

*Leave of Absence*

*Tuesday, November 27, 2012*

**SENATE**

*Tuesday, November 27, 2012*

The Senate met at 1.30 p.m.

**PRAYERS**

[MR. PRESIDENT *in the Chair*]

**LEAVE OF ABSENCE**

**Mr. President:** Hon. Senators, I have granted leave of absence to Sen. James Lambert who is out of the country.

**SENATOR'S APPOINTMENT**

**Mr. President:** Hon. Senators, I have received correspondence from His Excellency the President.

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency Professor GEORGE MAXWELL RICHARDS, T.C., C.M.T.T., Ph.D., President and Commander-in-Chief of the Republic of Trinidad and Tobago.

/s/ G. Richards  
President

TO: MR. WAYNE ANTHONY MUNRO

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

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, WAYNE ANTHONY MUNRO, to be temporarily a member of the Senate, with effect from 27th November, 2012 and continuing during the absence from Trinidad and Tobago of the said Senator James Lambert.

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 26th day of November, 2012.”

**AFFIRMATION OF ALLEGIANCE**

*Sen. Wayne Anthony Munro took and subscribed the Affirmation of Allegiance as required by law.*

## ANSWERS TO QUESTIONS

**The Minister of Environment and Water Resources (Sen. The Hon. Ganga Singh):** Mr. President, we are in a position to answer questions Nos. 15, 16, 20 and 8. In addition, we have answers for written questions 18, 24 and 26. [*Desk thumping*] Questions 18 and 24 are quite bulky and the responses will be placed in the library. Senators who asked those questions were provided with CDS, so that therefore they can peruse it at their leisure. [*Desk thumping*]

**Mr. President:** Just to clarify, the questions that you have in mind, Leader of Government Business, are 8, 15, 16 and 20 in that order?

**Sen. The Hon. G. Singh:** Yes, Mr. President.

## WRITTEN ANSWERS TO QUESTIONS

**Vacation Repair Programme  
(Details of)**

**18. Sen. Fitzgerald Hinds** asked the hon. Minister of Education:

With regard to the Vacation Repair Programme (VRP), could the Minister:

- (a) provide the Senate with a copy of the work schedule for the Vacation Repair Programme (VRP) 2012, including the scope of works in each case;
- (b) provide the Senate with a list of the schools repaired under the VRP 2012; the status of the work actually done and the names of the contractor(s) and the contract price(s) in each case;
- (c) indicate whether the contractors have been paid in full, and if not, when will payments to these contractors be made;
- (d) indicate the precise source/subhead of funds from the budget of the Ministry of Education which met or is to meet the expenditure at (c) above?

**Debe Law Campus  
(Details of)**

**24. Sen. Penelope Beckles** asked the hon. Minister of Tertiary Education and Skills Training:

Would the Minister provide:

- (i) the list of contractors who tendered for the Debe Law Campus;
- (ii) the value of tenders submitted; and
- (iii) contractors shortlisted and selected, the terms and conditions of the contract inclusive of the commencement and completion date?

**Agricultural Access Roads  
(Details of)**

**26. Sen. Penelope Beckles** asked the hon. Minister of Food Production:

Could the Minister provide:

- (i) a list of agricultural access roads done by the Government during the period June 2010 to September 2012;
- (ii) the name of the contractors;
- (iii) the value of the contracts; and
- (iv) the distance of roads done by contractors?

*Answers lodged in the Parliament Library.*

**ORAL ANSWERS TO QUESTIONS**

*The following questions stood on the Order Paper:*

**Preparation for Olympics 2012  
(Moneys allocated)**

**9.** Could the hon. Minister of Sport indicate:

- (i) the amount of moneys allocated to various organizations and individuals for preparations for Olympics 2012 and the date of disbursement of the funds to the individuals and organizations; and
- (ii) the amount of money spent generally by the Ministry of Sport for Trinidad and Tobago's preparation for Olympics 2012? [*Sen. P. Beckles*]

**Personnel attending Olympics 2012  
(Moneys allocated)**

**10.** Could the hon. Minister of Sport indicate:

- (i) could the Minister provide the names of all personnel approved by Cabinet to attend the Olympics 2012 from Trinidad and Tobago; and
- (ii) moneys allocated to all the above mentioned persons? [*Sen. P. Beckles*]

**Brian Lara Cancer Treatment Centre  
(Allegations of over-radiation of patients)**

27. Could the hon. Minister of Health indicate to the Senate:

With respect to the allegations of over-radiation of patients at the Brian Lara Cancer Treatment Centre (BLCTC), and your assurance reported in *Newsday* May 8, 2012 that proper investigation will be done, could the Minister indicate:

- (a) whether an investigation has been or is being carried out;
- (b) if the answer is in the negative, why not;
- (c) if the answer is in the positive, who were/are the members of the investigating committee and when can we expect a report;
- (d) whether your Ministry held any meetings with officials of the BLCTC, and if so, how many and what was the outcome;
- (e) whether your Ministry met with the surviving patients;
- (f) whether the surviving patients have received follow up care, and if so, who paid for it? [*Sen. Prof. H. Ramkissoon*]

**Private Hospitals  
(Details of)**

28. Could the hon Minister indicate to the Senate:

- (a) how many private hospitals/nursing homes/health care facilities (including those performing investigative tests such as CT scans, MRI scans and laboratory tests) are there in T&T;
- (b) for the period 2009-2010 and 2011-2012, what was the cost to taxpayers for outsourcing services to these private hospitals/nursing homes/health care facilities as of December 31st 2011;
- (c) to which private hospitals/nursing homes/health care facilities were sums paid at as December 31, 2012 and the breakdown for each;
- (d) what amounts are still outstanding, if any, to these private hospitals/nursing homes/health care facilities mentioned at (c) as at December 31, 2012; and
- (e) what measures are in place to ensure we get quality service for taxpayers' money from these private hospitals/nursing homes/ health care facilities? [*Sen. Prof. H. Ramkissoon*]

**Stamp Duty Machine  
(Tobago)**

29. A. Could the hon. Minister of Finance and the Economy please indicate whether there is a functioning stamp duty machine in Tobago?
- B. If the response to (A) is in the negative, could the Minister please state when it is expected that there will be a functioning stamp duty machine operating in Tobago?
- C. Could the Minister state what provisions are currently in place to have stamp duty paid on deeds of Conveyances from Tobago? [*Sen. Dr. V. Wheeler*]

**Scarborough General Hospital  
(Details of)**

30. Could the hon. Minister of Health indicate:

With respect to the completion of the new Scarborough General Hospital being constructed at Signal Hill in Tobago, could the Minister state:

- (i) what is the expected date of completion of the hospital building;
- (ii) if the building has been handed over by NIPDEC to the Tobago House of Assembly; and
- (iii) if the building has not yet been handed over, when will it be handed over to the Tobago House of Assembly? [*Sen. Dr. V. Wheeler*]

**Scarborough General Hospital  
(Commissioning Team for Transfer of Clinical Services)**

31. Could the hon. Minister of Health indicate:

With respect to the commissioning or startup of clinical services at the new Scarborough General Hospital, could the Minister state:

- (i) if there is a commissioning team in place to oversee the startup and transfer of the clinical services from the old hospital to the new hospital in Signal Hill;
- (ii) if the answer to (i) is in the affirmative, who are the members of the commissioning team; and
- (iii) when will the wards of the new hospital be receiving and treating the first set of inpatients? [*Sen. Dr. Victor Wheeler*]

*Questions, by leave, deferred.*

**Murders Committed in Magisterial Districts  
(Details of)**

**8. Sen. Penelope Beckles** asked the hon. Minister of National Security:

Could the Minister indicate to the Senate:

- (i) the number of murders committed in each magisterial district for the years 2009—2012;
- (ii) the number of murder cases that have been listed before the Magistrate' Court in each magisterial district during the period 2009—2012;
- (iii) the number of persons charged for the above-mentioned period by gender and age; and
- (iv) the status of the above-mentioned matters, and whether the matter was dismissed or discharged or whether still pending and before which Court and the reason for same?

**The Minister of National Security (Hon. Jack Warner):** Thank you, Mr. President.

The number of murders committed in each magisterial district for the years 2009—2012, is as follows:

- (i) Port of Spain, 390; southern, 163; western, 205; northern, 331; central, 156; south-western, 74; eastern, 94; north-eastern, 171; Tobago, 31; making a total of 1615 murders.
- (ii) Arima, 69; Chaguanas, 38; Couva, 23; Mayaro, 6; Point Fortin, 15; Princes Town, 29; Rio Claro, 9; San Fernando, 73; Sangre Grande, 32; Siparia, 27; St. George West, 187; Tobago, 5; Tunapuna, 19; making a total of 532.
- (iii) 2009: male 204, females 0; 2010: male 150, female 5; 2011: male 103, female 5; 2012: 53, female 5. Number of males for the period, 510 and number of females, 15.

In fact, before I move on to part (iv) of the question, Mr. Speaker, I have further information to give on the last question. Under 15—I am saying the age range now. Under 15—number of persons charged:

- (1) 15—24; number of persons charged, 206;
- (2) 25—34; the number of persons charged, 154;
- (3) 35—44; the number of persons charged, 58;

- (4) 45—54 the number of persons charged, 25;
  - (5) 55 and over 9; and
  - (6) Unknown, 72; making a total of 525.
- (iv) Number of matters filed at the Magistrates' Court, 532; number of matters where persons have been committed to stand trial at the Supreme Court, 35; number of matters dismissed discharged, 20.

Mr. President, with regard to those 20, those 20 matters were either dismissed or discharged at the Magistrates' Court for the period under review due to insufficient evidence to commit the person charged to stand trial or as a result of no-case submissions by attorneys or as a result of the DPP's indication to withdraw the matter before the court.

It should be noted that the 35 matters where individuals have been committed to stand trial may be before the DPP to be forwarded to the Supreme Court. I thank you, Mr. President. [*Desk thumping*]

**Sen. Hinds:** Supplemental question for the hon. Minister. Based on the statistics as have now been preferred to this honourable Senate, will the Minister agree that there has been no appreciable or substantial improvement in detection and conviction rates over the period?

**Hon. J. Warner:** In the absence of meeting with drug lords at a hotel or with gangsters, I differ with you, Sen. Hinds. [*Desk thumping*]

**Sen. Hinds:** The preamble or the run-up to your response to me was rather empty. [*Crosstalk*]

**Mr. President:** Sen. Hinds, to ask the question if you have one. Thank you.

**Sen. Hinds:** Yes. I was speaking specifically, hon. Minister—and we expect better of you here—about the question of the fact that you indicated that about 35 persons would have been charged—is that—and about 20 matters discharged—35 persons charged and 20 of them discharged, sent home, no further action by the courts. That is what I raised with you. I am asking on the basis of those statistics whether you will agree that there has been no appreciable improvement in the question of detection and conviction through the courts for the number of murders—538 or so over the period.

**Hon. J. Warner:** My answer remains the same.

**Sen. Hinds:** I am not surprised.

**Sen. Singh:** No, no, no.

**Sen. Al-Rawi:** Further Supplemental. Hon. Minister, of the figures provided to us indicating 35 referred to DPP and perhaps to the Supreme Court, is that 6 per cent charge rate, being referred to DPP and to stand trial, for the full period 2009—2012?

**Hon. J. Warner:** From the information I have, Senator, it would seem so.

**Sen. Al-Rawi:** Further supplemental, Mr. President. Hon. Minister, perhaps, and I am not aware whether your information speaks to this, does your information speak to the categorization of percentages per year, perhaps, of that 6 per cent whether it is broken, disaggregated year to year for 2009—2012? I am not sure if you have that information now.

**Hon. J. Warner:** I do not have it but if you ask a supplemental question I can always get it for you as a new question.

**Legal Notice No. 348  
(Number of Copies Sold)**

**15. Sen. Fitzgerald Hinds** asked the hon. Minister of Public Utilities:

With regard to the Trinidad and Tobago Gazette Volume 51 No. 142 dated 30 August, 2012 and its attachment Legal Notice No. 348, could the Minister indicate:

- (a) the number of copies sold at the Government Printery on the 30 August, 2012; and
- (b) the number of copies sold at the Government Printery or at any other authorized location on the following and respective days, that is 01 September, 2012 to 10 September, 2012?

**The Minister of Public Utilities (Hon. Nizam Baksh):** Thank you, Mr. President. In response to question 15:

- (a) There was no sale of the Trinidad and Tobago Gazette Vol. 51 No. 142 or its attachment Legal Notice No. 348 of 2012 at the sales section of the Government Printery on August 30, 2012.
- (b) The Government Printery sales section is the only authorized outlet for the sale of the Trinidad and Tobago Acts, Legal Notices, *Gazettes* and Bills to date. During the period September 1, 2012 to September 10, 2012, one customer purchased 11 copies of the Trinidad and Tobago Gazette, Vol. 51 No. 142. No purchase was made of Legal Notice No. 348 of 2012. Thank you.



**1.45 p.m.**

**Sen. Hinds:** Would the Minister be more specific because my question was—and I repeat—whether on the following and respective days, that is September 01, 02, 03, 04, 05, 06, 07, 08, 09, 10? The Minister said one customer purchased 11 copies of that famous *Gazette*. Would the Minister say precisely on what day?

**Sen. Singh:** He has answered the question.

**Hon. Senator:** That is a different date.

**Sen. Hinds:** No, no, no. It is specific. I asked for the respective days.

**Mr. President:** Sen. Hinds, you will have to accept the answer.

**Sen. Hinds:** No, no, no, Mr. President.

**Mr. President:** You may ask other questions. The answer you receive you will have to accept.

**Sen. Hinds:** I am obliged.

**Mr. President:** You cannot query the answer.

**Sen. Hinds:** My supplemental question stands to the Minister.

**Hon. N. Baksh:** Do you want to repeat your supplemental?

**Sen. Hinds:** Thank you. Thank you. The question on the Order Paper at part (b) is as follows:

“the number of copies sold at the Government Printery or at any other authorized location on the following and respective days, that is 1st September, 2012 to 10th September, 2012.”

In other words, the question requests an answer in respect of each of those respective days, and I am asking, since the Minister said one customer purchased 11 copies of this famous *Gazette* with the proclamation of clause 34, I would like the Minister to indicate on what particular day, between the period I have asked, were those copies purchased?

**Hon. N. Baksh:** Mr. President, I could not give that specific answer now as I do not have the information, but it was purchased between those periods—one day. I could not say which day.

**Sen. Hinds:** Thank you. Mr. President, it means, therefore, that the—  
[*Interruption*] [*Crosstalk*]

**Mr. President:** Sen. Hinds, you will have to have a seat. You cannot embark on a debate relative to the question. You have to accept his answer. If you have a supplemental question you may do so, but you must refrain yourself from going into a dialogue or debate on the matter.

**Sen. Singh:** You know better.

**Hon. N. Baksh:** Mr. President, with your kind leave—[*Interruption and crosstalk*]

**Sen. Ramlogan SC:** “He gallerying for the media.”

**Sen. Hinds:** Mr. President, with all humility and with your kind leave, I, on behalf of the people of Trinidad and Tobago, ask—[*Interruption and crosstalk*]

**Mr. President:** Sen. Hinds, you cannot embark on a debate. If you have a question—there is nothing further that you are permitted to say. You can ask a question of the Minister. If you have no more supplemental questions to ask, that is the end of an matter. Thank you.

**Sen. Al-Rawi:** Further supplemental, Mr. President. [*Crosstalk*] Assalaamu Alaikum, hon. Minister. Minister, I am sorry. I regret that I perhaps missed this and I am not sure if you answered it, so if you could perhaps, through the hon. President, repeat it—[*Interruption*]

**Sen. Singh:** You could read the answer in the *Hansard*.

**Sen. Al-Rawi:**—the utterances notwithstanding, discourtesy notwithstanding, the number of copies sold in part (a). I regret I did not hear the answer to that.

**Hon. N. Baksh:** Mr. President, if you permit me to, I will read the answer again. Part (a), there was no sale of the Trinidad and Tobago *Gazette*, Volume 51, No. 142, or its attachment, Legal Notice No. 348 of 2012, at the sales section of the Government Printery on August 30, 2012.

**Sen. Al-Rawi:** Much obliged. Thank you. Mr. President, further supplemental. Would the hon. Minister be able to tell us the repository of this information; where this information is disaggregated from? So the figures of sales in respect of which the Minister is now answering, the question is: where the sale item may be located; who is the repository of that information?

**Sen. Ramlogan SC:** Government Printery, obviously.

**Hon. N. Baksh:** Mr. President, the source of this information is the Government Printery. I think if you want to get additional information, we could probably have a new question and I will be willing to provide the information.

**Sen. Hinds:** One further supplemental. So it is, hon. Minister, that you came here today—[*Crosstalk*] I am asking a question. [*Crosstalk*]

**Mr. President:** Sen. Hinds, take your seat. [*Crosstalk*] Sen. Hinds—[*Crosstalk*]—Sen. Hinds—[*Crosstalk*]—Sen. Hinds—[*Crosstalk*]—gentlemen! Senators!—on a number of occasions during this period you have attempted to embark on debate on matters extraneous to the question that is before this Senate. You will not be allowed to enter into matters other than asking a question. If you have a question, you may ask that now. If not, we will proceed.

**Sen. Singh:** Ask your next question.

**Sen. Al-Rawi:** Further supplemental, Mr. President. Hon. Minister, could you indicate when you would be in a position to provide the information requested by this question?

**Sen. Ramlogan SC:** It is not a question. It is a—[*Interruption*]

**Sen. Al-Rawi:** The information required by this question. [*Crosstalk*] Stop interrupting.

**Sen. Hinds:** The question is here and the supplemental was asked.

**Hon. N. Baksh:** Mr. President, I think the question has been answered here. [*Desk thumping*]

### **Proclamation of Section 34 (Attorney General's Presence)**

**Hon. Senator:** [*Inaudible*]

**Sen. Hinds:** Thank you very much, Mr. President. [*Crosstalk*] Smile? It is all part of the cover-up. Mr. President, might I direct, hopefully to get an answer now, question No. 16 to the hon. Attorney General?

**16. Sen. Fitzgerald Hinds** asked the hon. Attorney General:

With regard to the actual proclamation of section 34 of the Administration of Justice (Indictable Proceedings) Act, 2011, could the Attorney General indicate whether he was in the jurisdiction of Trinidad and Tobago between 05 August, 2012 to 01 September, 2012 or whether another Cabinet member acted as Attorney General during that period and, if so, which Minister was it?

**The Attorney General (Sen. The Hon. Anand Ramlogan SC):** Mr. President, as has already been indicated by the hon. Prime Minister in her public statement delivered to the media on Thursday, September 20, 2012, the hon.

Attorney General was out of the jurisdiction of Trinidad and Tobago during the period July 20 to August 04, 2012. That was indicated publicly in a statement delivered by the hon. Prime Minister on September 20, 2012.

It is therefore information that is already in the public domain and it stands to reason, therefore, that I would have been in the jurisdiction from September 02.

Thank you very much. [*Crosstalk*]

**Sen. Hinds:** From September what?

**Sen. The Hon. A. Ramlogan SC:** I was in the jurisdiction during the period August 05 to September 01. That was already there.

**Sen. Hinds:** Further supplemental or supplementals. In other words, the Attorney General was present when the Cabinet Note was presented to the Cabinet. [*Interruption*] [*Sen. Ramlogan stands*]

**Sen. Singh:** What Cabinet Note? [*Crosstalk*]

**Sen. The Hon. A. Ramlogan SC:** Well, you have to give way. Mr. President, this matter, I repeat, the information has already been made available. So it is a rather redundant question, an abuse really, but the point is, yes, as has been disclosed before, I was in the jurisdiction when the note that dealt with the proclamation came before the Cabinet. That information was disclosed publicly a long time ago. I am grateful to repeat it and reiterate it for the benefit of Sen. Hinds, in case he missed it. Thank you very much.

**Sen. Hinds:** So is the Attorney General saying—[*Crosstalk*—it is a question; I am entitled—as the Government’s legal advisor, you too were taken in by the purported misleading of a former Cabinet Minister? [*Crosstalk*] I am asking a question.

**Sen. The Hon. A. Ramlogan SC:** I think I have answered the question asked as to whether or not I was within the jurisdiction during a particular time. If Sen. Hinds wishes to engage me [*Desk thumping*] further on this matter, I think he should file a fresh question to ask and I will be happy and enthusiastic to answer that question because I have nothing to hide on this matter.

Thank you very much.

**Sen. Deyalsingh:** Further supplemental, Mr. President. In light of the answer given by the hon. Attorney General as to his absence, could the hon. Attorney General state, before you left the jurisdiction or during, who was acting in your capacity with all the powers that go with the Office of the Attorney General as enshrined in the Constitution?

**Sen. The Hon. A. Ramlogan SC:** Mr. President, I would have been out of the jurisdiction for two periods, during the summer vacation on a family vacation. I am not sure who would have been acting on the first occasion. I believe on the second occasion when I was out, the hon. Minister Ganga Singh would have been acting as Attorney General.

**Sen. Hinds:** Mr. President, I crave your protection. I am not debating anything, but according to our—

**Mr. President:** Senator, I am not going to enter into this issue. You have a question to ask—if you would like to come and see me privately in my Chambers, you may do so. At this point, you may ask a question. That is the period allocated for this time on the Order Paper and you may proceed to ask a question, not to embark on a debate about questions.

**Sen. Hinds:** I never would; never would, Mr. President, I can assure you. However, as the person with the responsibility to supervise the Standing Orders and the conduct of the business of the Senate—[*Crosstalk*—I am addressing the President. Would you be courteous and allow me to address the President? I am entitled to do that. We are all Members of this Senate.

Mr. President, it is on that basis, as far as I am aware, you are able to ask or permitted to ask a supplemental question on the basis of the answer that is forthcoming. So when I ask a question on the basis of the answer that is forthcoming, this is not a debate. I am simply asking a question, and therefore—

**Mr. President:** Senator, please heave a seat. I have permitted you to ask many supplemental questions. I have not stopped you on one occasion. When you seek to embark on matters that are extraneous to the question, that amounts to a debate and is not permitted in this section of the Order Paper where we are dealing with questions and supplemental questions. If you have a question to ask that is supplemental to the question that you may have already asked, you may do so now.

**Sen. Deyalsingh:** Further supplemental, Mr. President. Could the Attorney General tell us, in the first instance when you were out of the jurisdiction, is it normal practice that the Attorney General, on leaving the jurisdiction, does not know who will be acting on his behalf?

**Sen. The Hon. A. Ramlogan SC:** I am in the unenviable position of being asked to disprove a negative, but the position is I cannot say what the practice is under different administrations. But, as you know, under the Constitution, the

appointment of any Cabinet Minister is a matter in the sole discretion and prerogative of the hon. Prime Minister, so that one cannot really have foreknowledge of that. It is a matter in discretion of the hon. Prime Minister. [*Desk thumping*]

**Sen. Hinds:** One further supplemental to the hon. Attorney General. In respect of the proclamation, the Cabinet meeting at which you admitted a moment ago you were present, did the Attorney General sense or see or feel anything discomfiting or dangerous about the proposal that was before you that led to the proclamation of the clause?

**Sen. The Hon. A. Ramlogan SC:** Mr. President, that is an entirely new question and I am happy to answer these things. This is a matter obviously that the hon. Senator wishes to prolong, for obvious media attention, and I am happy to engage him on it, but we do have a Beverage Containers Bill to debate, which is about the environment, and I think we should get on with the business of the Senate. If you file a new question, I will be happy to engage you on it, and I will be happy to engage you even outside of these walls on that matter. Thank you very much. [*Desk thumping*]

**Mr. President:** Sen. Hinds, I agree the question falls outside of the parameters of the question that was put on Order Paper.

**Sen. Hinds:** Thank you very much. Let me then ask question No. 20—is that one available for answer today? Question No. 20 to the hon. Prime Minister.

**Ministry of Food Production  
(Cellular Phones)**

**20. Sen. Fitzgerald Hinds** asked the hon. Prime Minister:

- A. Is the Prime Minister aware that the Minister of Food Production publicly admitted to having access to and use of three (3) cellular phones?
- B. Can the Prime Minister inform the Senate whether such cellular phones and the charges for using them were paid for from Government funds?
- C. Would the Prime Minister also indicate whether it is a breach of the rules for government issued cellular phones to be used by persons other than the Minister to whom it was assigned?
- D. If the answer to (C) is affirmative, would the Prime Minister indicate whether she has initiated any investigation into this matter and, if so, whether there is/was found any impropriety on the part of the Minister? And if no investigation has ensued, why not?

- E. Would the Prime Minister indicate the total amount paid for mobile telephone services utilized by the said Minister, since he was appointed as a Government Minister?

**The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh):** Mr. President, in answering question No. 20, the answer is, yes, the Minister of Food Production uses and has access to several cellular phones. They include both his personal cellular phones and those used for ministerial duties. The Office of the Prime Minister has on record the phones used for the execution of ministerial duties. When the hon. Senator served as Minister of Transport, two cellular phones were allocated to him to carry out his ministerial duties.

It should be noted that when the hon. Minister assumed duties as Minister of Transport, there was limited infrastructure in the Ministry's offices and, therefore, there were no phone lines. Therefore, in order to effectively carry out the duties of Minister, but more specifically, manage the Minister's telecommunications load, two cellular phones were utilized.

Upon assuming the responsibility of Minister of Food Production, one of the cellular phones used by the hon. Senator, while serving as Minister of Transport was transferred to his new Ministry, the Ministry of Food Production. The hon. Minister of Food Production now has one ministerial phone used to fulfil his duties.

Part B: the two phones used by the hon. Senator while serving as Minister of Transport were paid for from funds of the Ministry of Transport. Any other phones used by the Minister were paid for privately. The cellular phone used by the hon. Senator in his current portfolio of Minister of Food Production is paid for from funds of the Ministry of Food Production. The rules provide for a cellphone to a Government Minister and a telephone allowance for a private line. There is provision for a full refund for calls certified as official which exceed the 500 a month limit for landlines.

**2.00 p.m.**

Part (c) of the question: the hon. Minister of Food Production has not breached this regulation and, therefore, this matter does not arise.

Question (d): the answer to (c) is not in the affirmative, therefore this matter does not arise.

Section (e) of the question: the total billing from TSTT for phones used by the hon. Minister to and from July 2011 to October 2012 for over 15 months is as follows:

- 1) Tenure as Minister of Transport: \$14,154.06;
- 2) Tenure as Minister of Food Production to date: \$6,378.55 all in TT dollars.  
[Desk thumping]

**Sen. Hinds:** The Minister just indicated that the rules provide for the issuance of one cellular phone, but the Minister did say that as Minister of Transport, the Minister of Transport had two. Would you not consider that that was a breach of the rule?

**Sen. Ramlogan SC:** There were no lines at the Ministry; you did hear that part?

**Sen. The Hon. G. Singh:** Mr. President, in order to answer the question, I indicated the lack of telecommunication infrastructure at that point in time—  
[Interruption]

**Sen. Ramlogan SC:** It was a new Ministry.

**Sen. The Hon. G. Singh:**—and in order to make the Minister effectively function as a Minister, there was the allocation of two cellular phones. It was an interim measure.

**Sen. Hinds:** Just for clarification, you are saying since there was no landline at the Minister's office, he was given two cellular phones?

**Sen. The Hon. G. Singh:** Yes, that is the answer.

**Sen. Hinds:** Thank you.

**Sen. Ramlogan SC:** But most people have two cellphones now.

**Sen. Hinds:** Oh God, I said thank you. [Crosstalk] All right, no problem.

**COMMITTEE OF PRIVILEGES  
(MEMBER FOR CHAGUANAS WEST)**

**Mr. President:** Hon. Senators, under Standing Order 26(2), I have granted leave to Sen. Fitzgerald Hinds to raise a question of privilege. I now call upon Sen. Hinds to raise the question as approved.

**Sen. Fitzgerald Hinds:** I thank you warmly yet again, Mr. President. I seek your leave in accordance with Standing Order 26(2) to raise a matter directly concerned with the privileges of the Senate. The matter relates to statements made by the Minister of National Security, Hon. Jack Warner, in response to an oral question to the said Minister at the sitting of the Senate on November 20, 2012 during his response to oral questions.



Mr. President, Minister Warner, speaking in his official capacity and on behalf of the Government, deliberately misled this honourable Senate while purporting to convey critical information to the Senate on the cessation of contracts of the former Commissioner of Police, Dr. Dwayne Gibbs, and the former Deputy Commissioner of Police, Mr. Jack Ewatski, and any related payments that were made to them.

While answering supplemental oral questions posed by Opposition Sen. Faris Al-Rawi and I, the Minister of National Security stated emphatically that the payments made to Dr. Gibbs and Mr. Ewatski were recommended by the Police Service Commission, and the Government acted on the basis of recommendations received from the Police Service Commission, and made the *ex gratia* payments in sums the Minister quoted.

This position, Mr. President, was repeated *ad nauseum*.

**Mr. President:** Sorry, Senator, that is not part of the approved text.

**Sen. Singh:** Can you imagine you are breaching the presidential dicta? You are reading the wrong document? [*Laughter*]

**Sen. F. Hinds:** This—I have it here, Mr. President. It is part of the text; it is here. This is what the Clerk of the Senate gave me; it is right here.

**Mr. President:** You could start off from “This position”.

**Sen. F. Hinds:** It is part of the text, Mr. President. I am sorry for your mistake. Let me repeat it. This position was repeated several times over. It is now established—[*Interruption*] [*Sen. Hinds remains standing*]

**Mr. President:** Sen. Hinds, you made a remark—if you could have a seat, please. You made a remark relative to my making a mistake. What you have just read out is something substantially different from what you read out before. I would like you to withdraw your remark relative—[*Interruption*]

**Sen. F. Hinds:** I withdraw.

**Mr. President:** Thank you, and now you may continue.

**Sen. F. Hinds:** I proceed. Let me continue, Mr. President. This position was repeated several times over. It is now established that on November 22, 2012, the Police Service Commission advised the national community, including Members of the Senate, via a media release, that it had not made any such recommendation in relation to the cessation of contracts of the former Commissioner of Police, Dr. Dwayne Gibbs, and the former Deputy Commissioner of Police, Mr. Jack Ewatski, or in relation to payments that were made to them.

I therefore submit that the statements made by the Member for Chaguanas West to this Senate about ex gratia payments made to Dr. Gibbs and Mr. Ewatski on the recommendation of the Police Service Commission were wholly untrue and therefore misleading. Given the Minister's own intimate knowledge of the circumstances surrounding the cessation of these contracts in his capacity as Minister of National Security and a member of the Cabinet, and by his own admission to a supplemental question by Sen. Al-Rawi, the Minister must have known or ought to have known that the information he was conveying to the Senate was inaccurate.

Mr. President, in our parliamentary democracy, there exists a duty of care that Ministers ought to exercise when accounting to the Senate. This is a significant constitutional duty. The misleading statements made by the Minister of National Security on this important issue must be considered an absolute violation of the free speech accorded to elected and non-elected Members of Parliament, and constitute a disdainful desecration of the privileges of this Senate.

The Minister was also wantonly reckless in his responsibility to provide accurate information to the Senate, and seriously misinformed the Senate in a material way, which has the tendency to bring the work of the Senate, and the Senate as an institution, into public odium and disrepute. This must be a contempt of the Senate.

I therefore submit, Mr. President, that the Member for Chaguanas West and Minister of National Security committed a contempt of the Senate on the following grounds:

- 1) He knowingly and wilfully misled the Senate; and
- 2) He was reckless in accounting to the Senate, which has the tendency of bringing the Senate and the work of the Senate into disrepute.

Mr. President, in the interest of clearing up the most serious matter of grievously misleading the Senate, and in the interest of restoring public trust and confidence in both the Senate and its Members, I ask that the Minister be referred to the Privileges Committee. I thank you. [*Desk thumping*]

**Mr. President:** Hon. Senators, I propose that I will rule on this matter at a subsequent sitting.

**UNIVERSITY OF THE SOUTHERN CARIBBEAN (INC'N) BILL, 2012**

*Question put and agreed to:* That a Bill to provide for the incorporation of the University of the Southern Caribbean and matters incidental thereto, be now read a second time.

*USC (Inc'n) Bill, 2012*

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*Bill accordingly read a second time.*

*Bill referred to a special select committee of the Senate appointed by the President as follows: Sen. The Hon. F. Karim (Chairman), Sen. The Hon. M. Coudray, Sen. The Hon. E. Moheni, Sen. P. Beckles and Sen. Dr. L. Bernard.*

**BEVERAGE CONTAINERS BILL, 2012**

*Order for second reading read.*

**The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh):** Thank you very much, Mr. President. I beg to move:

That a Bill to provide for the establishment of the Beverage Containers Advisory Board and of a deposit and refund system for beverage containers and for related matters, be now read a second time.

Mr. President, this Bill has been in gestation for some 16 years. It is a Bill that has led to significant and close collaboration between the private sector and the public sector, and as a result, we will in fact be circulating a listing of amendments that arose out of that close collaboration even as the matter is before us. First I want to frame this legal architecture in the context of a philosophical framework; and secondly, I want to establish the rationale for this Bill, thirdly, then I would go into the contents of this Bill before us clause by clause.

Mr. President, Agenda 21, the Environmental Action Plan adopted at the United Nations Conference on Environment and Development, UNCED, held in Rio de Janeiro in June 1992, commits the participating States including Trinidad and Tobago, inter alia, at chapter 4, and I quote: “Changing Consumption Patterns” to encouraging specific consumer-oriented programmes such as recycling and deposit refund systems, and to the use of economic instruments, including environmental charges and taxes and deposit refund systems, to influence consumer behaviour as an aspect of developmental national policies and strategies to change unsustainable consumption patterns. This was in 1992.

In 1996, the Law Commission of Trinidad and Tobago did a report entitled, “Beverage Container Deposit Legislation”. In that report—and it makes telling reading for all those who have an eye to build environmental consciousness in this society and I quote from the report, the Law Commission Report of 1996 entitled, “Beverage Container Deposit Legislation”:

Over two decades have elapsed since the passage of the Litter Act, Chap. 30:52, yet our problem of littering is far from under control. With the rise of industrialization and consumerism, our waste has increased while our disposal habits have not developed.

**2.15 p.m.**

Although several environmental clean-up campaigns and social programmes have been initiated, they have been short-lived and of limited success. The result has been the continued wanton pollution of our roadways, drains, parks, open land spaces, rivers, coastline and sea by solid waste. This not only renders our environment aesthetically unclean but distresses habitat, destroys ecosystems, creates flooding and threatens human health.

In the age of advanced technology, information and environmental awareness on a global scale, Trinidad and Tobago appears lethargic in managing its solid waste problems. Today, people are still indiscriminately tossing containers in drains, on beaches, in the sea and out of car windows. Moreover, we are dumping waste which has economic value and can be reused.

To halt this destructive trend, Trinidad and Tobago must change its waste culture. Steps have to be taken to rehabilitate our disposal habits, beginning with a change in our concept of waste and the environment. It makes little environmental and economic sense to be throwing away valuable recyclable materials.

The strict command and control type of legislation has failed to impact effectively on the problem of littering. This is primarily because of onerous monitoring and enforcement constraints. Having wardens posted at every street corner to monitor and prevent littering is not only ambitious but highly impractical. Additionally, the delays and difficulties in prosecuting litter offenders frustrate and discourage the enforcement of the law. More creative systems are therefore needed.

The report of the Law Commission concentrates on litter caused by discarded beverage containers—glass, plastic, steel, aluminium and Tetra Pak containers—and proposes to examine a legislative option with a two-fold objective, namely to protect the environment by reducing litter and encouraging the recycling of containers.

This paper, the report that is, explores the beverage container deposit legislation or a bottle Bill, as it is commonly referred to, as the mechanism to achieve the objective stated. The beverage container deposit law introduces the deposit/refund system. This places a monetary value on container waste, thereby creating an economic incentive to collect and trade waste materials.

This has a direct impact on the reduction of litter since less persons would indiscriminately throw out a valuable resource and more persons would collect it. When discarded beverage containers are added to the deposit/refund system, their

disposal can be controlled. They can either be properly disposed of in the landfills or recycled. Recycling has several benefits such as conserving natural resources, saving production costs, reducing imported resources, reducing waste going to the landfills, cutting pollution, creating jobs in the collection, sorting and marketing of recyclables and generating revenue from the sale of materials.

It cannot be overemphasized that the success of any legislative scheme to protect the environment weighs heavily on the development of public consciousness. It is imperative that reform legislation be supported by the reform attitudes through concerted and persistent public awareness campaigns. Only then would persons see the benefits of obeying the law.

The report of the Law Commission then proceeds to make several recommendations:

One, a beverage container deposit law, patterned along the same lines of the Barbados model, should be introduced in Trinidad and Tobago. This would require a consumer to deposit with the dealer the refund value prescribed by the Minister with responsibility for the environment of each beverage container purchased from that dealer.

The dealer shall accept from any person, any empty beverage container and shall pay that person the refund value of the container. A distributor shall accept from any dealer any empty beverage container of the type, size and brand sold by the distributor and shall pay the dealer the refund value of the beverage container, plus a handling fee.

Secondly, the Law Commission recommended that the proposed legislation should apply to glass, plastic and steel and aluminium beverage containers.

Thirdly, the proposed bottle Bill should be limited to non-refillable containers, since there appears to be a high redemption rate for refillable/returnable containers under existing voluntary deposit/refund system run by distributors, for example, Carib.

Fourthly, like Barbados and Grenada, the proposed legislation should extend to imported beverage containers.

Fifthly, notwithstanding the recommendation of the Law Reform Commission, they indicated at that time Tetra Paks should be excluded from the ambit of the proposed bottle Bill but remain unredressed. Remember this is 1996.

The sixth recommendation in 1996 of the Law Reform Commission was that, as in the Barbados Act, the proposed Bill should have a dual emphasis on recycling and proper disposal. Provision should be made for containers which are not recycled within a reasonable period to be properly disposed within a specific time and according to health laws.

The seventh recommendation of the 1996 Law Commission report was to maximize collection capacity to have widespread redemption centres as provided in the Barbados Act.

The eighth recommendation of the Law Commission was that consideration should be given to introducing ministerial control over the granting of permission to sell beverages to distributors who have in place or access an adequate system for the recycling of containers as provided in the Barbados Act.

The ninth recommendation, an economically feasible refund value should be set, which would not severely deflate sales and which would, at the same time, encourage redemption.

The tenth recommendation of the Law Commission in 1996 was that an economically feasible handling fee should also be determined, which would adequately compensate dealers and redemption centres for their costs, and, at the same time, not be overly onerous to distributors.

The eleventh recommendation, the ground for a dealer redemption centre refusing a container should be where there is a significant amount of foreign material in the container.

The twelfth recommendation in 1996 was that the proposed bottle Bill should incorporate penal sanctions for contraventions of its provisions, similar to the Barbados Act.

The thirteenth recommendation deals with some mechanism for inspecting and monitoring containers that are in fact recycled and/or properly disposed of be incorporated in the proposed legislation.

The fourteenth recommendation of the Law Commission was that unclaimed deposits should remain in the hands of distributors to compensate them for the additional costs, which the deposit/refund system would impose upon them.

Mr. President, so the Law Commission in 1996 made a significant intervention, in terms of guiding how we should dispose of our beverage containers in Trinidad and Tobago and recognized the limitation of the Litter Act and that the command and control approach was simply unenforceable.

What has happened over the last 16 years? Because, as I have indicated, it is the longest gestation period for any piece of legislation in Trinidad and Tobago, the longest period, and we have to question ourselves why it straddled several administrations. I ascribe no blame to any administration. I just want to, chronologically, deal with the issue.

In 1992, we subscribed to the philosophical basis, Agenda 21 of the UN. In 1996, we have a clear approach to dealing with this malady in our society. In 1999, the EMA initiated the preparation of draft legislation for the introduction of a deposit/refund system for beverage containers. This was premised on a study by the consultant, the late Dennis Pantin, and entitled: report on the feasibility of introducing a deposit/refund scheme for beverage containers in Trinidad and Tobago. So, you had one of our premier economists in the country lending his mind to deal with the economic feasibility of a deposit/refund system for beverage containers.

The Pantin report concluded that although there is some voluntary recovery and reuse of recycling of beverage containers in Trinidad and Tobago, measures should be taken to expand this industry to include materials other than glass and, in particular, that the introduction of a deposit/refund system for plastic (PET) beverage containers was feasible. Additionally, the report advocated the imposition of an environmental levy on beverage containers imported into the country.

In October 1999, a discussion note on beverage container recovery legislation was prepared for the EMA by an attorney-at-law and this legal consultant was assigned the responsibility to prepare a draft Bill. It was recommended that Trinidad and Tobago should adopt a full beverage container recovery system, inclusive of a deposit/refund system for returnable containers and an environmental levy on imported containers, as well as the introduction of a product charge on, un reusable, unrecyclable containers.

These recommendations were accepted and were the basis on which the draft beverage container legislation would be prepared for Trinidad and Tobago—since 2000. We started this journey in 1992, 1996 report; 1999, the EMA started this process. In 2000, those efforts were fructified and crystallized in draft legislation.

In 2000, a draft Beverage Containers Bill that sought to make provision for the safe disposal of used beverage containers was submitted to Cabinet for consideration. Cabinet, in Minute No. 1785 of September 21, 2000, agreed, inter alia, that the draft Beverage Containers Bill, 2000, be published for public comment and that the comments be submitted to the EMA. Cabinet agreed further that on the basis of the comments received, the draft Bill was to be revised and vetted by the Attorney General and the Minister of Legal Affairs prior to submission to Cabinet on or before December 15, 2000.

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In commenting on the draft Bill, the manufacturing sector expressed some reservation and concerns. This is the draft Bill of 2000. The primary concern related to the administration of the refund/deposit system and the mechanism for collection of the empty beverage containers. The Bill proposes that the return/deposit system for beverage containers be administered by the EMA. That is the Bill of 2000. The manufacturing sector was of the view, however, that the private sector should have a larger role in the management of the proposed deposit/return system and suggested that the system be administered entirely by the private sector. So they were poles apart.

The manufacturing sector was also of the view that it is unacceptable for empty beverage containers to be returned to the vendors due to health concerns arising from issues of storage of used containers. Objections were raised in addition about the costs to be incurred by transporting the empty beverage containers from the vendors' premises to the disposal recycling site. So this is 2000.

**2.30 p.m.**

I want to make the point, Mr. President, and it will be fortified. There has been significant collaboration between the private sector and the public sector in getting this Bill to where it is—significant. The TTMA, the Supermarkets Association, the individual manufacturers, in particular, the soft drink manufacturers, have all participated in this and helped shape the outcome of this Bill.

So, in order to address the concerns raised by the manufacturers, the Bill was revised in 2004 and 2008 without resolution or consensus on the thorny issues raised by the manufacturing sector. In order to bring finalization to the matter, the Minister of Housing and the Environment met with stakeholders in February 2011. As a result of these consultations, the Beverage Containers Bill was further amended and the revised draft Beverage Containers Bill, 2011 and then, of course, that moved forward into 2012.

Mr. President, please note that the Beverage Containers Bill is a necessary piece of legislation for the effective and environmentally sound control and disposal of empty beverage receptacles. Improper disposal of beverage containers, particularly non-biodegradable plastics, impacts negatively on both the economy and the environment. In fact, you know, man has always searched for immortality, but these products have immortality.

**Sen. Deyalsingh:** Nice one. Nice one. I like that.



**Sen. The Hon. G. Singh:** So the improper disposal of beverage containers, particularly these non-biodegradable, immortal plastics, impacts negatively both on the economy and the environment. Irresponsible beverage container disposal, for example, results in flooding due to clogging of our waterways by container waste.

The Bill, therefore, promotes and facilitates the reuse and/or recycling of beverage container waste and discourages the wasteful, unsanitary and environmentally degrading practice of disposing of empty beverage containers into the environment.

The Bill seeks to regulate the sale of beverages in both returnable and non-returnable beverage containers, and provides for the payment and refund of a deposit on recyclable and reusable beverage containers establishing, in effect, administrative and fiscal measures to encourage recycling and reuse of beverage containers and for related activity.

It is noteworthy, Mr. President, that, in addition, the revised draft Bill, 2012 is predicated on the polluter pays principle. This concept, which is embodied in the national environmental policy, promotes, inter alia, the use of economic instruments and market incentives such as deposit/refund taxes to influence producer/consumer behaviour in an environmentally friendly manner.

Mr. President, the mischief which this proposed legislation is intended to address is the disposal of empty beverage containers, particularly non-biodegradable beverage containers, into the environment for the purpose of minimizing littering and landfill. It is estimated that some one million beverage containers are produced daily by the five major manufacturers, and for the last 16 years—today, they produce a million—we do not have a system to take this out of our landfill sites, either recycle it or put it into some kind of economic activity. So, one million beverage containers are produced daily by the five major manufacturers. That would mean that an estimated three million cases of beverage containers are being mass-produced annually.

**Hon. Senator:** How many? Three million you said?

**Sen. The Hon. G. Singh:** Three million, yeah. Well, no, no, no. It is over 342 million because you count the days that they do not work. So about 342 million beverage containers are produced on an annual basis.

**Sen. Ramkhelawan:** Thank you for giving way, Minister. May I ask, is there a breakdown as to what is plastic, what is bottle, what is steel and so on, according to your definitions?

**Sen. The Hon. G. Singh:** This information is information that deals only with the plastic bottles. We do not deal with the Tetra Paks, we do not deal with the aluminum cans; this is bottle. There is a percentage that goes for export, but this is what is produced. Because of their own competitive nature, we were not able to get what is exported and what is in the internal environment. So that—  
[*Interruption*]

**Sen. Drayton:** Sorry. May I seek one other clarification? In the consultation, did you establish with respect to those bottles from those large manufacturers, for instance manufacture of beer, what percentage of their bottles is already returned and recycled?

**Sen. The Hon. G. Singh:** In our discussions, and we had very collaborative discussions with the Manufacturers Association of Trinidad and Tobago, about 90 per cent of bottles from our principal brewery are returned, and about 4 per cent of that cannot be used and they are crushed and returned through the manufacturing process. Those are bottles in that area, in the area of glass bottles. In terms of plastic bottles, I do not think that you have any reuse in that area in terms of the large manufacturers.

So, Mr. President, statistics for 2011 from the ICC beach clean-up, which represents merely three hours of work at 21 sites, is an indicator of the impacts on recreational amenities. Beverage containers plastic, 27,754; beverage containers glass, 13,778; beverage containers cans, 4,031. Additionally, the Solid Waste Management Company had a study called the *Trinidad Solid Waste Management Program Waste Characterisation and Centroid Study*. The final report by CBCL Consulting Engineers 2010 has estimated that 4,293 tons of beverage container waste was generated in Trinidad and Tobago in 2010. This is at their landfill sites.

Mr. President, a brilliant young man, a son of the soil, our most recent Rhodes Scholar, Mr. Cornelius Neale, has estimated that with the annual production of plastic bottles in Trinidad, you can wrap around Trinidad and Tobago 45 times with the plastic bottles produced in Trinidad and Tobago if you were to make it a continuous stream. Forty-five times you could wrap around Trinidad and Tobago, so we have to intervene. You have to intervene because the urgency is there. The malady is there.

So, therefore, this Bill is before us, the Beverage Containers Bill. It therefore comes from an environment in which there is significant abuse of the environment with respect to plastic bottles and other beverage containers in the environment.

I will now, at this juncture, deal with the Bill. As I indicated, there are several amendments and the amendments, part of them, arose out of discussions between the Ministry of the Environment and Water Resources, the Supermarkets Association and the Trinidad and Tobago Manufacturers Association. We are seeking to make this practical and not merely legislative on the books. This is about a real threat to the environment and this is some almost now—it is, in fact, 16 years in abeyance.

Mr. President, the preliminary section of the Bill would contain four clauses and would provide for preliminary matters, including an interpretation clause. The terms used and their corresponding definitions are in keeping with international usage and such have been tried and tested, and there exists within the international domain jurisprudence in relations to these terms. Because we were part of the game in 1996, we now are so far behind that whatever labels we use, whatever terms we use, they have already received jurisprudential recognition.

So throughout this entire process, Mr. President, and in particular, I want to indicate to this honourable Senate that the former Minister of Housing and the Environment, Dr. Roodal Moonilal, the hon. Minister of Housing, Land and Marine Affairs, piloted this Bill initially, piloted and sought compromise with the powers that be and those who were affected, the stakeholders and he did yeoman service, especially, as I indicated, with the TTMA and the marketing association. He did not pilot the Bill but he had discussions with them in 2011 that crystallized in this.

Mr. President, when you look at the Bill and the whole question of beverage, beverage is defined as—this; beverage contemplates soft drinks, water, juice, milk cans, Tetra Paks, alcohol, sport and energy drinks. This definition is in line with recent statutory definitions. So that:

“Any ready-to-serve drink sold in a container and intended for human consumption including wines...spirits and excluding products specially formulated for infants under one year...”

For those of us who have children, we would know about the products, I know them only by brand—my recollection by brand name like Gerber and juice and the other areas that young children—that you have to feed infants with and they are also bottled, but it excludes that. Those constitute a small part of the municipal waste stream and that is why they not included.

The board, this has been formulated through ongoing private sector consultation in an effort to ensure a cross-sectional representation of the stakeholders' interest. This is a new innovation in the context of the Beverage Containers Bill. When we get to the composition of the advisory board and the quorum associated with the advisory board, you will see of what I speak.

Collection depot: this must be read in conjunction with clause 11, and we will come to that.

**2.45 p.m.**

Container: "container" focuses on the capacity of five litres or less, which was agreed upon based on an analysis of the waste stream, which has indicated that the majority of the beverage containers are of this size. So, five litres and less, that is the target. That is where we find the abuse of the environment taking place.

Deposit: in the interpretation section, the "deposit". Therefore, when you look at "container", it means a single bottle, a can, a jar, a carton or other receptacle:

- “(a) in which a beverage is sold or purchased;
- (b) which when filled with a beverage is sealed for the purposes of storage, transport and handling prior to its sale or delivery for use or consumption;
- (c) which is constructed of metal, glass, plastic, paper or other material or”—any—“other combination of those materials; and
- (d) which has a capacity of five litres or less...”

That of which you drink from, hon. Senator, will be covered by the legislation. But beverage container, in terms of this legislation, does not cover and:

“...does not include the following:”

—and it is in:

- “(e) a cup, plastic cup, styrofoam cup or other unsealed receptacle used, provided or sold for immediate consumption;”

So your coffee, your mauby, will not be affected by this Bill; and

- “(f) a refillable container;”

So if it can be refillable, then it will not be covered and there is a definition of what is a refillable container and we will get to that shortly.

“‘deposit’ means a sum required to be collected upon the sale of a beverage, in accordance with this Act;”

How the system will operate, it would mean that it will bring into the environmental realm every family. Everyone purchasing will be able to come within the realm—the manufacturer, the wholesaler, the retailer and the consumer. They will all be part of the refund/deposit mechanism.

The intent of the legislation is that there ought not to be any net increase to the cost of the beverage. If you buy—and the way, as we will see later on—there are deposits of 25 cents, 50 cents and \$1 depending on the volume of the beverage container. So when you purchase it, if there is a 25-cent deposit, when you return it, you will get back your 25 cents.

So, it builds your environmental consciousness. It is of economic value to you and, therefore, it will also make a level of consciousness, especially in our young, that there is, not only to protect the environment but you can in fact gain an economic incentive to do so. So the idea is the dual track—protect the environment and also create economic incentivism. So, Mr. President, you have to have that incentive to ensure a successful return rate and, on the basis of that successful return rate, you can incentivize a recycling industry. When you deal with it that way, you recognize how this is going to pan out.

Definition of “empty container”: this definition is meant to prevent the abuse of the deposit/refund system and promote a hygienic collection system; and further strengthens the laying of the recycling industry.

Handling fee: Mr. President, in 1996, the Law Reform Commission spoke of the need to provide a handling fee and this clause must be read in conjunction with clause 16, that is, that the manufacturer pays 20 per cent of the refund value. So the handling fee does not exist as of itself. It offers an incentive to the collection depots, the wholesalers and the retailers. It speaks to the collection and final disposal of the containers. So that the handling fee is 20 per cent and if you take the containers and it is worth \$100 to the manufacturer, then you get a handling fee of \$20 on that \$100 refund. Twenty per cent is a handling fee and this is bearing on 25 cents, 50 cents and \$1.

Manufacturer: Mr. President, a

“‘manufacture’ means a person who manufactures a beverage and includes—

- (a) a person who carries on the business of bottling or canning beverages or otherwise filling containers with a beverage; or
- (b) a person who imports a beverage for sale;”

and, as part of the amendment:

“(c) an agent.”

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So the manufacturing association indicated: look, their core business is to produce the product, but they want to participate in getting their product off the environment and that, therefore, they may outsource that and, therefore, an agency relationship will be established; but the primary responsibility will be that of the manufacturer in the context of the legislation. It is an operational efficiency approach.

Redeemer:

“‘redeemer’ means a person, other than a wholesaler, who requests a refund under this Act in exchange for an empty container and includes a retailer;”

Anybody can be a redeemer. We can start with the persons who do the bottle collecting in the streets and on the highways and byways or “Killer” in the La Basse with his prosthesis called “Stumpy”, collecting bottles; the ordinary consumer, schools, church groups, families—anybody collecting bottles for redemption.

Refillable container: Mr. President, as I indicated earlier, this type of container does not contribute a major problem in the environment. This legislation has been tailored to deal with the local landscape, so that, therefore, a:

“‘refillable container’ means a container that a manufacturer reuses without remanufacturing for the purpose of selling a particular beverage;”

So this is what I call the Carib Glass Works and Carib Brewery clause. They have had a reuse programme, a recyclable programme in existence for several decades and we must give recognition to that.

This type of container, as I indicated earlier, I am told that they get 90 per cent of their bottles returned. They put it through their system. They sort it out and about 4 per cent of that cannot be reused in the process and they crush those and put it into their glassworks subsidiary and then it comes back out. That is something that is working and it is not only in Trinidad and Tobago, but throughout the Caribbean—Grenada, Barbados and other areas in the Caribbean—the breweries have dealt with this in the same kind of manner. The refillables must be read in conjunction with the empty container definition.

So if you were to purchase a case of soft drinks and you pay the deposit, when you return that case of soft drink, you will get back your monies and the collection centre will then get an additional 20 per cent for handling your case of soft drink. So throughout the chain, you get back your money. If you are taking care of the environment, you get back your money so there is no significant cost increase. What is required is a level of consciousness for you to ensure that you create that value system that you do not discard what is of economic value to you and to the environment:

The definition of retailer:

“‘retailer’ means a person who sells or offers for sale by retail a beverage which is consumed”—on or—“off the premises...”

—another small amendment.

This amendment came about as a result of discussion with the stakeholders to close the loop in its current form. The opportunity is present for persons to shirk their obligations to return the bottle while drinking on the premises; in that a beverage could have been purchased deposit free and redeemed at another location. In Trinidad and Tobago, in particular, certain areas like Ariapita Avenue and St. James, people move around, they go bar hopping, and may not consume the beverage they purchased in one particular location. So this covers that kind of practical reality of the Trinidad culture.

Vending machine operator: what we have here in the legislation, Mr. President:

“means a person who sells or offers for sale beverages solely by means of a vending machine;”

So this is the internationally accepted practice. You specify the difference between a business entity that possesses a vending machine and the actual operator who restocks vending machines. It was brought to my attention that at the western entrance to this hallowed Chamber there are vending machines. That is not the responsibility of the Parliament. It is the responsibility of the vending operator, so there is a distinction and its location is irrelevant because the obligation does not fall on where it is located. It is the operators themselves.

Whilst we deal with that, we must recognize that as we evolve as a society; as we build individual consciousness and responsibility, we will be able to engage in reverse vending machines, so when you consume your beverage, the container will have economic value and you can redeem it at a reverse vending machine.

Mr. President, Part II of the Bill, the Beverage Containers Advisory Board, contains four clauses dealing with the appointment, composition, tenure of members and meetings of the board respectively. The presence of this board represents a working compromise made between our Government and the manufacturers and the stakeholders, and as such it was included in the revised version of the Bill. This board shall be appointed to advise the Minister on the administrative functioning as it relates to this Bill. This is a crystallization of the collaboration with the private sector and the public sector.

Mr. President, reflective of this is that upon further consultation with the private sector, it was agreed that the quorum of the advisory board should include at least two representatives of the TTMA, the Chamber of Commerce and the supermarket association. So you have three private sector representatives and two out of the six, as you will see in the legislation, two will have to compromise part of the six in order to be a quorum of the advisory board.

**3.00 p.m.**

**Sen. Prescott SC:** Mr. President, may I just invite the Minister to tell us where that particular provision can be found?

**Sen. The Hon. G. Singh:** Mr. President, the amendments—my apologies, but the amendments are before the clerk and it will be circulated.

**Sen. Prescott SC:** Thank you.

**Mr. President:** Just bringing to your attention, you have 11 more minutes, Leader of Government Business.

**Sen. The Hon. G. Singh:** I am glad you brought it to my attention, Mr. President, but this is an important part of the process.

Clause 8 of the Bill would provide for the payment of a deposit upon purchase of a beverage, such deposit to be exempt from value added tax. The onus is placed on the wholesaler and/or retailer to collect a deposit from the purchaser at the time of sale. It is important to note that the deposit would not be a reflection of an increase in price of the beverage containers under this Bill. In fact, the deposit paid does not attract any tax and can be recovered easily by the consumer once the empty beverage container is returned. Therefore, there would be no net increase in the price of the beverage sold if people adhere to what is required of them.

In a further attempt to ensure that the Bill before you today is a workable one, there is an amendment to section 8(3), where:

“Subsection (1) does not apply where a vendor sells a beverage for consumption on the premises at which the beverage is sold, provided that the empty container is retained by or returned to the vendor.”

This was deleted as it was discovered that, practically, this would be difficult to enforce. Furthermore, through the amendment to the definition of a retailer, this section was no longer necessary. This deletion was conducted after consultation with the various stakeholders.



Clause 9 would provide for the method of payment of the refund. Amendment: this section mandates the wholesaler/retailer to facilitate the redeemer by accepting the containers sold at his place or at a place so designated. That is the amendment. So we incorporate that level of agency; accepting at his place of business or at a place so designated—so that agency is there. This amendment was to facilitate the supermarket association in order so that they can do both: they can have a collection depot; they can conduct their business together or they can designate a place for their collection, depending upon their constraints.

Initially, clause 9(3)(b) was included in the Bill to ensure that the small shop owners are not encumbered by this Bill, however, upon further consultation, it was agreed that clause 9(3)(a), when read together with clause 9(4) would sufficiently cater for these scenarios. Therefore, clause 9(3)(b) was deleted.

Clause 9(4) provides for the establishment of a structured collection system that would work in parallel with national collection schemes. Clause 10 would deal with a vending machine operator. Clause 11 would deal with the establishment of collection depots. No onerous requisites to be an owner/operator of a collection depot. This increases the likelihood of the establishment of several depots throughout Trinidad and Tobago, thereby contributing to the greater success of the programme, and, therefore, it provides more green jobs. Clause 11 therefore provides for all NGOs to participate.

Clause 12 would provide for the manufacturers to notify the board. Clause 13 also was amended to include that the manufacturers can collect or receive, sort, empty—receive sorted, empty containers by the manufacturer. The inclusion of “sorted” was premised on increasing the operational efficiency of the system and, similarly, “received or sorted” goes out throughout clause 13. Clause 14 provides certain information. Clause 16 would provide for the manufacturer to pay a handling fee for the wholesaler. There is an amendment to clause 16 where you have “collected or received” or “received” in clause 16(2).

Mr. President, throughout, we have incorporated several amendments in discussions, and we have also included that there should be a quarterly basis for the submission of a manufacturer who receives an exemption so as to ensure there is no abuse—quarterly submission instead of at the end of the year.

But I want to deal with the penalties, Mr. President. Clause 22; in consultation, whereas the Barbados Bill provides for three months’ imprisonment, it was felt, in consultation with our stakeholders in the private sector, that we

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should not have that kind of criminal sanction—punitive criminal sanction—and that therefore they agreed to increase the penalty to a fine of \$5 million instead of \$1 million. Mr. President, \$5 million on conviction of an indictment in clause 22.

Mr. President, throughout the Bill, we have adjusted it; they are minor amendments but to make it pragmatic and practical. So once enacted, the Beverage Containers Bill, given its focus and objectives, will fulfil the goals of the National Environmental Policy since it serves to ensure that the polluter pays the external costs of the sale and consumption of beverages in beverage containers. Its measures, through the creation of incentives for the manufacturers, vendors and consumers of beverages to reuse or recycle beverage containers, will contribute to a reduction in the generation of solid waste, waste disposal and recycling costs, reduced litter and litter related costs and hazards, and conserve natural resources thereby preserving the amenity of the environment and enhancing the quality of life.

Mr. President, we owe this to all generations. We owe this, in a sense, after its long period of gestation, to preserve this environment for future generations. So that, whereas we may expand the quantity that we produce, we will be able to retrieve that and we will have a stewardship system in place that will allow that to be retrieved, and we will be able to create jobs and create a whole series of incentives for a green economy, but upon this bedrock of the Beverage Containers Bill. Mr. President, I beg to move. [*Desk thumping*]

*Question proposed.*

**Sen. Faris Al-Rawi:** Much obliged, Mr. President. Mr. President, I have just witnessed in this Parliament the first delivery of legislation under the very skilful hands of my learned colleague, the Leader of Government Business in this Senate, Sen. Ganga Singh. I think it is safe to say that he certainly deserved a lot more time to deliver his presentation, because a matter of this type is hard to discuss in the time period permitted under our Standing Orders.

Indeed, by my calculation, the hon. Minister started his examination of the Bill by about 2.40 p.m., and only had the opportunity to present the terms of the Bill itself in 31 minutes, having had to skip over many of the very essential terms and conditions of the Bill.

Now, Mr. President, may I remind that we are here standing under the privilege of Standing Order 48(2). We were given notice last week Tuesday that that Standing Order would be invoked such that we could abbreviate the time frame for the debate of this particular Bill. Mr. President, you will note that on our Order Paper, this is the only Bill that we have on the Order Paper. We now have the introduction of another which

is going to a special committee, and that is the incorporation by private Bill of a university, but, Mr. President, we have one Bill on the Order Paper, this is the seventh sitting of the Parliament, since we opened, and we are given short time to debate something which has been, as the hon. Minister has told us, in gestation since, certainly from a draft Bill perspective, the year 2000.

Mr. President, the hon. Minister has told us that there has been massive consultation with the industry. Indeed he has identified certain consultations in the period 1996 come forward, but most regrettably, I cannot stand here today to accept any of the words of anyone opposite me today, Mr. President, for a few very salient reasons.

Number one; we have not been regaled with any of the literature referred to by the hon. Minister in his presentation, and that, specifically, includes the litter stream analysis by SWMCOL, the percentages of manufacturing with respect to plastics and other positions. Further, Mr. President, we have not been regaled, until 3:03:34 p.m., with the proposed amendments that the hon. Minister discussed in relation to this Bill. So we have just had circulated to the Members present, Mr. President, Beverage Containers Bill, 2011, extent of amendments which relate to some one, two, three, four, five, six, seven clauses—six clauses and one schedule—and I have not even looked at that, because it would be a dereliction of duty in light of the history of this Government to engage in any form of analysis of legislation on the trot that we are now invited to do. [*Desk thumping*]

Mr. President, when we looked at the so-called statements of the hon. Minister—very experienced parliamentarian—my colleague in the law as well—he says, “These are simple amendments, doh worry with that”. “Consultation with the industry, this is why it is here.” In a sense he is asking us to, and by our parliamentary system we ought to, accept him at his word, but this Bill, in clause 2 of the Bill, requires a proclamation of His Excellency the President. And the recent history of this Government—and we look to it in aid of the character of the Government, and therefore, the manner in which hon. Senators should accept the statements given today—is that proclamation requires, in the construct of this Bill, representations on the part of the Government, institutional fit-out on the part of the Government, regulations to be developed and put in on the part of the Government, and the Bill is anchored specifically to core issues that are not before the Parliament.

This is framework legislation. The last bit of framework legislation that we debated was the Electronic Monitoring Act, and the framework legislation that we debated prior to that was the Preliminary Enquiry—Administration of Justice (Indictable Proceedings) Act, which embodied the now famous section 34.

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Mr. President, we have regulations referred to in this Bill which say that offences are to be anchored in for failure to obey things prescribed by the legislation, and I will refer you specifically to clause 18, to clause 12, to clause 13, to clause 22 of the Bill, Mr. President. We have statements in here that say in the Bill before us—because there are no amendments before me properly, none at all, so I would not be addressing my mind to that because I have not seen them.

But in the Bill before us today, we are told that if you disobey aspects of the regulations, in particular the manner in which you are to dispose of things, that you are going to be subjected to massive fines under the Bill, fines which range between \$1,000 to \$100,000, depending upon volume; and are topped up by \$5,000 a day, and which include \$100,000 a pop for failure to disclose, \$250,000 per pop for failure to obey certain regulations. More than that, in the Bill before us, we are invited to put people in jail for a year and to charge them a million dollars in relation to something that we have not seen.

**3.15 p.m.**

Now, we all know that it is trite law that you cannot create, in subsidiary legislation, offences. So, this Bill proposes to create the offence here. But, Mr. President, how do we as responsible parliamentarians, learning the lessons that we have in relation to proclamation issues, and framework legislation issues, say green light to this Government, pass your Bill on a simple majority—and I will come to that in a second—and do not worry to show us these regulations? “Doh worry about that.” These regulations would subject people to a million dollars and imprisonment for a year, now moving to \$5 million as my learned colleague says. “Doh worry to see that.” “Trust me.” Well, Mr. President, I am sorry to say that trust has to be earned, and most respectfully [*Desk thumping*] I do not think that this Government has earned that trust.

The mischief of this Bill has been stated by my learned colleague as being litter reduction, if I were to paraphrase, based upon fiscal incentive, but it is the fiscal incentive point that I wish to focus on at the beginning of the clauses of this Bill. You see, Mr. President, I am very troubled by a particular issue in my mind. This Bill is built upon moneys going in and moneys coming out. Moneys going in are the deposits going into the hands of the manufacturer, moneys going out are the refunds to those persons who redeem the moneys, but all of the literature around the world, in relation to this issue, tell you you are absolutely going to have an amount of deposit which is never going to be reclaimed.

So, Mr. President, relative to the size of this market, you heard my learned colleague tell us that we have some three million bottles being produced, roughly, a day.

**Hon. Senator:** One million.

**Sen. F. Al-Rawi:** Sorry, a million bottles of plastic per day. The definition of beverages includes alcoholic spirits, et cetera. The definition includes Tetra Paks and juices and other aspects, milk, et cetera, those not being infant formula. So, the million packets per day are plastic bottles per day. If you do any conservative extrapolation of the numbers and you look at an average between 25 cents and one dollar, and you take it at 75 cents for plastic bottles alone, Mr. President, you are looking at a half a billion-dollar industry for plastics alone. Add on to that cans, add on to that packages by Nestlé, et cetera, anything that is a beverage under the terms of the Bill, you are looking at a billion-dollar industry.

So we are creating here in this Senate today a billion-dollar industry of moneys cycling in and cycling out, where you know in the literature that you are going to have a certain amount of the deposit unclaimed. Mr. President, when I thought about it I thought and I asked myself, is this money, is this revenue item created in clause 8 of the Bill the central part of this Bill? Is it the heart of this legislation? I asked myself that because, in effect, if you have in the first year 80 per cent unclaimed, and you work your way down to year 10 and you get up to 20 per cent unclaimed refund moneys, Mr. President, you are in essence creating revenue.

But we know section 66 of the Constitution is very clear that when you are dealing with an item of money and the creation of revenue, that you ought to consider that a money Bill and that ought to be in the House of Representatives. That is prohibited from introduction into the Senate, but we are here in the Senate originating this framework legislation which deals with money and property because the money as defined by the Privy Council's ruling in 2011 in a very interesting case. The case is *Total Mauritius Limited as appellants v Mauritius Revenue Authority*. It is a judgment of the Privy Council 2011 UKPC at page 40. There is an interesting analysis of refunds, Mr. President, and what that constitutes in law.

We have this refund, 20 per cent, and let me break it down for those who are listening. I produce 100 bottles, I charge a deposit on those 100 bottles, 80 of those bottles in year 10 come back to me and I have 20 bottles and, therefore, deposits for 20 bottles in my possession. Whose money is it? Where does the money go? We know from the terms of the Bill that VAT is not charged on the deposit, but the Board of Inland Revenue has access to it if it is the manufacturer's, business levy has access to it, Green Fund has access to it or, if that money is treated in the fashion that it is everywhere else in the world, then it goes back to the State, as we see in the 10 states in the United States that run this. So you are having revenue moving to the State, and if

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revenue is moving to the State, and if the heart of this Bill lies in section 8 of the Bill, then this is a money Bill, and if this is a money Bill, we should stop the debate right now, because we are prohibited from discussing that in the Senate by way of introduction here. So we need to have guidance on that, Mr. President.

We need to have a statement as to whether this is, in fact, the heart of the Bill or not, because it may be argued that it is not the heart of the Bill. The mischief may be environmental preservation. It may not be, but the very system works on the back of clause 8 of this Bill. So if by chance it is, and someone takes a point in law later on, then, Mr. President, we could see the set aside of the entire legislation. Mr. President, that leads us on to the issue of whose property it is.

**DISTINGUISHED VISITORS  
(WELCOME)**

**Mr. President:** Sen. Al-Rawi, not meaning to stop you in your stride, but I thought it might be an appropriate moment to welcome several Members of Parliament from the Caribbean and members from the International Parliamentary Union who are here with us this afternoon in the gallery. As you know we have a workshop, regional workshop, being conducted next door, and they are here today with us. So I want to welcome them and hope that they enjoy today's proceedings. [*Desk thumping*]

**Sen. Faris Al-Rawi:** Thank you, Mr. President, and I too welcome them, not knowing that they were here behind me now, and I would not ask for injury time, I will ask for gratuity time instead. [*Laughter*]

**BEVERAGE CONTAINERS BILL, 2012**

**Sen. F. Al-Rawi:** So, Mr. President, I am on to the issue of property now, and I am talking in relation now to the fact that the Privy Council has recognized that Tolley's, as an aspect of law, in looking at deposits, follows to be considered—this is one of the rules of law—we are looking to the aspect of the property in the non-refunded revenue. If in fact this property is going to be taken by the State or the manufacturer, because it becomes bona vacantia or escheat money as we say in law, that is money which is unclaimed and therefore falls to be put into someone else's hand by an operation of the common law, then we ought to consider whether a simple majority is, in fact, the correct way to be dealing with this property which belongs to the person who has, in fact, paid the money in.

So, Mr. President, that is point one in relation to this Bill. I would say that I have given you the preamble of my inability to trust the Government in light of their recent history. Evidence of the difficulties is clear on the Parliament and national agenda. We know that inspection of what has happened runs into huge difficulties.

So my learned friend would have needed more time to go through the contents of the clauses, if only for the fact that we cannot, as a Parliament now, sit and discuss things away from your eyes in the full glare of the *Hansard*. I say that because, Mr. President, most recently in the Motion of censure, the hon. Attorney General made a statement into the Lower House, in the early hours of the morning, stating that he did not have a particular conversation with me and with another Senator here, in relation to the proclamation of the Administration of Justice (Indictable Proceedings) Act as it related to section 34. The point that I am raising is, my learned colleague, as he walks in now, did not, in fact, correct the record when we sat opposite each other on September 14, when I said it on the *Hansard* record. So, Mr. President, in the context of this Bill we have to say everything on the record now.

**Hon. Senator:** Hear, hear.

**Sen. F. Al-Rawi:** We are going to be misrepresented in other places, [*Desk thumping*] the record will not be corrected, and so I cannot understand how we are going to finish this Bill today. Not only have we just seen amendments walking through the door, not only is there a proclamation clause upon which institution has to be built, upon which regulations have to be delivered, upon which mechanisms have to be prescribed, but we have a constitutional issue staring us in the face.

Mr. President, where are we now? My learned colleague has told this honourable Senate that he has had consultation; the Government has had consultation with the members of the private sector. In the very few days that we had to look at this Bill—the seven days precisely—we too had consultation with the private sector, and I can tell you right now, Mr. President, that the representations given and repeated by my learned colleague, as he says he has received them, are not the same representations made to me. The private sector says in no uncertain terms that there are “deal-breakers” in this legislation which must be looked at, and in summary, Mr. President, if I may say—[*Interruption*]

**Sen. Singh:** I do not know to what element of the private sector—I want to thank the hon. Senator for giving way. I do not know what element of the private sector that have spoken to the hon. Senator, and I do not want you to disclose it, but I can disclose that I spoke to the President of the Trinidad and Tobago Manufacturers Association and other representatives of the manufacturers association, and we had consultations. My colleague continued the consultations and I started the consultations also, and we had several meetings on the issue. We also spoke to the President of the supermarket association and their whole executive team. Those are the persons I spoke about. I do not know if it is outside of that ambit. Thank you.

**Sen. F. Al-Rawi:** Mr. President, I do not mean to cast an aspersion that my learned colleague did not have conversations, but we do know that people walk away with different perceptions in meetings, and I can say that I am absolutely clear when I tell you that Sen. Beckles, Sen. Deyalsingh and I had direct consultations with the very institutions, and there were concerns expressed there which are deal-breakers.

I am going to repeat them here today, Mr. President, not because they say so, but because I share the concern. I was saying that the summary of [*Desk thumping*] those positions are, the deal-breakers are, number one, the production of the regulations, insofar as several clauses before us refer to the regulations, that is clause 8, clause 11, clause 12, clause 13, clause 14, clause 18 of the Bill all make direct and indirect operation upon the regulations. So the regulations is point one. Point two is the commencement of this Bill when it becomes law, as and when it is assented to and then proclaimed.

The issue of commencement is in ensuring that the run-up to putting this Bill into operation is properly put into place, and I refer specifically to the clean-up aspects that have to go on in Trinidad and Tobago. This is a joint exercise between the Ministry of the Environment and Water Resources, if I could put it that way, the EMA, the regional authorities in the municipal corporations, et cetera, the CEPEP issues, private sector issues, and it is important, lest we break the system before it starts, that we get the rubbish, to put it that way, or the litter out of the drains, lest we have manufacturers faced, on day one of the proclamation of this Bill, with hundreds of thousands of dollars leading to millions of dollars—as I told you this is a billion-dollar industry—in claims. So we need to make sure that we do not cripple the system upon proclamation.

The third point, Mr. President, is perhaps the most important one, and that is to be anchored in the matrix of the stewardship clause. That stewardship clause is under the miscellaneous terms in Part IV of the Bill where we speak to the ability of the Minister to make an exemption to the terms of the Act. Now, Mr. President, the Bill does not provide—and permit me to get the correct section for you—*[Interruption]*

**Sen. Singh:** It is amended.

**Sen. F. Al-Rawi:** Well I do not know about any amendments because there are none before me [*Crosstalk*] but the stewardship position permits, as it is in this Bill, for the Minister by order to exempt a manufacturer entirely from the terms of the Act.



**3.30 p.m.**

Let me translate that for businessman Mr. Trinidad and Tobago and businesswoman Mrs. Trinidad and Tobago. You have a manufacturer producing—let us say we use one of the large manufacturers—50 million packages per month. Fifty million packages by a deposit, Mr. President, is a lot of money. Take the average between 25 cents and 75 cents—and a dollar, sorry—let us say we take it at 50 cents; 25 million factored down then again, we are looking at millions of dollars.

So, the person who has to pay out the moneys for the operation of this Bill under the deposit and refund cycle is going to see a system where the manufacturer has to have anywhere between \$5 million a month and \$20 million a month in running the system, and that manufacturer is going to pay out—so he is going to receive \$5 million to \$20 million in, in deposits, and he is going to pay out—when you add the 20 per cent handling fee as is provided under this Bill—\$6 million or \$25 million.

So he is going to pay out more than he receives. And what happens there, when the Minister is permitted with the opportunity to exempt someone from the Act, someone who is at the \$5 million operation range may find himself, over a 12-month period, with \$75 million to pay, and then all of a sudden his competitor who is in the same ranking with him, who has had to manage \$75 million a year as well, is going to have no moneys to pay because the deposit can be completely exempted by removal of the terms of the Act.

**Sen. Singh:** That is if the water—[*Inaudible*]

**Sen. F. Al-Rawi:** You take SM Jaleel, you take Carib in the non-glass products—Mr. President, we are hearing talk from across here, “It is the Blue Waters thing”. I am not here legislating *ad hominem*, Mr. President. [*Crosstalk*] I am here legislating law for Trinidad and Tobago [*Desk thumping*] and somebody may be in business today and somebody may be in business tomorrow and not then. The point is, when you exempt someone from the provisions of the Act [*Interruption*] you automatically give someone a \$75 million advantage over the other, in the example I have just given you, which can kill your competition.

**Sen. Singh:** “Yuh creating a story that would not exist.”

**Sen. F. Al-Rawi:** Mr. President, I do not know what my colleague is referring to. There is nothing in this Act—[*Interruption*]

**Sen. Singh:** Go back to the amendment.

**Sen. F. Al-Rawi:** What amendment, hon. Leader? I am not considering an amendment dropped to me on a Table that I have not read. It is not before this Senate, Mr. President.

**Sen. Singh:** “Yuh cannot adjust.”

**Sen. F. Al-Rawi:** Mr. President, this Government, with all the time on their hands, in seven sittings of Parliament over months, with a promised legislative agenda, has got to do better than dropping an amendment one minute after he has spoken. [*Desk thumping*] That is just not on.

The Leader of Government Business is a man with “donkey years”, as we say in this country, of experience in this Parliament. He wants to throw talk across here. This is not *ad hominem* legislation. This is designed for Trinidad and Tobago in legislation that is for all in a framework fashion. [*Desk thumping*] And the Bill provides, under the stewardship position, that the Minister at clause 20:

“The Minister may by Order, exempt a manufacturer from this Act...”

That is the Bill I came here to debate. I do not know what amendment he has or does not have. I am not taking a section 34 amendment on the Table at the last minute [*Desk thumping*] to find out that we have all been duped in the process; to find out that we cannot interrogate it either, and you want to hide behind statements that high offices in this land cannot interrogate the true provisions. We are beyond that. That is what I meant in the civility when I said that we have learned from their recent history that they cannot be trusted. [*Desk thumping*]

Mr. President, the position is that the Bill as laid on this Table, that I had seven days to investigate, interrogate and come to debate today, says you can be exempted from the Act, and that provides an unfair advantage that can cripple the industry. And that cannot be tolerated when you have regard to the percentage of GDP that the manufacturing sector and the ancillary sectors associated with it contribute to this economy.

Mr. President, I can refer the national community to *The Review of the Economy 2012, Stimulating Growth and Generating Prosperity*. Provided there at page 57 of that report, with your leave I am sure, is the percentage of GDP provided and the actual numbers in GDP provided under the manufacturing sector, the services sector, agriculture/petroleum sectors. This particular industry that we are dealing with today is the largest non-petroleum exporter in Trinidad and Tobago. *The Review of the Economy* presented in the budget says that the manufacturing sector is going to decline in 2012. We have, in the tables produced by the Government alone, by my quick addition, of ancillary aspects to manufacturing, including transportation, including warehousing, including other services, close to \$54.5 billion.

Mr. President, that is the size of the industry that we are going to affect. Our GDP in Trinidad is \$153,000 million, and when you look at that as a percentage, we are talking about affecting an industry which is 35.4 per cent of our GDP, and we cannot do that in an ad hoc, laissez-faire fashion where amendments are thrown on the Table a minute after it has been piloted before the Senate, knowing that with the history of this Government you have to have on the *Hansard* record every single concern as it relates to the legislation that is being proposed, lest you be faced with ugly situations where Senators can stand opposite to each other, or Members of Parliament stand opposite to each other and say, "I never said that", because that is the history of the Government. "I did not say that. Look at the other man. Doh blame me. Perhaps it missed us all." The days for that are done, Mr. President. [*Desk thumping*]

We gave it in the FIU legislation, three times, assistance and cooperation; we gave it in the Administration of Justice (Indictable Proceedings) Act, assistance and cooperation. We are not giving it today, Mr. President.

**Hon. Senator:** All right. [*Desk thumping*]

**Sen. F. Al-Rawi:** Because, Mr. President, an issue as important as the environment in Trinidad and Tobago and the global environment, one which troubles us all, the fact that successive administrations have dealt with the gestation of this Bill, as it is now before us, for over 16 years, as my learned colleague has put it, we would be doing a disservice to that fact. And therefore, the correct thing to do would be to interrogate this Bill under the purview of a joint select committee, a special select committee perhaps, where we can look at the whites of the eyes of those persons who represent the manufacturing sector, the transportation sector, the services industry sector, the banking sector, the attorneys that advise the Government as to the constitutionality of the Bill and have our concerns not only ventilated and answered but recorded in the minutes of the sessional committees in which we sit. That is the manner in which you ought to approach drafting of legislation.

So, Mr. President, we have got to do better. We commenced Parliament in July of this year, we are headed to December, I have yet to see, despite the bold assurances of the Leader of Government Business in this Senate, a legislative agenda. I do not know what is coming tomorrow, the day after, next year; I am hearing about consultations on material that I have never seen. The best that my learned colleague could do is to read a report from 1996? Well that is outdated, Mr. President.

**Sen. Singh:** Very relevant.

**Sen. F. Al-Rawi:** Mr. President, it is outdated and it is shameful when you look at the extent of literature available elsewhere—*[Interruption]*

**Sen. Singh:** In Trinidad?

**Sen. F. Al-Rawi:**—none of which has been pointed to.

**Sen. Singh:** In Trinidad?

**Sen. F. Al-Rawi:** So, Mr. President, when you look at the reports from the global institutes in 2011, in 2012, globally—*[Interruption]*

**Sen. Singh:** Globally.

**Sen. F. Al-Rawi:**—regionally, because Barbados is not far from us, then you have got to understand, where is the material before this Senate?

Mr. President, before we can make law to this effect, we have got to know what the litter stream is, we have to know the percentage contributions, we need to know the size of the market, we need to know that the industry cannot break overnight as a result of an ill-thought-out perspective by the Government, a rushed perspective. We need to identify who are the supposed beneficiaries who stand behind this billion-dollar industry, because 20 per cent in handling charges of a billion-dollar industry is a lot of money. That is the handling fee, and that does not include the recycling moneys to be made. Who, on their side, in their camps, stands to benefit *[Desk thumping]* from this extent of revenue to be created?

**Sen. Deyalsingh:** “Aaah, that is it.”

**Sen. F. Al-Rawi:** Who? So, Mr. President, that has to be answered.

**Sen. Singh:** The environment benefits.

**Sen. F. Al-Rawi:** Mr. President, you know that old saying about noise emanating from certain kinds of vessels? *[Interruption]* I would not be unparliamentary, but *[Desk thumping]* they may emanate from empty beverage containers, Mr. President.

So, Mr. President, there is a lot to say in the particular clauses of the Bill. *[Interruption]* There are 24 clauses in this Bill. The vast majority of them are safe in the construct of the language, et cetera. Those that need to have careful attention include clause 8, which is the backbone of this legislation, which I think is the one which deals with the revenue point and has to be answered. I simply just want it answered, Mr. President. One way or the other we need to have it on *Hansard* that it has been answered.

Secondly, Mr. President, clauses 11, 12, 13 fall to be considered with scrutiny and clauses 20 and 22 call for consideration. If we look specifically to the composition of the Board at clause 4—now I did hear my learned colleague say that the Board is to be amended as it relates to quorum—I see you looking at the clock, Mr. President. I am not sure if I am in time or not?

**Mr. President:** You have another 10 minutes.

**Sen. F. Al-Rawi:** Of regular time, Mr. President?

**Mr. President:** Of regular time.

**Sen. F. Al-Rawi:** Much obliged, Mr. President. If I look to clause 4 of the Bill which is the establishment of this Board by the Minister, you would see, Mr. President, that there are functions to be carried out by the Board. Those functions are under the rubric of an advisory Board, and it relates to exemptions under section 20 at 4(1)(c), reviews under section 21 under 4(1)(d) of that Bill, and it looks, in relation to 4(1)(e), at the collection depots.

When you look at that clause against what the Minister actually does in the reviews under clause 21 of the Bill, you will see that the Board, as it is supposed to be advising, and the Minister, as he is receiving and deciding complaints, are almost neutrally exclusive. The Bill does not speak to the connectivity between the Board's operation and the Minister's operation, because if you are applying for an exemption you apply to the Minister. It does not go to the Board. The Board makes no recommendation under this Bill. The Minister and the Minister alone considers whether you are to be exempted under the Act. So, the purpose of putting this Board in place has not been demonstrated to be connected to the Minister's portfolio.

When you look next, Mr. President, at the Board again and you look to the composition of the Board, there are 10 members of the Board who have to deal with review factors according to clause 4, but not one of them is an attorney-at-law. When you factor the legislation under review, clause 21, to the encroachment into judicial review time frame, and that is, Mr. President, the six-month time frame that you have to challenge a decision by way of judicial review you will see in clause 21 that it provides for the Minister to occupy a whole two and a half months, if he asked for no extension of that time.

**3.45 p.m.**

So you have got potentially a concurrent system running, there is no lawyer advising on the Board because he is not constituted on the Board as a mandatory concern, but they are engaging in quasi-judicial aspects of consideration. So I

would think that we would want to ensure in this framework set-up that we have got an attorney-at-law operating and certainly one of some serious significance in terms of years of practice, Mr. President, because it relates to environmental law, it relates to aspects of judicial review and ministerial decision potentially.

Mr. President, I heard my learned colleague mention the issue of quorum to come by way of an amendment. I did not read it but I heard him say it. The concern which I had was that under clause 5, of the 10 people to be appointed—and I will leave the issue of Tobago affairs to my learned colleague, Miss Cudjoe, because I do not know since when the Ministry with responsibility for Tobago affairs, one which was created for the first time by this Government that never existed before, comes about. I do not know if they will be here under a successive administration or another administration, so I will leave the fact of the exclusion of the Tobago House of Assembly, which is created by statute, to my learned colleague, Miss Cudjoe.

So when we look at the 10 people appointed there, six, if not seven, if you count the EMA person, are appointed by the Minister. So, how on earth are you, in a simple majority position, ever going to ensure balance on that Board, if seven out of your 10 people or six out of your 10 people are constituted? I look forward to my learned colleague's supposed amendment, that there will be a mandatory inclusion in the quorum because there is no quorum in this Bill. The Bill does not provide for a quorum, Mr. President. So I do not know what quorum he was talking to when he spoke about it earlier. But the fact is that we ought to have an inclusion of the private sector representatives there so that we can at least have minority reports recorded.

Mr. President, relative to the business of the Board as well, there is a very spectacular thing. The Minister can tell the Board to constitute an emergency meeting, nobody else can, when every other piece of legislation speaks about any director through the Secretary can convene a special meeting but in this Bill, à la PP style, it is only the Minister. Why? I have no understanding.

The deposit and refund system is in Part III, and that is at clause 8, Mr. President. There are some burning issues to be looked at here, and specifically I will say them in summary: the application of income tax upon unclaimed revenue which may devolve or be put into the hands of either the Government or the private sector, the escheat moneys, the bona vacantia moneys that have to be considered. The economic impact of that is: whereas you are in a deposit and refund system and you are paying a 20 per cent handling fee, there is a hidden cost to the manufacturer in washing, in sorting, in cleaning, et cetera.

Let us say it is another 20 per cent, but, Mr. President, if you are going to be taxed on the moneys that are deemed to be revenue, because they are unclaimed revenue under the international standards, then you are removing the ability to buffer the real impact of the legislation and the people who are going to suffer are going to be the consumers, because the market will have to absorb the price differential. So that is the key point in there. The ramifications and the clarity with respect to the application of taxation must be set out in pellucid fashion. Now it may well be that some of that is to be articulated in the regulations or subsidiary legislation, but we do not have that, Mr. President. We have not been regaled with the details of that. So we need to see that to understand whether this framework can genuinely be put into place now.

The issue of the personalities that operate in this Bill, this Bill is a cacophony of terms: individual, person and entity. It calls in aid the use of section 3 of the Interpretation Act itself, in relation to person. It calls in aid the definition of an individual, which is not prescribed for. It calls in aid the definitions of the two terms defined in the Bill, the entity—and I forget the other term. What is it? The terms are used interchangeably right throughout the Bill, a person here, not an individual here, an entity there, an incorporation. A vendor can be a person; a person at law is a company or an incorporated entity solely in the business of X.

Well, what happens if I create a shell company at law which is a wholly owned subsidiary just to do vending? Am I exempt from those provisions? Will I create a whole subsector industry by creation of alter ego companies or genuinely distinct companies by way of affiliation terms that I have to look to rely to reach them, as the term affiliated company is defined in the Companies Act, Chap. 81:01? It is a mess!

When we look, Mr. President, to the issue of the Minister's publication, or even before that at clause 11, the owner or operator at clause 11(3) of a collection depot shall within one week of changes in operation—establishment, discontinuance—all have to be notified immediately to the Board. I do not know that this Board has the capacity or the resources to manage the information flow coming to it, but if the real intention of the Bill is to understand what the throughput into the litter system could potentially be, then, Mr. President, the manufacturer could easily disclose that information. Because the manufacturer under this Bill is charged with the very unfortunate responsibility of collecting the refuse—*[Interruption]*

**Sen. Singh:** That he manufactures.

**Sen. F. Al-Rawi:**—that he manufactures, and when he collects the refuse, as opposed to receiving it, because the Bill does not provide for receiving—*[Interruption]*

**Sen. Singh:** Yes, it does.

**Sen. F. Al-Rawi:**—Mr. President, receiving being an operative term of positive product where you cause an obligation upon those who are receiving 20 per cent handling fee to at least sort and sometimes allow you to deposit, because the manufacturer cannot accept under this Bill. The manufacturer cannot accept from the average redeemer. He can accept from a wholesaler or a retailer or from a collection depot. An individual who is engaged in this kind of affair cannot go to the manufacturer under the terms of this Bill, so there are inconsistencies in the operability of the Bill.

Mr. President, the concept of clause 12—the concept of changes or discontinuance in the manufacturer—now, clause 12 of the Bill—[*Interruption*]

**Mr. President:** Hon. Senators, the speaking time of the hon. Sen. Faris Al-Rawi has expired.

*Motion made:* That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. T. Deyalsingh*]

*Question put and agreed to.*

**Sen. F. Al-Rawi:** Thank you, Mr. President. Clause 12 is anchored upon a nexus to the Schedule, Schedule 3, but Schedule 3 can be changed at any point in time by a simple order of the Minister subject to negative resolution. So, right now the language of the Bill says, any change in or discontinuance of operations has to be notified to the Board. What that means is incredibly wide.

Any operation, you must notify the Board because it says “shall” and you know what, there are offences in the Bill if you do not do it, \$100,000, \$250,000, and any other charge that may slip its way into an amendment to the schedules or the regulations, at the whim and fancy of the Minister, because that is how the Bill is constructed. So, the operational difficulties presented to the Board in this clause, Mr. President, are large, but more than that, they are subject to abuses so, we have to be very careful in considering clause 12.

Clause 13 has a very unusual term saying that the wholesaler or retailer may deal with collection of empty containers. The receiving and sorting that my learned colleague spoke to, as a corollary to this function, is not inside of the Bill, and if we look to the aspect of the cost to the consumer ultimately, by the cost that the manufacturer will have to engage in in sorting out the refuse that is brought to it, then there are two things that you can observe.



The first is that the 20 per cent handling fee may not have been genuinely earned insofar as it is just simply for storage and not for sorting or delivery and, two, that the cost that the manufacturer has to engage in, in sorting that out at the factory to make sure that it is viable and economical to use the waste and refuse, that cost is likely to be put upon the consumer. So it is critical for us to ensure, in balancing the objectives between the various estates that we seek to serve, on the one hand Trinidad and Tobago's environmental condition and the other the consumers that we are bound to protect, that we achieve a careful balance there.

Mr. President, the issue of the attraction of fines and penalties set out at clause 22 is one which must be very carefully considered. The issue of fines will be traversed a little bit more in detail by my learned colleague, Sen. Deyalsingh, but suffice it to say that the observation that I make now in summary is that the aspect of reasonableness in the failure which is set out in the clauses is completely absent, and that the clauses, as drafted right now, are open to massive abuse, because if you just simply fail to collect, as the language of the Bill suggests, you are guilty. There is no "reasonably failed to collect" included here. Even if one were to include a Caldwell or Cunningham type of interpretation, if I borrow a concept from the law of recklessness in the criminal law, even if you apply that on an objective standard, it is dangerous and can be exploited and abused.

I ask the hon. Minister to consider very carefully the provisions in section 20 which deal with the time frame for his consideration of issues, and more particularly the issue of stewardship, in the manner that I have addressed earlier. It is very much a provision which can be open to abuse. It provides a very dark corner which can result in all sorts of ugly difficulties including corruption, and the stewardship position in clause 20, as is defined, has to be thoroughly reworked.

Mr. President, the Schedules themselves have a very important point, and this I will make as my last point. Schedule 1 provides for three tiers: 25 cents for size of a container not more than 0.7 litres; 50 cents in the range between 0.7 litres and 2 litres, and \$1 in the range of 2 litres but not more than 5 litres. Mr. President, 75 per cent of the market in plastics resides in the under 400 litres, 0.4 litres. Seventy-five per cent of the market resides there. So the tier system as offered here, I beg the hon. Minister to consider that there ought to be an inclusion of a fourth tier being the first tier and that is the size range under 400 millilitres or 0.4 litres.

**4.00 p.m.**

The reason for that is that you have a 25-cent charge on a Chubby, for example. Chubby is sold at \$1.25. You add 25 cents on to that and you are talking a 20 per cent increase in the charge. To our youngsters, to our children, to perhaps those most impoverished in our society, you are adding a 20 per cent immediate jump in price to the consumer.

Mr. President, I think it is worth considering that we put in a fourth tier which could perhaps consider the introduction of, let us say, 15 cents, or certainly a sum below 25 cents, which would reside in the smaller bottle ranges, Mr. President, because the impact to the consumer, if this Bill becomes law, is that you have an automatic 20 per cent increase in the vast majority of our market share of bottles of a particular size which is serviced by the children of our society, and perhaps those with the least money.

So the deposit and refund size of container—deposit of refund as set out in the Schedule—ought to be considered with some more care, and here is where I think that an industry consultation would do us well, Mr. President. That is where we want to see what the volumes will do in terms of affecting the people of this country.

Mr. President, I did say that that was my last point; I would throw two very small ones as they just come to mind. One is the exception for use on premises that is provided by this Bill. It is contained both in the definitional aspect of where things are consumed—the retail premises aspect—and, secondly, the body of the Bill. It is, as currently structured in the Bill, an exception for an entire school to not obey the terms of this Act.

If that is the case and you have got a school with 1,200 students or 1,500 students, it means you are automatically saying to the vendor of that cafe, “Do not worry to charge VAT; do not worry to charge the deposit; you are exempt from that. You have to engage in the clean-up on the premises”, but it is an accounting and administrative nightmare. So really and truly, the recommendation in 1996 that we look at the Barbados model is a very good one, because the Barbados model, which is a very short model, comprising—if you include the cover page—one, two, three, four, five pages, Mr. President, of nine clauses, simply says everything has a deposit and everything has a refund.

**Sen. Deyalsingh:** Simple.

**Sen. F. Al-Rawi:** When we look to categorize what has VAT; what does not have to pay a deposit; what exceptions can happen; what the Minister can deal with; what the Board must have reported to it; how the Minister may review that

whilst the Board is going and the obligation continues, it is a nightmare, Mr. President. [*Desk thumping*] It creates dark spaces for bad manipulation of the resources of this country.

Mr. President, it is a lot to consider. I repeat my urging to the hon. Minister that this Bill should not proceed today; that it should go to some form of select committee, be it joint select committee or special select committee, and with that contribution, I thank you. [*Desk thumping*]

**Sen. Dr. Rolph Balgobin:** Thank you, Mr. President. [*Desk thumping*] I rise to speak on the Beverage Containers Bill, 2012. I found it a very interesting piece of legislation. In the very short time frame that I have had to look at it, I found that there are many aspects of this piece of legislation that give cause for concern.

I suppose I should start where the previous debater left off by saying that in my examination of the Barbados model, I found an example worthy of emulation, and it was not entirely clear to me what the bases were for the various departures that I have had the opportunity to observe in this piece of legislation before us. By all accounts, the Barbados model is working just fine.

But be that as it may, in examination of the Bill and in looking at the context within which the Bill occurs, I think that we ought to take note of and round out our understanding of where we are in terms of this sector. The majority of the consumption of beverages that are sold in Trinidad and Tobago occurs on premises, that is, outside of the home, and it occurs in single serving portions. That is usually between 200 and 400 millilitres. So more than 50 per cent of what is sold is sold in packs that are relatively small.

I was not clear, therefore, why some of the exceptions that are proposed for on-premise or in-premise consumption should apply because a very big ailment that is attendant to non-biodegradable receptacles, of course, has to do with consumptions in places like schools where there is a very big concentration of young people who are consuming at break-time, for example, a Chubby a person almost, or a pack of Orchard a person, as the case may be. So, to my mind, the exemptions proposed are not entirely logical and beg for further examination.

The Minister says about 342 million bottles or receptacles are produced, and I accept that. I think that conservative estimates would say about 70 to 80 per cent are consumed locally, so not all of that is consumed locally. But I have a very grave concern in what has been presented here, in that the environmental case has very clearly not been made, and I think that there is a strong case and it deserves to be made here.

If we are passing legislation that purports to deal with an environmental problem, let us identify and scope the problem. I think that that is really logic first principles. So that environmental case—that environmental information—I think is lacking; it needs to be brought forward. For example, if we say that the environmental catastrophe that we have here—assuming that that is not overstating the case—is as a result of PET receptacles—bottles—are we aware that there are additives that you can put into PET now to make the bottles biodegradable? So is this really—I mean, what is the mischief that we are trying to address? Let us scope it; let us identify the problem and understand it so that we understand that the arrow of our solution, our legislative solution, is going to hit the intended mark.

In terms of consultation, of course, given the extremely short time frame, I myself had to reach out to most of the major local manufacturers and what I found was a—well, my understanding is at variance with the position that there have been full consultations. Granted, I am sure that there have been consultations going on for a very long time, perhaps on different versions of this Bill, because I was able to find online, for example, examples of previous versions where there was a lot of consultation and so on, but I got the distinct impression that there are elements of the private sector that were taken by surprise by the tabling of this Bill; that consultations were incomplete at best, and that there are significant points of departure between what this Bill purports to do to treat with, and how, and with the views expressed by the private sector, the industry.

So, clearly, there is an opportunity for greater alignment and for greater clarity. I say this because, outside of the energy sector, the beverage sector is, of course, critical. It is one of our examples of industrial success. It really has done very well. It has done us proud over the years and I think that it employs tens of thousands of people, directly and indirectly. It affects, of course, 1.3 million-plus people because we all consume what is produced here in Trinidad and Tobago. The figures cannot be denied. So this is a very big sector with a very long reach, demanding everything, from labour to CO<sub>2</sub> to driving port traffic.

Mr. President, you know, it is amazing to see how many containers come into Trinidad and Tobago full, and leave empty. It is amazing. So when you are on our nation's port and you see containers of exported products from the beverage sector, one feels a sense of hope. So whatever we are doing here, we need to be careful that we do not injure, perhaps fatally, one of the few success models that we have.

When I look at the way that the deposits on the Schedule are structured, they seem to discriminate against smaller sizes, and I think that that is something that bears a second look. I think that I am not—in all of my research, I was not able to find a clear logic or justification for that. Because what it means is that the local manufacturers, like Solo and SM Jaleel and so on, are affected more. You know, Coke and Pepsi and they, they are selling concentrates, so they are like the bigger sizes. By all means, more Coke—drink, not—Coca Cola, I should say.

So we have to be careful about how we do this and, in my view, a new tier—an additional tier, a fourth tier—is justified, and I will make a suggestion about that in due course, but the point I want to make here is that we need to be careful about how this is done, and any kind of presentation of this Bill really ought to include some sort of wider conversation about what we are doing about recycling; what we are doing about waste.

For example, in developed countries: the US, Canada—well, I know for certain Canada—the UK and most of Western Europe, for example, the Canadian blue box model where you actually have different coloured bins for different types of refuse, so there are very established recycling models inside of there. We do not have any kind of articulation of a big, broad strategy to deal with the mischief of environmental pollution. What we have said instead is that beverage containers are causing the problem so we are going to put a piece of legislation inside of there for that. It is not going to work. It is not.

So I find the silence on this something that deserves to be pierced. I think it is important for us to have the opportunity to hear what the Government is going to do about our environmental challenge. [*Desk thumping*] Let us scope it; let us understand what it is. We do not know. And this is what brings—our lack of information is what brings people to go and “lie down” in the road and “sit down” in front of people’s offices and so on, because we do not know anything, and so we need to know. We need to know how much effluent is produced; we need to know who is producing it; we need to know how polluted our rivers and our watercourses, our streams are. Let us know.

I think, as well—I join in urging caution about a tsunami of claims when this thing comes into effect. [*Desk thumping*] I think that you can very grievously injure the industry here in Trinidad and Tobago if this thing is not managed properly.

**4.15 p.m.**

Why is that important to me, Mr. President, is the State—if the budget is anything to go by or to be believed—is expanding. The State is hiring more and more people. I asked the question before and I pose it again: what is our view of

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the role of business in the society? What is our view? If the State is expanding but we pass legislation like this that allows us to deal death blows to the few industries that work, then we are creating the conditions for more and more dependence on the State [*Desk thumping*] and we ought to be very careful about that.

In terms of handling, when I look at the Bill, the Bill is terrifically vague on what handling means.

**Sen. Deyalsingh:** Terrifically vague.

**Sen. Dr. R. Balgobin:** I did not understand what it meant. To me, you are getting money for—I do not know.

**Sen. Al-Rawi:** For holding it?

**Hon. Senator:** Sorting.

**Sen. Dr. R. Balgobin:** No, you did not say sorting. It just says, “Ah getting, it, so ah getting money for it.” [*Crosstalk*] But this is an issue. If you put it in a garbage bag and let us say that garbage bags are black—we know that they are not all black, but let us assume that I present you as a collector or a handler with a black garbage bag, I fill that garbage bag up and I throw some stones inside of there as well and I fill some of the bottles with water and I carry it, because the only way the manufacturer is going to deal with this is by weight. They cannot go through the bags. So I take that bag and I rest it on a scale and say, “Right, pay me for that.”

Handling in the Barbados model makes a lot more sense to me. You sort it by size, by colour, by brand. So you do not just get 20 per cent of the deposit for standing there and looking pretty. You have some work to do. But you know that linkage between work and pay is something I find, in developing societies and in societies like ours, that nexus is not established and so I would like to know what they are doing for handling and if it is in the amendments, then great.

**Sen Baptiste-Mc Knight:** No!

**Sen. Dr. R. Balgobin:** But that risk of a claim tsunami is extremely grave and I think that we ought to pay close attention to it.

I turn very quickly—because it is my hope to finish before 4.30—to the issue of the Board. I find these days we call everything a board. I know that a board has directors, not members. Maybe something has happened in governance that I do

not know about. A committee can have members, but we have a board. Okay! So I am looking at this Board; this Board has 10 members; 10 members, seven of which are political appointees. Seven! There is no legal capacity on the board. It talks about the environment. There is somebody from the environment and then local government, Tobago—well “oooh”.

So, not only is it silent on a quorum—[*Crosstalk*]*—*the quorum is not here. The quorum is in the amendments which I am ignoring. [*Desk thumping*] [*Interruption*] Oh, yes, six members shall constitute the quorum of the Board. So any six—worse—[*Laughter*]*—*because seven of the 10 are appointed by the Government.

**Sen. Deyalsingh:** That is transparency there.

**Sen. Dr. R. Balgobin:** So, you know, not feeling it. So the question of the quorum is thorny for me.

I was also confused about how a Minister instructs a Board—in clause 7(3)—to convene a special meeting. They are already meeting once every two months or something like that. So I wondered about two things there. One is, why do members not have the power to call for a meeting? Presumably they will under the guidelines of the Board, but I see here that it is put into the legislation that the Minister can direct that a meeting be called, but members are denied that authority. Secondly, what circumstances would envision this clause 7(3)? What circumstances would arise that would require a Minister to compel a board to meet? [*Crosstalk*]

I was not quite sure what the mischief was that we were seeking to create some protection around, and there are at least 20,000 points of sale in Trinidad and Tobago, points of sale being retail outlets that buy and sell soft drinks. What is the practicality of this Board coping with applications and notices and so on from 20,000 points of sale? So I would like to get some clarity on the role and function of this Board.

My suggestion would be in reflecting on the Schedule—just to jump forward before I jump back—that we insert a fourth tier. I feel that that fourth tier should really cater for beverages 500 ml or 400 ml and smaller, [*Desk thumping*] and I think that the deposit on that should be about 10 cents. I went and stood in several supermarkets and I looked at what is on offer and, to me, 400 ml or thereabouts is a safe boundary, and that there is a significant difference between a pack of Orchard or a small soft drink and one of these larger size bottles of water. So there ought to be a differential.

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As it stands, the consumer—and it is which consumer. It is the consumer who has the least money because he is buying the smallest thing. He is buying the smallest bottle. So it is the child, it is the person who is just thirsty for something and does not have a lot of money, and I have seen this work. So I think that we ought to be careful about how we penalize them, and I think that a new tier is warranted.

I was also very concerned about the stewardship plan, because, for the life of me, I could not figure out how it would work. I thought that after reading it several times, there are just far too many loopholes in the design and it is therefore open to the kind of political influence that can prove inimical to the interest of a particular manufacturer or groups of manufacturers as the case may be. And so, this needs to be clarified because the stewardship programme is operated by a Board which is filled with political appointees, the quorum for which is six and you have seven government appointments there. So that does not work, or at least it is not going to work transparently. It gives rise to an opaque system and will, in fact, create what I suspect the Minister was trying to avoid, which is murky governance.

I was confused about what this industry is that we are trying to create, but I am clear that we are in fact witnessing, through this Bill, the creation of an industry. Therefore, for something as significant and as positive as this, which the Minister should be commended for doing, I think that more deliberation is warranted. We have spent 16 years on this.

My view is we ought to commend it to a committee of the Senate and let us thrash out the things here that need to be thrashed out. Let us tie them up tight and let us bring in a piece of legislation that we can all feel proud of, [*Desk thumping*] because there is not anyone I have talked to in my consultations who told me that this was a bad idea. The issue is not the issue. The issue is the form. It is the structure and the form of what is presented and, therefore, within the confines of this Senate, we have the mechanisms that allow us to deal with that and we should. We should avail ourselves of them.

The creation of an industry comes with money, and deposits are paid, moneys are collected, moneys are paid out. So money comes, money goes; in and out—a cycle. Some funds may be unclaimed. What do we do with these funds? Well, a cynic would say that clause 18 might suggest an answer. I thought that all of the discourse and the dialogue and a quick flip through the amendments suggested to me that clause 18 was left nice and quiet, and I found difficulty with clause 18. I found difficulty with it because it allows for moneys to be paid in a manner not yet revealed—to be revealed by the regulations.



**Sen. Al-Rawi:** That is right.

**Sen. Deyalsingh:** “Yep!” [*Desk thumping*]

**Sen. Dr. R. Balgobin:** Now, that is “cat in bag” for me.

**Sen. Al-Rawi:** Me too.

**Sen. Drayton:** Me too.

**Sen. Dr. R. Balgobin:** I have a problem with that, and I will tell you why I have a problem with that and it is very unfortunate that this has to be like that because I have a question to ask in relation to this. It troubles me that these things would be left to the regulations and the regulations are not presented. We ought to see them. [*Desk thumping*] I have said before, I am not voting for anything again unless I see the regulations coming with it. [*Desk thumping*]

**Sen. Drayton:** Unless I see the regulations. That is it, we are not doing it. Bring it.

**Sen. Dr. R. Balgobin:** “Doh bring that by me at all.”

**Sen. Drayton:** You are not alone.

**Sen. Dr. R. Balgobin:** The reason for that is, we are trying to create the flexibility in the legislation that would allow Ministers to make the law as relevant and as applicable as possible. That is a laudable objective. But if we say that we want to do that and keep true to that principle, then we ought to see the regulations and understand clearly what we are getting into. What is the intent of this, how is it going to operate, what is it going to look like? And let us have a debate that includes that and deal with that, treat with that one time and produce a better quality of law.

The way that this Bill is structured, unfortunately, favours Minister’s whim and that is not something that I would feel comfortable with. Several clauses demand a reference to the regulations—mystery regulations. When I say mystery, I do not mean that. It is just not here. I should not say mystery, I should say absent. They are not here, nor have they suggested that. Nothing in the pilot has told us so far how these things would operate, so I have a difficulty.

One of the things that I do not want you to tell me, one of the things that I do not want anybody to tell me, is “Trust me”. [*Laughter and desk thumping*] Do not tell me “Trust me” on the regulations. Do not tell that. I have a difficulty with that and I will tell you why.

**Hon. Senator:** Do you need to?

**Sen. Dr. R. Balgobin:** Yes, I need to. I feel like I need to and I will be very short because it is very unfortunate, but I have to tell you why.

**4.30 p.m.**

I had been in the Hyatt two years ago, two and a half years ago and so on, and what I saw there was heady and exhilarated celebration by Members of Government. I am happy for them. You have won; you have won a hard-fought campaign and you are entitled to celebrate and so you celebrate. But, I ran into someone I know and I said, “Well, what is this thing about?” And they said, “Well, we are here and we are going to be having a good time.” I said, “Okay, well, good, have a good time! You start to spend the people money already.” They said, “No, one of our supporters is here.” So I said, “One of your supporters?” “Yes”, and “dey calling for stuff, invite me over to drink and—well I doh drink so ah couldn go.” So what I was told then was that this guy was big in recycling and he wants to—[*Interruption*]

**Hon. Senators:** Ahhhh! [*Desk thumping*]

**Sen. Dr. R. Balgobin:**—come here and set up a recycling business. So the question I have is—[*Interruption*]

**Sen. Singh:** Hon. Senator, would you give way? I just want to make it abundantly clear that it certainly was not this Minister. [*Laughter*]

**Sen. Dr. R. Balgobin:** It was not. It was not. But I was told that this man, on several occasions—not on one—being there, seeing these things, seeing this sort of festive atmosphere—I am very glad; I like for people to be happy.

**Sen. Beckles:** Recycling coming!

**Sen. Dr. R. Balgobin:** But then “I hear ‘Well, yuh know, de man is coming to build a recycling plant here in Trinidad and Tobago’. I said, “Well, good for us, yuh know, foreign direct investment; non-energy FDI; this is excellent!” Then I heard, well, you know, the rules and the laws and so on do not permit for it so that has to be crafted. Well, I stopped one time. “I say eh.” Two and a half years later, here we are. So I asked myself this question: “Who is this fella name Vijay Nahata?”

**Sen. Deyalsingh:** “Oh Lord, yuh calling name too?”

**Sen. Dr. R. Balgobin:** No, I want to know.

**Sen. Deyalsingh:** “Yuh calling de man name?”

**Sen. Dr. R. Balgobin:** No, no, I am not—who is this guy? Does he have any role in this? Is he going to set up here? What is he doing here? I want to know. I would like to know because I am not going to vote for something to create an industry for a man. [*Desk thumping*] No, I am not doing that! If it is not that, then I will fully support it, but I have been—[*Interruption*] Well, too, I have seen the fella; I have seen the whole thing. “Yuh know, de guy, he ent ah ghost.” He is real; he is palpable in form. Not like in Macbeth, you know, you see “ah ghost and you say, “Is this ah ghost or ah”—it is not like that. The guy is real, involved in the recycling business.

So, I am curious about that because he certainly appeared to think that he had an interest in this thing. It may not be that anybody—certainly not the hon. Minister—would be seeking to advance his interest, but I think he may think “he have ah interest”. I do not know.

I also wish to close, Mr. President, by saying that I accept receipt of the amendments but I, unfortunately, cannot consider them. There are 24 clauses in the Bill and I have 11 amendments in front of me, and so some of what I may have said here may be unfair in relation to what the amendments say, but they are amendments only. I have not considered them; I think they have come very late. I think this is a hasty piece of legislation, well-intentioned, and, in my view, without the scientific evidence to support it, still very necessary.

Therefore, I wish to suggest that I support fully the Minister piloting the Bill and the intent of the legislation. I wish to respectfully suggest that I would support fully nothing other than moving this to a Senate select committee, or some other similar device, which would allow us to sort of just peel away the layers of the onion, get this thing down to its core, get it clean and tight, make sure that everybody is understanding why we are doing what we are doing, and then we bring something back. I do not think that needs to take very long, it is not a long Bill.

So, Mr. President, I thank you for your indulgence. [*Desk thumping*]

#### ADJOURNMENT

**The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh):** Mr. President, having regard to the sentiments expressed by the hon. Sen. Dr. Rolph Balgobin and also Sen. Faris Al-Rawi, I think that I would want to take those considerations [*Desk thumping*] and having regard to the fact that the amendments were circulated so late that they did not enter their consideration, I would like to take this opportunity to adjourn this debate—[*Interruption*]

*Adjournment*

*Tuesday, November 27, 2012*

**Sen. Al-Rawi:** Well done, Minister!

**Sen. The Hon. G. Singh:**—to a date to be fixed to contemplate the sentiments. [*Desk thumping*]

In this regard, Mr. President, I wish to, having regard to what I know, the travel of certain high office holders, meaning the President and the Vice-President over the next week, I want to adjourn this Senate to a date to be fixed.

**Sen. Al-Rawi:** Well done, Minister!

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 4.36 p.m.*