

SENATE

Tuesday, February 07, 2017

The Senate met at 1.30 p.m.

PRAYERS

[MADAM PRESIDENT *in the Chair*]



LEAVE OF ABSENCE

Madam President: Hon Senators, I have granted leave of absence to Sen. Dr. Dhanayshar Mahabir who is out of the country; Sen. H. R. Ian Roach and Sen. Melissa Ramkissoon, who are both ill.

SENATORS' APPOINTMENT

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

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

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

TO: MR. NIKOLI EDWARDS

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

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, NIKOLI EDWARDS, to be temporarily a member of the Senate with effect from 7th February, 2017 and continuing during the absence from Trinidad and Tobago of the said Senator Dhanayshar Mahabir.

Given under my Hand and the Seal of the
President of the Republic of Trinidad
and Tobago at the Office of the
President, St. Ann's, this 3rd day of
February, 2017."

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND
TOBAGO

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

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

President.

TO: MR. ALBERT WILLIAM BENEDICT SYDNEY

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

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

by section 44(1)(b) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, ALBERT WILLIAMS BENEDICT SYDNEY, to be temporarily a member of the Senate with effect from 7th February, 2017 and continuing during the absence of Senator Hugh Russell Ian Roach by reason of his illness.

Given under my Hand and the Seal of the
President of the Republic of Trinidad
and Tobago at the Office of the
President, St. Ann's, this 6th day of
February, 2017."

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND
TOBAGO

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

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

TO: PASTOR CLIVE DOTTIN

WHEREAS Senator Melissa Ramkissoon is incapable of performing her duties as a Senator by reason of her illness:

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(b) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, PASTOR CLIVE

DOTTIN, to be temporarily a member of the Senate with effect from 7th February, 2017 and continuing during the absence of Senator Melissa Ramkissoon by reason of her illness.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 7th day of February, 2017."

OATH OF ALLEGIANCE

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

Nikoli Edwards, Albert William Benedict Sydney and Pastor Clive Dottin.

JOINT SELECT COMMITTEES (APPOINTMENT OF)

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

"February 07, 2017

Dear President of the Senate,

Establishment of Joint Select Committees

At a sitting held on Friday February 03, 2017 the House of Representatives agreed to the following resolutions:

1) 'Resolved:

That in accordance with Standing Order 68(1), the Gambling (Gaming and Betting) Control Bill, 2016 be referred to a Joint Select Committee; and

That this Committee be required to report by Friday March 17, 2017.'

2) 'Resolved:

That, subject to the concurrence of the Senate on this matter, the following Members be appointed to serve on the Joint Select Committee on the Gambling (Gaming and Betting) Control Bill, 2016:

Mr. Colm Imbert, MP

Mr. Faris Al-Rawi, MP

Mr. Stuart Young, MP

Ms. Nicole Olivierre, MP

Mr. Ganga Singh, MP

Mr. Rudranath Indarsingh, MP'

3) 'Resolved:

That in accordance with Standing Order 68(1), the Insurance Bill, 2016 be referred to a Joint Select Committee; and

That this Committee be required to report by Friday March 17, 2017.'

4) 'Resolved:

That, subject to the concurrence of the Senate on this matter, the following Members be appointed to serve on the Joint Select Committee on the Insurance Bill, 2016:

Mr. Colm Imbert, MP

Mr. Faris Al-Rawi, MP

Mr. Fitzgerald Hinds, MP

Ms. Marlene Mc Donald, MP

Mr. David Lee, MP

Dr. Surujrattan Rambachan, MP'

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

Respectfully

Bridgid Mary Annisette-George
Speaker”

PAPERS LAID

1. Ministerial Response of the Ministry of Trade and Industry to the First Report of the Public Administration and Appropriations Committee on an Examination into the Current Expenditure of Ministries and Departments under three (3) Sub-Heads: Current Transfers and Subsidies, Development Programme – Consolidated Fund and Infrastructure Development Fund. [*The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon)*]
2. Ministerial Response of the Ministry of the Attorney General and Legal Affairs to the First Report of the Public Administration and Appropriations Committee on an Examination into the Current Expenditure of Ministries and Departments under three (3) Sub-Heads: Current Transfers and Subsidies, Development Programme – Consolidated Fund and Infrastructure Development Fund. [*Sen. The Hon. P. Gopee-Scoon*]
3. Ministerial Response to the First Report of the Joint Select Committee on Finance and Legal Affairs on an Inquiry into Criminal Case Flow Management in the Judicial System. [*Sen. The Hon. P. Gopee-Scoon*]
4. Delegation Report on the Global Summit of Women Speakers of Parliament held in Abu Dhabi, United Arab Emirates from December 12 to 13, 2016. [*Sen. Khadijah Ameen*]
5. Delegation Report on the 62nd Commonwealth Parliamentary Conference held in London, United Kingdom from December 11 to 17 2016. [*Sen. K. Ameen*]
6. Annual Audited Financial Statements of the National Information and Communication Technology Company Limited for the financial year ended

September 30, 2016. [*The Minister of Finance and the Acting Minister of Energy and Energy Industries (Hon. Colm Imbert)*]

7. Annual Audited Financial Statements of the Government Human Resource Services Company Limited for the year ended September 30, 2016. [*Hon. C. Imbert*]

**JOINT SELECT COMMITTEE REPORT
(Presentation)**

Tax Information Exchange Agreements Bill, 2016

Sen. W. Michael Coppin: Madam President, I beg to present the following report:

Report of the Joint Select Committee appointed to consider and report on the Tax Information Exchange Agreements Bill, 2016.

URGENT QUESTIONS

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon): Madam President, I crave your indulgence. The question to the Prime Minister, may I ask that be taken later in today's proceedings? We are in a position to answer those questions posed to the Minister of Education and to the Minister of Tourism.

Madam President: Hon. Senators, I will defer the answering of the question to the Prime Minister for later in these proceedings.

**Lockout at School for the Blind, Santa Cruz
(Measures Taken to Address)**

Sen. Wade Mark: Thank you, Madam President. To the Minister of Education. Having regard to the recent lockout of students and teachers at the School for the Blind in Santa Cruz, can the Minister inform this Senate of what urgent measures are being taken to address the problems at the school?

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon): Thank you, Madam President. The issues are that the Blind Welfare Association is

requesting similar facilities which are provided to denominational boards of management with respect to matters relating to recruitment, selection, promotion and discipline of school personnel, and the activities at the school during working hours. The Ministry has indicated to the Association that matters relating to recruitment, selection, promotion and discipline of school personnel fall under the jurisdiction of the Teaching Service Commission.

The day-to-day operation of the school falls under the jurisdiction of the Ministry of Education and, by extension, the principal of the school. The Ministry has prepared a draft memorandum of understanding between the Ministry of Education and the Blind Welfare Association, which will guide the operations and management of the school for the blind including the roles and responsibilities of the respective parties.

In the interim, the Ministry of Education is exploring the possibility of securing alternative accommodation and spaces for teachers and students of the school. The Ministry will also continue in dialogue with the Association towards speedy resolution of this matter.

Sen. Mark: Madam President, could the hon. Leader of Government Business and Minister of Trade and Industry indicate in light of the lockout and the inability of students and teachers to attend to the classes there, could the hon. Minister indicate to this Senate when will school be reopened? School is now on lockdown?

Sen. The Hon. P. Gopee-Scoon: What I can say to you, that the Ministry of Education is in communication and they are working towards a speedy resolution of this matter and, of course, a resumption of school. They are in dialogue with the Association at this time.

Sen. Mark: Madam President, through you and with your permission, could the hon. Minister indicate, having regard to all that has transacted, when can we

Sen. The Hon. P. Gopee-Scoon (cont'd)

anticipate or expect a speedy resolution to this matter affecting teachers and students at the School for the Blind?

Sen. The Hon. P. Gopee-Scoon: As I indicated, the Ministry of Education views this as an urgent matter and they are in fact acting with expediency to ensure that a speedy resolution is secured.

**Upgrade Works at Maracas Beach
(Completion of Project)**

Sen. Wade Mark: To the hon. Minister of Tourism. Given the incomplete upgrade works at Maracas Beach, can the Minister inform the Senate of what urgent steps are being taken to ensure the completion of this project before Carnival 2017?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Thank you, Madam President. Madam President, just to give a little background on the Maracas project, this project started sometime in July 2015 at a cost in excess of 100-odd million dollars. This was supposed to be a 26-week project, and by January 2016 over \$25 million was disbursed and the project was just about 10 per cent completed. That project has since been stopped because of reasons that the contractor, unforeseen circumstances in the tender, and the Ministry of Tourism, through NIDCO and the Ministry of Works and Transport, have since re-scoped the work so that we could have this project completed within the next five months.

However, Madam President, this project cannot be completed before Carnival, and steps have been taken to ensure that the visitors to the beach facility are not faced with any discomfort that happened a couple weeks ago when we had a downpour of rain. What the Ministry did is to clean the outfall drains, we installed a pump, and we have a team there to ensure that the facilities are kept up to a certain standard so that we do not run into any problem with the visitors that will be visiting the facilities over the Carnival season. Thank you.

Sen. Mark: Madam President, could the hon. Minister indicate to us the name of the contractor involved in this debacle that you have outlined for this honourable Senate?

Sen. The Hon. R. Sinanan: Madam President, when the Government came in 2015 there was a contractor by the name of Kallco on the site. That contractor and the contract has since been terminated and Nidco is in the process right now of evaluating new bids to award a new contractor on site, based on evaluation of the tenders. Thank you.

Sen. Mark: Madam President, given the reckless—well, I should withdraw that word. Given the nature of the transaction involving Kallco, does the Government intend to pursue any legal action against that contractor for the debacle that has taken place at that project, or on that project?

Sen. The Hon. R. Sinanan: Madam President, coming into Government after 2015, the new Government found itself dealing with a lot of contracts that have to be referred to the legal team, and I am sure that contract is one of them that is engaging the attention of the Attorney General and his department at this time. Thank you.

Madam President: Sen. Mark, I understand that the Minister is in a position to answer question No. 2. So can you pose question No. 2?

**Increase of Reported Child Abuse Cases
(Support for Children's Authority)**

Sen. Wade Mark: Thank you, Madam President. Can the Minister—that is the Prime Minister—inform the Senate of what urgent support is being provided to the Children's Authority to address the recent increase in the number of reported child abuse cases?

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon): Thank you. The Children's Authority, its response and approach to reports of child

abuse is by designed comprehensive and collaborative, whereby each unit within the organization executes a specialized function which administers a defined role in treating with child abuse cases. The units within the Authority that are dedicated to treat with child abuse cases include the Registry Unit, the Emergency Response Team, the Investigation Unit, the Assessment Unit, the Child and Family Services Unit and the Legal Unit.

All reports of child abuse are received by the Registry Unit which logs and categorizes all reports of children in need of care and protection reported to the Authority. All child abuse reports when received are analysed using an established risk assessment matrix to determine the level of risk of the case and the possible risk to the child. All cases which present the child to be in imminent danger are immediately flagged and brought to the attention of the Emergency Response Team which operates on a 24-hour shift system to ensure immediately intervention, and if required the removal of a child from any crisis situation in real time.

Another critical aspect of the Authority's approach to reports of child abuse is that of investigation. The objective of the Investigation Unit is to either substantiate or refute the allegations of child abuse reported. The investigative process includes multiple visits to the child's home, school—*[Interruption]*

Madam President: Minister, your time is up. The two minutes.

Sen. The Hon. P. Gopee-Scoon: Sorry.

Sen. Mark: Madam President, could the hon. Minister indicate, in light of reports that the Children's Authority is severely under resourced, whether steps have been taken by the administration to provide the Children's Authority with the necessary resources so it can carry out its function as outlined by your good self?

Sen. The Hon. P. Gopee-Scoon: Thank you very much. And it is that the

Minister, who has responsibility over these matters, has held discussions with the Children's Authority very recently with a view to just that, determining the status of some of the services which are offered by the Authority.

The meeting with the Authority also discussed the question of a revised structure and all the human resource requirements as well. It was agreed that the Authority will make a revised submission prioritizing the positions to be filled with some immediacy. The Authority was also requested to document and submit its financial needs based on this priority for early consideration by the Cabinet.

Madam President: Sen. Ameen—hon. Senators, the time for urgent questions has expired.

ANSWERS TO QUESTIONS

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon): Madam President, the Government is in a position to answer questions 23 and 24. We are asking, however, for a deferral of questions 22 and 46 for two weeks, and may I say as well that question 45, which is the written question on the Order Paper, will be in circulation during the course of today's sitting.

WRITTEN ANSWER TO QUESTION

Contracts Awarded on the Brian Lara Stadium (Details of)

45. Sen. Wade Mark asked the hon. Minister of Housing and Urban Development:

Can the Minister provide the Senate with the following:

- (a) the total number of companies/contractors and the names of said companies/contractors who were awarded contracts for work on the Brian Lara Stadium during the period September 2015 to August 2016;

- (b) the amount of each of the contracts awarded and the process by which each was awarded;
- (c) whether there have been any cost overruns relating to this project, and if so by how much; and
- (d) when are refurbishment works expected to be completed?

Vide end of sitting for written answer.

ORAL ANSWERS TO QUESTIONS

The following questions stood on the Order Paper:

Ultra-Low Sulphur Diesel Plant at Petrotrin (Details of)

- 22.** Could the hon. Minister of Energy and Energy Industries inform the Senate of the following:
- (a) The name of the company that has been retained by Petrotrin to be project manager of the Ultra-Low Sulphur Diesel Plant?
 - (b) The date that company was retained?
 - (c) The process by which the company was procured?
 - (d) The value of the contract awarded to the company? [*Sen. Wade Mark*]

Carnival Events at the Hasely Crawford Stadium (Details of)

- 46.** With respect to the hosting of Carnival events at the Hasely Crawford Stadium for the years 2013—2016:
- (a) What has been the average annual cost incurred to remedy damage done to the stadium after the hosting of such events;
 - (b) What was the total annual income received for the years 2013-2016 for hosting these events at the stadium;
 - (c) What is the total amount received for each year as by way of caution money deposits? [*Sen. H.R. Ian Roach*]

Questions, by leave, deferred

**National Gas Company
(Natural Gas Purchased from BGTT)**

23. Sen. Wade Mark asked the hon. Minister of Energy and Energy Industries:
What is the average daily volume of natural gas purchased by the National Gas Company of Trinidad and Tobago from BGTT for the period April 01, 2016 to October 31, 2016?

The Minister of Finance and Acting Minister of Energy and Energy Industries (Hon. Colm Imbert): Thank you, Madam President. The average daily volume of natural gas purchased by the National Gas Company of Trinidad and Tobago from BGTT, now Shell, for the period April 01, 2016 to October 31, 2016 is 140 million standard cubic feet per day.

Sen. Mark: Madam President, could the hon. Minister indicate to this honourable Senate what is the established amount of natural gas that is sold by BGTT to the National Gas Company? Could he indicate what is the normal average that is sold by BGTT, which is now owned by Shell, on an average level or basis?

Madam President: Sen. Mark, that will not be allowed. I am not seeing that as arising from this question and the answer given.

Sen. Mark: Well, could the hon. Minister indicate to this Senate whether the 140—is it million standard cubic feet?—of gas, is that the normal average that is sold by BGTT to the National Gas Company in Trinidad and Tobago?

Hon. C. Imbert: Madam President, it is almost impossible to answer that question since BGTT has been supplying gas to NGC for many, many, many years. So there is no such thing as a normal average. So I am afraid I cannot assist the Senator, but if you frame the question in a more specific manner I will see what I can do to answer.

Sen. Mark: Madam President, is the Minister aware that the natural gas supply by

BGTT to the National Gas Company averages about 220 million standard cubic feet of gas; and can he explain to this Senate in those circumstances why it is that BGTT is only supplying to the NGC 140 million standard cubic feet of gas as was identified by the hon. Minister?

2.00 p.m.

Hon. C. Imbert: Madam President, as I indicated to the hon. Senator just a few minutes ago, there is no such thing as a normal average when you are looking at a period of time. And I would inform the hon. Senator, which I thought he was aware of, that BG had two gas supply contracts to NGC going back for many, many years. One was for 250 million standard cubic feet per day and the other was for 220 million standard cubic feet per day. If you add those two together, you would get about 470 million standard cubic feet per day in terms of contracts that were long term, entered into many, many years ago. But there is no such thing as a national average, you have to be specific in terms of 2016, 2015 and so on. I have no difficulty in answering the question once you be more specific in terms of your time frame.

Sen. Mark: Well, Madam President, could the hon. Minister indicate whether the BGTT is being allowed by the Government of Trinidad and Tobago to supply natural gas at the level that hon. Minister has identified when that particular company, given the contractual obligations, ought to be supplying to the NGC, 220 million standard cubic feet of natural gas in accordance with the contract as identified by the hon. Minister?

Hon. C. Imbert: Madam President, I would be happy to answer all of these questions but the question that was asked was the average daily volume of gas for the period April 2016 to October 2016. So I have no difficulty whatsoever in answering all of these detailed questions that the hon. Senator is asking, but it

needs to be particularized, submitted in the normal manner and then I will answer them. I do not want to speak off the cuff, to ad-lib as it were and to give misleading information. So I undertake that as soon as the question comes, we will answer the question.

**Natural Gas Sold by BGTT
(Average Daily Volume)**

24. Sen. Wade Mark asked the hon. Minister of Energy and Energy Industries: What is the average daily volume of natural gas sold by BGTT to all customers in Trinidad and Tobago for the period April 01, 2016 to October 31, 2016?

The Minister of Finance and Acting Minister of Energy and Energy Industries (Hon. Colm Imbert): Thank you, Madam President. Answer to question 24, the average daily volume of natural gas sold by BGTT, now Shell, to all customers in Trinidad and Tobago for the period April 01, 2016 to October 31, 2016 was 698 million standard cubic feet.

Sen. Mark: Madam President, could the hon. Minister provide this Senate with a detailed or with an appreciation of the breakdown of the customers involved, Atlantic LNG for example, the National Gas Company as an example? Could you give us for instance how this 600 and above would have been by distributed by BGTT?

Hon. C. Imbert: Madam President, I do wish Sen. Mark had asked all these questions originally; I will try my best. My understanding is that BG, now Shell, produces natural gas from three areas: the north coast marine area, the east coast marine area and the central block. All the gas from the north coast marine area is supplied to the joint venture special purpose vehicle in Atlantic LNG under a dedicated netback marketing arrangement. BG supplies the NGC with a portion of

the natural gas from the east coast marine area and from the central block. Gas from these two areas is also supplied to Trinling, again, the joint venture special purpose vehicle in Atlantic LNG under a dedicated netback marketing arrangement.

Sen. Mark: Madam President, may I ask the hon. Minister whether he is aware that BGTT is undersupplying natural gas to the National Gas Company and is routing that extra gas to the Atlantic LNG?

Hon. C. Imbert: As I indicated, I do wish Sen. Mark had asked all these questions before but I will try my best. My understanding is that BG has been struggling to meet its contractual obligations to NGC due to declining production from the Dolphin Deep and Starfish fields in the east coast marine area and major setbacks it has had with further development of the Starfish field.

MOTOR VEHICLES AND ROAD TRAFFIC (AMDT.) BILL, 2017

Bill to amend the Motor Vehicles and Road Traffic Act, Chap. 48:50 to introduce a system of traffic violations for certain breaches of the Act, to provide for the implementation of a red-light camera system, a demerit points system and the reform of the fixed penalty system and related legal proceedings and other related matters [*The Attorney General*]; read the first time.

JOINT SELECT COMMITTEES (APPOINTMENT TO)

Insurance Bill, 2016

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon): Madam President, having regard to the correspondence from the Speaker of the House in relation to the establishment of a joint select committee to consider and report on the Insurance Bill, 2016, I beg to move that the Senate concur with the House of Representatives in the establishment of the committee and that the

JSC (Appointment to)
Sen. The Hon. P. Gopee-Scoon (cont'd)

2017.02.07

following six Senators be appointed to serve:

Mr. Clarence Rambharat

Mr. Daniel Dookie

Dr. Lester Henry

Mr. Wayne Sturge

Mr. Stephen Creese

Miss Jennifer Raffoul

Question put and agreed to.

Gambling (Gaming and Betting) Control Bill, 2016

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon):

Madam President, having regard to the correspondence from the Speaker of the House in relation to the establishment of a joint select committee to consider and report on the Gambling (Gaming and Betting) Control Bill, 2016, 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:

Mrs. Paula Gopee-Scoon

Mr. W. Michael Coppin

Mr. Foster Cummings

Mr. Wade Mark

Miss Melissa Ramkissoon

Mr. Paul Richards

Question put and agreed to.

RELATED MOTIONS

The Minister of Finance and Acting Minister of Energy and Energy Industries

(Hon. Colm Imbert): Thank you, Madam President. I beg to move Motion No. 1 standing in my name:

UNREVISED

Whereas it is provided by section 7 of the Customs Act, Chap. 78:01 (hereinafter called “the Act”) that the President may by Order increase or reduce any import or export duty of Customs or impose new import or export duties of Customs and from the date of publication of the Order in the *Trinidad and Tobago Gazette* and until the expiry of the Order the duties specified in the Order shall be payable in lieu of the duties payable prior thereto;

And whereas it is provided by section 7(2) of the Act that an Order issued under that section shall after four days and within twenty-one days from the date of its first publication be submitted to Parliament and Parliament may by resolution confirm, amend or revoke the Order and upon publication of the resolution of Parliament in the *Trinidad and Tobago Gazette*, the resolution shall have effect and the Order shall expire;

And whereas the Customs (Import Duty) (Caribbean Common Market) (Amendment) Order, 2016, was made under section 7 of the Customs Act and first published in the *Trinidad and Tobago Gazette* as Legal Notice No. 160 of 2016 on the 19th day of October, 2016;

And whereas it is expedient to confirm the Order:

Be it resolved that the Customs (Import Duty) (Caribbean Common Market) (Amendment) Order, 2016 be confirmed.

Madam President, in moving this Motion, I seek the leave of the Senate in accordance with Standing Order 48(1) to debate along with this matter Motions No. 2 and No. 3 on the Order Paper which relate to the same subject.

Assent indicated.

**CUSTOMS (IMPORT DUTY) (CARIBBEAN COMMON MARKET)
(AMDT.) ORDER, 2016**

Customs (Import Duty) (Caribbean
Common Market) (Amdt.)
Order, 2016 (cont'd)
Hon. C. Imbert (cont'd)

2017.02.07

The Minister of Finance and Acting Minister of Energy and Energy Industries (Hon. Colm Imbert): Thank you very much, Madam President. I wish to thank all Senators for agreeing to this, especially Sen. Mark, [*Laughter*] who has a tendency to keep us here until the wee hours of the morning sometimes. [*Laughter*]

Madam President, the matter before the House is the confirmation of a number of orders, legal notices, dealing with the import duty and excise duty on alcoholic beverages and tobacco products. In order to increase the import duties in respect of the common market for alcoholic beverages and tobacco products, an Order was published on October 19, 2016 in accordance with the Customs Act, Chap. 78:01. Orders were also published on the same date for the excise duties in respect of alcoholic beverages and tobacco products in accordance with the Excise (General Provisions) Act, Chap. 78:50.

The excise and customs duties imposed on alcoholic beverages and tobacco products, that I have just referred to, are payable from the date of publication of the Orders. As a consequence, the Orders for the excise and customs duties, which were published on October 19, 2016, allowed for the collection of these taxes and duties from October 20, 2016. In accordance with the Customs Act and Excise (General Provisions) Act, the Orders were submitted within the statutory time limit of between four and 21 days to the Parliament on November 03, 2016. In accordance with the various pieces of legislation that affect this matter, resolutions are now before the Senate to confirm the increase in duties and therefore complete the process required by law. The Orders have already been confirmed in the House. Once the resolutions are confirmed and published in the *Gazette*, the resolutions have shall have effect and the Orders will expire.

I want to make it clear, there is no four-month time limit on these resolutions. The four-month time limit is related to the time to put the legislation before the Parliament in respect of some other taxes, which has already been done.

With respect to these specific matters, duties were increased on alcoholic beverages and tobacco products by 20 per cent and 15 per cent respectively. Excise taxes were increased on the two products by similar percentages. It is expected that revenues in relation to both the customs duty and the excise duty would yield in the vicinity of an additional \$60 million. The increases in these duties and taxes were aimed not only at revenue generation but also at reducing the significant social and economic losses brought to individuals and society at large by the excessive consumption of alcohol and tobacco. Just by way of reference, in Trinidad and Tobago, it costs the Government approximately—and by reference, taxpayers—\$500,000 per year, half a million dollars a year to treat just one lung cancer patient.

Now, Madam President, alcohol and tobacco taxes are often referred to as inelastic taxes. Inelastic taxes are those taxes—and I will just read from a definition here: an inelastic tax is an economic term used to describe a situation in which the quantity demanded or supplied of a good or service is unaffected when the price of that good or service changes, and elasticity refers to the degree of responsiveness in supply or demand in relation to changes in price. If a tax is more elastic, then small changes in price will cause large changes in the quantity consumed. If a tax is inelastic, then it will take large changes in price to affect the change in quantity consumed.

I have some preliminary figures on the performance of alcohol and tobacco taxes since we introduced these measures. For the period October to December

2015, the actual collection of excise duty on rum and spirits, beer and cigarettes and so on, total excise duties for the particular period was—on beer, the duty collected between October and December 2015 was \$47 million. This is for the three-month period October to December 2015. For October to December 2016, \$47 million was collected between October and December 2015 on duty on beer. Between October to December 2016, \$54 million was collected notwithstanding the 20 per cent increase in excise duty and import duty.

So it does appear that the tax on beer is inelastic. In other words, the increase on the tax on beer has caused an increase in consumption. It does appear so or there is—let us put it the other way. It is better to put it the other way. There is no apparent decrease in the revenue collected much, much more so increase in revenue collection from \$47 million to \$55 million more or less, \$54.9 million, for the same period although the duty on beer was increased by 20 per cent.

Taking a look at cigarettes now, the excise duty collected on cigarettes between October and December 2015 was \$50.8 million while the excise duty collected on cigarettes between October and December 2016, same three-month period, was \$58 million, and this is notwithstanding a 15 per cent increase in tax on cigarettes. So the price of cigarettes went up, the tax went up by 15 per cent and instead of the revenue going down, the revenue went up, and this also happened with beer.

The one that did not increase—and it is too early to tell the real reason for this—is rum and spirits. The excise duties collected on rum and spirits over the period October to December 2015 was \$57 million, and over the period October to December 2016 was \$36 million. But based on my preliminary research, it seems

Customs (Import Duty) (Caribbean
Common Market) (Amdt.)
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that what retailers sought to do—because you will realize this was going into the Christmas period—was to exhaust their inventory so they sold their stocks that they would have brought in at the old rates, and you should begin to see an increase in the taxes collected on rum and spirits in the first quarter of this calendar year and the second quarter and so on, because rum and spirits have a long shelf life. This is what I have been told. [*Laughter*] This is not something that I can say that I have a lot of experience with [*Laughter*] but I have been told that rum and spirits, you can keep a bottle of rum and a bottle of scotch in your cupboard for 10 years and open it and it is still good.

Hon. Senator: Older the better.

Hon. C. Imbert: I would not know and, Madam President, I am being assisted here by Members of the Opposition Bench and Members of the Government Bench who seem to know that the older rum or scotch is, the better it tastes. But the fact is that there is a significant shelf life for these products so it is possible for importers to have large quantities of rum and whisky in stock which they would have sold over the Christmas period. Beer, on the other hand, does not have and that I have some familiarity with. Beer, on the other hand, does not have that kind of shelf life. You cannot keep a case of beer for 10 years, it would certainly spoil. And I am hearing six months and in some cases, you know, it may not even last that long, it depends on the bottle. And again, I have some knowledge of that, that if it is a transparent clear bottle, the shelf life is much shorter than if you use a darker bottle, a green bottle or a brown bottle. That is a fact. The ultraviolet, the infrared, the light affects the beer and causes the quality of the beer to deteriorate. So that is why you would see some beers are in dark bottles like Stag is in a dark green bottle

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and Carib is in a clear bottle.

And the reason why—and I discovered this years ago when I was in university, many, many years ago back in the '70s—is that in those days, Carib would sell out immediately but Stag would stay on the shelf. [*Laughter*] So that they could put the Carib in a clear bottle because it would be sold, within, you know, a week or two of being brought to the grocery or wherever you buy it. But the Stag, in those days, before they had this big advertising campaign that Stag is “Ah man’s beer” and so on, did not sell in the quantities that it did. Strangely enough, the same company acquired the Stag and now sells both beers so it does not really matter to them, you know, as far as I can see.

The bottom line is that it is clear that in the case of beer, because they had to manufacture new stocks—and I should explain the difference between excise duty and import duty. Import duty is the duty charged obviously on imported products, excise duty is the duty charged on locally manufactured alcohol. So that these figures I am giving are with respect to excise duty, locally manufactured and it is clear that because of the shelf life of local beer or beer generally, not just local, that that is why they had to start producing at the new rates and that is why we are seeing an increase on beer, but they obviously had large inventories of rum which they were able to sell at the old rates.

With respect to—let us look at tobacco tax for example. That is another tax on tobacco. For the period October to December 2015, the tobacco tax collected was \$4.6 million and for the period of October to December 2016, it was \$5.4 million. So again, you are seeing an increase in all of the taxes on tobacco in terms of collection of taxes and on some of the taxes with respect to alcohol and spirits.

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But as I indicated, I do expect that as time goes by, we are going to see a general increase which leads to some sort of validation of the belief that alcohol and tobacco taxes are inelastic.

So that because there is no substitute and that is where the whole concept of inelasticity comes in because there is no real substitute unless you are going to be engaged in some of kind of illegal activity.

Sen. Cumberbatch: “Bush rum.”

Hon. C. Imbert: Well, as I said, illegal activity, Sen. Cumberbatch. You really do not have—unless you are going to be taking some sort of narcotic as a substitute for alcohol and you are going to be smoking a plant-like substance as a substitute for tobacco, [*Interruption*] and it is illegal. So consumers do not have much choice in terms of what is the alternative to alcohol and tobacco and that, again, makes the good inelastic. When you have choice, then you will move away from the more expensive product.

And in fact, just by way of reference, I have seen that with the changes in taxes on motor vehicles where we also did some adjustment to taxes on motor vehicles and whereas in the previous year, in 2015, and so on, there was a very small number of hybrid vehicles coming in. I do not have the precise number on me. By the time I do my winding-up, I will have it but I know from memory, it was a small number, less than 20.

From October 2016 to January 2017, immediately after the—all of the taxes were removed from hybrid vehicles because prior to that, some of the taxes were removed, not all, but in that period, we removed all of them, a total of 453 hybrid vehicles came into the country between October 2016 and January 2017, when the

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previous year, for the entire year, maybe 15 or 20 had come in, because it was not an option and that is the point I am making about elasticity. It was not a good option for someone to buy a hybrid vehicle because it is more expensive.

So if you take two comparable vehicles, take a regular Ford Fusion car and then you take a Toyota Prius, the Prius or comparable vehicle was more expensive than the regular combustion engine vehicle. But with all the taxes off, a hybrid vehicle is now cheaper or on par with a comparable combustion engine vehicle so people have a choice. So they decide now to move away from the combustion engine and buy the hybrid vehicle. So that is where you have elasticity of demand and supply, you have options. But with respect to alcohol and tobacco, you really do not have any other options if this is what you want to do. If you want to smoke and you want to drink, you do not have many options unless you get involved in some sort of illegal activity.

Now, there have been many studies on the impact of price increases with respect to alcohol in particular and I am reading from a paper done by a gentleman by the name of David Roodman, the Open Philanthropy Project in July 2015, the impacts of alcohol taxes, and he has made this point that—it is interesting the point he made, that the studies are contradictory. He said there are:

“Many studies...”—that have—“examine the impacts of changes in alcohol taxes or prices. Nelson (2013...”

And then he says:

“The literature is so big...it contains a sub-literature of...reviews...Wagenaar, Salois...Komro...Tobler...”

These are all researchers into this matter, the impact of changes in alcohol taxes or

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prices on consumption and he says:

“Superficially, the high-quality studies contradict each other. Alcohol tax *cuts*...did not increase problem drinking in Denmark or Hong Kong...but did”—so—“in Finland and Switzerland.”

So when they reduced the price of alcohol, they reduced the taxes on alcohol, in Denmark and Hong Kong, people still, you know, continued to drink but when you did it in Finland and Switzerland, there was a positive effect.

But he does come to the conclusion that as you continue to increase taxes on alcohol that eventually, you will reach a point where it will start to inhibit the consumption of alcohol. From our information, we have not yet reached that point. From just on the face of it, we have not yet reached the point where the price of alcohol and the price of tobacco is at a point where it inhibits demand, or it inhibits revenue collection is a better way to put it, because we are getting increasing revenue collection from increased prices on alcohol and tobacco. [*Interruption*] I am not going to say that at all. Not falling into that trap again. [*Laughter*]

Hon. Senator: Zero, zero, zero.

Hon. C. Imbert: Um-um, um-um, not catching me with that again, I have learnt my lesson. [*Laughter*]

So that we had a policy decision, twofold, to try to reduce the consumption of tobacco and alcohol and also to try and get some additional revenue, and we are getting additional revenue but it is too early to tell whether we are seeing a reduction in consumption because you have to look at it in absolute terms because remember, the tax level has gone up. The actual consumption may be going down. When you take the multiplier, you multiply the consumption against the tax level,

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you are getting more—you are collecting more revenue but when you dig deep into the figures, you may find consumption is either flat or it might be going down slightly by a couple per cent, and the 20 per cent increase is compensating and creating the increased revenue.

2.30 p.m.

So, I do not think I would be able to give a clinical analysis of this matter until the budget later on in this year, when we have a 12-month examination of exactly what has occurred, in terms of consumption versus increased taxation.

Madam President, I hate to say these are very simple and straightforward Motions. But they are, so with those few words, I beg to move. [*Desk thumping*]

Question proposed.

Madam President: May I also remind Members that leave has been granted to speak on Motions Nos. 2 and 3.

Sen. Wade Mark: Thank you very much. Madam President, I rise to deal with these Motions, which we initially wanted to deal with separately. But we felt that good sense should prevail and we would be able to deal with them conjointly.

I want to tell you, Madam President, that the framework that we are going to establish for this debate is the following: we want to look at the legal aspects of this legislation. We want to look at the parliamentary law and practice, as it relates to these Motions. We want to also examine the economics as well as social policy context of the Motions before this honourable Senate. My colleagues will deal with several of the areas that I have mentioned. I will deal with things in a broad perspective. But I want to start off with the Constitution of the Republic of T&T, and I want to go to section 75(1) of the Constitution. It reads:

“There shall be a Cabinet for Trinidad and Tobago which...shall have the general direction and control of the government of Trinidad and Tobago and shall be collectively responsible therefore to Parliament.”

The Government is accountable, the Executive is accountable to the Parliament.

I go to section 53 of the Constitution. It reads:

“Parliament may make laws for the peace, order and good government of Trinidad and Tobago...”

And the final area I want to share with you, Madam President, is section 39 of the Constitution, which defines what the Parliament is. It reads that:

“There shall be a Parliament of Trinidad and Tobago which shall consist of the President,”—of the Republic, that is—“the Senate and the House of Representatives.”

Madam President, I raise this very early to let you know that today marks 91 days, 91 days, since this matter was supposed to be brought to this Senate and to be confirmed, rescinded or rejected or amended.

Madam President, I just want to let you know that when we came here on Tuesday, November 15, 2016, at 1.30 p.m. in the afternoon period we were advised by the then Leader of Government Business—I wish him a speedy recovery at this time, the hon. Franklin Khan—that there was no need for us to meet and discuss Finance Bill No. 3, nor these three Motions and he is on record as telling us there was an opinion given by the Treasury Solicitor, which he would have made a copy available to the Parliament, since then, eh. He gave that commitment on November 15th, Madam President.

Ninety-one days later, we are yet to receive that legal opinion that was

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promised by the then Government leader, the hon. Franklin Khan. Do you know what we had to do, Madam President? We had to get this copy through innovative means. Madam President, so we have a copy of the opinion that was denied this Parliament, to demonstrate the disrespect, the contempt, the contumely that they treat this Parliament and this Senate. [*Desk thumping*] We have our hon. friend, the Minister of Finance, coming here today to tell us it is a simple matter. It is a simple matter.

Sen. Dr. Henry: Contumely?

Sen. W. Mark: Contumely, C-O-N-T-U-M-E-L-Y. [*Desk thumping, crosstalk and laughter*] So, Madam President, I want to make it very clear. I want to make it very clear. I want to make it very clear that this is not a simple matter. It is not a simple matter. We are not prepared on this side of the Bench and this side of the Senate to engage in illegality and unlawful conduct and behaviour. We will not be party to that. [*Desk thumping*]

Madam President, I read the definition of the Parliament for you and for this honourable Senate so we can all understand when we get into the subject matter, properly speaking, what we are dealing with. So here it is, Motion No. 1 dealing with what is called the common market origin. That is where it is being asked of the Senate:

“Be it resolved that the Customs (Import Duty) (Caribbean Common Market) (Amendment) Order, 2016 be confirmed.”

But Madam President, before that, it makes it very clear, and I want to read:

“Whereas it is provided in section 7 of the Customs Act, Chap. 78:01... the President may by Order increase or reduce any import or export duty of

Customs or impose new import or export duties of Customs and from the date of publication of the Order in the *Trinidad and Tobago Gazette* and until the expiry of the Order the duties specified in the Order shall be payable in lieu of the duties payable prior thereto.”

It goes on:

“*And whereas* it is provided in section 7(2) of the Act that an Order issued under that section shall after four days and within twenty-one days...”

May I repeat? The Customs Act that is being amended to give effect to this Order says, Madam President, that this Order that is issued after:

“four days and within twenty-one days from the date of its first publication be submitted to the Parliament...”

—be submitted to the Parliament.

The Parliament is made up of the President, the Senate and the House of Representatives—and,

“...may by resolution confirm, amend or revoke the Order and upon publication of the resolution of Parliament in the *Trinidad and Tobago Gazette*, the resolution shall have effect and the Order shall expire;”

And Madam President, it goes on.

Madam President, what we have here is a travesty of justice and an attempt, surreptitious attempt, by the Government of the Republic of Trinidad and Tobago to undermine the Parliament of this country by treating this Parliament with contempt, by imposing duties on tobacco products and alcoholic beverages, by imposing customs duties on the importation of tobacco products and alcoholic beverages from within Caricom and extra-regionally, without the approval and

support of the Parliament, which is the both Houses of Parliament. That is what is at stake here.

So the Government came here, Madam President, on the 15th of November, which was 23 days after the 21-day deadline and they told us, Madam President, that they got this; this opinion, which we got through innovative means from a lady called Carla Carter, the Treasury Solicitor. And Carla Carter, poor public officer, misled the Minister, misguided the Minister and the Minister misguided himself.

So we have an opinion which we got through innovative means, and do you know what they told the Minister? And he said something very curiously earlier. He said the four-month period does not apply to these matters. Well if the four-month period does not apply, why did you come now? The Treasury Solicitor says you have four months to give effect to these measures and do you know when it expires? On the 19th of February. So you come today, the 7th, before the 19th, in order to pass this.

But, Madam President, I want to ask the hon. Minister, who did not say—I want to ask him—on page 3 of this opinion given by the Treasury Solicitor, hear what is said, and I want to quote, Madam President. It says:

It also does not appear from a reading of the Standing Orders for either the House or the Senate that the Parliament give itself time by which the resolutions are to be confirmed and hence published. The latter view, however, is subject to that provided by the relevant officers of the Parliament who should be consulted on this point.

Madam President, I want to ask the hon. Minister of Finance, since the Treasury Solicitor advised him that the Treasury Solicitor herself was not clear on

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the matter, and the Treasury Solicitor advised the Minister of Finance to consult with the officers of the Parliament, Madam President, to make sure that she is right on this matter. Could I ask the Minister of Finance when he is winding-up, or maybe if he wants to tell us now, I will take my seat, to ask the Minister of Finance whether he consulted the officers of the Parliament on this matter. I will take my seat temporarily to give the Minister an opportunity to indicate to us whether he consulted with the officers of the Parliament. [*Sen. Mark sits*] He has not risen up.

Hon. Imbert: Risen up?

Sen. W. Mark: He has not risen so I have to assume he did not consult with the officers of the Parliament. That is what I have to assume, Madam President.

Madam President, if the hon. Minister did not consult with the officers of the Parliament, how did the Minister come to the conclusion that he can come 91 days later to give approval to a measure that—

Madam President, may I go to the Customs Act, which is governing one of these Motions here? Let me go to section 7 of this Act, to let you understand what we are dealing with. This matter that we are dealing with is an illegality. [*Desk thumping*] It is unlawful and we will not be engaged in passing any measure that is unlawful and illegal. We will not be party to that. Madam President, let me ask you to join me in going to section 7(2) of the Customs Act, 78:01. It reads:

“An Order issued by the President under section 7 shall after four days and within twenty-one days from the date of first publication be submitted to Parliament, and Parliament may by resolution, confirm, amend or revoke such Order and upon publication of the resolution of Parliament in the *Gazette*, the resolution shall have effect and the Order shall then expire. If

the Order is not submitted within the said period of twenty-one days to Parliament for confirmation it shall ipso facto expire.”

It went on further to say, Madam President, that:

“So much of the duties as shall have been paid under an Order made under subsection (1) as may be in excess of the duties payable immediately after the expiry of the Order shall be repaid to the persons who paid the same.”

What the law is saying, and I believe there is where the Treasury Solicitor may have misguided herself.

You know, Parliament is serious business. Many people do not understand parliamentary law and parliamentary practice. The practice in this Parliament for the last 50 years, and I did the research, in 2009, when the hon. Minister was a Member of the Patrick Manning Government and Cabinet, they introduced similar measures. They increased excise duties on tobacco products, on alcoholic beverages, both within Trinidad and Tobago excise duties, and imported from Caricom customs duties and extra-regionally. Madam President, they followed the law. Within 21 days, the measures were debated and passed in both Houses of Parliament. The records are there to show that under a PNM Government, with the Minister of Finance being a Member of the Cabinet, he sat and he knew of this practice and decision of the Parliament. Yet still, the Minister, in 2016, went to the Treasury Solicitor.

“Ah want to read dis thing eh”, Madam President:

Reference is made to the subject and your request—

I want to repeat. The Treasury Solicitor did not volunteer an opinion. It was the Minister of Finance, according to the Treasury Solicitor, who went to the Treasury

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Solicitor, according to this opinion, and sought a legal opinion, and this is the legal opinion which I am prepared to circulate, Madam President.

Madam President: Sen. Mark, you are allowed to read from documents, but you seem to be brandishing this, whatever it is you have in your hand and it is therefore becoming a visual aid and you needed to get my approval to be brandishing any visual aid. So you can refer to the document but could you desist from brandishing as you are.

Sen. W. Mark: Well, I shall not brandish this document. I shall keep it at low levels—*[Interruption]*

Madam President: Thank you very much.

Sen. W. Mark:—so it will not be interpreted as brandishing. But Madam President, what I would like to say is that this document that I have before me is what was promised to us by the Minister of Energy and Energy Industries and we are yet to see it.

So, Madam President, I explained that in 2009, under the Patrick Manning administration, when Karen Nunez-Tesheira was the Minister of Finance and Mariano Browne was the Minister in the Ministry of Finance, I was a Member of the Senate at that time and within 21 days, Madam President, the matter was brought to this Senate and it was approved within the legal framework.

So, Madam President, how can we, after 55 years of independence, which is this year, and after 54 years as a sovereign democratic state and having increased alcoholic and tobacco products on several occasions, how come, for the first time we are being told in 2016 that we do not have to follow the Customs Act and bring the resolution to this Parliament for approval within 21 days as stated in the law of

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Trinidad and Tobago?

Madam President, may I remind you again that under Motion No.1:

“Whereas it is provided by section 7 of the Customs Act...”

We are dealing with the Customs Act, Madam President, and the Customs Act is very clear. You must be get approval within 21 days. We are now 91 days. So are we to go to court and is the Government going to refund Caricom products and owners and all persons in Trinidad and Tobago who bought alcoholic products and when the Government, and so on, was not supposed to be doing unless they came to the Parliament within 21 days and get approval, Madam President?

Madam President, we are very, very disappointed in our hon. Minister of Finance because the hon. Minister of Finance is a person who understands parliamentary practice. He understands parliamentary traditions. He understands parliamentary convention. May I advise, parliamentary practice is almost equivalent to statute law. It is almost equivalent to statute law, and when we have a practice in this Parliament, as we have had for the last 54 years, you do not monkey around, Madam President. I should not say “monkey around”. You do not engage in flippant actions, when it comes to parliamentary practice.

Madam President, why did the Minister of Finance not consult the officers of the Parliament? We have the Clerk of the House of Representatives, an institution of knowledge of parliamentary practice and procedures. How come he did not consult? In the opinion, the Treasury Solicitor, Mrs. Carla Carter advised the Minister to please consult with the officers of the Parliament so that you would not misguide yourself or mislead yourself.

So we come today, 91 days later, to pass a measure that ought to have been

passed on Friday, the 10th of November. The House met on Wednesday, I believe on the 9th. We would have had to meet on the Thursday, the 10th, which would have been the 21st day, to pass this measure. We did not meet. We came on the, Madam President, as I told you, we came on the 15th. So, Madam President, why is it necessary for us as a Parliament to go through something that could have been easily avoided? Why are we being asked today, 91 days later, to give approval to three Motions that ought to have been approved since 91 days ago?

How can we be part of an illegality? We have pledged to be part of making laws for the good order and peace and Government of Trinidad and Tobago, not to make bad laws, not to approve illegal measures, not to approve unlawful activities and Motions. That is what we are being asked to do today, and we cannot. I want to serve notice on the Government that the Opposition will not be supporting these three unlawful and illegal Motions that you have brought for approval today. We cannot support it.

Madam President, I ask you to join me on the excise duties (General Provisions), which is what is governing Motions Nos. 2 and 3 respectively, as it deals with tobacco and alcoholic products. Madam President, this is the law of the Republic of Trinidad and Tobago. Hear what section 13 of the Excise (General Provisions) Act says: It says, section 13(1), Chap. 78:50.

“Parliament may from time to time by resolution impose Excise Duties and revoke, reduce, increase or alter any such duties and provide for exemptions therefrom. However, all Excise Duties in force at the commencement of this Act shall continue in force until revoked, reduced, increased or altered by resolution under this section.”

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Section 13(2) states:

“The Minister may by Order impose any new Excise Duty...” Madam President, that is the right of the Government, to impose any duty.

They have that right.

“...or increase any Excise Duty and from the date of publication of the Order in the *Gazette* and until the expiry of the Order the duties specified in the Order shall be payable in lieu of the duties payable prior thereto provided that every Order issued under this subsection shall after four days...”

Madam President, after four days.

“and within twenty-one days from the date of its first publication be submitted to Parliament and Parliament may by resolution confirm, amend or revoke the Order and upon publication of the resolution of Parliament in the *Gazette*, the resolution shall have effect and the Order shall then expire.”

It says, Madam President:

“If the Order is not submitted within such period of twenty-one days to Parliament for confirmation it shall *ipso facto* expire.”

And it goes on in subsection (3) to warn the Minister, if you do not adhere to the law the Minister may upon application by anybody who feels aggrieved by this illegal action remit upon application, remit or refund in whole or in part any part any excise duty whenever he deems it expedient to do so.

So even in the Excise (General Provisions) Act, Madam President, the same provision is contained as in the Customs Act. These are the two pieces of legislation that we are dealing with today in the Parliament and the Government is in breach of those two pieces of legislation. And, therefore, it is very difficult for

us to support illegality.

Madam President, may I also advise, as we proceed. I want the hon. Minister to indicate to this Parliament whether he is discriminating against products from Caricom, because somewhere I heard him say 15 per cent excise duty for tobacco products and alcoholic products produced in Trinidad and Tobago.

Hon. Imbert: That is not what I said. I said alcohol is 20 per cent and tobacco is 15. There is no discrimination between excise and—[*Interruption*]

Sen. W. Mark: So there is no discrimination. So we are on a level playing field and extra-regionally, are we talking about 30 per cent, extra-regionally?

Hon. Imbert: Twenty per cent.

Sen. W. Mark: Twenty, fine. That is great. But as the hon. Member indicated, when we are dealing with this matter—and again I cast no aspersions, what I am about to say. I want to make it very clear, I cast no aspersions. It might have been an oversight on the part of the Minister. He may not have deliberately or maliciously done it—may not.

Hon. Imbert: Did not.

Sen. W. Mark: Did not.

3.00 p.m.

But, Madam President, I want the hon. Minister to explain to this Senate and to this country, because I went through the 2006 budget speech of the hon. Minister of Finance then, Patrick Manning, and do you know, Madam President, what I saw? When he increased the prices or the excise duties via increased taxes on tobacco and alcoholic products, both within and outside of Trinidad and Tobago, it was with immediate effect. It was with immediate effect. [*Desk*

thumping]

I would like the Minister to explain to this country, why he came in his midterm review and announced a number of measures, including increases in gasoline prices with immediate effect, but he also announced in the midterm review, Madam President, that he was about to increase the excise duties on alcoholic products and tobacco products in his midterm review giving an undertaking that when the Finance Bill was brought in August it would take effect. Madam President, the Finance Bill came in August and no effect took place, and do you know when the Minister introduced the new rates of duties? In the month of September in budget 2017.

So, Madam President, the question that has to be asked is whether it was an oversight on the part of the Minister to announce a measure in the month of April and to give the “big pappies”, the big importers of whisky and wines and Bailey’s and all the grey and white rum—and everything coming from outside—to give them April, May, June, July, August and September, almost about seven months, six months rather, clear notice. So, do you know what they did, Madam President? If I were a businessman, I guess I might have done the same thing. If I get advanced notice, I might have done the same thing.

So what I did, Madam President, or what the businessman would have done, he just stockpiled. So they got an opportunity to stockpile rum, whisky, everything for six months, and then did what? Took advantage of the increase and apply it to the ordinary people. So the ordinary people were called upon to pay increased rates for rum, for beer for what have you, but do you know what? They were buying that at the old price because they had already stockpiled in their warehouses all these

items. These are matters and so on that we would like the Minister of Finance to clear for us, whether the hon. Minister of Finance really made an error or whether he was misled to make that announcement that resulted in that fatal error. It has never happened before from what I know, Madam President. It has never happened before.

So, Madam President, we want to ask the hon. Minister, as I am on my legs here, the Minister has increased the price, as he said, of all the spirits and the beers, rum and tobacco products, and I am sure as he has admitted in the budget speech, there is going to be an increase in contraband smuggling into this country. I am sure he is aware, because he did admit—that is the hon. Minister—that there will be an increase in contraband smuggling, because what you are going to do, as you increase the price, and as he admitted, it is an inelastic product.

I remember some years ago, Madam President, when the hon. Patrick Manning, and may God bless his soul and may he rest in peace—*[Interruption]*

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

Sen. W. Mark: Yes. I remember reading somewhere where people, when they increased the alcoholic prices, in particular, they interviewed a fella on the streets, Madam President, he said they could increase alcohol how much they want. He said: “Is rum till I die.” They interviewed another one. He say: “I am a rum cork” because it is an inelastic product. No matter how much you increase it people are going to drink rum. Those people who are alcoholics and who are chronic drinkers, the figures are showing it as the Minister testified a short while ago.

So, Madam President, let the Minister level with this Parliament today. I want the Minister to tell us if he is undermining parliamentary practice,

parliamentary convention, parliamentary traditions and parliamentary precedents. [*Desk thumping*] We want to know if the Minister is undermining that by that measure that he has introduced today and we are debating today. We are saying from a legal point of view, from a parliamentary legal perspective, the Minister has been misguided by the Treasury Solicitor and he must take responsibility for that.

And, Madam President, it is either the Minister withdraws these illegal Motions here this evening, withdraw them, or he should withdraw from the Cabinet. [*Desk thumping*] He should tender his resignation, because this is a very, very serious matter that has occurred. We believe that the Minister owes a proper explanation to the nation as to why he has flouted both the Customs Act and the Excise (General Provisions) Act that tells him clearly, you can impose new taxes, new duties, within four days but no longer than 21 days you must come to Parliament via resolution to get confirmation, revocation and/or amendment. He did not do so, Madam President.

So Madam President, as I said, I am not going into details on the social policy aspect, on the real legal aspect. I deal with the parliamentary aspect of it, but there are others on our bench that will deal with this matter in a little more detail, but I just want to say in closing, that we are not in support and we will not support unlawful, illegal measures that have been brought by the Minister of Finance 91 days after it was supposed to be brought here, Madam President, within 21 days. The Minister has extended it. I hope that he learns his lesson well and he never repeats that error. He apologizes to the Parliament, apologizes to the nation, [*Desk thumping*] withdraws this illegal document that he has brought here and make sure when he brings his next budget and he increases taxes for people who have dogs,

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or people who have bicycles, he does not make that same error that he made with tobacco products and alcoholic products. Madam President, I thank you.

Sen. Taurel Shrikissoon: Thank you, Madam President, for allowing me to enter this very interesting debate, and coming in after Sen. Mark, I am not too sure how well I would be able to keep up with that pace. But brought before us here today are three Motions that we are permitted to debate together, and it speaks of increasing the excise duty and custom duty on alcohol and tobacco products. I am of the view that these Motions originated from the Government's policy that they articulated and presented in budget statement 2016/2017 when the hon. Minister of Finance indicated that it was his intention to increase taxes on alcohol and tobacco products. To quote from the budget statement, it says here:

“The Government is of the view that we need to curb our consumption of alcohol and tobacco. Worldwide, tobacco use is the single largest cause of preventable death, killing around six million people every year, while over three million deaths per year result from the harmful use of alcohol.”

He goes on to say that such losses have significant social and economic impact on Trinidad and Tobago.

I want to agree with the hon. Minister. I am saying use of these substances have with it a death burden—d-e-a-t-h—a social burden and a financial burden, the use of these products. In the absence in Trinidad and Tobago of a comprehensive policy geared towards the reduction of the consumption of alcohol and tobacco products, if it is that a cost factor is going to be introduced as a measure to curb consumption, well then I will be in support of the measures.

So while we look at Trinidad and Tobago and we recognize that there is

consumption of alcohol and tobacco products, I do believe that there is a need to reduce that consumption nationally. I want to quote from a *Newsday* article on Monday, July 27, 2015 and it is entitled: “TT Loves Alcohol”. It says here:

“A recent PAHO/WHO survey shows TT ranks very high in terms of the amount of alcohol consumed...

TRINIDAD and Tobago and two other CARICOM countries were identified in a Pan American/World Health Organisation report on alcohol use as having the highest rates of alcohol consumption in the Americas”

And, therefore, if such a fact exists, it requires concern as leaders of Trinidad and Tobago that consumption of these demerit goods—goods that have negative effects on society—need to be addressed.

I would like to push this point a little further by saying while we consider the consumption of alcohol and tobacco products in Trinidad and Tobago, we need to look at our current economic times. Our current economic times presents an outlook that is not so positive and somewhat described as recessionary by some. I would like to demonstrate for a brief moment the link between the consumption of alcohol and cigarettes, those products, and a recession, what occurs during this time period. One article, and it says here: “How economic crises affect alcohol consumption and alcohol-related health problems: A realist systematic review”. That was on the 18th of February, 2015, an article by the National Institute of Health out of the US and its finding is:

“This realist systematic review suggests that among men...the net impact of economic crises will be an increase in harmful drinking.”

Bearing in mind that we are already high on that alcoholic consumption list.

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On 20 November, 2013 from the same institute, the article entitled: “Economic Loss and Alcohol Consumption and Problems during the”—recession—2008—9”, its findings:

“...respondents who were affected by the recession”—I want to emphasize that—“had twice the odds of negative drinking consequences compared to those unaffected.”

The *Health and Time Magazine*: “Do People Really Drink More When the Economy Tanks?”

“We are one of the first to show that, even though incomes decline for most people during an economic”—downturn—“they still increase problematic or risky drinking,”

“Alcohol sales thrive in hard times”, an article by CNNMoney and “Recession Fuels Risky Drinking for Both Jobless and Employed”, an article by Remy Melina of Live Science.

So, Madam President, what I am showing here is that while we are considering the Motions before us here with respect to the increase in taxes with respect to alcoholic and tobacco products, the potential impact—continued consumption of these products can have on citizens of Trinidad and Tobago is quite great, and greater at times at economic downturn that we are in, and it is in that context I would like to say that these measures are most relevant at this time and I most certainly support it.

An article in the *Trinidad Express* quoting from Arrive Alive says: “55% road deaths caused by speeding” but 30 per of fatal accidents are caused by the use of alcohol. So what we are seeing here is also an impact, a direct impact. So it is

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with this in mind that my contribution here today is most certainly in support of these measures presented before us.

However, I would like to make two other points or may be three thereabout, by considering the level of taxation that was brought. We saw in Motion (i) that the custom duties that are proposed here seek to increase custom duties of 20 per cent on alcoholic products and 15 per cent on tobacco products from originations that are of the Caribbean and extra regional sources. And so I am saying today, I have considered the Motions and I saw excise taxes being imposed on tobacco and alcohol from those in Trinidad. I am asking the question, if it is that there is a consumption of alcohol and tobacco products in Trinidad and Tobago, the higher-end products that are being consumed are those from extra regional sources as opposed to regional and local. Then if we are to curb the consumption of these products in Trinidad and Tobago, then why did the products originating from extra regional sources which really are the products that the middle and upper class would utilize—and the goal is to curb—why would a higher rate of taxation not be imposed on the products from extra regional sources? My point here is that those are the products that are utilized by the higher end in society, middle and higher end.

I am bringing the point here together that if we are to use the concept that the hon. Minister would use which would be spread the burden of adjustment, and he his contribution also use the example of motor vehicles. In that Motion he increased the level of taxation on cars with larger engine sizes as the engine sizes went up. I am saying if there was any consideration being given to alcoholic products of a higher value which usually originates from outside of Trinidad and

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Tobago and the Caricom region that is one of my concerns that I would like address in terms of spreading the burden of adjustment in terms of reducing consumption. If it is that we are asking those who are more affluent in society to carry a higher burden of tax with respect to cars, for example, then why is it with respect to alcohol it is at the same level? [*Desk thumping*]

More so, in support of this Motion, where I am asking why is it that consideration was not given to a higher level of taxation on alcohol and tobacco products that originates outside of the region, there were two other increases of this tax, this type of tax in 2006, 2009. If I go to the 2009 budget presentation it says here—and if you will allow me to quote, Madam President:

“Mr. Speaker, it is also proposed to increase the excise duty on locally manufactured rum, beer and other alcoholic products by 15 per cent.”

I am just skipping down and it says:

“Import duties on rum, beer and other alcoholic products from extra regional sources will be increased by 30 per cent.”

That was in 2009. So, I am just quoting the budget statement and the policies of the past, and I am just asking, what was the rationale for not being consistent with 2009?

So too, it was in 2006. Again, Madam President, if you would allow me to quote from that budget statement, it says here:

“Mr. Speaker, we also propose to increase the excise duty on locally manufactured rum, beer and other alcoholic products by 15 percent.”

And if I drop down a little, it says:

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“Import duties on rum, beer and other alcoholic products from extra regional sources will be increased by 30 percent.”

So back then, 2006, 2009, there was an increase across the board, but a greater increase in products originating from outside the area. I am just asking today, the logic of the past is not the logic of the present clearly, and I am asking for the rationale as to why, given that it has a significant potential to one, curb consumption, if possible, through a higher taxation as well as Sen. Mark says, the Minister in his budget statement also says, and I would like to quote:

“Madam Speaker, over the past few years, there has been a marked increase in extra-regional imports of cigarettes and tobacco in large measure, due to increased smuggling.”

So if we are aware there is an increase in importation of these products that originate outside of Trinidad and Tobago and the region, and there is a potential for a revenue stream from it which the Minister alluded to, then a higher taxation on those products will deliver a higher level of revenue to the Minister. And so my question is today: why is or how is it or what is the rationale for maintaining the same level of taxation on alcohol and tobacco products that originate within Trinidad and Tobago and the Caricom and have it equal or consistent with those from extra-regional sources?

Madam President, I would like to take a moment and just reflect on the revenue estimates presented in the budget. In summary, or in caption, the increase in tobacco products is 15 per cent; the increase in alcohol products is 20 per cent. The Minister did say that there is a revenue measure on it as well as a component to curb consumption. When we examined the *Draft Estimates of Revenue*, Head 3

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on taxes on Goods and Services, we are seeing in 2016 rum and spirits, the revenue received from taxation from rum and spirits, \$159million. In 2017, it is \$205 million, the increase from 2016 to 2017 being 29 per cent, according to the draft estimate, but the increase in taxation is 20 per cent. So if the increase in the tax is 20 per cent, but the total revenue collected is 29 per cent—so the total revenue increase is greater than the proportion of the tax—it is telling me that the only way that could happen is if consumption increases, but the measure is meant to reduce consumption. So I have a little concern with that revenue estimate.

With respect to beer, \$182 million in 2016; \$217 million in 2017. When you do the increase, it is 20 per cent, exactly equal to the increase in beer. When you go to cigarettes, \$219 million in 2016, but \$400 million in 2017, an increase of 82 per cent according to the *Draft Estimates of Revenue*, Head 3. And so I ask the question, if the increase in taxation on cigarettes is by 15 per cent: how are we getting to a place of an 82 per cent increase in revenue? I am confused. I am confused.

And so, I am unsure of the revenue assumptions made for this. So I am asking to be consistent and for an explanation because these figures have a significant impact and implication on the size of a budget deficit, which we need to watch with a keen eye. If these assumptions are wrong, it is going to tell us. I should say if these assumptions are not realized, I should say, then our budgeted revenue and the actual revenue we collect will be in shortfall. So I am asking for clarification with respect to the estimate of revenue presented with respect to this measure.

Madam President, I would also like to say that I trended the revenue from

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2008 to 2016 and 2017 using the projected figures as to what was actually occurring with the revenue derived from these taxes. Was it increasing? Was it decreasing given that the last increase was in 2009? What I saw when I trended the data and tried to collect it, was that from 2009 the revenue sought to the increase and up to 2012—2012 had some of the highest years of revenue or 2012 was the year in which the highest revenue was earned from rum and spirits, beer and cigarettes from duties, and from 2012 and downward there was a decline—2012 and after there was a decline—in the revenue derived from these taxes. 2012 was \$177 million for rum and spirits; 2013, \$152 million; 2014, \$156 million; 2015, \$153 million; 2016, \$159 million. So these figures never got back up to 2012 figures. So at the same level of taxation, I am saying consumption is fairly consistent, then how come is it in 2017 we are projecting higher figures?

And the Minister, in full respect to him, did indicate that he experienced increases in this revenue over the period October to December, but let us recall that that is a seasonal time where Trinidad and Tobago would usually consume more alcohol at that time. So to use those figures as a consistent benchmark is to not understand that those figures have a seasonal factor which would cause it to be higher and therefore cannot be used on a consistent basis for projections for the entire year. So I have a little concern with respect to that.

And, Madam President, as I close, Sen. Mark made a point today and I fully endorse the point with respect to the manner in which the debate on the Motions were brought to this honourable Senate. In full respect to this Senate, I would really like to touch on it for a moment, given that as an Independent Senator and a Senator of this honourable Senate that I am a bit confused as to how this process

really occurred. I would like to say here today that this Motion was brought before this honourable Senate before. It was issued on an Order Paper. We all assembled here to have this debate on this Motion and then a Motion was brought to adjourn the Senate for an explanation given.

On that particular day, the honourable Leader of Government Business did articulate that he had an opinion and that he would have circulated that opinion. I do not think I need to read it because it is in *Hansard* but I have it here. As a Senator, I was asked to vote, whether or not to vote on the adjournment. I am being placed in a situation to vote from an uninformed perspective for which the Government alone at that time shared. [*Desk thumping*] The citizenry is looking at us to say, okay the Independent Bench that is not involved in frontline politics or party politics is making a decision, but is making a decision in which we do not have full information. [*Desk thumping*] That is something that worries me, because the consequence of those decisions we have to live with.

Now, we had a situation as well in this Senate recently where we were brought out in an emergency session on a Saturday to validate a writ or an Order for the THA elections, but that occurred because of an error made somewhere by someone and the process became flawed, because it was not rigidly adhered to, and that is why we had to validate the Motion to bring it up one day earlier which is quite similar to us having this Motion here today, where a process may have been flawed. I do not know. I still do not know. Then we had the marriage Bill brought before this honourable Senate in which we debated the Bill knowing that a three-fifths majority was required, and then in the winding up of the Motion by the hon. AG says that a simple majority is required. [*Desk thumping*] And, again, an

opinion was presented for which the Independent Bench has no clue.

And so, Madam President, as it pertains to this Bill, I am linking the others together to say that the situations that occurred in the others is also similar to what occurred here. I am worried as a Senator and as an Independent Senator that there is a trend and a style of governance that is entering into the Senate that the Independent Senators and others as well are forced to agree and comply with [*Desk thumping*] in the absence of information that a certain select group may have which we require to make a proper judgment call. [*Desk thumping*] “Bench, ah thought yuh woulda support meh dey.” [*Laughter and desk thumping*]

3.30 p.m.

I am really, really concerned as a Senator. So today I am saying that while I support the measure—with the potential impact of the measure, probably with positive revenue for the Government and the potential to reduce consumption, I am in support of that. I am in total support of that. But whether or not the correct processes are being followed in this House as we sit together to legislate and to lead our country, Madam President, I am very much concerned, because the trend is not revealing such.

I thank you, Madam President.

Sen. Dr. Lester Henry: Thank you, Madam President, for allowing me to join this debate, and to support the Finance Minister in his effort, as he explained, in terms of deterring consumption of tobacco and alcohol products and also raising revenue for the State.

I will be relatively brief, as I just want to make a few points. I had planned to respond extensively to Sen. Wade Mark, but as usual he said very little in a long

time; used up a full 40 minutes to say nothing much. [*Interruption*] No, I will not take 40 minutes to say nothing. So it allowed me to keep my contribution relatively short. I really could not see why he took 40 minutes to say he questioned the legality of the process. Sen. Shrikissoo did it in three minutes, and we all got the point.

But seriously, Madam President, I think what we have today is, of course, a very straightforward measure in terms of increasing Government revenue and deterring consumption of potentially harmful substances, when we increase taxes on tobacco and alcohol. Generally in many parts of the world, these are known as “sin taxes”, so you tax the sinners, or you put tax on sinners for consuming alcohol and tobacco. The Minister is on good grounds, as he pointed out, in terms of taxing the sinners and the sinners usually pay up. The tax is a very reliable source of revenue, because when you tax the sinners they are very, very eager to continue their habit so they pay up. The Minister has a ringing endorsement of his analysis when he talked about elasticity and inelastic demand.

I will just quote one famous person, I am sure we all know, who endorses the Minister—Ravi B. I will not quote myself. He said:

Dey raise de price of rum in de budget, but de money still cyar done from meh pocket.

Excellent analysis; that is what he said. [*Laughter*] Of course, some people may say that is encouraging people to drink alcohol, but as we are hearing in the crosstalk it is basically an acknowledgement that the Minister’s analysis was correct, in terms of the people who want to drink—inelasticity.

In the larger context, I must say that one of the reasons we are here and

having to scrape and scratch for revenue, apart from the obvious decrease in oil prices and so on that we have noted several times before, it was again— we must note and you cannot get away from it—the tremendous irresponsibility of the last government who spent every cent that was generated between 2010 and 2015, and left us with no net national savings in five years. So we had very little to weather the storm.

When the financial crisis hit in 2009, there were tremendous surpluses at the Central Bank that were built up between the period 2002 to 2008, and we were able to weather that storm relatively easy. In fact, many people did not even notice that there was a recession, and then the oil prices increased. I know someone on the opposite side is going to jump up and say, “We put money in the Heritage and Stabilisation Fund”, and I have said it about 10 times since then, that is not so accurate. That is not savings. Any time you run budget surpluses for all the years you are in office, there is no savings. So the money you put into the Heritage and Stabilisation Fund would be like if you borrowed to put in the account. There is no saving, you saved nothing. Get that.

In Opposition I went to great lengths to explain it to the government at the time, and then to come here and hear the Opposition now keep saying that they saved money is just ridiculous; it is nonsense. You could see it in the IMF reports, you do not even have to take my word for it. So there is nothing. Some of you—I do not know who you are listening to—keep trying to mislead the population and say that you saved. You saved nothing.

Many, many times after I sit, somebody jumps up and say, “Look, we put money in de Heritage and Stabilisation Fund”. Inevitably, this is about the seventh

occasion I am speaking about this, or something related to this, because I was the one who used to sit over there and say you were not saving any money and you were spending everything we earned. You ran budget deficits deliberately for five years in government, so there is nothing to talk about in terms of savings. When oil prices averaged \$100 or so between 2011 and 2014, you had a good time. So you left us in a difficult situation and hence the need to raise revenue.

In terms of the Motions, as I said, it is relatively simple and straightforward. We will try to raise revenue in a variety of ways, and this is just one. Also, let me just respond quickly to Sen. Shrikissoon on one point, where he took the Minister to task somewhat for saying that revenue increased between October and December, and that somehow he had missed the mark because of the high consumption during Christmas time. But the seasonality concept was accounted for because he compared it for the same period in 2015. Yes, I heard it myself—yes. It is season to season, so the seasonality was already accounted for in terms of the upswing in alcohol sales at Christmas. Yes, you compare Christmas to Christmas, and that is it. He did not compare Christmas to Easter—to Lent. [*Laughter*]

Madam President: Sen. Henry, to whom are you speaking? Thanks.

Sen. Dr. L. Henry: Thank you, Madam President. The hon. Minister compared the corresponding periods of the year which accounted for the seasonality, and therefore was on solid ground.

One of the things that we have to understand about the whole concept of taxing alcohol, as somewhat of a “limer” myself, I think that when we look at the economy in this time—and Sen. Shrikissoon made reference to the point that when the economy is in a downturn people might drink more alcohol, according to some

studies, which may be correct, I believe. But in Trinidad and Tobago one of the things we have to look at—and the Minister mentioned the fact that beer sales and the revenue from beer sales was up significantly over the three-month period since the new prices went in. Beer is something that is primarily consumed by younger drinkers, and that is an important fact I think in terms of what we see happening today.

As an often “peruser” of the liming spot on the Avenue, I do my economic research. You know, it is very important to have empirical analysis, empirical information. [*Laughter*] And you see that given the downturn, it is especially important for economists like myself to be on site.

[Mr VICE-PRESIDENT *in the Chair*]

One of my colleagues at the university who passed away a few years ago, Dennis Pantin, made an observation back in the late 1990s when the country was still in recession. He came up with something called the “liming index”. Some of us at the university called it “Pantin’s liming index”, where he observed the number of people liming during the middle of the week. He would specifically go in the liming spots on Wednesday night or Tuesday, and in an economic downturn you would see very small numbers of people in the bars and restaurants and so on, and then during an economic upturn, during the boom, you would see large crowds liming throughout the week. So that became famously known as the “Pantin’s liming index”.

I have observed, following along my colleague, that the liming index has been low for a good period.

Sen. Sturge: That is crime.

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Sen. Dr. L. Henry: No, for the last few months along the Avenue and some of the spots that I happen to pass by. I do not necessarily stop, I pass by. [*Laughter*] So what you have is a downturn, and because of the Carnival season—as correctly pointed out—and the Christmas, we have had a serious demand with all the all-inclusive fetes, so we expect that the revenue in this period would be high coming from the sinners.

Therefore, I think the Minister is on good grounds. He has already shown that the measure has already achieved some success. I really have nothing more to add than to say we fully support the Minister in this endeavour. Also, on the matter of the legal concern, we can assure the Opposition and the Independent Senators that we do have the legal opinion on the matter. As the hon. Attorney General said some time ago, it is not the practice to be running around sharing legal opinion in the Parliament. It has never been, so do not pretend that it is so.

With these few words, Mr. Vice-President, I thank you.

Sen. Khadijah Ameen: Mr. Vice-President, I rise this afternoon to contribute to this debate where there is a proposal to increase the customs import duty and the excise general provisions taxes on cigarettes, tobacco products and alcohol.

Mr. Vice-President, years ago there was something called the “Road Improvement Tax”, where at the pump a percentage was paid towards the Road Improvement Fund. Part of that fund went towards local government authorities, regional corporations and part went to the Ministry of Works and Transport for repair and construction of roads, the Road Improvement Fund.

In some countries where their objective is to decrease carbon emissions, the government may increase taxes on vehicles with high emissions, and decrease

taxes on vehicles with low emissions using green technology as an incentive to encourage persons, encourage its citizens to use vehicles with low emissions, and the objective is to reduce carbon emissions in that country.

This afternoon, Mr. Vice-President, I want to ask the Minister: What is your objective, what is your proposed planned benefit to Trinidad and Tobago, by increasing the taxes on cigarettes, tobacco and alcohol? I do not dispute that there are benefits, but I do not think that the Minister or the Government had clearly articulated its purpose, its intention, its objective, its plan in bringing this measure, another taxation measure in the space of several other increased taxes brought on to the citizenry by this Government.

Mr. Vice-President, there is no doubt that tobacco harms the health, the Treasury, the spirit of Trinidad and Tobago. Research shows that every year more than 1,000 persons in this country are killed from tobacco caused disease, while more than 3,000 children and more than 181,000 adults continue to use tobacco every day in Trinidad and Tobago. Complacency in the face of this tobacco epidemic will ensure the tobacco industry continues to run roughshod over the lives of the citizens of Trinidad and Tobago, and to ensure that the tobacco death toll will grow with each passing year.

Mr. Vice-President, 14.8 per cent of men in Trinidad and Tobago, on average, are being killed by tobacco. Even though that is fewer than countries that are more wealthy, there are also 3.2 per cent of women, on average every week, who are being killed by tobacco products. The point is that our policymakers, our Government, our Cabinet must take note and take decisions with regard to policies that would deal with the present danger, and the Government has failed to

articulate that.

At present in Trinidad and Tobago many of the solutions recommended for treating with the tobacco epidemic exists in law. Some of those measures are ensuring that there are smoke-free public health care facilities. For example, universities, government facilities, all government offices. That smoking is prohibited in indoor offices, in restaurants, and pubs and bars, on public transport, for example, and in all indoor public places, that exists presently in our country.

But I want to ask, what about enforcement? A person who is offended or who experiences a smoker violating any one of these, their only choice really is to move and to go somewhere else. Enforcement goes even further when it comes to minors. Mr. Vice-President, in a study that was done by the World Health Organization, 2013, 10.9 per cent more boys smoke in Trinidad and Tobago than on average in high income countries—10.9 per cent more. Seven per cent more girls smoke in Trinidad and Tobago than on average in high income countries. By girls, we speak of under the age of 18.

In Trinidad and Tobago, the Tobacco Control Act prohibits the sale of tobacco to persons under the age of 18. In many business establishments there are signs stating that the sale of tobacco to persons under the age of 18 is strictly prohibited. When the figures show that 10.9 per cent boys and 7 per cent girls more than in high income countries smoke, I want to ask, when last have you ever heard a person being charged under this provision? [*Desk thumping*]

The prohibition on sale by minors is very clear in the Tobacco Control Act in section 13:

“(1) No person shall sell any tobacco product to any person under the age

of eighteen years.

- (2) No person who sell tobacco products shall hire or use any child to sell any tobacco product.”

We must acknowledge that even though the law is very clear on minors and tobacco, the fact is that we do need enforcement to ensure that we protect our boys and our girls from the use of alcohol, and that is absent.

I am mentioning this because I would have thought that the Minister could have, as part of the reason for increasing the taxes, indicated that some funding will go towards enforcement, towards ensuring that our children are protected, towards ensuring that the units responsible for the enforcement of this Act receive some of the support that they do require; many of them are understaffed.

Mr. Vice-President, the penalties prescribed in the Tobacco Control Act are spelt out in section 37, and it indicates that:

“Any person who contravenes sections 13”—which I read earlier—“to 17 commits an offence and is liable—

- (a) on summary conviction, to a fine of—
 - (i) fifty thousand dollars and to imprisonment for three months for the first offence;
 - (ii) one hundred thousand dollars and to imprisonment for six months for the second offence; and
 - (iii) one hundred thousand dollars and to imprisonment for nine months for the third offence;”

Mr. Vice-President, again I ask, when was the last time that any person was ever charged for these offences in terms of selling tobacco to a minor?

The arguments with regard to tobacco and children are similar when it comes to alcohol. There are several organizations, non-government organizations, even organized community groups who work with their regional corporations, their local government councillors, who do work in terms of prevention, in terms of reaching out to those who are most at risk. Most children's first exposure to drinking alcohol in Trinidad and Tobago is often with a family member. That is while they are in childhood, but later on you have experimentation, and many in university.

With regard to a justification for increasing the taxes on alcohol, I would have liked to see the percentage of accident victims at our hospitals, our casualty departments who have alcohol in their blood at the time of the accident, and perhaps the percentage of alcohol in their blood. So that we can clearly define where alcohol consumption, the role it plays in accidents, because it is very clear to us when very horrific accidents occur. Very recently we had a young mother and her two babies losing their lives at the Mausica intersection on the Priority Bus Route, a young father widowed. It is alleged that the driver who broke the red light was under the influence of alcohol. We have not been told whether a breathalyser or blood alcohol tests were administered, but the fact is that many of our road accidents occur because of alcohol consumption and driving. But it is improper for us to speculate, it is improper for us to just rely on hearsay. The figures, the data must come to support what is being put forward.

I know that recently, for example, the Minister of Works and Transport in answering a question from the Opposition indicated that Ministry intended to work in collaboration with the Ministry of National Security to increase checks on the

roads. Mr. Vice-President, the breathalyser and increasing the number of breathalysers is one measure that costs money, because you have to pay for the breathalysers, you have to pay the staff, you have to staff the unit and ensure that they are properly trained. If the Minister had come to the Parliament to say we intend to use part of the proceeds from the increased taxes on alcohol towards training more technicians to use the breathalysers on the road, or that we intend to buy more of the machines, more equipment, I could see that as being a firm plan, as to the rationale behind the increase in the tax on alcohol. But we come here without that supporting reasoning.

In addition to accidents, which by their very nature horrify us immediately, we also have many lifestyle diseases that are as a result of alcohol consumption. We have cirrhosis. We must look at the death rates in terms of cirrhosis, in terms of liver dysfunctions. There are increasing numbers of people who are on dialysis, to the point where I recall in previous sittings questions coming from the Opposition to the Minister of Health with regard to a shortage of services for providing dialysis to persons with kidney failure.

4.00 p.m.

Now, I want to state very clearly that not all persons with kidney failure are drinkers or alcoholics. But the fact is—[*Crosstalk*] No. It is not always. Sometimes there are other medical conditions that people suffer from. However, it is a well-accepted fact that alcohol consumption affects liver function negatively.

So, we must look at those persons who have reached to the stage where they need dialysis and their causes. And, of course, there is an economic consequence for Trinidad and Tobago, as well as for the families, because for many people who

are alcoholics they spend a lot of their salaries, neglect their families. They spend their salaries on alcohol and then later on when their children become adults, by the “hook or the crook” as they say, these same children are now burdened, so to speak, with paying the fees for treatment and for dialysis.

We must look at the social impact, not only in the short term in terms of—because in the short term you have domestic abuse, domestic violence, you have accidents, of course, which happen while under the influence. But in the long term as well, in terms of the effect on the families, in terms of the effect on the communities, but also on the health and how much it costs the State in terms of public health care to persons who have had a lifestyle heavily influenced by alcohol consumption. We must examine the drinking patterns worldwide and compare it to that of Trinidad and Tobago.

And I had planned—I am very familiar with that Ravi B song that Dr. Lester Henry quoted. And that really is a response to present Government policy. Yes. The Government has raised the price of rum in the budget, but the fact is that both for alcohol and tobacco, many people will find the money for it. So it is something that, of course, it is easy to sell. It sells itself, but what do we make of the opportunity for taxation.

Madam President, there are several organizations in our country. You have organizations like Alcoholics Anonymous that works specifically with people who abuse alcohol, but they also work with not only victims, but in terms of raising awareness, with community organizations and with children in particular. There are outreach programmes where they share their stories with groups of people who could be influential in keeping young people away from alcohol.

There is NADAPP as well, because drug abuse and alcohol abuse are linked because tobacco often leads to the abuse of other more serious drugs. NADAPP also provides services. And as a young person active in my community many years ago, I recall NADAPP coming into communities to meet with youth groups. And through the use of culture, through the use of creative arts and plays and so on, they would often have very engaging sessions with young people in terms of advocating the effects of alcohol and drug abuse and the prevention of it. And there are several other organizations I have listed here, Madam President, but my point is that these organizations ought to have more support from the State. And where you have an increase, a measure to increase the taxes on these alcohol and tobacco products, I would have liked to see as part of the Government's plan, if they have one, some of the funding or a greater part of this funding going towards organizations that do work in terms of raising awareness. [*Desk thumping*]

Madam President, while that is absent you also have incidents of cancer, a significant increase in the number of cancer cases in Trinidad and Tobago. Cancer is a monster that really creeps up and steals the lives of people. And while not all persons who have cancer would have been smokers, at some point we are almost all of us exposed to second-hand smoke which also has an effect.

But the fact is that our public health institutions' capacity to deal with cancer treatment is way below what it should be. The National Oncology Centre remains closed. I want to take this opportunity, Madam President, to call on the Government to ensure that the National Oncology Centre is opened in time [*Desk thumping*] to provide victims of cancer with the much needed medical attention as we see a further and further increase in the incidences of cancer in Trinidad and

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But I would have thought, again, that given the current situation with cancer treatment, that we would have seen some of the funding from increased alcohol taxes and increased tobacco taxes going towards awareness of cancer, encouraging people to get early testing. In many instances early detection leads to easier treatment. There are people who would only discover that they have cancer when it is at stage four or stage three and when it is more difficult to be treated. But the fact is that awareness and education go a long way. And I would have liked to see the Government bring a planned, well thought out proposal to use proceeds from increasing the taxes on tobacco products towards raising awareness and prevention of cancer. But in this instance, Madam President, there is no suggestion or outline of any such plan.

And personally, I cannot support taxation for the sake of taxation. The Government has to be a little more articulate with putting forward a plan. When you come and you say you want to increase taxes, studies show that it does not necessarily cause people to smoke less or drink less. So tell me what your plan is for increasing taxation on alcohol and tobacco.

Madam President, at present we have a taxation of 25 per cent. The World Health Organization's benchmark for taxation on tobacco products is 75 per cent. It means that countries are often encouraged to put taxes on these products, but the question comes as to what these taxes are going to be used for. So while Ravi B does not mind finding the money in his pocket as does thousands of Trinidadians, Madam President, today I ask: if the Minister in his winding up, in his wrapping up could, please, share with us what is your plan? What is the social benefit of these

proceeds from these taxes going to be used for in terms of fitting into the Government's entire plan for the way forward and to say that increasing the taxes will be used—that the taxes will be used towards something else. To me it is—there is a question as to its acceptability to say that increasing the pricing of tobacco and alcohol will decrease its consumption, there are also questions about that.

So, Madam President, with those words, I hope that by the time the Minister does his wrapping up that somewhere along the line that Members of the Government could perhaps justify this increase. And I want to say for the record that we have seen in this Parliament since the beginning of this Government's term in 2015, a number of taxation measures that are being brought on this country. And while the citizens can accept that there are tough economic times ahead, the citizens of Trinidad and Tobago deserve value for their money. And as you continue your term in office, I think you ought to show our citizens some kind of reasonable approach when it comes to taxation, or they will feel that you really have no plan and that your intention is to lift yourself while standing in a bucket. And there is a very famous quote by a former President of the US when it comes to taxation, Churchill. It was Prime Minister Churchill of England.

So, Madam President, those are my few thoughts on this particular measure and trust that the Members of the Government who respond will be able to somehow satisfy the citizens with their explanations. [*Desk thumping*]

Sen. Pastor Clive Dottin: [*Desk thumping*] Thank you very much. Madam President. This, to my mind, is perhaps a very critical issue as it affects the young people. As I told the acting leader of the Senate Bench or coordinator, I would like

to focus there. If we speak to the issue, Madam President, of alcohol and tobacco, we have to look at it within a particular perspective. And that perspective involves polydrug use. I would like to suggest through you to the Minister of Finance that perhaps the most protected drug in the world is alcohol. The most protected drug. And I am not speaking just from emotionalism, you know, because my post-graduate work is in this area of health education models and international health systems. And I have a real burden on my heart in terms of an issue called intellectual dishonesty.

The reason why I said alcohol is the most protected, when you look at the daggers planted in the heart of tobacco, the tobacco industry, the fact that you have 1.2 billion smokers in the world and 300 million come from China, and I heard one guy from China say, a Chinese politician, "It is like pulling teeth without anaesthetic to get China to turn around". When we look at all Sen. Ameen mentioned, some of the, you know, effects, catastrophic effects of this drug, and part of the problem with dealing with young people today on this issue, it has to go beyond legislation. Part of the problem is the issue of our classification of drugs as legal and illegal.

You know how many young people ask me in the schools, I have been to 10 in the last few weeks: why reclassify alcohol as legal and tobacco and it does so much harm? And I am going somewhere with this because while I support in principle the Bill, it has to be more than just this. You have to handle addiction from two levels: rehabilitation and prevention; you have to handle this. And I am saying, today, that this Bill in terms of trying to achieve something, there is an incompleteness towards it.

I also think what I should advise the hon. Minister through you, Madam President, is that the issue of inelasticity, there are several reasons for it, and you mentioned a few, but you have a lot more in clinical literature. Let us go to the issue of two drinks a day. And unless we deal with these issues, the legislation will not accomplish very much. We do not even know what point we will reach that will produce a levelling off. Because if I listened to the Minister very well, Madam President, it appears to me he is saying, the more you tax, the more the consumption. That is what I am getting here. So that you might get money from the measure, but you might not get the desired effect until perhaps you tax more? And one day you will hear people coming here and saying, the Government, that at last we have had a decrease in consumption, but you really want to get the money, because there appears to be a desperation in that area. So that one has to look at that very carefully and very clinically.

I mentioned this fact because, I think, right now in this country we have to forget PNM, UNC, COP, TOP COP whatever, we have to forget that and deal with issue of the young people in our country. [*Desk thumping*] We are losing this battle of crime and nobody wants to look at it. But the issue of mental health is a serious issue. [*Desk thumping*] Until we look at mental health, we are not going to save our young people. We are just not going to save our young people.

So while I understand the thinking behind getting the extra revenue and putting a break on these devastating practices and habits that are so addictive—there was a time they said that nicotine was not addictive. And there was intellectual dishonesty with that too. And I want to talk some more about intellectual dishonesty because, let us look at alcohol. There has been research, and

you know where it was done?—in France. You expect anybody except experts from France to go against wine consumption, alcohol wine consumption? And you know what was bad about that? What was horrible about that, they said two drinks a day.

But let me tell you about that experiment because I have not heard anybody talk about it in the country. Let me tell you how they did that experience. They compared present drinkers with past drinkers. They did not compare present drinkers with those who never drank. They did the research, present drinkers and former drinkers. So that was a real—[*Acoustic feedback*]*—sorry, for making that noise. That was a real issue.*

And you know what is worse than that? The real preservative, the phytochemical in the drink is something called resveratrol. And they were giving C₂H₅OH ethyl alcohol the credit for heart. They improve heart condition with two drinks per week, when the actual issue was resveratrol in grape juice. And to tell you how wicked the liberals in this world happen to be sometimes, how they are when they want to push an agenda. You know they came back a couple years after and said, let us produce an anti-ageing pill and guess what was inside of that anti-ageing pill?—the same resveratrol that they denied had anything to do with the issue of protection and increased heart health.

So the issue of intellectual dishonesty and the issue of protecting our young people. You know I am amazed when I went to Illinois and looked at some rehab centres there and, by the way, that is something we have to look at, eh. We have to look at two levels. I could be corrected, but I only know of one mandatory drug rehab centre in the Caribbean area, all right, that is in Curaçao. So that I run a

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rehab centre, I am the chairman of the board of a rehab centre in Matura and I could tell you, that people could walk in and walk out. I understand that there are two rehab centres in the country that are using force, in other words, they are breaking the law. But the authorities—no matter because the problems are so intense with abuse, that it “doh” matter, you know, people go there and use whatever strategy, but yet it is law breaking. So that we have to look at that very carefully.

And I want to suggest to the Government and the various Ministries, you have to have a proper strategic plan for dealing with young people and the issue of drug prevention and rehabilitation. [*Desk thumping*] Because you see, there is a paradox about it. Alcohol produces, as the Senator said, cirrhosis of the liver. It deals with the prefrontal cortex that deals with the executive action. Alcohol attacks that centre. The reason why you have problems maintaining your centre of gravity is because of the attack on the cerebellum which we call the hindbrain.

Now, when you compare all of that—and a lot of young people do not even know that. So that we have to have a strong strategic plan for educating young people, insulating them from the scourge of these legal drugs. But let me tell you something. When you compare alcohol with cocaine, “ain’t” much difference, you know, in terms of the potency of the toxic substances inside those drugs. I am talking about the legal drugs right now. So you have to look at that. And I am suggesting to you, that the Ministry of Education, Ministry of Health, Ministry of Sport and Youth Affairs, must come together to present a cohesive, integrated plan to rescue young people from these negative lifestyles practices. And it must be something where we forget our political labels and the present, political,

adversarial climate to save the young people and families in our society.

I feel my role as a pastor here and as an Independent Senator temporary should be to motivate parliamentarians to think about the country before elections. To think of—you know what I find we are doing right now?—we are living from election to election. We are not living from this generation to the next generation, to the next generation. We are not even talking about role modelling in how we are moving in the society.

So I want to suggest this model as something to be looked at seriously as we deal with alcohol and tobacco and the other drugs. And to be frank with you, you hardly have people using illegal drugs alone. You are using a legal drug and an illegal. So you have cocaine, the marijuana, the black cigarette and then you mix the heroine which is in the country and you have the speedball, if you please. And the impact on the sanity of an individual is significant, you know. While we debate and sometimes have humour in the Parliament and everything else and get ahead with our adversarial politics out there on the platform, and I hope we are not going into the area of consultation-induced paralysis, eh. I hope we are not going in there because we will try anything sometimes to appear to be dealing with the problem, but we have to scratch where it itching.

And I want to suggest this evening, very seriously, something called in our post-graduate programme there that is used in health services across the globe, the issue of the effective health education model, because I am sure the Bill was not brought here just because we want to make more revenue. I heard the Minister talk early in his presentation and I took a note of it, I could not miss that at all about the social and economic losses. Now, I heard him say that, and therefore, the issue of

the social loss. We already have what Robert Putnam talked about the American sociologist, but a social capital deficit. And that is going to increase. The fall of role models, how many fathers are intoxicated? How many people have to model for young people are heavy on this alcoholic drug? How many lives it is destroying?—and in addition to tobacco.

I see something with young people in the street. I see young people drinking alcoholic beverages, whether it is a beer—and by the way, do not underestimate the impact of beer, because Dr. Otto Haig from the University of Fredrikstad in Norway made a comment and I want to quote him from memory. You know what he said, “One drink of beer causes the production of a condition in medicine called agglutination”, where the red blood cells stick together as if bound by Evo-Stik decreasing the surface area that is available for the acceptance of oxygen. That is what is happening here.

And, you know, I want to call upon our leaders. We have to have leaders who role model the drug-free lifestyle. That has to be something we have to look at. So I am talking about the effective health education model that deals with coping mechanisms, that deals with values, that deals with spirituality, that deals with lifestyle choices. I am also suggesting, we have to improve the number of support groups for young alcoholics and tobacco smokers in every constituency. In fact, if I can get the Minister’s attention, I would suggest to you, Madam President, that every constituency, both Government and Opposition, should have support groups functional.

You know, people ask me: what can a parliamentarian do with some of these issues? Well, I am suggesting what we can do. I mean, to make use of constituency

offices for the development of our young people and the salvation of our young people. We are not going to solve this crime thing until we use this integrated approach, you know. I am telling you. I mean, I heard some people talking about state of emergency and “ting”. That is a palliative that is temporary. What is required right now is a significant, constructive, integrated approach to reach out to our young people.

And by the way, in the absence of parents and sometimes grandparents, these young people on their own and they are easy food for those negative community leaders and gangsters and gun dealers in this society. And I cry out on behalf of them this evening. It was Carl Bard who said, “We cannot go back in time and make a brand new start, but we could start right now and have a brand new ending”. The issue of motivating of our young people, the issue of inspiring them and lifting their spirits. And we have to model the drug-free lifestyle, if you please.

I want to recommend four things quickly and sit down. The next thing is, the positive peer reversal strategy that was inaugurated and initiated by a girl called Sharon Scott. That has been shown internationally to have great success. And the schools, the Laventille Foundation has used it and in Servol. It has worked like magic, I tell you. And that is something we have to look at seriously.

And then there is the youth to youth drug prevention programme that I recommend that every NGO that deals with young people should adopt, every NGO, that includes Pathfinder, scouts, crusaders, everywhere. That is the third thing. I mentioned support groups before.

And then we have to have a media campaign, you know. When you look at

the advertisements about alcohol on the media. I mean, and you look at the billboards and look at the kind of view that they are having there. You know the message sent to young people? And we could pass a million Bills this evening, but I am saying, when you look at the attractiveness and the magnetic captivation of the mind, if you please, young people could feel—if I want to be a success, I have to drink.

And the issue of smoking does not need advertising; it is self-advertising. Every movie has it going down there, the combination of smoking and drinking, every movie has that. So that is self-advertising.

So, I am suggesting this evening that we have to look at a comprehensive, integrated approach to save young people from the scourge. The legislation is just a small part of the game. All right? We have to look at what is going on. You know, I call upon the universities this evening, the three major ones we have: USC, UTT, and UWI to engage in a significant, deep analysis and research, so some of these things we discuss in Parliament could be data driven. Where are the young people in terms of this? And I am telling you, there is a new trend especially around these times, where young people are chasing the alcohol with super caffeinated drinks we call energy drinks. When you combine those two things, it is a nuclear bomb in the brains of our young people, you know.

And I am not representing no PNM or UNC party or COP or whatever it is, or ILP. I am representing this evening a cry from the hearts—and by the way, I talked to a young marijuana smoker this weekend, and this boy is from a prestige school. I mean, I do not know what we call prestige schools. They have the same problems as the non-prestige schools. And unless and until we have a programme

where we systematically go into those schools and do not depend on the on and off religious instruction programme because some of our churches and some of our religions, we do not have that concern and compassion for youth that we should have. We are not consistent with it. And then sometimes we go in there and we are not speaking the language of youth. So if a young person asks us, what song is “Shabba, madda pot? This is the plan, long time I ain kill ah man”, and you see six million hits. They are out of it, out of touch.

In fact, the time has come, I think, for the Government, Madam President, through you, Minister of Education, Minister of Finance, to look carefully at what is happening inside our secondary schools and even our primary schools.

I found out just last weekend that there is not only alcohol and tobacco, but two of more prestigious schools that produce heavy scholarships, there are drugs dealers inside of those schools. Social workers have complained to me that the young people are matching the alcohol with the cocaine. One young man told me this last weekend and he said, “Pastor, you know what is happening? My brain is so severely damaged.” He is not yet 18, he is not yet 17, he is not yet 16. He said, I was informed that the marijuana that was bought into my school, my prestige school, the marijuana was baptized in liquid cocaine. That is how serious we are. Let us not take the situation with the addiction practices of young people. And we talk about the addictive lifestyle.

So, I am recommending that in our constituencies’ offices and in our churches too, there should be support groups. I am recommending that we must have models from all sectors of the society going into the schools to motivate the young people. I am suggesting the effective health education model.

To tell you how complex this thing is, the last thing I want to mention, I think, I will take about five more minutes. Dr. Daniel Amen. Dr. Daniel Amen has done the most critical research through a process called SPECT; it is new technology. It is better than the MRI, magnetic resonance imaging; it is better than the CT scan. It is called SPECT. It is single-photon emission computed tomography. That is what it is. And it has unfolded the damage done, not just by marijuana on the temporal lobe, but also by alcohol. And when he shows his images and he is internationally respected and the book is *Change Your Brain, Change Your Life*, where he focuses there, there are alcoholic users who are shocked. But I am not sure about tertiary level institutions, value young people to the point where it is not just getting a degree, a Bachelors or Masters, but developing a lifestyle that enhances their dreams.

4.30 p.m.

I want to close off with this, there is an article in the *Psychology Today* journal, December 2016, and you know what the topic of it is?—Increasing Cognitive Function May Improve Addiction Treatment Outcomes, where addiction research is going now on alcoholism and illegal drugs, where it is going right now; and I want to repeat the term, “Increasing Cognitive Function May Improve Addiction Treatment Outcomes”. There were two Indian researchers some years ago, they are both dead now, Lall and Lall, and they were saying, perhaps it is not the marijuana or the alcohol creating the dysfunctional mind, but sometimes the mind is already dysfunctional and the alcohol, and marijuana, and tobacco, advantages it.

Well, whatever advantage, the condition already existing, but this recent

research by Veena Kumari, PhD in the field of health education and impact on the brain of dangerous substances, including alcohol, tobacco, cocaine, ecstasy, et cetera, she says:

Some of the poor inhibitory control might already exist as a risk factor that preceded the alcohol use and the cocaine use.

She is suggesting that; and she talks about executive function being destroyed, alterations in attention. Young people in the secondary schools and the East-West Corridor, central also, south-east and south-west are telling me, the last two weeks there, that they have problems processing information, they have an attention deficit disorder. One young man told me last weekend, he could hardly study for more than 20 minutes, and he wants to do better. And the issue of mood elevation, motivation and craving, the issue of planning and thinking, and you could have a dream but if you do not know how to plan and implement that dream, it is almost useless having the dream.

I am suggesting here this afternoon, let us take it seriously. I understand one of the reasons for the Bill. I understand that we need to try whatever you could try, and legislation, it is one route, but it cannot be the only route. We have got to get an integrated approach, we have got to unite our society to save the young people, not just from the illegal drugs, but from the legal drugs of tobacco and alcohol, we have got to get the media involved in giving a nice prize to groups who would like to save our young people, because you cannot pay out—any ordinary NGO cannot pay for drug-free lifestyle, marketing and advertising, you know.

And therefore, I am suggesting to the Government strongly, and with support from all the other sectors represented here, we should really unite and

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mobilize our resources so the young people would not only see that if you drink this beer, and you drink this whiskey, or whatever, they will be in the in-thing. The issue of positive peer pressure reversal strategy; that is what is eluding me; that is where we have to go. We have to mobilize young people and teach them how to use positive peer pressure reversal strategies. We have to go in that direction in a very serious way if we want to save our young people. And, of course, the spiritual area I cannot ignore that—Does the *Bible* not say in Proverbs 20:11, that wine is a mocker and strong drink is raging.

In all our education programmes to motivate young people we have to give them a spiritual foundation. And, Mr. Minister, I save this one for last, through the President to you, you raised a question there about this paradoxical condition, the inelasticity you mentioned, when you up the price you have greater consumption. Well, I will tell you something, eh, there is a condition known as value increase catalyst syndrome. You know what that says? The more you raise the price on something, the more people feel it is more valuable, and therefore, especially you have the peer pressure issue to be added to it, you add the psychological to the social, they are going to want it even more, and that could account for the present situation you have.

So, I am saying right now, let us see this as just one small step, but we have other giant steps to make to save our young people. Let us be genuine, let us love them, and you know the best way to love them is by being proper role models. I cannot see how a person could be drunk and intoxicated in your homes and be proper role models to the young people. In fact, I would suggest no alcohol at all in our public functions whatsoever if we are serious about this. [*Desk thumping*] If we

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are serious about saving money, and I am suggesting to you, that all of us—I hope I am not coming across as I feel superior to anybody. I just have a heart for the young people. I work for 15 groups in this country including Servol, AA, you know what I mean, YTEPP and all the groups there, Pathfinders, everybody. I work for all of them, and I do it for free also, and I am happy to do it because I feel it is my mission in life—if we believe our coming here is a divine mission and a divine intervention to save young people, we are going to change our approach.

May God bless you, and I thank you very much. [*Desk thumping*]

Madam President: Hon. Senators, I think this is a good time to take the tea break, so we will suspend for tea and we will come back at five minutes past five.

4.34 p.m.: *Sitting suspended.*

5.05 p.m.: *Sitting resumed.*

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

Mr. Vice-President: Sen. Dookie. [*Desk thumping*]

Sen. Daniel Dookie: Thank you very much, Mr. Vice-President. I am very delighted to join this debate and begin by congratulating Members for their contributions thus far, as I believe Members have been very objective by and large in presenting the merits and benefits that can be derived from the measures that are before us, not just focusing on the financial implications of the measures, but also the social implication, and that gives us the opportunity to evaluate how the social implications can have financial benefits in the future.

Let me approach my short intervention here by examining some literature regarding the impact of price increases and taxes on the use of tobacco products, and I refer, Mr. Vice-President, to an article written and produced by Dr.

Emmanuel, Dr. Paraje, and Dr. Chaloupka, and the title as I may have said before, is “The Impact of Prices and Taxes on the Use of Tobacco Products”. And one of the reasons why I chose this article, Mr. Vice-President, is that the article examined time series data. In other words, took a longitudinal study approach, and also the article would have used cross-country data examining the impact of taxes on this product in different contexts, and in particular in this case, Latin America and the Caribbean, and that gives me a little more confidence in saying that the findings could be described as generalizable because there is external validity.

The first point I wish to point out regarding the findings of this article, is that cigarette prices have a significant and direct impact on revenue. And I think the Minister of Finance in presenting the Motions would have identified increases in revenue over the period 2015 to 2016, and the season October to December, and shows me that there is some alignment with the findings and what we can expect here in Trinidad and Tobago. But just as well, it shows, Mr. Vice-President, that an increase in price has an inverse relationship with consumption, and that takes me to the issue of elasticity of demand which has been raised in this debate, and whether or not demand is elastic or inelastic.

Let me say, Mr. Vice-President, that when we use the term “inelastic demand”, in my mind it does not mean that there is no relationship between price and consumption. It means, in my mind, that a change in price leads to a less than proportionate change in consumption. So that means, that if price increases, yes, you would have a reduction in consumption, but the increase in revenue more than offsets the fall in consumption. The article shows that in fact based on the study, which I believe has external validity and credibility, that increases in taxes do

impact the consumption of cigarette or tobacco products. Just as well, Mr. Vice-President, it points out that the effect of price increases has the same effect on both the rich and poor, and it tells me, Mr. Vice-President, that there is no statistical difference between the consumption or the use of tobacco products in the lower income class and the higher income class regarding to how they respond to a change in price.

The other point I wish to point out, and regarding the findings of this article, and this is something that I think is important to note, is that price increases delay a potential user's first experimentation. In other words, it tells me that price increases represent a disincentive to start using this product, and I think that is very important to note. I think that is a very interesting finding which leads me to support the measure even more.

So, Mr. Vice-President, when I look at this article, I can conclude with some confidence, given the fact that I believe there is sufficient external validity in the research to say that the measure before us, as shown in this document, or this scientific study, would definitely positively impact revenue for Trinidad and Tobago, and I think the Minister of Finance would have presented evidence to show that. I think as well you would have a positive effect on behavioural change, which means, Mr. Vice-President, a fall in consumption. How much? It is difficult to say because I think the only way we can know is that if we measure consumption scientifically. And I think there is no discrimination, because the impact does not differ among the lower and upper income class. And, as I said, I think because of the fact that the study would have used a longitudinal approach, and would have looked at different contexts and different situations, that I have

some confidence in the findings.

The second article I wish to refer to, Mr. Vice-President, is an article published by the *American Journal of Public Health*, February 2016, written by Dr. Vuolo, Dr. Kelly and Dr. Kadowaki, and the article addresses the impact of taxes on the use of tobacco products on children 10 to 13 and young adults. And the reason why I chose this article, Mr. Vice-President, is because I would have looked at a number of articles in preparing for my short intervention here, but the major reason why I am bringing this to the attention of Members is that it would have focused on children 10 to 13 and young adults. And one of the findings shows that deliberate higher prices—and of course the measures that are presented here in these Motions are deliberate and of course would lead to higher prices—lead to a preventative measure, or is described in the literature, or in the article, as a preventative measure regarding consumption for children 10 to 13 and young adults.

Another finding which I think is important to note is that it shows that taxes significantly reduce the odds of daily pack smoking. And remember, Mr. Vice-President, this is in the context of consumption regarding children 10 to 13 years old, which was shocking to me, and young adults. It reduces the odds of daily pack smoking, and it shows that a \$1 increase in price through taxes reduces daily pack consumption by 17.9 per cent, and this tells me, Mr. Vice-President, that in fact when you look at, or when I did somewhat of a brief literature review, there is alignment in literature that says that increases in the prices of tobacco products lead to a reduction in smoking. And in this context, Mr. Vice-President, a \$1 increase in price led, according to the study, a 17.9 per cent reduction in daily pack

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smoking, and this as I said before, is regarding young children 10 to 13 years old and young adults.

It also goes on to show that heavy smokers are primarily deterred through the increase in taxes because of the effect it has on price. And again I remind Members that I am presenting this in the context of the consumption of this product among children and young adults, and the study was done in the United States of America. I think it is interesting to note. But, what is also interesting to note in this article regarding what was concluded, and one of the findings, is that increases in taxes have proven to be more effective in reducing consumption of tobacco products than having a total ban on the product. And when I say a total ban on a product for example, banning the product for smoking in public places, for example. And the study tells us that it is more effective to increase taxes than to go with an outright ban. And, again, it tells me, that I can conclude with reasonable confidence that there is a high potential if prices are increased to a certain level, indeed, that there will be a fall in consumption.

The third article I wish to examine briefly is an article written by Dr. Jong, July 2010, again, published by the *American Journal of Public Health*, and this one deals with alcohol consumption. It tells me and tells us, Mr. Vice-President, that alcohol dependence and depression were significantly associated with higher smoking participation. Alcohol dependence and depression were significantly associated with higher smoking participation. In other words, it says that there is a high correlation between the consumption of alcohol and smoking. As a matter of fact, I heard people saying that they are not a drinker and they are not a smoker, so am I. But I know, I have some friends who—

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Sen. Gopee-Scoon: So you are, or so you are not?

Sen. D. Dookie: I am not a smoker and I am not a drinker. You could accuse me of drinking if I take a drink of water. But, there is a high level of correlation, and I was making the point, Mr. Vice-President, that a lot of people smoke more when they are drinking alcohol, or there are some people who only smoke when they are drinking alcohol, and what this study shows is that cigarette consumption increases when alcohol consumption increases.

But more than that, the article goes on to show in a scientific way that not just cigarette consumption increases when you use alcohol, but also the consumption of other drugs including cocaine. But even more than that, what interested me regarding this article is that it showed not just the correlation among alcohol consumption, tobacco consumption and other drugs, but also the prevalence of HIV. And if you look at that as one construct, Mr. Vice-President, I think if we can reduce the consumption of alcohol through price increases or otherwise, I think there will be tremendous benefit for Trinidad and Tobago.

So, what does this mean for us as a society, Mr. Vice-President? Of course, as I said before, revenue would increase, but I think if we can achieve the reduction or a meaningful fall in consumption, it means in my mind that we will have a healthier Trinidad and Tobago. I think it means we will have a more productive Trinidad and Tobago, and these social benefits, I think, will have significant positive financial implications for Trinidad and Tobago in the future, because if we reduce the consumption of these so-called harmful products, I think as we engage the future of our country, you would find that there will be less need for more welfare programmes in Trinidad and Tobago, there will be less need for more

moneys to be expended, for example, regarding CDAP and certain types of grants. It means, in my mind, there will be less strain on our health care system. And I think, if you look at it in the long term, while we can say that there is, or there can be expected to have a fall in consumption—how much, as I said, we do not know—but I think the economic benefit of that fall over time will be a tremendous benefit to Trinidad and Tobago.

Another question I asked myself when I look at the measure is, what is the potential saving opportunity to the individual? And what went through my mind is that I wonder how much an individual would have saved who used to smoke a pack of cigarettes a day and is no longer smoking cigarettes. I do not know what is the price for a pack of cigarettes.

Sen. Coppin: Thirty dollars.

Sen. D. Dookie: How much, \$30?

Sen. Singh: Between \$20 and \$35.

Sen. D. Dookie: So, \$30, Mr. Vice-President, I think this is important to note in my estimation, \$30 if you are smoking a pack a day, if you average 30 days, that is what, \$900 for the month? And for the year that is over \$10,000 a year. Sen. Dottin, if we could get the young people to put that money in a pension plan or some savings plan for their children, if you can get those people to put that money to more productive use, I think it will benefit them more.

Mr. Vice-President, so I express my support for the measures before us. I express agreement that there would be a positive immediate impact regarding our revenue situation, moneys that I believe the Government of Trinidad and Tobago needs, moneys that I believe the Government of Trinidad and Tobago will put to

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greater productive use. I also believe with a fair amount of confidence that these interventions will impact consumption. As I said, how much, I think we have to measure it scientifically over a period of time, and more than that, the reduction in consumption would lead to a healthier Trinidad and Tobago, a more productive Trinidad and Tobago, less need to use money in terms of health care, less need to use money in terms of certain sort of welfare services, and I think that would mean that moneys can be used for more productive uses.

So, I certainly support the measures, Mr. Vice-President. It has been a joy to spend a few minutes chatting with you all in this wonderful occasion, because I really want to pay, or say congratulation, and thank Members, because I really think this is a debate which has gone in a positive way where I think Members have been very objective, and I hope that that can continue in this honourable institution. I thank you, Mr. Vice-President. [*Desk thumping*]

Sen. Rodger Samuel: Mr. Vice-President, I too am thankful to be given the opportunity to speak on these Motions that are before the Senate today, primarily the issue of the increase of import and excise duties for alcohol beverages and for tobacco products.

But, Mr. Vice-President, based on the budget presentation for the 2017 budget, the premise upon which these increases stood, the premise upon which these increases were stated in the 2017 budget, is on page 44 of the printed document, and it says clearly that:

“The Government is of the view that we need to curb our consumption of alcohol and tobacco. Worldwide, tobacco use is the single largest cause of preventable death, killing around six million”—persons—“every year.”

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So, in other words, Mr. Vice-President, the Minister in his budget presentation was saying for far too long we have had to deal with the negative consequences associated with high consumption of these products. And it says to me, that though the intention is a good one, this is not the first time we are hearing such remarks, and almost along the same lines, and it would say to us that the increase in these entities have not worked out the way in the past in decreasing the consumption or the use of alcohol and tobacco.

As a matter of fact, Mr. Vice-President, on Monday, January 14, 2008, in a *Newsday* clipping “Tobacco Debate”, tobacco use identified as second major cause of death in the world, and this was a presentation to the Lower House by the hon. Minister of Health then in 2008. And he began by addressing the House and saying he was instructed and authorized by the Cabinet to address the House that day on a topic which is of utmost importance to the health and well-being of the population of Trinidad and Tobago, and more so to the vulnerable groups, our women and youth. And then he says, in fact, when he was speaking, a study produced by Prof. Jha, research chair of the health and development of the University of Toronto in Canada, estimated that deaths due to smoking in Trinidad and Tobago then, for 2002, in the age groups 35 and over were 90 per cent for lung cancer, 69 per cent for oral cancer, 38 per cent for respiratory disease, 19 per cent each for heart disease, stroke and other vascular diseases.

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And subsequent to that, there was an increase in taxes, there was an increase in duties for the set products with the intention that it will in some way redound to a decrease in the use and the consumption of alcohol and tobacco. But between

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2008 and now what we have found, Mr. Vice-President, is that more people are smoking. The consumption of alcohol has now—the age bracket has now significantly reduced, so you have young people that are consuming alcohol and smoking. As a matter of fact, schoolchildren—you know, I had to ask a serious question, Mr. Vice-President, when we debated the Marriage Act, we said it is 18 years and we were doing all kinds of stuff and then the idea of consumption of alcohol and tobacco is also 18.

[MADAM PRESIDENT *in the Chair*]

But like teenage pregnancy, it is not working. It means that something is absolutely wrong in our society. The fact that, Madam President, that we have had to be speaking about this on a regular basis, the fact that we continue to instil all other aspects of deterrence says that it is not getting better, but it is getting worse.

As a matter of fact, Madam President, it was then in October 2006 on a *Newsday* article headline:

“Vice willing to pay the price”

In other words, it was no different then than the calypsonian singing recently, “Even though it go up he still drinking the rum”. It says that the mindset of our society, it is a cultural mindset and the mindset has not changed between 2008 to now. It means that the intent of increased taxes and duties did not work then, and I am not certain that it is going to work now.

As a matter of fact, the inelasticity of the thing would suggest that there is a possibility that it may not work, like it did not work before. Madam President, it was in this same report by Sean Douglas on Friday, October 6, 2006 of the *Newsday*:

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“Vice willing to pay the price”

He was quoting Mr. Karl Theodore, and Karl Theodore was an economist at the University of the West Indies in St. Augustine and he was commenting on the budget changes and the adjustments and the budget of that year. And Karl Theodore said:

“While he commended any measure which might reduce the consumption of alcohol and tobacco, he didn’t think the Budget could do it alone. He said it was known that even raising the price of such items does not reduce the demand for them. ‘The demand elasticities for alcohol and tobacco are extremely low, so even high prices don’t bring down consumption.’”

That was the economist Karl Theodore in those days, 2008. And in 2017 we are back at the same level, we are back talking about the increases in prices will in some way reduce the consumption and use. But I was looking at the *Daily Express*, Madam President, published on January 09, 2017. It was written by Raffique Shah. And Raffique Shah was commenting:

“We must do, or die like stray dogs”

And that was the headline. And he says:

“Looking at the economy in crisis and ways to save a few billion dollars here”—and there—“and earn some more there, it struck me that the sole cigarette manufacturer, WITCO, reports revenues of approximately \$1 billion per year. This indicates that smokers spend at least that much (maybe more, through imported brands), and I have not added the cost to taxpayers of extending healthcare to victims of tobacco-related diseases.”

And that was Raffique Shah. But he went on to say:

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“Ditto for alcohol. Angostura, the leading manufacturer of rums, notched up sales of close to \$700 million in 2014. Add to that spending on beer...”—
and all the other things.

And he was showing that the profits and the gains on these two entities, and by the way, Madam President, there were things that are closely associated, tobacco use, alcohol, gambling and quite a number of things are closely related in so many instances. Madam President, it is important for us to take note of these things, why?—because we are then attempting to try the same thing and trying to get an absolutely different outcome.

So, based on the presentation of the hon. Minister of Finance it is safe to say that it is not necessarily going to change the consumption. The Minister seems to be hoping that it does something, but we need to go beyond just hoping, we need to go beyond just increasing things and begin to now deal with the issue of consumption as it pertains to Trinidad and Tobago. Quite a number of the statistics that are quoted, are quoted from other nations, but we as a nation find ourselves not having any kind of empirical data that deals with the issues that pertain to Trinidad and Tobago; and as it pertains to Trinidad and Tobago based on the mindset of the typical Trinidadian and Tobagonian, based on the culture of Trinidad and Tobago, based upon on how we think generally as we deal with severe and serious issues in our country, Madam President.

As a matter fact, Madam President, the statistics may show, and based upon the presentations of the hon. Minister that this might clearly indicate the state of our society. It might clearly say to us that people are smoking away and drinking away their problems. They are smoking away and drinking away their issues and

when situations arise they smoke it away and drink it away hopefully to try to get rid of it, but one day the smoke will be over and they will get sober again just to have to do it all over again. Because the lifestyle habits of consumption, like in every other area, the same way we are talking about obesity and the consumption of fast foods which has become a tremendously cultural situation in our country, that is affecting our country, the consumption of alcohol and tobacco seems to be following the same patterns and we are talking about stuff but we are not putting the necessary things based on empirical data to deal with it in Trinidad and Tobago.

Madam President, so there seems to be no change in what has been happening since then, since the taxes were raised and since in 2008 they raised things on tobacco and alcohol, but no change was seen. Why and how do we know that? We have had to implement breathalysers, and it says that things were getting out of hand, the carnage on the road was getting out of hand. We do not have the kind of data again from the Trinidad and Tobago Police Service or from the Judiciary, I am not too sure, that will tell us the amount of deaths in a particular year that were caused by people who are driving under the influence of alcohol; the amount of accidents that were caused by people who are driving under the influence of alcohol and in the absence of that kind of data there can be no comprehensive direction or approach to deal with the serious issue.

So the fact that we have had to—as a matter of fact, Madam President, between 2010 and 2011 when they brought out the breathalyser situation, in one period there were 1,000-and-something cases going to court and there was a weekend in 2012 when they had some 40-something persons being charged driving

under the influence and failing the breathalyser test. I am not too sure what has happened since then, you understand, because there is no forthcoming data on a regular basis to determine if the implementing of the breathalyser has reduced the whole situation and caused people to curb on their consumption and whatever, I am not too sure. So really, to state that this measure is going to reduce it is a pie in the sky, it is something that we are looking forward to but there are no other mechanisms in place to support such a measure or to enhance the measure and enhance the fact that this thing can succeed if it can have the kind of support mechanisms otherwise.

Madam President, it is reported, and this is an international thing by the World Health Organization, that some two billion persons worldwide consume alcoholic drinks which can have immediate and long-term consequences on health and social life. And I want to share this with you, Madam President. I remember some years ago visiting a little community eight o'clock one morning, guys liming outside already and one of the young men came to me and say, "Oh gosh, put someting in ah bottle for we, nah," eight o'clock in the morning. And I was shocked to say, "but you ain self asking me for something to eat, you ain say well, put something in a pot". The first thing you could ask me at eight o'clock in the morning is "put someting in a bottle, nah". And I said, but this hour in the morning, "Whay yuh mean?" And that tells you a great deal.

I remember walking through Arima one day about six o'clock in the evening, they were putting up this stage and tent just outside the Princess Royal Park there and it was supposed to be a gospel show. They were going to have prayers and—so three guys sitting down on a little curb and one had a little bottle

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of rum and the other one with two glasses and they were saying to each other, “Like it going to have a lil jam here tonight, boy. We have to fix weself good.” And it tells you that that is the first thing that people are thinking about. Young people are consuming alcohol in measures that we are yet to determine as a country because everywhere you turn and the age limit of buying alcohol, I mean, that is a big joke because they get it anyway and those are the kind of problems that we have.

As a matter of fact, it is said that alcohol is the third most common cause of death in developed countries and severe alcohol consumption, according to the World Health Organization. And the damage to human life is often described in terms of loss of disability adjusted life years. In other words, Madam President, the disability adjusted life years takes into account the number of years lost due to premature deaths, as well as the years spent living with disability. So the world is beginning to calculate and beginning to put a cost to the fact that people live with a disability based upon the consumption of alcohol, the cause of alcohol, the cause of disabilities because of the consumption, and they now market that and determine what it is going to cost a nation with regard to the disability that is caused by alcohol consumption.

So how can we analyze that? How can we determine it?—because we need to start to have data in our country, Madam President. How do we measure the drinking habits of a nation? That is a question that we all need to ask. How are we to measure it? One writer says, we could measure it by analyzing the products and the sales statistics. In other words, we look at the product and the sales statistics and then we can determine what the consumption level is in the country. And I am

not too sure that is being done, because we may only measure it from an economic standpoint. We may just measure it just to see how much was produced and how much was sold and we are seeing the profit margin from it, but we are not measuring it from a standpoint to look and say the consumption levels in the country and then begin to categorize it in the consumption level from a standpoint of male and female and then look at it in age brackets and begin to deal with the danger of the consumption of alcohol and tobacco

And then one person says, well, you can back that up with physical surveys as you question people about their drinking habits and things like that. And then you can begin, Madam President, to break it down geographically, because from area to area consumption levels are different. We need to know which areas in our country people are consuming more, why they are consuming more and how we can deal and help people with the consumption problems that they have. [*Desk thumping*]

Now, the question is asked, who are really heavy drinkers? Because I am not too sure if the average person who drinks believes they are heavy drinkers. But, Madam President, heavy drinkers according to statistics seem to show that persons—and Pastor Dottin was referring to this, persons who consume more than a certain amount of drinks per day. In other words, they are saying if you drink more than three drinks per day you are a heavy drinker, or more than a certain quantity per occasion. It is said that if you drink five or more drinks on any one occasion or in any one week you are considered a heavy drinker. So it all depends on how you are going, or if you are drinking every day. And we need to determine that as a society or else we would only say the revenue that is going to be earned,

but we have no way of determining if, Madam President, it is going to significantly reduce the consumption.

Madam President, it is time for us to deal with the impact that consumption of alcohol has on our work ethics. As a matter of fact, alcohol consumption in the manner in which it is consumed can affect the work ethics in Trinidad and Tobago. We already have a low productivity rating in Trinidad and Tobago and maybe that is one of the causes of low productivity. It affects, it is high on the absentee list; it is high on accidents on work; it is high on productivity; it is high on unemployment.

As a matter of fact, Madam President, quite a number of people actually have to drink every day, even during the day while they work, in this country. And not only that, but we have to study the effects, how it affects the family. We must deal with not just the workplace, but how it affects the family and how it impairs how a person performs as a parent; how it impairs how they contribute to the functioning of the household. We must look at all of these things when we are looking to deal with problems in our country, the lasting effects that it has on their partners and their children. If we are not ready to deal with those kind of things, broad-brushing it and saying that, you know, raising the taxes will reduce it, then we will find ourselves “spinning top in mud” and then doing the same thing over and over and not having the change that is necessary, Madam President.

Madam President, it would appear from the presentations in the budget and even today, that much more emphasis is placed on the revenue earned than the issues caused. And I am quite concerned about that, because I had so much calculations about every year and the data on the finances and what it realized, but

there is no data on the impact and the cause. So it is a one-sided kind of presentation because to balance that, even though I could have seen the income and the revenue from all of those things, I should be able to see the damages and the impact it has to balance the equation and then we will determine if we are really benefiting, because economic benefit is not necessarily benefit at all if we just—
[*Interruption*]

Madam President: Hon. Senators, can we listen to the contribution in silence, please. Continue, Sen. Samuel.

Sen. R. Samuel: [*Desk thumping*] And this is just for the Minister and probably when you think about the amount of people being charged for driving under the influence maybe that should have gone as part of the revenue earning in the budget, because that too is part of the impact of alcohol and tobacco on a country and maybe we need to look at those kind—what is the revenue from the driving under the influence and how many people have been—because the payments now and the charges are \$12,000 and \$15,000 per, you know, and there are people who have done it two or three times and they are before the courts two and three times. You may find that there is a lot of money coming in there too, eh. So it is important for us to look at it—revenue generating, and that is what I am saying. So part of the revenue generating, maybe we have to look at that to see if we are earning enough money from that, Madam President.

Madam President, it is important for us to see that and if we do not see that then we would find our country in tremendous trouble. But one thing before I close, Madam President, is that how can we as a country want to deal with the increase of consumption when we advertise that Vat 19 is “the spirit of Trinidad

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and Tobago”. [*Desk thumping*] The world knows us as Vat 19 is our spirit and Stag “is a man’s beer”. Madam President, that is a fact. So we market it as if it is this kind of macho situation, “the spirit of Trinidad and Tobago”, by the producers, is Vat 19. And we are talking about curbing the use and the consumption of alcohol and the fact that, you know, “a man’s beer” is Stag. I do not know what Carib is, I do not know what the other things are, but we probably need to look at all of that to see why we are the way we are.

So we must take into consideration, Madam President, all of the data, all of these things and make sure that what we want to achieve is not blinded by just the economics, but what we want to achieve is balanced by the data that shows the impact on a society and not just the revenue earning mechanisms. I thank you.
[*Desk thumping*]

Sen. Gerald Ramdeen: Madam President, it is my privilege to join this debate this afternoon which is presented by the Minister of Finance for the increase, three Motions, the aim of which is to increase the taxes on tobacco, alcohol and cigarettes. And the way in which I wish to structure my contribution this afternoon, Madam President, is to take us back to how we actually reached here, starting on Tuesday, November 15, 2016. And dealing with an issue that I consider to be very, very, important. It was raised by Independent Sen. Shrikissoon and it was touched upon by Sen. Lester Henry in their contributions.

And it is very important, Madam President, because this debate started on the 15th of November, 2016 and before any of us could contribute to the debate, we were told on that day that the Government was going to adjourn the debate because they had advice from the Treasury Solicitor. As Independent Sen. Shrikissoon indicated,

we were asked to make a decision on that day because we had to vote on what should transpire with respect to the Motion in the absence of being provided with the information and the advice that lay within the bosom of the Government. And that is a very, very, unfortunate position to be in, Madam President. And it has become a habit that assurances have been given by the Government to us on this side and to this Chamber, that information, whether it be in the form of opinions, whether it be in the form of documents, are to be provided and those documents thereafter are not provided.

And it strikes, Madam President, to the heart of the task that we perform here as Members of a Parliament, because we cannot be asked to vote on a matter and there is information that should be shared among all of us and that information is secreted by the Government. [*Desk thumping*] This is a very, very, important matter, Madam President, because we have a Standing Committee on Assurances that all of us, whether it be on the Government side, the Opposition, the Independents, all agreed it was a very progressive move for us to have a committee on assurances. And these assurances are being given time and time again and nothing is being done about them when no sanction is being attached to the fact that when these assurances are given, in this particular case, it was given by the Leader of Government Business at the time and I join with my Leader, Sen. Mark, in wishing a healthy recovery to the Leader of Government Business.

But the Leader of Government Business unequivocally indicated that we will be provided with this advice from the Treasury Solicitor. And I am lucky. I consider myself lucky as Sen. Mark indicated, through very inventive means, we on the Opposition side have been able to see what it is that the Leader of

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Government of Business was speaking about and to be able to read it and to be able to analyze it and part of my contribution today is to be able to take it apart and to show that that opinion, with the greatest of respect to the Treasury Solicitor, is not worth the paper that it is written on. [*Desk thumping*]

But before I get there, Madam President, I want to just spend a few minutes on this issue, because I really would not want there to be a repeat of what transpired on the 15th of November, 2016 and what continues today, because as I speak today, it is through the intervention of Sen. Mark that I am able to speak to the advice, up to today, 91 days as Sen. Mark has indicated, after, we are not yet provided with the advice that we were promised by the Government. And I say, it is a matter that affects our democracy because the Court of Appeal in our jurisdiction, the highest court in our jurisdiction, has dealt with this matter and Sen. Lester Henry, with the greatest respect I think, said flippantly in your absence, Madam President, that the hon. Attorney General said you cannot be throwing legal advice around like that, legal advice that is given to a Ministry or is given to a Minister. But I will get to the issue about it being paid for by the taxpayers.

But I want to read into the *Hansard* today, for the benefit of those on that side and for all of us as Members of Parliament, what the Court of Appeal had said about this idea of keeping material that should be disclosed in the public interest to all of us and there can be no greater, [*Desk thumping*] there can be no greater public interest to be served than to disclose material that is relevant to a debate in Parliament because we are here to do the people's business. [*Desk thumping*]

There was a matter that went to the Court of Appeal, Madam President. It is Civil Appeal, No. P200 of 2014, the *Minister of Planning and Sustainable*

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Development v the Joint Consultative Council for the Construction Industry. And just to give two sentences on how this reached the Court of Appeal. This was a matter where the JCC applied under the Freedom of Information—[*Interruption*]

Sen. Gopee-Scoon: Point of order, 46(1).

Madam President: Sen. Ramdeen, I will allow you to finish your point, but let me just say that Sen. Mark has spoken about it, other Senators have spoken about it. So I need you to move your contribution along, finish what you are saying and then try and move on to other issues in your contribution please.

Sen. G. Ramdeen: I am obliged, Madam President. I would just like to quote what I am referring to, because I think it is important for all of us to understand where this sits in our democracy. I think it is very important. Who I am quoting from, Madam President, is Justice of Appeal Jamadhar, one of those people that I consider to be one of our most learned jurists that we have produced.

“Decisions such as this one”—and why I say it is relevant, Madam President, why it is relevant? It is because in this case what this was dealing with was the disclosure of a legal opinion which is the exact thing that I am complaining about in this case, that we were promised that this opinion would be disclosed to us and it was not. So let me move on.

“Decisions such as this one must also be made in the context of the historical and social circumstances that are peculiar to Trinidad and Tobago. In this regard, this court unanimously stated”—and I quote: “in *Ashford Sankar v Public Service Commission*:

As noted earlier in this judgment, the object of the Act is to make information freely accessible to the public with a view to promoting transparency and accountability in the decision-making of public authorities.”

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“It is...important...in a post-colonial society in which bureaucrats have historically been reluctant to expose their decisions to the glare of public scrutiny. Freedom of access to information is also important in a society that is politically polarized along ethnic lines, and in which appointment to public office, and decisions involving the allocation of state resources are often the subject of speculation and mistrust. Against this historical and social background, the right to access information from public authorities must be jealously guarded, and must not be allowed to be whittled down. Information requested must be provided unless refusal of access to information is expressly permitted by the Act, and the public authority provides adequate and intelligible reasons for refusal.”

And Justice of Appeal Jamadhar goes on—

Madam President: Sen. Ramdeen, so you have quoted from the—I think you have made your point about the decision so can you move on, please. I do not think we need to hear the entire judgment. Okay?

Sen. G. Ramdeen: As you please, Madam President. [*Interruption*]

Madam President: May I just say to Members that if a Member wants to invoke a Standing Order, you should know by now how to do it. Sen. Ramdeen, please continue.

Sen. G. Ramdeen: I am obliged, Madam President. [*Desk thumping*] You see,

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Madam President, the issue that really concerns us on this side is one whereby, what we are seeking, or what has been done by the Government is to impose taxation on the citizens of this country without any sanction from the Parliament. This is the real issue that we are concerned about. [*Desk thumping*] It is a fundamental principle, Madam President, and I will show for 802 years it has been a fundamental principle, that you cannot impose taxation arbitrarily on the citizens of any country.

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

Sen. G. Ramdeen: We are a democracy governed by a Constitution and the Constitution provides that if you want to impose taxes, you can only do so under the authority of the Parliament. And where does this find its genesis, Madam President? The genesis of that, and the principle which I say the Government has flagrantly disregarded in bringing these Orders and not adhering to what the law is with respect to how these Orders ought to be sanctioned by the Parliament, has breached that principle. Eight hundred and two years ago—802 years ago—when the Magna Carta was signed, Chapter 12 and Chapter 16, 802 years ago, the barons went to the king to make him sign the Magna Carta. To do what? To ensure that you could not impose taxation without the authority of the council—802 years ago. [*Desk thumping*]

And this Government, 802 years after, has disregarded all of that and decided to impose taxation by virtue of an Order, and when we come to Parliament to debate it, to confirm, amend or revoke, we are told that you have a legal opinion that tells you we “doh” need to do that now. We can put it off. Well, when we are told that on the 15th of November, 2016, and we come here in February of 2017,

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and the Motion that we are asked to debate and to pass says:

“*And whereas* it is expedient to confirm the Order:”

That is what it says, Motion No. 1. Motion No. 2:

“*And whereas* it is expedient to confirm the Order:”

And whereas it is expedient to confirm...”

What is expedient about this, when we came in November of 2016, [*Desk thumping*] when the legislation provides that within four and 21 days it must be submitted to Parliament? Madam President, this act of attempting to impose taxes on the population without the sanction of the Parliament was one of the reasons why you had an American revolution, you know. It was one of the reasons why you had an American revolution that led to the American independence. That is what it led to. This. [*Crosstalk*]

Madam President: Sen. Ramdeen, please. Please, the crosstalk has to stop, especially when it is being as heated as I am hearing. So please stop it and if you all want to have that crosstalk, leave the Chamber. Okay? Sen. Ramdeen, continue. [*Desk thumping*]

Sen. G. Ramdeen: Thank you for your protection, Madam President. You see, the reason why I am giving these examples is because when this was done in the past, even if it is 802 years ago, we should learn from our history because it led to the Magna Carta in 1215; it led to the American revolution and one cannot tell when you do this to the population, when is going to be the day that the population is going to decide they are not going to accept that kind of behaviour by a government anymore, and what it can lead to. [*Desk thumping*] You see, we had an experience in 1990 and we do not want to have another one like that again.

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So, Madam President, I want to move on from that because I think that we understand, and we should understand as a Parliament that, as Sen. Mark has indicated—and I join in what he has said and I support him—that we cannot, no government should be allowed to impose any tax, no matter what it may be, no matter how good the intention might be, without the sanction of the Parliament of this country. [*Desk thumping*]

Now, I have gratefully been provided with a copy of an opinion by the Treasury Solicitor to the hon. Minister of Finance that is dated November 11, 2016, and this is an opinion that was done at the request of the Minister of Finance, and we are here to debate what was the result of this opinion being given. And I wish to say that I would have thought it proper that for us to have a proper debate and a proper understanding of why we are here and why these measures were imposed on the population, that we ought to have been provided with the request for the opinion. Because reading the opinion and reading what the Treasury Solicitor has said—and I will read it and I will go through it and analyse it, but it is reading in a vacuum, because we do not know what it is that was requested by the Minister of Finance for this to be the outcome of it. And I would have hoped—I was privileged to just finish a joint select committee with the Minister of Finance and I am surprised that we are in this position today, because the Minister of Finance is someone who is very learned in law, Madam President. He has two LL.M.s and I would have thought that having been qualified to that extent, we would have all—he would have understood how important it was to give us the request together with the advice. But we have none from the Minister of Finance, unfortunately.

To just add to that, I think the people who are disadvantaged the most by this

are the Independent Bench because they are asked to contribute to a debate without even seeing the advice. We have the advice; we do not have the request. But unfortunately, they have neither. But, Madam President, from the time I read this advice, from the minute I read it, instinctively I knew that there was something wrong about what was being stated here—instinctively. And if I go straight to page 3 and paragraph 3 of the advice, you would see that the Treasury Solicitor makes a grave qualification on the advice which is, having dealt with the legal matters, the Treasury Solicitor indicated that the advice of Parliament should be sought on this matter. And as we stand here today, because of what I indicated when we started that we have no—not even very little—we have no disclosure by the Minister of Finance, we cannot say—as a Parliament here, asked to approve this, we cannot say that the Parliament has contributed to this advice to the extent that we know what we are being asked to do is proper in accordance with parliamentary law, procedure and practice. [*Desk thumping*]

Now, when I said from the time I read it I realized that there was something wrong, Madam President, it is simply this, and let me put it in a nutshell so that we can all understand. The Treasury Solicitor has given an advice that deals with an interpretation of sections 7 and 8 of the Customs Act and has relied on section 75(4) of the Interpretation Act, Chap. 3:01. I do not want to take up time in going through and reading through paragraphs and line by line what the legislation says, but in essence, the Treasury Solicitor has come down with the view, or the opinion, respectfully, that because the Acts provide that these Orders ought to be submitted within four and 21 days—and it says, “submitted to Parliament”, and Sen. Mark indicated very clearly that Parliament is defined under the supreme law, the

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Constitution, as being the House of Representatives, the Senate and the President—the learned Treasury Solicitor has indicated that because Parliament, having looked—and reference is made in the opinion—to the Standing Orders of the House and the Standing Orders of the Senate, because Parliament has fixed no time by which the resolutions should be revoked, amended or confirmed, then there is no time limit upon which it is to be done.

But that leads to the question, Madam President, well why are we here? Why are we here being asked to approve, to confirm, revoke or amend these Motions? Because the learned Minister of Finance indicated, in piloting the Motions, that there is no time limit. So why are we being asked to do this if the Orders can remain ad infinitum in place according to the learned Treasury Solicitor? The Minister of Finance has no reason to bring us here to debate these Motions because the logical conclusion of the Treasury Solicitor is that we do not need to be here. There is no time limit fixed. Once you lay it in Parliament, there is no time limit fixed, and therefore that is the basis upon which this opinion—the fundamental basis upon which this opinion is given is that there is no time limit.

So time, no matter what the Motions say—the Motions say “it is expedient”, but how could it be expedient for us to do it when the Treasury Solicitor, the opinion that the learned Minister of Finance is relying on, says, well, there is no time limit so you could do it any time and the Orders can remain in place for as long as you want. There is no time limit.

Well, I think, Madam President, with the greatest of respect, that that is the most absurd result that one can come to in reading these pieces of legislation. [*Desk thumping*] And when, as a student of law, to borrow the words of Senior

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Counsel Martineau, “It is horn book law” that if you have an absurd result from a literal interpretation of a piece of legislation, then anyone interpreting that piece of legislation should try and find a purposive result from what is said there. And the only purposive result that you can come to when you read these different pieces of legislation is that it is mandatory for these Orders to have been brought and passed in the House, the Senate and the President between four and 21 days, otherwise they will be illegal. [*Desk thumping*]

But I indicated, Madam President, that the learned Treasury Solicitor had made reference to the Interpretation Act, and since the Independent Senators do not have the benefit of the documents that we have, I just wish to read out the basis upon which this is done.

It should be noted, however, that by virtue of section 75(4) of the Interpretation Act, Chap. 3:01, a reference in any written law to a resolution of Parliament, shall be construed as a reference to a resolution passed by the Senate and by the House of Representatives.

When a resolution of the Parliament is published in the *Gazette*, the resolution shall have effect and the Order shall then expire.

And this is the important part, Madam President.

It does not appear from a reading of the Acts that the Parliament gave itself a time by which the resolutions are to be confirmed and hence published. It also does not appear from a reading of the Standing Orders for either the House or the Senate, that the Parliament gave itself a time by which the resolutions are to be confirmed and hence published. The latter view, however, is subject to that provided by the relevant officers of the

Parliament who should be consulted on this point.

Notwithstanding, the resolutions were debated and passed in the House on the 9th of November, 2016. The resolutions are still to be debated and passed in the Senate. It is my view that having submitted the Orders to the Parliament, the statutory requirement has been met and the Orders will continue to be in effect until the Parliament has confirmed and published the resolutions associated with the relevant Orders. The State, in my view, has the requisite authority to collect and therefore continue to collect the import and excise duties.

What I would have liked the learned Treasury Solicitor to make reference to, in her opinion, is that in addition to section 75(4) of the Interpretation Act, should have made reference to section 23 also of the Interpretation Act. And I am sure the learned Minister of Finance would be very familiar with this. Section 23 of the Interpretation Act says:

“Where a written law requires or authorises something to be done but does not prescribe the time within which it shall or may be done, the law shall be construed as requiring or authorising the thing to be done without unreasonable delay having regard to the circumstances and as often as due occasion arises.”

Now, that is a very, very important provision to be considered by the Minister of Finance, because the last words are most material:

It is required—“to be done without unreasonable delay...”

That is the first part.

“...having regard to the circumstances and as often as due occasion arises.”

So when we came here on the 15th of November, 2016, and the occasion arose for us to debate these Motions to confirm, revoke or amend, and it was not done, the Minister of Finance should consider if a High Court action is brought by someone upon who these taxes are imposed and section 23 is invoked, whether the State of Trinidad and Tobago will be liable for the taxes that have been collected from the 15th of November, 2016 to today and continuing. Because the Minister of Finance was very careful—and I commend him—in piloting the Motion for indicating to date what has been the collections pursuant to these three Motions. And what is interesting, Madam President, is that \$54 million, plus \$58 million is \$112 million, plus \$36 million, which is \$148 million, plus \$5 million, which is \$153 million, could be the liability of the State of Trinidad and Tobago if this is struck down in a court, and the State becomes liable for the taxes that they have collected through their ignorance of what the law is. [*Desk thumping*]

So the Minister of Finance should be put on warning that this, as I indicated before, respectfully, Madam President, should be reviewed, but it may well be too late because both pieces of legislation are very clear that if we are correct and it was not done between four and 21 days, that is the end of the matter. There is no residuary discretion in the Parliament to change the law. So that if I am correct that this should have been done at that time and the occasion arose for us to do it, and the Interpretation Act that the said Treasury Solicitor relied upon to find out what was the meaning of Parliament and what is the meaning of a resolution, is applied to this particular case, all that we have been speaking about and all the benefits to the Government for the revenue collection that has been done will amount to zero, zero, zero.

I am always privileged, Madam President, to be able to give my short contribution to what the law is in this matter and I think that the Minister of Finance, with all the qualifications that he has, has the ability to analyse what has happened here and to take steps, or to ask the Parliament to take steps to redress what I consider to be a clear illegality that has been perpetrated on the people of this country. And what is most unfortunate about it, Madam President, is this. Up to now—we had the opportunity to do what we are doing here within the time period so that it would be lawful, and up to now we have not been told why we were not allowed to do it on the 15th of November—[*Desk thumping*—]Up to now.

No good reason has been given as to why we were brought back here again. Like Sen. Shrikissoon said, we had to be brought on a Saturday. We could have been debating something else today. We could have doing the people's business that we should have done on the 15th of November and be doing something else today, but because of what has happened on that side, because of what transpired there, without us being told why, we are here today to do what we should have done, and the consequences may be irreversible.

Madam President, more relevant to the Motion that is before us, the Minister of Finance gave us the figures of the revenue collection that has been made from October when these measures were put in place on the 19th of October, 2016, and despite all that we have been told, Madam President, unless my calculations are wrong, there has not been any increase in the revenue. I understand, and I stand to be corrected, that the Minister of Finance only gave us the major items, the big-ticket items, with respect to the collection of revenue. But on the big-ticket items, whether it be Christmas or whether it be seasonal, whatever it may be, between

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October and December, what these figures have shown on the big-ticket items is that there has been approximately a \$4 million decline in the collection of revenue.

So where are we really going with this? Where are we really going with these measures? There has been no increase in revenue when Christmas falls within the period—when people drink the most. Right? You have no increase. You expect it to get better for the other nine months of the year? All that this amounts to, Madam President, is old school economics. When you cannot raise revenue, you tax alcohol and tobacco and cigarettes. It just demonstrates what we have been saying all along on this side, which is simply that you have no plan and you have no vision and you have no innovative ideas to create any revenue-generating mechanisms to increase the revenue to be collected in this country. [*Desk thumping*]

So what do we do? We go back and tax like we said before. But, Madam President, there are spinoffs to this, you know. There are serious spinoffs to what is transpiring here. Because when you raise—everyone has talked about how inelastic the demand is for these products. Well, the inelasticity of the demand for the products does not reveal itself only in the fact that demand does not go down. What it reveals is that what you then create is an entire black market throughout the country for contraband products to come into the country. [*Desk thumping*]
What has the Minister of Finance told us about what has been put in place to protect the citizens of this country from the contraband that comes in in Las Cuevas and the contraband that comes in in Cedros and Icacos? There is a running trade of contraband from Icacos to Venezuela and Venezuela back to Icacos; Tucupita, back, and you going; 10 minutes, half an hour, back and forth, and the

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Minister of Finance and the Minister of National Security have told us absolutely nothing about what measures are going to be put in place in those ports. [*Desk thumping*]

You know what we heard? We heard in the budget debate of 2016/2017 that the border protection agency is far advanced. Well, from 2016 to now, at page 70 of the budget debate of the Minister of Finance, he told us back on the 30th of September, 2016, that:

“We are far advanced in establishing the joint border patrol agency...”

Madam President: Sen. Ramdeen, you have five more minutes. Could I ask you to use those five minutes wisely, and to relate, come back to the matter at hand, please? Okay? Sen. Ramdeen, okay?

Sen. G. Ramdeen: I am obliged. The point I was trying to make, Madam President, is that when you have that contraband market being developed, we have to put things in place to protect the citizens of this country. But one issue that I do not think any of us have faced frontally, Madam President, that arises directly out of this, is that we have a serious problem in this country that we should admit, that there are many of our women who suffer every day, domestic violence because of persons they are in relationships with who consume alcohol. There is nothing put in place and nothing said about what are the protections that we are putting in place for those women, and those children who suffer on a daily basis in homes where you have fathers who are alcoholics. On a daily basis they are abused, wives are abused, daughters are abused, sons are abused and we hear nothing. It is as though we put our heads in the sand and we do as though it just does not exist.

But, Madam President, we must put things in place because those are the

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most vulnerable in our society. And the last time I checked, we live in a democracy, so people have a right to choose who they have a relationship with. They do not have to suffer at their hands. And, therefore, as a Government, and as a Parliament, we should address, collectively, the problem that we face for these persons who are our most vulnerable and those who suffer the most.

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

Sen. Wayne Sturge: [*Desk thumping*] Madam President, I listened attentively to the contributions of my colleague, Sen. Ameen and temporary Independent Senator, Pastor Dottin, who, together with Sen. Ramdeen, basically made all the points I was hoping to make, so I am at this point scraping the bottom of the barrel, and I promise I would not take very long in doing so.

Hon Imbert: Ease me up.

Sen. W. Sturge: I am not going to ease you up.

Mr. Imbert: “Ah doh trust yuh.”

Sen. W. Sturge: Madam President, when I listened to the contribution of Sen. Dottin, in particular, he made some very good points which are worth repeating, but I would not repeat it right away. I will try to get down to the issue. Because when he made the points about the attractiveness of alcohol and cigarettes and so on, and how it is marketed directly or indirectly, that was one of the major issues I wanted to get into. And when he made the points, I threw my mind back to 2009. I remember distinctly where I was, and when I was privileged enough to see a debate on tobacco control which is now Act No. 30:04, and I remember that there were a series of offences created under the Tobacco Control Act, and for good reason.

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But as I listened to Sen. Dottin, I wondered whether there was a parallel piece of legislation dealing with alcohol. Now correct me if I am wrong, but I have just been looking through the laws of Trinidad and Tobago, as per the Legal Affairs website and I typed the obvious, alcohol, and there is no parallel legislation. If I can just give an indication of the type of offences created because they are offences which deal with a certain malady, which we are dealing with.

Madam President: Sen. Sturge, the debate is not about everything that can stem from alcohol. Okay? You have not even attempted at the beginning to talk about the Motion. I have to say it, could you please tie in what you are saying now with the three Motions at hand, please.

Sen. W. Sturge: Well, I was about to by simply saying that I notice there are a series of offences created in the Tobacco Control Act, and maybe it is wise that since the Minister has said in his opening remarks that not only are we dealing with revenue generation, we are also dealing with certain societal ills created by alcohol, so that is where I am making the link—and I am being disturbed.

But since we already have these offences which seek to penalize the advertisement of tobacco and so on—I simply want to go through them because I just simply wanted to say that if we have those offences as they relate to tobacco, I see no reason why we should not have similar legislation dealing with alcohol [*Desk thumping*] because going on what the Minister said when he piloted the Motion, what Sen. Dottin said in particular, we have to understand, yes, it may be inelastic and so on in terms of you can raise the price however much you want and it may not have a huge impact on demand, we have to take into account the type of

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damage these two products are doing on our society as a whole. Now whilst we are concerned about revenue generation from the collection of these taxes, if we want to deal with crime, in particular, you deal with crime and you can get a result—some measures are short-term, some medium-term, some long-term.

Sen. Gopee-Scoon: Point of order, 46(1).

Sen. W. Sturge: Yes, when you are dealing with alcohol—[*Interruption*]

Madam President: One second, Sen. Sturge. Yes, please come to the point.

Sen. W. Sturge: Yes, I am coming to the point. Alcohol is responsible—if my friend did not know—for a great deal of the maladies in this society. So I am just seeking to not necessarily repeat what Sen. Dottin has said, but it would be remiss of me not to mention, as I am going, at least two anecdotes at the very least. I would like to mention first of all—it relates to this very thing because there are measures which we can emulate, quite apart from since we are seeking to use this measure simply to control a certain type of sin and we want to deal with the effects of the sin. There is one thing I wish to mention and I would not wish to close without mentioning the name, Carla Maxima-Collins. She is the lady who had her life sniffed away at Mausica Junction, her two-year-old and her nine-month old. A Belmont girl—Belle Eau Road, Belmont. I do not know if Sen. Henry knew her, but the short point is this and the point I wish to make is keeping in mind, consonant with what Sen. Dottin was saying is this, this is a greater evil than appears at face value.

If we know the facts of the case, we are dealing with someone who was not only using alcohol when he broke a red light and so on, but he was a repeat offender.

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Madam President: Senator? Sen. Sturge, please. Are you speaking about something that is now before the courts? Is that what you are doing? Because you should know better than that.

Sen. W. Sturge: I am guided. So I am simply saying there are jurisdictions, United States in particular—whilst we are focusing on profiting from sin taxes and so on, in the United States, for instance—I will just give tobacco as an example and perhaps we can look at it for the future—not only are there fines—if you can connect, if you make a direct connection between the product and the result—but persons are able to sue.

There is an inability in this country because you have to be able to make a direct connection between cigarette use and cancer, and you can do that in the United States. I believe it is high time perhaps we consider, not simply that we are looking at revenue generation and hoping by increasing taxes we would deter persons—because that will not in my view deter anyone because the pull is too strong—but perhaps we can pass legislation, even with the alcohol, so that when there is a case where it is proven that death was in some way contributed to by someone imbibing alcohol and so on—and without referring to a court, if for instance you are speeding up the bus route and you happen to kill someone—
[Interruption]

Madam President: Sen. Sturge, no. I have made a ruling, please do not try to avoid the ruling by doing what you are doing. Okay? Please, let us deal with the Motion at hand. Thank you.

Sen. W. Sturge: I am guided. So what I am saying in essence, perhaps we could look in the future to bring in legislation so that if we can make a connection

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between a result that occurred because of alcohol consumption and so on, that may be, just perhaps, we can look at having the alcohol companies perhaps be liable in some way, either negligently or whatever, because that is something that is pursued in the United States, for instance, but it is pursued in the civil courts and I think we have reached the point where maybe we need to be innovative and not just focus on revenue generation, but focus on how we curtail this behaviour.

I realize I may not get very far into all of the causes, but I just want to pick out portions of the tobacco Bill which I think should be—*[Interruption]* no, since we are dealing with alcohol as offences.

Sen. Gopee-Scoon: Point of order, 46(1).

Madam President: Sen. Sturge.

Sen. W. Sturge: Thank you. Just very quickly because the way to discourage this behaviour is not by sin tax when people already use it. That is the point. So you are seeking to penalize, or impose a tax on what is a legal drug as described by Sen. Dottin, and it is going to be inelastic because if persons are addicted—nicotine is a drug and it is addictive. Alcohol is addictive—it is going to have very little effect. The tax by itself is not what will bring about the change. So I am thinking perhaps—I do not know if we can hear it in the next budget—that if we can have a portion, if we say, look we intend to generate a certain amount, \$55 million or whatever, from alcohol or tobacco levies and so on, that if perhaps we set aside a certain portion of it, or maybe all of it to deal with the ills caused by these two drugs, and to deal with the ills in a way that would have long term effect.

So that the same way I can stand here and say 12 12s are 144, it is not because I am able to reason it out. It is because of inculcation that perhaps from a

very early period in education, perhaps Standard 2, Standard 3, we start educating as part of the syllabus and we devote money perhaps from the revenue we collect to the Ministry of Education for these programmes so that we do not simply invite people now and then to say, oh, cigarette is bad for you and alcohol is bad for you and it really means nothing to the children. So we actually have a dedicated programme where we can inculcate these values into the lives of these young children so that they have a period of six or seven years where they know in spite of all the advertisements where you are macho because you drink rum, or macho because you smoke, or sexy because of this or that, that that is not enough to cause you to engage in this sort of negative behaviour.

Now, as I leave the social aspect, there is just one legal aspect I wish to touch on and it is simply to deal with an aspect that Sen. Ramdeen did not deal with in detail, but I get the impression that the Senate is being treated with contempt, or being marginalized by the Government and this is not the first time. Sen. Shrikissoon already made reference to the instances, but I distinctly remember having to leave a client in limbo to come here, expecting to debate this very topic that we are debating now in November and being told that there is a legal opinion which said they could do what they are doing, they could continue until whenever and they promised that the legal opinion would be made available.

Now I want to say two things. Can we at least when the Minister wraps up have an explanation since there was a promise we would get the opinion; can we at least when the Minister is wrapping up have an explanation [*Desk thumping*] as to why we were not provided with the opinion? We deserve an explanation. We are big people in here, we deserve an explanation. If you want to play politics and say

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well you is Opposition, we “ain’t givin yuh nuttin”, that is all well and good, but we have the Independent Bench here and they should be treated with a level of respect. [*Desk thumping*]

So I was very disappointed when I heard my good friend, Sen. Lester Henry say today, in essence, “Well is we own, we ain’t ha to share. We ain’t ha to gih all yuh.” That is not mature behaviour and I hope that is not a trend that would continue in the future. But in any event, if I can simply go through the opinion before I take my seat—[*Interruption*]

Madam President: Sen. Sturge, we have heard about that opinion. Sen. Ramdeen for most of his contribution dealt with the opinion. You did say it is something new that you were going to bring up, but you have not brought it up as yet. So if you are going to raise something, you raise it now or else move on in your contribution.

Sen. W. Sturge: Yes, that is what I was going to do, Madam President. I was simply going to say there is a rule of the statutory interpretation, *expressio unius*, which in essence says if there is a statute of general applicability and there is one dealing specifically with a subject matter, you go with the interpretation. In this case, there is a Custom Act and there is an Excise Act, and there is an Act dealing with the Provisional Collection of Taxes.

So I looked at the opinion—and this is new—and the opinion basically starts off on the premise that all of these taxes can come under the Provisional Collection of Taxes Act. It has to be. When one looks at the Provisional Collection of Taxes Act, obviously it refers to the House, and if it refers to the House and specifically the House, then it does not mean the whole Parliament—we understand that. That is common sense—and it deals with the Provisional Collection of Taxes generally.

So if there had not been a Customs Act dealing with this issue, or if we did not have an Excise Act dealing with these measures, then I can understand you are starting off on the premise that we can go under the Provisional Collection of Taxes Act and we can wait four months down the road and seek to collect it. But if you have the Provisional Collection of Taxes Act dealing specifically with certain types of taxes, in the opinion it relates to the online purchase tax which is a new tax and the provision is referred to in section 3 which basically states how it is to be collected.

But it goes on, and whilst it flows logically and then refers to the provisions of the Customs Act and the Excise Act, the Treasury Solicitor then defiles logic by making a quantum leap into a totally different direction. I cannot understand if the Customs Act referring to the customs taxes that we are referring to in this Bill, if the Act itself says the Parliament, then I do not know how you arrive at using the same formulation that the House uses for the Provisional Collection of Taxes because this Act is dealing specifically customs and, again, if you did not have a Customs Act and you were relying on the provisions in the Provisional Collection of Taxes Act, then once by can understand how you arrive at your conclusion. But there is passing reference to sections 7 and 8 of the Customs Act, which specifically speaks about the Parliament, not the House, and then there is passing reference, section 13, of Excise (General Provisions) Act which again speaks specifically about the Parliament.

So if one Act which is an Act of general applicability deals with the House, and then the Act dealing specifically with customs says the Parliament, and the Act dealing specifically dealing with excise duty speaks about the Parliament, then you

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cannot use the formula in the Act of general application and use it to these very specific Acts. [*Desk thumping*] It became obvious when going through the opinion, then the Treasury Solicitor realizing that there was no end in sight, no rational end in sight, decided to jump all over the place, which in my opinion, you do not need to go to the 75(4) of the Interpretation Act, or section 39 of the Constitution. You go to that if there is an ambiguity, and there is no ambiguity if one statute says House and the other statute says Parliament. It is quite clear that the House is simply one part of Parliament.

So to get to the end result, the Treasury Solicitor then goes to the Interpretation Act, and without giving any reason as to how she arrived at her conclusion, she then says, “Well, in any event what you should do is you should speak to the relevant officers of Parliament and consult them and see what you should do”. That is in essence what the opinion says. So instead of coming down definitively, she has passed the buck, and I would not go on because Sen. Mark made the point and Sen. Ramdeen made the point about the fact that there was no consultation with the relevant officers of the Parliament. So that is the point I wish to make with respect to the legal opinion. Yes, and that is in essence the end of my contribution. Thank you. [*Desk thumping*]

The Minister of Finance and the Acting Minister of Energy and Energy Industries (Hon. Colm Imbert): Thank you very much, Madam President. I just go to my notes. Sen. Mark said the Motions are illegal, the Treasury Solicitor is wrong, but we are here 91 days after the Motions were published. Sen. Ramdeen engaged in quite a bit of melodrama about the Magna Carta and taxation; demanded to see the request for the opinion; asked why we are here; and then went

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into section 23 of the Interpretation Act, among other things. I would put those two points together in due course, together with Sen. Sturge's illuminating legal discourse on the Constitution, the general versus the specific, et cetera, et cetera, but let us just deal with some more substantive matters.

Sen. Shrikissoo asked: why are there different rates for taxes for extra-regional, extra Caricom alcohol and alcohol producing Caricom? I am assuming I got the hon. Senator's question correct. So why do we have the same rate for alcohol coming from outside and alcohol coming from within the Caricom. Well, what I will say is if Members—and I mean no disrespect to the hon. Senator—would look closely at the matters before them, what we are debating is Customs (Import Duty) (Caribbean Common Market) (Amendment) Order and the Customs (Common External Tariff) (Amendment) Order, among other things, and I think it is necessary to explain what these things mean.

Madam President, we would have heard of the acronym CET, which is an acronym for Common External Tariff. The Common External Tariff in any common market like the European Union, and also as we have a quasi-common market in Caricom, applies to goods that are manufactured and imported from outside of the region into the region. So the Common External Tariff is imposed on, let us call it foreign goods. The Customs (Import Duty) (Caribbean Common Market) rates are imposed on goods manufactured within Caricom. Two of the Orders we are debating today, one of them is Legal Supplement Part B-Volume 55 dated 19th October, No. 118, and similarly that Legal Notice No. 160, that is Caribbean Common Market Order, and then Legal Notice No.159, the Common External Tariff Order, and just regional alcohol and I will give an example, beer

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\$10.54 per litre, stout \$13.19 per litre. So that is the rate of duty we are seeking to impose by these Motions on alcohol that comes from outside of Caricom—\$10.54 for beer, \$13.19 per litre on stout and so on, and so on.

Let us go now to the Caricom Common Market Order which will give you the rates of duty for beer manufactured within Caricom, and the Order states that for beer manufactured within Caricom, the common market rate of duty is \$5.14.

Sen. Shrikissoon: Would you—*[Interruption]*

Hon. C. Imbert: You want me to give way?

Sen. Shrikissoon: Thank you, hon. Minister. I was referring to the rate of taxation, the rate of the increase being the same in both intra and extra and not the actual value.

Hon. C. Imbert: Yes, Senator, the value would also be more because if you are increasing a higher amount by the same percentage, it will still be more. Notwithstanding that explanation of your argument, that is also with respect incorrect because the quantum of increase would also be more for the externally manufactured alcohol than for common market. I just wanted to allay your fears that we charge far more on alcohol that is manufactured outside of Caricom than within the Caricom. Much more. It is twice and sometimes three times as much the rate of duty and that is because within the common market you want to protect items that are manufactured within the common market. So there is significant protection. The rate of duty for beer is 100 per cent more if it comes from Holland, or Germany, or wherever.

Now with respect to cigarettes and this deals with Sen. Ameen's point, but why are we imposing such a small rate of duty on cigarettes, only 20 per cent or 15

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per cent, that is what the hon. Senator said. But if the hon. Senator had read the Legal Notice No. 159, you would have seen that the rate of duty that we are seeking to impose, or have imposed since 19th of October, on cigarettes is 65.7 per cent. So we are not far away from the 75 per cent and I can go through cigars, truroots containing tobacco 65.7 per cent, mortar pipe tobacco 65.7 per cent. We have harmonized the duty on all tobacco of any kind at 65.7 per cent. So we are quite up there in terms of the rates.

I just want to allay some concerns Senators may have about what is actually going up. Now these are very complex matters and I must confess that it is only since I was given this portfolio that I had cause to really dig into the significance of the common external tariff, and the common market rules of origin, and all that sort of thing. So I would not criticize anybody unruly. So just for the record, what we are doing is imposing a rate of duty on cigarettes and tobacco of 65.7 per cent, and the rates of duty on alcohol coming from outside the region are double and sometimes triple what we charge on alcohol with the region.

Now, let us take a look at what Sen. Dottin had to say: why are we tolerating or legalizing alcohol rather than making it illegal—if I could paraphrase what the hon. Senator said—that the taxes on tobacco are so extreme, but the taxes on alcohol do not appear to be as severe as the taxes on tobacco; and that this is a drug and it requires all sorts of preventative and corrective measures such as rehabilitation and prevention and so on. And Sen. Dottin did say that the theory that alcohol is good for you—luckily red wine—arose from a study done in France, the home of wine—and what do you expect Frenchmen to say. If I am saying anything Sen. Dottin that is incorrect please let me know, but I got the impression

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from the hon. Senator's contribution that he was not in agreement with the studies, or the scientific nature of the studies that was claimed to prove that wine is good for you and may be it is just the ingredients or the chemicals in wine.

Now, as a lover of red wine myself I must declare my interest, and I would like to draw the hon. Senator's attention to Article—[*Interruption*]

Hon. Senator: 46

Hon. C. Imbert: Please, Senator. Madam President, I would like to draw Sen. Dottin's attention, and the entire Senate, to an Article in the Annal of Internal Medicine dated October 2015, the "Effects of Initiating...Alcohol Intake on...Adults With Type 2 Diabetes: A 2-Year Randomized, Controlled Trial". And just for information, the Annal of Internal Medicine is one of the most widely cited and influential speciality medical journals in the world—so it is not a two by four journal—and a study was done on a significant number of patients who were diabetic.

They were assigned 150 millilitres of mineral water, white wine or red wine with dinner for two years randomly. All of them were asked to drink one glass either of water, white red or red wine for two years—these are diabetic patients—and the results of the study after two years was that red wine significantly increase high density, lipoprotein cholesterol, and the conclusion is that initiating moderate wine intake—and the point I am making these were non-drinkers. So they did not take a group of drinkers and compared them with another group of drinkers, give one rum to drink and the other red wine to drink. These are non-drinking, teetotallers, who they encouraged to get involved in experiment and they gave them one glass of wine—some of them—one glass of red, one glass of while and

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one glass of water for every night for two years and they said:

The study—“suggests that initiating moderate wine intake, especially red wine, among...diabetics as part of a healthy diet is...safe and...decreases cardiometabolic risk.”

So I just would like you to know this is not a quack study out of France. Sure I would give way.

Sen. Dottin: Madam Chairman, I do not wish to engage the hon. Minister, but there are several studies apart from that one, and the strong word in that survey is “suggested”. I know he has a personal preference, but it should not infiltrate the conclusions.

So that I do not want him to go into my area. There is something called standardization for surveys and it is a short-term survey not like the longitudinal survey mentioned before by Sen. Dookie dealing with the other issue. So I want to caution him in how he takes that one survey or others without looking at the other surveys done by people who have no bias whatsoever.

7.00 p.m.

Hon. C. Imbert: I thank the hon. Senator for that clarification. I simply wanted to put this on the record for all lovers of red wine that as far as this study is concerned, it is good for you [*Laughter and interruption*] and I understand that other Members appreciate my perspective. [*Interruption*] No. But the point is, this is not to take away from any point that Sen. Dottin made and we really do need more focus on rehabilitation and prevention and dissuasion from the excessive consumption of alcohol. No two ways about it.

In terms of Sen. Ramdeen’s contribution, I think I better deal with that right

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away. Sen Ramdeen knows or should know that on or around the 21st of November, 2016 which is approximately a week after the sitting of November 15th which was the last sitting in 2016, so that was the—there were no other sittings in 2016 after that of the Senate. [*Interruption*] Madam President, through you, it is not a question of fault, I am stating a fact because I am going to deal with section 23 of the Interpretation Act. So that sitting on the 15th of November was the last sitting for 2016 and as Sen. Ramdeen would also know, we have been engaged in weighty matters in the first part of January. Sen. Ramdeen was there with me in the Joint Select Committee meetings dealing with the tax information Bill and FATCA and so on. So we have been dealing with weighty matters since then and we are now here to deal with this matter, and the Senator asked the question: why are we here? Well, I will tell you why we are here. And the Senator also said, we could have been doing something else.

Well, when the hon. Senator said that, I decided to look at the Order Paper and there are only two matters on the Order Paper, and those two matters are these three Motions and the procurement Bill which we are doing today. So we are here today because we are dealing with all of the matters on the Order Paper. There is nothing else on the Senate Order Paper for this honourable place to deal with it. So that is why we are here, we are dealing with matters on the Order Paper.

But be that as it may, on or around the 21st of November, the *Express* published the fact that the Government, with the consent of the Joint Consultative Council, was appealing the decision of the Court of Appeal to uphold the decision of Justice Seepersad with respect to disclosure of legal opinion. So Sen. Ramdeen should know that this matter is the subject of active proceedings. That court

decision that you read out is the subject of active proceedings. It is on its way to the Privy Council and the reason why it is on its way to the Privy Council, it is a very important point of law. And even though it is the subject of a High Court decision and a Court of Appeal decision, it was felt by all concerned, it is necessary to have this matter settled at the highest court that we subject ourselves to, at this point in time, which is the Privy Council. So the question as to whether client/attorney privilege is sacrosanct or should be disclosed in the public interest, particularly with respect to matters like this, is now on its way to the Privy Council for a final determination.

And it is because of that decision of the Government, on or around the 21st of November that the Government has decided that let us await the outcome of this Privy Council matter before we get into a general precedent of disclosing legal opinions in the public interest. We need to have this matter settled. What exactly is the public interest in a case like this and whether we should be just disclosing and breaching client attorney privilege—or not breaching it but we should be disregarding the fundamental principle—[*Interruption*] No, I am going to deal with that in a while.

Let me go now to the whole question of this opinion. The Treasury Solicitor has, in fact, told us that there is no time limit, that all that is required in this particular case is that these matters should be submitted to Parliament and I think the confusion arises over a misunderstanding—I am talking now to Sen. Mark—over the difference between submission to Parliament and confirmation by Parliament and debate by Parliament. If you go into the practice in the House of Commons and you look in all the parliamentary procedures, you look at stages of

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legislation starting with drafting, consideration, submission, introduction, first reading, second reading, third reading and so on, what the legislation says that there is a requirement that the Motions be submitted to Parliament and not be the—the Treasury Solicitor has opined that since the Motions were submitted to Parliament within the 21-day period, they are legal but we did not stop there.

In terms of the request, I simply asked the Treasury Solicitor to tell me whether there was a time limit with respect to the confirmation of these Motions. That is all, a simple one sentence. Could you give me a legal opinion with respect to whether there is a time limit with respect to the confirmation of these Motions, please, full stop. Okay? That was the request and that is the response I got, that there is no time limit. But we did not stop there, I sought an opinion through the Attorney General who also engaged senior counsel—distinguished senior counsel and distinguished Senior Counsel gave—and you have to forgive me, I cannot disclose the whole—[*Interruption*]

Hon. Senator: I will get it.

Hon. C. Imbert: It is okay. I cannot disclose the entire thing but I would just read part of it. The legal notices all related to the increases in the rates of duty importation of alcoholic beverages whereas the fourth notice related to increase in excise duty and tobacco. The question which arises is: what does the legal regime require for the continuing lawful authority of the customs department to collect the increased duties and whether that legal regime has been complied with in this case? All of the Orders are dated 19th of October, 2016 and it must be assumed in the absence of any provision to the contrary which there is not, that they came into operation from that date. And then learned Senior Counsel goes into the Customs

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Act. Speaks about section 7(1) of the Customs Act and says:

The increased rates of duty on alcoholic beverages will last from the date of publication of the Order on the 19th of October until the expiration thereof. Similar in relation to the increase in excise duty on cigarettes, the increases will last until the expiration of the Order.

In the absence of the expiration date, it is to be assumed that those Orders will continue indefinitely until there are changes made thereto. With regard to the procedural steps required to confer lawful authority to impose and collect the increased duties, I considered that the Treasury Solicitor is correct in stating as follows:

In accordance with the Customs Act and the Excise Act, the Orders are to be submitted within the statutory time limit of after four and within 21 days to Parliament.

And the Senior Counsel goes on to talk about whether there is a time limit or not.

Hon. Senator: Which Senior Counsel?

Hon. C. Imbert: There is one point of crucial importance in relation to a procedure which had to be followed to confer continuing lawful authority for the collection of increased taxes in this context. [*Interruption*] Madam President, my learned friends opposite are speaking amongst themselves, can I seek your protection?

Madam President: Hon. Senators, can we please listen to the Minister of Finance in silence.

Hon. C. Imbert: Thank you so much, Madam President, and it was not Sen. Mark by the way. [*Laughter*] There is one point of crucial importance in relation to a

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procedure which had to be followed to confer continuing lawful authority for the collection of increased taxes. In the case of the Provisional Collection of Taxes Act—which Sen. Sturge referred to but got a bit mixed up—there is need for confirmation by the House within 21 days after commencement of the Order. However—and this is where he got mixed up—there is no such requirement in either the Customs Act or the Excise (General Provisions) Act. All that is required is that the Orders made on 19th October should be submitted to Parliament within the period of four days to 21 days thereafter. It is therefore without legal merit to suggest—[*Interruption*]

Sen. Sturge: Standing Order 45(1)(b). Would the Minister give way? We simply wanted to know the name of the Senior Counsel who gave the opinion.

Hon. C. Imbert: Madam President, as I said, I am waiting for the decision of the Privy Council before I can disclose this legal opinion and that would include the name of the Senior Counsel. It is therefore without legal merit to suggest that because confirmation by Parliament has not taken place within 21 days after the 19th of October, therefore the continuing lawful authority to collect increased taxes has disappeared. All that is required is that the submission to Parliament should be within 21 days. The confirmation can follow thereafter. So that is two lawyers that have given us this opinion.

Sen. Mark: So why are we here?

Hon. C. Imbert: I am going to tell you.

Sen. Mark: Keep it until next sitting.

Hon. C. Imbert: Madam President, again, can you ask hon. Senators on the Lower Bench to stop making all this noise?

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Madam President: Senators, can we please listen to the Minister of Finance in silence? I do not want to have to ask again.

Hon. C. Imbert: Thank you very much, Madam President. Sen. Ramdeen was close. Close but not close enough. However, it is not to say that the Order should not be confirmed by both Houses of Parliament within a reasonable short period of time—section 23 of the Interpretation Act, close but no cigar.

Although the law does not specify a fixed period for so doing, it is therefore expected that confirmation, revocation or amendment of the Orders would take place within a matter of a few months from the 19th of October, 2016. A reasonable time in the context of everything would be four months by February 2017.

We are in February 2017 and that is why we are here today.

Because as Sen. Ramdeen correctly said—correctly referred us to the Interpretation Act, section 23, where a written law requires or authorizes something to be done but does not prescribe the time within, the law shall be construed as requiring or authorizing the thing to be done without unreasonable delay or having regard to the circumstances, which include the fact that the last sitting of the Senate was on the 15th of November. There was no sitting after that and we have been engaged in weighty matters. [*Interruption*] There was no sitting of the Senate in 2016 after that.

Hon. Senators: Yes, yes.

Hon. C. Imbert: Yes? Oh, I am terribly sorry. On December 19th, I apologize.

Sen. Mark: “Yuh wrong again.”

Hon. C. Imbert: Yes, I am. [*Interruption*] Yes. But, Madam President, the fact of

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the matter is that learned Senior Counsel has told us that a four-month period is reasonable, we are here within that four-month period. The law does not specify a time frame. There is no requirement for the matters to be brought to this House within 21 days and therefore, we are well within the four corners of the law so that settles that. And I do not want to get into arguments about whether we should disclose legal opinions or not. I respect all of the judges involved both at the High Court, Seepersad and at the Court of Appeal, Bereaux, Jamadar and I cannot recall the third person. But all of those members of the Judiciary have given their opinions, I respect all of their opinions in this matter because it is a very important point of law. But until the Privy Council determines it, I do not think it would be a good idea for me to disclose legal opinions willy-nilly.

Now, let us go to some of the other points made. There was a point made that there is no evidence in terms of tax collections with respect to the effect of this measure on revenue. But if you look at the actual figures very closely, you will see a pattern and let us take rum and spirits, it gives you a good indication of what is going on. In 2015, the duties collected on rum and spirits was of the order—October 2015 that is. In the month of October 2015, duties collected on rum and spirits was \$11.8 million. In October 2016, the duties collected dropped from \$11.8 million to \$5.5 million. In November, the duties collected on rum and spirits in 2015 was \$24 million. In November 2016, that dropped to \$6 million. So you see a significant fall off—immediately after the Orders were published, you see a significant fall off in the revenue collected on rum and spirits in the months of October and November, but then “they sell out the stock.”

So when we go now to December 2015, when all the old stock “sell out”, the

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duties collected in December 2015, \$20 million; in December 2016, \$22 million. So it started to come in where they had sold all of their inventory and now had to import, manufacture, and take out of the bond new alcoholic products so you start to see the revenue from rum and spirits go up, because as I said, rum has a very long shelf life so you can have stocks and stocks of rum which you can sell without any complaints about quality but it is different with beer. If you look at beer which has a short shelf life, in October 2015, the collection of duty on beer was \$9.8 million; October 2016, the collection on beer was \$11.4 million. So it went up because they do not have any significant amount of stocks. November 2015, collection of beer, \$15 million; November 2016, collection of beer, \$17 million. So it is steadily going up with the increased taxes. December 2015, collection from beer, \$21 million; December 2016, collection from beer, \$25 million. So what you see with the product that they did not have a large stock of, beer, you see with the increased taxes, as soon as they were imposed, the revenue collection went up but the product where they had stocks and had a shelf life, it dipped and then it went back up.

So that the bottom line is the effect of the increased taxes has been an increase in revenue but this is not to say there has been an increase in consumption because you have to take the multiplier effect. You now have much higher duties on a product so the actual quantities may have gone down, but because of the higher rate of duty, the revenue may have gone up. So, as I said, that is something we need to study. We cannot say, at this point in time, that consumption has gone up or gone down but we know that revenue has gone up and that is a direct result of the increase in taxes.

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In terms of cigarettes, that went from \$13 million in October 2015 to \$17 million in October 2016 so they continue to smoke, and we are seeing a similar pattern in December 2015, 2016 and so on. So cigarettes just continue to go up notwithstanding the increase in taxes on cigarettes. So that the data does suggest, Sen. Dottin, it suggests that there is an inelasticity in the demand and supply of alcohol and tobacco. There is a measure of inelasticity. I spoke about the hybrid cars. Oh certainly.

Sen. Mark: Madam President, through you, I did ask the hon. Minister whether it was an oversight or whether it has an error or somebody misled you when you announced in mid-term April 2016 that you were going to increase tobacco products and alcoholic beverages in the next Finance Bill. That came and went, no increases and it only took place in the budget of 2016/2017. So I wanted to know why these people were given a six-month period to stockpile in their warehouses when they knew from in April, based on your mid-term review, you were going to increase both tobacco products and alcoholic products. I just wanted to get clarification.

Hon. C. Imbert: Thank you for that question, through you, Madam President. There was no action of giving anybody anything. If you look at any budget speech, a number of measures will be announced. You might have 20 measures in a budget speech and you know, if you can do 18 or 19 of them, you have done exceedingly well because things happen. You know, emergencies intervene, policies may change and so on. So it was our intention to increase taxes on alcohol and tobacco in 2017 and we did, we increased them in October. We may have been able to increase them before that but then we have this new innovation, which Sen. Mark

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is partly responsible for in another life, called a parliamentary recess in the months of July and August and September and then you go straight into the budget and so on.

So it was not an oversight, it is just the way the parliamentary schedule is organized is, for example, why we are here today. That a number of things intervened between October and now and now is the first realistic opportunity to deal with this matter so there was no oversight. We had always intended to do it and we did do it in 2017. Whether we did it in July 2017 or June or October—
[Interruption]

Sen. Mark: 2016.

Hon. C. Imbert: 2016, sorry, thank you for the correction. But we did, in fact, do it in October 2016 so we got it in the year 2016, maybe a little later than anticipated so there was no oversight. And the stocks are gone, as you can see from the data, the figures do not lie. The figures are showing you that they have exhausted their stocks. So whatever temporary relief, you know, merchants who import alcohol and tobacco may have experienced, “that gone”. So now, in January, we are into full collection of the increased taxes on alcohol and tobacco.

Now, I was giving the point that as an example of elasticity, I looked at hybrid cars. I did not have the exact figures but I did say I hoped that before I finish this debate on this Motion, that I would be able to get the figures and I got them and I was quite astonished. Prior to the changes in taxation on hybrid cars—now there are three taxes on motor vehicles: motor vehicle tax, customs duty and value added tax. Only two of the taxes were exempted before and the engine size was also a bit low. So that it was practical or possible for consumers to find hybrid

cars below the cc rating limit that will come in at a competitive price with an ordinary car. But when we raise the cc rating from 1799 to 1999 and this is giving an example of elasticity of taxes as compared to inelastic nature of alcohol and tobacco taxes. We raise the cc rating from 1799 to 1999 ccs, the threshold, and we took all the taxes off. So all three taxes came off: motor vehicle, customs and VAT whereas just two of them were off before.

Prior to that change, there were 11 hybrid vehicles, unbelievable eh. Eleven hybrid vehicles brought into Trinidad over a period of more than a year, 11 and as soon as we made the change, in a three-month period, 453 hybrid vehicles were imported into Trinidad and Tobago and that is an example of elasticity of taxation where something is so sensitive to a price change that you make the correct adjustment, and it makes a profound change in consumer behaviour, and it has achieved the intended effect because the whole purpose of increasing the cubic capacity and eliminating all the taxes was to force consumer behavioural change. Move people away from standard internal combustion engines that cause pollution towards hybrid vehicles which have much less pollution and it has worked.

We do not have the same behaviour from the electric cars because we do not have the charging stations in Trinidad and Tobago that allow for the use of electric cars. If you go to another country, in any city, you would see all these charging stations for electric cars, you just plug in. CNG has also taken off. So that is an example of elasticity in taxation where you make a change and you get a profound effect. But alcohol and tobacco, all the studies show that these things are inelastic and that is why even when you raise the taxes, you do not get that kind of reduction, but there is, of course, a point beyond which you start to see the

reduction and I would see that, as I said, by September of this year, I will have a better understanding of what is going on.

So I just want to say—and also Sen. Ramdeen, in his melodrama, which is a synonym for histrionics, by the way, but melodrama sounds so much more polite than histrionics. In his melodrama, he added up all the total taxes from alcohol and tobacco for the three-month period at \$153 million and said, you know, that is a lot of money that the State will have to repay to persons because the Orders, according to him, are invalid. But even if the Orders were invalid and they are not, it is the increase that you have to look at because all that would happen is that you would revert to the status quo which would be the—so it is much less than \$153 million. So, Madam President, I am just guiding the new Senator in terms of your melodrama, get “yuh” melodrama right next time.

So I just want to tell hon. Senators that no disrespect was intended with respect to the period of time between the submission of these Motions to the Parliament and the actual debate today. I just want to correct what happened on the last occasion when these matters were discussed, there was no debate, there was no introduction of the Motion, the debate did not commence. I looked at the *Hansard* and I saw the reference by Sen. Khan to the opinion and the fact that he would like hon. Senators to have a little more time to study these things. But there was no debate, the debate never started. There was more like an argument about procedure. There was not a debate and then the adjournment was taken. But no disrespect was intended, this was just the first practical occasion to do these matters and I hope I have explained them as well as can be done.

We have two legal opinions, including one from an expert in taxation which

Customs (Import Duty) (Caribbean
Common Market) (Amdt.)
Order, 2016 (cont'd)
Hon. C. Imbert (cont'd)

when the Privy Council makes its decision, [*Interruption*] we will give it to you. [*Laughter*] All right? But it is from a distinguished Senior Counsel, who is an expert in taxation, who has looked at the Orders very carefully, looked at the laws, the customs and excise duty Act and has concurred with the Treasury Solicitor and has told us that we are no danger or we are in little danger, because you never know. The law, sometimes, is a bit of a lottery but we are in little danger of having these Orders overturned. And therefore, Madam President, if I can just find my procedure. [*Interruption*] I should. I found it. Believe it or not, I beg to move. [*Laughter and desk thumping*]

Question put and agreed to.

Resolved:

That the Customs (Import Duty) (Caribbean Common Market) (Amendment) Order, 2016 be confirmed.

EXCISE DUTY (ALCOHOLIC BEVERAGES) ORDER, 2016

The Minister of Finance and Acting Minister of Energy and Energy Industries (Hon. Colm Imbert): Madam President, I beg to move Motion No. 2 standing in my name:

Whereas it is provided by section 13(2) of the Excise (General Provisions) Act, Chap. 78:50 (hereinafter called “the Act”) that the Minister may by Order impose any new Excise duty or increase any Excise duty and from the date of publication of the Order in the *Trinidad and Tobago Gazette* and until the expiry of the Order the duties specified in the Order shall be payable in lieu of the duties payable prior thereto;

And whereas it is provided by the said section 13(2) of the Act that every Order issued under that subsection shall after four days and within twenty-one days from the date of its first publication be submitted to Parliament and Parliament may by resolution confirm, amend or revoke the Order and upon publication of the resolution of Parliament in the *Trinidad and Tobago Gazette*, the resolution shall have effect and the Order shall expire;

And whereas the Excise Duty (Alcoholic Beverages) Order, 2016, was made under section 13(2) of the Excise (General Provisions) Act and first published in the *Trinidad and Tobago Gazette* as Legal Notice No. 161 of 2016 on the 19th day of October, 2016;

And whereas it is expedient to confirm the Order:

Be it resolved that the Excise Duty (Alcoholic Beverages) Order, 2016 be confirmed.

I beg to move.

Question proposed.

Question put and agreed to.

Resolved:

That the Excise Duty (Alcoholic Beverages) Order, 2016 be confirmed.

EXCISE DUTY (TOBACCO PRODUCTS) ORDER, 2016

The Minister of Finance and Acting Minister of Energy and Energy Industries

(Hon. Colm Imbert): Thank you, Madam President I beg to move Motion No. 3 standing in my name:

Whereas it is provided by section 13(2) of the Excise (General Provisions) Act, Chap. 78:50 (hereinafter called “the Act”) that the Minister may by Order impose any new Excise duty or increase any Excise duty and from the

date of publication of the Order in the *Trinidad and Tobago Gazette* and until the expiry of the Order the duties specified in the Order shall be payable in lieu of the duties payable prior thereto;

And whereas it is provided by the said section 13(2) of the Act that every Order issued under that subsection shall after four days and within twenty-one days from the date of its first publication be submitted to Parliament and Parliament may by resolution confirm, amend or revoke the Order and upon publication of the resolution of Parliament in the *Trinidad and Tobago Gazette*, the resolution shall have effect and the Order shall expire;

And whereas the Excise Duty (Tobacco Products) Order, 2016, was made under section 13(2) of the Excise (General Provisions) Act and first published in the *Trinidad and Tobago Gazette* as Legal Notice No. 162 of 2016 on the 19th day of October, 2016;

And whereas it is expedient to confirm the Order:

Be it resolved that the Excise Duty (Tobacco Products) Order, 2016 be confirmed.

I beg to move.

Question proposed. Question put and agreed to. Resolved:

That the Excise Duty (Tobacco Products) Order, 2016 be confirmed.

**PUBLIC PROCUREMENT
AND DISPOSAL OF
PUBLIC PROPERTY (AMDT.) BILL, 2016**

Order for second reading read.

The Minister of Finance and Acting Minister of Energy and Energy Industries (Hon. Colm Imbert): Thank you, Madam President I beg to move:

A Bill to amend the Public Procurement and Disposal of Public Property Act, 2015 to reduce the term of office for the Regulator and other members of the Board appointed to govern the Office of Procurement Regulation, be now read a second time.

Madam President, the Bill before us has two clauses. The first clause is the short title and the second clause amends a number of time frames, with respect to section 11 of the Act. Now, section 11 of the Act refers to the tenure of office of the Regulator. In subsection (1) it states that the term of office of the Regulator shall be seven years. We are proposing that this be reduced to five years and the reason is very, very simple. The term of office of the President is five years. The parliamentary term is five years and we did not think that we should have someone holding this type of office transcending administrations. So we simply decided to limit it to the term of office of the Parliament, the Government and the President to reduce it to seven years. This is something that was borrowed from the Jamaican legislation and we did not think that this was appropriate in our context.

The other changes, so subsection (1), the word “seven” years would be changed to the “five” years. And then:

“...subsection (4)(a)(i),...deleting the word “six” and substituting the word “four”;

in subsection (4)(a)(ii),...deleting the word “five” and substituting the word “three”; and

in subsection (4)(b), by deleting the word “four” and substituting the word “three”.”

And these relate to the members of the procurement board. So it would not make sense, having reduced the term of office of the chief person, the Regulator, from

seven to five, to keep other persons in the office of the Procurement Regulator at six years. So we made it consequentially. We went from seven to five for the Regulator; six to four for other members; and three for other categories of members. So the changes in 2(b)(c) and (d) are just consequential on the primary change in subsection (1).

I asked for and received a copy of the particular meeting of the Joint Select Committee on the Public Procurement and Disposal of Public Property (Amdt.) Bill and that meeting was held on 12 February, 2016. And if one goes to page 3 of those minutes to clause 5, which is headlined “continuation of clause by clause consideration of the Procurement and Disposal of Public Property (Amdt.) Bill, 2015”, and you go now down to—this is a recital of deliberations of the committee, with respect to various clauses. The first clause, 5.1 spoke to the disposal of state lands. The second, paragraph 5.2 reads as follows, and this is the pertinent point.

“After some discussion the Committee also noted there would be need to amend the following Sections of the Public Procurement and Disposal of Public Property Bill, 2015...

- Section 63

That the Minister should be empowered to make regulations...”—
and—

- Section 11”—and this is the critical issue—

Section 11 (1)...”—headlined:

“Tenure and remuneration of the Regulator

Section 11 (1) should be amended by reducing the tenure of the Regulator to five (5) years with no automatic eligibility for re-

appointment.”

And it goes on to say:

“...the Regulator and Deputy Regulator should be engaged on a full time basis and be restricted from any other occupation.”

Based on advice from Parliament at the time. The minutes go on to say:

“The Chairman...noted that due to the limited mandate of the Committee, further amendments outside of the Committee’s remit...”—we were advised that was this was not within the specific remit of that particular Joint Select Committee—“would be considered via a separate Amendment Bill.”

So the net effect of what I have just read indicates that there was unanimous agreement, that we reduce the tenure of the Regulator from seven to five years and that it be done via a separate amendment Bill, which is where we are.

And let me tell you why this is important, why we are here today, before I am asked that by Sen. Ramdeen or Sen. Mark. One of the first things we have to do, with respect to this procurement Act, is to finalize the recruitment appointment of the Regulator. The procurement Act cannot function without a Regulator. The Regulator’s duties and responsibilities are very wide-ranging and it is the Regulator that will ensure the establishment of the various procurement units in the various Ministries and state enterprises, and also finalize the regulations and procurement rules, which would guide procurement in Trinidad and Tobago from thereon.

So that, the law as it now is written requires the Regulator to be appointed by His Excellency the President after consultation with the hon. Prime Minister and Leader of the Opposition. But before the President can do that, the recommended terms and conditions must be settled. That is in process. We have a

multi-disciplinary team finalizing the recommendations that will go to the President, with respect to the salary and allowances for the Regulator, and also we need to deal with this important issue of reducing the term from seven to five years, as was agreed by the Joint Select Committee.

PROCEDURAL MOTION

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

Madam President: Acting Leader of Government Business, do you want to add something?

Sen. The Hon. P. Gopee-Scoon: I crave your indulgence. I really would like to add that we would be doing the two matters on the adjournment as soon as this Bill is completed.

Question put and agreed to.

PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY (AMDT.) BILL, 2016

Hon. C. Imbert: Thank you, Madam President. As I indicated, the first thing that we have to do, or the most important thing we have to do is to give the President the wherewithal to proceed to appoint the Regulator and the tenure of the Regulator, of course, the term of office is very, very important, and also the terms and conditions of engagement are very, very important. We are virtually complete with the proposed compensation package and we need to fix this issue before His Excellency can proceed to complete this exercise.

This procurement legislation is very, very important. It was the subject of deliberations by this Parliament for five years actually, and in order to meet our

deadline of implementation in 2017, we need to resolve this issue of establishing the term of the Regulator at five years, rather than seven years. With those few words, I beg to move.

Question proposed.

Sen. Wade Mark: Thank you very much, Madam President. Madam President, I rise to make my contribution to the Public Procurement and Disposal of Public Property (Amdt.) Bill, 2016.

Madam President, may I say from the very outset that this is the second amendment in less than one year since the arrival at the gates in which the PNM entered political office, that we have had to amend this very important parent legislation known as Public Procurement and Disposal of Public Property Act.

Madam President, I would have thought that one of the subjects that the hon. Minister would have addressed, because when he was in another incarnation he used to lecture people and say: listen when you come to speak you must provide details otherwise I will provide the details for you. So I think office has now tamed him and calmed him, so I would have to give him the details that he did not give us on this matter.

Madam President, I would have thought that with March 31st, rushing us in the next couple of weeks, the Minister would have told us today in his contribution that the Government has an implementation plan for the operationalization of the Public Procurement and Disposal of Public Property Bill or Act. I thought that was what the hon. Minister would have told us this evening. Give us a timeline, Madam President, because March 31st is just a few weeks away. But instead of that, he rises, as earlier, as was then earlier, speaks for a few moments and takes his seat.

But, Madam President, let me indicate from the very outset and let me

correct the records. I have the minutes. I have the Joint Select Committee Report and I want to make it absolutely clear, incandescently clear, Madam President, that when the hon. Member for Diego Martin North/East and the Minister of Finance says to this Parliament and this Senate that there was unanimous agreement to reduce the tenure of the Procurement Regulator from seven years to five years and those from five to three, nothing could be further from the truth.

You know, I want to quote for you, Madam President, who was at the meeting that the hon. Minister referred to and told us in this Senate a few minutes ago, there was unanimous agreement. Madam President, let me tell you who the “everybody” was. You know there is something called “Imbertian facts”? Do you know about “Imbertian facts”? I would tell you what they are. Madam President—
[Interruption]

Sen. Sturge: Also called alternative facts.

Sen. W. Mark: Well no. There is a Mr. Who SyFy series. Do you know about it?

Hon. Senator: Dr. Who.

Sen. W. Mark: Do you know about the powerful and the stupid?

Sen. Baptiste-Primus: Is he speaking to you, Madam President?

Madam President: Senator.

Sen. W. Mark: Yes, I am speaking to you.

Madam President: Sen. Mark, just have a seat. Please continue to address me. If you want to have your discussions on SyFy, you can do that after. Okay?

Sen. W. Mark: Yes. So, Madam President, I do not think the hon. Minister could come and fool anybody in this Parliament, not as long as I am here. He will not be able to fool anybody on this side of the Parliament because we have researched just

as well as he has been able to research.

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

I do not have an LLM. I do not have an LF or two, but I can tell you, Madam President, I am well researched.

So let me just bring to the attention of the hon. President of Senate that on February 12, 2016, at 9.30 a.m. the fourth meeting was held. Madam President, let me just also indicate to you that the Minister of Finance is on record as saying and boasting that five meetings were held of the Joint Select Committee on procurement. I have it here in the record right here. No, do you know when you said it? It was on 07 June, 2016 when you piloted, hon. Minister, the Public Procurement and Disposal of Public Property (Amdt.) Bill, 2015. Hear what the hon. Minister said. You see, some of us suffer from amnesia. But, Madam President, hear what he said: Mr. Vice-President, we had five meetings before a report was submitted and amendments came to this Bill that is now an Act of Parliament. I think it is Act No. 2 or 3 of 2016. Do you know what the hon. Minister indicated to us? I would tell you. I would quote for you. Most members of the committee had the time to attend meetings. Mr. Khan attended all, Franklin Khan, and I wish him a speedy recovery. He is one of the decent ones. [*Desk thumping*] I really wish him a speedy recovery. I miss his presence, I must say. So I want Paula to shift down so that the gentleman could come back.

Mr. Vice-President: She is not Paula.

Sen. W. Mark: No, no, no. The hon. Member. I was going to say Point Fortin but I do think she is Point Fortin any longer. I think she is the hon. Senator, Paula Gopee-Scoon. So, my apologies, my apologies. I thought you were hopping across like when you hopped across to Obama to come across by me.

Mr. Vice-President: Sen. Mark, back to the Bill in front you, please.

Sen. W. Mark: Sorry, sorry, sorry, Sir. Sorry Sir, my apologies.

Mr. Vice-President, I continue. Hear what the hon. Minister said. Mrs. Gopee-Scoon, my dear friend, attended all five meetings. So they had five meetings. Mr. Sturge missed all five meetings. Yes, Mr. Sturge missed all five meetings. Yet the Minister just said a few moments ago that a meeting, and you would believe that all the members were present, unanimously agreed that the Procurement Regulator should be reduced, in terms of the tenure, from seven to five years; totally wrong, totally misleading. How can Sturge be absent from all the meetings, Mr. Vice-President, and yet still, like a ghost he will come and say I agree, I agree, I agree? It does not make sense. So why are you misleading the Parliament? Why are you misleading the Parliament? And then Dr. Bhoewarrie, according to the statement made by the hon. Minister, he said he missed two with excuses.

Mr. Vice-President, I go further to let you know when I go to the minutes of the 12th February, like what was quoted, the hon. Minister quoted the same thing I quoted. What I am quoting here, Mr. Vice-President, was the same minutes quoted by the hon. Minister. But the Minister has a capacity. He has developed an art, a skill for being very clever with facts.

So hear what the hon. Minister said and what I am quoting hear, Mr. Vice-President. This meeting on 12th February was attended by the following persons: Mr. Colm Imbert, MP; Mr. Adrian Leonce, MP; Mrs. Paula Gopee-Scoon, Senator; Mr. David Small, where is he? Right behind me; and Mr. Franklin Khan, who is not with us today. Absent, Mr. Wayne Sturge; Dr. Bhoendradatt Tewarrie and Mrs. Cherrie-Ann Crichlow-Cockburn. Do you know why I called those names, Mr.

Vice-President? It is to let you know the decisions taken by this committee and the hon. Minister said it was a unanimous decision, unanimous, you know. That is what we were told, unanimous. I am in amazement. If I did not hear it I would not believe it. But you know I tell you, the more you live is the more you see. Take what I tell you. You know, Mr. Vice-President, there are some people in this Parliament and in this country when they tell you to stand up, you better run. You better run, and when they tell you to stand up, “When dey tell yuh run, stand up.” Take what I tell you.

Mr. Vice-President, hear what was agreed to on page 23:

“Section 11

Tenure and remuneration of the Regulator

Section 11 (1) should be amended by reducing the tenure of the Regulator to five (5) years with no automatic eligibility for re-appointment.”

And it goes on to say:

“That the Regulator and Deputy Regulator should be engaged on a full time basis and restricted from any other occupation.”

The Chairman”—Mr. Colm Imbert at the time, now the Minister of Finance—“also noted that due to the limited of mandate of the Committee, further amendments outside of the Committee’s remit would be considered via separate Amendment Bill.”

This is the Bill before us today. But then why did you tell the Parliament a short while ago that it was unanimously agreed upon by the committee? Tell the Parliament a majority of the committee members supported that decision, not unanimously agreed. And why did you not tell us that Sen. Wayne Sturge and the hon. Bhoë Tewarie did not support that measure?

Mr. Imbert: Who say they did not support?

Sen. W. Mark: I am saying they did not sign the report. This report was not signed by Wayne Sturge and it was not signed by Bhoë Tewarie. In fact, Mr. Vice-President, attached to this report is a minority report. It may not have spoken to it, but what I am saying is that he did not sign the majority report. Once you submit a minority report, you cannot submit a minority report and sign the majority report. It does not make sense. So please, this is 1917, do not try to mamaguy and fool us.

Sen. Ameen: 2017. [*Laughter*]

Sen. W. Mark: This is 2017, rather. Do not try to fools us, because you want to take us back to 1917. That is what you want to do. You want to take us back to 1917. Do not fool us. Do not fool us. Yes, I did. That is very good to wake up everybody. So we are not in 1917 but in 2017 and do not try to fool us, please.

So, Mr. Vice-President, I thought it was important to clear the record and to place on the public record this is not a position of the United National Congress. May I make that very clear? That is a position of the PNM. That is what I want to make very clear.

So we are not in support of this attempt to reduce the life or the tenure. And I find the argument so spurious, absurd. How can you come here in 2017 and tell the country, because you are in office for five years and the President is in office for five years and Senators are in office for five years that a regulator, a procurement regulator, Mr. Vice-President, should not be in office for seven years. What is the basis for that kind of argument? What logic is this?

8.00 p.m.

I thought we want continuity. We want institutional memory. We want institutional knowledge. So what you are arguing is simply this. When they are out

of office in 2020 or before, because the way how things are going you may collapse and disappear before 2020 [*Desk thumping*] and we might have to help you in that regard. So when they disappear in 2020, and we become the new Government—because we will become the new Government in the next general election. We will be. [*Desk thumping*] When we become the next Government, what you are telling me is that the Procurement Regulator, he must go out—as we come in, he must go out. That does not make sense. We want continuity. We want institutional memory, and that is why we said seven years was a reasonable period. Why is the Government seeking to reduce it from seven to five? It does not make sense, Mr. Vice-President.

And, you know, Mr. Vice-President, it reminds me of the earlier piece of legislation when they brought the review board and they want a second layer—they do not trust the Procurement Regulator, because you will have to go to the Court of Appeal and you want this intervening body called the review board.

Mr. Vice-President, we would have thought that when we debated that in 2016 that by now the legislation would have been proclaimed. You know, today as we speak, that legislation is still to be proclaimed. [*Desk thumping*] You came to the Parliament, you gave the impression this was urgent, it must be done and we must make all these changes to strengthen procurement legislation. You got the support, Mr. Vice-President, and today legislation amending the procurement Act has not been proclaimed by the Government of the Republic of Trinidad and Tobago.

So, Mr. Vice-President, we have the parent legislation. The parent legislation has not been proclaimed. We proclaimed certain sections of the procurement legislation back in July or August of 2015 or before I believe, and no

other sections have been proclaimed since 2015. The Government came with a new Bill, it became an Act and assented to by the President, but its proclamation is determined by a date to be determined by the President for it to be operationalized. That has not been done.

Now we have a third Bill asking us, Mr. Vice-President, to do what? To reduce the Procurement Regulator from seven years in accordance with—let me just quote the relevant section—seven to five years in accordance with clause 2 rather, and then you want to move from six years to four years, clause 2(b), and then you are going from five years to three years, and then from four years to three years. What is the rationale for this kind of change or those changes that are being proposed, Mr. Vice-President? We have not gotten any real reason for these changes. But, you know, I want to proffer that the real reason for this Bill today is a continuation of the delay in the implementation of the procurement legislation. [*Desk thumping*] You want to go back to the Calder Hart era—bid rigging, influence peddling, corruption, giving contracts to your friends and your family. That is what you want to do. [*Desk thumping*] That is why you do not want this Bill.

Mr. Vice-President: Senator?

Sen. W. Mark: Yes, Sir.

Mr. Vice-President: I just want to caution you in regard to imputing improper motives in what you are saying. I see you are pointing at the Minister of Finance. So continue and just be very mindful of how you impute improper motives.**Sen.**

W. Mark: Well, I am not imputing improper motives. I am saying overall it appears to me without pointing any fingers anywhere, I may point in the sky. Tell me something, Mr. Vice-President, what is the real reason? The hon. Minister of

Finance is on public record, he is in the budget statement giving a commitment to Trinidad and Tobago. Their spokesmen have been talking about corruption and about bribery and about influence peddling and you would have believed, Mr. Vice-President, that they would have wanted to get this thing cracking and implemented.

You know, Mr. Vice-President, the Minister of Finance gave and undertaking in the budget that the 31st of March, 2017 is the day for the operationalization of the Public Procurement and Disposal of Public Property Act. Today is the 7th, we have less than seven weeks to go—maybe seven and half weeks to be charitable—and we come here this evening and we are debating another amendment to that very Act, and the Minister of Finance gets up in this Parliament, talks for less than five minutes, takes his seat and does not give us an appreciation of when we are going to implement and what plan he has to implement and operationalize that piece of legislation.

Mr. Vice-President, I want to tell you that I have before me on my iPad a speech delivered at the Hyatt Regency Hotel, next to us here, dated the 18th of January. It is an address by the Prime Minister to directors and boards of the various state enterprises and not a word in his statement, not a word, Mr. Vice-President, on impending procurement. That was the 18th of January. If you are going to implement the public procurement Act, would the Prime Minister not inform these directors of the various state enterprises to get your house in order, because the most amount of corruption the hon. Prime Minister has stated, in his presentation, takes place in the state enterprise sector? And do you know why? Because of bad procurement practices. [*Crosstalk*] I am telling you what the Prime Minister said. He knows. He was in Government. I am talking about the Prime

Minister who had a conversation with the people yesterday. I am sorry I was not there to be part of it. I would have asked him a couple questions well. Mamaguying the population. [*Crosstalk*]

Hon. Senator: Mr. Vice-President, 46(1).

Mr. Vice-President: The statement “mamaguying the population” is not relevant to the Bill in front of us. Could you please bring your contribution back specifically to what is in front of us? [*Crosstalk*]

Sen. W. Mark: So you do not know about mamaguy?

Mr. Vice-President: Sen. Mark, speak to me.

Sen. W. Mark: You know, Paula always attracts banter.

Mr. Vice-President: Senator Mark, the Acting Leader of Government Business.

Sen. W. Mark: Sorry, Acting Leader. Yes. I beg your pardon. You must forgive me, you know. We have had a long day, and we seem to be having a long night, a long evening, I should say. So, Mr. Vice-President, I want to let you know that I have done my research. I have gone through every item in the budget, Ministry of Finance and all the Ministries looking for an allocation for procurement. Maybe I missed something and maybe the hon. Minister can advise us, can guide me at the end of my contribution when he is winding up, whether there is any line item in the estimates of expenditure for the various Ministries where he has allocated a certain amount of money? Do you understand, Mr. Vice-President?

If you are interested, Mr. Vice-President—may I advise you that according to the research—and I do not know if the hon. Minister has seen it—I want you to go to the JCC website and there is a nice document that I was able to download today. Mr. Vice-President, it is entitled: Implementing the Procurement Legislation. I want to pass a copy on to the hon. Minister since he does not know

and his Government does not know how to go about implementing the procurement legislation. [*Desk thumping*] So I have a copy that I took from the website of the JCC today and I want to pass on a copy to the Minister of Finance so he can proceed to be properly guided on how to implement the procurement legislation.

Mr. Vice-President, let me just advise, as I am speaking to your good self, the entities that are going to be affected when this procurement legislation is operationalized on the 31st of March—the country is waiting you know. You cannot fool the country on the 31st of March and ask for an extension, you know. You must come and implement the law otherwise you pay a price. We will ensure you pay that price.

Mr. Vice-President, 21 Ministries are affected; statutory boards, 15; regional corporations, 15; regional corporation districts, 106; state enterprise, 59 and state enterprise owned majority, 6. In all, close to 200 entities would be affected and the Minister comes here this evening, gets up, speaks for less than five minutes, treats us with contempt and tells us that is the end of the matter, and no information whatsoever on when, what plan, how you are going to implement the procurement legislation on March 31st. That is the issue, Mr. Vice-President, not reducing the tenure of the Procurement Regulator from seven years to five years.

Sen. Gopee-Scoon: That is the issue.

Sen. W. Mark: That is not the issue. That is a delaying tactic on your part to well you say mamaguying—talk to you about mamaguy? Okay. Well fool, fool. Do not fool the people or hoodwink the people.

So, Mr. Vice-President, I would like the hon. Minister to tell us what kind of environment is he going to establish to ensure that the Act is operationalized? Mr.

Vice-President, where are the Regulations? We know the Procurement Regulator is supposed to be appointed by the President in consultation with the Prime Minister and the Leader of the Opposition. Could the hon. Minister of Finance inform this Senate whether the Procurement Regulator has been appointed? Today is the 7th of February. Has he been appointed? We do not know, Mr. Vice-President. We do not have a clue. What we know the Minister has to do is to ensure that these two Acts; Act No. 1 of 2015 which was assented to on the 14th of January, 2015 is proclaimed, because that Act deals with the principles of good governance namely, accountability, transparency, integrity and value for money. That is what that Act deals with. It deals with the establishment of the Office of Procurement Regulation and, Mr. Vice-President, it repeals the Central Tenders Board Act, 71:91, and then we are dealing with Act No. 5 of 2016 which amended the parent Act of 2015.

So we are talking about a proclamation process, and we need to get some answers from the hon. Minister as to when these Acts are going to be proclaimed, Mr. Vice-President. We need to know. We need to know what internal control framework is going to be established, Mr. Vice-President. We need to know when the Government is going to be taking steps to proclaim the rest of the legislation governing this very important matter.

Mr. Vice-President, I am a member of several—I would say one or two committees, and every time we bring people before our committees, we ask them: what is the state of readiness of your entity, whether you are a Ministry or a state enterprise? Some will tell us they are getting themselves ready for the implementation and operationalization. Some tell us that they have not received any directive, policywise, from the Cabinet as it relates to the template that they should be using in order to establish their units. We do not know, as we speak,

what this procurement unit would look like. Who are going to be the officer holders in this procurement unit? The private sector is going to be affected by this legislation. NGOs who receive moneys from the State will be affected by this piece of legislation. We have not seen any educational—[*Interruption*]

Mr. Vice-President: Sen. Mark, two things. You have five more minutes, number one, and you are speaking towards proclamation of the parent Act. I want you in these last five minutes to bring it back to the Bill that is in front of us, which speaks specifically to the Regulator and the tenure of the Regulator moving from the seven years to the five years. So I understand what you are saying about the proclamation, but you have been speaking about it for almost five minutes now. So I want you to bring it back to the Bill that is in front of us, specifically with the tenure of the Regulator.

Sen. W. Mark: Of course, I am guided by your wisdom. I will link them up for you, connect the dots, as they would tell you. Mr. Vice-President, this is a matter that will impact on the integrity of this country. The reason why the corruption index and the perception of corruption is so high in this land is because of this kind of practice we have here.

Sen. Gopee-Scoon: Point of order, 46(1).

Sen. W. Mark: I am winding down, Mr. Vice-President.

Mr. Vice-President: Let me just rule as I am understanding that yes you are winding down, and I do rule that the point of order does have merit. Again, like I said in these last few minutes that your have, bring it back into the Bill that is before us.

Sen. W. Mark: Mr. Vice-President, as I said, I would like the hon. Minister to advise us in his winding up, as we seek to reduce the number of years of the

Regulator and all of those persons and offices that fall under him, we would like to know from the hon. Minister: what is the programme of work he has set out to ensure that there is a smooth transition as we head towards the full implementation and operationalization of the legislation that we are currently dealing with? This element of the legislation that we are dealing with, Mr. Vice-President, constitutes a small element in a larger jigsaw puzzle that we have to address. I am saying that in dealing with this particular matter of the Procurement Regulator, we do not support that there should be any reduction in the number of years of the tenure of the Procurement Regulator. [*Desk thumping*] So we want to make that very clear. You would not be getting the support of the Opposition insofar as any reduction is concerned, Mr. Vice-President. I have a lot more to say, but the hour is late and my time is running out. So I want to thank you very much for giving me the opportunity to say a few words. Thank you very much. [*Desk thumping*]

Sen. David Small: Thank you very much, Mr. Vice-President. Thank you very much for giving me the opportunity to join in this debate on the Public Procurement and Disposal of Public Property (Amdt.) Bill. Even though I am a Senator without portfolio here, Mr. Vice-President, and I am not employed by the Parliament, I have been here in this building since 8.31 this morning. So for those who, clearly I am not employed, but I am just liming here, because I have nothing better to do with my time. [*Laughter*]

Mr. Vice-President, the amendments before us are straightforward. As noted by the previous speaker, I was a member of the Joint Select Committee that dealt with this issue, and this matter came up in discussions at the meeting, at the committee level, but it fell outside of the remit of the committee to deal with. So the way for us to treat with it was to come to bring it via a separate amendment. So, as such, I think

that this is a straightforward Bill and it essentially treats with the term of office of the Regulator and the other categories of members of the board.

Mr. Vice-President, if you would permit me, I think that it is important that we—I am trying to weigh—the whole issue of procurement has to do with trying to drive accountability through the system, and it is something that is a challenge. In our country, we face challenges with it. I think the Senator before me spoke about—I am also a chairman of a Joint Select Committee and every time an entity comes before my committee, we ask them about the status of implementation, but we still have challenges, Mr. Vice-President.

This morning an entity came and the line Ministry who was supposed to attend never turned up, never said they were not coming and I am going to deal with that. This is where we have a disconnect because people do not understand about accountability. If your entity is appearing and the line Ministry cannot do the Parliament the courtesy of sending a representative, then that is a disrespect to the Parliament, and I am going to deal with that.

But, Mr. Vice-President, for many years we have been seen in Trinidad and Tobago to have been resigned to accept that public procurement cannot have the same type of pressures as a commercial entity and cannot have the type of sound management of expenditure as their private sector counterparts. However, the resultant haemorrhaging of state funds has really precipitated a course of action that is seeing us sitting here in previous versions of this Bill and now treating with this amendment to try to make sure that we have the appropriate resources in place to be able to manage procurement in a professional manner.

Whilst I would agree, Mr. Vice-President, that the focus of the agencies and these persons to be employed, their work should be primarily on the procedures

and the individual contracting authorities, I want to say that one of the things in my mind that should engage the Regulator and his board is ensuring that the appropriate rigour regarding fitness for purpose in the expenditure of public moneys is very important and should be one of their areas of focus.

The persons to be appointed to the offices prescribed in the Act will be mandated to exercise the authority wholly within the ambit of the Act when they make decisions to consider and take actions. But, Mr. Vice-President, it is also important that they understand that they have a fiduciary responsibility to every citizen of Trinidad and Tobago when they take office. And given the reality of our country today, I respectfully submit that that is not a simple task.

The existing Act before this amendment has the Regulator being able to serve for a period of seven years with the possibility of being able to serve for a second consecutive period. What this means, Mr. Vice-President, is that a Regulator could be in office for a period spanning two election cycles, and given recent electoral patterns, multiple governments, the person to be appointed to hold this office must be someone who is not only professionally capable, but equally as important is somebody who is above reproach in his actions.

Given the wide-ranging and powerful remit of the Regulator, it seems almost unfair to place that time burden upon someone for such a potentially extended period. That is one of the core arguments I would like to posit to follow Members that this job is a job where you are always under pressure, always under scrutiny, and to potentially have someone deal with that for 14 years is likely to be a recipe for disaster. I am of the view that someone serving in that office potentially for 14 years is not in the best interest of Trinidad and Tobago. That is my respectful remit.

Now, the hon. Minister of Finance in his short introduction indicated that in the Jamaican legislation the Contractor General actually can serve for an initial period of seven years with the possibility of an extension, but it is interesting, Mr. Vice-President. The record in Jamaica of all of the holders of the office, and it is interesting. Jamaica passed their Act in 1985, 32 years ago. Okay. Thirty-two years ago, they had a Contractor General in place and not a single Contractor General has stayed for more than their period of time. Every single one has demitted office. Every single Contractor General from Mr. Ashton Wright, Mr. Gordon Wells. I have the whole listing here. Everyone has demitted office. It speaks to a level of seriousness about understanding the role that they perform.

And, Mr. Vice-President, if you would permit me, the most recent Contractor General in Jamaica, in his resignation letter said something that struck with me. If you permit me to quote from his resignation letter, Mr. Vice-President:

Mr. Christie says:

I am only left to state that it is my fervent hope that one day the vision that my staff and I have passionately sought to advocate and nurture for Jamaica will come to past. It is a vision of a Jamaica that is, among other things, corruption free and consequently one in which the full socioeconomic potential of the country and every Jamaican can be reasonably attained.

8.30 p.m.

Mr. Vice-President, that is the type of person who we need to fill the position of regulator. This is the type of commitment to national service that we are looking for when we are talking about having this type of organization staffed with people at the highest levels. I respectfully submit, in the context of Trinidad and Tobago right now, that is a hard ask. That is not a simple skill set to find.

Mr. Vice-President, I think that it was covered by the hon. Minister of Finance. All of the major office holders, the term of the Parliament is less than, so the seven-year period seems to be disconnected from the rest of the system. I recall in the discussions at the committee, I think everybody present at the meeting was of the same view that there is an obvious disconnect. If we have a disconnect, then we have to treat with it, and the way to treat with it at that time was that we had to bring a separate amendment, and that is why we are here today.

Granted that as a Senator without portfolio I have no remit, I have no term of office so, I am very thankful for that. I am not going to talk about pensions; that is a dirty word in this building now. I think that it is important. The point I am making is that where we sit, we look and we try to make sure that things are aligned. If something is clearly not aligned with everything else, then it may present a challenge, and that is all I am saying. In recognizing that it may present a challenge, the committee was of the view—all of the members present in the committee were of the view—that it was something that needed to be treated with. I believe that the Bill before us, all two clauses of it, treats with it in a way in which I have no personal challenge with.

Mr. Vice-President, given the state of affairs, I believe the amendments proposed are pointing towards a closer alignment of the terms of office of the Regulator and the Board with that which prevails in many other public entities. The entire matter of public procurement has been long overdue for action. This amendment, if passed, will clear the way for the appointment of the needed key personnel to begin operationalizing the legislation.

Given that this matter of public procurement has been fully ventilated in several previous debates, both here and in the other place, the proposed changes to

the length of term of office for the Regulator and board members, in my view, is supportable. I think on that basis, Mr. Vice-President, I have no objections to supporting this amendment. It allows for someone looking at the system from the outside to understand that when we look at the other entities in the governmental system, this one does not seem to stick out from the others, and I think that is important. I want to drive home the point, putting someone in place potentially in office for 14 years is likely to create more opportunity for corruption than anything else. I think that is something the committee looked at, thought about and recognized that we needed to treat with it. I support this, Mr. Vice-President, and, with those few words, I wish to thank you.

Sen. W. Michael Coppin: Thank you, Mr. Vice-President, for the opportunity to contribute to this debate, even at this very late stage of the evening.

Much has been said about this Bill by Sen. Mark, and in my contribution I would like to address a number of the issues raised. These issues deal with continuity of office. It deals with the logic of the amendments. It deals with the proclamation—I would not want to deal too much with that issue. It deals with what he says is the real reason for the reduction in the life of the office of the Procurement Regulator and the Board. Mr. Vice-President, I have had the opportunity to traverse a number of the *Hansards* as well as the minutes of the previous meetings to really familiarize myself with the contents of this debate. I have had the opportunity as well to look at comparative pieces of legislation within this jurisdiction, outside and similar institutions within Trinidad and Tobago, for me to understand and rationalize the reasons for such an amendment. I want to say and to put on record that I am fully in support of this Bill. [*Desk thumping*]

This Bill is logical. It is the right thing to do, and it comes after a long period

in this country's history where we have debated: what is the best procurement model that we as a country should adopt? For those of us, like Sen. Small who would have had much experience in this, we know that from 1997 when there was a proposal for a National Tenders Board, and in 2006 there was a Bill that came to this House dealing with the procurement and disposal of property, and in 2010 the UNC Government put two proposals on the table and these two proposals were ventilated via 12 meetings of a joint select committee. It went on for five years until finally, before they demitted office in 2015, they came and placed a Bill on the table. It was passed but it was only partially proclaimed.

We are here today, 20 years after the first Bill, the National Tenders Board Bill, was placed on this Parliament to do something which is to perfect a piece of legislation, the second time in less than a year, that is fundamental to our public procurement system. Mr. Vice-President, that is effectively what this debate is about.

So when I came here today, I thought that there was consensus between both sides of the House, because in reviewing the *Hansard* I had seen where the Finance Minister had indicated that there was, in fact, consensus, and I did not see the other side rise or make any objection. So, lo and behold, when I came today I was flabbergasted to learn that the hon. Sen. Wade Mark, as he articulated his party's position, that there would be no support for this, what I deem to be a very logical Bill.

I have gone through the historical antecedence, and perhaps it is meet at this point in time, because I do not want to go on too long, I would like to look at some similar institutions within Trinidad and Tobago, similar regulatory institutions which are comparable to the office of the Procurement Regulator which we are

currently debating. Some of these institutions include the Securities and Exchange Commission, the Fair Trade Commission, the Telecommunications Authority of Trinidad and Tobago, the Regulated Industries Commission and the Kenyan Public Procurement Regulatory Board. If we understand why that is important, it is because this 2015 Act was in large part based on the Kenyan model.

So what does the SEC say or what is the term or the tenure of the Securities and Exchange Commission, a similar type of organization within Trinidad and Tobago? I want to go to the Securities Act. It says in section 12 that the term of:

“...a Commissioner other than a temporary Commissioner, shall...not exceeding three years.”

So we have a similar institution, a regulator, albeit for the financial market, limiting the tenure of the commissioner to three years.

If we go to the Telecommunications Act and we look at the Telecommunications Authority, and we look at the term of the life of the board, they regulate the telecommunications industry of Trinidad and Tobago, in section 6(4) it states that:

“The first Board shall consist of a Chairman, Deputy Chairman and two members appointed for a term of three years, three members appointed for a term of two years and any other members that may be appointed for a term of one year each.”

If we go further and we look at the Regulated Industries Commission Act, section 8, we see:

“Appointment to the office of the Commissioner shall be for such period...not more than five years at any one time, as the President shall specify at the time of the appointment, but appointments of the

Commissioners shall not all expire at the same time.”

And I can go on, the Office of the Fair Trade Commission as expressed in the Fair Trading Act, Chap. 81:13, another regulatory organization—so we have to compare apples with apples—we have in section 27:

“Appointments of Commissioners shall be for such period not exceeding five years at any one time as the President shall specify...but the appointments of the Commissioners shall not all expire at the same time.”

And I can go on, the Environment Management Authority—*[Interruption]*

Mr. Vice-President: Senator, I just want to guide you. I think you have made your point in regard to the comparison of a number of institutions that you have compared, so I will just ask you to move on in regard to the point that you are making.

Sen. W. M. Coppin: Mr. Vice-President, I raised this to emphasize that—*[Interruption]*

Mr. Vice-President: Senators, please allow Sen. Coppin to make his contribution.

Sen. W. M. Coppin: It is clear that when we look comparatively at similar institutions—in fact, I could not find any other institution within Trinidad and Tobago which had a regulator at the tenure of seven years. So I do not know, I am willing to give way to the other side to indicate to me which institution in Trinidad and Tobago where a regulator had a tenure for seven years.

[Sen. Coppin takes his seat]

Sen. Ameen: “He finish?” *[Sen. Ameen rises]*

Sen. W. Coppin: The Kenyan authority—I just want to make that one last point—because this Act was modelled to a large degree on the Kenyan Act. Again, in the Kenyan Regulated Authority his tenure is also for five years; in fact it is for three

years. The previous 2005 Act states that the director had a tenure of five years. So I am perplexed that Sen. Mark could come to the Senate and say there is no logic to this Bill. In fact, when I looked at the *Hansards* from 2010 upwards I could not see any logic. In fact, the only time I saw a reference to seven years was, I believe, the former Sen. Helen Drayton who believed and expressed that she believed that the tenure should be increased from four years to seven years, because there would be a need to implement this regulatory board and therefore we needed time, that the State needed time.

But I submit, Mr. Vice-President, that to legislate in such a manner for temporary circumstance is a mistake. We ought to regulate in such a manner for perpetuity. We must build our institutions in such a manner and for such a purpose to protect and safeguard the institutions.

When I looked at the literature on regulatory systems and what makes for an effective regulatory system, what I found was that an effective procurement regulatory system is one that ensures there is transparency, there is accountability, there are public contractual opportunities available to all, one that provides best value for money and one that maximizes social impact. [*Interruption*]

Sen. Sturge: Mr. Vice-President, Standing Order 46(1), we are dealing with the duration of tenure.

Mr. Vice-President: Sen. Coppin, on the point of order I am going to ask you again to bring it into the Bill that is in front of us with regard to the tenure of the Regulator.

Sen. W. M. Coppin: I submit that this amendment supports transparency and professionalism in a way that maintains the independence of the office from political interference, because one of the issues that we have when we are trying to

assess what is the most effective tenure for a regulator, is whether or not that lifespan or that tenure helps to prevent or promotes freedom and independence from political interference. I know Sen. Mark when he rose he would have said that he was afraid that the five years would have coincided with the term of a government, therefore implying that there would be some sort of political influence. The problem with that kind of logic is that it betrays an ignorance of what is before us today.

What is before us today is a two-clause Bill, and it expressly speaks to reducing the term of office of the Regulator from seven years to five years, and also to reduce the term of office of other members of the Board from six years, five years, four years, to four years, three years, three years respectively. It is obvious, it is clear that there would only be a concurrence of appointment depending on the appointment date, because different commissioners, different board members are going to be appointed at different dates for different durations. So that logic only holds if the entire board was appointed as at the date of the previous election. It does not hold. It is incorrect. It is not logical and, therefore, he ought to be corrected.

So, Sen. Small would have raised a very important point, and he would have spoken about the electoral cycle. I think he understood the point that there are different durations depending on the different board members appointed and, therefore, there is not only freedom from political interference and no concomitant appointment, but also there is continuity. There is continuity, as Sen. Mark asked the question, because of the varying lengths of tenure. So Director A who is appointed for three years, he expires at the end of his three years, but during that duration there are other directors who are appointed for five years. The regulator,

he is going to expire at a different time, and it has that institutional continuity from administration to administration. [*Desk thumping*]

Sen. Sturge: Good point. With those few words—

Sen. W. Coppin: Mr. Vice-President, I take serious umbrage to Sen. Mark coming here and arguing that there is no continuity in this Bill, that this Bill has no logic. He blames the PNM for the proclamation of this Bill, saying we have no proclamation plan, when if one understands and if one looks back in time the United National Congress had five years and on the eve of election, more or less, is only when they decided to pass the procurement legislation. So they had five years, but they have the audacity to come to this House and ask us about our implementation plan.

There is no direct relationship between the date of proclamation and the implementation, as my good friend, Sen. Sturge, would know, because he sat with me last week in a joint select committee that spoke about electronic monitoring, and we both were amazed at the fact that there was no proclamation and an entity that was supposed to be set up to operationalized in time for the proclamation of the Act, and they had three years, and after three years there was nothing to show for it.

I would like to say that there is an operationalization problem in Trinidad and Tobago, we cannot escape that, but we cannot use that to argue against why we ought not to bring the tenure of the Procurement Regulator in line with other regulators in this country. We cannot argue implementation plan or lack thereof for trying to perfect a piece of legislation that has been on the cards for a very long time, and we only now have gotten where we need to be.

So the Minister of Finance needs to be commended because he has lived up

to a commitment that he gave this Parliament last June that he would be returning to this Senate to bring substantive amendments. These substantive amendments come on the heels of amendments made by the People's National Movement to right another wrong that was perpetuated on the people of Trinidad and Tobago.

The review board—and I do not want to go too much into that—is a serious amendment that this Government had the foresight to bring to this honourable House. We do not always get it right, but before this legislation is totally and fully operationalized, it falls on us as a responsible Parliament to come to this House and to perfect this legislation.

Sen. Sturge: Standing Order 46(1).

Sen. W. Coppin: Mr. Vice-President, I do not want to go much further, because much has already been said. This debate is a very restricted, simple type issue that does not need to be politicized. It does not need to be politicized. So I would like to wrap up my contribution to say that we ought not to be playing party politics with this matter, one day we agree, the next day we do not. It is the reason why the population does not trust politicians.

Sen. Ameen: Mr. Vice-President, the—

Sen. W. M. Coppin: Let us put aside our partisan interests. The office of the Regulator—*[Interruption]*

Mr. Vice-President: Let me just say, that if Senators want to rise on a point of order, you stand, you put on your mike and you clearly state that point of order. To stand, put on your mike and say nothing is doing nothing but interrupting the speaker. So if you are going to rise on a point of order, stand and clearly state your point of order. Continue, Sen. Coppin.

Sen. W. M. Coppin: Mr. Vice-President, the office of the Regulator is a vital

office; it helps to prevent corruption. We need to build our institutions. In closing, I would like to congratulate the Minister of Finance, he has lived up to his expectations. He has maintained the PNM's objection to the seven-year clause, which is well documented in the *Hansard*. We would see in the past we had in the previous debate, Mr. Colm Imbert refusing or rejecting seven years. We had Hon. Terrence Deyalsingh also rejecting seven years for the tenure of the office of the procurement board. So, therefore, it would be consistent—and we have always been consistent. I ask the Opposition to put aside partisan interest and to vote in national interest and support this Bill. With that, I thank you, Mr. Vice-President.

Sen. Khadijah Ameen: Mr. Vice-President, I thank you for the opportunity to contribute to this very short Bill to amend the Public Procurement and Disposal of Public Property Act, to basically reduce the term of the Regulator and other members of the board. But I want to begin by correcting one matter that the last speaker repeated several times that is a total inaccuracy.

The previous speaker sought to give the impression that the Members on this side, the Members of the Opposition are somehow not in support of procurement legislation. I want to put it on record that it was under the People's Partnership Government that the parent Act became law. [*Desk thumping*] The title of Act 1 of 2015 is:

“An Act to provide for public procurement, and for the retention and disposal of public property”—and I emphasize this—“in accordance with the principles of good governance, namely accountability, transparency, integrity and value for money,…”

Based on that, the office of the Procurement Regulator was established. So it is unfortunate that the other senior Members on that side allowed the Member to

continue to repeat that as if there was truth to it, clearly making up time in this debate.

Mr. Vice-President, the concerns that I have with regard to this amendment is, one, the time frame in which the Minister had given in his budget with regard to the operationalization, and the deadline being March 31, 2017—and I will come to that a little later. But the purpose of this body which was established, yes, for transparency, integrity and accountability—and when the present Government came into office they gave the impression that they were very enthusiastic to implement this piece of legislation to have it operationalized. I question whether they are giving themselves time to continue to get certain things done without this sort of oversight, and whether this measure is another delay tactic.

I am concerned because it is clearly outlined, the elements required for implementation, in a report from the Chairman of the private sector civil society group on public procurement, Mr. Winston Riley, where he indicated that the basic elements for implementation would include:

- a. Establishing the Office of Procurement Regulation.

If the Minister would be so kind, even though it is not listed here, if he could share with us as to how far along—if you feel that that deadline you would have given in your last budget presentation if you would be on track to have it operationalized by March 31st, given the elements required for implementation.

I continue:

- b. Establishing the Review Board envisaged under the Amendment Bill.
- c. Ready public procuring entities.
- d. Planning and overseeing the dissolution of the Central Tenders Board—which we know has been established for many years, and to

dissolve that and hand over would take some time.

9.00 p.m.

- e. Readyng the contractor and supplier communities for implementation.

And a lot of education, a lot of information sharing is required to ensure that every contractor and every supplier in Trinidad and Tobago has a fair opportunity to be considered and to be engaged in any activities of the new board, the new regulation.

- f. Educating private sector entities using public money as to their responsibilities under the Act.

That as well will take some time, some engagement and I trust that it would not be rushed through.

- g. Informing contractors and supplier as to their responsibilities under the Act.

Mr. Vice-President, clearly since it is being—the Parliament is being asked to reduce the term of the Procurement Regulator from seven to five years and the term of the other members, one from six to four, and from five to three and the community representative members, community, women and youth from four to three. Since this is now being discussed you will also have the terms and conditions to be finalized; that also will require some time.

But certainly, Mr. Vice-President, my concern is the delay that will be caused to ensure that this is properly implemented. Because the production of this Act 1 of 2015 which was assented to on the 14th of January, 2015, took a lot of work, a lot of consultation, and it became a reality under the People's Partnership Government. And Sen. Coppin is correct in that there was a lot of talk for many

years, talk, talk, talk, but it actually became a reality and now it is to ensure that the implementation is on track.

[MADAM PRESIDENT *in the Chair*]

And here brings me to another point, Madam President, which is continuity. Because here you had the Opposition, both the Opposition and Government participated in the production of this legislation. And now when you come to—I mean, there was an amendment before and you come again to do another amendment, you can be accused of watering down the thing, of delaying its implementation. But when it comes to the real action, now is the time for the present Government to show that all its words about agreeing to a procurement legislation, that it really was true to itself.

Continuity is my concern because as we transition from one Government to another, every time there is a change in administration this becomes a concern. Almost every state agency where you have boards that are appointed by political appointment, they experience a delay in terms of the winding-down and the starting-up. In fact, there are many boards currently that do not have their members appointed as yet, even though we are well past several months in government and the Government has failed to put those boards in place.

However, when you have a body that is a regulating body, when you have a body that should exhibit fierce independence and you have a pattern of a government undermining independent institutions, and there are several on record and I do not need to go into them right now. But my point is that, when you have the term as being five years and it could run concurrent to a term in office, there is some concern with continuity. Because if the term of the Regulator ends at the time of a term of government, you would realize that you would run into an issue.

In terms, again, of the continuity, when you have several other members of the Board whose terms are not five years, but are different. But, Madam President, I think it is also very important to ensure that any perception of political influence or political pressure is removed, is completely removed. Because a political influence may not only be in appointing, there is the speculation even now, Madam President, that the very highest office in our land is coming under political pressure at this time. [*Desk thumping*] And that perception must not carry into something as critical as our procurement legislation. And the political influence may not be in appointing the person directly, because you require the President to appoint the Regulator in collaboration [*Crosstalk*] with the Prime Minister. So you must have some collaboration. And there, of course, lies, again, the opportunity for there to be a perception of political influence.

When you have a president who, I mean, the Prime Minister and the Government of the day play a big role in agreeing to who would serve as President, again, the question comes up in terms of how much influence a government would have on the President's agreeing during this consultation. And when this term runs for five years, you increase even more the perception of political influence and the opportunity to apply political pressure to this very critical office that would guard the transparency, integrity and value for money that the procurement regulation asks this office, this Regulator, to do.

So, Madam President, that is the main concern I have and I hope that the Minister will be kind enough to indicate to us, as far as he knows right now, if we are on track, if the relevant departments are on track to do this transition to ensure full operationalization of this unit, of this body, this regulating body by the 31st of March. And if—I mean, we have to be reasonable, there were two occasions for

amendments including this one that may not have been taken into consideration at the time of naming this March 31st deadline. So if you foresee that based on these two amendments and there may have been a delay, I think it would be fair for him to indicate at this time, if you see that as a hiccup.

Madam President, I also want to mention that the parent Act indicates that the Regulator should be engaged on a full-time basis and be restricted from any other occupation. That is something that I fully agree with because it gives the Regulator the opportunity to be very dedicated. But to ask a well-qualified person of integrity to forego whatever their profession is and to come in to serve this term for five years, you spend some time in the start-up, you spend some time the wind-down and the question is in terms of how effective it might be. But I think it is important for that stability in the organization to be allowed to take place, and so I am not in support of this five-year recommendation.

I am in support of the Act 21 of 2015 being—coming into being. I am in support of operationalizing and making a reality out of the procurement legislation. We have had a lot of talk for a lot of years. We now have a piece of legislation that requires operationalization and implementation. The Government would do well to avoid any sort of speculation that they are delaying implementing these measures and this regulating body to give—what has become practice—to give it a little more time, especially at a time when there are allegations and reports of people who are related to high government officials receiving contracts from the Government, and we have Members of Cabinet whose names have been called as well in some of these speculations. And if the Government is serious about getting this done, you would try as far as possible to have it implemented in a short space of time.

Madam President, with those words, I want to thank you for the opportunity to contribute. [*Desk thumping*]

Sen. Nikoli Edwards: [*Desk thumping*] Thank you very much, Madam President. And I intend to follow suit with the other Members of the Independent Bench in keeping my contribution very short and to the point.

I would first like to say that I do understand the rationale behind the change in time for the members of that Board, and it is in fact something that I think answers a lot of the issues that members of the public have when they look at a lot of our boards, a lot of our institutions, understanding. Because there is a perception across Trinidad and Tobago that a lot of persons hold positions for way too long, and that is when we see even in governments' changing because they feel as though that they are seeing too much of the same thing over and over and over again. And with that I do think that change is healthy and with it comes a lot of benefits.

With the fact that persons think that holding on to positions for too long brings about a feeling where persons are dissuaded, discouraged and disappointed in a lot of the institutions. Further to that I would say, on the point of institutional memory, it would be my understanding that there would be staff members of this office, and therein lie persons who would preserve that institutional memory, because you would have boards changing regardless. And those are the persons, just as you look at a Ministry where a Minister may change, you have Permanent Secretaries who are expected to take up that role and that position of ensuring that regardless of who is at the helm of the Ministry, that the affairs of that Ministry continue unhindered.

The other point, and most recently Sen. Ameen would have brought it up

with regard to the Opposition and the Prime Minister having a role to play in advising the President with regard to the appointment of the board members. Also, she was stating that the President—that there may be some sort of political influence. And it is that kind of thinking that, I think, really and truly paints a grim picture, because we have no confidence in the persons that we put in positions. And it is my understanding that, in fact, the President is elected or appointed based on an electoral college and that would be made up of persons who are on both sides of the aisle.

So there should be no question whatsoever about whether the President is politically persuaded in any which way. We need to have the confidence in the persons that are holding positions in office regardless of what we may think personally or otherwise. And it is in that that I am confident that the board members would be appointed in any which way to preserve integrity, and that is the kind of level of thinking that we need to start to head towards. [*Desk thumping*]

Now, many young persons, I see this as an opportunity and as you would know, Madam President, I speak on behalf of young people. Now, many young people are lacking opportunities. I am very much encouraged to know that some of the members are to be appointed based of their interaction or based on representing the interests of youth; that is very encouraging for me.

I had made the call previously and I would say it again, I do think that there should be a young person on every state board, just as labour has made a call, but I specifically look towards young people because young people will be the ones taking over positions of power, taking over positions of influence, leading organizations. And I do think that this is encouraging and this should be mimicked in many other pieces of legislation, because we are acknowledging the fact that

when legislation is crafted, a lot of the time young people are not considered.

When you put down pieces of legislation, if you do not differentiate age whatsoever, it will always be perceived that it would go to, positions, would go to persons who are much more older and, as they would say, more experienced, discrediting the fact that young people today, because of many of the offerings that society has given and governments in the past have given, young people are, in fact, experienced and ready to take over positions. So, I am encouraged to know that this here would be an opportunity for that.

Because I would have this House know that the Commonwealth last year released its world youth index 2016. And in that which it looked at 183 countries around the world, Trinidad and Tobago was ranked 83 out of 184 when it comes to the Youth Development Index. And what was even more shocking was that this country ranks in the top 10 for the worst performing when it comes to employment and opportunities for young people.

So, as I stated before, I do see this as a move in the right direction, providing an opportunity where the Board as it will change as frequently as stated in this amendment, once passed, it will allow young people the opportunity to come in, learn from those around them, because you would have those persons who would be serving before them who would be able to guide them, and we must trust the young people of this country to take over such positions.

I would also want to point out that, right now millennials or Generation Y, who are born between 1977 and 1995, of which I fall in that category would, in fact, dominate the workforce. They will make up 50 per cent of the workforce by 2020 and 75 per cent of the workforce by 2025. As such, one would think that now is the time that you need to prepare those young persons for such positions.

So, I do think across the country, across government institutions young people need to be given that guiding opportunity to be represented on boards. You would see confidence restored in many of our institutions, because as it stands, young people are dissuaded from accessing many services, accessing many of the opportunities provided to them.

So therefore, I want to simply say that this, as I see it, provides an opportunity much further than probably was thought when crafting the legislation, but it nonetheless provides an opportunity for young people to take up positions.

I understand the importance of procurement. It is something long awaited in this form in terms of the parent legislation and I think it is a good time. I do however, I am concerned and have been looking on in terms of its implementation and operationalization, but nonetheless I have to give the Government the benefit of the doubt in saying that things would run smoothly. But young people need to play an integral role where that is concerned because they are the ones who are going to be procuring in the future, tendering in the future and this needs to reflect them and their opinions as we move forward.

And with those few words, Madam President, I thank you. [*Desk thumping*]

The Minister of Finance and Acting Minister of Energy and Energy Industries (Hon. Colm Imbert): Thank you, Madam President. Madam President, just to respond to the last speaker. He, in fact, touched on a very relevant section of the Bill which some Members of the Lower Bench did not. And I go in particular to clause 2(d) of the Bill which speaks to subsection 4(b) of section 11 of the Public Procurement and Disposal of Public Property Act. And we are changing the term of office of persons appointed under section 11 subsection 4(b) of the parent Act from four years to three years.

And if you go to that section, it actually speaks to a group of persons who shall be appointed to represent a number of interests and in particular the persons who are appointed under section 11 subsection 4(b) for four years, now three years, would be:

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

So, I want to thank the young Senator for drawing that fact to our attention, that these persons that we are speaking about who would be now appointed for four years and three years, respectively, come from a variety of disciplines and areas including persons with qualifications in accounting, finance, business management, civil engineering, an attorney-at-law, any other field relating to procurement and then the four members at large— community, women, youth, religion and so on.

So it is an important point to note. And when you look at the way the board is constituted and the way it will now be constituted with this amendment Bill, if it is passed, you would see you actually would have continuity. Because while the Regulator would be appointed for five years, some of the other members would be appointed for four and another batch for three. So that as the persons appointed under section 11 subsection 4(b) go out of office, another group would come in, and therefore, they would transcend the termination of the appointment of the Regulator. The Regulator would be for five years, but these people appointed under subsection 11(4)(b) would be for three and then another three. So they will be in office when the Regulator goes out, providing the required continuity.

Similarly, the ones who will be appointed for four years, the four and four, eight, so that they will be there while the Regulator is still there and then remain

for a further three years after the Regulator goes out.

So there is going to be continuity by definition because of the structure of the legislation and the amendments we are proposing. But to break it down to its simplest point, and this is for the benefit of Sen. Ameen, it is almost impossible to have the term of the Regulator coterminous with the term of the Government. It is virtually impossible. If all goes according to plan, this Regulator will be appointed this year in 2017 and the term of office is fixed. It is not discretionary. It shall be for five years. So the person shall be the Regulator, unless that person resigns or is terminated for some reason, until the year 2022, which will be two years after the life of this Parliament comes to an end.

So therefore, by definition, the first Regulator will be in office for two years into the next Government. That person will transcend parliaments and transcend governments. And then the other members, because they go four and then another four, and then three and another three, they too, they will be appointed before the end of the life of this Government and they will transcend the term of office of this Parliament and the Government. So there is no issue whatsoever with continuity. And after that it will be a virtual miracle if the date of the first sitting of the next Parliament would be coterminous with the beginning or the end of the term of the Regulator. It is a mathematical impossibility.

In the same way that the term of office of the President, for that to exactly coincide with the term of office of a government, is a mathematical impossibility. The first time that that has happened is when we had the Republican Parliament when everything started from scratch, and then after that, for one reason or another, every term of office of a president after that, even though it is five years like the Government and the Parliament, has transcended the expiry date of the

Government or the Parliament, as the case may be. So it is absolutely no chance that this Regulator or any regulator in the future would be coterminous with the term of office of a government or Parliament. There will always be an overlap and continuity.

Now, it is entirely regrettable that Sen. Mark, for the second time today, did not read the documents that are a matter of public record. I read into the record the Minutes of the Fourth Meeting of the Joint Select Committee on the Public Procurement and Disposal of Public Property Bill, 2015 held on the 12th of February. If Sen. Mark had taken the time, he would have read the Minutes of the fifth meeting. And at the fifth meeting held on the 19th of February the following persons were present: myself as chairman, Mr. Adrian Leonce, Mrs. Paula Gopee-Scoon, Mr. David Small, Mr. Franklin Khan, Mrs. Cherrie-Ann Crichlow-Cockburn and Dr. Bhoendradatt Tewarie— Dr. Tewarie present at the fifth meeting. Of course, absent/excused was Mr. Wayne Sturge, a recurring feature of his participation in the committee, absent for every single meeting. But the fact is, the key person who was the person who piloted the Public Procurement and Disposal of Public Property Act, 2015, Dr. Tewarie, was present representing the UNC, representing the Opposition.

And let us see what happened in that fifth meeting.

“CONFIRMATION OF MINUTES

The Committee...”—which included Dr. Tewarie—“considered the Minutes of the 4th meeting held on February 12th.

The motion for confirmation of the Minutes was moved by Mr. Small and seconded by Mr. Khan and the Minutes were confirmed by the Committee.”—including Dr. Tewarie. [*Desk thumping*]

But let us go to—that is not all. Let us go to Matters Arising. And we go now to item 4, consideration of the Public Procurement and Disposal of Public Property Bill. And let us go to item 4.1.

“The Committee agreed...”—that:

“The proposed amendment to section 11 (1) of Act No. 1 of 2015...”

—which is the proposed amendment that we reduce the term of office of the Regulator from seven to five. Let me read this again:

“The Committee agreed...”—which included Dr. Tewarie, that—

“The proposed amendment to section 11 (1) of Act No. 1 of 2015 was outside the mandate of the Committee. The Committee agreed to recommend in its report to Parliament that another amendment Bill be drafted to capture its recommended amendments which fell outside the mandate of the Committee.”

So if Sen. Mark had bothered to take two minutes to read the whole report then he would have seen that Dr. Tewarie was not present at the fourth meeting, but he came to the fifth meeting and we went through this matter in some detail, and he agreed that this be the subject of an amendment Bill, the Bill before us today, and that the term of office of the Regulator be reduced from seven to five years.

9.30 p.m.

So, there was unanimous agreement of those present. Sen. Sturge could not agree or disagree because he just was not there, he was never there, so that the sole Member of the Opposition who attended all these meetings, bar one, when he had a personal engagement overseas, Dr. Tewarie, agreed that the term of office of the Regulator be reduced from seven to five years. So, it is just unfortunate, because I

really wish hon. Members opposite would do their homework. I do not see the point of all this carrying on and ranting and raving, and “We will not support this Bill, and brrrrr”, when in fact we had a very most excellent joint select committee.

The only point of contention, and it is in the minutes, was a disagreement on the review board, where Dr. Tewarie put in the report that he was not in agreement with the review board, and that is all. And if you read the minutes of the fifth meeting you will see the only issue that Dr. Tewarie raised was the review board, but in terms of everything else, we agreed to all of the proposed amendments, including the amendment which we were told at the time was outside of the mandate of the committee, reducing the term of office from seven to five years, and it should be the subject of another Bill, which we all agreed to. It was the unanimous agreement of everybody present, including Dr. Tewarie. So, I really do wish Sen. Mark, you have got to stop that, 25 years in this place and still carrying on and screaming, and ranting and raving over nothing, much ado about nothing.

So, with those few words—I thank Sen. Small for confirming his recollection of events, I thank young Sen. Nikoli Edwards for making the point, that really we need to get away from this thing that people are just entrenched in position forever and ever and ever. And even in the auditing world, it is best practice that you change auditors every three years or so, because they get too comfortable, and they do not address their work in a proper manner, because they just get too comfortable.

Sen. Mark: What page of the report are you referring?

Hon. C. Imbert: Madam President, what—Sen. Mark, could you explain what this is all about? Why is he screaming like that?

Madam President: Minister, please continue.

Sen. Mark: What page in the report?

Madam President: Sen. Mark! Sen. Mark, please!

Sen. Mark: The man is misleading the House.

Hon. C. Imbert: Madam President—

Madam President: Minister! [*Motions Hon. Imbert to sit*] Minister! Sen. Mark, please, let the Minister finish his contribution, please! Minister of Finance.

Hon. C. Imbert: Madam President, this is really ridiculous. I read the minutes of the fifth meeting, I read paragraph 4.1, I made the point that Dr. Tewarie was there; I made the point that the committee, everybody present, agreed that the amendment to clause 11—section 11 of the Act be dealt with, with an amendment Bill, because it was outside the mandate of the committee.

It is there in black and white, and I really do not want to go over this again. For those who have eyes to see and wish to see, and wish to understand what this committee did, we agreed, everybody who was present agreed on this. And even in the debate there was no contention over this. There was no disagreement from Members opposite, either in this place or in the other place with respect to that particular matter, because everybody agreed, even the Joint Consultative Council when they came to meet with us and to present their views on the Bill, everybody agreed that it was sensible to limit the term of office for the Regulator to five years for all sorts of reasons which have been well ventilated in this House today.

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

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clauses 1 and 2 ordered to stand part of the Bill.

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

Senate resumed.

Bill reported, without amendment, read the third time and passed.

ADJOURNMENT

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon):

Madam President, I beg to move that this Senate do now adjourn to February 14, 2016 at 1.30 p.m. This is to be Private Members' Day, and my understanding is that we continue the debate on Motion No. 1.

Sen. Mark: May I, Madam President, before? Madam President, may I also advise the hon. Acting Leader that once we are able to complete that particular Motion, there is a Motion that will qualify on the 13th of this month which deals with the escalating and exponential growth in the crime industry in this country, and that matter will be debated immediately following the conclusion of that one. [*Desk thumping*]

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

Restructuring of Petrotrin. (Government's Failure to Enunciate)

Sen. Wade Mark: Thank you very much, Madam President. The matter on the Motion deals with the failure of the Government to enunciate a clear policy for the restructuring of Petrotrin and the consequential impact on the company's workforce.

Now, Madam President, we are all aware of the state of play at Petrotrin. Petrotrin is in trouble. The Prime Minister of the Republic spent a great deal of time in his address to the nation some time ago focusing on Petrotrin and its future. The Minister of Finance in his 2017 budget presentation also spent a considerable amount of time on pages 38, 39 and 40 outlining the concerns of the Government as it relates to Petrotrin, and I want to quote sections of the Minister's budget statement which will encapsulate the state of play at Petrotrin. I go to page 39, it reads:

“International rating agencies have downgraded Petrotrin's debt and have given warnings of further downgrades unless major structural changes are immediately effected. In this regard, Petrotrin faces the critical need to reduce operating expenditure by \$500 million over the next four years or increase the profitability of the company commensurately. This will require a reduction in discretionary spending as well as a review of the organizational structure, improve efficiency and stringent control of operating cost.”

Madam President, it goes on to talk about:

“These adjustments are absolutely necessary since a robust restructuring programme will be a precondition for the re-scheduling of Petrotrin's overwhelming debt burden, which includes amortization payments of close to US \$400 million in 2017 to 2018 and a bullet payment of US \$850 million in 2019.”

This is the state of play at Petrotrin. The question that has been raised is that the OWTU has been the only organization, as far as I am aware, to have submitted

to the Government a restructuring plan for Petrotrin.

The Government, on the other hand, has not been able to properly enunciate a position, a strategic policy position as it relates to the future of Petrotrin. Is the Government going to privatize Petrotrin? Is the Government going to look for a partner to share 50/50 ownership of Petrotrin? Is the Government going to retrench thousands of workers at Petrotrin to make it viable in the short to medium term? What is the policy direction of the Government? So, Madam President, I raise this question in the context and framework of a state enterprise policy framework that the Government will wish to identify. What is strategic? What is commercial? What is industrial? What is not necessary in terms of state enterprises to be kept by the State?

Because, Madam President, as you are aware, transfers amount to billions and billions of dollars, and they go to state enterprises, and here it is we have a flagship. This is a flagship company and we need to preserve it, but we are hearing, from this statement issued by the Minister in the budget statement, that the Government is seeking to restructure Petrotrin, and in restructuring Petrotrin we are being told that there has to be a reduction in discretionary spending. Also a review of the organizational structure, they have to improve efficiency, and, Madam President, stringent control of operating cost. So, we believe, Madam President, that it is very important that the Government clears the air on the future of Petrotrin. Is the Government going to embark on radical surgery at Petrotrin? Is the Government going to retrench close to 3,000 workers at Petrotrin? Is the Government going to privatize Petrotrin? These are issues on the lips of the population of Trinidad and Tobago as it relates to the future of this very important

state-owned, 100 per cent owned, Petrotrin.

Now, Madam President, may I also indicate, in a newspaper article, *Express Business*, January 18th, in an opinion, which is an editorial in this *Express Business*, I quote:

Petrotrin has a staggering debt of \$13.2 billion and a bond of US \$850 million that becomes payable and due at the end of 2019. The grim financial scenario comes in the wake of the company's revenue falling from \$29 billion in 2014 to \$19 billion in 2015, and \$16 billion in 2016. Petrotrin posted a loss of \$822 million in 2015, and there is a projected loss for 2016 of over \$600 million.

These are the grim statistics. These represent the realities facing Petrotrin as a very important state-owned flagship company, which is responsible for a number of activities that we are able to enjoy in the Republic of Trinidad and Tobago.

So, the OWTU has submitted a restructuring plan to the Government. Is the Government adopting that as their own? Is the Government going to proceed with its own restructuring plan? Is the Government going to marry the OWTU plan with its own plan? We understand that Dr. Terrence Farrell has been mandated to look at the whole state enterprise sector to determine a policy position in terms of the future of that particular sector. No report has come forward. We have not seen any material table on the future of Petrotrin.

So, Madam President, too many people depend on Petrotrin. Petrotrin has a workforce of over 5,000 people, and therefore we need to know from the hon. Minister, who is acting, what is the state of play, and what is the future of Petrotrin in terms of restructuring and the policy direction?

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

The Minister of Finance and Acting Minister of Energy and Energy Industries (Hon. Colm Imbert): Thank you, Madam President. [*Desk thumping*]
Madam President, the politest description I can make of Sen. Mark's presentation is, the usual rabble-rousing.

It is not correct to say that the only entity that has submitted a proposal for the restructuring of Petrotrin is the Oilfields Workers' Trade Union. I have in my presence here, in my possession, a proposal from the OWTU, which was submitted some time ago, which goes into some detail into what the union believes should be done to restructure Petrotrin, and they have recommended that the company be split into four operating units, and I will describe them for you, Madam President. Four independent divisions each reporting to a fully autonomous general manager. The first one would be exploration and production; the second one, refining and marketing; the third, planning and projects; and the fourth, Trinmar. And they have gone through to make several recommendations, on how they believe we can improve efficiency, reduce cost, and return Petrotrin to profitability. And they also submitted a document called "Quick Wins", which they have given some ideas, or their recommendations with respect to improving oil production at Trinmar and reducing costs. They have looked at Trinmar's North Fields, they have looked at the South West Soldado Field and so on. So, the union has made recommendations.

But, the union is not the only entity that has made recommendations, contrary to Sen. Mark's statement. The company also has made recommendations. I have the company's recommendations here, and the company has looked at managing the decline in oil, and in that proposal they say that:

We should upgrade and repair facilities to improve reliability, implement a work-over programme on land and marine, improve capacity, reduce lifting costs both onshore and offshore.

And, you see, Madam President, when Sen. Mark comes into this Parliament he really needs to do his research. What is the problem with Petrotrin? What is the problem with Trinmar? If Sen. Mark had done his research he would know that the lifting cost of oil, the amount of money it costs to produce one barrel of oil in Trinmar is US \$43.90. Whereas, there are other entities involved in the production of oil in terms of lease-out, farm-out, and independent producers, and joint venture producers, and when I look at the figures here, it is staggering, where you have Trinmar producing oil in July 2016 at \$41 a barrel, and 2015 it was \$44 a barrel; the joint venture producer is producing it at \$9.48 per barrel. Same oil.

So, a joint venture entity in association with Petrotrin is lifting a barrel of oil for \$9.48, but Trinmar is lifting oil for \$41, four times as much. These are the kinds of things as a country we need to look at. Not all this rhetoric about retrenching 3,000 workers. All of that. I do not know what correct word I could say to describe that that would not be deemed unparliamentary. But, what we have to look at is, what do we need to do? And the company has indicated that it believes it can increase oil production by as much as 7,000 barrels per day. Petrotrin used to produce 70,000 to 80,000 barrel of oil. Even the Oilfields Workers' Trade Union has acknowledged that fact. It is now down to 42,000 barrels of oil.

The current management believes that with a number of initiatives that they have proposed, that they could increase production to 50,000 barrels per day, by using a number of techniques. And the main issue, the main recommendation

Matter on the Adjournment Restructuring
of Petrotrin (Government's Failure
to Enunciate) (cont'd)
Hon. C. Imbert (cont'd)

2017.02.07

coming out of the company is that they should look for investment capital from various joint venture partners to deal with their asset integrity problems, to provide the necessary capital to engage in increased exploration and drilling, to construct additional production facilities, to repair and replace existing assets, platforms, pipelines and tankage. One of the things that is never said when we hear the type of contribution that came from the hon. Senator, is what we are dealing with. We are dealing with infrastructure that is 50 years old, in some cases 60 years old, and you need an injection of capital to replace and repair Petrotrin's ageing infrastructure, you need an investment of capital to explore. In some areas one oil well can cost you as much as US \$250 million to drill. This is not small change we are talking about.

So, in order to deal with the problem, that is Petrotrin, to improve its production, because one of the issues that—one of the problems that Petrotrin has, because production has fallen to just over 40,000 barrels a day, they have to import oil, so they have to pay for that. So, they import oil from Nigeria and other places, and then they refine the oil through the refinery and they sell the refined products, the petroleum products, so there is a margin, but the cost of the imported crude is very high, and the cost of petroleum products is not on par with the price of oil, so that the refinery margin is very small, in some cases it is negative.

So, Petrotrin has made the point, the obvious point, that if it was able to increase its own oil production, which it could then put through the refinery, it could increase its profitability exponentially. So, the secret to Petrotrin's return to profitability and its return to flagship status is increased oil production, and a concomitant reduction in operating cost. It has nothing to do with retrenching

Matter on the Adjournment Restructuring
of Petrotrin (Government's Failure
to Enunciate) (cont'd)
Hon. C. Imbert (cont'd)

2017.02.07

workers. This is the scaremongering tactic that is so typical and symptomatic of Sen. Mark, just screaming and shouting. Deal with the issues! This is what I say to Sen. Mark, deal with the issues. When you are paying \$44 to lift a barrel of oil, and the price of oil is \$44, which it was at the time that it was costing them \$44, you are making no money whatsoever. What is the point of going through the production of this barrel of oil if it costs the same amount that you can get for it on the world market? What is the point?

So that that is the chronic problem that we have to resolve with Petrotrin. And when you look at the facts, Petrotrin recorded a net loss after taxes of \$533 million for the year ended September 2016. So, you have a company that is losing money because it is inefficient, because even though it is producing less oil, you still have the same bureaucracy. So, you have the same number of people, more or less, you have the same operating cost, more or less, but you are producing far less product. So, your revenue, in the case of Petrotrin, fell from \$29 billion in 2015 to \$16 billion in 2016. It dropped by 50 per cent.

Madam President: Minister, you have one more minute.

10.00 p.m.

Hon. C. Imbert: So that the solution to Petrotrin's problem is not the histrionics of Sen. Mark, the ranting and raving and the scaremongering about retrenching people, it is to deal with the efficiency and to deal with measures to increase oil production. And I want to compliment the trade union in their quick win presentation. [*Desk thumping*] They actually analyzed, went from well to well, saying, if you do this repair on that well and you upgrade the machinery on this well you could increase production by 100 barrels a day here, 300 barrels a day

Matter on the Adjournment Restructuring
of Petrotrin (Government's Failure
to Enunciate) (cont'd)
Hon. C. Imbert (cont'd)

2017.02.07

there, 400 barrels a day there. I want to compliment the Oilfields Workers' Trade Union for adopting a scientific and professional approach to this problem as opposed to the scaremongering of Sen. Mark.

So that we will review all of these submissions, submission from the company, submission from the trade union, the energy subcommittee will look at this, the Corporation Sole will look at this, our experts will look at this and we will in due course come up with the restructuring plan for Petrotrin in the best interest of all concerned. [*Desk thumping*]

**Joint Select Committee on Parliamentary Accommodation
(Failure of the Government to Establish)**

Sen. Wade Mark: Thank you very much. Madam President, my second Motion deals with the failure of the Government to establish a joint select committee on parliamentary accommodation for the purpose of consulting with Parliament on revision of the user-brief for the Red House Restoration Project.

Madam President, you will be aware that the Parliament, the people's Parliament is located on Abercromby Street. That is the Red House. Where we are is really temporary. The building has been in a frame where renovation, rehabilitation has been ongoing for some time now. But what is important to note, Madam President, is that the Red House, the seat of democracy belongs to the people and the representatives of the people are here and are also in the House of Representatives, along with the officers of the Parliament, the Presiding Officers and the workers. And therefore, when the user-brief—in fact, let me just quote from a statement from the Prime Minister delivered in Parliament on March 11, 2016. And I quote:

“Very shortly, Madam Speaker, the Government proposes to bring to the Parliament a request for the re-establishment of a Parliamentary

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Accommodation Committee for the purpose of consulting with Parliament on necessary revisions of the user-brief.”

Madam President, this was on the 11th of March, 2016. We are now, today, February 07th, several months have gone by and the Government and the Prime Minister have not honoured its commitment and promise to the country and to the people’s institution.

Madam President, the Government inherited a user-brief before it decided to redesign that user-brief. The user-brief that was inherited by the PNM Government was for the Red House Restoration Project in which a proposal for the establishment of a parliamentary complex with the construction of a companion building for parliamentary auxiliary services on the site north of the Red House was part of the user-brief.

The PNM Government came into office and they have, through UDeCOTT and the Office of the Prime Minister, literally took control of the Red House. It is as though they have hijacked the Red House Restoration Project. This project, Madam President, was supposed to be under the control, direction and leadership of the Speaker of the House of Representatives. What has happened, Madam President, is that the hon. Prime Minister has established what is called a Historical Restoration Oversight Sub-Committee of the Cabinet. So the Cabinet has now taken charge of the Red House Restoration Project.

Whereas, in the past, that was under the leadership of the Speaker of the House of Representatives. And, Madam President, what happened was that the Members of Parliament had a direct say on the user-brief as to how they would want to see the Red House restructured, renovated, rehabilitated; where they will

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want to see the library, the Clerks' offices, the Speaker's Chamber, the President's Chamber, where the House of Representatives would be located, where the Senate would be located, that was the role and function of the Members of Parliament. And they were guiding and directing the user-brief and the whole UDeCOTT arrangement, because UDeCOTT was the project manager.

Madam President, I want to say for the records that in the period 2010 to 2015 the least amount of moneys that was ever spent on the Red House was spent during that period. And the money was spent essentially—when we were going downstairs to do the retrofitting, seismic retrofitting, three to six centimeters down we discovered, that is the builders, they discovered the remains of some First People and Europeans. And we discovered under the Red House a real lucrative find going back to AD and all kinds of artifacts were discovered, including coins.

That took up a lot of time, but now that the Government has decided to take the Red House project away from the Parliament and put it into St. Clair under the control of the Prime Minister, the Parliament has no say over its own future. [*Desk thumping*] This is unprecedented and unheard of. The Red House belongs to the people and the representatives of the people and the Senate, the Senators and the House of Representatives, the Presiding Officers and the officers of Parliament must be responsible for directing the future of the Red House, [*Desk thumping*] and it cannot come from the Prime Minister. The Prime Minister is the Head of the Executive, not the Head of the Legislature. The Head of the Legislature is the Speaker and the Speaker must be in charge of directing the future of the Parliament and its restoration project.

So, Madam President, what has happened is that the hon. Prime Minister,

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having taken over the Red House Restoration Project, came to the Parliament on March 11th, last year, and gave an undertaking that he will re-establish what is called a joint select committee on parliamentary accommodation.

Madam President, when the Prime Minister was a Member of the Opposition he was a member along with the hon. Colm Imbert, who just left, they were Members of the Joint Select Committee on Parliamentary Accommodation. They had a say, Madam President, on everything that was being done with the user-brief. So we at that time talked about the restoration of the Red House and a companion building. The Ministry of National Security was supposed to be removed and a complex was supposed to be established there. What we are being told, today, is that we are going to the Cabildo Chambers as the companion building.

And, Madam President, we, I am a Member of Parliament, we are all Senators and we do not have a clue on the user-brief and what is to take place. And therefore, we are saying the only way we can be involve in this exercise is through the immediate establishment of a joint select committee on parliamentary accommodation where we would have a say on the user-brief and we would be able to determine if the Cabildo Chambers is adequate and what kind of changes, if any, need to be done, Madam President.

So the reason why I have raised this matter this evening is to get the hon. Prime Minister to really keep his undertaking and promise to establish the Joint Select Committee on Parliamentary Accommodation and I hope that the honourable Minister in the Office of the Prime Minister will be able to help us in that direction. Thank you very much, Madam President.

The Minister in the Ministry of the Attorney General and Legal Affairs and

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Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam President. There was a lot of talk from Sen. Mark about what the Speaker should and should not have done and it is quite ironic, because over the previous five-year period, Sen. Mark was the Speaker. And through you, Madam President, I will now inform the public of Trinidad and Tobago what went on during that period of time.

It is a matter of history and on the records that Parliament was relocated to its current accommodation at Tower D, at the International Waterfront in 2011. So the question must arise as to what happened in the period 2011 to 2015, the period when Sen. Mark held that position as Speaker of the House and he wants to know what was done, what should be done, where the library should be, et cetera. But at that time, in addition, or as part of his duty as being Speaker of the House, he chaired a committee, a steering committee that was dealing with the restoration of the Red House. And let me tell the public of Trinidad and Tobago what went on during that period.

In the period 2012 to 2015, they tried to restore the roof of the Red House and that is now a national scandal, presided over by the goodly Sen. Mark, where over \$23 million were expended and I ask all citizens of Trinidad and Tobago to go there tomorrow, maybe Sen. Mark would meet them there and for him to show them what he achieved for the expenditure of \$23 million of taxpayers' money. Absolutely nothing. The technocrats at the time were advising the committee to terminate the contractor who had absolutely no experience in building roofs. But no, no termination took place until this administration came in and took charge of it. [*Desk thumping*]

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Let us see what happened under the former Speaker, Sen. Mark, during this period of time.

Sen. Baptiste-Primus: Good memory.

Hon. S. Young: Thirteen point seven million dollars spent, \$13.7 million in three years when oil was \$120—[*Interruption*]

Sen. Mark: Who spent that? Who is that, me?

Hon. S. Young: The UNC Government of which you are a part, right, \$13.7 million on a base building, roof and associated works. Go and see the roof, general contractor. “Ah wonder which contractor you used.” Excavation works that you wanted to talk about and you are telling us that you found coins, for \$13.7 million, it must have been a lot of coins. Contingencies, \$8.4 million, Sen. Mark, for a temporary roof and removal of asbestos and security, I wonder who you used for security? “Mamoo”? Consultant fees, listen to this taxpayers, under Sen. Mark as the Speaker who wanted to oversee, consultant fees, \$26million.

Hon. Senators: “Whoa!”

Hon. S. Young: So in total, you oversaw the expenditure of \$47.5million of taxpayers’ money excluding VAT and you still think the taxpayers want you to oversee this. [*Crosstalk*] Let me tell you, Madam President, absolutely nothing to show. So when this administration came in, the hon. Prime Minister in his wisdom saw it fit, through the Cabinet, to appoint a sub-committee of Cabinet and that sub-committee of Cabinet, Madam President, is called the Historical Restoration Oversight Sub-Committee and it is made up of—being chaired by the hon. Prime Minister, it includes the Attorney General, the Minister of Finance, the Minister of Planning and Development, the Minister in the Ministry of the Attorney General

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and Legal Affairs and Minister in the Office of the Prime Minister.

So this Cabinet sub-committee was set up in February 2016 and what it did, it utilized all of the taxpayers' money that had been spent before for all of these user-briefs that you want to boast about, all of the work that you, apparently went over, Madam President. And this work has been used by this Committee and, in fact, we have engaged in substantial savings to the taxpayers. But let us not forget what it was you all did as the People's Partnership Government, under the Speaker then, as you were Sen. Mark and I am now about to tell the people what were the contracts that they wanted to award. [*Crosstalk*]

They approved in 2012, they being, that administration's Cabinet, a project budget of \$744 million for the restoration of the Red House. The entire parliamentary precinct, they wanted to build a building, and he just boasted about it, a complex they wanted to build with taxpayers' money as a company, a companion building, they wanted to build for \$411 million. This Government under Dr. Rowley has taken a decision not to build a new building. We are clearing Cabildo Chambers and it will be outfitted for parliamentarians, [*Desk thumping*] saving taxpayers money; \$303 million you wanted to expend on a construction of a companion building.

So, Madam President, just by the decision of this Government to not construct a new companion building and to use Cabildo Chambers, we have saved over \$400 million. [*Desk thumping*] This Government is overseeing, under the chairmanship of the Prime Minister, the reconstruction and renovation of the Red House and it is expected to be completed before 2019. In fact, persons who are looking on would have seen 15 packages being advertised by UDeCOTT and those

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packages are out, there is open competitive tendering, not sole select, giving it to “mamoo” and giving it to others, open competitive tendering taking place. [*Crosstalk*]

So, Madam President, this Government has approved a comparative budget of \$241million for construction compared to their almost a billion dollars. So we are significantly saving the taxpayers. We intend through proper management of the process and proper oversight from a small Cabinet sub-committee—in fact, we often wondered how they used to fit in the Cabinet room with 30-something odd Cabinet Ministers compared to our 21/22. So, Madam Speaker, we are proud to say that the project is now being properly managed. There is a proper oversight and at the appropriate time a joint select committee of Parliament shall be appointed for the accommodation of the Parliament. This is not a feeding at the trough. The building needs to be completed first before it can be accommodated. [*Crosstalk*]
Not like under you all, where everybody sit there and you want to talk about vibrating chairs.

Madam President: Minister, face me.

Hon. S. Young: Thank you, Madam, sorry, Madam President, talking about vibrating chairs costing thousands of dollars for them to sit on. [*Crosstalk*]

Sen. Mark: You are in charge, you are in charge. I think Debe missing you.

Madam President: Sen. Mark. Continue, Minister.

Hon. S. Young: So, Madam President, without much further ado, it being this late in the evening and me having to come here, which is always a pleasure, we on this side would like to assure the taxpayers of Trinidad and Tobago that we continue to protect their interest, we continue to do what is right and we are overseeing an

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open competitive tender process for the restoration of the Red House which we expect to be completed before 2019 and we have already saved the taxpayers of Trinidad and Tobago, by these simple decisions, hundreds of millions of dollars and we give the commitment that there will continue to be proper oversight of the restoration of the Red House to its former glory. I thank you, Madam President.

[Desk thumping]

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 10.20 p.m.