark: Madam President, could the hon. Minister indicate whether there is space, emerging space, for agreement between the OWTU and the management and Board of Petrotrin in narrowing the gap as it relates to the areas of divisions that ultimately will arise given the restructuring of Petrotrin? Is there room for, you know, some sort of compromise?

Sen. The Hon. F. Khan: Obviously there is room for that, Madam President. I want to say that the future of Petrotrin will not have a smooth ride unless we have the engagement of the Oilfields Workers' Trade Union. We are conscious of that and we are working assiduously to bring that to fruition.

Inter-Island Sea Bridge Vessel

(Details of Acquisition)

57. **Sen. Wade Mark** asked the hon. Minister of Works and Transport:

Given the Government's recent acquisition of a vessel to service the inter-island sea bridge, can the Minister inform the Senate of the following:

- i. the procurement method used to acquire the vessel;
- ii. whether a needs analysis was conducted to determine if the vessel should have been purchased or leased;
- iii. the terms and conditions of the purchase?

The Minister of Finance (Hon. Colm Imbert): Thank you very much, Madam President. On behalf of the Government and the Minister of Works and Transport, I would answer this question. The answer to the first part, the procurement method used to acquire the vessel was as follows: a Cabinet-appointed subcommittee initiated the process for securing a suitable vessel, initially for lease, for servicing the sea bridge by conducting a market survey. This was done by making contact with internationally reputable ship brokers, ship managers, ship charters and ship owners and requesting assistance from the Governments of Australia, Canada, Italy and Japan through their diplomat representatives in Trinidad and Tobago.

Arising from this market survey, a company by the name of Sealease Limited, advised that a vessel meeting the specific requirements of the Government had been previously constructed for a client in Venezuela who could not complete the sale. An offer for sale was thereupon made to the Government. The subcommittee reviewed this offer and conducted all the necessary due diligence. Both foreign and local experts visited and inspected the vessel and concluded that it was suitable. NIDCO was apprised of the process and satisfied itself with the due diligence conducted. NIDCO also agreed with the view that the vessel was suitable for use on the sea bridge; they then proceeded to purchase the vessel. As a result of this, a memorandum of agreement was then prepared and executed between NIDCO and the seller of the vessel on the 12th of January, 2018.

With respect to the second part of the question, the Cabinet subcommittee's original mandate was to acquire a vessel for the sea bridge by entering into what is known as a time-charter arrangement, a lease arrangement. This arrangement would have cost upwards of US \$8 million per year. In fact, the estimate I have is US \$8.2 million per year. During the process I have just described, the market survey, an offer was made for the purchase of a new-build vessel meeting the Government's specifications for the sum of \$17.38 million. When one compares this to the time charter arrangement, one would see that in just two years, the sum of \$17 million would have been expended under the lease arrangements without owning the asset. Consequently, the obvious decision was made to purchase the vessel.

With respect to the third part of the question, the terms and conditions of the purchase were: a deposit of 10 per cent of purchase price; delivery of the vessel at Nansha Qundao in the People's Republic of China; delivery of the vessel three days after notice of readiness; modification and upgrade works to be completed by the seller; vessel to be delivered with everything on board and onshore including spare parts and spare equipment; the cancellation date if the seller defaulted was March 10, 2018; on delivery of the vessel, the deposit to be released to the seller and balance of the purchase price less a retention of 5 per cent equalling US \$850,000; the retention of US \$850,000 to be released to the seller in two equal parts, \$425,000 upon completion of the installation of the canopies and other seller obligations at the shipyard in Cuba, the place of closing and the balance on delivery of spare parts for the vessel including bearings, seals and drafts; and the place of closing of the transaction was Hong Kong. The seller warranted that the vessel is free from encumbrances and disputes arising out of the purchase to refer to arbitration in London.

Sen. Mark: Madam President, would the Minister be willing to make available to the Parliament, a copy of the memorandum of agreement entered into between NIDCO and the seller of the vessel?

Hon. C. Imbert: I will be guided by the Cabinet on that. I would seek Cabinet's approval and revert.

Sen. Mark: Could the hon. Minister indicate whether he can share with us, the original price that the owner of that vessel had intended to pay for it prior to the Government purchasing that vessel for US \$17.38 million?

Hon. C. Imbert: Thank you, Madam President. I do not have that precise information. However, I could inform this honourable Senate that the Government is in possession of two international valuations for the vessel, the lower of which is US \$19 million.

Sen. Mark: Madam President, can the hon. Minister make available to this Parliament copies of the two international valuations for the purchase of the vessel that he has just outlined for the purposes of this Parliament?

Hon. C. Imbert: Madam President, I will seek Cabinet's approval and revert.

Sen. Mark: Could I ask through you, Madam President, how soon would the Minister be able to seek Cabinet's approval and then report to this honourable Senate, Madam President?

Hon. C. Imbert: As soon as possible.

Madam President: No, Sen. Mark. Only four questions.

Sen. Mark: Oh, sorry Madam.

Madam President: Next question, Sen. Mark.

Inter-island Sea Bridge Vessel

(Cost of)

58. Sen. Wade Mark asked the hon. Minister of Works and Transport:

Can the Minister inform the Senate whether the cost attached to the purchase of the new vessel to service the inter-island sea bridge is the final cost; if no, what other costs are to be added?

The Minister of Finance (Hon. Colm Imbert): Thank you, Madam President. Again, on behalf of the Government and on behalf of the Minister of Works and Transport, I am pleased to answer this question. [*Crosstalk*] We are a team.

Madam President, the purchase cost of the vessel is US \$17.38 million. Other costs associated with the vessel are as follows: the sailing of the vessel by an international ship manager from China to Trinidad and Tobago, US \$811,800; legal fees associated with the purchase, US \$25,000—clearly not in Sen. Ramdeen’s class—inspection of the vessel, US \$27,165; a valuation survey report, US \$25,000.

There are also some additional costs as follows: ceiling of space between the ramp door and the hull of the vessel; installing a canopy on the vehicle deck to protect against sea spray in stormy conditions; installing additional anchor rings for securing vehicles on the vehicle deck; installing full canopies over the sun deck; installing and outfitting additional male and female washroom facilities on the sun deck; installing a cafe and bar facilities on the starboard and port side of the sun deck; remodelling the men’s washroom; installing fixing rails for new seating on the passenger deck; and replacement of existing seating with passenger contoured seats. These costs are estimated at US \$350,000.

Sen. Mark: Could the hon. Minister indicate to us what is the overall cost of bringing the vessel to Port of Spain and could he tell us if—

Madam President: One question at a time, Sen. Mark.

Sen. Mark: The cost of—the final cost.

Hon. C. Imbert: Madam Speaker—sorry, Madam President, I apologize. If one

does simple arithmetic, the purchase cost is \$17.38 million. The costs associated with the purchase and getting the vessel here are approximately US \$900,000; the cost of the upgrades that are for the account of the Government, because a number of items are for the account of the seller is US \$350,000. So that is US \$1.25 million plus US \$17.38 million, approximately, US \$17.63 million.

Sen. Mark: Madam President, could the hon. Minister indicate as far as he is aware, if this would be the final cost to the taxpayers of this country insofar as that vessel is concerned?

Hon. C. Imbert: Madam President, the only variable in this entire list of costs will be the consumption of fuel because the consumption of fuel is always an estimate. I can tell you, however, Madam President, that the vessel has proven to be very fuel efficient and is using less fuel than anticipated.

Sen. Mark: Could the hon. Minister indicate, Madam President—

Madam President: Yes, go ahead.

Sen. Mark:—to us when will this *Galleons Passage* vessel finally dock in Port of Spain?

Hon. C. Imbert: Certainly, Madam President. The vessel is now safely berthed alongside in the port of Yokohama, Japan, which is the second largest city in Japan, by the way. It is loading additional fuel tanks, stores and provisions for its transpacific journey from Yokohama to Honolulu. It is scheduled to take on bunkering—for the non-technical among us, that means fuel—on Thursday and it is scheduled to depart Yokohama on Thursday, and barring inclement weather and other unforeseen conditions, the vessel is scheduled to arrive in Port of Spain at the end of April 2018. I wish to repeat, contrary to the fake news of the UNC, the vessel is safely in Japan and in perfect condition. [*Desk thumping*]

Sen. Mark: Can the hon. Minister indicate to this honourable House what is the

provisional estimated fuel cost for the entire journey because he said that is one of the factors that we cannot anticipate? So could he provide this honourable House with an estimated cost of the fuel charges that will have to be incurred by the taxpayers of this country given the arrival of this vessel at the end of April?

Hon. C. Imbert: Madam President, if I had known that Sen. Mark would want to know how many litres of diesel the vessel is projected to consume between the Port of Nansha in China and the Port of Port of Spain in Trinidad and Tobago, I would have brought that information with me, but I do not need Cabinet approval to provide that to the hon. Senator. I would do so as soon as I return to the Ministry of Finance. I will send the information, because I just happen to have it.
[Laughter]

DEFINITE URGENT MATTER

(LEAVE)

T&T Sea Bridge

(Government's Failure to Manage)

Sen. Taharqa Obika: Thank you, Madam President. I hereby seek your leave to move the adjournment of the Senate today, under Standing Order 16 to discuss an urgent matter of definite importance namely, the failure of the Government to effectively manage the Trinidad and Tobago sea bridge in light of the recent announcement that there will be no travel on the passenger ferries to Tobago for at least 10 days due to mechanical and safety issues.

The matter is definite because it deals specifically with the failure of Government to effectively manage the Trinidad and Tobago sea bridge given the recent announcement withdrawing the *T&T Express* from service due to safety concerns, and the fact that the *T&T Spirit* has been on dry dock since June last year. The matter is urgent because the unreliable service has negatively impacted

the tourism industry in Tobago and will affect bookings for the upcoming Easter holiday. The Government's inability to administer and maintain a reliable sea bridge service to Tobago has put a severe strain on the economy of Tobago and caused a number of businesses to shutdown.

The matter is of public importance because the collapse of the sea bridge has led to the collapse of the Tobago economy, resulting in every increasing hardships for the people of Tobago, including limited access to basic commodities. This latest development in the sea bridge saga would further cripple the Tobago economy and all, but destroy the island's tourism sector. [*Desk thumping*]

Madam President: Hon. Senators, I have considered the Motion of the Senator and I am satisfied that this matter qualifies to be raised as a matter of urgent public importance. This matter also requires the leave of the Senate. Is the Senate prepared to grant such leave?

Assent indicated.

Madam President: Hon. Senators, the request having been supported, this Motion will stand over until 6.00 p.m. in accordance with Standing Order 16(5). [*Desk thumping*]

JOINT SELECT COMMITTEE

(APPOINTMENT OF)

CONSTITUTION (AMDT.) (TOBAGO SELF-GOVERNMENT) BILL, 2018

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Madam President, having regard to the correspondence from the Speaker of the House in relation to the establishment of a Joint Select Committee to consider and report by July 31, 2018 on the Constitution (Amdt.) (Tobago Self-Government) Bill, 2018, I beg to move that the Senate concur with the House of

Representatives in the establishment of the Committee and that the following six Senators be appointed to serve:

1. Mr. Clarence Rambharat
2. Mr. Nigel De Freitas
3. Mr. Foster Cummings
4. Mr. Saddam Hosein
5. Dr. Dhanayshar Mahabir
6. Mr. Stephen Creese

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**

[Third Day]

Order read for resuming adjourned debate on question [February 20, 2018]:

That the Bill be now read a second time.

Question again proposed.

Madam President: Hon. Senators, there have been some 19 speakers on this Bill to date, including the mover of the Motion. Sen. Ramdeen. [*Desk thumping*]

Sen. Gerald Ramdeen: Good afternoon, Madam President, and thank you for the opportunity to contribute on this 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. I hope, Madam President, in my contribution this afternoon to go through the very important provisions that this Bill seeks to amend and which we are asked as a Senate to

approve, and to present to the hon. Attorney General, the presenter of this piece of legislation, certain amendments that we wish to propose on this side that we consider will strengthen the legislation and will better serve the interest of the people of Trinidad and Tobago.

Before I get into the meat of this matter, the actual provisions, Madam President, what stands out in this piece of legislation when the Attorney General presented it, was that we are asked to amend a number of pieces of legislation and the Attorney General, in piloting this piece of legislation, indicated to the honourable Senate that the reason why we are being asked to amend these pieces of legislation is because there are certain international obligations that we as a country are required to comply with, and also certain committees and certain discussions that the Government has had with various stakeholders has come up with these proposals that the Attorney General has indicated to this Senate is part of the whole-of-government approach, to use to words of the Attorney General, with respect to the fight against crime. In this particular case, five pieces of legislation are pointed out.

2.15 p.m.

Now, Madam President, we on this side, in the Opposition, have demonstrated time and time again that we will support good legislation and legislation that strikes the right balance between the citizen and the State. And when the Attorney General presents this type of legislation that calls for these wholesome amendments to different pieces of legislation, what I wish to say is to cast absolutely no aspersions on my friend, the hon. Attorney General, is that the difficulty that the Government faces in presenting this type of legislation is a simple one. It is an issue of trust.

The people of this country have lost trust in this Government. And therefore

when the Government, it may be well intentioned, that they bring these pieces of legislation to amend these different pieces of legislation. The difficulty that they have is to convince the population that what they are doing is acting in the best interest of the population. Because the mandate that was given to this administration, 30 months ago, has been whittled away over the last 30 months, and today this administration suffers from a crisis of trust and confidence from the people of this country. [*Desk thumping*]

And that is why when legislation like this is brought, and the Attorney General tells us that certain aspects of the legislation comes out of consultation with the National Anti-Money Laundering Committee, the NAMLC Committee, that comprises certain people, and then what we are told is that this is the outcome of those discussions, it provides us with a certain degree of difficulty in supporting that legislation without being provided with the information, because time and time again we have been told with respect to the FATCA legislation that we passed, that we supported, and that we at the end of the day had a good end product. We were told with the SSA legislation, certain things, which did not come to bear and that is why we have a difficulty with this. So, I would like, before getting into the actual provisions, to raise one more concern about this piece of legislation. And it is this, Madam President.

We have been told that the reason why we must pass this legislation and these provisions is because we will be blacklisted, whether it be FATF or CFATF or whether it be Global Forum, as the Attorney General said, that will come to the Parliament soon. One of the difficulties that I have, Madam President, is this. It seems as though the legislative agenda of Trinidad and Tobago is really being set by people outside of Trinidad and Tobago, and whereas we as a country should determine what are the laws that we as a people should enact in the best interest of

the people of Trinidad and Tobago with the SSA legislation and with this piece of legislation and the legislation to come, without breaching the anticipation rule, it seems as though all we are doing is following the lead of other countries. And one has to think, Madam President, I think as a country in the 56 years of Independence that we have enjoyed, I think we can do better than that. I think that as a country—*[Crosstalk]*—as a country, Madam President, we are good enough as a people to path our own course and to decide what is in the best interest of the people of Trinidad and Tobago. *[Desk thumping]* We do not need CFATF and FATF to tell us why. And I will tell you why, Madam President.

You see, it is a surprise on that side because they are not accustomed to that, but today, in 2018, we have an International Criminal Court that governs the jurisdiction of countries around the world, and you know where the idea of that came from? It was germinated right here in Trinidad and Tobago, right here. Because we produce people in this country who are able to chart our future. We do not need other people to tell us what is in the best interest to counter money laundering and the proceeds of crime and white collar crime. And while it is commendable that as a country, as a developing country, there are certain international obligations that we must comply with otherwise there would be serious consequences, I think we can do better than what we are being presented with. But that boils down to a very simple matter, Madam President. It simply boils down to the fact that you have an administration that is governing this country that we have said over and over again, they have no plan, they have no vision and they have demonstrated that over the past 30 months.

So, Madam President, I want to say at the outset that while the motive for bringing this piece of legislation may be a good one, the results to the people of Trinidad and Tobago as we speak now, if this legislation is passed is going to be

very little in terms of providing any safety and security for them which is the number one priority and the cry of the people of this country right now which this Government has failed to deliver over the past 30 months.

Now, I want to start off by replying to one or two things that the Attorney General highlighted in presenting this piece of legislation. And at the very end of the Attorney General's contribution, the Attorney General said that:

“One of the best ways to treat with it is to understand that this comes in a whole-of-government legislative approach...”

And what I am reading from, Madam President, I apologize, is the *Hansard* of the Attorney General's contribution in piloting this Bill which was on the 20th of February, 2018.

“...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.

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.”

Those were the words of the hon. Attorney General and I do not think, Madam President, as I have said before, that there is anyone who sits in this Senate

that does not want to see the improvement in the criminal justice system, but one has to ask the question: What we are asked to do here today and this whole-of-government approach that the Government has seemed to embarked on, is that really going to fix the criminal justice system as we experience it on a day to day basis?

The Attorney General made the point that over the last week you would have seen, Madam President, that we have opened two courts in this country; two Family and Children Division Courts. Great. How is that going to help the people of Trinidad and Tobago? Well, let me tell you—

Sen. Gopee-Scoon: You are not serious.

Sen. G. Ramdeen: Well, I will tell you why I am serious. Madam President, for those who do not know about the court system, I will tell you about the court system, because I know about it. [*Desk thumping*]

Madam President: Sen. Ramdeen, in telling us about the court system, I want you to relate what you are saying to the Bill that is before us, okay?

Sen. G. Ramdeen: Yes, Madam President.

Madam President: I want you to relate it specifically to the Bill. In my opening remarks you will notice that I have said 19 persons have spoken on this Bill. So I want you to be focused and also not go over what other presenters on this Bill have already said, okay?

Sen. G. Ramdeen: As you please, Madam President, I am guided. Madam President, by clause 3 of this Bill, the Government is asking us to amend the Proceeds of Crime Act and they are proposing that we amend the Proceeds of Crime Act to make money laundering a summary offence with a particular provision. Well, Madam President, the position in this country is this, the Government proposes to add to what the Summary Courts, that is the Magistrates'

Court as we understand it, to the workload of the Magistrates' Court by adding more summary offences to the law books of this country.

So, in the four corners of clause 3 with respect to that recommendation, let me say this, which I hope I will comply with, Madam President's ruling is this, the Summary Courts in this country, in San Fernando let us start with, you have a shift system operating there. So you have one set of courts working in the morning and one set of courts working in the afternoon. They have closed down certain courts that used to be the old Magistrates' Court and they have transferred some of those to the High Court. And one has to wonder, this NAMLC committee that has made this recommendation that has found itself in legislation, I do not know what this NAMLC committee had considered, which is the first point that I flagged. Because I cannot understand how any right-thinking person sitting on a committee that is discussing improvements to the criminal justice system can ever propose adding to the criminal justice system in the Summary Courts without actually fixing the problems that we have there now. [*Desk thumping*]

The mode of ventilation in the San Fernando old Magistrates' Court is today, in 2018, Lasko. That is what a magistrate is asked to work under the conditions in San Fernando, Lasko, not Peake, Lasko and we do not find it, we do not find that it is important. The Government does not find it important to improve on that system, to fix that before we decide to move forward and add to it. So, this proposal at clause 3, to make money laundering a summary offence punishable by \$25 million and 15 years imprisonment is going to be administered by a magistrate who is sitting in court with a Lasko fan and writing with a ballpoint pen, because she has no CAT reporting, and that must be then transferred in some form so that the magistrate will then determine that.

I mean, are we really serious? Is the Government really serious about the

administration of justice and saying—this is what the Attorney General told us, we must be proud about the fact that we are opening new courts. That is fine. But the courts that we have now that have to administer the system now, that have to administer all of these laws now, when we make money laundering an indictable offence, which it is now, but we increased it to \$50 million and 30 years. Well, the court that has to administer that is the High Court.

So, as we stand now and you see, Madam President, the difficulty I have with this is this you know. The difficulty I have is this, a magistrate must sit in San Fernando with a Lasko fan, but in September of last year this administration, and this is very important, this administration in September of last year appointed eight Masters to do exactly what the Attorney General quoted in the *Hansard*, eight Masters in September. Where this Government tells us, we must get more from less and we must look at how we spend. But from September of last year we have been paying eight Masters over \$50,000 a month, \$50,000 a month. That is \$400,000 a month since September to now. To do what? To do nothing, because it had no court. You are paying Masters \$50,000 a month from September and do you know what is disturbing about that, Madam President, what is disturbing about that is the same court that has to administer clause 3 under the proceeds of crime, you have people working in High Court—you know what, they cannot get up to today their gratuity, they cannot get their travelling allowance.

Up to today, people who wake up at four o'clock in the morning and leave their children home to come and do public service for the people of Trinidad and Tobago cannot get a jacket allowance. And we do not think it is good enough to fix that before we bring laws here for them to continue doing. That is just not good enough. That is just not good enough. How can you do that and tell us get more from less and people suffering in the High Court, giving up their lives and working

as an emergency JSO till eight and nine o'clock in the night. We have to get our priorities right. And if we get our priorities right, we could get it right. But this Government has demonstrated in the last 30 months—that is why we are debating this today, you know. Because we were told in December of last year, right, that the Trinidad and Tobago Police Service and law enforcement, we were not told that they wanted the Mutual Assistance, we were told they wanted anti-gang. But we will deal with that next week because it was important in December but it was not important for 100 murders after that. [*Desk thumping*]

Madam President, let me continue along the provisions of the Act. The first thing I want to say about this piece of legislation is that without a doubt when one studies this legislation very carefully this is a piece of legislation that clearly ex facie, infringes upon the rights that are guaranteed to a citizen under sections 4 and 5. And I will demonstrate as I go along, Madam President, why I say so and why this piece of legislation should have been brought with the requirement of a special majority. [*Desk thumping*]

So, Madam President, at clause 4 and, Madam President, I say so having proposed by the amendments that the Opposition seeks to put forward with respect to this legislation, that we are asking that that is the way in which we should fix what is presented to us today. Now in clause 4, the Government proposes to add certain powers to the Financial Intelligence Unit of Trinidad and Tobago. And what I wish to focus on, is subclause (e), which is to be found at page 4 of the legislation. And that requires, quote legislation:

“(2A) In order to secure compliance with the written laws listed under section 18F, the FIU may require any person to provide to it any documents, information or explanation on any information.”

Well, Madam President, clearly, if you are requiring people to provide

private information to the FIU, it must be in breach of your right to privacy, it must be. 2(B), you have a judicial intervention, because under (2B) that requirement is guarded by a warrant. But notwithstanding, when you come to (2E), which is something that Sen. Chote, Senior Counsel, mentioned to us and went through in her contribution. Well, Madam President, we have reached the point where legislation is being provided to the Parliament for approval and passage, and this clause says:

“(2E) Nothing in this section shall be construed as requiring any person to give any information which may incriminate him.”

Well respectfully, Madam President, whoever the drafters of this piece of legislation, who drafted this piece of legislation are not very au courant with the Constitution, which is the supreme law. Because what is the necessity of putting into legislation a clause, the guarantee that Parliament is not or the prohibition against Parliament passing legislation like that is to be found in sections 4 and 5.

So, if I can, Madam President, be allowed to just take you to section 5, which says:

“(2) Without prejudice to subsection (1)...”—this is section 5(2) of the Constitution—“but subject to this Chapter and to section 54, Parliament may not—

(d) authorise a Court, tribunal, commission, board or other authority to compel a person to give evidence unless he is afforded protection against self-incrimination and, where necessary to ensure such protection...”

So, how section (2E) finds itself as being some kind of safeguard in the legislation. It is really otiose, because it is already provided under the Constitution. So I do not know why that is there.

Now, Madam President, the gamut of powers that this piece of amending legislation seeks to give to the FIU seems to be on the basis that we want to strengthen the FIU. So, again, the same point that I was making with respect to the courts, is the same point that I want to make with respect to the FIU. Under clause 5, the legislation seeks to provide a number of powers that the Government thinks now we should give to the FIU. But like with the courts and the Summary Courts and the High Court, should we not try to fix the FIU and give the FIU what it requires before we add to the burden of what they have to do.

So, in the *Financial Intelligence Unit of Trinidad and Tobago, 2017 Annual Report*, at page 13, this is the report that is signed off by MissFrancois, the Director. At page 13 allow me, Madam President, to highlight some of what is said in this report about the FIU. Under challenges for the compliance and outreach, the Director of the FIU is highlighting, what the staff challenges are for the FIU. And while this is in 2017, we are bringing legislation to give them more power, so, let us see:

“Supervision strategies implemented in this reporting year”—that is 2017—
“have borne fruit. The Financial Intelligence Unit of Trinidad and Tobago observed an improvement in compliance and awareness by entities in the high risk sectors. However, the FIUTT’s supervision could be more effective if internal and external challenges are resolved, such as:

- i) high staff turnover (voluntary and involuntary);
- ii) lengthy recruitment processes;
- ii) budgetary constraints affecting public awareness sensitisation and training for NRFIs and LBs; and.
- iii) restrictions on entry to premises and limited sanction powers.”

Madam President, if the Director of the FIU is telling us in the 2017 report,

this is what needs to be done, these are the shortcomings of the FIU, this is what we need to do to improve it, should any right-thinking administration not try to fix this first before we add to the powers that they have to administer?

In Chapter VII, at page 57, under the heading: “Human Resources”, the director tells us:

“The FIUTT seeks to create a culture of excellence and integrity that inspires exceptional teamwork and performance. The 4th MER recognised that sufficient staff with the experience and skills to carry out its statutory functions and responsibilities, is critical to the effective operation of the FIUTT. By developing a cadre of skilled officers who are au courant with current and emerging issues in AML/CFT, the FIUTT will be better positioned to deliver high quality intelligence reports, to support the operational needs of the LEAs and to supervise and monitor...”—and then to deliver this priority this is what the Director tells us they need:

- “i. fill the vacant positions in the”—Compliance and Operation—
“Division and renew its proposal to the relevant authorities to restructure and increase its staff complement;
- ii. provide training opportunities on the regulatory and analysis functions...”

Madam President: Sen. Ramdeen, could you just—I think your point has been made and I do not think that you need to go through in all that detail about the FIU report of 2017. You need to just—we are not dealing with the report per se. You have made your reference to it, I think you can move on or tie up the point that you want to make.

Sen. G. Ramdeen: I am obliged, Madam President. [*Crosstalk*] We save the best for last on this side. [*Laughter and desk thumping*]

So, Madam President, let me get to another provision that I have some difficulty with. In this legislation, by clause 5, we are asked to amend section 45 of the Customs Act. Madam President, in accordance with what your ruling, can I just simply say, to wrap up the point I was making on the FIU, if we do not fix these systems the legislation just simply will not work. We have to fix the institutions and equip them in order to be able for these pieces of legislation and these amendments to become effective. And I say no more on that.

But, Madam President, in clause 5 we are asked by subclause (c) to amend section 45 of the Customs Act. And we are asked to substitute the following paragraph delete paragraph (c) and substitute:

“firearms, ammunition, bullet-proof vests...firearms accessories including—
lasers;
lights;
holsters;
scopes; and
tools for the purposes of maintaining a firearm,
except with the written permission of the...Police;”

This really under the principal piece of legislation, Madam President, falls under a provision in the Customs Act that prohibits the importation of certain items. Firearms and associated with firearms, this is what we are trying to do. We are trying to improve on subsection (c) and we are trying to insert a new subsection (a) that this prohibition does not apply to persons who have an FUL.

Well, Madam President, we will be burying our heads deeply in the sand if we continue with idea of giving the Commissioner of Police this type of power, one which is not concerned with this Act to grant an FUL, but more direct or direct to this Act, is to give permission for persons to bring in these items into the

country.

Madam President, it is a well-known fact, one of the most revenue generating things in this country is the grant of an FUL. And the time has come for us to move away from that, because there are legitimate businessmen in this country, who in this country wait years for the grant of an FUL and there are people who simply pay \$20,000 and they get the grant of an FUL and we must come here and sanction today that people who want to bring in firearms, ammunition, bullet-proof vests and firearm accessories, including lasers, lights and holsters, scopes and tools for the purposes of maintaining a firearm must get the permission of the Commissioner of Police. Well, I simply cannot support that, Madam President, because this will simply do what? Generate more income in that field.

We have to get serious about this. The time has come for us to disband this idea of the Commissioner of Police granting an FUL and set up an independent commissioner to do it, set up an independent body that you can still have a firearms appeal board so that people can get a fair shot at getting a firearm. There are people in this country who really need a firearm to protect themselves and their family and the way we are going it might be, with the rate of murders that we have in this country, everybody might need a firearm to protect themselves. But it is only those who can pay that will end up getting it, which is what we are going to do today. I cannot support this, Madam President. I simply cannot.

There are a number of amendments that I have proposed which I hope the hon. Attorney General will consider in relation to subclause (d) that seeks to amend section 228 of the Customs Act. But what I would like to focus on in probably few minutes that I have left, is that, by virtue of this piece of legislation we are giving a very draconian power to the Comptroller of Customs whereby the

Comptroller of Customs is being granted a discretion to withhold the goods of someone who has not appealed to the Tax Appeal Board and has not paid a cess duty. It is found at on page 7, clause 5(b)(ii) which seeks to insert a new (2B) into the legislation, that is the Customs Act.

And it does not form part of the amendments, Attorney General, that I have provided to the Senate for consideration. But I think we will be doing ourselves a disservice if we grant this discretion, which is a very wide discretion to the Comptroller of Customs, but we do not circumscribe it in some way by seeking to set out some factors as a minimum threshold that the Comptroller of Customs ought to properly take into consideration.

Just like the argument with respect to the Commissioner of Police, we have just suffered from institutional deterioration and what has happened is that all of these public authorities, unfortunately over time, have become corrupt. The administration is trying its best to put things in place to wipe out that corruption and one of the ways in which passage of legislation can seek to wipe out that corruption is by inbuilt safeguards in the legislation that governs the exercise of a discretion. And in this particular case, where you are giving the Comptroller of Customs the power to refuse the goods that are imported by a particular consignee, while I understand the motive and the mischief that the Government seeks to address by virtue of this piece of legislation, what I can say is that we will be better off if we put in some factors, perhaps that the Comptroller himself may suggest, but that will balance that power with some sense of fairness on the part of the person whose goods are sought to be confiscated or to be held pending appeal to the Tax Appeal Board or release pursuant to this provision.

2.45 p.m.

How much time do I have left, Madam President, may I ask?

Madam President: You have until 2.52.

Sen. G. Ramdeen: Seven minutes, thanks. Thank you, Madam President. So in the amendments that we have also flagged, Madam President, we have sought to deal with the time periods over which the legislation seeks to place a duty upon persons who hold records under the Customs Act. And while the reality is that the Customs and Excise needs to tighten the way in which they administer the Customs Act, it seems as though the improvements that are sought by the legislation under section 228, (d) of clause 5 seems, I think, to go a little bit too far in terms of reducing the time periods for which the documents are to be requested or to be held. And in those circumstances, we have made some suggestions that we, on this side, respectfully suggest would better strike a balance between the ability of the customs authorities to administer the provisions of the Act and to provide a certain degree of fairness to a consignee who has a duty to keep documents for a particular period of time.

Madam President, one understands the difficulty that the Government faces with respect to the issue of crime and criminality and one understands the approach that the Government has taken to seek to strengthen the institutions that are covered by this piece of legislation. And perhaps, when one looks at the FIU Report—

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

Sen. G. Ramdeen: Thank you, Madam President. When one looks at the FIU Report, there is one thing the FIU and certain other institutions—the Integrity Commission, the Police Complaints Authority—there is one complaint that keeps arising over and over, both on the institutional side, on the administration side and on the people's side, which is this. We have had an Office of the Director of Public Prosecutions in this country that has served us for 56 years, that is in charge

of all criminal prosecutions, and when one looks at the FIU Report, the thing that jumps out the most, and the question that everyone asks—and the hon. Minister of Agriculture, Land and Fisheries dealt with it in his contribution as well—is how can you have a system where the FIU can detect almost \$22 billion of money passing through the system that is the subject of suspicious transactions, and the number of prosecutions are so low?

And I wondered, in preparing for this debate, whether the time has not come for us to not amend pieces of legislation piecemeal, but not as a country take a general approach to prosecution that is different from what we have experienced for the past 56 years, and recognize that the Office of the Director of Public Prosecutions simply cannot do it all in one office. Has the time come when we should give those institutions, such as the FIU, the Police Complaints Authority, the Integrity Commission, the power to prosecute for the offences that are created by these Acts? And it is very relevant, because what we are doing in this legislation is creating further offences and the further offences are going to be administered by the Trinidad and Tobago Police Service. Files are going to be prepared. As Sen. Small always says, white collar crime does not exist in Trinidad and Tobago because you have had investigations that are going on for over 10 years and nobody has been charged. But the one thing that we are sure about is that the resources of the taxpayer are used to fund these investigations over and over.

How, as a country, are we going to move forward when we fund the FIU, we pass legislation, we create offences, summary and indictable, and at the end of the day, the actual end product that we all look forward to, which is the prosecution of people, is non-existent? So perhaps the time has come for the Government—this administration is in power now—to consider whether we should not have

specialized offices to prosecute these different offences that are created under these different pieces of legislation. And I suggest that and throw it out there for the Attorney General and the administration, for the time that they are left in power, to consider it, because it is about time that we realize the system is just not working and the passage of legislation over and over is not happening.

So that is my short contribution to this Bill this afternoon, Madam President. I hope to contribute, and put forward, and advance the arguments in the committee stage for the amendments that I hope will be passed on at some point in time and will be considered by the Government in the fullness of time, and I hope that if we accept those recommendations as set out in the amendments that we suggest, we will be able to have a better piece of legislation that would serve the interest of Trinidad and Tobago and the people of Trinidad and Tobago.

I thank you. [*Desk thumping*]

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

Sen. Stephen Creese: Thank you, Madam President. As I rise to speak on this omnibus piece of legislation which is drawing our attention to five Acts, I believe: the Mutual Assistance, the Proceeds of Crime Act, the FIU Act, the Customs Act and the Exchange Control Act, what struck me off the bat was that perhaps there is another piece of legislation that should be amended, re-drafted or re-created, to focus on a missing item, and to me, that would be the Representation of the People Act. Because I want to argue that, overall, the whole question of campaign funds—campaign financing or funds for campaign financing—is critical in terms of the overall objectives of this Act.

In that regard, it is my contention that if we are to measure the potential success a year from now, two years from now we are to ask ourselves, well, how would we be sure that what we did here today has achieved its objectives, we first

then have to be clear on what are the objectives. And I want to hazard that safety and security, both of the individual and of the State, discouraging crime and criminality as a second plank of those objectives, the question of international collaboration, again with the whole question of peace and anti-crime activity, and of course, in our own particular case, as a young nation, the building and the strengthening of our democracy. And in that regard, the whole question of process becomes important.

Other speakers have dealt with the need for consultation and the absence of that in that regard, so I would not get into that, but I wanted to just make the point in connection with consultation, that that is really part of the whole democratic process and that it is circular, because there is consultation before any new Act and/or amendment and then there is this new Bill, as amended, and after that, down the road there is the need for review, which is, again, a consultative process.

So we ought to see it—if we see it as being circular, then we get a sense of how critical it is to do that. So I will leave that there for now, but at the end of the day and the broader objective of building democracy and how this legislation falls into that platform, it is critical then to understand the need to go that route and to ensure that—and this is important to small island states like ourselves. There are advantages of being a small island state and there are disadvantages, but one of the advantages is that we can consult far more easily, because you can gather the people in a few places—stadia or whatever—and have that direct influence. So that is one of the advantages that we ought to exploit in our own case.

Moving on from there, I think again from the background of whether this Bill is achieving the objectives that we agree on that it should, that it should go after, the other issue that we need to focus on is the whole question of how do we measure these objectives. How are we assured that we are getting to where we

want to be? And that poses problems for us. It poses problems in the age of globalism, again, being a small state up against multinationals. I think it was our Prime Minister who recently mentioned the whole questions of negotiating with these multinationals and the implications of that. But globalism with the spread of the technology and so on, coming at our doorsteps, we need to be clear as to where we stand in all of this, and whether the provisions in this Bill, as it seeks to amend other Acts, how well does it grapple with the question of globalism and whether globalism, instead of being international sharing, becomes a question of the mighty being able to laud it over us.

And when I get into the question of either cyberwarfare or the drug lords and their role in all of this, and how this impacts them, we begin to see the connectivity between all of these issues, and therefore, the need for the spread of amendments to go across more than just the five Acts that are listed here. But I will come back to that later on.

The other issue—and, again, dealing with the question of whether the safety and security issues that these amendments should assure us all of, both individual and of the State, has to do, particularly in the information age, with, are we attending, in this or in the core legislation dealing with IT, with the prospects of cyberwarfare, and against the background of what the Americans went through with Russia in their recent elections and are likely to go through during this year where they have midterm elections going on, are we catering in this legislation for that? Are we satisfied that our existing IT legislation can keep those kinds of negative forces in check, and ensure the safety and viability of our State?

So that, this is no longer the age—yes, a few of the monolithic types of states are still bombing each other and so on, but this is the age, basically, of cyberwarfare. And, therefore, are we satisfied that the proceeds of crime cannot

travel through cyberspace and avoid all your traditional customs officers and central banks and so on, operating at that level? And I am not satisfied that what has been brought before us represents a package that speaks to that aspect of the matter. Because this is the information age and cyberwarfare is the weapon of choice. You know, the computer, the Ipad, the cell phone is really the weapon of choice in this age.

And, again, on the question of security and prevention of crime and criminal activity, there is the question for a small state—and this whole issue of the size of our State will keep cropping up—how do we stand? How can we pit our resources against the drug lords and whether we are satisfied that these amendments would keep us safe and secure and not descend into the pit of being a narco state? And everywhere we turn, that is happening, that when you look at the productivity levels of some countries, when you look at the stock of goods and services that they supply, when you look at the stock of goods and services that they import or that they clearly are enjoying, there is a huge discrepancy. And are we satisfied that this legislation would deal with that discrepancy between the dominant, or obvious, or official economy as opposed to the underground economy which may really be what is driving the country?

So the question comes up again. Are we satisfied that what is before us would not continue to allow for that other economic activity that is prevailing? And when I was growing up there was import trade out of—through Cedros out of Venezuela, largely in whisky, to some extent, in stereo items when there was this negative list, and so on. And the question is, to what extent is that activity, and those type of activities, still part of what is happening in Trinidad and Tobago? And as I always do, I refer to what the West Indian history book says of our culture of grumbling and smuggling and grumbling, and whether what we

have proposed here really, effectively, contains that.

So that there is the question of cyberwarfare. The question of whether we are treating with the right base legislation is one we have to answer, and the whole cultural question of cultural continuity, what we have been accustomed doing by way of smuggling and so on, would that continue? Are we sufficiently tightening up on the issues? Good? And then the question of focus. What I have found with our methods of policing, as well as our approach to legislation, there tends to be an institutional bias, and the bias and the focus tend to be on containing, what I call, the Laventille posse. And the focus is on what is coming down the hill from Laventille, as opposed to what is going up the hill at Haleland, at Glencoe. And I am making this reference in terms of, just like with the gang legislation, there seems to be a suggestion, an institutional bias that says that crime and criminality comes down the hill from Laventille and no other place.

Madam President: Sen. Creese, I am so sorry, but you have spent about, just over 10 minutes giving your context, but I need for you to specify with the Bill before you. I need for you to move from context to specific clauses in the Bill, please.

Sen. S. Creese: Thank you, Madam President. The next thing which I wish to draw attention to, and praise with regard to this, was its focus on reciprocity. When we were doing the FATCA legislation, that issue had come up and it is good to note, and that is one of the positives of this, in that it focuses on terms of amendments to the mutual assistance and ensuring that there is that sharing of information that will allow for both countries who may be involved in a particular piece of information sharing to get at those elements who may otherwise have eluded detection. So that on the positive side I want to congratulate the AG with respect to the provisions in that regard. That is on the positive side. Good?

But, again, the question of how the legislation is going to ensure effective

deterrence of criminal activity, I have a concern and the concern I have in that regard relates to the issue of how quickly these matters would wend their way through the court. And there is a bottleneck at our courts, and I find that the issue with regard to summary trial does not resolve that, and perhaps adds to the problem of the backlog at the court.

So that if we pass this legislation, giving the country the impression that we are bringing resolution to an obvious problem—I was alerted this morning to the fact that someone who received a ticket in November of 2017 and did not pay—it is a traffic ticket, and did not pay the fine and failed to turn up at the court on the day—they lost track of the ticket so they went thereafter, you know, to find out what date was the matter, or what has come of the matter, found out that the matter was put off—adjourned to November 2018. So a simple traffic ticket could easily take a year in the court. And I find that disconcerting, because the lawyers have not appeared as yet, and with them go another round of negotiations, and so on, and what is on whose list and who is available when, and so on. Because, clearly, that person would have, on that occasion, to either plead guilty or walk with a lawyer. So the point I am making is that unless we treat with how efficient, how smooth our courtroom operations are, all of this could end up being so much verbiage, so much old talk and, really, not much action to come as a consequence. And that is disturbing.

The other issue related to the courtroom aspect of this is, of course, the whole question of the need for harmonization of the fee structures that are involved. Again, other speakers have gone into that in detail so I just wish to record that at the committee stage we need to focus on that. It is not necessary at this stage to go into the details of that, but we need to focus on getting the fines right.

I would also like to draw my colleagues' attention to the issue underlying the provision for the Comptroller to virtually disbar a broker. And I am wondering, when I read that—I was wondering whether that does not amount to what the lawyers call restraint of trade. And it would seem that we are placing in the Comptroller's hands the ability, if we are saying that person is going to be banned from engaging in import/export activity, as opposed to simply being made to pay a fine or even go to jail if we think it is something for which somebody should go to jail, but to say that you can no longer carry out this activity, I do not know, something about that rings as almost unnatural. I do not want to say cruel and unusual punishment, because that is taking it too far, but unnatural. I have a problem accepting that as being something that should be done. I could be wrong and maybe I could be advised that that is done in other jurisdictions. But I find it hard to accept. In that regard, I often wonder whether the question raised as to if we are to go down that road, whether a special majority is required, if we are to place that kind of, almost summary power, in the Comptroller's hands.

On the good side, the whole question—and this has to do now with the Exchange Control Act—the whole question of what is referred to a bearer negotiable instrument. I think that is a plus. A lot may have escaped already, and probably is escaping now, so that is why I think delay in that regard would almost be criminal, to participate in any kind of delay that would allow for that mechanism to begin operation.

We have to recognize that this is a place where, if you want to know in the next budget, if gas price is going to go up, just go by the gas station the night before and the length of the lines. Or the disappearance of whatever good, the rumour is that the tax, or what have you, the VAT or what have you, is going to go up, just go by the grocery and what is disappearing off the shelves, you could

write—if you are a journalist, you could write your column for the next day as though you saw the budget yourself. Because that is how this country, for whatever reason, whether there is leakage of information, that is how this country has operated. So I would hope that with regard to this that we do not procrastinate because the consequences is the flight of scarce foreign exchange.

The key point I wish to have established, though, is that if the objective of this legislation is tightening all the loopholes that may exist in Acts that are related to this whole question of ensuring that a certain kind of crime eludes detection, then the whole question of campaign fund financing ought to be number one in the list of Acts that we should be amending in any omnibus legislation of this sort. And I say that because all the critical issues in terms of objectives, in terms of safety and security of the individual and the State, in terms of strengthening of the democracy, in terms of ensuring that we do not descend into a narco state, in terms of the effects of globalism, of international networks impacting upon us negatively, if they come together in any single-based legislation, it would be in the Representation of the People Act, in that who are the people, and our right to know who are the people who are financing our political initiatives, our political parties. Because at the end of the day, not only may they be—and they may sometimes be legitimate institutions, legitimate financial institutions, legitimate manufacturing institutions, seeking to have a lobbying influence, and there is nothing wrong with seeking to have a lobbying influence, but the question is, whether in a modern democracy, the right of the rest of the population to know is a valid right and one that should be secured in whatever legislation we have.

Because the problem with all of this is, if in any one situation the development of your local financial institutions, your local capital accumulations, merge with, especially in terms of money laundering and the impact of money

laundering—merge with your drug lords and your other whatever illegal criminal activities that may be dominant at a point in time; if these two things merge, if those people who are laundering their drug money or laundering the proceeds of any other criminal act, if they have thus far been successful and they create parallel institutions where they would have laundered their money into, then we are in serious trouble because we may be blocking new entrants.

3.15 p.m.

As a result, this legislation limits the internecine warfare between drug lords, but those who have crossed over, and those seeking to cross over, may find that subverting the political process, subverting the electoral process is the new way to win friends, gain influence and secure their illicit earnings at our own peril—that is, the peril of the rest of the country. So the million-dollar question is: Where have we reached with regard to that; and if we are satisfied that with no provision here dealing with campaign fund financing, are we in fact continuing the culture of smuggling and grumbling, and grumbling and smuggling? And there is a very thin line between legitimate, financial activity, but the danger in that is the implications for the Laventille posse, and the Montrose posse—

Madam President: Sen. Creese, you are going back into territory that you have already covered, and some of which I have already asked you to link to the Bill. So once again I just caution you on the Standing Order with respect to relevance. Okay?

Sen. S. Creese: Thank you, Madam President. So at the end of the day, the question on which I close on: Are we satisfied that this Bill really is going to take us to the place we want to go; or this merely is going to go on the books and appear to international bodies, and so on?—that we have satisfied the requirements that the big countries are calling for, that you know you have a new legislation, things

that show that you are not encouraging money laundering, you are not encouraging all the negatives of the day. Quite frankly, these amendments here are necessary, but they are not sufficient. I thank you. [*Desk thumping*]

Madam President: Attorney General. [*Desk thumping*]

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam President, for recognizing me. Madam President, I rise to draw conclusion to this debate and I wish to offer my sincere thanks and gratitude to all Members that have contributed to this debate. Certainly the submissions were well received. It is incumbent to try to do justice to a wrap-up which has spanned three days of the Senate's time to try and put the context in a meaningful yet succinct way.

The Bill before us is, yes, one which treats with the amendment to five pieces of law and it is something which seeks to strike a balance firstly, and on the one hand between the sovereignty of Trinidad and Tobago versus the rest of the world; and, secondly, the law which is intended for the peace, order and good governance of Trinidad and Tobago within the meaning of that phrase in the Constitution which as we know is the supreme law.

Several Members have spoken and if I were to put it into summary, I understand the submissions of the larger broad-scale perspective to be:

1. Are we trading our sovereignty?
2. Should we treat with what international entities tell us as an overriding priority to what we know ought to be done?
3. Do we treat with the systemic issues in as sufficient a fashion as is necessary, both from a technical compliance with the law basis and an efficiency measurement basis; i.e. do I have the laws traversed well enough and am I applying laws in as an efficient a fashion by way of measurable outcomes?

4. Hon. Members have also reflected upon whether there is need for further consultation; whether we have a constitutional issue that needs to be addressed by the Bill before us having a section 13 exception and a three-fifths preamble; and then Members have gone into the granular provisions as to the specific areas of the law which I propose to traverse as a whole.

Sen. Ramdeen put it quite well in his submissions. Sen. Ramdeen put it that really—he has reflected upon the Government’s constant statement that this is a holistic approach and a whole-of-government approach. Sen. Ramdeen’s reflection, of course, in a very polarized political setting, was that the Government, according to the Opposition, is bereft of plans, and that the Government, according to the Opposition, needs to do more, but I need to put this in the context of some of what Sen. Creese put into the effect.

Madam President, we as a country find ourselves wrestling with some exceptional circumstances. Firstly, it is a matter of fact that we are 96 per cent less in our revenue from the period 2010—2015. We are seeing no immeasurable increase in revenue notwithstanding the rise in oil and gas prices as they are set out in the public domain. We are seeing an economy managed by almost \$13 billion in reduction year-on-year on expenses. We are witnessing a situation where our criminal justice system has not been attended to notwithstanding 26 years of analysis paralysis. We are watching Trinidad and Tobago’s stand where we have borders with a country which is under deep pressure and that is, of course, the Bolivian Republic of Venezuela where we have a significant issue of legacy items of criminality, guns and other things entering our shores, where they are left over as a result of the difficulties that Venezuela has to embrace.

We are watching a situation where we do not as a country have gaming laws

to treat with gambling, where we do not as a country have campaign finance reform legislation certainly on the books, where we do not as a country have yet operationalized in full form our laws to treat with our insurance sector, where we do not as a country have laws which have operationalized the systems around cybercrime as Sen. Creese reflected upon, cyberterrorism and other aspects, where we do not as a country find ourselves in a whole of Government accounting relationship and arrangement where we have treated with things like transfer pricing, where we have treated with deeper reforms to our institutions as Sen. Ramdeen reflected, the deeper reforms that are required to the Customs and Excise Division and other entities.

So those are a lot of “don’ts”, and “nots”, and “not haves”. But, Madam President, in connecting the operational side of this law, these five pieces of law which we are seeking to amend, Senators Obika and Hosein both made the submission. Sen. Obika was quite emphatic; he said he was embarrassed to read the Mutual Evaluation Report and said that: why are we treating only with these things before us now; why do we not treat with all?

I would just like to remind Sen. Obika that the Parliament is not constructed in one sitting to treat with every law that the Mutual Evaluation Report traverses, and for the record the Mutual Evaluation Report traverses not only the five pieces of law which we have today, which are anchored against the FATF 40 recommendations and the 11 immediate outcomes, but they also treat with beneficial ownership, amendments to the Companies Act, amendments to the anti-terrorism legislation. They treat with amendments which are required to deal with disclosures at the Board of Inland Revenue such as to treat with section 4, the secrecy provision in the Board of Inland Revenue. They treat with the operational improvements towards the management of the criminal justice system insofar as

the FATF and CFATF measurables look at our outcomes, what you have to show as a result of having these laws, and our parliamentary structure does not allow one Bill to treat with all of these things.

In fact, there is a rule which says they must be reasonably related to each other and, therefore, we have what is before us now a miscellaneous provisions combination of laws to be amended because that is the only way you can do this. In connecting the operational efficiencies, I must remind that we spent the first parliamentary year ensuring that we put into place amendments to the criminal justice system. Why? Amendments to the Proceeds of Crime Act, amendments to the Financial Intelligence Unit Act, amendments to the Exchange Control Act, Customs Act, amendments to the Mutual Assistance in Criminal Matters Act all have to go through the criminal justice system. And that is why, Madam President, Sen. Ramdeen was correct in saying that the Government reflected upon the amendments. Will these laws work any better? Should we wait until we get the system working right first before we amend the laws? Most respectfully, we cannot take that approach.

Our international obligations which were committed to by the last Government in 2013, in 2014, required us to meet certain international obligations for the Financial Action Task Force and for the Global Forum under the OECD obligations, and in governance of Trinidad and Tobago being a continuum this Government must give life to those obligations. These obligations which we treat with legislatively today came about as a result of agreeing for Trinidad and Tobago to be the first in line for the Fourth Round Mutual Evaluation which saw our country assessed as at January 2015. The obligations which are tied in to this Bill also relate, Madam President, to amendments which the OECD G20 countries require us in the Global Forum scenario. We committed to the Global Forum

scenario and it is directly related to this Bill as well in 2011, 2013 and 2014, and these international obligations are a requirement for the country.

So when hon. Members speak about, are we trading sovereignty in respect of the particular provisions? Most respectfully, it is rather *infra dig* for the Opposition to be suggesting today that we are trading sovereignty, when they in 2011, 2013, 2014 and 2015 committed to Trinidad and Tobago effectively doing what they now say should not happen. Most respectfully, one cannot approbate and reprobate on an issue. Simply put, “yuh cah blow hot and cold”. You have to hold the line of reasonableness and, therefore, I do not find it endearing logically, or intellectually, for Members of the Opposition to lecture the Government today about trading sovereignty, and Sen. Sobers went to town on that point.

In treating with the amendments to the Mutual Assistance in Criminal Matters Act and the deletion of section 22(2)(k), the Bill proposes that we remove the automatic fetter where you shall not entertain a request which is related to tax evasion, and we delete it entirely. But hon. Senators, and Sen. Sobers in particular, made a mockery of the process because he failed to take acknowledgment of the fact that we have safeguards in the law, and the safeguards to be found in the Mutual Assistance in Criminal Matters Act are to be found in two areas and I wish to put them on the record. Firstly, insofar as there is a discretion to treat with the matters, and that discretion is also tied in to the obligation to have the dual criminality principle met, you cannot just take any request for mutual assistance and apply it. It must be that it is equally criminal in your own jurisdiction. If it is not known to the laws of Trinidad and Tobago in terms of a crime, you cannot give the effect that hon. Senators are pretending can be given, and I say so most respectfully.

Madam President, many persons— Sen. Mark made a song and a dance

about sovereignty as well—forgetting as he sat in Government, as he did in the position that he held whilst his party was in Government—of the matters which I have just traversed, but Sen. Mark asked, “Where were we finding precedent?” He wanted to know where else was trading sovereignty such as this and, therefore, I am compelled to remind that Jamaica has in its Mutual Assistance Criminal Matters Act, 1995 a similar position as the one which we have adopted today; Barbados has similar provision; Anguilla, Curacao have similar provisions. More particularly, in the Caricom itself, there is a Caribbean treaty on mutual legal assistance in criminal matters which specifically provides for the type of approaches which we are taking here today, but I would like to remind hon. Members opposite there is no constitutional right to have protection against tax evasion because the argument in trading sovereignty is that we should not cause the deletion for 22(2)(k) as we are doing now. But that would be to make a nonsense by accepting that there is a privilege or some form of right to evade taxes, and that clearly cannot be the case not in light of the fact of having signed on to FATCA with the United States of America, having signed on to the intergovernmental agreements which relate to our two jurisdictions, not in light of having signed on to the Global Forum perspectives, not in light of having signed on to the Berlin agreement in 2014 as Larry Howai as Minister of Finance did then on behalf of Trinidad and Tobago.

Madam President, quite a few Members of the Senate reflected upon money laundering, and the issue of it being a summary offence and an indictable offence in terms of the treatment and amendments that we make here, and I wish to put it this way. That is to prescribe that the law shall be offences tried either way. You can either go summarily, you can either go indictably. It is a fact that that is a matter for the election of the prosecution as to whether they go summarily or

indictably. We are not including amendments to the Summary Courts Act, section 100 in particular, where we are asking for the consent of the defendant in what is referred to as scheduled offences. We are not asking for that. It is true that there is no time prescription for indictable offences, and it is true that in treatment of the summary offences that there is a six-month prescription period.

Sen. Cummings raised the issue as to whether we should have a cap on the money laundering features, but I would like to put it this way. When one recognizes the common sense that the United States Government found in prosecuting one of its most well-known underworld criminals—and I refer to Al Capone. In treating to treat with him for tax evasion rather than for gangsterism and murder and bootlegging, I dare say that it would be dangerous to put a cap for money laundering offences, for the summary route, because one may be quite happy, as Sen. Chote referred to the issue of the big fish, or Mr. Big, to have that person caught whether it is with \$1 in terms of money laundering, or \$1 million in terms of money laundering, and most respectfully the Government does not agree with the recommendation for a cap.

Furthermore, there is precedent to be found in the treatment of the offence and the prescription of the sanctions which we now give by a direct proportional statement coming from the anti-terrorism law, by a direct proportional statement coming from the securities industries legislation, by a direct proportional statement coming from the insurance law, and I do not want to be presumptive in treating with that insofar as it is part of this Senate's Order Paper, but the fact is that the proportionality of this law is certainly something to be factored further when we look to the construct of proportionality within the meaning of the *Northern Construction* case; or as laid out in umpteen Privy Council decisions, proportionality is to be found by what your country is currently dealing with.

And if we want to know what our country is currently dealing with, let us look to what the FIU has told us what they are dealing with. The FIU has told Trinidad and Tobago that in one year in the reporting period 2016 to 2017 that suspicious transaction activities, suspicious transaction reports have jumped from—listen to this—\$4.5 billion. In the period 2011—2016, the aggregated amount of suspicious actions and transactions was \$4.5 billion, but in 2016 to 2017 that figure for one year alone grew to \$22.5 billion. How do we really genuinely say reduce the offence prescription, reduce the penalty, when the proportionality in the subject matter that we are dealing with is that you are treating with, in one year, \$22.5 billion in suspicious transactions?

Madam President, several Members also reflected when we treat with the FIU, as I am on that particular point of the FIU which, of course, is traversed at clause 4 of the Bill. Many Members asked where we are treating with financing of the FIU, where we are treating with resources provided to the FIU; indeed there was a submission, a very noble submission on the part of Sen. Ramdeen, for the consideration of a law enforcement type of FIU which is one of the prescriptive models. The FIU which was elected in this jurisdiction in 2009/2010 is an administrative-type FIU, and I can say as a matter of fact that the Government is currently looking at the law enforcement model. I can say this openly, it is that very model that we are looking to anchor the civil asset forfeiture regime into and, therefore, we are not looking at it only from an FIU perspective, but we are looking at it from a civil asset forfeiture, explain-your-wealth legislation perspective, and that Bill has been completed and is out for stakeholder consultation in short measure.

Madam President, hon. Members also asked in terms of—and I think it was Sen. Obika asked about the FIU's IT capacity, the number of persons, et cetera,

and I wish to put onto the record that as a direct result of an increase in financing provided to the FIU that we saw their 100 per cent increase in their positions for organizational structure for their analysis division, we saw five vacant positions in their compliance division being added on, and we also saw a significant increase in financing, and I wish to reflect upon that increase in financing, if you would permit me to just find that note that I made on it . But in dealing with the financing, we have certainly gone up from the 1.8-odd million dollars in allocation to the FIU under the previous Government at its highest because 2011, 2012, 2013 there were no allocations for improvement. They went at highest as I can recall to \$1.8 million, and I can say with certainty that the allocation under this Government has been successively, for the year-on-year perspective, \$5 million; and that is directly evidenced in the statistics that we have as produced by the FIU for their output of analysis for STRs and SARs as I have reflected upon.

I wish to further put onto the record that the IT divisions because Sen. Obika reflected upon it. He asked whether there was a secured environment. He considered that there was an alarming statement where he was reflecting upon the FIU's annual report for 2017 under the area that dealt with upgrading of existing information technology, and I wish to put on record that the FIU is squarely focused on its enhancement, that the FIU security posture is significantly improved, that the FIU has in fact engaged in connectivity to other stakeholders in the government service so that there is a fluidity and a connectivity of exchange of information within lawful parameters, that we have seen an annual increase in the STRs and SARs as I reflected upon, and that is to be found in their annual report—and I found the figure, Madam President—forgive me for the financing—2011 under the UNC, nil; 2012, nil; 2013, nil; 2014, \$1.39 million; 2015 under this Government, \$3 million; 2016, \$5 million; and 2017, \$5 million, and it obviously

shows in terms of the numbers that have been produced.

Madam President, quite a few of our speaker focused upon the concept of proportionality and constitutionality. Sen. Mark had a significantly difficult time in putting together an argument on constitutionality. Sen. Ramdeen started and then flirted away from the argument in terms of dealing with a square provision. Sen. Mark stretched our imaginations in alleging a three-fifths majority requirement, because he said that somehow section 4 of the Board of Inland Revenue legislation was going to be invoked and he reminded that in FATCA we had to specifically provide for the exception to section 4 of the Board of Inland Revenue legislation. Madam President, for the record, this Bill has nothing to do with the Board of Inland Revenue legislation, it has nothing to do with section 4 of the secrecy provisions in that law and, therefore, I am being polite when I say that my good friend Sen. Mark was stretching an argument to try to reach to three-fifths majority muster.

Sen. Mark went a little bit further in his stretch in referring upon Justice William Brennan and in the case of *Furman v Georgia*, and in dealing with the concept of what he termed essential predicate punishment, and he said that this Bill was excessively severe in the prescriptions. I have dealt with that point by showing what the STRs and SARs actually look like. Sen. Ramdeen reflected upon constitutionality in the context of the traversing of the section 5 right, which is the right against self-incrimination, but Sen. Ramdeen found the solution himself when he read out the specific terms of section 5(2)(f) of the Constitution which treat with the right against self-incrimination because this Bill specifically provides that you will not be required to disclose information such as to have to incriminate yourself, and other Senators asked—in fact, Sen. Ramdeen went on to say that the prescription of the constitutional reflection was otiose, it was not required because

the Constitution is the supreme law under section 2 of the Constitution.

Sen. Chote reflected upon it by saying that it made no sense because on the one hand you were saying disclose and on the other hand you are saying do not incriminate yourself. But the rationale for putting it into the law is squared away with the recommendations and the observations of the Financial Action Task Force where it said that the limited power of production of information to aid the enforcement under section 18 of the FIU Act, and in particular section 18F of the FIU Act which is where you must give aid to the enforcement of the laws that treat with anti-terrorism, proceeds of crime, financial obligations and the FIU Act itself—those four pieces of law in section 18F and G of the Act we have specifically put this so that we can have the prescription settled in terms of law to make it abundantly clear that we do not intend to trip upon a section 5 right of the Constitution and, therefore, it is specifically stated a court would therefore be assisted under the rule in *Pepper v Hart* by having Parliament, having the Senate specifically reflected upon these provisions.

Madam President, may I ask what time I specifically end?

Madam President: You end at three minutes past four.

Hon. F. Al-Rawi: Three minutes past four. Thank you very much, Madam President. Madam President, several of our speakers reflected upon the customs laws, several of our speakers reflected upon as Sen. Obika put it—Sen. Obika supposed and proposed that the amendments to the Customs Act would be draconian. He alleged that there was discord in the consultation, he alleged that the maintenance of records for six years was onerous, he alleged that the ability as the Bill provides to have the Comptroller of Customs stop subsequent importation would be something which would cripple the industry, and I wish to address that general sentiment. Several other Senators reflected upon it, but in slightly different

ways. So I thank Sen. Obika for putting it forward in the fashion that he did and I ask that the issues raised by other Senators be joined into that on this point. And the reply is as follows, Madam President.

First of all, we are in this particular law proposing a harmonization of customs with the Board of Inland Revenue. Under the laws that treat with Inland Revenue, the period of prescription for tax matters is six years. In fact, in the Customs Act there is a prescription that you maintain records in certain circumstances for seven years.

3.45 p.m.

It is anomalous in our law in the Customs arena for us to hold on to a six-month or one-year prescription period for the maintenance of records. Why? Customs is the fourth largest generator of revenue in our country. Sen. Ramdeen very correctly said that there was institutional corruption in many aspects of Government's agencies, and that is not now, that has been for quite a while, and he put it in a very eloquent way of saying that there was institutional rot or decay that had happened, and forgive me if I paraphrased wrong. But the point is, where your fourth largest generator of revenue in your economy maintains a post-audit function which just makes no sense because you can only treat with the goods that are coming in at the point in time and where you do not require the maintenance of records for more than the time which currently exists, and in a time frame which is in a non-harmonious arrangement, as it is with the Board of Inland Revenue laws, we are really just not making sense.

The amendments that we are propose in clause 5 of the Bill to the Customs Act, we say to Trinidad and Tobago: maintain your records on both sides of the coin. The Customs division, the officers of Customs, you maintain your records. We say to the importer and owner: maintain your records and maintain it for the

same six years that the Board of Inland Revenue can have. But, Madam President, we are not being arbitrary in our prescription by saying that there is an additional power to the Comptroller under section 228 and elsewhere as we propose amendments of the Customs Act, we are not being arbitrary in saying that there can be a power to suspend the importation of subsequent items. And why?

Number one. There is due process alongside that. Number two, that due process is not just any average due process, it is a right of appeal within a six months' prescription time frame to the Tax Appeal Board. The effect of that due process provision, the effect of that proportionality is that once you have filed your appeal you can bring in your goods and all that any importer needs to do, if he or she or it has an objection to the Comptroller's action, is simply to file the appeal. In fact, that is a very measured position and it is part of the current laws of Trinidad and Tobago.

So, Madam President, with the greatest of respect, if we know that we have containers entering the country without supervision, if we know that the Port Authority is being stymied by some of the trade union activity for the implementation of scanners at the Port of Port of Spain, but where there is no trade union environment, in the Port of Point Lisas, it is up and running already, and I will ask that of Mr. Duke outside and elsewhere. But my point is this, if you know that you are having a difficulty on the scanning and importation and regularity, not only of revenue but the control against criminality in your country, the best thing to do is to do as we are doing in this Bill which is to allow for an aid to enforcement in a post-audit scenario where you can actually get benefit for the taxpayers of Trinidad and Tobago, but more particularly, where you can prevent corruption, where you could prevent criminality.

Because it is a fact that there are importations of firearms through containers

coming out of North America. People believe that firearms come only out of South America. That is not true. We have seen importation of firearms coming out of the United States of America as well and, therefore, our border control mechanisms are critical. And whilst we are anxious in our application of prescription and prescription for solution, we believe that the post-audit environment is critical. That is why we put the balanced approach of Customs itself maintaining records so that people cannot allege that the document went lost if there is corruption at the Customs Division and also on the owner's requirement. It is true that the Customs brokers, their subsidiary legislation, their regulations provide for three years' maintenance of records, but that is Customs brokers. The real privity of the arrangement is between the owner and Customs and, therefore, you must dive to the heart of that position and that is why we are focused upon it in the manner that we have.

It is the same reason why we propose in clause 4 of the Bill and in treating with the FIU regulations as well that we have harmonization with change of information. We have harmonized the disclosure of information under the FIU for notice of your registered address and other particulars to the same time frame that we used in the Companies Act, and that same time frame is being applied here so there is regularity and improvement to the ease of doing business in this country, Madam President.

Madam President, the amendments that we propose in respect of the criminal justice system, as several people have reflected upon, are not insincere. This system, this amendment of laws—and there are more to come. This amendment of laws that we propose today is directly tied to how the laws will be implemented. What are we going to see as a result of the implementation of the laws? How many more convictions are we going to have? What is the effect

going to be?

Madam President, just let me remind. We saved the work of the preliminary enquiries Bill. It is on the Order Paper, I would not go into it. But I want to indicate that we will be coming back to the Senate to propose amendments to that to cause the abolition of preliminary enquiries. Secondly, it is critically important that we appreciate that what we have implemented already is very significant, and let me paint this picture. We have implemented a disaggregation of several of the pots in the criminal justice system. We have removed motor vehicles and road traffic matters into violations and some offences. We intend in the month of April to go live with that product.

Secondly, we took away the entire management of children and family matters and we put that into the Family and Children Division Bill and yes, the Government made history by being the first Government in the history of Trinidad and Tobago to pass laws; amend consequential laws; do job security and creation of positions; cause and facilitate the employment and consideration into that enterprise; outfit buildings; do rules of court and subsidiary legislation to treat with an entire area which occupied some of the criminal justice system. That Family and Children Division also saw the implementation of the computer system for the Magistracy because right now, the Magistracy is dealt with by way of a manual system.

Prior to the introduction, as this Government put it into effect, of the criminal proceedings laws, we had one end of it being dealt with manually, that is each case-by-case position. We had another end of it being dealt with by way of a system of acceptance of inefficiency. In putting in the Family and Children Division, we did the test piloting for the entire computer system that is being applied to the Magistracy, so that the case management runs alongside the criminal

proceedings rules.

And in fact, Madam President, I will say to this honourable House that we laid last Friday, in the House of Representatives, the criminal division and traffic court. Let me repeat that. We laid in the Parliament, in the House of Representatives, last Friday, the criminal division and traffic court [*Desk thumping*] and that is because we will be implementing the same formula approach that we did for the Family and Children Division in the criminal arena. That will allow us to have cases move on time, to have them tracked, to have the sanctions considered under the criminal proceedings rules, but more particularly, it allows us to take avail of the other mechanisms which we are putting in place.

We have spoken to the DPP and the Commissioner of Police and we are nearly ready to unveil the national prosecution agency of Trinidad and Tobago which will be a marriage between the DPP's office and the police prosecutors at the Trinidad and Tobago Police Service: 5 per cent of prosecutions done by the DPP; 95 per cent of the prosecutions done by the Trinidad and Tobago Police Service.

Sen. Ramdeen reflected upon what he called the shift system for the court in San Fernando. Sen. Ramdeen forgot to mention that the UNC, after spending close to \$400 billion, failed to even address the court in and of itself in their tenure. It is true because of asbestos and lack of air-conditioning and the use of Lasko fans "for donkey years" in San Fernando that we went into that court, took off the roof, took out the asbestos and put in the ventilation systems to air-condition it so you do not have to use Lasko fans, as Sen. Ramdeen pointed out, Madam President, but we did that.

Further, Madam President, Sen. Ramdeen forgot to mention that the last Government sat down on the Cluny. The St. Joseph's Convent, San Fernando,

property was bought by the Government of Trinidad and Tobago in 2010, 2011, 2012, 2013, 2014, 2015—they did nothing with it. But I will tell you this, we will open the Family Court in San Fernando because we are actively working on that project. [*Desk thumping*] It is the same way that they failed to open the video court at the Remand Yard: 2010, 2011, 2012, 2013, 2014, 2015—nothing. That court will be opened, but we go further. We intend to open a court, a full-fledged court—not a video remand court—at Maximum Security Prison. The designs have been done by the Judiciary, the user brief has been done and we will do it with the same efficiency that we did the child rehabilitation centres at what was called YTC and other places. [*Desk thumping*]

You see, Madam President, while they try to say that there is nothing going on, we are actively achieving project by project which address the operationality and common sense. Madam President, do you know that we spend on average \$80 million a year in prisoners' transport from the prison to the court house? It is not only efficiency in justice but it is savings to the taxpayers of Trinidad and Tobago to open a full-fledged court at the MSP and we will do it.

So, Madam President, when you look to the operationalization of our laws, when you look to encouraging the use of plea bargaining because you finally have DNA operationalized—and I will remind without anticipation that we have the affirmative debate for the DNA regulations on the table of the Parliament in the House of Representatives right now. That law, the DNA law, has been law for 17 years and we have not once had it used in the correct context.

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

Hon. F. Al-Rawi: Thank you, Madam President. So there was a major concern of many Senators present: Can we operationalize the laws? What structures are being put in place to make this thing work? Have we dealt with it in a piecemeal basis?

Is it connected logically, common sensically and prudently to other areas of law? And the answer is that we have thought this thing through quite correctly. We cannot, Sen. Hosein or Sen. Obika, bring one law to fix everything. We are coming with non-profit entities, non-profit organizations, NPOs. We are dealing with gaming industry. We are dealing with campaign finance reform.

Sen. Creese, we as this Government, under the direction of the hon. Prime Minister, are dealing and will deal with campaign finance reform in our term. We are the only political entity in the history of Trinidad and Tobago to have said that publicly and we will deal with it because at the end of the day, in the tenure that we have left—and mind you, we count it in months as well. We have since day one, we are adamant that we will evidence what our work product has been, what we have produced, for people to consider whether we are deserving of a further mandate or not.

In the meanwhile, we will make the hard decisions, we will implement the solutions that nobody else wants to treat with. How many times in this country's history did we talk—if I were to ask Sen. Small in a previous incarnation: how many times, Madam President, did we talk about, “Oh let's reduce subsidies; let's treat with transfer pricing; let's deal with whole-of- government approach? Well Revenue Authority did not come about by “voops”, “vaps” or vaille que vaille. Transfer pricing consideration, as Sen. West is treating with it, in a specific context, did not happen just like that.

Madam President, I ask this country to pay attention to the energy spotlight tomorrow. It is a whole-day affair where the Government of Trinidad and Tobago will put a spotlight on the energy industry and the information which will come out from that is not only relevant to this debate, but it is materially relevant to the lives of every citizen in this country. This is good law. This is not a panacea for every

ill and evil in our society. It is well structured, we welcome the submissions of hon. Senators in the committee stage and I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

Senate in committee.

Clause 1 ordered to stand part of the Bill.

Clause 2.

Question proposed: That clause 2 stand part of the Bill.

A. Delete clause 2

B. Renumber clauses accordingly [*Sen. G. Ramdeen*]

Madam Chairman: Hon. Senators, an amendment has been circulated by Sen. Ramdeen in respect of clause 2. Sen. Ramdeen, therefore, I will invite you to indicate the purpose of your amendment.

Sen. Ramdeen: Thank you, Madam Chairman. The amendments that I circulated are amendments that I submitted on behalf of the entire Opposition Bench. So I would give Sen. Hosein the opportunity to deal with this amendment, if that pleases with you, Madam Chairman.

Madam Chairman: Sen. Hosein.

Sen. Hosein: Thank you very much, Sen. Ramdeen and Madam Chair. The amendment that we are proposing to clause 2 is that it be removed in its entirety.

Madam Chairman: Attorney General.

Mr. Al-Rawi: Madam Chairman, I thank the hon. Senator for the circulated amendments. Regrettably, we are not in a position to agree to this for a number of reasons which we have traversed in the debate, but suffice it to say, it was a specific observation in our Mutual Evaluation Report, published on June 2016, that

this offended the positions of law that are apposite to our country's best ratings.

Further, Madam Chair, there is the protection to be offered by the requirement for dual criminality and in the discretionary aspects which the rest of the law does. There is also the provision for protection against arbitrariness which is set out in section 22(2) in and of itself where there are numerous provisions which prescribe against political interference, malicious prosecutions, et cetera, and those are very well established principles of law and they are statutorily expressly provided.

Madam Chairman, in all the circumstances, I wish to assure hon. Senators, not only is there a Caricom model suggesting this, but the laws of Jamaica, the United States of America, Anguilla, Antigua, Barbados, et cetera, are all in equal fashion to this and for those umpteen reasons, I regret that the Government is not in a position to accept the recommendation for the deletion of clause 2.

Madam Chairman: Sen. Hosein.

Sen. Hosein: Thank you very much, Madam Chair. The reason that we are proposing this amendment is because from the debate, we learnt that under 22(k), basically the State of Trinidad and Tobago can now refuse any request based on the tax laws. However, we suggested that under section 22(k) of the Act, there are actually exceptions where the State can actually lend that assistance by way of intentionally incorrect statements which would deal with matters of tax evasion.

Further to that, Madam Chairman, we do not think that if this clause is removed, there would be no efficacy of it in terms of—now all of these tax matters fall within the domain of the Board of Inland Revenue which is protected under section 4 of that Act, so therefore, I do not know how the State will comply with its international obligations in order to proceed forward with regard to the removal of this clause.

Mr. Al-Rawi: Madam Chair, it is imperative that I correct the misunderstanding of my learned colleague, Sen. Hosein. This Bill in no way proposes any form of treatment of the Inland Revenue laws. Section 4, the secrecy provision, is not relevant to this debate because what is being asked of the honourable Senate is that we remove the mandatory provision which says that you shall not treat with tax matters by way of a request from an outside territory; that the Attorney General, as the Competent Authority, shall not treat with it, that is the language; and Madam Chair, there can be no confusion that the process of mutual assistance is what we are treating with and not the disclosure itself. There is nothing that the central authority can do to compel the Board of Inland Revenue to do anything. They are statutorily bound by section 4 from keeping their secrecy provisions measured. So there is no form of intervention of section 4 of the Board of Inland Revenue legislation.

Question, on amendment, [Sen. G. Ramdeen] put and negatived.

Question put and agreed.

Clause 2 ordered to stand part of the Bill.

Clause 3.

Question proposed: That clause 3 stand part of the Bill.

Delete the words “-summary conviction, to a fine of twenty-five million dollars and to imprisonment for fifteen years; and (b)” [Sen. G. Ramdeen]

Madam Chairman: There is, hon. Senators, an amendment circulated in respect of clause 3. Sen. Hosein.

Sen. Ramdeen: Madam Chair, the amendment that is circulated with respect to clause 3 seeks to delete the proposal by the legislation to make this offence a summary offence and to impose a fine pursuant to the making of the offence, a summary offence, for the reasons that I advanced in relation to the debate, which

principally are that we need to equip the Summary Courts throughout the country with the necessary resources, both resources in terms of courts, resources in terms of manpower and resources in terms of having the courts equipped to deal with offences of this nature. I propose that we do not, at this time, make this offence a summary offence.

Madam Chairman: Attorney General.

Mr. Al-Rawi: Madam Chair, I thank my learned friend for the explanation offered. I do understand his caution in terms of how one can perceive the system as currently operating. But I wish to put on the record that the submission for the offence being treated in the manner in which it is, comes directly from the Director of Public Prosecutions. It is one which the Government accepts for the merit put forward by the DPP and it is squarely related to the election of the prosecutor in certain circumstances elsewhere. But it makes sense from an indexing of prosecution capability to have the outcome dealt with at a summary position, particularly whilst there is the existing preliminary enquiry route which can complicate the time frame within which.

For the record, I would remind that, if I believe the number, there are approximately 27 money laundering matters before the court. Despite them having started, some of them in the year 2012, not a single one of them has gone past preliminary enquiry and therefore, this directly relates to the efficiency of our system and in those circumstances, we regret that we are not able to accept the solution of my learned friend opposite.

Sen. Mark: Madam Chair, in terms of clause 3, we are very strong on the matter of clause 3, (a) and (b), that is the summary conviction, to a fine of \$25 million and to imprisonment of 15 years and also on conviction on indictment to a fine of \$50 million. Madam Chair, this is cruel, it is unusual punishment and we do not

understand the justification for this imposition given what we have been provided in clause 3 of this Bill. The Attorney General has not justified why this hefty fine of \$50 million from \$25 million and then a lifetime of imprisonment; this is what 30 years is equivalent to, a lifetime.

Madam Chairman: Okay. I think, Sen. Mark, I understand what you are saying.

Sen. Mark: So we need to get some kind of justification first.

Madam Chairman: Yes, Attorney General.

Mr. Al-Rawi: Thank you, Madam Chair. I thank my learned friend for his submission. For the record, I will repeat in very succinct fashion the rationale for this. Firstly, the recommendation was for proportional treatment between the anti-terrorism legislation which prescribes the same formula and the Proceeds of Crime Act which we do now.

Secondly, the position in the laws of Trinidad and Tobago is that the prescription of this sanction, this fine, this treatment of \$25 million and 15 years and \$50 million and 30 years, that is, as we all know, a statement of the maximum sentence that one can suffer. It is within the judicial discretion to come up with the formula of fine and or imprisonment that will match the particular offence and that is well established in the laws of Trinidad and Tobago.

Thirdly, the proportionality is directly rooted in the number of and quantum of suspicious transaction activities and suspicious activity reports which, in one year, in our country, is equal to nearly the entire sum of revenue which our country earns by way of revenue year on year. In those circumstances, the view of the Government, for consideration of the honourable Senate, is that this is a well-proportionate law which ought to stand.

4.15 p.m.

Sen. Ramdeen: Hon. Attorney General, I hear you on the explanation that you

gave that you are simply, well not simply, but you are agreeing with the recommendation of the Director of Public Prosecutions and implementing his recommendation.

Can I be allowed to ask, through you Madam Chair, to the Attorney General: Is it that in those discussions the rationale of the Director of Public Prosecutions is that if we make it a summary offence that we would have more prosecutions in the system, or we will be able to bring forward before the courts more persons? I just want to ask the rationale.

Mr. Al-Rawi: Yes, that is precisely it.

Sen. Ramdeen: Okay, I just wanted to find out clearly what the position was. Thank you. Thank you, Madam Chair.

Sen. Mark: Madam Chair, the Anti-terrorism Act that the AG referred to did require a special constitutional majority.

Mr. Al-Rawi: For different reasons. They were traversing upon certain defined rights that were clearly expressed in that legislation. In particular, the detention provisions and the removal of treatment of property under the forfeiture provisions required the involvement of a three-fifths certification, none of which feature in this Bill.

Sen. Mark: Madam Chair, we maintain that this is unprecedented and we will not support legislation that imposes cruel and unusual punishment upon any citizen, unless you bring a special majority.

Sen. Ramkissoon: Thank you, Madam Chair. Through you, my question is in relation to the formula that was used for the amount that we are seeking to add to this Bill, and you did mention the 37 charges, and when I did look at it we are no more than \$3million in amount that someone would be charged or has committed.

Now, the thing is, I could not understand the formula.

Mr. Al-Rawi: I am sorry, no one has been charged—People have been charged but no one has been convicted yet.

Sen. Ramkissoon: Convicted of something more than \$3 million. Right? And I could not understand how the formula was put together to get this \$50 million because I too find it a bit concerning how this fine could ever be paid by someone who does not amount to this sum of money acquiring this. So I just wanted some clarification on how they came across the \$50 million or 30 years.

Mr. Al-Rawi: Yes, please. I thank the hon. Senator for her submission. There are, as I understand it, quite a few matters under consideration, which are well beyond the \$3 million, so that one has yet to figure out where this actually leads to. But the formula was arrived firstly, by way of reflection on the anti-terrorism prescription; secondly, by the recommendation of the ICRG grouping and the joint review group that sat with Trinidad and Tobago on its international observation; thirdly, by way of reflection to the proportionality with the anti-terrorism law; fourthly, by way of the CPC's Department bringing forward the matrix, which we treat with.

At the end of the day, the matrix formula for quantum and number of years is ultimately a matter for the Parliament. The question is the level of scorn that the Parliament pours upon something as serious as money laundering, where we understand that the root of criminality is to be found in money.

And, therefore, in a society such as ours, which is grappling with the issue of crime and has been for many years, the maximum sentence and maximum fine indicator for the more serious matters is stated in the law for the consideration entirely by the Judiciary as to the discretionary amounts that may or may not be applied.

Sen. Ramkissoon: Okay, thank you for clearing up, because my information was from the Trinidad and Tobago Police Service website that had that amount of no

more than \$3 million.

But in relation to the maximum, is it in the law, as it exists a maximum of \$50 million, other than this proceeds of crime, that all the other legislation that you have listed?

Mr. Al-Rawi: Yes, the Anti-Terrorism Act. We have provisions under the Insurance Act. We have provisions under the Securities Exchange Rules. We have extremely higher offences under the FOR. We have significantly significant positions and treatment, both on summary level and on indictable level, which are not far off from this. In fact, for the record, whilst the UNC Government was in position in the period 2010 to 2015, the stated mandate was that everything was to be done by way of summary offences with criminalization. It was found in the Insurance Act of \$25 million and \$50 million. And that was the policy objective of the last Government.

Question, on amendment, [Sen. G. Ramdeen] put and negatived.

Mr. Al-Rawi: Thank Sen. Mark for voting with us. *[Laughter]*

Question put and agreed to.

Clause 3 ordered to stand part of the Bill.

Sen. Mark: Madam Chair, we want a division.

Madam Chairman: Sen. Mark, we have now passed clause 3. We are on to clause 4.

Sen. Mark: No, no, no.

Madam Chairman: Yes. **Sen. Mark:** No Ma'am. Clause 3 dealt with the \$25 million and the \$50 million.

Madam Chairman: So Members, may I ask that we all get with the programme here. I dealt—we had discussions on the proposed amendment and then the question on the amendment was moved. The vote was taken and then we moved to

the original clause 3, which now stands part of the Bill, Sen. Mark. Okay? So let us go on now to clause 4.

Sen. Mark: No, well we object to clause 3. We voted against clause 3.

Clause 4.

Question proposed: That clause 4 stand part of the Bill.

- Clause 4. A. Delete sub-clauses (c) and (e)
- B. In paragraph (d)(ii) delete the words "may, where it deems necessary" and substituting the words "shall, before the 31st December every year"
- C. Renumber paragraphs accordingly.
- Clause 4(2) A. Insert new sub-clause (b) and renumber accordingly.
- "(b) in regulation 19(3) by inserting after the word "requested" the words "or provided of his own motion".
- B. In sub-clause (d) by deleting the words "thirty days" and substituting the words "ninety days". [*Sen. G. Ramdeen*]

Madam Chairman: Sen. Ramdeen, are you going to speak on the amendment? Sen. Ramdeen, an amendment has been circulated.

Sen. Ramdeen: Madam Chair, can I seek your guidance? I have suggested an amendment that takes out both (c) and (e). Do I deal with them separately or do I deal with them conjointly together?

Madam Chairman: Deal with them together.

Sen. Ramdeen: Together. Hon. Attorney General, through you, Madam Chair, the suggestion of deleting subclause (c) is suggested on the same basis for the removal of clause 3, (b) (a), which is the summary procedure being adopted in relation to clause 4(c).

With respect to subclause (e), the position with that, hon. Attorney General,

is that (2A), which is the new subsection that the legislation seeks to give the power to secure compliance that:

“the FIU may require any person to provide to it any documents, information or explanation on any information.”

It is my respectful view that that provision is one that would engage a section 4 right under section 4 of the Constitution. That is the first concern that I have. And just to make it clear, that would be section 4(c) of the Constitution, which is the general privacy provision.

But more importantly, Attorney General, through you, Madam Chair, is that what the legislation requires the person to provide to the FIU simply is not circumscribed in any way, so that it is an overarching power without any limitation that is couched in the terms of any documents, information or explanation on any information. And, therefore, what you have is that the FIU virtually has an open discretion to ask for anything. It is not even circumscribed in relation to the investigation that they may be conducting at that particular time. And, therefore, I am of the respectful view that even if the hon. Attorney General would not agree to that, as he has indicated in the debate, but which I ask him to reconsider, this is not a provision that engages the privacy provision.

The second part of the (2A) proposal is definitely one that will be or has the risk of being arbitrary, to the extent that it is not circumscribed in any way. So that, if this is to be put into effect, an FIU officer can virtually ask someone anything and the legislation would place, under the threat of criminal sanction, the person with an obligation to provide that information. One, I think the risk is too high, and two, it allows the potential for abuse to be very apparent on the face of the legislation itself. Those are my respectful submissions.

Mr. Al-Rawi: I thank Sen. Ramdeen for explaining it as clearly as he has. May I

ask the hon. Senator to consider? Perhaps I should split the response.

With respect to the amendment at clause 12, which would take care of your circulated submission for deletion of subclause (c) in (a), that is the first one of them, section 12 of the FIU Act was ambiguous.

The position and the treatment of section 12, the order for disclosure, was treated by the DPP as a summary offence. However, some of the courts wrestled at times in the clarity of the section, and bearing upon the fact that there had to be a constant repetition of the fact that, no, section 12 is really meant to be treated with summarily, the recommendation of the DPP's office was that we, out of an abundance of caution, put the expressed language for it being a summary matter. And, therefore, we are harmonizing the practice of it being treated summarily with the point. So that was the rationale for the insertion of the word "summary" in section 12(4) of the parent law.

With respect to the very clear submission that you have made as to the amendments at 18G of the parent Act, you made a very important submission that the circumscription of the law was something that we should look to, because otherwise it could be arbitrary, and I agree that on first read, without looking at the marked up and track changed version of the law, that you could come to that conclusion. I, however, ask you to find comfort in the fact that the inserted subsections (2A) to (2E) fall within the text of 18G. So the parent law, 18G, the first one, subsection (1), says:

“In order to secure compliance with any written laws listed under section 18F, the FIU may take any of the following actions:

(a) enter into the business...”

place, et cetera;

“(i) inspect or take documents...”

- (i) inspect premises; and
- (ii) observe the manner in which...

and this one is very important.

“(b) require any person on the premises to provide an explanation on any such information.”

So that is the existing law. The existing 18G subclause (1) is that you can have somebody be required to provide an explanation on information.

Section 18(2), which is the existing law, says:

“Where a non-regulated financial institution or listed business refuses to give consent under subsection (1), a police officer...may apply for a warrant to enter the premises referred to in subsection (1)...”

and seize, inspect, observe.

We have now inserted (2A), which, when you read it in the context of 18G(1) and (2), the first submission in reply to your submission is that (2A) is properly dealing with it being subject to the manner in which we have inserted it. It is circumscribed therefore by one, 18G(1) and 18G(2). And we do accept that, had we not included (2E), which specifically says:

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

even though that is a reflection of the supreme law of Trinidad and Tobago as contained in the Constitution, we have nonetheless put it in here so that the statutory management of section 18G of the FIU makes it abundantly clear that you are not being asked to incriminate yourself. You have the right to remain silent as the Americans put it.

So, in wrap up, (2A) is circumscribed by the operation of 18G(1) and 18G(1)(b) in particular, 18G(2). And it is also further protected from causing any

difficulty by the reflections of the insertion of subsection (2E), which is specifically set out in the Bill that we have before us.

Sen. Mark: Madam Chair, how is the police, which, if you look at (2C), it does not designate a police of any particular rank? We are talking about from a constable who could interrogate an individual, and you know what goes on in this country, and the Attorney General is quite aware of what—[*Interruption*]

Madam Chairman: Sen. Mark, I would like you to be a little more specific. Sen. Ramdeen raised an issue with respect to amendments that have been circulated. You are now making an enquiry, I believe, a general enquiry about clause 4? Am I correct?

Sen. Mark: Am I not entitled to do that?

Madam Chairman: You are answering me with a question. I have asked you a question, you are answering me with a question. What I am trying to say though Sen. Mark, that in committee, in the committee now, we do not go through all the—everything about the Bill. We are dealing with specific clauses. So can you tighten up your observations, if you have a question to ask about a particular clause? Okay? **Mr. Al-Rawi:** Madam Chair, without interrupting, and please guide me, I am immediately prepared to answer the question that was asked.

Madam Chairman: Yes, I understand that, but I am just saying as we move along, we need to just be focused on specifically what we are dealing with.

Mr. Al-Rawi: May I?

Madam Chairman: Attorney General.

Mr. Al-Rawi: Thank you. Madam Chair, I thank the hon. Senator for the question. I ask the hon. Senator to find comfort in the fact that (2B), where a warrant, may be applied for by a police officer, it is specifically in reference to subsection (ii). So (2B) says:

“A warrant under subsection (2)”

Let us stop there. When we go to section 18G(2), it says:

“Where a non-regulated financial institution or listed business refuses to give consent...a police officer above the rank of Sergeant may apply for a warrant...”

So you are—you must read the law in the context of the whole.

Madam Chairman: Sen. Chote.

Sen. Chote: Yes, through you, I have two questions for the hon. Attorney General, with respect to this portion of the proposed legislation. Is it then that the proposal is that the word "may", as it is used in (2A) and (2B), is not to be interpreted as "shall"?

Mr. Al-Rawi: Yes, that is correct.

Sen. Chote: Okay. And secondly, when we go to (2C), how does that marry with your position that the mention of the constitutional protection in the very same section makes it clear that no one is being compelled to provide information and so on? Because it means that you are saying you are not compelled, but if you do not do it, you can be convicted. And to me, it does not follow. It seems to be a bit illogical. Maybe I am misreading it, but could I seek some clarification?

Mr. Al-Rawi: I will make my best endeavour. Thank you, Madam Chair. Thank you, hon. Senator. So, yes “may” is to be read as “may” and not “shall”. It is true that sometimes “may” and “shall” can be read differently, depending upon how a court interprets it. But in this context we intend it to mean “may”.

Secondly, the FIU indicated that one of the difficulties that it was experiencing was that it was often required to give a longer form of explanation as to how it could ask for information. Even though section 18G(1)(b) says you can:

“...require any person on the premises to provide an explanation on any

...information.”

they felt that it was necessary, not only to expand upon that but to treat with something which stood a little bit alongside it.

Subsection (2C) provides for an offence if it is you wilfully obstruct a police officer in the exercise of his powers, which we can understand; if you wilfully fail to comply with a requirement properly made; if you, without reasonable excuse, fail to give any other assistance he may require for the purposes of exercising power. And, therefore it is logical when we read (2D) and (2E) when it comes there, to ask: Well, will you be committing an offence if you say, well I exercise my right not to incriminate myself?

It is for that reason of avoiding debate that we have plucked out the information separately. So we put, if you are required to give information at (2D). A person when required to give information knowingly gives false or misleading information is liable on summary conviction. And then to be abundantly sure that this statutory provision was not going to interrupt your section 5 right against self-incrimination, we put in (2E).

So it may be a bit inelegant but we respectfully do not believe that you may find yourself exercising your right against self-incrimination and be guilty of an offence.

Sen. Chote: Hon. Attorney General, I see that you referred to (2D). I beg your pardon, Madam Chairman. May I? I see that you have referred to (2D) as the subsection which creates the liability. But when you referred to (2C), we are not simply talking about wilful obstruction and failure to comply and failing to assist a police officer. We are talking about the exercise of police powers under the section. So the section that we are dealing with is the section which says that:

“the FIU may require any person to provide to it any documents, information

or explanation on any information.”

Okay, so let us assume for a moment that the FIU decides to require or asks the person to provide documents, information or explanation on any information, how is that person protected in law to be advised of his—how is he advised of his constitutional protections under this section? And it seems to me to be a bit unfair to have no provision for him to be so advised and then have him committing an offence if he fails to comply, because that is clearly set out at (2C)(c).

Mr. Al-Rawi: I do understand. I propose that you consider the fact that many laws, in similar formula, for implementation and protection, stand upon Judges’ Rules and upon the Police Standing Orders and other facets, where framework law will not go into the prescriptive element of saying: well you must advise the person of his right against self-incrimination. That is a matter of standard course that I have not seen prescriptively set out in any other law. So I find aid in that facet there.

Secondly, when I look to section 5 of the Constitution, in particular dealing with the right against self-incrimination, it specifically reads:

“authorise a Court, tribunal, commission, board or other authority to compel a person to give evidence unless he is afforded protection against self-incrimination...”

So we have brought to life the:

“unless he is afforded the protection to self-incrimination”

And we have distinguished ourselves from the cases that you referred us to. I took a look at the cases that you referred us to in your submission, all of which held that the compelling to give information was not justifiable in the circumstances as the cases set out. And, therefore, we have found ourselves within the comfort of saying that we are providing, statutorily, the prescription that you can have your

right.

So whilst I have not seen this right traversed expressly in law such as this, where one sets out “nothing in this section shall be construed as requiring anybody to give information to incriminate himself”, whilst I accept what Sen. Ramdeen has said in his debate that that is the supreme law and therefore it may be otiose or superfluous to put it in, I still felt it necessary to err on the side of caution to put this in, because a policeman, in trying to prosecute a charge for a (2C) offence or a (2D) offence, would have to have indicated where it is the right to self-incriminate was dealt with. Even though it is dealt with by way of rules and other procedures in standard practice, we have put it expressly into the law.

Sen. Chote: Madam Chairman, if I may. Hon. Attorney General, I do not want to seem argumentative, but you see this section is dealing with a situation where the persons who are being required to provide documents, information or explanations on any information, may not necessarily be suspects. Suspects are protected by the Judges’ Rules and the Police Standing Orders and case law. What we have here is somebody who is really neither fish nor fowl and may not ever become a suspect or an accused person, but who may now face prosecution under this section.

So, I am wondering whether it would not be appropriate to be a bit more robust in the protection of that person's rights by having some sort of amendment included to say that the person shall be advised if he is required to provide all of these things that he is not entitled to, if he does not wish to do so.

Madam Chairman: Sen. Ramdeen. Let me just hear Sen. Ramdeen, so you can answer all together.

Sen. Ramdeen: Hon. AG, just piggybacking off Sen. Chote. The requirement that Sen Chote is asking for falls in line with the exact formula that the Privy Council formulated in the Whiteman and Thornhill formulations. So that, in those

cases the Privy Council made it very clear that under section 5(2)(h) of the Constitution, the right that you have there, which includes all procedural provisions, what Sen. Chote was asking for was recognized as being encompassed within 5(2)(h). What Sen. Chote is asking for, it would be encompassed or is covered by what the Privy Council said in Whiteman, which would have been that the fact that you have expressed the right in (2E) would not give you—

Mr. Al-Rawi: I am paying attention to you.

Sen. Ramdeen: Sorry. The fact that you have expressed the protection in (2E) would not be sufficient, to use the word, because the fact that you have expressed the protection does not give the person any protection unless the person knows what they are being protected against. And that is why the right to legal representation, which has found itself in section 5 of the Constitution, the Privy Council said well that is of no use, unless the person knows they have that right to legal representation.

So what Sen. Chote is suggesting, I think, if we just add, and there is no prejudice that is going to be suffered to anyone, it is just making legislation stronger and providing protection, that before any enquiry is made under this section, that you inform the person. It will cover whether the person is a suspect, whether the person is someone who is just being asked questions on an enquiry stage, and it will fall in line with the learning, save that we would end up passing legislation that we know the Privy Council has said before would not give enough protection to the applicant.

Sen. Mark: Madam Chair, it was precisely that area I wanted to intervene and indicate that, even though under section (2E), it does not really offer the individual any comfort or any protection. And what was even more edifying is the clarification that was brought to bear by Sen. Chote, by saying that the persons

who are being asked to assist the police on behalf of the FIU in providing information, they are not suspects. They are ordinary John Bloke.

4.45 p.m.

And therefore we need to have a provision in this section that would give those ordinary people who might fall in line with these provisions with the protection that is required.

Mr. Al-Rawi: Thank you, Madam Chair. I thank hon. Senators for expanding upon the rationale behind the submissions both Senators Chote and Ramdeen and also my learned colleague Sen. Mark. Madam Chair, we are looking at a proposed introduction of language. We are proposing to locate it within (2A) and not within the exceptional language to cater for the submissions made.

And that is notwithstanding the fact that I do not necessarily agree with some of what is said, but the caution would not hurt and I would not go further than saying that the fact that it is framework as opposed to prescriptive is point one.

Secondly, I take on board the caution that Sen. Chote has put and Sen. Ramdeen has echoed, that we have the opportunity to be a bit more prescriptive in this framework formula. If you allow me a moment, Madam Chair, but I see that you are probably about to anticipate my suggestion as to when we are taking the break?

Madam Chairman: Yes, we are still on clause 4, Sen. Ramdeen still has the other part of those amendments to deal with. So I think at this stage we will take the break and we will return at 5.20. So we are suspended until 5.20.

4.47 p.m.: *Sitting suspended.*

5.20 p.m.: *Sitting resumed.*

Madam Chairman: Hon. Senators, we are about to resume deliberations on

clause 4. Attorney General, when we left off, you were to propose an amendment.

Mr. Al-Rawi: Yes. Madam Chair, in the proposals offered by my learned colleagues, Chote and Ramdeen, the caution of being somewhat more prescriptive has been volunteered.

In the circumstances, and I should say, the CPC's Department is wrestling with the need for this amendment, insofar as we make the recommendations work, are being debated. The proposal for consideration is that we seek, in fulfilling the submission by Sen. Chote and Ramdeen to amend what is described as (2A). So (2A) we would propose an insertion at the end of the paragraph, by and if you would permit me, Madam Chair, just to read the words out, so after the word "information" we put in the words "and advise the person that they have a right against self-incrimination as guaranteed under section 5(1)(h) of the Constitution".

Madam Chairman: Hon. Attorney General, could you just repeat it. They have a right—

Mr. Al-Rawi: So after the word "information": "and advise the person that they have a right against self-incrimination as guaranteed under section 5(1)(d) of the Constitution".

Madam Chairman: Attorney General, let us just hold on that, because that is now formally written down. But, Sen. Ramdeen, let us deal with your proposed amendment at (b) and (c). Clause 4.

Sen. Ramdeen: Thank you, Madam Chair. Hon. Attorney General, through you, Madam Chair, I saw that the proposed amendment to subclause (d)(ii), (iii) of clause 4 sought to impose some type of duty upon the FIU to publish in the *Gazette* a list of countries identified by SFRB as having strategic anti-money laundering and terrorist financing deficiencies. I was wondering whether, it would not be tighter to simply fix the publishing by a time period, instead of leaving it

discretionary by the use of the word “may”. Because, I was not sure by virtue of the way in which the sub clause was drafted, what was the mischief that was being catered for by this amendment? If it is to bring to the attention of the public, because it is published in two daily newspapers, then I guess there would be people who would want to know, which are the countries that are deficient in anti-money laundering and terrorist financing activities.

It may well be that the purpose may be so that they do not deposit moneys or invest moneys in those countries because there may be some type of sanction that is attached to that. But if that is the purpose then I do not see why we should leave it to the discretion of the FIU to do the publishing, because it may well be that the information when published by virtue of the discretion vested in the FIU may be spent.

Most of these laws that we have where these things are required to be done, most of the times it is not done, so if we fix a time for it to be done at least it makes it a little bit tighter. That was my suggestion.

Mr. Al-Rawi: Madam Chair, I thank Sen. Ramdeen for his submission. The FSRB which is a FATF-style regional body is one of nine FSRBs in existence in the FATF structure. FATF in and of itself is over 150 entities, countries having nine FSRBs; Trinidad and Tobago is a member of the Caribbean Financial Action Task Force. The requirement for publication for the list that is produced by the FATF is to be found in section 17(1)(a)(i). So what the parent law fulfilled was the requirement without reference to a time frame for publication of the FATF itself, which is the parent entity, the FATF. What was not provided for, was the operation of the nine FSRBs of which CFATF is just one, because those FSRBs with their delegated structure actually produce lists of their own. So we kept to the formula of not prescribing a time frame for two reasons.

One, because section 17 of the Act itself, 17(1)(a)(i) does not prescribe a time frame. And secondly, because FSRBs and FTAF produce lists all the time and the entity that we have established in law in Trinidad and Tobago, and which other jurisdictions actually use is the FIU. So we felt it safe to keep within the formula of usage, and whilst it is useful to have the recommendation for a time frame, because the plenary sections revolve on very many different dates—there are plenaries in May and October for FATF and then the FSRBs have different plenaries—you may find yourself with two sets of obligations with different time frames. But I do want to note that the entire financial system is built upon this publication and that it is something which works well.

Madam Chairman: Hon. Senators, I will put the amendment proposed by Sen. Ramdeen to the vote first, and then we will deal with the amendment that has just been proposed by the hon. Attorney General. So the question is that clause 4 be amended as circulated on behalf of Sen. Ramdeen.

Question, on amendment, [Sen. G. Ramdeen] put and negatived.

Madam Chairman: And the question is that clause 4 be amended as follows:

4(1)(e) After “information” the second time it appears, by inserting the following words “and advise the person that they have a right against self-incrimination guaranteed under section 5(1)(d) of the Constitution”.

Question, on amendment, [Mr. F. Al-Rawi] put and agreed to.

Madam Chairman:

There is another part of clause 4 that Sen. Ramdeen proposed to amend which is clause 4(2).

5.30 p.m.

Sen. Ramdeen: I formally, Madam Chair, withdraw the proposed amendment of

deleting subclause (e) having regard to the amendment made by the Attorney General. It really ought to have read 2(e). That is the second to last one—that is the one just before clause 4(f)(2).

Madam Chairman: Sen. Ramdeen, could you just repeat what you just said?

Sen. Ramdeen: There is an amendment that reads—the third of the amendments to clause 4, it reads by deleting subclause (e).

Madam Chairman: We dealt with that already. Your first amendment at (a) was delete subclauses (c) and (e). We took a vote on that and we took a vote on (b) and we took a vote on (c). If you go down now, there is an amendment at 4(2) which is to insert a new subclause (b) and renumber accordingly. Are you still—

Sen. Ramdeen: I am.

Madam Chairman: Yes. So could you just indicate the reason for your amendment?

Sen. Ramdeen: It is in the regulations. Attorney General, if you look at the regulations you will see—I think it was just an oversight because of the way in which regulation 19(1) as proposed by you—*[Interruption]*

Madam Chairman: Continue, Sen. Ramdeen.

Sen. Ramdeen: In 19(1) what was being proposed was that you are inserting that the FIU can provide information of its own motion, and if you look at 3 section (2) provides a certain degree of protection when one is invoked, but when you come to 3, it only caters to when there is a request and not when it is provided of its own motion. *[Pause]*

Mr. Al-Rawi: Madam Chair, I agree with you. I think it was an omission to leave it out from sub-regulation (3). So, Madam Chair—

Madam Chairman: So you are agreeing with (a), which is to insert a new subclause (b) and renumber accordingly. Yes?

Mr. Al-Rawi: Yes.

Madam Chairman: Okay. And (b), Sen. Ramdeen?

Sen. Ramdeen: The amendment is to insert the words “or provided of his own motion” after the word “requested”.

Madam Chairman: No, we have dealt with that. Your final proposal.

Mr. Al-Rawi: The 30 to 90 days.

Sen. Ramdeen: I am sorry. The reduction, it was six months before, Attorney General.

Mr. Al-Rawi: Yes.

Sen. Ramdeen: And what the Government had proposed by virtue of the legislation was to cut it down to 30 days, and while I understood that the mischief was that to shorten the time periods and seek your compliance, I was just wondering if such a drastic change would not be a little bit too draconian to be able for someone to produce the records. So I had suggested that we—I was toying with the idea of 60 or 90, and I was wondering if we could just not halve it instead of bringing it all the way down to 30 days—which I understand when you are saying they moved and they get an address—in some cases, it might be a simple task of writing to the FIU and letting them know, but these are all sanctioned provisions where an offence is committed once it is not done. So I was wondering if we ought not to just give a little bit more latitude to the prospective compliance person or business entity.

Mr. Al-Rawi: Madam Chair, I thank Sen. Ramdeen for the submission and recommendation. The reason that we prescribed the 30 was because of the requirement under the Companies Act and also under the Registered Businesses that you actually provide for your change of registered address within 30 days. In fact, it is 28 days in the other legislation—sorry, 30days within the other

legislation, and they are also met with liability as well. So we felt, particularly, because of (a), the Companies Act prescription for 30 days, and (b) because supervised entities which are non-designated financial institutions and also listed businesses, because the right to inspect, et cetera, flows from where you actually are—the surveillance and supervision as private members clubs, et cetera, are included—that the period of six months as it was before, or even 60 days, as my learned friend is now proposing, would be too wide a gap, and we felt that it was reasonable to harmonize it with what the companies law requires in any event, which is also harmonious with your financial rules and regulations that exist in other pieces of law. So, we felt that it would be easy for people to digest to know that it is 30 days across the board—whether you are under the Companies Act or under the FIU legislation. So, respectfully, I wish to disagree with the proposal.

Madam Chairman: Okay, so hon. Senators, I am going to ask you to have a look at the amendments circulated, and I am going to now put the amendments at clause 4(2) as circulated to the vote. We have the first amendment at (a) which is to insert the new subclause (b), and to renumber accordingly. Hon. Senators, the question is that clause (4) be amended at 4(2)(a) as circulated.

Mr. Al-Rawi: You had put the whole thing?

Madam Chairman: No, I am splitting it right now. [*Crosstalk*] There is only one person who has circulated any amendments. If I can have your attention, Senators. Once again, I am putting the amendment that is proposed by Sen. Ramdeen and circulated at clause 4(2)(a).

Question, on amendment, [Sen. Ramdeen] put and agreed to.

Madam Chairman: Let us deal now—the question is that clause 4 be amended at 4(2) as circulated by Sen. Ramdeen in respect of (b).

Question, on amendment, [Sen. Ramdeen] put and negatived.

Madam Chairman: Subclause (b) is not accepted.

Question put and agreed to.

Clause 4, as amended, ordered to stand part of the Bill.

Mr. Al-Rawi: You have to put the whole.

Sen. Mark: You define who.

Madam Chairman: One person circulated amendments.

Madam Chairman: If I can have your attention Senators, once again, I am putting the amendment that is proposed by Sen. Ramdeen and circulated, at clause 4 (2) (a).

Question put and agreed to.

Clause 5.

Question proposed: That clause 5 stand part of the Bill.

Madam Chairman: Sen. Ramdeen, you have circulated amendments to clause 5.

Sen. Ramdeen: Madam Chair, to the Attorney General, through you. The proposal that is suggested by clause 5(b)(i), which is deleting the words “one year” and substituting the words “six years”, was really triggered by a contribution by my friend, Independent Sen. Shrikissoon, where he advanced some arguments that I felt were very compelling, about the way in which this would affect businesses. So I was wondering if I would not defer to my friend.

Madam Chairman: What I would ask, Sen. Ramdeen, it is your amendment that has been circulated. So have you finished with your contribution?

Sen. Ramdeen: Yes, Milady. Yes, Milady. Yes.

Madam Chairman: Yes. Sen. Shrikissoon, you have a contribution to make?

Sen. Shrikissoon: Thank you, Madam Chair. With respect to the same clause that Sen. Ramdeen referred to, again, just to endorse his suggestion by the amendment, was that the six-year period for reverting to the original taxation that was imposed,

whether or not that could be reconsidered. I know that the six years, there was a suggestion for harmonization, but I am asking to revisit the re-evaluation of it, whether or not six years—I think six years is a quite a lot of time.

Mr. Al-Rawi: Madam Chair, I accept—may I, Madam Chair?

Madam Chairman: Yes.

Mr. Al-Rawi: I accept that change is sometimes hard. Sometimes there is the recommendation that change be phased, but insofar as there is a direct prescription at law that you maintain your records and that you are liable for taxation, remember this is in respect of something which is fraudulent. So if you have made a false declaration under the Customs laws, if you have lied on your importation, if you have failed to treat with it as prescribed in section 212, et cetera, of the Customs Act—go forward before the Comptroller or before a court of law—it is only in those circumstances, furthermore, where you failed to put in an appeal that you are being asked to be treated with the sanctioning of your future goods. I am just being general in terms of the clause.

But, specifically, for the maintenance of records and liability, it makes genuine sense from a whole-of-government perspective, from a revenue perspective, that you be liable for the Customs and Excise duties which is the fourth largest contributor to our GDP to our revenue, that you have a harmonized position with your Inland Revenue. So you are not going beyond any period that the Inland Revenue does not have. You keep your books and records for the same period.

All that we are asking people to do is to ensure that you do not lie on your Customs declaration, because the system is now designed such that ASYCUDA will catch you, if it works right, but also to, insofar as our current system is also dependent upon what we call self-declarations or self-inspections, where you have established a good enough record where you pass through the system—because

what the Customs really does is that it audits part of the trans-shipment arrangements between Trinidad and Tobago and not all. But we feel that the harmony is not something which is not understood in our perspective, or rather I should put it in the positive. We feel that the harmonization is something that is easily understood, because you have to do it for Inland Revenue anyway.

You are also being treated in terms of your false declarations, et cetera, in a similar way to the existing law. So sections 212 and 213 of the Customs Act which provides for first offences, second offences and third offences with exposures to \$125,000 or three times the value, et cetera, now you have a regular operating system, but this is a very important area, not only for revenue, but for criminality and money laundering, and we felt that it was prudent to keep it in harmony with the Inland Revenue.

Sen. Shrikissoon: Madam Chair, through you. AG, I understand the harmonization point, but I do not think the authority to go back and adjust an invoice that is six years old is really fair to the business public.

Mr. Al-Rawi: Madam Chair, may I ask a question? I hope that my learned colleague understands that the reason for adjustment is because you have lied, you have committed a fraud. So the Customs and Excise Division is not being given a power to go and adjust something for a capricious basis or without a reason. If you have defrauded the revenue of Trinidad and Tobago, at any point in time within a six-year period, that is when the Customs has the opportunity to knock on your door and say to you: "Could you please explain what happened there?" Because this does not happen just like that. If you disagree with the adjustment, you go to the Tax Appeal Board, you file your objection. If the Tax Appeal Board says that you did it wrongfully, then you are subjected to the penalties that are to be applied there. But this is not an innocent infringer argument. The innocent infringer is not

caught by this.

Sen. Shrikissoon: Madam Chair, through you, thank you AG. But you also have to remember that the institution itself is not one that carries that 100 per cent fool proof. There are incidents or there are situations where you have persons employed in that organization who can maliciously—

Mr. Al-Rawi: Accepted. Which is why we have now put the obligations that you must keep your records for six years. So before your did not keep your records, so what we are doing is we are harmonizing the fact that you must tell the truth, you must expose yourself to liability, you have a process of appeal if you disagree and, more than that, you keep your records. Because when someone imports goods you pay duties or you have exemptions as may be applied and there is evidence of it. So I have done many a case—if I disclose from my previous life—many a case before the Customs and the courts on these particular provisions, and in all of cases that I certainly had experience with the “evidence” sets you free.

Sen. Shrikissoon: But the records—Madam Chair, through you again—that the importer would have would be in sync with the information that he would have submitted to Customs.

Mr. Al-Rawi: You would be surprised that that is not often the case. You would be surprised at what people do is that they under-invoice, they duck the duties. They would tell you they bought it at place X for Y dollars and then place X will then demonstrate, conclusive proof that, in fact, you bought it at place X, but for Y plus \$20, and that system has now become transparent by ASYCUDA and ASYCUDA Plus under the Customs Division.

Sen. Shrikissoon: So then my final question, therefore, is if the system, the ASYCUDA system works, then why six years?

Mr. Al-Rawi: Because it is (a) in harmony with the Board of Inland Revenue, and

(b) because the system has loopholes in it and because the post-audit environment is always post-auditing—this is the point that is really the carrying point—in a limited manpower arrangement where you have thousands of containers or hundreds or thousands of importation items in a small pool to be analyzed, it means that you are requiring the Customs and Excise Division to do its work in a much shorter time frame.

The Customs and Excise, like the Board of Inland Revenue, ought to have a facility where they can audit you—and that happens quite frequently in Inland Revenue where you submitted your taxation or your VAT returns and they audit you for any point up to six years. And I can tell you that that six-year limitation period for Inland Revenue has been a very compelling reason as to why Inland Revenue works a little bit better than some other places. So in the round, therefore, it is not anchored against something which is not understandable. It is squarely anchored against the Inland Revenue.

Secondly, the post-audit function in a limited pool resource arrangement is amplified by having slightly more time, and all that people have to do is to keep their records which they have to do for Inland Revenue purposes anyway, because you would have to—even though you had no obligation to keep records for Customs, you would have to have it for Inland Revenue, so you are keeping it anyway, and secondly you got to tell the truth.

Sen. Shrikissoon: Thank you, AG. Madam Chair, through you again, but the clause does not give the impression that there is any element of discussion with the importer. It just says that the Comptroller may within one year—well now in this case—six years from date of entry of importing goods adjust, and that is what I find a little bit harsh, because yes you are going back six years, but you are not engaging the importer in any way to, at least, try to rectify the situation and it is a

long time.

Madam Chairman: I think the Attorney General has answered the question raised. Sen. Ramdeen?

Sen. Ramdeen: If I can get a second bite of the cherry. Attorney General, through you, Madam Chair, if at the end of the day, Attorney General, the object of the exercise is to make Inland Revenue and Customs and Excise more efficient in the discharge of their statutory duty under the Inland Revenue Act and under the Customs Act, then the argument that is only going to catch people who carry a false declaration really does not carry much weight respectfully, because then the object of the exercise should be, well why have a limitation period at all because you could just go back to “thy kingdom come” and catch people.

But the point about it is this. Do you not think that giving a longer period of time to Customs and Excise and Inland Revenue to discharge that particular function, which is their principal function for the collection of taxes and the collection of duties, is going to make them more inefficient? Because if you have a shorter period of time, let us say you give them four years to do it, which is normally under civil law, a normal limitation period, should they not be aiming to do it within a shorter period of time which would be to the benefit of the Government for the collection of taxes and duties? And if they perform their function in a more efficient time frame—and one is not tying them down to a year or two years and one says—my argument really hinges upon the fact that the way the system operates—as you would well know in the position that you are in—is the more time you give them is the longer they would take to do it.

Mr. Al-Rawi: Thank you, Madam Chair, and I thank my learned friend for his position. We are in a dynamic where there is gross inefficiency in the system as is currently created. The Government, as everyone is well aware, is in the process of

reformulating an approach towards revenue management through the Revenue Authority. I should indicate that the Revenue Authority is something which will have to treat with Customs and Excise as well, because the Revenue Authority is directly related to those aspects.

In that circumstance, the amplification—so Sen. Ramdeen raised an important point which I need to address: Why have any prescriptive period at all? We are proposing a prescriptive period which is in harmony with the Inland Revenue laws, and we are not proposing no prescriptive period because then you would have to keep documents ad infinitum which would just be too large a process. So if you are going to keep it for six years anyway for Inland Revenue, then keep it for six years for Customs anyway, because those documents are directly relating what you will have to disclose to Inland Revenue in some circumstances anyway. So we are not asking the taxpayer or the citizen to do anything more than he is already doing in terms of the six-year period.

In terms of encouraging inefficiency by giving them a shorter time, that is a useful perspective; however, the truth is that the manpower resourcing is of an issue, and we feel that the larger frame of six years is something that would allow for Trinidad and Tobago to consider its systems in by far a better position. We feel that one of the best examples to sobriety in our society, to lawfulness in our society, is grounded in the fact of example. If people know that there is a consequence to something, they are more likely to comply with a situation, and that little two-year period extra or, in this case, that five-year period extra, where people are brought to account—because remember, unless you appeal to the Tax Appeal Board, you are going to be treated with by the Customs division. So there is a consequence in a very simplified environment which can bring sobriety to a runaway society and, in those circumstances, Madam Chair, we regret that we are

insistent upon maintaining the six-year period for the reasons expounded upon.

Madam Chairman: Sen. Ramdeen, before I put this to the vote, you have in your amendment as circulated at (c), by deleting (c)(ii) which is different from the three- and six-year time frame. Do you want to address it?

Sen. Ramdeen: Attorney General, through you, Madam Chair, there are two things about this, Attorney General. The first is that—can I be allowed, Madam Chair, to just raise one point with the Attorney General that relates to (c)(i) because it directly affects (c)(ii)?

Madam Chairman: Yes.

Sen. Ramdeen: Where in (c)(i)—I saw in the Customs Act what the principal legislation is, and you are just re-crafting it to put in these definitions—I was a little bit concerned about the way in which firearm accessories is defined under the legislation, because whereas you have (i), (ii), (ii), (iv) and (v) which seek to give examples of what it may entail, there is no cut-off as to what else may be included in firearm accessories.

Now, the way in which the Customs Act is drafted, the principal piece of legislation, there are a number of prohibitions that importation is prohibited from by virtue of section 45, but I am concerned that without having defined what firearm accessories are, and only drafting the legislation in such a way that you have what it includes, but no limit upon what else may be included in firearm accessory, I think that is a bit dangerous. Not being an expert in firearms, I am unable to tell you what else can be caught by it, but I am sure that what is listed in the provision there are not the only things that would be caught by firearm accessories. And having regard to what it is we are dealing with, which is firearms and accessories to firearm, I thought that is something we should bear some caution with in terms of giving this power to the Commissioner of Police without

actually saying in the Act itself, what constitutes firearm accessories.

My principal objection that forms the basis upon which I objected to (ii) was that I did not see that there was a direct connection between somebody who has an FUL and someone who is bringing in firearm accessories. While the argument must be that if I have an FUL, then I should be allowed to bring in the accessories as well. When you look at what the accessories are, I think it is very dangerous to cut out from this provision people who have an FUL already.

So that I would have thought that if this is what the Government is proposing, I do not see what is the prohibition if somebody has an FUL to ask for the permission of the Commissioner—at least let the Commissioner of Police still have the power to reject the application even though the person has an FUL, but the guarantee of having an FUL does not mean that I could bring in all these things and have no form of scrutiny by law enforcement.

Of course, my principal objection to all of this is that I really think that it is the most corrupt thing to do, which is allow the Commissioner of Police to just take bribes and hand out FULs.

Madam Chairman: Sen Ramdeen.

Mr. Al-Rawi: I think he means anecdotally, or as people have retold the story. Before the point goes too far ahead—

Madam Chairman: Yes, but Sen. Mark, I think, wants to say something on the same point. So perhaps we should hear all the presentations.

Sen. Mark: Yeah. Madam Chair, I am very happy that this matter was raised by my colleague, Sen. Ramdeen. I, myself, through the Chair, to the hon. Attorney General, I was wondering why we were leaving out those persons who have

licensed firearms in terms of not seeking the expressed permission of the Commissioner of Police to import firearm accessories.

Because, Madam Chair, you would know, we live in dangerous times and we do not leave anything to chance and that is why I would want to support the submission made by my colleague that the Attorney General should, in fact, consider getting these persons who have that licence, if they wish to import accessories, there should be some kind of inventory taken by the police, at this particular instance, the Commissioner of Police, who would have a record that even though you have a licence and you want to import accessories, you must tell me what accessories you wish to import, and then I would make a determination and to grant you the necessary permission. So, I believe, Attorney General, it is something that you ought to consider and address, at this time, Madam Chair. I would support that.

Madam Chairman: Does anyone else have a comment? Sen. Richards.

6.00 p.m.

Sen. Richards: Just a question. Thank you, Madam Chairman, through you, just a question: Is it implicit in this that the accessories are specifically for the maintenance of the firearms that have been licensed?—because the accessories is the maintaining of a firearm—[*Interruption*]

Madam Chairman: Hon. Senators, in accordance with Standing Order 16(5)(b), the committee stage will now be suspended so that we can deal with the Motion, so the Senate will now resume.

Senate resumed.

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

DEFINITE URGENT MATTER

(LEAVE)

T&T Sea Bridge

(Government's Failure to Manage)

Sen. Taharqa Obika: Thank you, Madam President. Tobagonians, under the Dr. Rowley-led PNM, to quote from a social actor, are eating the bread that the devil kneads. [*Desk thumping*] What the Prime Minister did last week by laying the Bill for internal self-government was just to mamaguy the people, to pappyshow the people of Tobago, [*Desk thumping*] because in the face of not being able to supply a basic need of freedom of movement from Tobago to Trinidad, in the State of Trinidad and Tobago, he has realized that his popularity has waned—

Madam President: Sen. Obika, I am not going to interrupt you, but there is no need to shout, okay? I am hearing you, everyone here is hearing you, okay?

Sen. T. Obika: Thank you, Madam President. Because the people of Tobago have no representation in the Parliament, [*Desk thumping*] I have taken it upon myself, and we in the United National Congress, and because they cannot come to Trinidad I have to shout so that it can be carried across the channel to Scarborough, to Plymouth, to Parlatuvier, across in the *Galleons Passage*.

Now, there are many things that need to be brought to light here, but with the limited time I have I want to point the Parliament and the nation, and through you, Madam President, to read an article titled, “Turbulent seabridge timeline”, in today’s *Guardian* newspaper, page 7, and it says:

“The seabridge saga started under the first board appointed in November after the PNM came into office in 2015.”

Now, when asked the question, Tobagonians have gotten a Tobago Prime Minister, but under the Tobago Prime Minister from Mason Hall, who went to Harmon

School of SDA in Tobago, that is a secondary school—I taught in Tobago so I am very familiar with the school—the same people are being disenfranchised, disadvantaged, “bobolized”, as we like to say in Trinidad and Tobago, under Dr. Keith Rowley and the PNM. [*Desk thumping*]

February 14, 2017 and April 22nd, more importantly, is a date to remember, that is the date that the *Galicia* left our shores. The Minister of Finance came to the Senate today and to answer when would the *Galleons Passage* be making the passage to Trinidad and reaching in Port of Spain, he said at the end of April. And for those in Tobago, they would very well know that the beginning of April marks Easter Monday. All right? And this is not an April fool's joke, so Easter Sunday would be the 1st and Easter Monday would be the 2nd of April; the people of Tobago will now have to endure, after 12 months of suffering, an Easter with no respite, no relief from this Government.

One thing you must look at, let us look at the economy of Tobago. This Motion is about the impact on the people of Tobago and the occupancy for hotels. The tourism sector in Tobago is the main economic agent. Apart from Government employees, the tourism sector basically accounts for most of the employment in Tobago. We have Tobago hotel occupancy standing at 26.7 per cent, with a regional average of 68.3 per cent, and for similar territories as Tobago in terms of destination, 70 per cent. So Tobago is functioning at a much lower rate, and even when you compare it to Trinidad at 60 per cent, which is a decline from under the Partnership which was at two-thirds, this island of Tobago is suffering.

We have hotels like Rovanel's basically had to close. Thirty-four businesses, according to Ms. Hadad, have closed their doors, sent home their

workers because they have no choice, and this Government, instead of trying to fix the problem, they come with internal self-government to mamaguy the people of Tobago, to pappyshow the people of Tobago. [*Desk thumping*]

So just to remind you of the dates that happened, April 11th, Allison Lewis and members of the board at the Port Authority take the oath at President's House; April 12th, Prime Minister Rowley tells the Parliament the Government acted in the interest of taxpayers by cancelling the *Super Fast Galicia*; April 23rd, *Atlantic Provider* and *Trinity Transporter* contracted—a real pickup side. We already know the devastating impact that had, open boat, old boat, vehicles getting oil sprayed on them, sea spray, sea blast, no accommodation for travellers, for truckers, 10 years to go to Tobago—about 10 hours, sorry, but it feels like years.

June 5th, the *T&T Spirit* goes on dry dock. There is a matter that must be raised regarding that, you see the contract for service was with Bay Ferries, but in this Government's style of total incompetence, instead of transitioning from Bay Ferries to a local committee, they did not take it on, so when Bay Ferries was no longer with us you realized that the maintenance programme of the *T&T Spirit* and the *Express* basically went awry, and we are faced with the situation we are facing now.

We also have those two vessels are 15 and 20 years old, and as a result of that a fast ferry, based on expert opinion, normally has an average life of 15 years, so if you go beyond that a serious intensive maintenance programme must be upheld. This Government did not do what they had to do for the people of Trinidad and Tobago. June 29th, the Port Authority and the Minister of Works and Transport announced the *Cabo Star*, a cargo vessel, and the *Ocean Flower 2*, that mess of bacchanal and corruption would be coming to service the inter-island

route. July 19th, the *Cabo Star* arrives in Trinidad two days later after its scheduled arrival; July 31st, Cabinet appoints a three-Member committee; August 1st, the contract for the *Ocean Flower 2* is cancelled after it failed, Madam President, to meet three; not one, not two, but three arrival deadlines—old boat; August 15th, the CEO of the Trinidad and Tobago Inter-Island Transportation Company, Leon Grant, is suspended—under this PNM Government whistle-blowers suffer the most. [*Desk thumping*]

August 15th, the Prime Minister appoints businessman Christian Mouttet as sole investigator into the circumstances surrounding the procurement of the *Cabo Star*. Where is the report? [*Desk thumping*] This report must be brought to Parliament. August 24th, stakeholders meet the Prime Minister and give him a first-hand account of how the three-month breakdown on the sea bridge, and the three months at that time has been affecting the transport of good and services to Tobago, and he assures them the Port had been mandated to find a ferry quickly, and Cabinet took a decision to order a custom-built ferry. We are still waiting on that.

August 27th, Allison Lewis-led board reports that since the introduction of the *MV Cabo Star* into service the transportation of passengers, drivers, and commercial cargo vehicles on the sea bridge had returned to regular and reliable service. That was basically your last efforts there. August 28th, we all remember when the THA minority leader swam from Scarborough in Tobago to Toco in Trinidad, and we thought that after that they would fix the inter-island ferry problems.

Now, we go on and on until we reach the point where they bring this new ferry, and this new ferry is coming after Tobagonians have suffered, or is it an old

ferry? There is another question to be answered, regarding the vessel there was a tender committee report which must be brought to Parliament. [*Desk thumping*] Instead, the PNM ignored the report and brought a committee of Ministers, and those Ministers really and truly should be ashamed of themselves to stand in a committee that circumvents the whole process of tendering—I mean, that alone stands on its own.

Now, let us turn to the issues that are pertinent to the people of Tobago. Let us all remember that the contracting party in this whole fiasco is the Minister of Works and Transport, not the Port Authority as the Government would have you believe. The charter rate for the *Super Fast Galicia* is reported to being US \$16,100 per day, and the *Cabo Star*, US \$32,500 per day, more than double. [*Desk thumping*] One wonders if this is the “getting more from less” that the PNM is talking about. And the *Cabo Star* is three times the age of the *Super Fast Galicia*. On top of that, the *Super Fast Galicia*, Madam President, could make the inter-island route within 3.5 to four hours, but the *Cabo Star* takes 10 to 12 hours.

The *Super Fast Galicia* was required to make the route in five hours in order to not clash with the fast ferries. However, that five-hour timeline allowed it to have the truckers. [*Interruption*] You are going to have your time. That five-hour time allowed the truckers to make a round trip so, therefore, they can be with their families in Tobago and still conduct business in Trinidad. [*Desk thumping*] The *Super Fast Galicia* was the work of the People's Partnership Government under the leadership of Kamla Persad-Bissessar, and it came as a response to a crisis, and the boat did not take one year and still did not arrive; within three months the boat was here, and within 13 days from the crisis, the boat was identified among other boats which went to tender. Let us not forget that.

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Sen. Ameen: And done with the proper process too, not Cabinet committee.

Madam President: Sen. Ameen, please.

Sen. T. Obika: Madam President, how much time do I have remaining?

Madam President: You have nine minutes.

Sen. T. Obika: Thank you very much.

Now, let us remind Trinidad and Tobago of the key issues here: in Tobago you have 26.7 per cent hotel occupancy. You have hotels running actually on empty, and you have hotels that have closed, sent home their workers—that is wives, that is husbands who are unemployed, that is children who do not know where their survival can come from, who do not know where the money to fund their education will come from. Rovanel's hotel in Tobago, which is a landmark hotel in Tobago, is empty and has closed. That alone is a damnation against the entire tourism thrust of this Government and the fiasco of this inter-island ferry, 34 businesses closed and jobs lost.

And in the face of that, instead of a Member of Parliament empathizing with the people of Tobago, despite the impotence that they have rendered the whole inter-island ferry system, that Member of Parliament stood up and said that she can still get almond milk and yogurt, but what about Crix, flour, toilet paper, rice, sugar? You have supermarket owners that are saying that their businesses, their shelves are running empty.

The Chairman of the Tobago Chamber of Industry and Commerce, Demi John Cruickshank, is saying that the impending collapse of Tobago's economy will collapse because of the sea bridge, Madam President. He said the whole place shut down, and he said that Tobago no longer has a fast ferry service and the *Cabo Star* alone cannot suffice; business owners are angry at the continuing situation.

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Tobago's Ezone-Courier Service manager, Louise Hawkins, echoed Cruickshank's sentiments. He said it is awful, they have increased transportation costs and reduced efficiency. Another regular user of the ferry, Kelvin Roberts, a grocery store owner in the Plymouth community said his business had already slowed and the number of stocked goods had decreased, which makes an untruth what the information coming from the Government is. It is a total untruth that the stock of goods in the supermarkets and the stores are not being depleted because we have the evidence here to prove, or go and ask your constituents yourselves.

The President of the Inter-Island Trailers and Truckers Association, Horace Amede, said that he is fed up. Carnival, he said, is normally is a good time but it was one of the worst times. He said, this year we did not have any community groups or church groups coming to Tobago which normally gives a lift to the island. I taught at a secondary school in Tobago where on evenings you would see the boat coming in, and once the boat comes in, that is the time you go to Scarborough because you know that there is activity. You will see some of your former students making income, because they may have a guest house in the family and they would go and solicit tenants. You may see many different activities, the taxi drivers, the vendors, everyone benefits when there is movement between the islands.

So, there will be no boat for Easter, woe be on to this Government. Thirty-four small businesses closed down in Tobago due to the air and sea bridge issue. This is another article, Madam President. [*Interruption*] I will submit that for *Hansard*. Tobago trouble—

Madam President: Sen. Obika, you have to submit it, you should submit it, as far as possible in your contribution.

Sen. T. Obika: Okay, thank you very much. That article is from 103fm.tt, I will send the slash. The comments were made based on Diane Hadad's revelation, and she revealed the figures on TV6 today. That is what the news said, so if you do not listen to the news I really cannot help you. Tobago is in trouble, another article by Martin Daly on Sunday 09 October, 2016, so that was as far back as then, and since then they were complaining about occupancy rates. The reported state of Tobago's tourism, according to Martin Daly, tells us something about the political will for diversification in this country. CNC3, in a press release, stated that the people of Tobago are hurting, Madam President, and businesses are closing down. There is another important point that I want to bring to your attention, the same Diane Hadad, who reminded persons that she is Tobago-born and not by boat, as a Member in the other place would have Tobagonians believe, she said:

The Tobago Chamber has been told that the THA Chief Secretary, Kelvin Charles, wants to meet with them, but she said it would be the Chamber's first meeting with Charles since he assumed office more than a year ago. [*Desk thumping*] Despite this fiasco, he has overseen the worst example of inter-island transport in the history of Trinidad and Tobago, and despite this fiasco it would be the Chamber's first meeting, Madam President, since THA Chief Secretary Charles has assumed office more than a year ago, although the group—this is the business community—has made numerous response, numerous calls for talks.

This is according to CNC3.

The THA minority leader, Watson Duke, said he is not surprised at the call for shutdown, but he said that he is surprised as to who the call came from, because normally the business sector is the settled part of a society. They are the ones who

basically should be in order. If they are not in order, well you can imagine what is happening with the man on the ground. Watson Duke said it was just a matter of time before it reached this explosive state, because he swam since August 28th.

Madam President, in the few minutes remaining, I want to remind persons of what happened under the People's Partnership Government. Under the People's Partnership Government you had responsible governance [*Desk thumping*] for Tobago and for the people of Trinidad and Tobago. The People's Partnership Government also made sure that persons could move freely across both islands. Hotel occupancy in Trinidad was 66 per cent in 2015; as at 2017, 60 per cent, according to the Trinidad Hotel Restaurants and Tourism Association.

Under the PNM Government we have to remind ourselves that hotel occupancy is 28.6 per cent. For persons in Trinidad, they may not appreciate that for the citizens and the residents on the island of Tobago, tourism is a mainstay of the economy. The tourism product and the tourism industry in Tobago feeds families, it educates our children; it prepares our future leaders from the island of Tobago. I am very familiar and am very passionate about the development of Tobago, after all having worked as a teacher in Tobago and as a junior economist in the Division of Finance in the THA, I believe that it is very important that a strong Tobago is integral to the development and advancement of this country. [*Desk thumping*]

However, one thing that is certain, this Prime Minister does not believe so. In fact, one must ascertain, or one can even include that he has revoked his Tobago status, renounced it as someone did with Ghana, someone who sits opposite us, renounced it for status in somewhere in the west, wherever that would be. I think it is Westmoorings, or west of Westmoorings, or inside it, or wherever.

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Madam President: Sen. Obika, please, you are speaking—really and truly, remember the Standing Orders, okay? Continue.

Sen. T. Obika: I apologize, Madam President. And I remind persons of where I started, we are bringing this Motion for the people of Tobago. These are the things that the people of Tobago are feeling. These are the things that the people of Tobago are saying, but, unfortunately, they are not getting the representation that they deserve. [*Desk thumping*] So I apologize if I am a little bit passionate, but I feel for the people of Tobago.

Madam President: Sen. Obika, your time is out.

Sen. T. Obika: Thank you very much. [*Desk thumping*]

Madam President: The Minister of Works and Transport. [*Desk thumping*]

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Thank you, Madam President. Madam President, thank you for the opportunity to respond to the Motion at hand. I was a bit taken back though because, clearly, the discussions that I just heard did not really relate too much to the Motion as presented. However, I will attempt, as honest as I can, to put the facts straight on the table as to where we are and how we came here. This is no joking matter. This is nothing that anybody should try to politicize, because this actually affects the lives of the people of both Trinidad and Tobago. This is a serious matter and it is a matter that this Government will solve once and for all. There have always been challenges on the sea bridge and the air bridge in Trinidad and Tobago. At times it will work perfect and then at times, like now, especially the sea bridge, I will admit, is way below what is acceptable.

How did we get here? I have heard several commentators talking about the sea bridge without understanding what the sea bridge really is. The sea bridge is

not the *T&T Express* or the *T&T Spirit*, or the *Cabo Star* or the *Panorama*; the sea bridge is the sea transportation to and from Trinidad that deals with passengers and cargo. What happened in 2016, basically, the Government was faced with a situation where the cargo vessel was, with 14 days' notice, withdrawn from service. Now, I will not go into details as to how that vessel was procured, or anything to do with that, because that is a matter that is now in the courts, and the court will determine whether there was corruption, whether it was procured properly or not.

What I am dealing with here is the Government was faced with a situation where in 14 days a contract was broken and the vessel was withdrawn from service. That created an emergency on a cargo side going to Tobago. The Government did what they had to do. There were some challenges and the Government came up with a three-point plan where we would have engaged the services for one year for a cargo vessel. A plan to go back out for a further two years, and the long-term plan would have been the speccing for a vessel that the Government will purchase. We went out, we got the one-year vessel. As we speak, NIDCO is about to submit to the Ministry of Works and Transport the findings for a replacement vessel, if possible, for that one-year contract. I expect to get that by this evening.

NIDCO also started negotiations and consultations with the stakeholders, both in Trinidad and in Tobago for the specs on the purchase of a new vessel. So the Government's plans for the cargo vessel are in train, just as we had planned at the beginning. Unfortunately, within three months of that problem we recognized that there was a problem with the passenger vessels. What was the problem?—the problem with the passenger vessels was they had not been dry-docked for a while

and both vessels started to give serious problems. The Government decided that the amount of problems these vessels were getting there was a great possibility that both vessels could have broken down at the same time, and that was when the Government went out for a tender for a passenger vessel for one year, which would have given us enough time to at least dry-dock one vessel, get it back out in service, and have the other vessel going to dry dock. Unfortunately, that did not work out as planned. We know the *Ocean Flower 2*, which was the vessel chosen at that time, did not arrive on time and the contract was cancelled. That did not solve the problem of the both vessels that we had.

The *T&T Spirit* was taken out of service again because of the poor maintenance and the amount of the problems that were associated with it. That vessel was supposed to spend three months in dry dock. Unfortunately, on the way to the dockyard the engines were blown out, and a little later on, it docked in at one of the sites. There was another major catastrophe, it meant that the crankshaft of the vessel had to be replaced. The timeline on that, to replace that, was six and a half months. So it was not as easy as just going in for three months and coming back out, there was significant damage to the vessel, and that would have taken a lot longer than anticipated. What had to happen there is that the *T&T Express* had to take up the slack, and we keep going for extension and extension and extension, because you cannot leave the sea bridge without a vessel, a passenger vessel.

Unfortunately, we could not have gotten an extension on Tuesday because we would have exhausted all the extensions. The *T&T Spirit* was supposed to come back out on the 13th, it went to sea trial on the 2nd, there were still some problems, and the sea trials are ongoing, and we expect to have that out on or before the 22nd, but that is something that we have to deal with. What did the

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Government do in terms of the long-term plan? I told you what we did with the cargo vessel, and as we speak, unfortunately, there are some people, and I have heard it here in the Senate, and it is in the Motion today, where there are some people who are hell-bent on giving Tobago a name that you want to associate with the disasters like Venezuela, and when you hear about basic food items cannot be available in Tobago, that is not true.

Sen. Obika: We did not say that, they said it.

Sen. The Hon. R. Sinanan: It is in the Motion that you brought. [*Crosstalk*] There is no shortage of products in Tobago, and let us get that clear. We have a cargo vessel, there might be some challenges with it, but in terms of capacity, since the vessel came on line nothing has been left back in Trinidad and Tobago, nothing at all. And I do not think, from my information, not one day has the boat ever reached to 90 per cent of its capacity, right, and that includes the Carnival, when we were almost in this same situation where we had to put close to 100 cars on the boat, all the cargo, and all the steel pans that came down from Trinidad from Tobago and had to go back up, and the boat still did not reach to 90 per cent of its capacity. So this thing about the shortage of food, and so, in Tobago—
[*Interruption*]

Madam President: Sen. Obika, I am hearing your comments and your language is unparliamentary. I am going to ask you, please, to remain quiet while the other speakers make their contributions, okay? Continue, Minister of Works and Transport.

6.30 p.m.

Sen. The Hon. R. Sinanan: Madam President, I agree that the situation is not acceptable for several reasons, but to say that you cannot get basic foodstuff in

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Tobago is basically to paint Tobago like Venezuela. And if we want to promote tourism and we want to promote Tobago, why must we sit in the Parliament and tell the world that if you go to Tobago you cannot get basic things, so do not come. [*Desk thumping*] That song is coming from certain people in Tobago. I am happy today that there was a meeting with the THA and the stakeholders and serious issues were put on the table, and I understand there is a consensus going forward as to how to improve Tobago. So let us not add in the Parliament bad mouthing Tobago, because what we say here in the Parliament is seen and heard throughout the world, and if we are saying that you cannot get basic things in Tobago we are not helping Trinidad nor Tobago because it is not true.

Now, in terms of where we are with the passenger vessels. The Government, as I said, the *Spirit* is expected to be out of dry dock probably by next week, if things go well by Monday. The *Express* will go into dry dock, and we expect maximum five months, depending on if things go as planned, and we have the *Galleons Passage* coming in at the end of April. So what we have going forward are three passenger vessels. It does not mean that three vessels will be working up and down, because that is a high cost. But what it allows us to do is to have a proper maintenance system operating. It would be less work on the vessels, and we also have in place now a replacement plan.

You were correct when you said that vessels have a lifespan. Aluminium hull vessels do have a lifespan, and our two vessels would have passed that lifespan to some extent, but it is impossible to just go and replace two vessels just like that. When these vessels come out of dry dock we will get a couple of years again. The plan going forward is one, to engage a company that can do proper maintenance on the vessels, because I have said it on more than one occasions, we

do not have the capability. I have been chided for that by some members of the staff, but if our vessels are always in problems like that and nobody could tell me what is causing it, or why it is taking so long, clearly we do not have the competence. So the Government through Nidco has a tender now for a proper maintenance company, similar to what we had before, to take care of the Government fleet.

We also have in place a proper replacement cycle because now with three vessels we could replace one vessel and still have two, and at all times you should have one new vessel, one vessel with some age and the oldest vessel you should be able to replace that vessel. So at no point in time we should get back to this position. So there is a plan for that going forward for the passenger vessels.

I must say there is also a recommendation. Remember this Government did not just jump into this like that, we had a three-man committee. The port did their study; the three-man committee did their study. What is recommended is that maybe the sea bridge should be taken out of the port, because that sea bridge is very, very important to both Trinidad and Tobago, and you cannot have it just running alongside the port. We need to put that separate, which is a recommendation, and have a board actually looking at the sea bridge to ensure that it is just not an appendix to the port, but a separate company that will ensure that this service never gets back to this position. [*Desk thumping*] So the Government does have a plan going forward to fix this problem.

The Motion also spoke about the Easter holidays, tourist industry being affected. Madam President, the port has put in place a system where everybody who has a confirmed booking will be afforded a ticket on the air bridge to go to Tobago. So there will be nobody in Trinidad who wants to go to Tobago, or

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nobody from Tobago who wants to come to Trinidad, who has a ticket on the sea bridge will be left back. As a matter of fact, the port has started to sell tickets for after the 22nd. The port has started to sell tickets, because we are confident that all available seats on the sea bridge will be accommodated, if not on the sea bridge on the air bridge. I want to congratulate Caribbean Airlines for standing up and ensuring that all passengers—all passengers, not some, not first come first serve—all passengers with a confirmed ticket on the sea bridge for the same price are accommodated on the air bridge. This Government will ensure that that continues until we get that sea bridge right.

So this thing about Easter weekend, if the boat takes 850 people, we are going to sell 850 tickets, and we will ensure that those 850 people who were booked to go Tobago will reach to Tobago on the air bridge. Caribbean Airlines would have put on approximately 1,400 seats additional to what they have—additional to what they have. At peak we would have 800 people going, so there is an excess capacity now on the sea bridge, and this is to ensure that all the Easter holiday tickets that were sold by the Port, will be accommodated at no additional cost to the passengers. We provide PTSC service to them. If they have vehicles, all the vehicles will be accommodated on the cargo vessel, and they will be transported to the airport. When they reach to Tobago, they collect their car, when they want to come back, it is the same reverse. We have given the assurance, it has worked to date. Whatever little teething problem, it will be sorted out, and until we get the vessels back in the water, the Port Authority will take that responsibility.

Madam President, I do not want to go into some of the areas that the Senator who brought the Motion went into because I thought some of it was a little bit

personal. It really was not, in my opinion, trying to represent and to try to bring a solution to the problem in Tobago. I just want to give the assurance that this Government is working to fix this problem, once and for all, in the interest of both Tobago and Trinidad.

I want to also take this opportunity to thank Ms. Alison Lewis for her service to the port. Ms. Alison Lewis would have done her part. We have now installed the new Chairman of the port, Col. Alexander, and I expect the work to continue, the improvement at the port to continue and I am sure we will be seeing the end of this fiasco shortly.

I thank you, Madam President.

Sen. Saddam Hosein: Thank you very much, Madam President. Sometimes when I hear Ministers of this PNM Government speak, I swear that they are not governing Trinidad and Tobago, but rather some foreign land. Whenever this Government fails, it says that we should never politicize the issue. But any issue that affects the people of Trinidad and Tobago, we the UNC will speak out against it. [*Desk thumping*] Madam President, Tobago is referred to as our Sister Isle, but it seems that we do not treat her as a sister, but we treat her as an outsider.

When I listened to the Minister of Works and Transport, he gave this country no comfort in addressing the crisis that is taking place in Tobago.

Hon. Al-Rawi: What?

Sen. S. Hosein: The Attorney General seems very surprised, but I do not know if the Attorney General had the opportunity to listen to the news today, when Ms. Diane Hadad on CNC3 this morning, went to town on this Government regarding the failure of the sea bridge and the collapse of that sea bridge. We must remember when the Prime Minister of Trinidad and Tobago referred to what was

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happening at the Port Authority as a den of conflict, corruption and inequity—

Sen. Mark: Iniquity.

Sen. S. Hosein: Iniquity, sorry.

Persons are calling for the businesses to shut down in Tobago, but there is no need for that call, because the businesses have already been shut down in Tobago. Over 34 businesses have been closed due to the incompetence of this PNM Government. Ms. Hadad said this morning on CNC3 that this Government has achieved its goal of effectively shutting down businesses in Tobago.

Do you know what this Government's solution to fixing this sea bridge is? The solution is that we are going to buy the *Galleons Passage*. When I heard the Minister of Finance today in the Senate list all of the additions and modifications that have to be outfitted on this boat, I swear that the people of Trinidad and Tobago bought a shed on water. That is what it is. Because you are telling me that you have to install a canopy, you have to install toilets, you have to put vehicle clamps, you have to upgrade seats. What have we bought? That is not value for money at all. [*Desk thumping*] How can you defend that? How can this Government come here and defend buying such a vessel?

Imagine that had it not been for the vigilant people in Trinidad and Tobago and the Opposition, we would have never known that a canopy had to be installed on top of that ship. It was a reactive tweet that the Minister of Finance tweeted, that we have to send the boat to Cuba so that we could fix it.

Madam President, that is not how you do business in Trinidad and Tobago, especially when you are spending millions of dollars of the taxpayers' money. [*Desk thumping*] You know, this entire collapse started off with the PNM Government, because the *Guardian* article that my friend, Sen. Obika, quoted

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from, let me just repeat it, it says that the sea bridge saga started under the first board appointed in November after the PNM came into office in 2015. That is not my words.

Hon. Al-Rawi: Who said it?

Sen. S. Hosein: I can quote for you, Attorney General. That is the *Trinidad Guardian* at page A-7, Thursday, March 13, 2018.

Sen. Mark: “Look, you doh have to respond to the AG, man. Forget him nuh man.” He is not conducting the proceedings.

Sen. Ameen: “Doh bother with he, man. Is only five minutes yuh have.”

Sen. Mark: If you want to get up on a point of order—

Sen. S. Hosein: That is how they operate; that is how they operate. When they cannot get their way, they disrupt.

Sen. Mark: “Because you are the AG, yuh think you is a bad john?”

Sen. Gopee-Scoon: Unparliamentary.

Sen. S. Hosein: Madam President, they will go to the population very soon to ask Tobago for their vote, and the people of Tobago will—

Madam President: Sen. Hosein, your time is up.

Sen. S. Hosein: Already?

Madam President: Yes, it is five minutes.

Sen. Mark: I will like to speak, Madam. [*Crosstalk*]

Hon. Senator: No, no, no!

Madam President: Sen. De Freitas.

Sen. Nigel De Freitas: Thank you, Madam President. I rise to contribute to a Motion brought before this august House, and please forgive me if I dispense with the niceties and pleasantries and get right into.

I have sat here and listened quite closely to Members opposite cast aspersions as to this particular issue that is facing us today, and I think that out of everyone in this Chamber I stand as one that is closer to this issue by birth right Sen. Obika—birthright. My birth certificate says born in Tobago, Scarborough, and therefore I stand closer to this issue as one who travels between the two islands to execute this duty that I am doing here today.

So, Madam President, I move into my points quite quickly. The first thing I would like to point out is that this particular situation is being dealt with by this administration in the best possible way that it could be dealt with. It is out of a caring for the people of Tobago that we would have put forward a plan to address the risk that Tobago would have found itself in, in relation to this sea bridge that would have been going on for years since Trinidad and Tobago would have been annexed together. That is a risk that was realized due to the economic circumstance that we found ourselves in because of the mismanagement of the previous administration. [*Desk thumping*] Madam President, the point has been made—[*Interruption*]

Madam President: Hon. Senators, it is either you want to hear what is being said or you do not. If you do not, you can leave the Chamber, and if you continue to not listen, I will ask you to leave the Chamber.

Sen. N. De Freitas: Just to quickly move to that point, one of the things that we would have found out is that the company that would have been hired to manage the sea bridge would have been paid US \$7 million since 2006, moving straight through the period 2010 to 2015. And when you add up those years you are talking 11 years at US \$77 million, and I am sure the Minister in the Ministry of Finance would tell you what we could do with that money today—US \$77 million.

And under the current economic circumstances, that is completely and utterly untenable.

But moving forward quite quickly, the institution that is responsible for managing and maintaining this sea bridge would have faced difficulties in addressing the situation, as the Minister of Works and Transport would have outlined in his contribution. But notwithstanding that, you would have seen Cabinet appoint a team of Ministers to address the situation once and for all, and they did so in the shortest possible time that they could. [*Desk thumping*] We do not call that mismanagement, we call that leadership. [*Desk thumping and laughter*]

As my time is short I move on to my second point, and I will tell you what as a Tobagonian I have realized, and that is, this problem has highlighted one thing to me, that is, Tobago is truly and utterly dependent on Trinidad alone. We all, if not all of us, most of us, went to Wakanda and looked at our Tobagonian brother, as we stood proudly, perform on the screen, but in that movie they had a message at the end which might be lost on most, and that message was, in times of trial the wise build bridges, but fools build barriers. And today what we have heard is barriers; people—people—who would love to see Tobago fail, so that they can gain a footing in the political world. [*Desk thumping*]

But, Madam President, I say here today that Tobago stands as a strong people; that we have experienced hardships in the past and we have rebounded. Thirty battles by superpowers for the island, but we survived. Hardships in the 1980s with an economic downturn, but we survived. Global economic downturn in 2007 that coincidentally would have led to a reduction in tourist arrivals, but we survived it all. We will rebound again. We will come back stronger than ever.

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Three boats to service that bridge. Two ports from Toco to Tobago, and from Port of Spain to Tobago, and increased investment in Tobago that will increase arrivals on that island. There is a light at the end of the tunnel, and this administration will get us there.

Madam President, in conclusion, when the hurdle is overcome—

Madam President: Senator, your time is up.

Sen. N. De Freitas: Thank you, Madam President.

Sen. Anita Haynes: Madam President, it brings me no pleasure to join in this debate today. The speaker before me started off by saying that there is—well, we have heard from two speakers from the Government so far. He started off by saying that there is no crisis, but yet still the speaker before me is speaking about rebounding from a crisis. So I am going to need them to make up their minds. Is there no crisis or are you going to rebound from this and are you fixing it? [*Desk thumping*] Because clearly there is a disjointed notion going on here.

I just want to touch on what the Minister of Works and Transport started with. The Minister said that everybody who booked a flight to get to Tobago will get to Tobago over the Easter vacation. That speaks to me of a Minister and a Government that is completely out of touch with the reality of Trinidad and Tobago. [*Desk thumping*] You would have had to not see any of the videos circulating on social media or the reports on regular media of people stranded on a daily basis trying to get between Trinidad and Tobago, to come here and tell me that in April, by Easter, we would get everybody that booked a ticket to Tobago. That is not happening now, it will not happen in April and we just do not believe what you have to say.

The people of Tobago have been left literally and figuratively stranded by

the Keith Rowley administration, and they are coming here today in response to this Motion to tell us that they have a plan. If you had a plan you should have done it, and we would not have this crisis that we are seeing here today; yes. This is not a problem that began last night. It is certainly not a problem that is unavoidable and it is not something that we could not have prevented.

This is a problem born completely out of the incompetence of the present administration, and that is why they are so antsy and so jumpy here today, [*Desk thumping*] and that is why there is so much noise in the Chamber, because what we are seeing is a result of their action, their refusal to sign the contract when they had been given advice that the people of Tobago simply could not afford—and I would like to say that the people of Tobago could not afford for the vessel to leave. And we are seeing here, one year later, that that is the fact because they cannot afford it, because the Tobago economy has collapsed.

And the idea, Madam President—the idea—that to articulate a problem, that people who are coming forward to say that there is a problem, that the 27 per cent hotel occupancy that we are hearing about, the drop in visitors to Tobago that we are hearing about, the collapse of the Tobago economy, is somehow unpatriotic and somehow that we are painting Tobago in a bad light, that is absolute craziness. It is the truth, and you cannot be punished for speaking the truth. You are not unpatriotic for representing the interests of the people of Tobago. [*Desk thumping*].

Madam President, I have been very disheartened. I know that the Minister tried to tell us that they will do certain things and they will fix this, and again it is a confused narrative. Either you are fixing a problem or there is no problem, but you have to make up your mind. And I hope that the speaker who speaks after me will

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tell me if there is a problem or they are fixing it, but clearly there is a disjuncting messaging going on here.

The two speakers who spoke on our Bench before me mentioned Ms. Hadad's interview on CNC3 this morning. The reason everybody is bringing that up is because it spoke volumes of the crisis that we are seeing in Tobago. She spoke about the people screaming out in Tobago; that there have been no official communication with the staff of the people in Tobago: that people who have come out openly feel that they would be victimized. These are real concerns; these are not UNC concerns. All of this attempt to brand things about being fake news and you are hearing fake news coming from different quarters, listen—

Hon. Member: Well, it is a fake government. [*Desk thumping*]

Sen. A. Haynes: Exactly, it is a fake Government. It is a government that is simply out of touch and unable to solve the problem, so what they do is pretend that there is no problem. Until they stop doing that you cannot have any solution.

It is two and a half years and the single—

Madam President: Senator, your time is up.

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. The Minister of Works and Transport clearly articulated what the issues are, but I want to go on record to say we face a challenge as we speak with the sea bridge, but that will be temporary and hopefully, within a week or so, most of those issues would be solved.

But let me just say one thing up front, the United National Congress has no authority to speak for the people of Tobago. [*Desk thumping*] The United National Congress as a party founded by Mr. Basdeo Panday, taken over by Mrs. Kamla Persad-Bissessar, has never fought an election in Tobago. They always

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tried to piggyback on the Opposition forces to the PNM in Tobago, and in most cases they hamper the very people that they claim to latch their wagons to.

Hon. Senator: They fired Jack.

Sen. The Hon. F. Khan: That is the reason why the TOP and Jack lost significantly to the PNM. Let me just respond to Sen. Obika. Do not for heaven sake take the Bill on internal self-government in Tobago and latch it on to the temporary situation we have on the sea bridge. That autonomy Bill is a fundamental request from the people of Tobago. That whole thing started with ANR Robinson and Dr. Winston Murray, way back, way back.

Hon. Senator: "Talk about de sea bridge!"

Sen. The Hon. F. Khan: Sen. Obika brought it up. Way back—and it had the total engagement of all the political parties in Tobago, including Orville London of the PNM, Hochoy Charles, Deborah Moore-Miggins, Ashworth Jack and even Watson Duke himself. This is a fundamental request from the people of Tobago.

The hardships they are going through now—and I will be the first to admit that they are going through hardships, but it is temporary. You know how this whole fiasco started? It is because the *Super Fast Galicia* owners put a gun to our head and insisted on a five-year extension of their contract without going out to public tender. That was supported by the UNC and a lot of stakeholders in Trinidad. When we put our foot down and said no way will the procurement process in Trinidad and Tobago, under a PNM administration, offer you a contract like that on a sole selective basis, all hell turn loose.

There have been challenges with the maintenance schedule. I was a former Minister of Works and Transport. I think it was under my tenure in 2003/2004 that the Bay Ferries contract was put into place. We in Trinidad and Tobago,

regretfully, do not have a culture of maintenance. We all know that; we have said that over and over in this Parliament, and it is best exemplified by the maintenance of very expensive kit, very expensive vessels that were procured by the State and operated by the Port Authority of Trinidad and Tobago. We know what our limitations are.

The Minister of Works and Transport indicated that we are now going back out to tender for a maintenance company to manage all the Government ferries through Nidco. It will be the *Express*, the *Spirit*, the *Galleons Passage* and all the water taxis. We will come in now with a proper maintenance schedule—very likely it will be a foreign company—and latch on some local component to it, so that we can train our people to manage maintenance services in Trinidad and Tobago.

So, Madam President, I just want to go on record to say that we are not dishonest, [*Laughter*] and we are not going to say that a crisis does not exist, but I want to say it exists temporarily. There is lot of historical antecedence that caused us to be in the position we are in today, especially the maintenance of the *Express* and the *Spirit*. We are almost there. It is because we did not have a good maintenance manager that is why the *Spirit* supposedly failed its sea trial. They have identified certain specific issues with the boat and hopefully within the next week or so, those technical issues will be sorted out and the *Spirit* will come back on things. So I just wanted to put on record—

Madam President: Minister, your time is up.

Sen. Wade Mark: Madam President, I want to say that the only achievement of the PNM in two years and a few months, 30 months, has been the collapse of the sea bridge. That has been your record.

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I want to remind my hon. Colleague, the record would show that the PNM hatched a plot to destroy that sea bridge. They hatched a plot in Balisier House, Madam President. [*Desk thumping*] I want to tell you, the records will show that the first meeting—the first meeting—

Hon. Al-Rawi: Madam President, Standing Order 48(6).

Madam President: Sen. Mark, you have very limited time. I will ask you to not impute improper motives as you are doing. Please continue.

Sen. W. Mark: Madam President, I am giving you the evidence now. The records would show that the first meeting of the board of directors of the PATT, headed by Christine Sahadeo, the first decision of that board was to get rid of the *Galicia*. So do not come and tell me that anybody put a gun to your head. You put a gun to your own head. [*Desk thumping*] So, Madam President, they destroyed the sea bridge. They got rid of the *Galicia*, and what happened? A crisis in Tobago as never seen before.

In addition they got rid, through Christine Sahadeo, of Bay Ferries, and there has been a collapse of maintenance. Now we are being told by the Minister of Works and Transport and the Leader of Government Business that they are about to bring back in a foreign company in order to conduct maintenance work. Why did you destroy Bay Ferries? Why did you destroy the *Galicia*? You are responsible for the crisis, your own incompetence. Do not blame anybody; take responsibility. You are incompetent. You are a failure and you have failed the people of Tobago.

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

7.00 p.m.

Madam President: Minister of Agriculture, Land and Fisheries, you have 30 seconds.

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, [*Crosstalk and laughter*] Madam President, [*Crosstalk*] let me place on the record—[*Crosstalk and desk thumping*]

Madam President: Minister of Agriculture, Land and Fisheries, I am almost minded to give you injury time, but time is up, and we will now resume into committee. [*Crosstalk*]

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

Senate in committee.

Madam Chairman: Attorney General, you were at the stage of responding to the proposed amendment at paragraph (c) clause 5(c) by deleting (c)(2). Sen. Ramdeen and Sen. Mark and Sen. Richards made contributions on that proposed amendment.

Mr. Al-Rawi: Yes, Madam Chair, you have a very good memory, Madam Chair, as one hour ago I did not quite, after that last outburst, recall the immediate particulars as to where we ended.

Madam Chair, I am prepared to respond and to ask my learned colleagues to consider the following. With respect to the provisions for firearm accessories, Sen. Ramdeen has raised an interesting point that the term as set out and as prescribed may call into operation the ejusdem generis principle which is basically that the interpretation of the words appearing at subparagraph (c)(i)(c) will be deemed to be interpreted by the words which have followed in the line in the context of the

chapeau which is the introductory part.

The prohibition against importation is to be viewed separately from the fact of importation. The first consequence, Madam Chair, is that anything that comes in has to be imported. What is being prescribed here is that there is a prohibition against importation even with respect to an FUL holder and the exemption provided, that FUL holder still has to import. It will still be noted as being imported, and then the evidence of the holding of the FUL licence will have to be produced so that the exception can be invoked.

That exception for the FUL holder which is contained at page 8 of the Bill at (c)(ii) therefore, makes sense because it allows for the operation of a more administratively functioning system, the proposal from my learned friends being, let the Commissioner of Police do all whilst there is still a complaint that the system is overburdened and some degree of allegation that in the past there has been some degree of allegation of corruption. I would not go to that point, but it is by far useful to consider, number one, even the FUL holder will have to declare what is coming in. That will allow customs therefore, to have knowledge of the prescribed events, that is, firearms, ammunition, bullet-proof vests, there being a prohibition against that.

With respect to firearm accessories now, the question of whether the word including:

“lasers;

lights;

holsters;

scopes;

tools for the purpose of maintaining firearms”,

—as Sen. Richards asked, whether those would be interpreted as being confined to

a firearm itself. The answer to that is, yes, because that falls under the rule of ejusdem generis.

Sen. Ramdeen's caution that we ought to be careful about a non-exhaustive list. I think the answer to that can be met by the very concept of ejusdem generis, but I wondered if—the only alternative that the CPC's Department has to the word "including" would be the words "such as". Those are the only two legislative prescriptions to treat with how one lists things.

My own view, subject to the Senate's consideration of same, is that this is a fairly narrow list. It is to be construed in the manner which the law tells us that we should construe it. I think that there being only one other alternative for a formula wording would be "such as", but I do not think it takes it any much further than "including" itself. They are both ejusdem generis principles. And in those circumstances we regret that we do not think it prudent to amend the section as proposed by the hon. Sen. Ramdeen where he proposes that it be deleted entirely.

Madam Chairman: Yes. Sen. Ramdeen.

Sen. Ramdeen: Madam Chair, thank you for recognizing me. Attorney General, am I correct in understanding that the explanation that was provided is that ejusdem generis will apply where there is a semicolon after "lasers; lights; holsters; and scopes;" and that the ejusdem generis—is it that the advisors are saying that ejusdem generis will apply to all of those things as Sen. Richards asked for the purpose of maintaining a firearm?

Mr. Al-Rawi: No. Even the matters of "tools" which is at (v) would fall into the ejusdem generis. So everything would fall to be interpreted firstly by the chapeau which is in subsection (i) deleting and then, sorry, the chapeau before (c) comes up. So, if you look to the parent law there is a chapeau of general prohibition.

Now, I should say that the Customs Act is actually quite archaic, and what

has happened is that order provisions have been included into the Act. In fact, anecdotally I will say, there is still legislative language in the Customs Act allowing for the importation of ganja. It is still prescribed in law, it is just not allowed because you have now declared it to be a dangerous drug under the Dangerous Drugs Act, but cannabis is still, as it was called in the Customs Act and still is, it is something that you can still import by way of prescriptive provision. And I am just saying that anecdotally. Okay? Please, through you, Madam Chair, to the population that is not a prescription that you are allowed to do that, it is the opposite. You are not allowed to that. I am going into how old the Customs Act actually is in terms of the pre-1962 law that we have had come onto our books.

The ejusdem generis principle is such that tools for the purposes of maintaining a firearm will be viewed in the context of firearms, ammunition and firearm accessories will be viewed in that context as well. So it is not just a general without narrow limitation end, there is a limitation.

The other fact is that the law should continue to speak. And insofar as there may be accessories which are not yet created, but which may yet be created, accessories which technology can only produce and which we may have no understanding of yet, it allows this law to continue to operate by not putting a fully-exhaustive list. So that, you know, that anything that is involved with a firearm has to be declared and has to have permission. The only two ways to bring it in, one, you have an FUL licence which allows you to do that or, two, you are a legitimate importer who has received the permission to import the goods within the context of the Customs Act.

Sen. Ramdeen: But it must be that flowing from that, if you have an FUL and you declare it, no customs cannot do anything about that because the permission to bring it in is granted by the having of the FUL.

Mr. Al-Rawi: And they will have a record of it having come in. That record would indicate that it was brought in, who brought it in and in what circumstances, and the FUL will have to be provided. So the importance in this Act is that you would actually be declaring the event, and it is the knowledge of the importation which makes it useful. To have an unlimited border flow where all accessories: bullet-proof vests, holsters, lasers for weapons, line of sight, night targeting, et cetera, that is unregulated in the law at present because it does not fall within the definition of a firearm within the meaning of the Firearms Act, and therefore, the prescription is that there ought to be control over this, the point is that you must declare it. Even FUL holders will still have to declare and produce evidence.

Sen. Ameen: Chairman—

Madam Chairman: Sen. Ameen.

Sen. Ameen:—thank you, through you to the Attorney General. I just want to approach this from a common language perspective. If a person is the holder of a firearm user's licence, sometimes, there are a lot of situations now that exist where extortion is taking place from the criminal elements and so on. A person who is the holder of a licence could be held basically at ransom to use their licence to bring in accessories for people who are of the criminal element, third parties. And there are people who, up to today, Madam Chairman, pay for so-called protection, it is extortion. And this is another opportunity for extortion, for someone with a user licence to be forced to bring these accessories, and there is no point at which anyone in authority could say, no.

And I am just suggesting that even having a firearm user's licence should, of course, be one of the prerequisites to get approval however, it should still be in the Commissioner's hand to turn down that approval. I just feel that it should not automatic, because I know that there are situations where this could be abused,

where a person who has a firearm user's licence could be forced to use that licence to import accessories for criminal elements or for any third party.

And so I am agreeing from not necessarily, I mean, you speak all the legal jargon and so on, but from a practical perspective as to what could happen, I am suggesting that you allow that provision for a firearm user's licence holder to still have to get approval before bringing in any accessories.

Mr. Al-Rawi: Madam Chair—

Madam Chairman: Yes.

Mr. Al-Rawi:—Madam Chair, the proposal on the table is that we delete the section entirely, that there be no control, that you can bring in a firearm accessory, a laser, a holster, et cetera, with no permission at all. Forget it. So the proposal on the part of the Opposition is, delete the section. [*Crosstalk*]

Sen. Ramdeen: That is not what I proposed.

Mr. Al-Rawi: Let Sen. Ramdeen clarify.

Sen. Ramdeen: Yes. Sorry. I “doh” want you to think that is—if you take out (ii), then it would mean anyone who is caught by the section will have to get the permission. It is actually the opposite.

Mr. Al-Rawi: So, you are proposing only the elimination of the FUL position?

Sen. Ramdeen: Yes.

Mr. Al-Rawi: Okay. I must tell you that I did not understand that that is what your submission was at first, but if that is what you are saying, I will answer it this way on the extortion point.

The ability to abuse this position, surely it can happen. I do not think that it will be proper to say it could never happen. However, accessories are available for purchase locally from authorized entities, Sports and Games sells them, several Trestrails sell them. There are many entities in Trinidad and Tobago that sell these

things, and you need no licence to acquire them, because the law does not ask you to get permission or licensing for a holder, for a laser, for a firearm cleaning kit, any of those things. So number one, it is available locally.

Number two, it is only the importation aspect that we are asking to be regulated.

Number three, with respect to the Commissioner of Police being the one to authorize the importation of those items. We consider that it is reasonable to allow people to import on the basis that they have an FUL holder's licence, and that simply will allow for the tracing of when it is brought in on a private basis. You can buy it nonetheless here in Trinidad and Tobago without licence.

Sen. Ameen: There is no limit to the amounts.

Mr. Al-Rawi: No. But—

Sen. Ameen:—so there is no regulation at all for any person who is a firearm user, all you can do is look at the trend to see how much they would have been importing and so on, [*Crosstalk*] but there is no opportunity for any authority here to put a hold or to put any sort of regulation, "mash a brakes".

Mr. Al-Rawi: It can trigger suspicious transactions or suspicious activities, not within the context of the FIU legislation, but there will be a record at Customs which indicates under this sub-category type, the type of goods that are brought in.

Sen. Ameen: Right. So deleting the part as Sen. Ramdeen is suggesting, it means that any person whether they hold a firearm user's licence or not, would have to get the same permission, and I think that gives you a little more control rather than relying on some round-the-road method after you follow, you know, patterns to see how much this person may have been importing; if you find it suspicious.

Mr. Al-Rawi: It was because of submissions made in the context of this by the relevant stakeholders including Customs, TTPS, et cetera, that the caveat was

included, and it was the Cabinet that approved the caveat being included. We actually had quite a lot of debate about this provision. Inviting the Commissioner of Police or Customs depending upon which end you look at it, to be the originator of this permission is to add more weight to a system which Sen. Ramdeen himself has said is not working.

In fact, I recall that recently there was a judicial review application presented against the Commissioner of Police to compel him to make a decision, yes or no, on an application because people were complaining, look I have made an application, it is just not being dealt with.

So this, regrettably, is something that we have expressed consideration, and the Cabinet has considered, because each one these Bills, before we come here, we have parameters that the Cabinet sets out that we can or cannot deal with, as has been confirmed firstly by the Legislative Review Committee and then the Cabinet. So there has been a considerable amount of discussion on this.

Madam Chairman: Sen. Shrikissoon, you wanted to raise a point?

Sen. Shrikissoon: I wanted to raise a point, Madam Chair, thank you, but I am just going to ask one question. What is the harm in the Commissioner of Police authorizing a person with an FUL to import an item?

Mr. Al-Rawi: Administrative burdening for the thousands of people that hold FUL permits.

Sen. Shrikissoon: So the purpose of clause 2(1)(a) is really to relieve an administrative burden?

Mr. Al-Rawi: Yes. And something which has been specifically and expressly approved, which is that a holder, which is someone who has been authorized and licensed by the Commissioner of Police after a process of investigation, including psychiatric, medical, social, psychological, apart from psychiatric assessment, that

all of these things have gone through a licensing process and that person has been authorized to hold a firearm. More particularly, that that person every year renews the annual subscription, et cetera.

So the thousands of persons that hold, which also include the security industry where there are group licences or FUESLs user licences, et cetera, this is not a matter of an individual by individual basis. There is actually an industry here that uses firearms on a large scale basis.

Madam Chairman: So, hon. Senators, I think that there has been enough discussion on this clause, proposed amendment, as circulated by Sen. Ramdeen, so I am now going to put it to the committee.

Question, on amendment, [Sen. G. Ramdeen] put and negatived.

Question put and agreed to.

Clause 5 ordered to stand part of the Bill.

Clause 6.

Question proposed: That clause 6 stand part of the Bill.

Sen. Mark: Madam Chair, I would have thought—there are several amendments that—

Madam Chairman: We dealt with the amendments.

Sen. Mark: No. He went through—

Madam Chairman: He went through all of the amendments save one, dealt with moving from three to six years.

Sen. Mark: Could I engage you?

Madam Chairman: No, Sen. Mark, we have dealt with that. We have dealt with that extensively—

Sen. Mark: I know. I know.

Madam Chairman: So, we are now on clause 6.

Sen. Mark: No. No. There is a particular matter I wanted the AG to consider, Madam Chair.

Madam Chairman: Sen. Mark, just hold on. Members, please, may I have your attention. Clause 5, the amendments that Sen. Ramdeen circulated, all but one of those amendments dealt with the time moving from three years to six years. Correct, Sen. Ramdeen? And then there was this one that we just discussed. There was ample time for discussions. Sen. Mark, are you saying that there was something else you wanted to raise apart from the amendment?

Sen. Mark: Yes, Ma'am.

Madam Chairman: I am sorry, [*Crosstalk*] but, no. At this stage, Sen. Mark let us move on because I think enough persons have had the opportunity. So, we are now on clause 6. No amendment had be proposed.

Question put and agreed to.

Clause 6 ordered to stand part of the Bill.

Question put and agreed to: That the Bill be reported to the Senate.

Senate resumed.

Bill reported, with amendment, read the third time and passed.

ADJOURNMENT

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. Madam President, I beg to move that this Senate do now adjourn to Tuesday 20th March at 10.00 a.m. During that marathon session next Tuesday we plan to complete the Anti-Gang Bill and, if time permits, to start debate on the property tax legislation, and I can assure Members that dinner will be served. [*Laughter*]

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

National Mutual Fund (Government's
Establishment of)
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leave has been granted for two matters to be raised on the Motion for the Adjournment. Sen. Mark.

National Mutual Fund

(Government's Establishment of)

Sen. Wade Mark: Thank you very much, Madam President. Madam President, the establishment of a national mutual fund is an area that the national community requires further clarification on.

Madam President, the Government intends to use some \$1.4 billion in Clico shares from both Angostura and Home Construction Limited to create a new national mutual fund. That amount would account for 29.9 per cent of Clico's shares in Angostura and 16 per cent of its shares in Home Construction Limited.

The question that is being asked is: Why is the PNM Government seeking to create a new national mutual fund or a new fund to deal with these assets when, Madam President, the Government has already established such a fund in the form of the National Enterprises Limited which has the necessary transparency, accountability and governance structure to manage the holdings of these two Clico assets?

Madam President, we know that NEL is an investment holding company operating in this country since August of 1999 on behalf of the Government of Trinidad and Tobago. NEL holds shares in a number of stable and profitable industries, and they pay attractive dividends. NEL's holdings, as an example, would include the Telecommunication Services of Trinidad and Tobago, the National Flour Mills, the National Gas Company T&T, LNG Limited, the National Gas Company NSL Limited. So therefore, we know that the mandate of this

company called NEL is to pay out a maximum of 90 per cent of its profits to shareholders.

Now, NEL also facilitates a public offering on the Stock Exchange. So if members of the public are desirous of buying shares in NEL, they can go to a broker and access those shares on the Stock Exchange. What the population is asking the Government is simply this: Why would the Government wish to duplicate the work of NEL? Why would the Government wish to establish an expensive new national mutual fund? Is that going to lessen the fears of the people about the possible sell-out of Clico and CL Financial assets to a wealthy group of private sector individuals? Would that be in the people's interest? The question, Madam President, is why is the Government duplicating the establishment of another company?

We already, as I said, have NEL, so we need to get an explanation. Is it a roundabout way of allowing the friends to the PNM and the financiers of the PNM to get a hold of the assets of CL Financial and Clico? Is that the reason why the Government is going to establish this national mutual fund?

Madam President, you would know that many of our citizens have a strong emotional bond, an attachment to CLF and to the Clico group, and as you know it was and remains, even in liquidation, the first indigenous, the first major indigenous conglomerate ever established by the people in the Republic of Trinidad and Tobago.

7.30 p.m.

So, we would like to find out, Madam President, through the Minister of Finance, how will Government's action assist it in recovering the \$17 billion, or I think they have collected, the Government has collected close to \$8 billion already,

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so they are owed, I would say, just about the \$15 billion as we speak at this time. And the question that is being asked, can the Government not use the NEL in order to sell these assets so that ordinary people, working class people, can buy some of the shares, pension plans can also, through their investment sources have access to these assets, or as I said, there is a fear that is emerging in the country, that the Government might have other plans. And only time will tell, Madam President, if the Government is trying to trick the population, if the Government is trying to “mamaguy” or fool the population by establishing this national mutual fund, or national investment mutual fund. [*Desk thumping*] What is the purpose of this, Madam President?

And therefore I call on the hon. Minister of Finance, to explain to this country whether this is not a scheme being utilized by the Government to sell out the assets of Angostura and Home Construction to their friends and their financiers? [*Desk thumping*] That is what we would like to have clarified tonight, because we are concerned. The people are asking questions about this transaction that the Minister announced in his 2017/18 budget, Madam President. So I await with some degree of anxiety on the Minister's response to this particular matter, and I hope she can clear the air on behalf of the people.

I thank you very much, Madam President.

The Minister in the Ministry of Finance (Sen. The Hon. Allyson West): Thank you, Madam President. [*Desk thumping*] Before I respond to Sen. Mark's direct questions, Madam President, through you, I would just give you a background and a context. The creation of the national investment fund represents the vehicle through which Government proposes to secure settlement of the liabilities owed by Clico and CL Financial to the Government of the Republic of Trinidad and

Tobago, and to ensure that the widest possible cross section of the populace has the opportunity to enjoy the rewards of the debt recovery.

The current state of affairs is consequent on the decision of the Central Bank of Trinidad and Tobago in January 2009 to assume control of Clico and Clico Investment Bank, and together with GORTT to provide financial support to protect the depositors and investors of those institutions. GORTT had concluded at the time that it was important that the demise of CLF, the parent company of Clico and CIB, be avoided through among other things, an injection of funds, and that CLF should assume responsibility and be liable for taxpayers' funds expended in respect of GORTT's bailout and funding of the financial subsidiaries. The expenditure of GORTT as outlined in an affidavit dated July 11, 2007, by Mr. Vishnu Dhanpaul, Permanent Secretary, Ministry of Finance, in the High Court of Justice in the matter of CLF and in the matter of the Company's Act, Chap. 81:01, was determined at \$23.095 billion, but with the repayment of \$7.486 billion, the net amount owed by CLF to GORTT is TT \$15.609 billion.

Being unable to arrive at an acceptable repayment plan with the shareholders of CLF, and given the threat posed to recovery of that debt, GORTT sought to put CLF into liquidation. On September 15, 2017, the High Court ruled that the operations of CLF will be fully placed in the hands of two liquidators appointed in July 2017. Generally, liquidators would dispose of the assets under their remit, through transparent, independent, auction arrangements, to achieve the best price possible to such assets. GORTT gave due consideration to the options for and implications of monetizing the assets through liquidation procedures. It took due note that the CLF group operated in many sectors throughout Trinidad and Tobago as well as in extra-regional jurisdictions. The group encompasses companies

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involved in financial services, alcohol manufacturing, land and property development, retail energy and media. The group owned or controlled over 30 companies and numerous additional subsidiaries under many of those companies located in the Caribbean, USA, Europe and the Middle East. These shareholders include: Angostura Limited, Home Construction Limited, Methanol Holdings Limited, Republic Finance Holdings, equities in Colonial Life and General Insurance, Caribbean Petrochemical Manufacturing, LJ Williams and Company, One Caribbean Media, WITCO Trinidad, as well as real estate assets.

While GORTT considers the repayment of the debt owed by CLF, Clico and CIB to be critically important, and envisages that the joint liquidators of CLF would collaborate with the Central Bank to ensure that the assets are monetized in the best interest of creditors, and the debt is repaid as promptly as possible, nevertheless, GORTT considered that those assets were acquired on behalf of the people of Trinidad and Tobago. Accordingly, GORTT determined that the assets should be monetized for the benefit of the people of Trinidad and Tobago. GORTT decided that the people of Trinidad and Tobago should be given the opportunity to participate in benefits flowing from those assets. That is regular dividends, and the possibility of capital appreciation. The assets of CLF, Clico and CIB are all high quality and have been generating reasonable dividends for several year, and their monetization should be able to meet the debt of \$15.6 billion of CLF to GORTT. GORTT has agreed that the NIF would be a closed ended investment fund based on a trust deed and into which fund would be placed shares in the various companies owned by CLF, Clico and CIB and other appropriate assets owned by GORTT.

Members of the public at large will be invited to, by way of a public offering

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to purchase units in the fund at an offer price which would be determined at the time of the public offering. Units in the fund would trade on the Trinidad and Tobago Stock Exchange. We expect the target date for the public offering and sale of units to occur in the first half of 2018. GORTT is in the process of appointing a financial services advisory firm to assist in establishing and making operational the NIF, which would not only provide an avenue for members of the national community to participate in the income and capital growth of good quality companies, but also would contain the facilitation in the development of the domestic capital market.

Madam President, the reason why we are not using NEL, is that NEL is a company that has sold shares to the public. If what we do is take the shares of—take these assets and put it into NEL, what it does is that it would appreciate to the value of the shares already held by the shareholders of NEL. It will not give the Government the value to recover through purchase by the public at large of these assets. So, you need a separate fund or a separate element of NEL to do that.

So, it was determined that rather than inject further funds which would benefit already existing shareholders, that you create a separate fund and allow members of the public at large, not any special interest groups, but the public at large, to invest in these funds. That way the people of Trinidad and Tobago continue to enjoy the benefits of the assets that are currently held by Clico. So, there is no nefarious objective. It is to ensure, one, that Government recovers the moneys due to it; and two, that the people of Trinidad and Tobago continue to enjoy the opportunity for dividend flow and capital appreciation of these valued assets.

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

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Madam President: Sen. Mark, next Motion.

Sen. Mark: No, it is—

Madam President: Oh, I apologize. Sen. Hosein. [*Laughter*]

**Management/Administration of Nation's Prisons
(Government's Failure)**

Sen. Saddam Hosein: Thank you very much, Madam President. [*Desk thumping*]
And, Madam President, the matter that I have brought on the Adjournment of the Senate, is the failure of the Government to properly manage and administer our nation's prisons resulting in the safety and security of prison officers and their families being compromised as well as that of the inmates.

Madam President, let me say from the outset that this is not a UNC issue or this is not a PNM issue, this is an issue regarding the people of Trinidad and Tobago, their safety, their security, and it is a matter of human life. Madam President, this matter is of two folds, in that it recognizes the immediate and serious threat to the safety of prison officers and the inmates at our nation's prisons.

Madam President, we are witnessing an unparalleled amount of killing of prison officers, and the nation, if we remember, went into shock when chills ran down the spines of prison officers, when one of their colleagues who had just left work was gunned down in broad daylight just metres away from the Port of Spain prison. An officer who gave to this country 25 years of service at age 45, Officer Devendra Boodoram, while driving home to his family on a Friday evening his life was snuffed out. He was shot once to the head, once to the neck, and twice to the chest. But, Madam President, that is just one officer. There are other officers who faced the same fate as Officer Boodoram. Just a few months ago prison

officer Glenford Gardener was shot and killed at Sea Trace, Bagatelle, Diego Martin, and preceding that the unsolved shooting death of prison officer Richard Sandy at a bar in Gasparillo.

We have reached a position in Trinidad and Tobago where there is no longer respect for human life, as we have seen one of the most bloodiest and unprecedented amount of murders in this country in January. Trinidad and Tobago is now beyond recognition, but we must be cognizant of the fact, Madam President, of the conditions that exist at our nation's prisons. And I would like to paint a picture to this Senate of what actually happens at our nation's prisons, and I would like to quote from a judgment of Justice Carol Gobin in the matter of Colin Edgehill, civil action No. 3178 of 2004. And, Madam Justice Gobin would have made a visit to the prison and she found that a prisoner is kept in a cell for 22 hours each day with poor ventilation, which is obstructed by cobweb and dirt, and always bearing in mind, she always said that persons in there are presumed to be innocent.

Madam President, the structure of the ceiling allows dust, waste, liquids and roaches to fall onto prisoners. Stray cats would walk along the mesh on the cells and urinate on the prisoners. The claimant in this matter, Mr. Edgehill, said that there was a continuous foul smell and stench emanating from the various pail slops, the carpets as well as the oppressive heat and overcrowding made it unbearable and caused him physical and mental anguish, pain and suffering. The conditions described became even more sickening in the description of the details of the slopping out process. And, Madam President, for the benefit of all of us in this House, I would not go into the details in this House. And, in the words of the claimant, he said, and I quote:

I sometimes felt like an animal, as if I was reduced to being a worthless

person, as if I were nothing.

Madam President, if any one of us here in this honourable House has to endure that same fate, we would not like it. So, I am suggesting to the Minister of National Security and the Government of the Republic of Trinidad and Tobago, let us address the situations at our nation's prisons. Because, Madam President, this is a trickle-down effect. If you treat a person as an animal, how do you expect them to react? And the reality, Madam President, is that there is a war zone between the prisoners and the prison officers, and there are countless judgments. For example, *Jason Raymond v Attorney General*, CV 2016 00029, where it is illustrative that there is a lot of violence in the nation's prisons as Justice Kokaram would have said:

That the degree of institutional violence is a direct product of prison conditions and how the State operates its prisons.

When we look at CV2009 04755, *Frankie Jamal Bartholomew and Others v The Attorney General*, Justice Judith Jones, as she then was, she described the situation at the prisons as a ticking time bomb just waiting to happen. And when we look at Justice Rajkumar in the case of *Braithwaite v The Attorney General*, CV2010 04502, in examining the responsibility of the prison authorities to make the necessary changes for the sake of the administration of justice stated that remarks made by the court in several such matters appear to have been ignored, and there is every indication from the repetition of like incidents that the perpetrators face no consequence.

So, Madam President, the common thread, the golden thread that runs through all of these cases, is that the State is not paying attention to what is happening at the nation's prisons. The courts have continued to award punitive

damages to the claimants, but this is to no avail, because the problem keeps recurring. And, Madam President, we must also look at the responsibilities of the prison officers in this matter. The cocaine, the marijuana, and the cigarette, the cell phones do not just walk into the prisons, officers have to take them into the prisons. And, Madam President, officer Boodoram he is dead today because of a cell phone that was brought into a prison illegally.

But we must also place some blame on the Government in that there have to be jammers operating at the nation's prisons. So, I would ask the hon. Minister, in his presentation, to let us know the effectiveness of these jammers, because constantly for those of us who are on Facebook and other social media websites, we see and we continue to see videos being filmed at the nation's prisons, and then uploaded onto these social media websites. So therefore, there must be some issues regarding the effectiveness of these jammers at the nation's prisons.

But, Madam President, we must commend also those hard-working prison officers who risk their lives every day in service of the country, and to ensure that the nation is protected from the rogue elements. But they cannot be paying the price for the errant officers. How can we as a nation excuse the loss of life of all the prison officers who have died at the gun? How many more must die before action is taken? The inmates know exactly where the officers live, and they know exactly where the officers' family lives. So, we must take steps as a responsible country in order to protect our nation's prison officers. It is a holistic solution, and we must stop pointing fingers, and we must act now. We must guard the guards, Madam President.

I thank you. [*Desk thumping*]

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

you very much, Madam President, for allowing me this opportunity to respond to Sen. Hosein's Motion. And, when I looked at the Motion I could simply say I agree with Sen. Hosein, because he actually, in fact, did not show the failure of the Government as his Motion sets out to do, to show the failure of the Government in terms of properly managing and administering. To a large extent he showed a deficiency in the justice system, which has a lot to do with what, as he explained it, citing a number of inferences.

But let me just say, Madam President, that with respect to the Government of Trinidad and Tobago, the present Government of Trinidad and Tobago, the prison system that we inherited has been there from since colonial times, and is where it is today because of incremental improvements, and this has been done under several administrations. But when one understands that the last administration with respect to improvements at the prison system, the records show that it left a lot to be desired.

Madam President, for example, when one looks at the expenditure over the last five years—\$411 million between 2010 to 2015 in terms of the development programme. Now, when you look at the state of the prison that we inherited in 2015—and a lot of what Sen. Hosein refers to is really the state of the prison. But at the end of the day, the state of the prison is what conditions the behaviour of the prisoners to a large extent. And when you look at what was done between 2010 to 2015, you can understand that a lot of money was spent between that period, but what happened to the physical infrastructure of the prisons, what happened to the human resource element of the prisons, little or no work was really done in those two areas, which are crucial, are key to the issues that Sen. Hosein raised.

Madam President, just by example, in 2011 the so-called time when we had

the SOE, the then administration looked at a place called the Eastern Correction Rehabilitation Centre, ECRC for short. That was outfitted at a cost of \$55 million. Outfitted alone at \$55 million. The cost to purchase that between 2011 and 2014—it actually went over the 2015, \$237 million. I was in that facility as recent as two weeks ago, when I made a visit. The facility is in a state of disrepair. Imagine \$237 million for really a shed, a warehouse. But when you look at the condition there, the roof is falling apart, the place was just—I do not know where that money went to. But, again, the environment is what shaped the behaviours of the prisoners. And when you spend \$237 million, and if you add the \$237 million to the \$55 million, total \$293 million spend on a facility, what did the prisoners get for that? What did the prison officers get for that? A facility that is still in need, wanting, that this Government now has to look at in terms of repairing and refurbishing.

So, when Sen. Hosein comes and talks about the failure of the Government, he has to first examine the facts. It is almost as though, in the military we say, you estimate the situation where you start with conclusion and then you look at the facts. You must examine the facts properly, and then you would understand that the whole question of the prison system is based on this Government looking at issues that are germane. Not only the safety of prison officers, but also the infrastructure development.

This Government has just recently—Cabinet has just approved \$53.6 million, to do what? To look at the remand facilities. Because we understand the prison system. Right now we have approximately 2,444 remandees, and 1,508 convicted. The biggest issue we have right now is in the remand prison system, the conditions there. That remand centre was in fact and old air force barracks from

World War II that was converted into a prison. I know you might be too young to know that, but it was in fact the home for the air force, the World War II air force pilots from the US were based in Wallerfield. That was the accommodation that was converted into a prison, and it is still so today. This Government has passed \$53.6 million. And why? Because the conditions in the remand prison right now is one in which it is so cramped, as I said, there are more convicted—there are more remandees than convicted prisoners right now. It is so cramped, I do not know if you ever visited that. I would invite you so to do at some stage, and you would understand that we have recognized that, and therefore we are spending that money to ensure that we change the environment, which we hope will change the mind at the end of the day of those people in remand in prison.

We have also looked at areas of the human resources. In fact, there have been several moneys spent in boosting the human resource of the prison system. As recent as last year there were advertisements placed in several newspapers for prison officers and drivers, et cetera. The response was so much that they had to actually do some eliminations. December last year we passed about 254 recruits, both males and females to boost the human resource element, because there is a requirement to look at that, in terms of the whole structure of the prison system, and it touches on a point that he raised, the whole question of discipline and structure. We are looking right now, and seeing whether or not we can look at the system that exists in the Trinidad and Tobago Police Service in terms of the Police Service Commission, or the defence force, Defence Force Commission Board, in removing the prison service from the Public Service Association. You understand what is happening there? Under the Public Service Association, the whole question of discipline, the whole question of accountability takes a very long time

to take place. So, therefore, if we were to put a Prison Service Commission to deal with the prison service you would get a different kind of management system, which is required in terms of that structure. And so we are looking at that right now in terms of looking at the structure of the Prison Service Association.

There have been a number of issues pertinent to what you mentioned in terms of prison officers being killed in the line of duty, and I want to congratulate this Government, because in 2011, the previous administration did in fact speak about compensation for officers in the protective services killed in the line of duty. 2011 they did it, 2012 nothing happened, 2013 nothing happened, 2014 nothing happened. It is this Government who took that policy, shaped it and implement it, to the effect that right now that has been manifested in payment to those families of those who have been killed in the line of duty. Prison officers and police officers have been paid thus far. So that is in terms of the security. Not only that, but we have also combined what we call an inter-ministerial approach to look at the safety of officers and their families through the Office of the Attorney General, Minister of Housing and Urban Development, and also the Ministry of National Security.

We have in fact looked at the security of officers, and we have looked at relocating officers who have been threatened, through the Ministry of Housing and Urban Development. We have also through an inter-agency approach provided security for those officers who have been threatened by security of their homes and so on, and their families, and we continue to do so. Because we understand, and I want to commend the members of the prison service, and in fact other officers of national security, for the job that they are doing in terms of, for this country, sacrificing limb and family life for the duties that they are doing. Because it is not an easy task to be a prison officer, you know. The people that they deal with on a

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day-to-day basis are not the ones that you may want to deal with on a day-to-day basis. So, you have to understand the kind of environment in which they operate. And we recognize that, and it is based on that recognition the Government feels that it is duty bound to ensure that they are provided with what is required to do their job effectively and efficiently.

We will continue to ensure that they have the necessary tools and equipment, the jammers, and they are in fact working, and we will continue to update them. Because, listen to me, technology is one thing, and therefore we have to ensure that what was placed there, we continue to update it, because criminal elements would always try to beat whatever you put in place. They would always. And you have to try to be one step ahead of them at all times. So you put a certain kind of technology, there is always something to counter that. And so we are doing that right now, upgrading the kind of technology to counter the evolving technology that is available to everybody, we continue to do so. We continue to use CCTV cameras and so on, we continue to ensure that the court system, through the Office of the Attorney General, who works together with the Ministry of National Security, we have the video conferencing centre that is on stream, almost. Right now about 90 per cent completed—

Madam President: Minister, your time is up. [*Desk thumping*]

Hon. Maj. Gen. E. Dillon: Thank you very much. [*Desk thumping*]

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 7.58 p.m.