

SENATE

Tuesday, June 04, 2013

The Senate met at 1.30 p.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

PAPERS LAID

1. National Insurance (Contribution) (Amendment) Regulations, 2013. [*The Minister of Finance and the Economy (Sen. The Hon. Larry Howai)*]
2. Emergency Ambulance Services and Emergency Medical Personnel Regulations, 2013. [*The Minister of Health (Hon. Dr. Fuad Khan)*]

ANSWERS TO QUESTIONS

Mr. President: Leader of Government Business.

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Mr. President, we are prepared to answer questions numbers 44 and 48, and we also have the written answer for question 56 for circulation, and, perhaps, if it is necessary, for us to read question 56 into the records we will do so.

Sen. Ramlogan SC: I do not think they have any objection to that.

Mr. President: So that is 44 and 48—is it?

Sen. The Hon. G. Singh: Yes.

WRITTEN ANSWER TO QUESTION

**Children's Life Fund
(Contributors and Beneficiaries)**

56. Sen. Fitzgerald Hinds asked the hon. Minister of Health:

Would the Minister provide:

- (i) A list of all the contributors and the respective amounts contributed to the Children's Life Fund as at 31st January, 2013;
- (ii) A list of all beneficiaries of this Fund and the amount expended in each case? date?

Vide end of sitting for written answer.

ORAL ANSWERS TO QUESTIONS

Mr. President: Senator Hinds

Sen. Hinds: Thank you very much, Mr. President. My friend Sen. Beckles is not at the moment with us and I have had no opportunity to speak a few moments ago with her, so I would want to direct question number 48 if you would permit me to the Hon. Minister of Health.

**Children's Life Fund
(Details of)**

48. Sen. Fitzgerald Hinds asked the hon. Minister of Health:

With respect to the Children's Life Fund, would the Minister indicate to the Senate:

- (i) the total amount of money now held in the account(s) of the Children's Life Fund as at December 31, 2012;
- (ii) the number of children up to the said December 31, 2012, who benefited from access to this fund;
- (iii) the number of children who acquired treatment/care locally; and the number who acquired treatment/care abroad;
- (iv) what was the largest single donation/contribution to the fund, as well as its source; and
- (v) whether any contributions from ministerial salaries are included in the figure(s) at (i) above?

The Minister of Health (Hon. Dr. Fuad Khan): Thank you, Mr. President. With respect to the Children's Life Fund, I would like to reply based on the question proposed on question number 48. The net balance in the bank account of the Children's Life Fund as at December 31, 2012, reflect the following: TT \$56 million—

Sen. Ramlogan SC: Aww! [*Desk thumping*]

Hon. Dr. F. Khan:—and US \$263,571.64. [*Desk thumping*] Mr. President, the number of children that have benefited from access to this fund have been 18 children so far.

Sen. Ramlogan SC: Aww, 18 lives. Very good! Very good!

Hon. Dr. F. Khan: Mr. President, question (iii) asked for the number of children who acquired treatment locally and those abroad. Had the hon. Member read the legislation, he would have understood that local care on the Children's Life Fund does not really exist and it is for foreign care. [*Desk thumping*]

So local—children who have had treatment locally is zero, and aboard, 18 children as I just mentioned. [*Desk thumping*]

Sen. Ramlogan SC: Well done! Well done!

Hon. Dr. F. Khan: Number four: what was the largest single donation/contribution to the fund as of—I think—December 31, 2012. This is the \$30 million that was donated to the fund by the Government of the Republic of Trinidad and Tobago on October 2011, and also \$30 million donated on December 2012, Mr. President. The fifth part of the question asked whether any contributions from ministerial salaries are included in the figures above; the answer is yes, ministerial salaries—this is as of December 31, 2012—the amount of TT \$906,090.00 as donated by Ministers and the Prime Minister—[*Desk thumping*—as of December 31, 2012.

May I add, Mr. President, that if you look at question number 56, the last line would have indicated that Members of the Opposition, the contribution was 0.00.

Sen. Ramlogan SC: Ooooooh! Are you serious? Financial protocol!

Sen. Singh: “Dey cyah help ah child.”

Hon. Dr. F. Khan: If you would permit me, Mr. President, is it possible to read into the records question number 56 where the Member, Fitzgerald Hinds, had asked about the different parts of the Children’s Life Fund, and the contributors, et cetera, et cetera, et cetera? The list of contributors to the Children’s Life Fund so far, as of January 31, 2012, the Government of the Republic of Trinidad and Tobago, as I just said, \$60 million—[*Desk thumping*—Government Ministers, \$1,391,309.50. [*Desk thumping*]

Hon. Senator: Yes! Yes! Excellent!

Hon. Dr. F. Khan: Trinidad and Tobago Consulate General in Toronto, \$15,935.50; Trinidad and Tobago Consulate General of New York, \$31,280.50. [*Desk thumping*] The third: the Ayra Pratinidhi Sabha of Trinidad, \$20,000; the Indian High Commission Women’s Group, \$25,000; the Consular Corps of Trinidad and Tobago, \$100,000; The Society of Tribologists and Lubrication Engineers, \$10,000; The National Energy Corporation, \$150,000; Arya Samaj Foundation of Trinidad and Tobago, \$15,000; the Prime Minister’s Charity Golf Classic, \$75,000. [*Desk thumping*]

May I also pay special mention of Xtatik Limited, \$100,000. [*Desk thumping*] I say, “Thank you Machel”.

Sen. Ramlogan SC: I am “xtatik” about that.

Hon. Dr. F. Khan: Yes. The Greater Tunapuna Chamber of Industry and Commence, \$10,000; A-1 Auto Supplies, \$1,008; Territorial Services Limited, \$1,000; the Christmas Flea Market Committee, \$1,000; Columbus

Oral Answers to Questions
[HON. DR. F. KHAN]

Tuesday, June 04, 2013

Communication, \$15,000; Ramdath Rampersad, \$10,000; Scotiabank, \$15,000; ADM Limited, \$100,000; Bombay Dreams, \$74,060; Mission of Azerbaijan, \$12,200. [*Desk thumping*] Once again, we have the Prime Minister's Charity Golf Classic, another cheque for \$50,000; over the counter deposits of anonymous donators, and we are very glad for that, \$203,757.03, and we have last but not least, Mr. President, Members of the Opposition, \$0.00. [*Desk thumping and laughter*]

Hon. Senator: Ooooooh!

Sen. Ramlogan SC: “Nah! Nah! Nah! Nah! Nah!”

Hon. Dr. F. Khan: We also have, Mr. President, United States contributions: Caribbean Airlines Limited—and I know you gentlemen are very interested in this one—believe it or not, US \$199,975; multiply by 6.3 and you will get—the Bank of Baroda twice, US \$2,000 and US \$5,000; the Rotary Club of Penal, US \$10,000. There is the other one called Al-Razi not Al-Rawi—Al-Razi. Mr. President, could I spell it out so we would not make a mistake? It is A-I-R-a-z-i Mohammed, US \$5,000; over the counter bank deposits, \$718.

Mr. President, they have the names of the beneficiaries which I will not really read out because it would be, as you say, private thing, but it is in the written answer. If the Member would like me to read out the names I would do so.

Sen. Hinds: [*Member gestures no*]

Hon. Dr. F. Khan: Okay. Thank you.

Mr. President: Sen. Hinds.

Sen. Hinds: Thank you very warmly, Mr. President. Would the hon. Minister indicate whether the US \$199,975 donated by Caribbean Airlines Limited was donated when that company began to experience the cash-strapped position that the nation now knows that it is terribly in?

Hon. Senator: New question.

Hon. Senator: “Come nah man!”

Hon. Dr. F. Khan: Mr. President, the Member, Sen. Fitzgerald Hinds, started the House of Representatives in 1995 like myself—[*Interruption*]

Sen. Hinds: Mr. President, let him answer my question.

Hon. Dr. F. Khan:—and he would know that that is another question.

Mr. President: Which I am sure he does.

Hon. Dr. F. Khan: It is unfortunate that he has not carried that experience from the House to the Senate because he should know that is another question, and I would be happy to answer it if he directs that question on the Order Paper, I will give him all his answers. [*Desk thumping*]

Sen. Ramlogan SC: Rein back man, “yuh” rein back.

Sen. Hinds: If you would permit me just to respond since you give him the latitude?

Sen. Ramlogan SC: No! No! No!

Hon. Senator: It is question period.

Mr. President: He was responding to your question, Senator, you can ask another question.

Sen. Hinds: Would the Minister further indicate whether the TT \$100,000 that was donated, as you put it, by Machel Montano might have been—[*Interruption*]

Sen. Singh: Xtatik.

Sen. Hinds: He said Machel Montano.

Sen. Ramlogan SC: Not Machel, the member of Xtatik.

Sen. Hinds: He said, “thank you Machel Montano,” speak the truth.

Hon. Senator: He is thanking the member.

Sen. Hinds: Would the Minister indicate whether that TT \$100,000 donated by Machel Montano—[*Interruption*]

Sen. Singh: Xtatik Limited.

Sen. Hinds:—might have been offset against the \$5 million that this Government gave him for an album we have never seen in commemoration of the 50th anniversary of independence?

Hon. Dr. F. Khan: Mr. President, the supplemental question relates to the \$100,000 by Xtatik; right? I said, “Thank you Machel” not on the Order Paper, I said by Xtatik, so I said, thank you Machel, because I know Machel is associated with, you know, Xtatik.

Sen. Hinds: It is on *Hansard*.

Hon. Dr. F. Khan: Yes, yes, I said it. However, Mr. President, trying to answer such a question that imputes improper motives to people—[*Interruption*]

Sen. Ramlogan SC: Yes!

Hon. Dr. F. Khan:—I “doh” think I should rightly entertain it. [*Desk thumping*]

1.45 p.m.

Mr. President: Sen. Hinds.

Sen. F. Hinds: Thank you very warmly, Mr. President.

Sen. Ramlogan SC: Assassinating the character of the man.

Sen. Hinds: Might I ask the hon. Minister then, he has identified—you have, hon. Minister, identified certain sums coming from the consulates general offices, both in New York and in Toronto; is the Minister able to say whether those were salary deductions from officials there or whether it was funds they raised and contributed to the life fund? [*Crosstalk*]

Hon. Dr. F. Khan: Mr. President, you know what is amazing about this whole question, that people who have not donated a cent [*Crosstalk*] is now asking—the hypocrisy of asking about it. [*Desk thumping*] Whether it was—not one cent, Mr. President, was donated by the Members of the Opposition, but here he is asking about whether salary [*Crosstalk*] deduction took place? That is another question. What he asked for—had he said—I will teach you to write questions—[*Laughter*] had he said, right; [*Desk thumping*] kindly list the contributors and whether they came from salary deductions? Then I would have to answer that. Now you could write the other one like that. [*Laughter*] Can you list whether it came from salary deductions from question number 56?

Sen. Hinds: One final supplemental. The Minister told us that \$60 million of the \$62 million that the fund, he says, has in its purse—he said \$60 million came from the Government and people of the Republic of Trinidad and Tobago. Is the Minister willing to acknowledge that of that \$60 million, every citizen in Trinidad and Tobago contributed to that \$60 million? It is taxpayers’ money.

Hon. Senator: Except you!

Sen. Hinds: Including Members of the Opposition.

Hon. Dr. F. Khan: Mr. President, you know—grasping at straws, caught out with a question that he presented—[*Interruption*]

Sen. Ramlogan SC: Yes.

Hon. Dr. F. Khan:—caught out from behind the wickets in the slips, now tries to put the whole people of Trinidad on the side of the Opposition. Mr. Speaker, the Government of Trinidad—[*Interruption*]

Sen. Beckles: Mr. President.

Hon. Dr. F. Khan:—and Tobago is not the Opposition. At the end of the day that money came from the coffers of the people of—*[Interruption]*

Sen. Hinds: Nonsense!

Hon. Dr. F. Khan:—Trinidad and Tobago, and we are grateful that the people of Trinidad and Tobago can donate to the Children's Life Fund—*[Interruption]*

Sen. Ramlogan SC: Yeah.

Hon. Dr. F. Khan:—for children to get emergency treatment abroad. *[Desk thumping]* However, I would ask the next time—if the Member—when he is asking a question of this nature—even though he goes to the bank and put a dollar inside, then he is a bona fide pensioner.

Sen. Ramlogan SC: Jerry Narace—*[Crosstalk]* *[Desk thumping]*

Hon. Dr. F. Khan: Thank you.

Mr. President: Sen. Al-Rawi.

Sen. Al-Rawi: Further supplemental. *[Crosstalk]*

Sen. Singh: He reach.

Hon. Senator: The leader, boy. The leader!

Sen. Al-Rawi: I bid my colleagues welcome as well. Is the hon. Minister possessed of the list of persons who contributed through the various organizations?

Sen. George: He should have been here.

Sen. Al-Rawi: The subsidiary list.

Hon. Senator: “Yuh should have been here.”

Hon. Dr. F. Khan: I just—well not the—I gave you the overall list.

Sen. Al-Rawi: Thank you.

Hon. Dr. F. Khan: The overall list. *[Crosstalk]* That is the question your Member asked for.

Sen. Al-Rawi: Further supplemental. Is the hon. Minister aware that Members of the Opposition contributed significantly through various organizations listed there? *[Crosstalk]* *[Laughter]*

Sen. Ramlogan SC: Ask him for the details.

Sen. Al-Rawi: I can.

Hon. Dr. F. Khan: Mr. President, I just want to say on that note, right, thank you very much to the Prime Minister starting this Children's Life Fund, and also I will check into it to make sure that the next Leader of the PNM who is here, [Laughter] has donated to the Children's Life Fund [Desk thumping].

Sen. Al-Rawi: Further supplemental. We are all leaders in the PNM. So, thank you.

Hon. Senators: "Awwwhh." [Crosstalk]

Sen. Al-Rawi: But is the hon. Minister in those circumstances prepared to offer an apology in respect to the derogatory remarks levelled at the Opposition thus far?

Sen. Singh: You gave nothing.

Hon. Dr. F. Khan: I made no derogatory remarks. I just answered the question from Sen. Fitzgerald Hinds. [Desk thumping]

Mr. President: Sen. Beckles. [Crosstalk]

Sen. Ramlogan SC: Azerbaijan know more than you all; Azerbaijan.

Sen. Beckles: Thank you kindly and let me just welcome the Minister of Health to the Senate. Hon. Minister of Health, just for clarification, the \$60 million that is donated by the Government; was this an item budgeted for in the last budgetary allocation presented by the Ministry of Finance and the Economy?

Hon. Dr. F. Khan: Yes, it was. I cannot give you the actual line item right now, but it was. [Crosstalk]

Sen. Al-Rawi: Which Ministry? Sorry.

Hon. Dr. F. Khan: Health.

Sen. Al-Rawi: Health. Thank you. [Crosstalk]

Mr. President: Sen. Beckles, we have not dealt with your question.

Sen. Beckles: Yes, thank you kindly, Mr. President.

Food Import Bill (Details of)

44. Sen. Penelope Beckles asked the hon. Minister of Trade, Industry and Investment to indicate to the Senate:

- (i) what was the country's total food import bill per year for the years 2008 to 2012 inclusive; and

- (ii) the first ten items of highest expenditure on the food import bill for the above mentioned years together with the monetary values?

The Minister of Trade, Industry and Investment and Minister in the Ministry of Finance and the Economy (Sen. The Hon. Vasant Bharath): Thank you. In answer to the question; what was the food import bill for the years 2008 to 2012? The following information was obtained from the Central Statistical Office. The food import bills: for 2008 was \$4,224,848,596; for 2009, \$3,813,696,367; 2010, \$3,967,983,648 and for 2011, \$4,719,372,442.

The second part of the question is requiring the first 10 items of highest expenditure for the food import bill—it is quite an extensive list, Mr. President, I will go through 2008 and then consequently each of the others.

Sen. Al-Rawi: Roll it out like the VAT list.

Sen. The Hon. V. Bharath: 2008 for the first 10 products, edible products, and preparations 23,334.83. I will just round them up, Mr. President.

Sugar, molasses, honey, et cetera	98,877
Milk and honey	71,843
Feeding stuff and animal feed	95,651
Vegetables, fresh, dry	109,054
Cereal, flour starch preparations	18,107
Vegetables preserved	81,591
Wheat, unmilled	32,916
Fruit and nuts, fresh, dry	26,177
Fruit juices	29,754
Rice	32,768
Eggs, birds, fresh, dried, et cetera	3,522
2009 corresponding figures:	
Edible products	22,118
Sugar, molasses, honey	188,526
Milk and cream	14,624
Feeding Stuff for animals	92,132

Oral Answers to Questions
[SEN. THE HON. V. BHARATH]

Tuesday, June 04, 2013

Vegetables, fresh, dry	81,419
Vegetables preserved	21,329
Wheat, unmilled	79,296
Fruit and nuts fresh, dry	14,537
Fruit Juices	32,746
For 2010, similar figures:	
Edible products and preparations	20,286
Sugar, molasses, honey, et cetera	99,118
Milk and cream	15,533
Feeding Stuff for animals	55,131
Other meat, fresh, chilled	46,817
Vegetables, fresh dry	70,263
Cereal, Flour Starch preparations	15,465
Vegetables preserved	20,721
Wheat, unmilled	67,200
Fruit and nuts fresh, dry	25,601
Fruit Juices	10,027
Eggs, birds, fresh, dried, et cetera	2,996
For 2011:	
Edible products and preparations	18,515
Sugar, molasses, honey	106,128
Milk and cream	18,172
Feeding Stuff for animals	90,016
Other meat, fresh, chilled	83,075
Vegetables, fresh, dry	61,083
Cereal, flour starch preparations	23,700
Vegetables preserved	24,758

Wheat, unmilled	56,173
Fruit and nuts, fresh, dry	17,292
Maize, unmilled	53,397
Fruit Juices	12,760
Eggs, birds, fresh, dried, et cetera	3,312

What is important here, Mr. President, is that out of those 10 items we have seen a reduction in eight of them across the four-year period. In fact, for edible products and preparations, although the actual dollar value has actually increased over—the total dollar value has increased—the actual amount in weight, in terms of kilograms, has actually decreased in eight out of those 10 items. I will just list them for you:

Edible products and preparations, gone down by 22 per cent; milk and cream, gone down by 74 per cent. [*Desk thumping*] Feeding stuff for animals, gone down by 5.8 per cent. [*Desk thumping*] Vegetables, Mr. President, which is, of course, something we have had perennial problems in the past with, have gone down by 43.9 per cent. [*Desk thumping*].

Hon. Senator: Woooo! [*Desk thumping*]

Sen. The Hon. V. Bharath: Preserved vegetables— [*Interruption*]

Sen. Singh: Vegetarians eating well.

Sen. The Hon. V. Bharath:—have actually gone down from 81,000 kilograms to 24,000 kilograms, a decrease of 70 per cent, Mr. President. [*Desk thumping*] Fruits and nuts [*Crosstalk*] fresh, dry have gone down by 33.9 per cent. Fruit juices— [*Interruption*]

Sen. George: Aha.

Sen. The Hon. V. Bharath:—has gone down by 57 per cent.

Hon. Senator: Woooo! [*Desk thumping*]

Sen. The Hon. V. Bharath: And eggs—importation of eggs—have gone down by 9 per cent.

So, Mr. President, essentially what these figures reflect is that the policies that have been put in place by the People's Partnership as far as agriculture is concerned— [*Interruption*]

Hon. Senator: Yeah.

Sen. The Hon. V. Bharath:—are working effectively. [*Desk thumping*] We have been able to reduce the amount of imported products that we are actually bringing into the country, although, of course, we are still at the vagaries of international pricing. Of course, we will continue under the auspices of the Minister of Food Production—[*Interruption*]

Sen. Ramlogan SC: Yeah, man. Well done!

Sen. The Hon. V. Bharath:—to ensure that we provide further food security for this country. Thank you very much.

Mr. President: Sen. Beckles.

Sen. Beckles: Okay, hon. Minister, you are saying that by weight we have had a decrease, okay, but the figures suggest that the—[*Interruption*]

Sen. Hinds: The dollar value.

Sen. Beckles:—dollar value has continued to increase over the last couple years. In terms of the items over the last five years, have you noticed any particular trend in relation to probably the first three items? Is it more or less the same? I am talking about now in terms of dollar value, the items that we import the most. Have you realized any trend in that?

Sen. The Hon. V. Bharath: According to the information here the dollar value has actually increased, but the quantities that we have imported have actually decreased which really, as I said earlier on, is indicative of what happened on world markets in that period of time where commodity prices actually went up, and we were, of course, subject to paying those prices.

Sen. Beckles: Okay. So that my question really is it that—we know that in a lot of instances a lot of products actually have not been available to a number of third world countries. Now you are attributing it to policies, so are you not also admitting that a lot of products actually have not been available to Trinidad and Tobago as well?

Sen. The Hon. V. Bharath: I am not aware of any products that were not available to Trinidad and Tobago over the last—for the period 2008—2011.

Sen. Al-Rawi: Further supplemental.

Mr. President: Sen. Al-Rawi.

Sen. Al-Rawi: Thank you, hon. Minister for the information. Hon. Minister, are you able to assist us as to whether in relation to these figures, VAT was a matter which was attracted and attached to the figures from 2008 to 2011 inclusive?

Sen. The Hon. V. Bharath: There would have been some items here that would have attracted VAT up until the removal of VAT on these items last year. So that there would have been some VAT on some of these items.

Sen. Al-Rawi: Further supplemental. Perhaps, Minister, you may not be in a position to do so, is Minister at all available—sorry—able to speak to the quantum or percentage that VAT would have comprised of these particular figures? [*Crosstalk*] I do not know if your figures were disaggregated that way? [*Crosstalk*]

Sen. The Hon. V. Bharath: Well, clearly on the items that attracted VAT the percentage would have been 15 per cent.

Sen. Al-Rawi: What of the overall bill?

Sen. The Hon. V. Bharath: No. I am not able to tell you that information off the bat. No.

Sen. Al-Rawi: Is the hon. Minister able to speak to any of the trends, perhaps and this is I know pushing beyond the limits, perhaps. I do not know if the Minister is aware of what the current bill in respect of 2012 looks like in terms of a trajectory or tendency?

2.00 p.m.

Sen. The Hon. V. Bharath: Unfortunately the CSO has not been able to provide those figures at this point in time.

Sen. Hinds: Further supplemental, Mr. President. Would the hon. Minister indicate whether in light of the quantum reductions you have described today, whether the Government has seen any discernible improvement in local production and consumption?

Sen. Singh: He said the answer already.

Sen. Ramlogan SC: Repeat it! Repeat the answer.

Sen. The Hon. V. Bharath: I would expect we are not eating less, because if we are actually importing less I presume we would be producing more in Trinidad and Tobago. [*Crosstalk*]

Sen. Al-Rawi: Further supplemental, Mr. President. Is the hon. Minister—perhaps in your previous incarnation but insofar as trade may dovetail with food production—able to assist us with the percentage contribution, if any, in respect of large farms or mega farms as they existed in 2008 come forward?

Sen. The Hon. V. Bharath: That is a question, hon. Senator, that would be better placed and asked through the Minister of Food Production. [*Crosstalk*]

Sen. Hinds: Further supplemental. Hon. Minister, in light of the fact that consumers around Trinidad and Tobago continue to indicate and even to complain that prices, food prices continue to rise, is the Minister able to say whether the figures you have demonstrated today have reflected any reduction in prices for the benefit of the consumers locally?

Sen. The Hon. V. Bharath: Maybe you have not read this week's report from the Central Bank that indicates—[*Interruption*]

Sen. Hinds: No, you tell us.

Sen. The Hon. V. Bharath:—that food price inflation is at its lowest for over 12 months. [*Desk thumping*]

Mr. President: Sen. Hinds.

Sen. Hinds: And in light of that, therefore, if the public is expressing the sentiments—up to this morning I heard elements of the public on talk radio saying, prices continue to rise. [*Crosstalk*] How does the Minister explain that? [*Laughter*]

Sen. The Hon. V. Bharath: I just want to remind the hon. Senator that when this Government came into office in 2010, the inflation rate in Trinidad and Tobago was 16 per cent; today it is at 5.5 per cent.

Sen. Ramlogan SC: “Yeah, yeah”. [*Desk thumping*]

Sen. Al-Rawi: Further supplemental. Arising out of that last response, is the hon. Minister able to say—[*Laughs*]—able to assist us as to the difference in climate at that time, is the level of trade in this country coming at 16 per cent in 2010 the same as it is in 2012? [*Crosstalk*]

Sen. The Hon. V. Bharath: Yes, I can. Prior to May 24, 2010, we had a very unstable political environment in Trinidad and therefore the unstable economic environment which led [*Desk thumping*] of course, to the 16 per cent inflation rate and other deleterious factors. [*Laughter*]

Sen. Al-Rawi: Was the construction sector a factor in that position relative to percentages?

Sen. The Hon. V. Bharath: What we can say is that a number of contractors were owed hundreds of millions of dollars when we came into office. There was work that was done that was never paid for under the—[*Interruption*]

Sen. Ramlogan SC: Under the PNM.

Sen. The Hon. V. Bharath:—previous regime which this Government has now cleaned up the mess with. [*Desk thumping*]

Sen. Al-Rawi: Further supplemental, Mr. President. Is the hon. Minister able to tell us whether there was any adjustment in respect of the CSO numbers arising out of the recent retooling of that organization with respect to the figures coming from 2008—2011 inclusive?

Sen. The Hon. V. Bharath: I am not aware of any retooling or any rejigging of any figures, but I am sure that Dr. Tewarie, if posed the question, would be in a better position to answer that. [*Desk thumping*]

Sen. Hinds: For my own part, finally, hon. Minister, is the Minister willing to indicate whether the reduced inflation figure as recently described might have anything to do with an economy that is generally sluggish and has reflected very little growth over the last two or three years?

Sen. The Hon. V. Bharath: I want to remind the hon. Minister again that when this Government came into office, for the first time this country had suffered negative growth for 17 years. [*Desk thumping*] We are the ones who picked up the slack. In fact, according to the latest Central Bank figures, it is projected that growth would be 2½ per cent for 2013; which means, Mr. President, that essentially we would have come from a negative position of 3½ per cent to a positive position of 2½ per cent, a growth of 6 per cent in the last three years. [*Desk thumping*]

Sen. Dr. Henry: Hon. Minister, it is very painful to hear you repeat such absolute rubbish about growth rates. [*Crosstalk*]

Mr. President: You will have to withdraw that remark.

Sen. Dr. Henry: Sorry, erroneous figures, because—[*Interruption*]

Sen. Ramlogan SC: Withdraw that! Withdraw that! [*Crosstalk*]

Sen. Dr. Henry: Erroneous, erroneous.

[*Sen. Dr. Henry sits*]

Sen. Ramlogan SC: You do not have to withdraw, you know; you have to withdraw what you said.

Sen. Dr. Henry: Shh, shh, shh, why is the Minister continuing to say a projection as though it is an acknowledged fact? It is only a projection! Why do you insist on doing that about the economy? [*Desk thumping*]

Sen. The Hon. V. Bharath: Simply because the Governor of the Central Bank has made those projections, and until they are disproved, we have no other reason to believe otherwise.

Hon. Senator: Thank you.

Sen. Al-Rawi: Further supplemental. Is the hon. Minister saying that the projections which were calculated for every year from 2010 come forward in fact were met, as pronounced by the Governor of the Central Bank as well?

Sen. Hinds: Good question. [*Desk thumping*]

Sen. The Hon. V. Bharath: I am suggesting to you that the current projections at the Central Bank are based on hard evidence that there are significant investments coming into the country, there is significant economic activity taking place, more and more people are finding employment and, as I said, we have every reason to believe those figures are in fact reasonable. [*Desk thumping*]

Sen. Al-Rawi: Further supplemental. Arising out of your response, hon. Minister, are you able to tell us whether the past three years of projections were met? That is not a new question, my dear.

Sen. Hinds: Come on, answer the question.

Sen. The Hon. V. Bharath: I am not in a position, at this point in time I do not have those figures.

Sen. Ramlogan SC: Were they ever met under the PNM? Did you ever check that Vasant?

STATEMENTS BY MINISTERS

World Environment Day

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Mr. President, we join with the rest of the world in observing World Environment Day, tomorrow, June 05, 2013.

It is possibly the biggest and most widely celebrated global day for positive environmental action. [*Interruption*] It is a reminder to us all to treat our planet better and lighten our carbon footprint. Climate change is a threat to everyone. But without action, the brunt of the impact would be felt by the poor and vulnerable people in developing countries. With little capacity to cope, many more would become malnourished and in some circumstances struggle to find water, and even be displaced. This highlights just how intertwined the tasks of addressing climate change, reducing global poverty, and reaching the millennium development goals are.

This annual event is one of the main vehicles through which the United Nations stimulates worldwide awareness of the environment and encourages political attention and action. The theme for this year's World Environment Day is: "Think, Eat, Save. Reduce Your Footprint," which is aimed at slashing food waste. This is an opportunity to highlight the need for change towards a more sustainable world, while underscoring the need for every individual to play their part in keeping humankind's ecological footprint and foodprint within limits, even in our own basic and mundane daily activities.

Mr. President, a new sustainable development path is essential in the face of environmental issues. Tackling this challenge head-on means doing more than intervening in traditional environmental sectors; it requires investments in developing capacity to run cleaner economies. It requires action on governance, such as ensuring that local decision-makers have the knowledge and tools they need to make sustainable policy and investment decisions. Environmental considerations need to be built into the core of all developmental planning if we are to have a sustainable future.

Today's occasion also provides us with a chance to reflect on our actions and practices over the past year and to assess whether we have been able to integrate into our lives the concept of sustainable management of the environment for a healthier and more fulfilling life. This sustainability entails providing opportunities for all, by balancing the social, economic and environmental dimensions of the country's development.

This year's observation of World Environment Day is of great significance as it encourages us all to become more aware of the environmental impact of the food choices we make and encourages us to make informed decisions. The message is not just for the environmentalists, but it is aimed at encouraging every citizen to reduce their footprint by becoming more aware of the environmental impact of food waste and loss across the food supply chain.

Mr. President, buying local as opposed to buying imported goods saves resources which would have been expended in the transportation of food over vast distances. In this regard I am happy to note that data from the CSO shows that for the first quarter of 2013, food price inflation fell to single digits, reaching 9.4 per cent in April 2013. This significant fall in food prices is as a result of strategic policy initiatives undertaken by the Ministry of Food Production which has resulted in a 2.6 per cent growth in the agricultural sector. Like my colleague, Minister Bharath, I would like to also lend my congratulations to my colleague, the hon. Minister of Food Production, Minister Devant Maharaj. [*Desk thumping*]

World Environment Day
[SEN. THE HON. G. SINGH]

Tuesday, June 04, 2013

Small island states like Trinidad and Tobago are particularly vulnerable to biodiversity threats, ecosystem pressures, pollution and global warming, all of which can affect not only our food security but our entire natural resources. In the short time since the Ministry of the Environment and Water Resources has been established we have encountered some of the challenges that plague our twin-island republic and affect the general well-being of our environment.

Unregulated pollution of our air and water, indiscriminate dumping of waste including beverage containers and tyres, illegal hunting, poor agricultural practices and unregulated quarrying are but some of these challenges. As Minister with the responsibility for the environment, I am particularly committed to the preservation of our environment. As Minister, I take guidance from a quotation from President Theodore Roosevelt, who stated and I quote:

“Here is your Country. Cherish the natural wonders, cherish the natural resources, cherish the history and romance as a sacred heritage, for your children and your children’s children. Do not let selfish men or greedy interests skin your Country of its beauty, its riches or its romance.”

As part of this Government’s mandate, we recognize that the environment in all its dimensions is an issue that encompasses all ministries and every strata of society. The divisions and agencies under my Ministry are engaging in a comprehensive work programme aimed at putting measures in place to protect, conserve and sustainably use our natural resources.

Over the last year my Ministry has sought to promote rational and sustainable management of our forest areas, to preserve their important role in food supply and their provision of other locally important products and benefits. This particular resource forges perhaps the strongest link to this year’s World Environment Day theme.

The role forests play in providing food should not be underestimated. Forested areas, mangroves, streams and agricultural areas within the forest provide a habitat for many food resources. For example, forests maintain suitable conditions for fresh water fish by helping to reduce the sediment in streams. Mangrove forests also provide possibly the most direct and essential connection between life in the oceans and life on land. Mangroves also harbour large quantities of fish, shrimp, oysters and crab which make up our local diet.

To this end we have undertaken to protect our forest resources through initiatives to establish new plantations consisting mainly of pine and mixed species, increasing fire patrols and creating additional external fire traces,

continuing the monitoring of the sawmilling and woodworking industry, conducting wetland inventory studies, upgrading park facilities, constructing new check dams and maintaining existing ones, upgrading forest access roads, maintaining and upgrading the registered farmers database.

In fact, approximately 151 hectares of forest have been replanted in the north-central, south-east, south-central, south-west and north-east conservancies, with an additional 20 hectares being currently replanted in the denuded Northern Range. In an effort to improve the management of our forest resources, the Ministry is also pursuing institutional change through a collaborative approach, the development of the enabling legislation necessary for the implementation of the forest policy and protected areas policy including the establishment of the Forest and Protected Areas Management Authority.

Mr. President, my Ministry also recognizes the importance of our marine resources and ecosystems and through the Institute of Marine Affairs has also undertaken efforts to protect these areas, through several programmes and research. Some of these include:

- The Caribbean Coastal Monitoring Productivity Programme aimed at establishing and maintaining an ecological database, which will serve as a management tool for the wetlands, seagrass beds and coral reef ecosystems specifically in Buccoo Reef and Bon Accord Lagoon in Tobago;
- Coral reef monitoring aimed at characterizing the distribution, cover and abundance of reef organisms within the study areas, understand their population dynamics and detect spatial and temporal changes in reef composition and live cover;
- Assessment of reef fish communities aimed at providing an important reef fish baseline that will enable subsequent investigation of temporal changes in fish communities;
- Monitoring of the coastal wetlands and sea-grass beds of Trinidad and Tobago, mangrove monitoring aimed at mapping and establishing a long-term monitoring programme for coastal wetlands around Trinidad and Tobago; and the
- Development of coastal vulnerability indices aimed at determining coastal erosion rates and stability trends for the coastal areas and to develop erosion and sea level rise vulnerability index maps for these areas.

It is hoped that these programmes will foster better appreciation and management of our valuable marine resources by giving baseline information and systems protection.

World Environment Day
[SEN. THE HON. G. SINGH]

Tuesday, June 04, 2013

2.15 p.m.

Mr. President, given the increasing urgency of addressing global climate change including its causes and impacts, the Ministry is committed to playing its part as a responsible member of the global community, by continuing efforts geared towards pursuing policy and initiatives to reduce emissions of greenhouse gases and its contribution to global warming and climate change through the increased use of new and innovative technologies that have lower levels of emissions; encouraging the use of clean energy technology such as natural gas technology and clean production technology; encouraging the use of renewable energies that have zero emissions; and, adopting more energy-efficient technologies and practices.

To this end, the Ministry is undertaking a project to “Green the Bus Route” making it a more energy efficient transportation pathway. The “Greening” will entail the introduction of solar lighting along the route, together with solar traffic lights, electric buses and the retrofitting of PTSC buses and red band maxi-taxis with compressed natural gas engines. This is certainly an innovation in the way we move from place to place.

Pollution is another area of major concern for this Ministry. The country’s industrialization thrust continues to impinge significantly on the nation’s environment. The discharge of effluents from our industries, the improper disposal of all refuse and waste are degrading the nation’s rivers and streams. Air pollution is a major environmental problem as it occurs in most areas of Trinidad and Tobago, especially in the more densely populated communities.

To address this, the Ministry through its regulatory arm, the EMA, has continued to issue registration certificates and water pollution permits under the water pollution rules with a view to better monitoring effluent discharge into the waterways. The ultimate objective of this piece of legislation is to protect the integrity of the country’s supply of drinking water and our water resources.

The EMA has also begun to review its legislation with the aim of ensuring more efficient and effective enforcement. New legislation is also being finalized; the development of ambient water quality standards for Trinidad and Tobago, the air quality rules and solid waste rules. The issue of pollution through solid waste disposal is one which requires critical attention.

My Ministry has taken the bold step, after many years in abeyance, to finalize the Beverage Container Bill. This legislation which is currently being debated in this honourable Senate and for which regulations are being finalized, is intended to put in place a deposit refund system to treat with this waste stream. This will by

extension stimulate many downstream waste industries. The indiscriminate dumping of solid waste can also lead to flooding, which causes negative effect on both the human life and the environment.

Mr. President, there is need for a new paradigm shift in environmental policy and management thinking. Research is a critical cornerstone to sound environmental practices and management. In this regard I have commissioned the start of a National Environmental Risk Assessment Study and the Development of Protocols. I have also mandated the commissioning of baseline studies.

The Water and Sewerage Authority is also seeking to improve water and wastewater services to the population through the continuous development of infrastructure including the refurbishment of several wastewater treatment plants with the utilization of the largest ever IADB loan of US \$546.5 million to build new sewer plants in Malabar and San Fernando.

In addition, the Ministry is also actively engaged in a project to reduce and phase out the use of hydrochlorofluorocarbons (HCFCs), methyl bromide, and other ozone depleting substances which pollute our air. I am pleased to note that my Ministry, through the Drainage Division, has completed 30 projects under the flood mitigation programme. We are also conducting an upgrade of the drainage channels throughout Trinidad and Tobago. We are currently engaging the IADB, as I speak, for funding to alleviate the perennial flooding problem in Port of Spain.

These I have outlined are but a few of the initiatives my Ministry and the Government are undertaking, but without a doubt, the changes we desire to see for our concern of the planet and our country's environment begins not only with actions of the Government but with the response of each individual and the decisions we all make about how we would treat with our natural environment:—

- Choices to practice good agricultural methods;
- Stop illegal hunting, stop deforestation;
- Properly dispose of garbage;
- Not to dump wastes in watercourses;
- To conserve water;
- To maintain our cars and limit pollutants;
- To carpool;
- To become watchdogs at our businesses;
- To encourage good environment practices;
- To conserve energy;
- To become innovators of alternative environmentally friendly technologies and the like.

World Environment Day
[SEN. THE HON. G. SINGH]

Tuesday, June 04, 2013

Occasions such as World Environment Day present us with an excellent opportunity to educate, to reason together and to explore the options and the practical solutions available to us that allow us to live in harmony with our natural environment.

I urge all institutions, businesses and all members of society to use this day to become more informed and to take personal responsibility for their actions in respect of the preservation, conservation and wise use of our environment, whether it be through our procurement procedures in small, medium and big businesses, refining of industrial or manufacturing processes, or a simple choice at the supermarket, the power to make a difference lies in your hands.

I conclude with a quotation from Pope John Paul II:

“The earth will not continue to offer its harvest, except with faithful stewardship. We cannot say we love the land and then take steps to destroy it for use by future generations.”

In this light, I encourage each and every one of our citizens to make sound environmentally conscious choices as our decisions of today will chart the course of our future and the future of generations to come.

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

Petrotrin
(State of)

The Minister of Energy and Energy Affairs (Sen. The Hon. Kevin Ramnarine): Thank you very much, Mr. President. Mr. President, before I begin I would like to say that this contribution will exceed the conventional 15 minutes allocated for Statements by Ministers, and I beg the indulgence of our colleagues here in the Chamber today. I think it is a very important statement. The statement has to do with a status on the Petroleum Company of Trinidad and Tobago (Petrotrin).

Mr. President, Petrotrin is very important to the national economy, given the span and integrated nature of its operations. In summary the company has almost 409,000 acres under its direct control in both its land and marine assets. In its land and Trinmar operations, for fiscal 2012, a total of 2,216 wells were on production of which 1,886 wells are on land and 330 are in the marine area. It is involved in 24 joint ventures and it is one of this country's largest employers with 4,300 permanent employees and 1,200 temporary workers on its payroll. The company also supports a pensioner base inclusive of spouses and beneficiaries of 5,400 people.

For the financial year 2011/2012, the company's gross revenue was TT \$37.6 billion. In fiscal 2012, Petrotrin contributed TT \$5.1 billion in terms of Government revenue by way of taxes and royalty.

Mr. President, in the interest of time, I will truncate what I have written here. Petrotrin also operates the only refinery in Trinidad and Tobago and that refinery has a throughput capacity of 168,000 barrels of oil per day. The diet of that refinery is supplied 40 per cent from local crude oil and 60 per cent from imported crude oil. However, Mr. President, given the current national thrust in exploration and production activity aimed at increasing local crude oil production, local crude supply to the Petrotrin refinery is expected to increase.

Mr. President, in 2003 Petrotrin embarked on a Gasoline Optimization Programme (GOP). The GOP was embarked upon in response to changes facing the refinery with respect to ageing units and tightening product specifications due to the international trend towards cleaner fuels. The GOP or Gasoline Optimization Programme consisted of five projects. These are:

1. The installation of a new Isomerization Complex. This project is completed and in commercial operation. The contractor here was Fluor Daniel.
2. Installation of a new Continuous Catalytic Regeneration Platformer Complex. The project is currently in commercial operation and the contractor in that case was Samsung.
3. The installation of a new Sulphuric Acid Alkylation Unit. Units are currently mechanically complete and in the commissioning phase. The contractor for this project was Techint.
4. The upgrade of the Fluidized Catalytic Cracking Unit (FCCU) commonly referred to as the cat cracker. This is currently in commercial production. The contractor for this project was Chicago Bridge and Iron.

And finally,

5. The Utilities and Offsite for all the new and upgraded plants—the contractor for this project was Bechtel. These facilities are currently in production.

Therefore, we see that the GOP is coming to an end and I will give some detail on the financial status of the GOP. The GOP, Mr. President, upon completion is expected to increase the refinery's finished gasoline production by approximately

Petrotrin

Tuesday, June 04, 2013

[SEN. THE HON. K. RAMNARINE]

10,000 barrels per day and increase its refined products margin by approximately US \$1.40 per barrel. The economics of refining oil is based on the refinery margin. The refinery margin is the difference between the wholesale value of the products a refinery produces and the value of the crude oil from which they are refined.

The initial estimate for the GOP or Gasoline Optimization Programme in 2003 as provided by the licensor UOP, was US \$350 million. In 2005, the Project Manager, Bechtel, provided an estimate of US \$650 million. The final cost of the project is now estimated at US \$1.435 billion as at April 2013. This is not inclusive of financing charges consisting of loan fees, interest and withholding taxes which have so far amounted to US \$529.1 million.

The main funding for the GOP was sourced from a US \$750 million bond issue of May 2007 being amortized to 2022 and US \$550 million out of a US \$850 million bond issue of August 2009, the full face value of which is due in a one-time bullet payment in 2019. Approximately US \$180 million is being funded from internally generated funds. These bonds are currently being serviced by Petrotrin. They have greatly contributed to the debt that the company now carries on its books. The question we must answer is how and why did the GOP go from US \$350 million to US \$650 million and finally to US \$1.435 billion? A significant cost escalation.

Mr. President, at the heart of the problems with the GOP's cost escalation is the procurement strategy adopted by the then Malcolm Jones led Petrotrin board as it related to the project management consultancy and engineering procurement construction and management services for the GOP (Gasoline Optimization Programme). Both the construction and project management contracts were awarded on a cost reimbursable basis with a 10 per cent added fee on the latter. These missteps have cost the company, and by extension the country, dearly. The overall result as a result of these cost overruns as it relates to project economics is a collapse in the anticipated internal rate of return for the project from 24.7 per cent to less than 8 per cent.

Mr. President, with regard to procurement, Bechtel was awarded a contract for project management consultancy services for the Isomerisation Complex in January 2005. That is one of the five projects in the GOP. However, a second contract was awarded to Bechtel in October 2005 for the rest of the GOP. This is the entire project management consultancy now for the GOP. Bechtel was also awarded the contract for the EPCM (Engineering Procurement Construction and Management) for the utilities and offsite project. Again, one of the five projects.

Petrotrin

Tuesday, June 04, 2013

2.30 p.m.

This essentially meant, Mr. President, that Bechtel was supervising Bechtel in the critical utilities and offsite project. The arrangement, Mr. President, was confusing, impractical and fraught with obvious challenges since the EPCM (Bechtel)—that is the Engineering Procurement, Construction Management (Bechtel)—had to be directed, controlled and managed by the PMC (Bechtel), the Project Management Consultant (Bechtel). This situation created conflicts of interest and confusion even amongst Bechtel’s personnel in the separation of their roles and responsibilities as project management consultant and EPCM contractor. This strategically unworkable arrangement led to inevitable delays and cost overruns.

The contract, Mr. President, for both Project Management Consultancy services and EPCM services for the utilities and offsite project, was not adequately staffed with experienced personnel by Bechtel. In particular, for the EPCM services, the contract, Mr. President, provided for the utilization of Bechtel’s local affiliate, a company known as ABT Engineers & Constructors Limited.

Hon. Senator: ABT?

Sen. The Hon. K. Ramnarine: ABT. This is a company, Mr. President, that features prominently in the GOP story.

Hon. Senator: “Who behind dat?”

Sen. The Hon. K. Ramnarine: By the time the Government had changed, Mr. President, in May 2010, elements of the GOP were out of control and suffering from cost escalation and schedule slippage. Both the Project Management Consultancy and EPCM contracts held by Bechtel and ABT were eventually terminated. The Project Management Consultancy for the entire GOP was terminated in October 2010 and the EPCM for the utilities and offsite was terminated in March 2011. Petrotrin took over—*[Interruption]*

Sen. Al-Rawi: Point of order.

Hon. Senator: What is the point of order?

Sen. Al-Rawi: I am not quite confident that this material is not before a court of law right now. I have been patient. I attempted to, very politely, ask my learned colleague, but he is going into great detail on matters that I am aware are before the court, so I am somewhat surprised.

Hon. Senator: “He not giving details, man.”

Sen. The Hon. K. Ramnarine: Mr. President, these are facts. These are historical facts.

Sen. Al-Rawi: Mr. President, I do not know if you heard the contribution, because I noticed that you were engaged—*[Interruption]*

Hon. Senator: He heard, “man”. Do not assume that.

Sen. Al-Rawi:—in reflecting on something else.

Hon. Senator: “You alone listening?”

Sen. Al-Rawi: But, Mr. President, what I am saying is, under 35(2), that the particular position is referenced in a pejorative sense to matters given some time ago in the course of this statement, which are, in fact, in court.

Sen. Singh: He made—impute nothing improper!

Sen. Al-Rawi: Mr. President, the record may reveal that. I do not know if you wish to have a look at it.

Mr. President: Despite what you think, I was listening, Sen. Al-Rawi. *[Desk thumping]*

Sen. Al-Rawi: Sorry. Thank you.

Mr. President: What I was doing was, in fact, taking notes of what he was saying, what I thought were pertinent notes. But I do have to bring to the Minister’s attention that we may not say things which are prejudicial to a matter which is actually before the court. It has nothing to do with imputing motives, or otherwise, to people, but if what—and I am not going to venture into the path of saying whether it is prejudicial or not; I am going to leave it to your discretion. I am saying to you that 35(2) says that we may not—and if I may say it—prejudice the interest of parties thereto by making observations in a statement here.

Hon. Senator: He made no observation.

Mr. President: I will leave it to your discretion but that is the order in question and I am not in a position to say whether those issues are prejudicial or not. But I want you to be aware of it. Thank you.

Sen. The Hon. K. Ramnarine: Thank you very much, Mr. President, for your guidance. The information being presented is purely factual and historical.

Hon. Senator: No opinion.

Sen. The Hon. K. Ramnarine: No opinion is being ventured. *[Desk thumping]*

Hon. Senator: The attorney on the other side should know better.

Sen. The Hon. K. Ramnarine: Mr. President, Petrotrin took over the utilities and offsite works and took over therefore, the handover risks associated with the gaps in the EPCM services that were provided.

Mr. President, with regard to the FCCU—the Fluidized Catalytic Cracker Upgrade—in 2006 Chicago Bridge & Iron, (CB&I), was awarded a contract for engineering construction, management, commissioning and start-up activities of the cat cracker at a contract price of \$137.6 million, which comprised of a lump sum of US \$52.2 million, an estimated US \$84.7 million cost reimbursable component and US \$0.7 million in incentives for cost and schedule achievement. This hybrid contract was effectively a cost reimbursable contract again.

Petrotrin, by adopting the cost reimbursable contract strategy, effectively transferred the risk from the contractor to themselves. Petrotrin, therefore, took the market risk for the cost of material and labour. Market prices continued to escalate throughout the duration of the project. Additionally, contractors were unwilling to enter into incentive schemes to control costs and manage schedules. The cost-reimbursable contract strategy effectively caused the project to be out of control very early in its life.

Again, it should be noted, Mr. President, that the project manager for this project—this is the cat cracker project—was Bechtel and ABT. The performance of Chicago Bridge & Iron on this project did not meet the expectations of Petrotrin and the project, of course, suffered from cost escalation and delays. The strategy of having a cost-reimbursable contract did not, therefore, provide an incentive for efficiency by the contractors.

At the time the cat cracker was shut down in April 2011, Mr. President, the agreed duration for mechanical works was 82 days. One hundred and fifty-five days later, October 08, 2011, mechanical works were still in progress and not close to completion.

Petrotrin, therefore, took the responsible decision of accepting mechanical completion on October 08, 2011. This strategic decision ended Chicago Bridge & Iron's presence on the plant. Petrotrin, therefore, assumed full responsibility for completing the cat cracker project.

The extent of work left incomplete when CB&I was released in October 2011 further set back the project. Petrotrin had to address the following deficiencies after the release of CB&I:

Petrotrin
[SEN. THE HON. K. RAMNARINE]

Tuesday, June 04, 2013

- poor engineering designs;
- incomplete engineering procurement and construction;
- operations and maintenance issues.

A Petrotrin team was appointed to complete the following plants and facilities simultaneously:

- utilities and offsite project, which included new water treatment facilities and new boilers;
- the cat cracker and gas concentration units;
- the acid/alky plant.

This team took over the responsibilities for which Bechtel and CB&I were contracted and subsequently dismissed. This, Mr. President, is a legacy of what was inherited.

During the commissioning phase of the cat cracker, Mr. President, Petrotrin continued to discover deficiencies in design, procurement and construction. These deficiencies could have been identified during the pre-commissioning phase when equipment and systems were being put into service using approved procedures based on pre-determined start-up processes.

After resolving these pre-commissioning issues and having a reliable steam supply—and water is very critical to the operation of the refinery—hydrocarbon feed, Mr. President, or vacuum gas oil (VGO) was introduced into the cat cracker on April 17, 2013. Since then, Mr. President, a few operational and process issues have emerged on the unit requiring attention by in-house staff and/or vendor representatives. Notwithstanding these challenges, the unit—that is the cat cracker—has been on line at a reduced throughput for the month of May, without interruption. Increased throughput will occur when the new acid and alkylation units are brought on production. Petrotrin, Mr. President, continues to closely monitor the performance of the cat cracker and we do so always in the context of safety.

The contracting strategies employed by Petrotrin, inter alia a cost reimbursable contract for the Continuous Catalytic Reformer, the acid/alky plant, the cat cracker and the utilities and offsite and contracting Bechtel for both project management consultancy and EPCM works on the same project, Mr. President, are best described as ill-advised and drove Petrotrin into a serious predicament from which they are still recovering. In fact, the reality is that in the last three years, Mr. President—the last three years have been an exercise in stabilizing a company that was almost run into the ground by its previous leadership.

Petrotrin

Tuesday, June 04, 2013

Mr. President, in an article in the *Newsday* of October 29, 2009 by Richardson Dhalai, it was reported that the then President of Petrotrin, Mr. Kenneth Allum, admitted that the GOP was not properly scoped. Concerns with cost overruns at Petrotrin's—

Sen. Al-Rawi: 35(2), Mr. President.

Hon. Senator: He is reading a newspaper report that was carried—

Sen. Al-Rawi: You cannot read a report and run afoul of the rules. You know that.

Mr. President: Did you say 35, what?

Sen. Al-Rawi: Two, Mr. President. Sub judice, Mr. President.

Mr. President: I do not think that what the Minister said is prejudicial to the parties in the matter.

Sen. Al-Rawi: Sorry, Mr. President.

Mr. President: I will hear you.

Sen. Al-Rawi: Mr. President, much obliged. I am, one way or the other, not concerned other than obeying the rule. Mr. President, I rose on the point of order simply on the basis of reflections of the type given through a newspaper article, albeit not the learned Minister's words. Say, for instance, as the Minister just said, that it ran it to the ground, there are other statements that are being made, Mr. President, which draw conclusions on the record of *Hansard*, Mr. President.

Hon. Senator: Do not defend the indefensible.

Sen. Al-Rawi: Those are things to be dealt with in a court of law, Mr. President. It is for that reason that I ask for your consideration on the position. I will be guided by your ruling, of course.

Mr. President: I certainly have not heard anything prejudicial to the parties in any matter that is ongoing.

Hon. Senator: Another one of your clients?

Sen. The Hon. K. Ramnarine: Mr. President, thank you again. Mr. President, concerns with the cost overruns at Petrotrin for these projects were also highlighted by the Member of Parliament for Diego Martin West—[*Interruption*]

Hon. Senator: Who is that?

Sen. The Hon. K. Ramnarine:—now Leader of the Opposition, in his contribution to the 2009/2010 budget debate.

Mr. President, in my capacity as the line Minister for Petrotrin, I intend to instruct the Board of Directors very shortly to commission what is called a post investment appraisal analysis of this project. The key objective of this appraisal, Mr. President, is to generate lessons learnt that would prevent the company from repeating these mistakes. This report, Mr. President, will be submitted to the standing committee on energy and eventually to the Cabinet, when completed.

Mr. President, in the interest of time, I will skip very quickly through the gas to liquids project. I know there are other debates that are coming up shortly where we will spend more time on the gas to liquids project, but I would add what has already been added numerous times in the public domain, that this project, of course, has left Petrotrin with a bill of almost \$2.7 billion and to this day, of course, the project now is in receivership, and Members in this Senate had expressed serious concern about that project in 2009, specifically, our former colleague, Sen. Basharat Ali.

Mr. President, I turn now to the Petrotrin headquarters because a lot is spoken about the GOP and the GTL. Mr. President, again in 2009, an agreement was signed with HCP Architects Limited for provision of design of Petrotrin's new headquarters at Pointe-a-Pierre. Those of you all who frequent San Fernando and so on, would know what I am talking about—a structure on the highway.

Petrotrin's construction budget was estimated at \$75 million for a building of 60,000 square feet. In April 2006, the then board of Petrotrin approved a proposal with a cost of \$250 million. This included, Mr. President, \$200 million for the new building, which was now 130,000 square feet, and \$50 million, Mr. President, for an overpass across the Solomon Hochoy Highway—a grand design.

One year later, Mr. President, in June 2007, the board approved a further revision that saw the cost increase from \$200 million—this is Trinidad and Tobago dollars—to TT \$365 million. Again, there was another scope change which saw the building expand to 168,000 square feet.

In December 2010, Mr. President, the new board stopped the construction and tendered for a BOOT arrangement. At that time, Mr. President, some TT \$170 million had already been expended on that project. The steel structure you see on the highway, Mr. President, has cost Petrotrin TT \$170 million.

Hon. Senator: Shame! Shame!

Sen. The Hon. K. Ramnarine: A single BOOT bid, Mr. President, was received. After evaluation, it was determined that the bid was not feasible due to cost. It would have cost Petrotrin \$1.5 billion over 20 years. Proposals for the way forward are being considered. If construction is to be completed by Petrotrin, the entire project is estimated to cost now \$440 million, of which \$170 million has already been spent. This, Mr. President, is yet another legacy issue which is being dealt with by the current board of Petrotrin.

Mr. President, I paint that picture of these three projects, the GOP, the gas to liquids and the headquarters, to demonstrate that over the years 2005—2010, Petrotrin was very refinery focused. While there was substantial investment, Mr. President, in refinery upgrade in that period, conversely, there was little or no exploration and development drilling in both land and Trinmar. It was during that time, Mr. President, that production in Trinmar dramatically collapsed from 33,000 barrels—from about 33,000 barrels per day in 2005 to about 21,000 barrels per day in 2010.

2.45 p.m.

Post May 2010, Mr. President, Petrotrin has undertaken a conscious, deliberate and phased portfolio shift from its refining and marketing activities to exploration and production with an emphasis on stabilization and growth. This does not mean that the refinery is not important or that it does not continue to be important. The refinery is very important. The facts would however show that while money poured by the billions into the GOP and GTL projects, the upstream was starved. Trinmar was starved of capital and land-based oil production was starved of capital.

The results are there for all to see. In 2009, number of wells drilled in Trinmar: zero; in 2010, number of wells drilled in Trinmar: zero.

Sen. Singh: “Dats an oil company?”

Sen. The Hon. K. Ramnarine: In 2011, number of wells drilled in Trinmar: 13; [*Desk thumping*] 2012, the number of wells drilled in Trinmar: 16; [*Desk thumping*] 2013, ongoing, 12 wells drilled in 2013 [*Desk thumping*] and 17 wells are planned for 2014. [*Desk thumping*] These data demonstrate, Mr. President, a conscious and deliberate shift in policy as it flows from the Ministry of Energy and Energy Affairs to Petrotrin. This is a policy that refocuses the company on its huge upstream oil potential.

Among the key upstream initiatives employed are:

1. Land based 3D seismic.

Petrotrin

Tuesday, June 04, 2013

[SEN. THE HON. K. RAMNARINE]

In 2011, the company completed the largest onshore 3D seismic acquisition programme ever witnessed in Trinidad and Tobago, acquiring 312 square kilometres of 3D seismic over the south-western onshore peninsula. Currently, these data have been processed and are undergoing focused reprocessing as required. Two interpretation teams have been deployed: one in Houston and one at home here in Trinidad.

Both teams, Mr. President, have reported encouraging leads, with the first the exploration well expected to be drilled by the end of calendar 2013. The development team has already used its interpretation results to inform the company's onshore drilling programme, and is also using these results to build the forward drilling plan for the company on land.

Mr. President, both the Government and Petrotrin realized that there remains tremendous potential in the Soldado fields, and indeed, in the Trinmar and North Marine acreages. The Ministry of Energy and Energy Affairs on December 31, 2012, granted a new licence to Petrotrin for the Trinmar and North Marine acreages. This, Mr. President, replaced the 30-year lease that was granted in 1981—in 1982 I think—yeah, in 1982 by the then Minister of Petroleum and Mines, Patrick Manning. The company has commenced the fulfilment of the obligations of its new licence, and is aggressively pursuing further initiatives that will lead to increased activity, production and petroleum reserve levels in the coming months and years. That will be, of course, very good news for the Minister of Finance and the Economy.

At present in Trinmar, Mr. President, there are three rigs working—one drilling rig and two work-over rigs. One of these work-over rigs is dedicated to the south-west Soldado reactivation project. A major complement of wells and facilities in the company's south-west Soldado field was shut-in over years as a result of asset integrity issues. From early 2012, Petrotrin deployed a dedicated, multi-disciplinary team to undertake the rehabilitation of the south-west Soldado field, and it is expected that initial incremental production from these efforts will accrue to the company from July 2013 and increase thereafter. Mr. President, that is one of the most significant projects of this Government. [*Desk thumping*]

Based on the foregoing, it is evident that the company has synchronized its efforts to match the Government's stated energy policy initiatives. It is also recognized that exploration and production activities require long gestation periods prior to the development of results. But, based on the company's judicious balance of exploration, development, operational, technical and commercial activities, the early signs of improvement are evident. These are being seen in

Petrotrin

Tuesday, June 04, 2013

production levels in the company's operated land and Trinmar holdings stabilizing at 13,500 barrels of oil per day for land and 22,500 barrels of oil per day within recent times at Trinmar. These are, of course, encouraging signs and we expect better results in the coming months.

Mr. President, as the company deals with the legacy issues of the GOP and the GTL, it has refocused itself on the upstream. The company has been stabilized and has been pulled back from the edge, and it is poised for growth in production which will no doubt redound to the benefit of the people of Trinidad and Tobago. [*Desk thumping*]

Mr. President, in closing, I wish to place on record my deep appreciation, and that, of the Government, for the efforts of the board of directors, the management, and the workers of Petrotrin, who have worked to stabilize the company in trying circumstances and have placed it on a platform for growth. Thank you very much. [*Desk thumping*]

CUSTOMS (AMDT.) BILL, 2013

Order for second reading read.

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai):

Thank you, Mr. President. Mr. President, I beg to move:

That a Bill to amend the Customs Act, Chap. 78:01 to enhance border control by providing for advance passenger and cargo information to be submitted electronically to the Comptroller of Customs and Excise and for related matters, be now read a second time.

Mr. President, this Bill before us is an amendment or represents amendments to existing legislation, and dare I say very voluminous legislation. The Bill was passed in the other place with the requisite majority. There were, however, three amendments made to clauses 5, 8 and 9. Clauses 8 and 9 related to the issue of the jail terms that were associated with breaches of the Act, and with respect to clause 5, we did amend it to read or we put in a new subsection (2) which read:

“Where the master of the aircraft or ship, or his agent, or a cargo reporter provides advanced passenger and cargo information under subsection (1) by means of a data message, the Comptroller shall ensure that a data message confirming the receipt of such information is automatically generated and transmitted to the master, the agent or cargo reporter, as the case may be.”

This was really intended to address the issue of ensuring that there was authenticated confirmation of the submissions which have been made to the Comptroller, and that had not been clear in the Bill that had been brought before the Lower House. As a result, that change was made.

Customs (Amdt.) Bill, 2013
[SEN. THE HON. L. HOWAI]

Tuesday, June 04, 2013

This Bill makes provision for the advance submission of passenger and cargo manifest in electronic format. So what this does, it requires the master or the agent to provide details of cargo, including description and destination, and/or the identification of passengers, and it allows for a higher screening of persons and goods coming into Trinidad and Tobago.

The Bill requires a special majority because it requires the sharing of information that is regarded as confidential. But, I should add that this sharing of information is normal for these types of Bills. In fact, it is the normal practice in all jurisdictions in which this system has been implemented, for example, in Canada, in the UK, in the USA, Australia, New Zealand. In a number of countries, the information is already shared. And perhaps, I should say, Mr. President, in Trinidad and Tobago too because we really just photocopy the documents and pass them on to different organizations and agencies that require the information. So, in a sense, some of the information is already shared, albeit by the person who actually owns the information.

Mr. President, the value of imports and exports into Trinidad and Tobago is well over \$100 billion. In fact, our imports are in the region of just over US \$9 billion and our exports are in the range of about US \$14 billion. So, in total, close to US \$25 billion or about 150 billion—close to TT \$150 billion, so it is quite a significant volume of trade that goes through. In fact, it is probably much larger than occurs in all of the rest of the West Indies, the English-speaking Caribbean combined. This, therefore, underlines the importance of having the appropriate mechanisms and systems and support infrastructure in place to ensure that this could be appropriately done.

I know many people actually are surprised at the extent of the volumes of cargo that come through Trinidad and Tobago. In fact, there are thousands of ship arrivals and aircraft departures on an annual basis to and from—arrivals and departures from Trinidad and Tobago. You know, because, in a sense, we as an island nation continue to punch above our weight, we continue [*Desk thumping*] to be a leading exporter of petrochemical products, a leading exporter of LNG in the world, and I suppose to some extent that underlines the reason why both the Chinese President and the Vice President of the United States [*Desk thumping*] would have used the opportunity to come to Trinidad and Tobago.

Sen. Singh: Cheap products!

Sen. The Hon. L. Howai: Yeah. You know, certainly the President of China could have chosen to go to Colombia or to go to some other country, but they chose to come to Trinidad and Tobago, and that, in a sense, speaks volumes to our

positioning in the global environment, the positioning of our nation which has been accomplished over the years, vis-à-vis, other countries of the world and certainly in the region, Trinidad and Tobago is seen as a leader. [*Desk thumping*]

I would say that—in fact, I am very gratified by the—if I may be allowed to diverge us for a brief moment—coverage which I think has been received in the media for both, nationally and internationally. I know nationally, as is the norm for Trinidad and Tobago, there were one or two incidents of protocol which were reported, and perhaps, I should say that where there were things that went wrong, we certainly will address those. But, I want to say, you know, there have been reports of the Prime Minister arriving late for some of these—to greet the President and so on, and I want to say that I was there and it is certainly that there was no truth that that was so. [*Desk thumping and crosstalk*] In fact, yeah, I was there on both occasions for the arrival and departure and I cannot say that that is true.

Sen. Singh: Fabrication!

Sen. Coudray: Fabricator!

Sen. The Hon. L. Howai: But certainly, I want to say that I am gratified by the media exposure [*Crosstalk*] that we received, and I want to congratulate the media locally here for, in a sense, putting aside many differences and allowing, in a sense, the gravity and import of the occasion to be allowed to take root. [*Desk thumping*]

I would like to congratulate also Members on the other side who turned up for many of the events. For example, the Member for Laventille East/Morvant was there. [*Crosstalk*] You know, the Member for Laventille East/Morvant was there, Mr.—a number of Members. Certainly, the Mayor of Port of Spain who has locked horns with the Minister from time to time—his Minister—[*Interruption*]

Sen. Al-Rawi: He was invited!

Sen. The Hon. L. Howai:—he showed up and he was there.

Sen. Al-Rawi: He was actually invited!

Sen. The Hon. L. Howai: Yes, I have to say that I do congratulate the Members who did show up.

Sen. George: Those who were—[*Inaudible*]—and who did not come!

Sen. Al-Rawi: All who were invited!

Sen. The Hon. L. Howai: No. Mr. President, as the hon. Senator over there has raised the point—*[Interruption]* yeah, I was not intending to go there, but certainly, the Leader of the Opposition was invited because, in fact, I do have a letter in my presence here which confirms that on May 28, the Leader of the Opposition was invited *[Continuous crosstalk]* to the arrival and departure as well as you know—*[Continuous crosstalk and interruption]*

Sen. Al-Rawi: “It eh leave he hand yet.”

Sen. The Hon. L. Howai: No, no, there is certainly from the—*[Interruption]*

Hon. Senator: Paula Gopee-Scoon.

Sen. The Hon. L. Howai:—I would say from the Minister of Foreign Affairs—*[Interruption]*

Sen. Coudray: Colm Imbert.

Sen. The Hon. L. Howai:—to the hon. Member on May 28.

Sen. George: “How you is de only one that geh invited?”

Sen. Al-Rawi: “Was not invited!” *[Continuous crosstalk]*

Sen. The Hon. L. Howai: So, I mean I would say that the letter is in my hands, but be that as it may, Mr. President, the thing is that, you know—*[Interruption]*

Sen. Coudray: You breached protocol!

Sen. The Hon. L. Howai:—I think it is very important that we, as people of Trinidad and Tobago, recognizing the importance of these occasions, must present a Trinidad and Tobago face to the wider, broader—*[Desk thumping]*

Sen. Singh: Where was the Leader of the Opposition?

Sen. The Hon. L. Howai: I think that that is very important for us to deal with that.

Sen. Singh: Where was the Leader of the Opposition? In Tobago playing golf!

3.00 p.m.

Sen. The Hon. L. Howai: So, no, no. *[Interruption and crosstalk]* I would say that he was invited for purposes of—*[Interruption]*

Sen. Singh: He was invited and he demonstrated the contempt for the Chinese.

Sen. Al-Rawi: You quarrelling over it.

Sen. The Hon. L. Howai: But let us return. Mr. President, I thank you for allowing the few moments of diversion. But it is important that we seek to implement this particular legislation because it deals with the ease of doing business, which has been a major objective of the Government.

I would say that—if I may be allowed just to focus on a few of the areas related to ease of doing business on which this particular initiative builds. First, as you would be aware, Mr. President, earlier on when the Finance Act was read, we amended the VAT Act to make it mandatory for the Board of Inland Revenue to effect registration for VAT in one day.

We amended the NIB Act to make it mandatory for registration also within one day. We removed the requirement to emboss Articles of Incorporation and pay the \$25 stamp duty, again, as a way of removing some of the irritants involved in doing business.

We also have put name reservation, business registration and company incorporation online, through the single electronic window at the Ministry of Trade, Industry and Investment and I am sure my colleague, the hon. Minister, would probably speak a little more to these initiatives when he does speak. For example, there are a number of other initiatives which are currently being worked on in the area of construction permitting in the area of trading across borders, and so on, which are being implemented at the current time to improve the ease of doing business here in Trinidad and Tobago and, again, to position ourselves in a globally-competitive way, given the positioning, as I spoke to earlier, of Trinidad and Tobago in a global community.

Perhaps, just in terms of looking at the system that we will be using, which is the ASYCUDA system, which is the automated system for customs data. This system was installed about 20 years ago and it is actually in use by something like about 80 countries throughout the world. It was developed by UNCTAD, the United Nations Conference on Trade and Development, and it is used very extensively by a number of customs divisions throughout the world and it is a very robust system. It allows for interoperability. It allows for the input of information in different languages, of course. It is flexible enough to allow an interface between different software and different hardware types, and so on, in order to allow the information to be input into the system. It is a very flexible and a very robust system and it has been upgraded on a regular basis by consecutive governments in power in Trinidad and Tobago over the past, almost 20 years or so.

Customs (Amdt.) Bill, 2013
[SEN. THE HON. L. HOWAI]

Tuesday, June 04, 2013

It provides a single window through which the data can be transmitted and which would allow the information to be stored in a single point and I would come back to a little bit about the ICT aspect of it in a while, in order to facilitate the ease of access and to manage the data by our customs division locally.

The system is also, of course, available 24/7, which is absolutely important. When a ship leaves Tokyo at midday today, it is 10 o'clock in the night last night in Trinidad and Tobago. When it leaves Guangzhou or Guangdong at midday today, it would have been midnight in Trinidad and Tobago. So, it does facilitate and we do have to ensure that we manage in such a way that we are able to accept data coming in across different time zones and that, again, is something which the system allows us to be able to manage, and, of course, it is also managed, as I said, because the system is used in about 80 countries throughout the world, it certainly allows the flexibility of inputting data from different time zones.

There are, of course, many benefits to be derived from the implementation of this legislation. The important thing about implementing this legislation is that it really allows us to be able to use this ASYCUDA system that I referred to just now, in a much better way. Sometimes we tend to computerize manual processes and, therefore, you do not get the full benefit of the implementation of the system and it is our intention to ensure that from the start, the changes that we make to facilitate the full implementation of the system, once this new legislation has been passed, will allow us to be able to use the system in such a way that it achieves as much of the benefits as it possibly can for us.

One of the benefits, of course, is that it certainly speeds up the time for doing business, because once this information is input coming from a port in Miami into Trinidad and Tobago, the master sends the information to the agent down here, the agent here immediately puts it into the system. Once that information comes in, it means that customs is able to immediately start the process of processing all of the information that is coming in and, therefore, they are able to respond much more quickly and, perhaps, deal with the issue of clearing of the goods coming in, in a much more expeditious manner.

For example, one of the things that I expect that would happen once we start to use the system and we have the background data and so on, that would help with the system, is that customs will be in a better position to determine which particular containers it would want to spend more time looking at than others; which ones, for example, they may decide to simply allow to go through simply because, of course, they will be auditing using a sort of random sample and that

would allow them to be able to, using a predefined algorithm, determine which containers, for example, they would allow to go through and, again, help to deal with things like backlogs and so on, which has tended to be the bane of our customs over the years.

It also would allow the customs to interact with a number of other agencies, for example the Bureau of Standards, the Food and Drug Administration, plant quarantine, and so on, so that we are able, from even before the goods come into Trinidad and Tobago, to interface with the different regulatory agencies so that we are in a position to respond in a much more proactive manner when the cargo comes in.

Another very significant benefit for us, once we pass this legislation, will be the automated production of customs and trade statistics. That is very, very important for us. Our CSO has been described in other places as a national disaster. I think it is something that we need to address.

Some of our trade data is actually more than a year in arrears and it is something that we need to deal with. So what this will do is certainly allow us, in a real time way, to provide information to CSO. So CSO will have the information in a more timely basis. We expect it will be more reliable and accurate and, therefore, they would be able to compile and publish information in a much more timely manner.

It also would allow us to get information that we have not been getting before. For example, how many pairs of shoes are imported into Trinidad and Tobago? For example, how many refrigerators or how many televisions? What has been the average price of these goods coming into Trinidad and Tobago? It allows us to be able to understand what is happening in terms of things like prices, in terms of volumes. Should we, for example, given the volume of goods that are coming in, start a factory for producing shoes or producing whatever widgets it happens to be, simply because of the volumes that we may see coming in? So this kind of information could be used on a commercial basis. Of course, it will help our customs too in dealing with the issues, because you may have issues like underinvoicing.

If, for example, you see a million pairs of shoes coming in from different importers and they are all coming in with a price range of \$90 to \$100 and then suddenly you see somebody coming in with the same kind of shoes at \$20, it is easy to identify, in fact whether that pair of shoes may be underinvoiced and, therefore, customs will be able to isolate that particular transaction and be able to look at it a lot more carefully. So it provides that kind of a benefit for our

Customs (Amdt.) Bill, 2013
[SEN. THE HON. L. HOWAI]

Tuesday, June 04, 2013

customs, in terms of doing their work and, of course, that increases the level of efficiency. In terms of customs clearance, it will allow us to be able to move containers out a lot more quickly than had been done before.

Another benefit that it will provide, Mr. President, is improved revenue control, because from the time the data is input into the system, the system will automatically calculate the duties and taxes. It will also identify where preferential treatment is required and it will also automatically identify duty exemptions. So what would have been a fairly manual and time-consuming process is something that will be able to occur almost in real time basis again. As you put it in, the information can be easily manipulated and totals generated based on the predefined information that would have been put in, identifying the rates of duties and taxes, which countries would have certain kinds of preferential treatment for certain types of goods, and so on.

Again, this information is useful information for us, in terms of analyzing what is happening, with respect to where goods are coming from. Are they coming from certain preferential areas? What is the extent of duty exemptions that are being given? Which countries are getting more duty exemptions than others? We can do much more analysis in a much more rigorous way, so that we could really understand terms of trade, where we are importing things and it would certainly assist other ministries such as the Ministry of Foreign Affairs, in terms of their own discussions with various countries, with respect to various treaties and different types of duty exemptions, preferential treatments, and so on. It will significantly enhance the capabilities of our customs.

It will also improve our law enforcement capabilities. One of the things is that a lot of customs time is spent on manual data manipulation, and so on. What this will do is that it will allow our law enforcement, our customs division, it will free up some of their time, to focus more on things that make a difference such as intelligence work, for example, more analytical work on what is coming in and where it is coming from. And, therefore, they will be able to—by freeing up some of the time of the relevant customs officers—spend more time on the law enforcement and the intelligence-gathering aspects of their job.

It will, of course, quite pleasantly reduce the number of contacts that businessmen will have with customs and I am sure every businessman will tell you that that is something that they will certainly welcome.

It will also reduce the document processing time, which is what frees up the time of our customs, from hours to minutes really and we have estimated that the reduction in overtime costs, coming out of this initiative, will be approximately \$5 million a year.

We see that there are a number of important benefits that will come out of this. And, therefore, it is important that we pass this legislation because it is really critical to the reform and modernization process for our customs division.

3.15 p.m.

What it will do is, it removes the need particularly for all these hard copies of documents which also pose difficulty in terms of retrieving and so on as time goes by. So that what we are looking to do now with this legislation is to amend it to accommodate the electronic submission of passenger and cargo manifest, customs declarations and other e-documents which are relevant to the trade supply chain.

I want to say that, of course, there probably will be concerns that the system—what happens if, for example, someone hacks into the system? What happens if the system breaks down and so on, and I want to say that we have paid particular attention to this. As I said, this is a system used in a number of countries throughout the world and, therefore, it has a number of strengths. The developers have developed in it a certain amount of robustness and so on, and we have built certain kinds of firewalls around the system.

One of the things is that what we have done is that apart from some redundancy within customs house itself for the system, what we have is an offsite system which automatically mirrors the information that comes into the mainframe itself. So what happens is that there is an automatic mirroring into the offsite system, so that we have an automatic backup of the data that is on the line system. So that if you know, God forbid, there is a fire in Customs House, for example, we can immediately transfer to the offsite system which will have all of the data backed up to the minute, that will ensure that, whatever occurs at Customs House, the entire process of switching to the backup unit, will be as transparent as possible to somebody in Tokyo or somebody in the Philippines or somebody in Australia, who might be inputting information or sending information to their agent here and their agent might be inputting it into the system.

So what we have sought to do, apart from putting penalties into the legislation to deal with the issue of attempts to break into the system, we have also built a certain amount of backup capability. We have also put certain firewalls in place to ensure that we can prevent unauthorized access to the system and that we can get to the backup as quickly as possible. Of course, we will also have all of the other backup systems, like we have a backup generator, UPS and so on, to ensure that other more mundane things like loss of electricity or other issues like that will not affect the ongoing availability of the system.

Customs (Amdt.) Bill, 2013
[SEN. THE HON. L. HOWAI]

Tuesday, June 04, 2013

What the legislation will also do is that it facilitates digital signatures, it will facilitate encryption tools, so the data will be encrypted and de-encrypted so that again, that is one of the controls that we have in place. It will, once implemented and fully implemented, accommodate biometric interaction with the system by way of thumbprints or fingerprints which, again, is another control feature. Once we have all of the elements of the system in place, which will again also help in authentication and identification of users of the system and of course, we do have a number of built-in systems for cyber phones. So we have put a number of controls in place to ensure that we can make the system as robust as possible. What this legislation does is that one of the things it will do is authorize us to use these computer generated printouts as legally binding documents that are admissible as evidence in court.

Sen. Singh: “You can use de email.” [*Laughter*]

Sen. The Hon. L. Howai: So, I will not, Mr. President, go through all the clauses of the Bill, but I want to say—[*Interruption*]

Sen. George: “He would not do dat, if yuh go through dem clauses, Al-Rawi will take yuh to task yuh know.”

Hon. Senator: Oh yes.

Sen. The Hon. L. Howai:—okay, I will probably rethink that. [*Crosstalk*] Management of information, Mr. President, is a serious matter and, therefore, you know, we have included some very serious penalties for unauthorized use of the system, from cancellation of registration of a registered user at the lowest level, right up to fines and imprisonment for interference or unlawful use of the customs border control system, or for impairing the usefulness of any of the data or any of the programmes that are on the system, on this customs border control system.

What we have done in looking at the fines and penalties, is that we have used the matrix which has been used by the CPC and the LRC, the Legislative Review Commission; there have been some exceptions and let me explain the exceptions. One of the exceptions is the increased fine of \$600,000 in clause 5, and this is really based on the immigration Act, 2006, Immigration (Advance Passenger Information) Act, 2006 which was introduced at the time of the Cricket World Cup which had a sunset clause and, of course, when the sun set on this particular Act, a new Act was introduced in 2008. The new Act in 2008 retained the fine at that level and, therefore, we were guided by the fine that existed or exists currently in the existing Act in determining and maintaining some consistency with that in determining the fine that we will include in this Act.

There is also a penalty of \$100,000 in relation to the confidentiality of information and this is the higher of the fines for similar offences committed by individuals under the existing Data Protection Act. So what again we tried to do was to align this with some of the other legislation that is in place. Of course, we did include a term of 15 years imprisonment for the unauthorized use or modification of this Customs Border Control System in light of the serious consequences that unauthorized use, modification or tampering with this legislation could have on the economy.

As I said, Mr. President, we are talking here about you know, well over \$100 billion in trade value of cargo coming through the ports and the unauthorized use of even 1 per cent of this can lead to very significant numbers and significant cost to Trinidad and Tobago. So, therefore, those are some of the highlights in terms of, and rationale for some of the penalties that we have put in.

Well, let us look at clause 5 of the legislation, Mr. President, and you will see that clause 5 deals with the provision of advance information and replaces sections 72, 73, 74 and 75 of the existing Act, to allow a master, his agent or a cargo reporter to provide the advance information that I referred to on the prescribed form by means of a data message. It also will require that advance passenger and cargo information be recorded to show certain goods separately, and that is important for us from the point of view of control and application of duties and taxes.

Thirdly, it requires that a master, his agent or a cargo reporter shall submit an account of all discharged cargo within 24 hours. What we have done there is that we have sought to build in controls at the beginning which is when you input the data and at the end after the cargo has been discharged, and again, to ensure that there is a reconciliation between what was said at the start and what happened at the end. So, therefore, we have sought to put controls in place that would allow us to manage the system as effectively as possible and we have put the penalties in which I have just referred to earlier, so I would not go back into details on those, simply to say that we expect that having put some of these—[*Interruption*]

Sen. Beckles: Thank you very much. [*Crosstalk*]

Sen. The Hon. L. Howai:—more punitive measures in place, you know, will certainly act as deterrent to any wrongful use of the system.

In clause 6, the wrongful breaking of bulk is addressed. This is like throwing packages overboard and we could have a situation where someone, for whatever reason, decides he or she is going to throw packages overboard before the boat

actually comes in or the plane or whatever he is coming by, comes in to Trinidad and Tobago, what we refer to as wrongful breaking of bulk, and this makes the master liable to a penalty of \$100,000 and the goods liable to forfeiture.

I want to say something about that because in the other place an issue did come up around well, if the person takes a million dollars of cocaine and throws it overboard, you know, if you fine him \$100,000 he could get away, you know it is not an issue. I just want to say that, of course, this is just part of the larger legislation and part of the wider set of controls that exist for managing these things, so that someone bringing something like cocaine in and throwing it overboard will be subject to all of the penalties that are associated with doing something like that which is separate and apart from what is in this particular section and in this particular clause of the Act.

Clause 7, Mr. President, deals with penalties relating to breaches of the customs border control system, and we inserted a new section here 212A, which will make persons liable to a penalty of \$125,000 in relation to the misuse of authentication codes. This is a significant part of our key security system and is intended to discourage lax and unlawful behaviour regarding the access to the system. Sometimes what tends to happen is people share their passwords with other persons. So you give somebody else your password last week and they did something for you because you could not be there and then, you know, next week you give somebody else your password and they do something, and somewhere down the road something happens and then you say well, when it is pointed at you, you say well, no Mr. X and Mr. Y also has the password too, so you know I just shared it with them to allow them to do X, Y and Z. We are saying that that is not allowable and that again is subject to strict fines such that it will discourage persons from trying to share their passwords and to, in a sense, defeat the controls that we have in the system.

Clause 8, Mr. President, was amended in the Lower House to take out the jail penalty that was associated with this. It deals with an officer taking unauthorized fees, and we have increased the fines from \$4,000 to \$200,000. So again, this is intended to ensure the integrity of the system, as is clause 9, which again was also amended in the Lower House in a similar manner. This is aimed at improving the level of confidence that the public has in our customs officers.

Clause 9 of the Bill amends section 217 of the Act to increase the penalty for an officer who is involved in inter alia collusive seizure of goods or bribery from \$20,000 to \$200,000. What this does, again, is intended to act as a very serious deterrent for something like this occurring. Of course, there are other kinds of

penalties and disciplinary action that can be taken by customs as a result of this, but the Act here simply deals with the specific penalty which arises from the action by customs officers in the area of collusive seizure of goods.

3.30 p.m.

Clause 10, Mr. President, amends section 259 of the Act by inserting a new subsection to provide that an electronic record or a data message retained by the Comptroller, would be admissible in evidence and shall be received as prima facie evidence. So it is intended to deal with the issue of the legislation providing or allowing the computerized information to be used as evidence in a court of law.

Clause 11, Mr. President, is the most involved clause and it seeks to insert several new sections into the Act, from section 268 to section 281—a number of sections—into the Act and these sections deal with operational details. They deal with operational details required to implement many of the measures that are required to give effect to this amendment. So, it deals with who can become a registered user; the issue and use of authentication codes; circumstances that would lead to the cancellation of the registration of a user; penalties for unauthorized modification of the programmes in the CBCS, Customs Border Control System, and allows the Comptroller to share information with relevant public bodies. It also deals with secrecy declarations and so on.

So it actually covers quite a broad range of issues, most of which I would have touched on briefly in my earlier discussion of some of the benefits and some of the things that we need to do in order to ensure that we get the best possible benefit out of the ASYCUDA system as a result of the amendment of this legislation.

What we sought to do, Mr. President, throughout all this, is to ensure that we have a proper balance between preventing or causing persons to desist from the wrongful use of the system while, at the same time, doing things to help lift the commercial aspect of the business, to reduce the amount of interface that individuals and importers will have with our system, with the customs, that would allow for the speed and facilitation of doing business; and also which will ensure that we derive the maximum revenue that we should be deriving from the implementation of the system. So we have tried, in addressing this particular piece of legislation, to deal with, to achieve that balance throughout in all aspects of the clauses which we have introduced.

Clause 12 of the Bill provides for a Ninth Schedule, which basically lists, as you will see, Mr. President, all of the data which may be shared under section 279. So, what we have done is put in place a system which allows us to effectively improve the capacity of our customs and improve the user friendliness and the friendliness of the interface between customs and our business community.

Customs (Amdt.) Bill, 2013
[SEN. THE HON. L. HOWAI]

Tuesday, June 04, 2013

Mr. President, I would say, in conclusion, that the international trade landscape is constantly evolving and, therefore, our customs laws must react to the developments in international trade and the laws that apply to such trade. In order to meet this changing landscape, the process of transitioning the Customs and Excise Division into a world-class, technology-driven organization must be continued with the aim of meeting and exceeding the expectations of all stakeholders by the quality of its service and the speed of response.

In this regard, the management and control of customs business can no longer be managed in the way that it has been managed previously. These amendments will establish a legal framework for importers, exporters and other stakeholders to conduct business with certainty by improving the efficiency of revenue collection, the availability of trade data and a reduction in the clearing times of cargo from days to mere hours.

Mr. President, I beg to move.

Question proposed.

Sen. Faris Al-Rawi: Thank you, Mr. President. Mr. President, I rise to join in this debate entitled, quite deceivingly, in a very simplistic way, as a mere amendment to the Customs Act—

Sen. Singh: Who says so? Who said so?

Sen. F. Al-Rawi: From my own perspective.

Sen. Singh: All yours.

Sen. F. Al-Rawi:—“to enhance border control by providing for advance passenger and cargo information to be submitted electronically to the Comptroller of Customs and Excise and for related matters.”

Mr. President, my learned colleague, the Minister of Finance and the Economy has pointed to the fact that this debate has been long in the making. He took us through a small tour of the history behind the ASYCUDA system, but in the use of future tense in his description of things to happen, he may have, perhaps, given the impression to some listening, that the ASYCUDA system is not, in fact, doing what it already is.

I can say with absolute certainty, Mr. President, that everything that my learned colleague has spoken to the system as will be doing, it is doing already, and this particular piece of law, Mr. President, is one which we must look through the lens of proportionality on, as we must on any bit of three-fifths majority legislation, this requiring a special majority under our Constitution.

In looking to the proportionality of this Bill, Mr. President, that section 13 reasonableness, my learned colleague, the Minister of Finance and the Economy, pointed to a balance between deterring, paraphrasing his words, the breaking of laws and encouraging, on the other hand, facilitation of trade. I think that was the point where he got into the real zone of what I had hoped he would deal with because this Bill is much more about facilitating trade than it is about customs and border protection, hence my reference to the fact that the title of this Bill is somewhat deceiving. That is no imputation of anything improper on my learned colleague's part. It is just simply the long title of this Bill.

When we look to the issues of trade in this Bill, Mr. President, I had hoped that my learned colleague, the Minister of Finance and the Economy, would have taken avail of suggestions made to him in the House of Representatives that he ought to consider amendments of a much broader type than he has brought here and as is reflected in the amended Bill put on this Table.

Mr. President, if I were to say, in summary, I think that this Bill is in need of a lot of work. I think that it is something that we can achieve if we put our minds together. I think that it is one that we need to spend a little time on this afternoon to get it right because after 20 years of the ASYCUDA system in moving, in the period 1993, with ASYCUDA, Version 2, as it was first implemented, now into ASYCUDA World as we seek to implement now, we have really come a long way, through successive governments.

Indeed, successive governments spent a lot of time visiting state-of-the-art countries, looking to see what works best in jurisdictions such as Singapore, et cetera, and it is a well-known fact that Crimson Logic is in fact a partner in this entity and that this debate really ties into a concept which Trinidad and Tobago has recently received an international award for—and I am speaking about the single electronic window.

My learned colleague, the Minister of Trade, Industry and Investment was very fortunate to sit in the Ministry of Trade, Industry and Investment as he does now, to accept a gift as a result of work which had begun a long time ago and which I am aware that he put a lot of hard work into himself, in bringing it to its final stages of delivery; but needless to say, Mr. President, it is that single electronic window that really is the tie-on to this debate.

Now, Mr. President, my learned colleague reflected that we needed a three-fifths majority because of the access to information and I dare say that it is not as simple as that. This Bill provides the ability, not only to access and share

Customs (Amdt.) Bill, 2013
[SEN. AL-RAWI]

Tuesday, June 04, 2013

information, but it also provides restriction of liberty by way of imprisonment. It provides for forfeiture of goods and, therefore, your right to property and those things are very material aspects to be factored in a three-fifths majority. Those things we must consider in the lens of proportionality.

When we look to the Bill itself, the Bill is 12 clauses long. It has five clauses which deal with a repeal and replacement; one which seeks to amend by way of a new clause being added to the Customs Act; one which seeks to add in a new subsection; two which seek to increase pecuniary fines; and 14 new sections.

The Customs Act, Chap. 78:01, which was, in fact, presented to us as Act No. 22 of 1938, has seen some 63 amendments to date. The Act, in fact, ends at section 267 and clause 11, which is the heart of this Bill in many senses, adds on 14 new substantive sections, which my learned colleague referred to as operational issue sections.

Now, Mr. President, if I were to try and summarize what some of the difficulties in this Bill are, they would be as follows:

1. There is a disproportionate push towards deterrents for breaches of the Act as proposed to be amended by heavy fines, which can be located in no other jurisdiction save Trinidad and Tobago;
2. It therefore stands as the antithesis of free trade development in Trinidad and Tobago;
3. The operational issues which lie in clause 11, in particular, are issues which do not need to be included in the Bill at all.

And I say so by way of explanation because my learned colleague has not reflected upon any of the interarticulation that occurs from these proposed amendments with the existing law and, in particular, Mr. President, the interarticulation includes the following aspects of legislation:

The customs laws of Trinidad and Tobago, of course, Chap. 78;

The customs brokerage Act, Chap. 78:03;

The VAT Act, Chap. 75:06;

The various Finance Acts, including those most recently passed this year;

The Computer Misuse Act, Chap. 11:17;

The Electronic Transactions Act, Chap. 22:05;

The Data Protection Act, No. 13 of 2011;

The Exchequer and Audit Act, Chap. 69:02;

The Appropriation Acts from year to year;

The Central Bank of Trinidad and Tobago Act, Chap. 79:02;

The Financial Intelligence Units Act; and the FIA Act as well, the financial bodies Act, Chap. 79:09;

The Electronic Transfer of Funds Crime Act, Chap. 79:51.

Now, Mr. President, in preparation for this debate, I took a purposeful tour through this legislation, which comprises a reflection of the laws of New Zealand, Singapore, Jamaica, Dominica, India, Australia, Mr. President. I thought it important to go through the laws of respective jurisdictions to see where we were centring ourselves and I am confident, having looked at these laws, Mr. President, not to mention those that I have on electronic form, including Canada, the United Kingdom, Mr. President, that we are off mark. We are far off mark.

We are far off mark, Mr. President, because trade is at risk and I think my learned colleague knows this. I think that my learned colleague must know that the battle that I am sure exists in the background—not between Ministers per se—between the Ministry of Finance and the Economy and the Ministry of Trade, Industry and Investment is a very delicate one.

3.45 p.m.

It must be occupying his mind as a burning concern as to why we are moving ahead with legislation which proposes trade barriers; with legislation which proposes to tie ourselves to technology which is going to become outdated. Why we are proposing, Mr. President, to not speak to very large elephants in the room in the context of the status of the Electronic Transactions Act in particular and the Data Protection Act in particular? This Bill, in fact, in the definition section, refers to the Electronic Transactions Act.

But, Mr. President, the entire scope of what we seek to do can happen under one section of the Electronic Transactions Act—section 53. The Electronic Transactions Act is the lynchpin as to whether we are being proportionate in going too far in the legislation, as I think we are, or whether we ought to confine ourselves to the existing laws of Trinidad and Tobago.

Secondly, the Computer Misuse Act specifically deals with the interpretation, interference and any form of damage that may happen to a computer system of the type proposed to be enshrined for some unknown reason in this Bill.

Customs (Amdt.) Bill, 2013
[SEN. AL-RAWI]

Tuesday, June 04, 2013

Mr. President, when we look to the Electronic Transactions Act, which has only been partially proclaimed—Act No. 6 of 2011—Mr. President, I wish to reflect on the status. I have referred to this Act on umpteen occasions.

Sen. Singh: Ad nauseam!

Sen. F. Al-Rawi: In particular—my learned colleague, the Leader of Government Business, says ad nauseam. I wish, in fact, it would nauseate him, because he does not seem to pay attention. When last we dealt with the Exchequer and Audit Act amendment, I raised the very issue of section 53 of the Electronic Transactions Act, and I put it squarely on the Table, not only was that Bill a money Bill and could not be put into the Senate as it was and, therefore, it is due to die when Parliament ends very shortly before July 10, [*Desk thumping*] not only is it going to die because of some form of lack of appreciation on the Government's part, but that very section 53 is the lynchpin.

Now, the Electronic Transactions Act is awaiting proclamation in its full form. So far, by Legal Notice dated January 06, 2012, Part I of the Act was proclaimed, Part II, Part III, Part IV and then Part VII. Those are the parts that were proclaimed. It is, in fact, Part VII which is proclaimed, which is really of very great interest to us in this Senate.

Part VII of the Electronic Transactions Act deals with the issue of the Government of Trinidad and Tobago. Part VII is entitled “Government and other Public Bodies”. Now, Mr. President, the fact is that the learned Minister spoke about this particular amendment going to allow electronic signatures, data encryption, different forms of technology; all of which are contemplated by the Electronic Transactions Act and provided in the body of that law.

Part VII, in being premised upon the fact that the Customs Division for instance, or the Immigration Division for instance, is a public body by way of definition in this Act, it standing as a subsidiary of a Ministry of Government, it allows in Part VII of the Act in section 53, in particular for “Government and Other Public Bodies”—section 53 if you would permit me:

- “(1) A public body that, pursuant to any written law—
- (a) accepts the filing of documents, or obtains information in any form;
 - (b) requires that documents be created or retained;
 - (c) requires documents, records or information to be provided or retained in their original form;
 - (d) issues any permit, licence or approval,
- may, notwithstanding anything to the contrary in such written law, carry out those functions by electronic means.”

So everything that we are proposing in this Bill—the Customs (Amdt.) Bill—Mr. President, every last thing that we are proposing, save for one, which is the Advance Passenger Notice which I will come to in a moment—is permitted under Part VII, section 53 of the Electronic Transactions Act. It goes on to say in subsection (2):

“Where a public body decides to perform any of the functions in subsection (1)—notice that—“Where a public body decides to perform any of the functions in subsection (1) by electronic means, the public body may specify—

- (a) the manner and format in which such documents, records or information in electronic form shall be filed, created, retained, issued or provided;
- (b) the manner and format in which such signature shall be affixed...to the documents”—et cetera.
- “(c) such control processes and procedures as may be appropriate to ensure adequate integrity, security and confidentiality of documents, record or information in electronic form;
- (d) any other required attributes—”

It says in subsection (3):

“Where a document, record or information in electronic form under subsection (2) is required to be signed, the Minister may by Regulations specify the type of signature required, including...the requirement that the sender...encrypted electronic signature.”

So, Mr. President, the Electronic Transactions Act, in section 53, specifically stands as the law of Trinidad and Tobago proclaimed, Mr. President, on January 06, 2012. It is the law.

The Minister can, right now, direct the public body to do what it is already doing, and it is doing so by using the ASYCUDA system lawfully, Mr. President. So why on earth are we proposing to tie down in the body of this law technology specific references?

Mr. President, do you want me to tell you how bad this law is in need of reform?

Sen. Hinds: Tell us!

Sen. F. Al-Rawi: The Customs Act, Mr. President, I was very amazed. I read it from cover to cover—1,097 pages of the laws of Trinidad and Tobago right now. [*Desk thumping*]

Sen. Hinds: That is the quality—

Sen. F. Al-Rawi: Do you know what section 33 of the Act says by way of example?

“No claim for abatement of duty on account of damage shall be allowed in respect of tobacco, cigars, cigarillos, cigarettes, wine or spirits.”

So the law of Trinidad and Tobago in section 33 says, you are not going to get an abatement of duty for importing ganja. That is what the law says. Yet, Mr. President, we are occupying ourselves right now by putting law into effect which exists elsewhere. What we are doing, Mr. President—and I will go into great detail in committee stage on this—is, we are saying, take a customs border computer system, take that, and entrench it in law.

But, more so, Mr. President, why I say we are killing trade is that the Minister of Trade, Industry and Investment, having accepted well-deserved rewards for Trinidad and Tobago for TTBizLink, [*Desk thumping*] knows very well that we have one form of user identification reference in TTBizLink and yet we are for some reason entrenching in the customs laws of Trinidad and Tobago an entirely different user. Why the need for duplicity? What is the cost of the duplication? What is the Government’s real policy on a single electronic window?

If this is absolutely necessary, as my learned colleague, the Minister of Finance and the Economy, says, then why have we not done it to protect what TTBizLink is doing? So if it is absolutely necessary in the customs laws that we protect the data system in the manner that we seek to do under this Bill, then why is it not being done concurrently to protect what the Ministry of Trade and Investment is doing? How can it stand scrutiny? [*Desk thumping*] It is illogical. It makes no sense. [*Desk thumping*]

TTBizLink frequently asked questions off of their website:

“What is TTBizLink?

TTBizLink is an IT-platform known as a Single Electronic Window”—for—
“import/export...apply for permits, licences”—et cetera.

“Who are the main partners...?”—Hear who the main partners are:

“...is led by the Ministry of Trade and Industry”—and it includes the following partners:

- “Ministry of Public Administration
- Ministry of Finance
- Ministry of Health (Chemistry Food and Drug Division)

- Ministry of Food Production, Land and Marine Affairs
- Ministry of National Security...
- Ministry of Legal Affairs...
- Port of Point Lisas
- Port of Port of Spain
- Business Development Company Ltd
- The Trinidad and Tobago Bureau of Standards...
- Trinidad and Tobago Chamber of Industry and Commerce'

This Bill, quite properly, recognizes that we are going to be required to share information with other divisions. I believe it is section 281. It lists 6-odd divisions which have to be shared.

So there is, in fact, interoperability right now in respect of divisions of the Government of Trinidad and Tobago. It is, in fact, section 279—The Inspector of Food and Drugs; the Chief Chemist, Director of Food and Drugs; Chief Technical Officer, Plant Protection Act; Chief Technical Officer, Agriculture; Executive Director Bureau of Standards Chief Trade Officer. All of this is going on right now. It is, in fact, going on through TTBizLink. It is going on manually in paper format. There is sharing of information. So why on earth are we doing this? Why are we entrenching a customs computer system technology into the laws of Trinidad and Tobago going against the direct and specific stated policy of the Government of Trinidad and Tobago and, I mean, the PP Government?

When we piloted the Electronic Transactions Act, we were told that there was going to be technology neutrality. This Bill, Mr. President, is not technically neutral. The only laws that I could find that, in fact, refer to entrenchment of a computer system of this kind came out of New Zealand, specifically Part 11, sections 131 to 136 of the New Zealand laws. Mr. President, when you look to the New Zealand laws, it is absolutely nothing in terms of reflection to what we are doing.

The New Zealand laws allow, as I have stated, for electronic transactions to proceed by way of a definition through document. It does not, in fact, prescribe for definition and entrenchment of a computer system. It allows the Minister, in this case here, the Chief Executive Officer by direction of the Minister, to provide regulations for registration of users, usage, revocation, appeals. There is no equal comparison to what we are proposing in this Bill—absolutely none. I cannot understand how my colleague, the Minister of Finance and the Economy, could come here and tell us that, Mr. President.

Customs (Amdt.) Bill, 2013
[SEN. AL-RAWI]

Tuesday, June 04, 2013

Mr. President, my learned colleague spoke to parity of fines, and in aid of justification of a fine of \$600,000 in clause 5 of the Bill, he pointed to the immigration advance passenger legislation. I am just looking for that.

4.00 p.m.

Mr. President, that particular law which was passed in 2008 is called the Immigration (Advance Passenger Information) Act. There are just three short clauses and a schedule in that particular piece of legislation, and it says:

Every "...master of every vessel destined for Trinidad and Tobago, prior to departure of the vessel..."—must submit information—"to the Chief Immigration Officer..."—being the information set out—"in the Schedule."—and that you are—"...deemed to have committed a summary offence..."—and are—"liable to a fine of six hundred thousand dollars."—if you fail to transmit that.

But, Mr. President, that is in respect of passenger information only, it is not as clause 5 proposes for the sharing of information and disclosure of information relative to cargo, and when you look to clause 5 of the Bill, the new section 72(1), which says, a master of every aircraft, ship, et cetera, and its agent, et cetera, shall, prior to arrival in Trinidad and Tobago, provide the Comptroller with advance passenger and cargo information.

Then, Mr. President, in the new section 75(1):

"The master of an aircraft or ship, ...who intentionally or recklessly—

fails to comply with the requirements of section 72(1);

commits an offence and is liable...to... six hundred thousand dollars."—in penalties.

Mr. President, by my learned colleague's own admission, the volume of trade in Trinidad and Tobago is to the tune of \$100 billion, and that certainly did not happen by way of aircraft transit information for passengers on a plane. It happens by way of shipping; it happens by way of cargo; it happens by way of export and import, and in those circumstances, it is not proportionate or reasonable within a section 13 reasonableness test to say that you will attract a fine of \$600,000, or forfeiture of your cargo if you get a form wrong, and, therefore, it is not comparing apples with apples to say that the Immigration (Advance Passenger Information) Act of 2008 provides legislative precedent and authority for this kind of law. It is not comparing like with like; it is very far from the fact, in fact.

Mr. President, the ASYCUDA system as it is used is in fact not used by 80 countries as my learned colleague says, it is used by 94 countries; of those 94 countries, 41 of them use the World system which we were migrating to. And by way of reflection on the history, the ASYCUDA system started in 1993. We went through some succession of implementation in respect of that particular system. In 2004, there was a milestone in moving from version 2 ASYCUDA to version 2.7. In 2008, we thought of moving from ASYCUDA++ to the World system, and in 2013, we are coming here today to deal with ASYCUDA World.

Mr. President, ASYCUDA's system itself is a product of an agreement between the Government of Trinidad and Tobago and the United Nations Conference on Trade and Development, otherwise referred to as UNCTAD. The fact is that this particular piece of treaty between the Government of Trinidad and Tobago, et cetera, brings into Trinidad and Tobago a piece of technology which was pioneered largely for Africa, and which has been successfully deployed in a number of countries throughout the continent of Africa—some of the Caribbean countries as well.

But, Mr. President, in looking at ease of business, it is noteworthy that the competitiveness reports which is what we really want to look for, the Trinidad and Tobago ranking in the World Economic Forum, Global Competitiveness Report, stands in fact in position 132 out of 144. That is, specifically, with reference to the burden of customs procedures, but it is noteworthy as well that of the 50 top countries on that ranking by the World Economic Forum, absolutely none of them use the ASYCUDA World system, and, therefore, the question really lies in terms of the context of section 11 of this Bill.

Why tie yourself down to the type and degree of technology marriage that we are proposing in this Bill, when it is very open to you under section 53 of the Electronic Transactions Act which stands as law to simply allow the customs division to call this into aid as it can. It can do it right now. It can provide technology anchoring; it can provide change from that technology; it can provide encryption, data digital signatures; it can provide for offences in terms of the regulations that are to come there, not necessarily the fines for breach, but the fines that are dealt with there are all dealt with under the Computer Misuse Act. So there is absolutely no legislative need for us to entrench technology in clause 11 of this Bill, and to provide for offences of the type that we seek to do when it is in fact firmly anchored in the Computer Misuse Act.

The Computer Misuse Act, Chap. 11:17, is Act No. 86 of 2000; it deals with offences under Part II. The offences that it deals with include:

Unauthorised access to computer program or data
 Access with intent to commit or facilitate commission of offence
 Unauthorised modification of computer program or data
 Unauthorised use or interception of computer service
 Unauthorised obstruction of use of computer
 Unauthorised disclosure of access code
 Enhanced punishment for offences involving protected computers
 Unauthorised receiving or giving access to computer program or data
 Causing a computer to cease to function”

Every single element of what you propose to introduce into new subsections, new sections into the Act, 268 to 281, those 14 sections, every single element is covered by the Computer Misuse Act—[*Desk thumping*—every single one, and it is the law of this country right now.

So, Mr. President, I stuck a pin in the point of advance cargo information, in every law that I have referenced under advance cargo information. That in fact is the lynchpin aspect of what we need to disclose. Right now the Chief of Immigration receives under the Immigration (Advance Passenger Information) Act of 2008, the passenger side for vessels, but the cargo side for advance notice, which is what clause 5 of this Bill proposes to deal with, that is the bit that we need to actually legislate, and that is what this Bill ought to be concerning itself with.

The language of this Bill in fact, in clause 5, relative to cargo advance passenger information is true. It is correct. It is worthy. We need to have, in fact, this particular section 72(1). The problem with the introduction of section 72(2) as it is proposed in clause 5 of the Bill, that is where you accept that you need to give the data message back, we have not provided in that instance for a crash or failure of the system.

Other legislation around the world, all—and I will pass them to you, hon. Minister—all of them provide for crash of technology. The ASYCUDA system is working currently because of redundancy measures, et cetera, at a 99.41 per cent ratio. That is with the margin of error that you said, hon. Minister, was a problem. One per cent of \$1 billion is a problem, 0.5 per cent of \$1 billion is a problem—sorry—of \$100 billion is a problem. So right now with the data redundancy systems, with the mirroring of backups, with UPS technology, right now we are only at 99 per cent efficiency rating, and that comes from the report on the UNCTAD system; the state of implementation of ASYCUDA.

ASYCUDA World has been fully operational in Trinidad and Tobago since December 2011—[*Desk thumping*]*—*or is it 2010? Forgive me, I will tell you now. ASYCUDA World has been in operation—forgive me, Mr. President—since December 2010. December 2010 marked our full implementation of ASYCUDA World. We have been doing it for three years, nearly. We have been sharing information protected by existing laws for three years. The only thing that we are required to do is to legislate for the advance cargo provision information. That is the only thing that we need to do.

What we need to do, comprehensively, as a Government, as an Opposition, as a people, is to amend the customs laws completely. The customs laws of Trinidad and Tobago are archaic, they are surviving because of the good offices of people like the Comptroller of Customs, and the short staffed and hard-working people in the customs division, but they are barely surviving. The overtime wage in customs is not \$5 million; it is \$70 million right now.

Hon. Senator: The savings.

Sen. F. Al-Rawi: That may be the savings, but the overtime wage in customs is \$70 million per annum right now.

Sen. Hinds: Wow!

Sen. F. Al-Rawi: We have absolutely no statement of what customs provides in terms of revenue for investigations under section 212, which is the heart of the offences provisions under the existing laws. That is where you are deemed to breach the laws and you either go to court, or you have the Comptroller of Customs deal with it under section 224 by way of referral to him without going to court.

We do not know what the dollar quantum is. We know that there is need for a Customs Appeal Tribunal. We know that there is a need for scheduling of tariffs and offences to keep in path and in train with the commitment to proportionality of customs duties as the law says it ought to. We know, Mr. President, that Dominica, right here in the Caribbean, that in fact uses ASYCUDA World, has one of the most advanced pieces of legislation.

Right here, Mr. President, the laws of Dominica when I read them, my jaw dropped. It is one of the best written pieces of law I have seen in a long time, and what troubles me is why we have not gone that route in the last three years in particular. And I say so because we have a lot of time on our hands in this Parliament. In the Senate certainly we have only dealt with four Acts of Parliament in the entire year—[*Desk thumping*]*—*as we run to a close, and I wonder what the Legislative Review Committee and the Cabinet is doing, because excellent laws exist for us to replicate.

Customs (Amdt.) Bill, 2013
[SEN. AL-RAWI]

Tuesday, June 04, 2013

The fact is that that is also the case because there has been a long system of in train work, from 1993 come forward, and I am advised that there is draft legislation for the entire customs repeal and replacement laws of Trinidad and Tobago, and I wonder why that has not come forward. Mr. President, it is really critical for us to ask ourselves, “Where does Trinidad and Tobago stand in the global ranking?” We heard the hon. Minister refer to the visit by His Excellency, the President of China, and the visit by the Vice President of the United States of America; two of the major powers in the world.

Sen. Singh: And Rowley never attended.

Sen. Ramlogan SC: “What protocol yuh talkin about?”

Sen. F. Al-Rawi: We hear the Leader of Government Business in the Senate speaking across the floor very loudly, and earlier saying that Dr. Rowley did not attend certain matters, and there was an attempt to wave an invitation that apparently never left the hon. Minister of Finance and the Economy’s hands to reach the Leader of the Opposition—[*Desk thumping*]*—*but I can tell him, Mr. President, not a single Member of the Independent Bench was invited either.

Sen. Singh: By who?

Sen. F. Al-Rawi: By the Government of Trinidad and Tobago.

Sen. Ramlogan SC: But the President had function!

Sen. F. Al-Rawi: Not a single Member of the Opposition Bench in the Senate. Now, I am only dealing with matters raised by my learned colleague, the Minister of Finance and the Economy—[*Interruption*]

Sen. Hinds: Correct. Quite so, go right ahead. [*Desk thumping*]

Sen. F. Al-Rawi:—who was quite bold, I may say, to put forward things—[*Interruption*]

Sen. Singh: Where was Rowley?

Sen. Ramlogan SC: The man was playing golf!

Sen. F. Al-Rawi:—the fact that a letter is written does not mean it was sent. Mr. President, it really concerns me that this Government cannot appreciate where we are in the global context. The point that I was making is, in a Bill like this where you say, if you make a mistake on a cargo format under clause 5 of this Bill, the new section 72(1), you are going to be met with a fine of \$600,000, and potential forfeiture of your goods.

Where are we in terms of facilitating trade, Mr. President, when every other country around the world has fines in the vicinity of US \$5,000, US \$10,000, US \$15,000, but none of them have fines of TT \$600,000, and then the question really comes: is the Ministry of Finance and the Economy actually speaking to the Ministry of Trade, Industry and Investment?

Sen. Singh: What would be inappropriate?

4.15 p.m.

Sen. F. Al-Rawi: Is the Leader of Government Business actually coordinating those affairs? Is the Attorney General really and truly—*[Interruption]*

Hon. Senator: Absolutely.

Sen. F. Al-Rawi:—working at the LRC—if he is there? I am sure he is. What is happening in the Cabinet of Trinidad and Tobago? *[Crosstalk]* What is the policy that we are to deal with? *[Crosstalk]* Are we going to deal with technology neutrality or are we going to entrench things? Are we going with a single electronic window or are we going with a bifurcated electronic window?

Sen. Hinds: Make money.

Sen. F. Al-Rawi: Are we going to allow the customs division to have one authentication user ID and the single electronic window have another? Why? What is the policy? Why has the Minister of Finance and the Economy not reflected on any of this is beyond me.

The schedule of offences—I am looking for my note, Mr. President—dealt with around the world includes, as I told you a little bit earlier, what fines look like for breach of the advance passenger cargo and passenger information. In Canada, in Singapore, in Dominica, in St. Lucia, St. Vincent and the Grenadines, New Zealand, Mauritius, Australia, Malaysia, United States of America, several jurisdictions in the EU, in India, none of them have \$600,000. Not a single state.

Sen. Hinds: Nor the TT equivalent.

Sen. F. Al-Rawi: Or the TT equivalent. Not a single state. None of them have an entrenchment of a computer customs border system of the type that we are looking at. New Zealand is the closest to it, but when you look at the language, as I have pointed you to, section 131 come down of the New Zealand laws, it is far from that. So who is really doing the homework for the Government?

Sen. Hinds: The good question is that they want to replace the money—*[Interruption]*

Sen. F. Al-Rawi: The hon. Minister of Finance and the Economy, the very affable man, hard-working fellow—I have a lot of like and respect for him—when I listened to his tone this afternoon, I felt well everything is good; no problems. If I listen to what he says, I feel I am okay. Had I not spent time researching the laws of the world and of Trinidad and Tobago, I would have believed him.

Sen. Hinds: He was paid \$10 million, you know.

Sen. F. Al-Rawi: But, Mr. President, the fact is that our laws do not stand up to scrutiny, and this is an absolute trade obstacle to Trinidad and Tobago.

Sen. Hinds: He \$4 million better than—

Sen. F. Al-Rawi: Mr. President, do you know why China perhaps came to Trinidad and Tobago and why the President of China bothered to spend much time with us?

Sen. Singh: Yeah.

Sen. F. Al-Rawi: Because Trinidad and Tobago in the 1970s was very proud to accept China and to stand on the international stage in support of it. [*Crosstalk*]

Sen. Ramlogan SC: Where was Rowley?

Sen. F. Al-Rawi: Because Trinidad and Tobago dealt with—[*Interruption*]

Hon. Senator: Who is Rowley?

Sen. F. Al-Rawi:—the acknowledgement of the one-China policy [*Crosstalk*] because Trinidad and Tobago bothered to establish trade negotiations with China, deprecated by Members opposite when they were in Opposition. [*Crosstalk*]

Hon. Senator: “If ah call she Grey Goose, yuh aint go like it.”

Sen. F. Al-Rawi: Mr. President, the fact [*Crosstalk*] is these things come about by way of continuity of policy, and that is why I told my learned colleague not to stand up and wave a piece of paper that never left his hand saying that someone was invited. That is why I told him that. [*Crosstalk*] That is why I told him it was discourteous, Mr. President. You are all aware that this is not new news. The Leader of Government Business in the House attempted to throw a piece of paper across at me on Saturday after a Friday event to the same effect. The fact is, we have to be serious about our trade.

I am telling the hon. Minister of Finance and the Economy we are prepared as an Opposition to sit down and work these laws through, but it cannot be on the cavalier approach that he has taken. We are on the wrong track, and I am sure,

hon. Minister, that you know this. I am sure that you know that there is an incongruity between customs and between immigration and between the Ministry of Trade, Industry and Investment and the Ministry of Finance and the Economy. It is an unenviable position to be in, but if we are interested in the laws of Trinidad and Tobago, then we must focus on what we want. We must look to the proportionality of the argument. [*Crosstalk*] We must look to the positioning. Mr. President, [*Crosstalk*] the Leader of Government Business is being a little loud. If I could invite him to just quiet down a little bit please and pay attention to the law. [*Crosstalk*]

Sen. George: I am being very quiet.

Sen. Hinds: Let us not listen. He wants to distract you.

Sen. F. Al-Rawi: The fact is [*Crosstalk*] that this Bill has a great deal of inconsistency. If I go to the specific clauses of the Bill, under clause 2 of the Bill, there is an inconsistency of approach in respect of the adoption of definitions. On some occasions we borrow from the Electronic Transactions Act, on others we replicate definitions.

Secondly, Mr. President—

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

Motion made: That the hon. Member's speaking time be extended by 15 minutes. [*Sen. F. Hinds*]

Question put and agreed to.

Mr. President: Sen. Al-Rawi.

Sen. F. Al-Rawi: When we look to clause 5 of the Bill, in the new replace and repeal provisions for the insertion of sections 72, 73, 74 and 75 of the Customs Act. Mr. President, the new section 72 falls short of what happens in the event of a failure; a critical failure, that less than one per cent failure of a \$100 billion

When we look to section 74, we see provisions inside of here which are not matched back properly to the Computer Misuse Act, the Data Protection Act. [*Crosstalk*] When we look to section 79—the new section 79 proposed by clause 6—we see a very unusual position about committing an offence and a reference to an inaccuracy or an omission when the clause itself makes no provision for inaccuracy because it is either you broke bulk or you threw it overboard. You cannot be inaccurate about that.

Sen. Hinds: That is right.

Sen. F. Al-Rawi: When you look to clause 7, Mr. President, all of clause 7, the registration of users for the customs border computer system, all of that can happen via the Electronic Transactions Act, section 53, and can be dealt with in terms of infringements under the Computer Misuse Act under the definition of offences in sections 3 to 11—I believe it is—of that particular bit of legislation.

Clauses 8 and 9 of the Bill that deal with bribery, it is either we are going to take a tough stance on bribery or we are not. How can we possibly be proposing a pecuniary extension of the limit without a jail term? How can you be saying that if somebody infringes the computer system [*Crosstalk*] by 15, sorry, in any form or manner whether intentionally or not, but provided it is reckless in some circumstances, that he would get 15 years, but an officer involved in bribery and coordination, conspiracy, that officer has no jail term? Either we abhor bribery or not. Why are we legislating differently?

When we look to clause 11 which inserts these new sections 268 to 281, all of it can be dealt with by a reflection on the Electronic Transactions Act, but what is very interesting is the Data Protection Act. The Data Protection Act lies in a state of chaos under this Government. The Data Protection Act in Trinidad and Tobago, in my opinion, is unconstitutional. It may be a reason why the Data Protection Act is not yet proclaimed into the laws of Trinidad and Tobago. It may be a reason why no reflection has been made by the Government Bench on the Data Protection Act, but the material to be dealt with under this piece of legislation constitutes personal information under the Data Protection Act, and there is an inconsistency in the treatment of the information. Sections 30 and 33 of the Data Protection Act jump out at me. The question is; where is the explanation for the non-proclamation in its entirety of the Data Protection Act?

Sen. Hinds: Yes.

Sen. F. Al-Rawi: We have had a few things proclaimed. The Data Protection Act has in fact been proclaimed partially; all of Part I of that Act.

Sen. Hinds: Um humm.

Sen. F. Al-Rawi: In Part II sections 7 to 18, 22, 23, 25, 26 and 28, but that allows for the appointment of an information commissioner. Who is that person? Where does he stand? Where is the data protection impact assessment required under this law to be done if you look at it as a whole? Where is that in this particular contemplation, hon. Minister? Where? How can we come and consider

this when we have a body of legislation which tells us that we have to have an impact assessment done on this law? Where is the impact assessment? How can we come, serious men opposite, without complying with the laws? How? The existing laws of Trinidad and Tobago.

Mr. President, there is a very interesting concept here. We are providing in this Bill significant jail term if we accept the Government's point of view in relation to the misuse of the customs border computer system. Fifteen years, couple hundred thousand dollars, serious offences—eight years in jail, another eight years in jail, 15 years in jail. What happens when someone comes into possession of information and wants to bring it forward as a whistle-blower? What happens?

Sen. Singh: “Yuh better check it.” [*Crosstalk*]

Sen. F. Al-Rawi: The Data Protection Act [*Crosstalk*] has a whistle-blower protection provision. The Government of Trinidad and Tobago promised—

Sen. Hinds: Yeah.

Sen. F. Al-Rawi:—that they would bring whistleblowing legislation.

Sen. Hinds: Aha.

Hon. Senator: “Rowley eh know.”

Sen. F. Al-Rawi: The Government of Trinidad and Tobago is dealing with a particular issue right now relative to whistle-blowing. [*Crosstalk*] The institutions of Trinidad and Tobago are not operational. [*Crosstalk*] We have no Integrity Commission. We have an Acting Commissioner of Police. We have a Deputy Commissioner of Police—[*Interruption*]

Sen. Singh: Where were you when Philbert was acting?

Sen. F. Al-Rawi:—who is on extension, who is not even clothed by the provisions in the very noble case of *Endell Thomas v the Attorney General*. [*Crosstalk*]

Mr. President: Senators. Senators, please. Thank you.

Sen. F. Al-Rawi: Mr. President, the Deputy Commissioner of Police in Trinidad and Tobago, as an example, in speaking about—Leader of Government Business, control yourself. [*Crosstalk*] The fact is, Mr. President, he gets hot under the collar when issues come out. [*Crosstalk*] The fact is—[*Interruption*]

Sen. Singh: “I doh get hot like you.”

Sen. F. Al-Rawi:—when you have a Deputy Commissioner of Police who is not clothed with protection of the type that the Privy Council says he ought to enjoy in the case of *Endell Thomas v The Attorney General*. [Crosstalk] The fact is that you are going to have investigations relative to issues of whistle-blowing which ought to be contemplated by this Bill—[*Interruption*]

Sen. Singh: Attacking the police again.

Sen. F. Al-Rawi:—dealt with in circumstances where you put honourable policemen into an invidious circumstance of having their independence questioned for lack of tenure. [Crosstalk]

Sen. Singh: Beat him up in the supermarket.

Sen. F. Al-Rawi: Mr. President, this man, this gentleman, this hon. Senator is the Leader of Government Business, what is possessing him? Why are you interrupting? [Crosstalk]

Sen. Hinds: Cover up.

Sen. F. Al-Rawi: “Take yuh licks.”

Sen. Hinds: “He doh want yuh talking about that.”

Sen. F. Al-Rawi: The fact is—[Crosstalk]

Sen. Singh: “Yuh want to beat them up in supermarkets?”

Sen. F. Al-Rawi: The fact is—[*Interruption*]

Sen. Hinds: “We want to tell yuh about that.”

Sen. F. Al-Rawi:—that we have to contemplate what if this information is required to come to the public’s attention.

Sen. Singh: Filter it.

Sen. F. Al-Rawi: Do we want to lock up someone? Do we want to move—let us say, for example, under this particular Bill.

Sen. Singh: Are you fighting your client’s case?

Sen. F. Al-Rawi: Let us say under this particular Bill that a Member of Parliament hypothetically—[*Interruption*]

Sen. Singh: Ohhh! “Yuh fighting your client’s case.”

Sen. F. Al-Rawi:—wished to deal—[*Interruption*]

Sen. Singh: You want a forum for fighting your client's case.

Sen. F. Al-Rawi:—with an issue for which [*Crosstalk*] no element of Government was in existence with? Are we going to be met—[*Interruption*]

Sen. Hinds: Mr. President—[*Interruption*]

Sen. F. Al-Rawi:—with frivolous Motions, perhaps hypothetically?

Sen. Singh: Hypothetically? [*Crosstalk*]

Sen. F. Al-Rawi: Are we going to be met with positions that try to stamp out freedom of speech in a Parliament?

Sen. Singh: We are conciliar.

Sen. F. Al-Rawi: Conciliar, it is pronounced.

Sen. Singh: Oh, conciliar. All right.

Sen. F. Al-Rawi: The fact is—[*Interruption*]

Sen. Singh: Oh, conciliar.

Sen. F. Al-Rawi:—that we have to contemplate the freedom of speech.

Sen. Singh: An advisor to the mafia.

Sen. F. Al-Rawi: We have to contemplate the public's greater interest in knowing when mischief is afoot. [*Desk thumping*]

Sen. Singh: Conciliar.

Sen. F. Al-Rawi: We have to contemplate the balance of democracy in this country.

Sen. Hinds: And the truth bear in the emails.

Sen. F. Al-Rawi: And for that reason—[*Interruption*]

Sen. Hinds: Yes!

Sen. F. Al-Rawi:—when we propose legislation of this type—[*Interruption*]

Sen. Hinds: Good!

Sen. F. Al-Rawi:—which has no reflection for whistle-blowing elements—[*Interruption*]

Mr. President: Hon. Senator, it is now 4.30 p.m.

Hon. Senator: Unfortunately.

Mr. President: I propose to take the tea break and we will resume at 5.00 p.m. This Senate now stands suspended until 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Mr. President: Hon. Senators, when we suspended the Senate, Sen. Al-Rawi was on his legs; by my estimation he has another six minutes.

Sen. F. Al-Rawi: Thank you, Mr. President, six minutes is a lot of time in the land of the living. [*Interruption*]

Mr. President, if I could, in winding to a conclusion, really reflect upon what the impact of this Bill is going to be, we heard the hon. Minister of Energy and Energy Affairs speak a little while ago in his statement as to energy resources in this country which we know are finite resources. When Trinidad and Tobago finds itself in the position, as it will one day certainly, of no renewable energy, the question is going to be, how ready is our state of trade implementation? How well integrated are we into the systems of Trinidad and Tobago? How well are the systems of Trinidad and Tobago in turn inter-articulated with the global positioning that we enjoy? Mr. President, jobs are on the line, trade in the industry that it provides is the largest contributor other than energy to our economy and it is critical for us to get the trade balance right.

I can say that the hon. Minister of Trade, Industry and Investment has done, from the public's perception, great service thus far. I believe that the Minister of Finance and the Economy has the ability to zone-in to the necessary amendments that are required here, but I want them particularly to focus on what Trinidadians depend upon a Government for.

Mr. President, our economy is in a difficult state right now, in the sense that there is a larger global pressure on our internal pressure and there is a form of stagnation. Seemingly, it is the talk in Trinidad and Tobago. We have had successive budgets back-to-back, totalling by my estimation \$208 billion of approved expenditure in Trinidad and Tobago. Are we seeing the results of \$208 billion pouring through our economy? Are we seeing the movement in the direction of trade?

Are we by this legislation dampening our potential by signalling to the rest of the world that Trinidad and Tobago considers that it should stand apart in the kind of measures we put into law; that we should have higher barriers; that we should have higher penalties for innocent infringement, for reckless infringement; that

we should not allow the discharge of cargo until this matter is dealt with; that we do not have a Customs Appeal Tribunal, that we consider that we must have duplication of systems, one between customs and one between the single electronic window.

Why we are positioning ourselves that way, Mr. President, is the question that can only be answered by the Government of Trinidad and Tobago. I think it important that they remember what we are here to do in this Bill. Customs border and sharing of information is ongoing right now. The FIU receives information right now from ASYCUDA. The Central Statistical Office receives information right now for ASYCUDA; the Board of Inland Revenue; VAT, they all receive information right now.

Do we really want to distinguish ourselves by making sure that our customs officers are held to a lower standard? I know many of those officers from my work in the private practice that I enjoy and I can tell you that I know them to be hard-working and dedicated, and I am confident that they are looking to us for some form of support to get it right.

Our opportunity today in terms of legislation provides a sincere avenue for us to get trade right, to deepen relations with our neighbours, with Caricom, with our international partners. It is incumbent upon us to remove barriers whilst keeping that careful balance of ensuring that our laws are respected and that we are complying with our international treaties.

Mr. President, I urge the hon. Minister to have a careful look at the Electronic Transactions Act and at the Computer Misuse Act and at the mechanisms in TTBizLink, and with those few words, I thank you. [*Desk thumping*]

Sen. Helen Drayton: Thank you, Mr. President, for allowing me to make a few observations on this Bill. Let me say off the bat that whilst I agree that there are matters which should be addressed during the committee stage, in principle I fully endorse the Bill. [*Desk thumping*]

We are in a very competitive environment. Our business, people for years they have been complaining with respect to the long delays for the clearance of their goods and services, and I see this, even though it is very late in the day, as a sign of progress with respect to customs.

Now, in the Explanatory Note, the Bill says that it:

“...seeks to amend the Customs Act...to enhance border control by providing for advance passenger and cargo information to be submitted electronically to the Comptroller of Customs and Excise.”

Customs (Amdt.) Bill, 2013
[SEN. DRAYTON]

Tuesday, June 04, 2013

Now, certainly when ASYCUDA is fully implemented we would derive many more benefits than that.

Sen. Faris Al-Rawi made some very valid points and I will just comment briefly on one which has to do with the neutral technology environment with respect to the State. Again in principle, I agree with that. However, I do endorse ASYCUDA at this time for a customs specific system and that is for a couple of reasons: One, it interfaces with the systems used by most of our international partners and thereby there are some synergies to be derived from that.

Secondly, and I do not think we could overlook the fact, millions have been invested in the ASYCUDA system and employees in customs have been trained in the system and already are familiar with that environment.

I want to agree as well with the repeal of what I would term the Jurassic Customs Act, and what I would recommend is that the Government looks at that as soon as possible and in so doing, it could also address some other matters which have already been raised here with respect to this Bill.

Let me also mention that with respect to whistle-blowing, public officers do have some protection under the amended Integrity in Public Life Act. I think it is section 14 which has a specific clause to do with whistle-blowing and in that clause it offers public officers, if there is wrongdoing and they wish to bring it to the attention of their integrity commission, they are fully protected from victimization and other types of similar acts.

When this system or this Bill becomes law, the major difference between what we are doing now and what will happen is that the information will be provided legally by electronic means. The Bill also provides strong penalties for wrongdoing, and the Minister has indicated the reasons for this, but I want to touch on one or two of these areas later on in the contribution.

Now, as has been said, ASYCUDA has been around in the world for close to 30 years, and yes, some 80 countries including many of our Caricom neighbours are using that system. Unquestionably, it is a better way of doing business in customs since it will speed up the process of clearing passengers and cargo and reduce the paper bureaucracy. Eventually with the full implementation, importers should see a vast improvement in getting their goods cleared and specifically those who are given the green light. The system will also strengthen the capacity of customs and the central Government as it will facilitate the gathering of trade information for more reliable economic analysis as well as fiscal planning. So overall, it should improve the efficiency and effectiveness of customs and consequently improve the revenues.

Now, as we know only too well, technology generates its own evils. If it speeds up the process of business then of course it also, we can rest assured, speeds up the systems and processes of the criminals. Technology has proven itself to be a great enabler for criminal activity. So that the little research I have done indicates that there is a potential downside which I imagine is being addressed, and that is that ASYCUDA generates selectively who is to be checked, and I understand it is programmed to do just that. Now, it is not foolproof. The same way hackers can break open the most difficult of security codes, so too it is possible for criminal operators to interfere with the system, and it will be very difficult to detect them and bring them to justice.

So, it is possible for criminal operators to tamper with the codes and allow their associates and partners in crime to get the green light from what I understand of the system, which means that a particular batch of imported merchandise could be ushered through without any human check. So that one of the questions I want to ask the Minister for him to address in his wrap-up, is to what extent, if I recall there was some scanners which were donated to us, I think it may have been Canada or some foreign partner—*[Interruption]*

Sen. Singh: Chinese.

Sen. H. Drayton:—Chinese or whoever, whether those scanners are in fact operable? What systems are in place for maintenance to ensure that they are fully operational, particularly with respect to the green light cargo? That is, provided of course, there will be no human intervention with respect to the cargo that is given the green light by the system.

I certainly would want to recommend that, I think it would be wise for the Comptroller to still have a discreet system of human oversight, which is to facilitate random checks on green-light cargo, and, again, maybe the Minister could make some reference to that. It is not a recommendation that should be taken lightly given the situation we have with the importation of small arms, drugs, the alleged number of human trafficking and other forms of notorious crimes. How true is it that small arms which get in the hands of criminals come in legally? I do not know. It is not for me to speculate, but certainly we have heard a lot about alleged human trafficking which happens right under the noses of our security systems and ASYCUDA certainly will make no difference to these things at the port once the criminals who facilitate criminality operate within the system undetected. However, as I said, I think this law is a stepping stone; it will improve the business landscape and eventually make it easier to do business.

Customs (Amdt.) Bill, 2013
[SEN. DRAYTON]

Tuesday, June 04, 2013

I just want to raise now a few questions. Sen. Al-Rawi has touched on a few of them. I wondered why no consistency with respect to the definition of “data message” and also “electronic means technology” with this Bill and the Electronic Transactions Act.

5.15 p.m.

In looking at the definitions, yes it varies, although substantially, the meaning is there. So I am just wondering why the inconsistency, whether it has to do with something specific to this piece of legislation. I would like some clarity with respect to section 74(1). It reads:

“The master of every aircraft or ship or his agent, and every cargo reporter shall, within twenty-four hours after the cargo has been discharged but prior to the delivery of the cargo, submit to the proper Officer an account of all the cargo that was discharged from the aircraft or ship.”

Now, I am sure what is intended here is to be a check and a balance. Now, the master of the vessel would have sent advance cargo and passenger information. So I am assuming that once the person to whom the cargo was intended, got the green light, he would now provide a detailed account of all the cargo received before taking possession of the cargo. But I am not too sure, so I am asking for clarification in that regard.

Clause 8:

“Section 216 of the Act is amended by deleting...’four thousand dollars’ and substituting...’two hundred thousand dollars’...”

So I must raise the question as well with respect to bribery. Let us say that the person cannot pay the \$250,000 or \$500,000 whatever you make it, what is the option? Why not the consistency with other pieces of legislation where there is a fine and there is also, or a term of imprisonment.

Now, if we go to section 275:

“A person shall not transmit to or receive information from the CBCS unless he is registered by the Comptroller as a user of the CBCS.”

And it says:

A “...person who contravenes...is liable on conviction on indictment to imprisonment for fifteen years.”

That has been commented upon and the Minister has given the reason which basically has to do with the fact that once you tamper with customs, you are tampering with our trade. But I decided to, in my research, just make some comparisons, and when I looked at the Banking and Financial Institutions Act, the

directors or CEO or a comptroller of accounts in a bank who fails to adhere to certain critical legislation which could have the impact, a tremendous impact on the economy given the fact that we have banks controlling more than 50 per cent—one bank—of our GDP, the penalty is \$5 million. Okay, he could pay the \$5 million, but the jail time is five years.

Under the Electronic Transactions Act the fine is \$200,000 or three years and where no penalty was provided in that Act, it is \$250,000 or five years. But the Prevention of Corruption Act is \$500,000 or 10 years. Human trafficking is seven years, and the Integrity—no, Financial Institutions Act where you were dealing with money laundering, I think that is three or five years, somewhere around there. So again there seems to be disproportionality in that regard, particularly when it is compared with the banking system which would certainly be even more robust given the impact of the financial system on the very trade.

There is one other remark I want to make, and that is because the hon. Minister had mentioned it, and certainly we have been extolling the virtues of the recent high level of visitors to our shores. Of course we should be, and pleased to welcome them. And I know that the significant mention of the \$3 billion in financial assistance for certain members of the region and such generosity has been welcomed by the Government and all and sundry. Now, I would imagine that such a facility has conditions and consequences somewhere down the pipeline, and it will be remiss of me if I did not signal that the Government needs to put in place robust procurement legislation which it promised.

I note some commentators even referred to the financing as if it were a gift. A loan is not a gift. The gift might very well be the other way around in the context of the contracts which they undertake, and I would like to make no bones with respect to that. And therefore I would remind the Senate that we have spent more than a year with respect to developing a framework policy on procurement. I know that procurement legislation takes time but I hope the Minister in his wind-up would certainly make some mention of the status of that matter.

Let me close by saying that this Bill when it becomes law and is implemented, it should eventually improve the business climate and I commend the Government for that. Thank you, Mr. President. [*Desk thumping*]

The Minister of Trade, Industry and Investment and Minister in the Ministry of Finance and the Economy (Sen. The Hon. Vasant Bharath): Thank you very much, Mr. President. Thank you for the honour for allowing me to contribute to this very important debate on:

Customs (Amdt.) Bill, 2013
[SEN. THE HON. V. BHARATH]

Tuesday, June 04, 2013

“An Act to amend the Customs Act, Chap. 78:01 to enhance border control by providing for advance passenger and cargo information to be submitted electronically to the Comptroller of Customs and Excise and for related matters”

Mr. President, before I deal with the substantive matter, there is—Sen. Drayton raised some issues with regard to fines and so on which I am certain that the Minister of Finance and the Economy will deal with in his winding up. But there is one really substantial issue that Sen. Al-Rawi raised in the entire one hour that I think he spoke for, which was his favorite topic that relates to the Electronic Transactions Act. And he said on several occasions, in fact he repeated himself on several occasions—

Sen. George: Ad nauseam.

Sen. The Hon. V. Bharath:—suggesting that the customs border control system that is part of this particular Bill, is non-neutral and essentially he went on to suggest that he had looked at the laws of many countries across the world and the only one that came relatively close to it was the legislation in New Zealand

I wanted to just make reference to the definition section of the Bill when it defines what Customs Border Control System is and hopefully this will clear the matter up because that was a central theme of his entire argument. . It says:

“‘Customs Border Control System’ or ‘CBCS’ means the information system managed and controlled by the Comptroller for the purpose of cargo reporting and passenger document and entry processing;”

Let me reiterate. It means the information system. Now further down in the definition system it says that the:

“‘information system’ has the meaning assigned to it under section 2 of the Electronic Transactions Act, 2011;”

Mr. President, if I could read for you what the definition of “information system” is in the Electronic Transactions Act, it says:

“‘information system’ means a device or combination of devices including input and output devices capable of being used in conjunction with external files which contain computer programs, electronic instructions, input data and output data that perform logic, arithmetic, data storage and retrieval, communication control and other functions...”

Very vanilla, very neutral in terms of what “information system” means, and it refers to the customs border control system as that being the information system. So it is very neutral, in fact, that was one of the issues that came up at LRC when it was discussed at length that we wanted to ensure that this was a neutral system and so it would be enshrined in law as such. In the event that customs wishes at some point in time to change this system, we would not be tied necessarily to the ASYCUDA system. So it is a neutral system, I just wanted to make reference to this. I know Sen. Al-Rawi’s contribution revolved significantly around that issue.

Mr. President, this piece of legislation was an undertaking made in the manifesto of the People’s Partnership under the development pillar, “Information and Communication Technologies—Connecting Trinidad and Tobago and Building the New Economy,” and represents once more this Government delivering on another one of its promises. [*Desk thumping*] In this particular instance, to build a more competitive and productive economy and to deliver better public services to our people.

But I do want, Mr. President, to locate this piece of legislation in the context in which we are discussing it here this afternoon. This Bill forms a part of a larger artillery of legislation and actions taken by this Government aimed at improving the ease of doing business in Trinidad and Tobago and Sen. Drayton alluded to it and so did Sen. Al-Rawi. It really relates to a package of legislation and actions taken by this Government to improve the ease of doing business in Trinidad and Tobago.

Mr. President, the world has changed considerably in the last ten years. We are all painfully aware of the economic and social woes that have befallen many larger economies across the world. In Europe we see what is happening, in many of the countries in Europe, the latest casualty being Cyprus, but there have been many others: Spain, Italy, Turkey, France, the United Kingdom, all suffering, Ireland, all suffering from unprecedented levels of unemployment; all suffering from major declines as far as growth is concerned.

In fact, not only is Europe undergoing that level of stress and strain, the United States has seen very similar phenomena in the last five years, just narrowly avoiding the fiscal cliff and also for the first time in its history being downgraded as far as long term sovereign debt is concerned. The BRIC countries, and China was here recently, the BRIC countries have also had to revise their growth projections over the next year or so. And closer to home we have many of our Caricom partners who have undergone major problems, economic problems; many of them now in the throes of the multi-lateral lending agencies.

Customs (Amdt.) Bill, 2013
[SEN. THE HON. V. BHARATH]

Tuesday, June 04, 2013

The point I am attempting to make here, Mr. President, is that the investment dollar has become very fickle. It has become very judicious and very demanding, and because of the mobility of the investment dollar in today's world, we have a situation where that dollar is now looking for destinations that would be easy to do business in. We no longer have the constraints of time horizons or geographic locations. So therefore what that signals to us here in Trinidad and Tobago is that it cannot be business as usual. We cannot continue to behave in the manner that we did 10 years ago and expect to continue to survive or even to grow. Therefore, that is why this Government has embarked on a series of transformative pieces of legislation and transformative actions to ensure that we position Trinidad and Tobago in that light to be able to succeed in this brave new world.

5.30 p.m.

Mr. President what is the genesis of this legislation? The genesis, really, emanates from what took place in the United States on September 11, 2001, with the terrorist attacks, when the Government at the time in the United States had to enact several pieces of anti-terrorism legislation, importantly, the United States Trade Act of 2002 and, more specifically, section 343(a), which was passed in 2002 and mandated US customs and border protection agencies to establish rules for both the import and the export of goods as far as the provision of electronic data was concerned.

On December 05, 2003, the customs border protection agency published a notice called the "Final Rule" in the Federal Register, announcing changes in the customs regulations which required advance electronic presentation of information for all modes of transportation, whether it is rail, car, ship, aircraft and so on, both for inbound and outbound.

Since then, Mr. President, many countries, as well as multilateral organizations, have actually implemented this rule. The World Customs Organization has done it; the World Trade Organization has done it. Let me just—the World Trade Organization states very clearly:

"Each member shall adopt or maintain procedures for the submission of...[manifests] and other required information...in order to begin processing [and examination] prior to...arrival of goods with a view to expediting the [clearance and] release of goods..."

The European Union, in January 2011, enacted Regulation 278, 1875 to cover this. Canada did the same thing, Mr. President, in 2009. Mexico and Korea followed suit in 2011 and 2012, respectively. Within the Caricom region, many of

our fellow Caricom countries have enacted similar legislation that is before us here this afternoon: St. Lucia in 2005; St. Vincent and the Grenadines and St. Kitts and Nevis in 2007 and Dominica in 2010.

So, what are the benefits, essentially, of this advanced information provided to customs? The first—some of which were alluded to by the Minister of Finance and the Economy—improved border security, of course. It eliminates paper documentation and as a direct result, reduces a significant amount of time which is labour intensive; allows for real time follow-up of import and export transactions. It also provides the generation of trade intelligence almost on an immediate basis, and we know the issues that have been discussed before with regard to the CSO. It enhances risk management and fraud control. It speeds up tax collection procedures, and, very importantly, as Sen. Drayton rightly said, what it does, it allows the speedy release of goods upon arrival because those containers, or those boxes, that have already been reviewed, as far as low risks are concerned, are able to be cleared almost immediately.

Mr. President, customs, essentially, has a very diverse role. In fact, it has several roles: trade facilitation; community protection and revenue collection, while being a necessary presence as far as the global trading system is concerned. However, while businesses must comply with fair customs procedures, inefficiencies cannot and must not be allowed to continue. Old practices can no longer work. We work and we live in a completely different world than we did 10 years ago.

Customs must resolve the contradictions between strict control and efficient operations, and must not only enforce the laws but also facilitate trade and serve to enhance the competitiveness of local industries as well as enterprises. This is why, Mr. President, the operations of the customs has come under such severe and significant criticism at times over the years. The woes and the cries of the private sector have been very loud over the years with regard to the operations of customs, Mr. President. But we know of those woes simply because these private sector members have organizations through which they are represented, on either the national or regional stage. So, therefore, their woes can sometimes be addressed, but at least they are heard.

They have spoken at length, ad nauseam, Mr. President, on the processing delays encountered at customs, sometimes the shoddy treatment handed out and meted out by customs officers to the private sector, and the additional costs involved in those delays, invariably and inevitably being passed on to the consumer, Mr. President.

Customs (Amdt.) Bill, 2013
[SEN. THE HON. V. BHARATH]

Tuesday, June 04, 2013

Mr. President, Minister Howai talked earlier on about the saving of \$5 million by the implementation of—the possible saving of \$5 million as a result of the implementation of this system. Sen. Al-Rawi said that the cost for overtime in Trinidad and Tobago is currently \$70 million. Let me tell you what the actual cost is for overtime in Trinidad and Tobago for customs. From 2002 through to 2013, expenditure on overtime salaries for Customs and Excise Division was \$397,799,095.

Hon. Senator: Say it again.

Sen. The Hon. V. Bharath: Three hundred and ninety-seven million, seven hundred and ninety-nine thousand and ninety-five dollars. And I will tell you—*[Interruption]*

Sen. George: What period?

Sen. The Hon. V. Bharath: For the period 2002—2013—year to date, 2013. But I will also tell you something to put it in perspective. The total expenditure on regular salaries for customs officers for the same time was \$1,000,062,346. That means that overtime as a percentage—*[Interruption]*

Sen. Beckles: Sorry. Can I just ask you if you could say that again, please?

Sen. The Hon. V. Bharath: One billion and sixty thousand—\$1,062,346,000. I am sorry.

Hon. Senator: So roughly, \$1.1 billion.

Sen. The Hon. V. Bharath: Yes, \$1,062 million.

Sen. Beckles: That is equivalent 2002—2013?

Sen. The Hon. V. Bharath: 2002—2013, yes. Essentially, the percentage of overtime to basic salaries is 40 per cent over the last 10 years—four zero. customs officers in this country—Customs and Excise—has been paid 40 per cent—40 per cent, Mr. President—of their take-home salary as overtime payments. So, yes, we may save \$5 million, but it really is a drop in the bucket in terms of creating the efficiencies that are required, not just in Customs and Excise, but throughout the public service.

But that is the private sector, Mr. President. That is the organization that has a voice through the TTMA or through the Chambers of Commerce, but what of the private citizen? What of the private citizen who has to conduct a transaction with Customs and Excise, or generally any of the public offices in Trinidad and Tobago, and Government, or the public service puts up a bureaucratic wall? That wall, Mr. President, becomes almost impenetrable. That private citizen—that ordinary man on the street—has very little recourse once that bureaucratic wall goes up.

Let me give you a good example. Very recently it came to my attention through the newspaper, of a lady who had to pay \$145,000 in taxes to clear a \$15,000 car. Let me just read briefly from this article, Mr. President:

“A 67-year-old woman who has returned home after living 30 years in the United State of America says she has been asked by Customs and Excise Division officials to pay more than \$145,000 in duties, Vat and other taxes to clear a car which she spent \$15,000 to purchase.”

She went on to say that they insisted that she pay it:

“According to an ‘Assessment Notice’ stamped by the Customs and Excise Division and signed by the Comptroller of Customs, Ector is required to pay \$7,400...in import duties; \$115,000 in motor vehicle tax and \$23,293...as value added tax...for the vehicle to be cleared from the Port in Port of Spain.”

Mr. President, this is scandalous. This should never have happened. But you know what? Three months—three months, this poor lady, who was a returning resident to Trinidad and Tobago—as she said, she had reached the age of retirement and wanted to return home to make a contribution to the Living Water Community “where I have begun working with young people”.

Three months after she arrived in Trinidad, she could not get her vehicle or her belongings released. She tried, left, right and centre. She called every person she could possibly have called in Customs and Excise. No joy! The bureaucratic wall went up until I saw this article, got my office to call and enquire, got to the bottom of it, [*Desk thumping*] and Mrs. Ector was able to clear her car and receive her car without having to pay any duties at all. [*Desk thumping*]

But I will tell you, Mr. President, it is not the only case. Since that has happened, several others have come forward to say exactly the same thing. There is one—we have several in the pipeline now waiting. I shall tell you of one more, but I have several more here. This is—yes: “Un-ending tale of the Chevy Blazer”, published in the *Newsday*, May 14, two weeks ago:

“Jacqueline Telfer, 68 and James Telfer, 74 of”—so and so and so, over 14 years ago—“returned to Trinidad and Tobago over 14 years ago and Customs and Excise still cannot clear for them, a 1994 left-hand drive Chevrolet Blazer 4x4 sports wagon. As a result, the vehicle can no longer be driven on local roads.”

Listen to what Mrs. Telfer says:

““Ours is a horrible, horrible tale of a lack of ABCD - accountability, bureaucracy, corruption, and discipline inherent in the system,’ ...

Customs (Amdt.) Bill, 2013
[SEN. THE HON. V. BHARATH]

Tuesday, June 04, 2013

The Chevy which they brought in for...\$14,000”—which they bought in Venezuela for \$14,000—“has to date cost them over \$250,000 in storage fees alone because of a refusal, in the first instance, ‘to pass a few dollars to the right people’ ...”

You think this is an exception, Mr. President? I do not think so. And, unfortunately, what has happened is throughout our system, whether it is Customs and Excise, whether it is WASA, whether it is all of our institutions: T&TEC; whether it is collection of garbage, it is endemic in the system that if you want something, you must pay for it, and until we change the system—and I am not blaming the people—because until we change the system, Mr. President, we will allow that type of behaviour to run rampant.

That is why this Government has embarked on transformative change because if we attempted to do it incrementally, it will always revert to where it was before. You will see that throughout my contribution, Mr. President, with regard to tackling this thorny issue of ease of doing business, that is what we are attempting to do, to create transformative change.

Hon. Senator: “People fighting to keep the system.”

Sen. The Hon. V. Bharath: You know, Mr. President, when I spoke to the private sector upon assumption of office as Minister of Trade, Industry and Investment, they said to me, “Minister, we do not want further incentives, you know. We do not want incentives. There are enough incentives on our books in Trinidad and Tobago to allow us to do business. The problem is, we need to cut through the red tape. We need to remove the bureaucracy to allow us to be able to trade unhindered.” That is why we embarked on this exercise to be in a position to place Trinidad and Tobago in a position of dominance.

Let me say this in defence of the Comptroller—the existing Comptroller though, “eh”. I will say that the present Comptroller has done a tremendous amount of work.

Hon. Senator: Hear! Hear!

Sen. The Hon. V. Bharath: He has done a tremendous amount of work and I have a great deal of respect for Comptroller Fitzroy John, but he cannot do it alone and the system needs radical change, not incremental change, Mr. President, because the rest of the world will undoubtedly leave us behind.

5.45 p.m.

Mr. President, it was alluded to by Sen. Al-Rawi that the 2013 Competitive Index actually ranks Trinidad 132nd out of 144 countries worldwide as far as burden of customs procedure. We rank behind every single country in the western hemisphere apart from two: Haiti at 142nd and Venezuela at 144. That is where

Trinidad and Tobago ranks. Sen. Al-Rawi said, “But, you know what? The top 50 people in this index do not use the ASYCUDA system.” But ask him under whose regime the ASYCUDA system was bought? 1993.

Sen. Al-Rawi: Correct.

Sen. The Hon. V. Bharath: Yes, and the problem is we have now spent hundreds of millions of dollars on the ASYCUDA system.

Sen. Al-Rawi: Twenty-five million.

Sen. The Hon. V. Bharath: We have now spent hundreds of millions of dollars on the—we spent \$32 million just the other day upgrading. Hundreds of millions of dollars upgrading the ASYCUDA system over the years since 1993, and he rightly says, ASYCUDA⁺, ASYCUDA⁺⁺, ASYCUDA World—all of these. We have been hearing the same story since 1993, Mr. President, since I was on the board of TTMA—actually back in 1988, I was in the private sector on the board of the TTMA hearing the same stories that we are hearing today.

According to the same World Bank Competitive Index, it takes on average 19 days to clear a container off the ports of Trinidad and Tobago, and 14 days if it is coming into—sorry, 19 days if it is coming in to Trinidad and Tobago, and 14 days if it is being exported, compared to best practice jurisdiction where it takes one day. South Korea, Singapore, one day, Mr. President. We wonder why they are efficient, and we wonder why they are always at the top of every ranking across the globe—whether it is competitiveness, whether it is ease of doing business, whether it is best airline, whether it is best education system in the world, whether it is largest shipbuilders in the world—*[Interruption]*

Hon. Senator: Best ports!

Sen. The Hon. V. Bharath:—best ports, we wonder why. The mean average for the top-10-ranked countries as far as ease of doing business is concerned is that it takes three days to export a container and four days to import a container. That is the mean average—the mean, sorry, across the top 10.

You know, I had the opportunity last week to formally launch the results of the Logistics Performance Index which is an exercise that was conducted by the Arthur Lok Jack School of Business. It is the first time such a study was done for Trinidad and Tobago. It has been done for different countries in the world and based on using the World Bank methodology, Trinidad and Tobago was ranked at number 68. It was done in conjunction with the Center for Advanced Supply Chain Management at the University of Miami. It is essentially a calculation that encapsulates several aspects of the supply chain into one number, into one ranking.

Customs (Amdt.) Bill, 2013
[SEN. THE HON. V. BHARATH]

Tuesday, June 04, 2013

Let me read for you, Mr. President, what the last paragraph of that report said. It said:

From the standpoint of the survey, the Logistics Performance Index will greatly benefit from specific actions to improve the customs process.

And let me tell you what they said about the customs process in Trinidad and Tobago. It says:

Border management

—and I am quoting from the report:

The organizations involved in trade facilitation are many and an exporter/importer must physically visit each to have the same documents processed. Additionally, many of these organizations have not reformed their mandates and internal mindset from an enforcement orientation to one of facilitation.

And two, abuse of discretionary powers.

The discretionary interpretation and implementation of laws, tariffs and regulations, due to the lack of automation, causes uncertainty, corruption, leakages in the revenue collection process and higher prices for the citizens of Trinidad and Tobago.

Mr. President, we clearly understand that customs has a major role to play in Trinidad and Tobago. We know that, based on information that Minister Howai would have provided earlier on, we know that as far as taxes are concerned, Customs and Excise collects on average \$2.5 billion worth of tax on an annual basis—\$2.5 billion worth of tax. In fact, that is close to 5 per cent of the total revenue generated by the Government of Trinidad and Tobago on an annual basis. But, customs must also see themselves not just as tax collectors, they must see themselves—if we are to embrace what is happening in the real world, they must see themselves also as trade facilitators, Mr. President.

Mr. President, I wanted to—in the context of speaking of the reforms at customs and what we are attempting to do through this piece of legislation—also talk about some of the other legislative measures, and some of the other actions that we have taken at the Ministry of Trade, Industry and Investment in the last 12 months or so to deal with this whole issue of ease of doing business. Trinidad and Tobago currently ranks at number 68 out of 185 countries in the world. In fact, when one looks at the indicators that comprise ease of doing business, we actually

do quite well in several of them. Ease of getting electricity, for example, we rank at number 11th in the world, surprisingly; ease of getting credit, 23rd in the world; investor protection, 25th in the world.

But, there are other factors and other areas where we do so poorly, where we rank so poorly, Mr. President, that it drags the other rankings and pulls us down as a country. Starting a business, for example, number 71; trading across borders, 75; paying taxes, 90; dealing with construction permits, 101; resolving insolvency, 135; enforcing contracts, 170; and registering property, 176. That is why, Mr. President, we have realized that we must tackle several of these indicators across the board if we are going to increase our rankings as far as ease of doing business is concerned.

Why is it important to increase our rankings? Because, ultimately, the ease of doing business in a country is a perception. It is a perception just like it is a perception where you rank as far as global competitiveness is concerned. If it is that we are able to change those rankings by creating certain actions that increase our rank in any of these indicators, immediately we send a signal to the rest of the world that something is happening in Trinidad and Tobago.

We made a very bold declaration that we are going to jump 20 places in the next 12 months. We are working very hard to do it, but the World Bank, who we are working with, they are saying, “Well, you know, no one has ever done that”, but they are working with us to make sure that we get as far as we can. Because if I can take, and if the Ministry of Trade, Industry and Investment can take us from 68 to 48 in 12 months, we will have sent a very strong signal to the rest of the world that we are ready and really and truly open to do business.

Because, when an investor is looking for a destination, Mr. President, to put his money, he does not necessarily fly to Trinidad and Tobago. What he does is he does basic desk research to start with—some sort of a filtering process where he starts to eliminate countries before he determines where he is going to land up, where he is going to eventually come down to go in, to fly into. Immediately, as he sees number 68 or he sees registering a property—we rank 176, or it takes 71 days to set up a business, or it takes 297 days to get a construction permit in Trinidad and Tobago—he eliminates Trinidad and Tobago almost immediately.

So this is why it is so important that we start to chip away and make drastic changes to the perception that people have with regard to doing business in Trinidad and Tobago. That does not only apply to foreign direct investment, it applies also to local direct investment.

Customs (Amdt.) Bill, 2013
[SEN. THE HON. V. BHARATH]

Tuesday, June 04, 2013

I read in the newspaper this week, there is \$6.5 billion locked up in our banks in Trinidad and Tobago. The Governor of the Central Bank stated that he had to “mop up a billion dollars” in the last 12 months. A billion dollars! Another \$676 million went into purchasing foreign exchange and another billion dollars went into rolling over credit to the banks. Immediately, there are \$2.6 billion taken out of the system because there is excess liquidity.

Now, generally speaking, Mr. President, entrepreneurs and business people do not like to leave money in banks, not when it is earning less than 1 per cent. They want to put it to work. They want to put it to good use. But, when you have a situation where they are finding it difficult to clear containers off the port, or they cannot get a WASA connection without paying somebody for something, or they cannot get a T&TEC, [*Crosstalk*] or they cannot—and this has nothing to do with the Minister of course. [*Laughter*] This predates us; this is what we have to deal with, and I will talk about that later on because this is some of the mess we have been left with that we have to clean up.

So, Mr. President, I just wanted to touch briefly on some of the legislative changes, some of the changes we have been making. Minister Howai talked about starting a business which we have now removed the time—reduced the time frame from 43 days to three days in starting a business. [*Desk thumping*] Everybody said it was impossible, but we have done it. Forty-three days to three days by introducing legislative measures and enshrining in legislation for the first time in the history of this country, key deliverables from public officers. VAT, NIS, previously took 30 days, now it is within one working day and there are several others. The trading across borders. The Ministry of Trade, Industry and Investment is working with other Ministries, food production, with health, chemistry, food and drug, animal health, plant quarantine, to be able to produce permits and certificates of origin on a timely basis.

Let me say this, businesses in Trinidad and Tobago today can now obtain approvals for over 24 different e-government business services within 24 hours, Mr. President, within 24 hours. I wanted to just draw your attention to an ad we have been running in the newspaper very recently to highlight all of those services to the general population, because not many people are computer savvy or computer literate, or they are essentially stuck in the status quo or the inertia of the paper system. So we are trying by alerting the population to get them to understand that there is a different way to do it, there is a better way, you do not need to leave your home. You can actually access all of these services on a computer from your home.

We have had hundreds and hundreds of testimonials, Mr. President. I just want to read one here for you. This is the first person who actually registered a company on TTBizLink and it says:

As the first user of this service, I found it to be beneficial as it previously took me three days for a name reservation to be done. I was able to do my name reservation in five minutes and was granted approval within a couple of hours.

That is what we are attempting to do here, Mr. President, make transformational change that will positively affect the lives of the citizens of Trinidad and Tobago. That is the mandate. [*Desk thumping*] That is the mandate given to us by the Prime Minister of Trinidad and Tobago. Up and down this row and in the other House as well, every single Minister is charged with that responsibility—improving the quality of life of the people of Trinidad and Tobago. Nothing else! [*Desk thumping*]

Another one says:

I find this online system to be working effectively and it is very convenient. I received approval for my certificate of origin within five minutes of sending them through this service.

Mr. President, but, of course, that is not all there is, because the United Nations has also recognized. So we have been recognized also, in addition to on the local front, we have been recognized also on the international front. Mr. President, I am pleased to inform this honourable Senate that the single electronic window for trade and business facilitation—TTBizLink as we know it—which I have been speaking about, has been awarded first place in the 2013 United Nations Public Service Awards for Latin America and the Caribbean. First place! [*Desk thumping*] And let me just say what this award is. This award is the most prestigious international recognition of excellence in public service.

In this regard, this country will be celebrated later on this month, Mr. President, in Bahrain, alongside countries like South Korea—who won in their area, geographic area—Singapore and Dubai. Those are the people who we are now running alongside. Is there any wonder that Vice-President Biden and President Xi Jinping came to Trinidad, Mr. President? [*Desk thumping*] Is there any wonder?

As I am on this topic, Mr. President, let me just take this opportunity to congratulate the entire team at the Ministry of Trade, Industry and Investment who worked tirelessly, hours upon end, to make this project happen, many of

Customs (Amdt.) Bill, 2013
[SEN. THE HON. V. BHARATH]

Tuesday, June 04, 2013

whom are actually here today, so I want to publicly congratulate them, [*Desk thumping*] ably led by their boss, Director Randal Karim, who is the Director of Policy and Strategy at the Ministry of Trade, Industry and Investment. [*Desk thumping*]

6.00 p.m.

Mr. President, I also want to say that for the first time in living memory, as attested to by many public servants, many different ministries are working collaboratively together, for the first time in living memory. We are now working with the Ministry of National Security to ensure that we have been able to process online applications for work permits. We have got it down from six weeks to 14 days, Mr. President—[*Desk thumping*]*—*from six weeks to 14 days.

Sen. Al-Rawi: That is for a certain class.

Sen. The Hon. V. Bharath: With regard to construction permits, we are working with Minister Tewarie because, according to the World Bank, it takes 297 days to get a construction permit in Trinidad. We are working with the Ministry of Planning and Sustainable Development to ensure that online, you can make your application and we are working also with the World Bank to ensure that we can reduce that time frame from 297 days to six weeks and we will do it. In fact, Minister Tewarie has assured Cabinet that by the end of June, the entire backlog of applications in the Ministry of Planning and Sustainable Development, as far as town and country planning is concerned, will be cleared up by the end of June, so that when new applications come in we are going to be able to process them much quicker.

We are working with the Ministry of Legal Affairs as far as registering of property is concerned because that is one of the areas where we have fallen down considerably and we have already started the automation of the Land Registry to be able to do that. In fact, we are looking also at the elimination of a couple of the items that are required, generally, for example, Water and Sewerage Authority certification and also the witness to the execution of a memorandum of transfer to sign before a commissioner of affidavits. So those are two steps we are looking to eliminate from the registering of property.

Strengthening of the Chemistry Food and Drug Division—any member of the private sector who has been involved in the importation of food and drugs will know that Chemistry Food and Drug Division is a law unto themselves. They are the bane of the private sector. They are the bane of the private sector. There are a number of problems the private sector has had over the years. You know what? I

had a meeting with the Chemistry Food and Drug Division. It came to a head and I asked my colleague, the Minister of Health, to join me at that meeting and I had cause, really, to get quite upset because of what I heard. I said to them: "Listen, you guys, your job, really is to support the private sector. Yes, you must protect the health of the citizens of this country but without the private sector you do not have a job." That is a fact. I said to them: "When was the last time?" They said: "Well you know Minister, it is a little bit unfair to say that we do not care about the private sector." I said: "Tell me then, when was the last time you had a meeting with the private sector?" Everybody in the room was absolutely quiet, not a word. I said: "No, I am asking you, really, I am genuinely asking you this question: When was the last time you had a meeting with the private sector? Was it a month ago, two months ago, six months ago? Was it a year ago? Three years ago?" Mr. President, I was ashamed to find out that they had never, ever, in living memory, had a meeting or a consultation with the private sector whom they are supposed to serve.

To let you know, Mr. President, that between Minister Khan and I, we have forced a situation such that they have come up with five quick wins that will affect positively how trade is conducted, as far as food and drugs are concerned in Trinidad and Tobago. And those quick wins essentially relate to the modernization of the—and these are things that could be done immediately. I am talking about June, we are starting in June. The modernization of the food and Drug Act and its related regulations, recruitment of officers on contract to act as inspectors, and the establishment of a private sector help desk. For the first time today, working collaboratively with the private sector, the Ministry of Trade, Industry and Investment and the Ministry of Health and we are forcing the change to take place. We are forcing the change to take place. We are bringing them to the table by the scuff of the neck and we are saying this is how it is going to be done.

One of the other areas, Mr. President, is the improving of port efficiency. Sen. Drayton asked about the port scanners. There are two issues with regard to port scanners. I want to say that on Saturday, there was an exchange of letters for the purchase of a port scanner from China, through a grant from the Chinese Government and that scanner should be in Trinidad and Tobago probably, I would think, in about six months' time. We are hopeful we can get it in a shorter time frame but it is going to be within six months. It is grant funding, as I said. The container has gone through all its specifications by the port and by customs. The scanner is capable of scanning and processing 200 containers per hour, which will have far greater capacity than we actually need now.

Customs (Amdt.) Bill, 2013
[SEN. THE HON. V. BHARATH]

Tuesday, June 04, 2013

There is another set of scanners that have been donated to us by the US Government, which is what I think Sen. Drayton was referring to, four scanners that were donated by the US Government to the Trinidad and Tobago Government, but they require refurbishment and we gather that the refurbishment cost is going to be in the area of about US \$2.2 million to refurbish them and bring them to Trinidad and Tobago. So, that is the issue with port scanners. Of course, once those port scanners are implemented, we will have, obviously, a much quicker clearance of cargo through the ports because, of course, it will pick up on issues that are of high security matters, and so on.

Mr. President, the other area that is a policy provision, as far as this Bill is concerned, is what is contained in section 279, which requires the Comptroller of Accounts to share information with relevant public bodies that may request that information.

Governments all over the world have recognized that information generated by government agencies can actually be a strategic asset. It can actually be something that is of value to allow public services and public officers and bodies to work together to respond to complex policy challenges and to improve the efficiency of services to citizens.

Mr. President: Hon. Senators, the speaking time of the hon. Minister has expired.

Motion made: That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. F. Al-Rawi*]

Question put and agreed to.

Sen. The Hon. V. Bharath: Thank you very much, Mr. President. Thank you to my colleagues. [*Desk thumping*] I just wanted to hark back to that issue of sharing data because there has been a resistance in Trinidad and Tobago to share data across ministries to start with and even across agencies there has been a reluctance and a reticence to share data, because we operate, essentially, in a silo mentality. What is mine is mine, what is yours is yours and never the twain shall meet.

Let me just read an article that appeared in *The Economist* of two weeks ago. It says:

“A new goldmine”

That is the headline.

“Making official data public could spur lots of innovation”

This is so important to changing a mindset.

“After a Soviet missile shot down a South Korean airliner that strayed into Russian airspace in 1983, President Ronald Reagan made America’s military satellite-navigation system, GPS, available to the world. Entrepreneurs pounced. Car-navigation, precision farming and 3m American jobs now depend on GPS. Official weather data are also public and avidly used by everyone from insurers to ice-cream sellers.

But this is not enough. On May 9th”—of this year—“Barack Obama ordered that all data created or collected by America’s federal government must be made available free to the public, unless this would violate privacy, confidentiality or security.”

And it goes on to say:

“In Europe the information held by governments could be used to generate an estimated €140 billion...Only Britain has gone as far as America in making data available, however. For example, it requires the cost of all government transactions with citizens to be made public.”

Countries across the world, Mr. President, understand the value of information but more importantly, understand the value of sharing that information as a spur for innovation. Therefore, that is why we wanted to ensure that the information that came into the ASYCUDA system, into the customs systems, was shared across many different agencies.

Let me walk you through, Mr. President, what currently takes place. A broker or a clerk fills in a C82 form, submits it to customs. He then has, after the form is approved, to go physically to the Ministry of Trade, Industry and Investment, the trade licensing unit. He then has to go to plant quarantine, Ministry of Food Production, animal quarantine, Ministry of Food Production, Chemistry Food and Drug Division and the Bureau of Standards. Five different agencies that clerk has to go to physically as it stands now, with that bit of paper to get each of these agencies to stamp it up and then he has to go and fight up in the port. That exercise alone can take between three and five days. What this Bill before us does today, is it allows immediate sharing of information immediately as it is input into the ASYCUDA system by the broker or the clerk. It is shared automatically, electronically across all of those agencies that I just spoke about. The clerk of the broker sits in his office and he receives it back electronically without having to move a footstep out of his office. Therefore, these are some of the actions that we are taking to ensure that we create that environment for the ease of doing business.

Customs (Amdt.) Bill, 2013
[SEN. THE HON. V. BHARATH]

Tuesday, June 04, 2013

Mr. President, I wanted to—I know my time is running short—just touch on the maritime sector because the maritime sector is one of the areas that we spoke to the Chinese President and his team about. They are the second largest shipbuilders in the world and we are strategically placed, really God-given where we are because of the Panama Canal opening up and because of all of those large vessels sailing down to Africa and other places. We are geographically blessed, essentially, to have a similar type of facility in Trinidad and Tobago, not necessarily in the first instance to build ships but certainly to repair and maintain ships and as a direct result—

But you see we can only do that and we can only create a transshipment as a hub here for large vessels, if we can run those ports efficiently. It is as simple as that. We got to have efficiency of labour, we got to have efficiency of systems.

We have just recently, only last week—I just wanted to briefly alert this honourable Senate—Cabinet has just approved certain exemptions from value added tax and import duties as well as corporation tax holidays for companies that wish to locate to Trinidad to get involved in that business.

Mr. President, this Government—based on what I have just said, and many, many things that I have not got the time to go through this evening—has embarked on transformative change across, essentially, all aspects of life—everyday life in Trinidad and Tobago.

Change is not an event. It is a dynamic process that unfolds over a period of time and what is relevant for one organization, for example, the customs, may not be relevant for another organization, T&TEC for example. Sometimes change can feel like changing tyres whilst the car is moving; whilst you are keeping fixed on where the destination is, knowing that you have passengers also to look after. That is how change can feel at times. But this Government has chosen not to take the easy route. We have chosen not to take the easy road. No Prime Minister in the history of this country has taken the tough, the brave, the courageous decisions that Prime Minister Kamla Persad-Bissessar has had to take—[*Desk thumping*]*]*—in the interest of this country and every day our Ministers are faced with similarly tough and challenging decisions that we must make on behalf of the people of Trinidad and Tobago and in the interest of its longevity.

Mr. President, this Government is committed to making this place a better one through our policies of social justice, inclusion and equity and equality for all of our citizens.

6.15 pm

You know what, Mr. President, when the going gets tough as invariably it often does, we would not abandon ship midway. We would not do like others have done in the past and on more than one occasion and jumped off the ship and handed over the rudder to someone else.

Sen. George: Yes. Yes.

Sen. The Hon. V. Bharath: We will not do that. [*Desk thumping*] We will see it through the tough times.

Sen. George: Nice one.

Sen. The Hon. V. Bharath: Mr. President, this Government has spent the last three years reversing the mess that we found ourselves in—reversing the decline from the Clico issue, the VAT issue, the issue with the contractors, the issue—
[*Interruption*]

Sen. George: “De PNM. Yes, de PNM.”

Sen. The Hon. V. Bharath:—with union negotiations, unfinished or not having started, we found—as I mentioned earlier today when they were trying to grill me at question time.

Sen. George: Yes.

Sen. The Hon. V. Bharath: We came into an economy which for the first time suffered negative growth of 3½ per cent, first time in 17 years, since 1993 this country suffered negative growth. We are now projecting growth of up to 2½ per cent. Inflation, we took from 16 per cent down to 5.5 percent.

Sen. George: Yes.

Sen. The Hon. V. Bharath: Unemployment is now at 5.5 per cent. We now have more money in the Heritage and Stabilisation Fund than we have ever had, almost US \$5 billion, TT \$30 billion. [*Desk thumping*]

Sen. George: “Dey doh like to hear it yuh know.”

Sen. The Hon. V. Bharath: That is why, Mr. President, when they question and say that these world leaders came because of some interaction they had in 1971, the fact is, why had they not come back in the last 43 years, “eh”?

Sen. George: “Ah, ah, ah!”

Sen. The Hon. V. Bharath: [*Desk thumping*] The fact is that is why we have seen the historic visit of two world leaders back to back. They talk, but how many times in the 50 years—almost 50 years the PNM was in office, how many times in that 50 years did two world leaders ever visit Trinidad and Tobago back to back?

Sen. Mohammed: Never.

Sen. George: Back to back.

Sen. The Hon. V. Bharath: The answer, Mr. President, is a resounding, never, never, ever, ever. [*Continuous crosstalk and laughter*] In fact, but you see, Mr. President, under this People's Partnership and the leadership of our distinguished Prime Minister, Kamla Persad-Bissessar, Trinidad and Tobago is the place to be. [*Desk thumping*] And you know what, in the midst of it all, and I just want to raise this because it is important. In the midst of it all, it is such a shame, a historic visit, that the Leader of the Opposition—because it was brought up earlier on and I was not going to necessarily raise it, but the Leader of the Opposition chooses to “ups and go to Tobago, ups and go to Tobago for the weekend”.

You know what, many of us in this Chamber, many of our colleagues would have liked the opportunity to go and spend a long weekend, but we had a responsibility to the people of Trinidad and Tobago. [*Desk thumping*] We have a responsibility. You know what, Mr. President—[*Interruption*]

Mr. President: Senator. The Leader of Government Business.

PROCEDURAL MOTION

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Mr. President, in accordance with Standing Order 9(8), I beg to move that the Senate continues to sit until the—[*Crosstalk*] “Yuh come late and yuh still talking? [*Sen. Singh addresses Sen. Deyalsingh*] [*Laughter and crosstalk*] Mr. President, I beg to move that the Senate continues to sit until the completion of the business at hand.

Question put and agreed to.

CUSTOMS (AMDT.) BILL, 2013

Sen. The Hon. V. Bharath: Thank you, Mr. President. You know I was absolutely flabbergasted, truly, I was absolutely flabbergasted.

Sen. George: “It take ah lot to flabbergast you.”

Sen. The Hon. V. Bharath: I was, in fact dumbfounded.

Sen. George: “It take ah lot to do dat.”

Sen. The Hon. V. Bharath: “He right”, it takes a lot to do that. I was dumbfounded by what I would consider to be a suffocating, “constipationally,” condescending remark—[*Interruption*]

Hon. Senator: “Ay-ya-ya.” [*Desk thumping*]

Sen. The Hon. V. Bharath:—from the Leader of the Opposition—
[*Interruption*]

Sen. George: Alliteration, man.

Sen. The Hon. V. Bharath:—“constipationally,” condescending remark from the Leader of the Opposition “talking about who walking in front ah who, and that is de real breach in protocol, who walking in front ah who. When de real breach in protocol, he pick up himself and he gone to Tobago, da’ is de real breach. [*Desk thumping*] Da’ is de real breach. Dat is the breach of protocol.” Imagine, Mr. President, the President of China is in Trinidad and Tobago and this man who aspires to be Prime Minister of this country blanks the President of China? [*Crosstalk*]

Hon. Senator: “Da’ is not true.”

Hon. Senator: Contempt!

Sen. The Hon. V. Bharath: Blanks the President of China! Anyway and to top it all off, he leaves his troops much in the same way that he did with this fabricated email scandal. He leaves his troops and leaves them like lambs to the slaughter; lambs to the slaughter, Mr. President, yes. [*Desk thumping*] Poor Sen. Al-Rawi—[*Interruption*]

Sen. George: “Al-Rawi poor?”

Sen. The Hon. V. Bharath:—“ah could only say poor, because dis” Sen. Al-Rawi now, knowing this not to be true, settle the—well, maybe not, maybe not, but presumably knowing it not to be true he says:

“Opposition Leader Dr. Keith Rowley has been reportedly blanked from the State functions to be held in honour of President of China”—

Hon. Senator: Correct.

Hon. Senator: Not true.

Sen. The Hon. V. Bharath:—“who arrived in T&T...Public Relations officer of the PNM, Faris Al-Rawi, at a press conference...said as far as he was aware, Rowley was not invited to any...events, including a State banquet”—
[*Interruption*]

Sen. Al-Rawi: True!

Sen. The Hon. V. Bharath:—“to be held tomorrow.”

You know, Mr. President, “leh me ask yuh dis?” It is inconceivable, it is unthinkable that people like Donna Cox would have been there—[*Crosstalk*] Paula Gopee-Scoon who I greeted personally, it is unthinkable that the Leader of the Opposition would not have been invited. [*Crosstalk*] To be honest, it is something that the imagination struggles to accommodate.

Sen. George: That is right!

Sen. The Hon. V. Bharath: The imagination struggles to accommodate something like that. It is unthinkable.

Sen. Al-Rawi: He was not invited.

Sen. The Hon. V. Bharath: Mr. President, let me not in the few minutes I have left, let me not be distracted from identifying some of the real and tangible benefits of a visit like that.

Sen. Al-Rawi: “Yuh distracting yuh own self.” [*Laughter*]

Sen. The Hon. V. Bharath: Vice-President Biden’s visit addressed several issues affecting US-Caricom relations, the drug trade, citizens security, immigration reform, trade investments and education, as well as the fact that he pledged to Trinidad and Tobago to assist with our ICT infrastructure and the supply of decommissioned naval vessels to assist in the war against crime.

President Xi Jinping signalled to the world the strategic importance of Trinidad and Tobago as a gateway to the Americas. He signalled that by his visit to Trinidad and Tobago and that visit has undoubtedly lifted and enhanced the visibility and profile of Trinidad and Tobago on a world stage.

I just want to highlight a few of the issues that were discussed: A US \$3 billion concessional loan facility to the Caricom region; possible financing of the Arima Hospital; signing of a landing agreement with regard to the Couva children’s hospital and various stadia; [*Crosstalk*] 100 medical professionals promised to Trinidad and Tobago over the next three years; the exchange of letters with regard to the scanners I spoke of earlier on; an economic and technical agreement for \$50 million, Mr. President.

The possibilities and the opportunities for our small island state are infinite. I can think of no better concluding remarks than those of the President of China, Mr. Xi Jinping himself at a luncheon hosted on his behalf. He said this and I quote:

In recent years under the leadership of the national Government and Madam Prime Minister, this country has vigorously responded to the international financial crisis, ensured political stability and achieved quick economic recovery. At the same time it has taken an active part in international and regional affairs and enjoyed a notable rise in international standing and influence. As your good friend, we are profoundly rejoiced to see the success in national development of the people of Trinidad and Tobago.

Sen. George: Ohhhh!

Sen. The Hon. V. Bharath: Mr. President, no statement has ever better captured the vision and the achievements—[*Interruption*]

Sen. Mohammed: Yeah! Yeah!

Sen. The Hon. V. Bharath:—of this People’s Partnership Government under the astute leadership of Prime Minister Kamla Persad-Bissessar [*Desk thumping*] in delivering to our people whilst at the same time positioning Trinidad and Tobago on a world stage.

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

Mr. President: Sen. Beckles. [*Desk thumping*]

Sen. Penelope Beckles: Thank you very much, Mr. President. I rise to make my contribution on this legislation that was already supported by the Opposition in the Lower House—[*Desk thumping*] and at the outset let me say that we intend to support this piece of legislation as well. [*Desk thumping*] Mr. President, there are about three or four areas that I would like to address. I like to call him my good friend, Sen. Vasant Bharath because you know I have made no—I never make any—[*Interruption*]

Hon. Senator: Pennies! [*Laughter*]

Sen. P. Beckles:—mistake of saying that he is one of the Ministers that I enjoy listening to, probably save and except two contributions of which the latter part of today was one of them.

Hon. Senator: Ah, ah, ah! [*Laughter, crosstalk and desk thumping*]

Hon. Senator: “Yuh going good.”

Sen. P. Beckles: You know—no, I am going very good. “Doh worry”, he is not thin-skinned. He is one of those who is not thin-skinned, so he will be able to handle some of what I am going to say.

I wanted to say that I had the—I was listening to him a couple days ago on what is called the Ground Report. He was being interviewed, I think it might have been, maybe, I am not sure if it was this week, but anyway, he was dealing with some of the issues that he raised today and that is to say his commitment to reducing the time for registering companies, applying for work permits, you know, looking at some of the Government's—as he called it—transformative policies to make things a lot easier as companies and other persons come to Trinidad to do business.

Let me just say at the outset that I do not think that there is any Trinidadian and Tobagonian including Members of the Opposition who would object to that kind of policy. As a matter of fact, I think that for all of us we will be extremely happy if that is attainable, that is to say—and he mentioned not just be it the port or the airport or the companies section, but if we were to reach to that level of what we call better customer service, and a level of consciousness and discipline for persons who go to the various public service areas to do business, if one is able to see an increase, better performance, discipline, delivery, I think Trinidad and Tobago would be in a much better place.

There are a number of persons who do not believe that can happen, what Sen. Bharath was talking about, that you will actually have as the Minister said, a moving from—he made the point that clearing containers from days to minutes, your work permit from a few hundred days to a week, and many other things, people do not believe that that is possible. I would say that it is possible but I do not think it is as easy as Sen. Bharath is suggesting and I will give my reasons why, but at the same time, I think we would certainly encourage that practice and that possibility.

I am sure that every single Member of this Senate has been to whether it be to clear “ah barrel or ah package” or whatever it is, and would have encountered some of the challenges that he referred to, and you know some people—he talked about the Telfer and he also talked about Miss Ector, 67 of St. James who gave her own personal experience, and we know of many persons who have actually given up as it relates to going to the port or going to other places to collect items that persons may have sent from abroad. Therefore, the first thing I want to raise, my concern has to do with the issue of the penalties.

Now, I have not heard the hon. Minister of Finance and the Economy, Sen. Larry Howai, or the Minister of Trade, Industry and Investment give an explanation for these drastic increases in fines.

6.30 p.m.

I have not heard an explanation for the increases. I have not heard a justification for the increases, and I must say that I have, from time to time, been very concerned with this Government's policy, almost, that increases in fines is a way in which they decide; it is a way in which they seem to think, that, okay, this is how we should treat with things and the increases are so drastic that it sometimes really, you know, I am really concerned.

And if I could just use a few examples because there are some amendments, for example, if we are looking at clause 7 where they are moving from \$4,000, that is section 216 of the existing Act, to \$200,000 and then section—no, that is clause 8—and then clause 9, they are moving from \$20,000 to \$200,000.

And if you look at some of the fines, and I am referring, Mr. President, under section 74 and that is related to a person who fails to comply with subsection (1), and that is where you are providing information, the penalty there is \$100,000. And then under 75(1), the penalty is 600,000. I would really like to know what is the reason for those kinds of drastic fines.

We talk about eliminating corruption “eh”, and some people are of the view that when you put these hefty fines, it is actually a method by which you will eliminate corruption. A lot of these fines that are being put in place, even if you are using the Interpretation Act that would give the magistrate a discretion, I think it is in those circumstances you actually encourage corruption because there must be some correlation with the activity. I mean, you know, yes, you may give some reasonable excuse for why you have made those mistakes, but I would really like the Minister to tell me if there is some piece, some other country in the world that has these similar fines that you have come up with and what is the reasoning for it because I really do not see the logic. I have looked at a couple other countries and I have not seen any other country that has these kinds of fines that am, that—

Sen. Singh: [*Inaudible*]

Sen. P. Beckles: Sorry.

Sen. Singh: [*Inaudible*]

Sen. P. Beckles: Yes, well, certainly I would want to recommend, Minister, for your consideration, that you really look at it again and I make the point about when we talk about corruption, and we talk about corruption not just from the point of view of systems and processes, but, you know, if it is that persons have a

Customs (Amdt.) Bill, 2013
[SEN. BECKLES]

Tuesday, June 04, 2013

discretion that when people appear before them and they look at a form and you say well, oh, I now have the discretion; I looked at your form and you did not; this was not put in and you know the fine under this is 600,000; you know, it is liable on conviction to indictment for 10 years.

You know where you talked about modification because you gave the example—I am not sure if it is you or Sen. Bharath—about persons sharing information, access codes and those sorts of things. I am saying that when we talk about corruption and you look at these fines, I am suggesting that it is likely that people are more—people may have the thoughts of corrupt deeds because they know the fines that people could be subjected to, and I am of the view that it requires serious consideration in terms of not having those penalties so serious. I have not gone through all of them, but I have just given a couple examples that I feel need to be addressed.

Now, as I said, I support all the language that talks about transformative change, forcing change, radical change—all those terminology—the ease of doing business, reduction of clearing time and the fact that the Minister gave the hard data that speaks about the overtime. Now, “ah” mean, have we really given an explanation as to why it is, over the last 11 years, there has been \$400 million in overtime?

You see, because it is not sufficient for us just to say that there is \$400 million in overtime. Is there any data that tells us that we have hired new staff? Is there any information that tells us that in the last 11 years you have had to pay that overtime because no staff has been hired? That has not been provided. What is the reason? Okay, is it that you have had a drastic increase in containers or are we—should we not say to the public that the reason for this \$400 million in overtime is because we have not actually hired anybody in the last 10 years; and that you have a number of persons who are working 24 hours, you know, and you have a shift system that actually has been causing this \$400 million in overtime.

Now, Mr. President, I do not know and I suspect that you may have—you know, people are recognizing you a lot more now and you are coming through, be it the airport or otherwise and you arrive there and you see two customs officers alone working and they “cyar” wait to bend your ears to say: “Well, you know, I have been here since morning, nobody to relieve me.” I mean, I do not know if any of us has been surprised by those kinds of comments. Or you go to the port to clear a barrel and it is only one person who has been working there for the entire day.

So let us understand that we need to be clear about what we say when we say \$400 million overtime because you have two interpretations to that. One interpretation could be that a lot of the members of the staff, as we know in some instances, are deliberately delaying working so that they can get overtime, or is it a question where they genuinely have to work overtime in order to deliver the service? I think that is what is missing and certainly the information that I have is that we simply have not been hiring anyone. As people go home, you just use the remaining staff that you have and they are supposed to deliver the service.

One of the reasons why I would say that I—when Sen. Bharath makes the point about this reduction from X amount of days to one day, you know, Mr. President, I had the good fortune of accompanying you, together with Sen. Baptiste-Mc Knight, to Ecuador recently and we passed through Miami and you may or may not have heard the conversation that I had with the immigration officer. It had to do with the reason why it is taking so long when persons are going through Miami to go to other places. You are taking as much as three and four hours—anybody who would have passed through Miami, it is one of the most distressing places to pass through as a connecting point.

Sen. Al-Rawi: Especially if you have an Arab name.

Sen. P. Beckles: Especially if you have an Arab name. So you know, I was brave enough to ask the—*[Interruption]*

Hon. Senator: You should have gone through Panama.

Sen. P. Beckles: I should have gone through Panama. Well, you know, unfortunately, we could not go through Panama. It was not a matter of choice, but the issue is not whether I should have gone through Panama or Miami, I am going to share with you what was said to me by the immigration officer. I said to him: “You know, it is really distressing to have to come through Miami when you have a connecting flight. As a matter of course, a lot of people miss their flight.” He said: “Yeah, I am aware of that.” He said: “Well, you know Ma’am, they decided to cut our overtime, you know, to cut our overtime, you know what I mean.”

And having decided to do that, you got the answer. There is no science to it. So the Government, in their recent budgetary allocation in the States said they are paying too much overtime, I mean, and they have all the modern equipment, you know. We are now aspiring and we are now investing in the modern equipment. They have all the modern equipment, but they decide “dey” cutting overtime.

So that if you go to Miami, as some of us would do and it is a flight that lands from Trinidad and Tobago and you realize well, “ah mean is Trinidad and Tobago so you see one person; they bring een dey cup of coffee and they open and it is

Customs (Amdt.) Bill, 2013
[SEN. BECKLES]

Tuesday, June 04, 2013

only one and de line long and we, some of us say, well in Trinidad we busy complaining and you reach to the First World country and you realize well, you stand up in the line and wait and you upset because yuh lookin at de time going and you have to connect your flight.” Well, they simply took a decision, well, we are going to just take our time and you miss your flight, too bad for you.

So I am just making the point that those of us who believe well yes, you know, cut out the overtime, give them all the equipment, it does not necessarily mean that things are going to work all that well. It is like today you had a bomb scare in the Ministry of Legal Affairs. So you understand what happens? Now, those of us who understand how Trinidad and Tobago works when you have a bomb scare— *[Interruption]*

Hon. Minister: Take the day off.

Sen. P. Beckles: Sorry Minister.

Hon. Senator: *[Inaudible]*

Sen. P. Beckles: Somebody has some business to do.

Hon. Senator: A river lime.

Hon. Senator: Curry duck, boy.

Sen. P. Beckles: You have a bomb scare as we have in the court from time to time and, you know, Mr. President, you would not even believe you know, when there is a bomb scare in Trinidad and Tobago, you know a lot of people do not even leave the building, you know.

Hon. Senator: Faculty of Law in Barbados, nobody left.

Sen. P. Beckles: They do not even leave the building, you know.

Hon. Senator: Remember that, Chris?

Sen. P. Beckles: And you know, I always say to myself that if, God forbid, that there is a bomb scare; there is a bomb in one of the buildings, I do not know what will happen and, I mean, I do not want to cast any aspersions on those who come to check for the bomb, but it is a classic.

You know, I always wish that I had a, what you call it, a camera somewhere secretly so you could see the equipment that people come to check for whenever there is a bomb scare and then they say, okay, everybody, in no time they say okay you could go back in. But, you know, I just make the point that I think what we need to be clear about as we look towards customer service and we look

towards ensuring that this time, this reduction of which we speak, that it is actually going to materialize, that it requires constant monitoring and supervision and, as we would say in Trinidad, that you do not drop the ball.

At some point in time we talked about getting a birth certificate in 24 hours, well for those of us who are, either through our practice or persons who, any person here who wants a birth certificate or a marriage certificate or whatever in 24 hours, you check and see if it really happens.

And the Minister gave the example of Miss Ector, which I think is probably one of the best examples to use because he said that he got very upset when he heard about this situation and the Minister intervened and as a result of his intervention, Miss Ector was now able not to have to pay all of these duties. But how many persons in Trinidad and Tobago are as lucky as Miss Ector. As he indicated, there are many people who have been in similar situations and have just given up.

I would imagine what this Bill is all about is that we do not have to have many other persons like Miss Ector and we do not have to have a situation where somebody has to know the Minister or know the Minister's secretary or the Minister's advisor, but that you are going to have a system of equity. And that is why the issue of the fines becomes so important; that when people have a discretion to decide whether or not you pay \$5 or you pay \$100,000. If you do not know somebody then you might very well pay the \$100,000. That is what we have to guard against as we seek to improve customer service in Trinidad and Tobago.

6.45 p.m.

You see, Mr. President, the Minister spoke about the fact that they are now going to get—and he talked about China coming to Trinidad and Tobago, and for the longest while you have two back-to-back leaders: you have the President of China and you have the Vice-President of the United States. Well, the Minister must have forgotten that in one year we had the Queen, we had the President of the United States [*Desk thumping*] in Trinidad and Tobago; we had the King of Spain. I mean I can go through, you know, you had—[*Interruption*]

Sen. Al-Rawi: Hugo Chavez.

Sen. P. Beckles:—Hugo Chavez, deceased. Okay?

Hon. Senator: CHOGM!

Sen. P. Beckles: Yes, CHOGM, yes. Right.

Hon. Senator: Outside of CHOGM.

Sen. P. Beckles: Outside of CHOGM! That is not the point.

Sen. Singh: CHOGM never happened!

Sen. P. Beckles: The point is whether it is outside or inside, the point about it is that you had several world leaders here in Trinidad and Tobago [*Desk thumping*] at the same time, and that was all credit to the leadership and the guidance of the People's National Movement. [*Desk thumping*]

Sen. Al-Rawi: Well said! [*Desk thumping*]

Sen. P. Beckles: So, yes, you take your credit and we take our credit on this side for some of the leadership and the decisions that we have taken that have also helped Trinidad and Tobago. [*Interruption*] Well, it is your turn now.

Sen. Deyalsingh: The One-China policy 1972.

Sen. P. Beckles: Okay. And, you know, they talk about this One-China policy and One-China policy and they talked about the possibility—[*Interruption*]

Sen. Deyalsingh: They invent it!

Sen. P. Beckles: —of a hospital in Arima. I hope it is more than a possibility because we must not forget, those of us who have been following world politics—[*Interruption*]

Sen. Al-Rawi: The possibility of a 2.5—

Sen. P. Beckles:—we understand almost the war that is taking place between China and Taiwan, and the fact that Taiwan has been making an impact in a number of countries in the Caribbean: St. Lucia, St. Vincent, you know, building stadiums free of charge.

You know, as a matter of fact, I was in St. Lucia some time ago, and I heard that Taiwan was giving a million dollars to every Member of Parliament in order to do work in their constituency and I was saying, “Well, I hope that does not come to Trinidad and Tobago.” But that is how—that is what can happen at times when people talk about grants and targeting countries and building stadiums. So that I think we are all very familiar with what has been taking place in the Caribbean and no one is surprised that the President of China is here, and we all wait to see the benefits that will accrue.

Of course, some of us have very short memories because when under the last Prime Minister, the hon. Patrick Manning, you spoke about China and you spoke about Chinese labour—[*Interruption*]

Hon. Senator: Deprecation, scorn!

Sen. P. Beckles:—I, mean to say, you should have heard the scorn from some of the Members on the other side.

Sen. Al-Rawi: What happen to the local labour!

Sen. P. Beckles: It was the worst thing to mention anything about China and to mention anything about Chinese labour. Now, all of a sudden, it is the best thing since sliced bread.

Sen. Al-Rawi: Never happened!

Sen. P. Beckles: But I think the public—people do not know that Trinidadians and Tobagonians remember a lot of things, and the time will soon come because the Minister—I am not going to let the Minister of Gender, Youth and Child Development disturb me by talking about Calder Hart and other things.

Sen. Al-Rawi: Mumbling, mumbling!

Sen. P. Beckles: Right? I am not going to take on those mumbblings. Okay? The hon. Vasant Bharath talked about having to reverse the mess and he talked about so much success about union negotiations, Clico, you know, the fact that you have all this growth projection—[*Interruption*]

Sen. Al-Rawi: You have to convert it.

Sen. P. Beckles:—but, at the same time, the recent Ansa McAL poll and talking to the people of Trinidad and Tobago, they do not believe in any of this, you know, because the Government's fortunes have been declining almost every day. So, it is one thing for you to blow your trumpet and say you are doing very well, and then when you go and ask the public. I mean, do you really believe that unemployment has been reduced? They will tell you no. Do you believe that the economy has been growing? They tell you no. Do you have more confidence in this Government? They will tell you no.

Sen. Al-Rawi: Absolutely!

Sen. P. Beckles: But the Government is giving themselves ticks on every single area.

Sen. Lambert: Do not say that. Not the union, the PNM people, it is the PNM.

Sen. P. Beckles: The PNM people are saying they have confidence—
[*Interruption*]

Sen. Lambert: They have brought caveat in the unions.

Sen. P. Beckles: I see. Well, Senator, that may be in your union. You may be doing some work. [*Desk thumping and laughter*] That may be work that you are doing in your union. You need to talk to OWTU—[*Interruption*]

Sen. Lambert: “Nah, nah, nah!”

Sen. P. Beckles:—and let OWTU tell you, all right.

Sen. Lambert: They have lost their way. [*Laughter*] They have lost their way. MSJ yuh talking about, MSJ!

Sen. P. Beckles: Talk to your comrade, Ancel Roget and see whether he believes that; talk to Vincent Cabrera—[*Interruption*]

Sen. Lambert: “Oh God!” [*Laughter*]

Sen. P. Beckles: —and hear what he has to say. Okay? [*Laughter*] Talk to your colleague Duke; talk to Remy and hear what they are saying, if they believe that things are better under this Government—if labour is better off under this Government, and I would tell you they would say a resounding, no.

Mr. President, this legislation as indicated both by the Minister of Finance and the Economy and the Minister of Trade, Industry and Investment, they have both indicated that what you would now have is sharing of information. You now have a situation where, particularly, the absence of forms is making it much easier to register documents.

You know, at the end of the day, the Minister of Trade, Industry and Investment gave us an example where in some instances there are as many as five or six documents that need to be filled out by members of the public, and that you are going to see an elimination of all of this documentation that would cause the business community to be a lot happier. I keep saying that if that is what will happen at the end of the day, I am absolutely sure that nobody is going to object to that.

Mr. President, I would just like to caution the Minister that in the eyes of the public, when you say to the business community that this is what will happen, that they are going to closely monitor whether in truth and in fact that actually will be the situation. The reason for that is because we all accept that is what the business community has been waiting for, for a number of years.

We talk about trust and confidence, we talk about encouraging people to come and invest in Trinidad and Tobago, and we know that has been one of the reasons why people have not felt comfortable and they have not been encouraged because when they go up on the website of a number of Ministries and they see the procedure or they see the bureaucracy, a number of people say, “You know what, I am going to go somewhere else.”

So if in the next three months or in the next six months that people can go on the website—whether it is the Ministry of Trade, Industry and Investment, the Ministry of Finance and the Economy or the Ministry of Legal Affairs—and they look now and see how long it takes to get a work permit, how long it takes to register a company—[*Interruption*]

Hon. Senator: It does not take 14 days.

Sen. P. Beckles:—and they are able to see how long it takes to clear a container, and you know that in truth and in fact when you actually listen to what members of the public say, they are able to confirm, “Yes I have been through the procedure and I can guarantee you that what has been discussed in the Senate, this piece of legislation to amend the Customs Act, 78:01 to enhance border control”, and you could actually see that you have this transformation of which the Minister spoke, we will all say yes; we celebrate that.

Mr. President, I can say that the information that I have in my possession is that as it stands now, a lot has to be done as it relates to issues of security at the port. The Minister of Finance and the Economy indicated that this piece of legislation will also ensure improved security.

Mr. President, as we speak now, when one leaves the port, the exit to the port, I am advised, that it is quite possible that containers can leave the port without proper checks and balances because there is no customs at the exit of the port facilities, and that is not only at the port facilities, that is also at the airport.

Sen. Al-Rawi: With or without chicken parts.

Sen. P. Beckles: With or without chicken parts. We should not need this piece of legislation to put in place proper security at our port and at our airports. We do not have the appropriate scanners at this point in time. The Minister talked about the fact that the United States offered scanners that have to be—what is the word used “recommissioned”?

Sen. Al-Rawi: “Yeah.”

Sen. P. Beckles: They need to spend some \$2 million or so to do repair works, and I am advised that that offer has been on the table for some time. I suppose that is not any different to the vessels that the Vice-President has offered recently to be recommissioned.

Sen. Singh: Roll-on roll-off vessels.

Sen. P. Beckles: They boast so much about the fact that they are reversing some of the evils of the past, but I think we need to remind them that whilst under the People's National Movement, there were new vessels that were being commissioned that were paid for [*Desk thumping*] and they decided to reject those vessels. [*Desk thumping*] I was so embarrassed to hear the Vice-President now offering—

Sen. Deyalsingh: Hand-me-downs.

Sen. P. Beckles: When we had at our disposal, as we would say in Trinidad, “brand new OPVs” [*Desk thumping*] that this Government gave up.

Sen. Al-Rawi: Why would the US decommission something that is good?

Sen. P. Beckles: —hand-me-downs when three years now our borders have not been protected—[*Interruption*]

Sen. Al-Rawi: Just like how property tax.

Sen. P. Beckles:—and now this Government has to say, thank you America for those vessels that you have there lying idle that you will decommission, and you will fix it up, and we will give it to you now so that you can protect not just Trinidad and Tobago but Caricom. You hear them saying that our OPVs were only going to protect Trinidad and Tobago's borders when we know that those OPVs had—[*Interruption*]

Sen. Al-Rawi: Long range!

Sen. P. Beckles:—long range. They work together with the helicopters, all the radar facilities and that was an arrangement that was made with Caricom years ago but, of course, memories are very short, but let us wait and see when those recommissioned vessels could come to Trinidad and Tobago.

Mr. President, I just want to close by saying that we support the Bill, subject of course—I am hoping that the Minister of Finance and the Economy will consider my recommendation for the reduction in some of those fines, save and except, of course, if some sort of justification can be provided for the drastic increases in the fines.

We look forward to some kind of analysis in the next year or so that would tell us that all these various targets, in terms of moving from the 43 days to the one day, that we can really get some report because, I do believe that that is one of the things that we miss in Trinidad and Tobago, that when we set those targets and we say that is what is going to happen, that yes you are going to be able to get a passport. You do not have to wait three years any longer for a passport, you can now get an appointment in two months; you can apply for your work permit. There is very little what we call “information” that actually tells us that those targets have been met. I want to say that I will in the next certainly six months to one year, be filing some sort of question where I can get some sort of data so that I can keep the Minister on his toes in terms of delivering. Thank you very much. [*Desk thumping*]

7.00 p.m.

Mr. President: Sen. Dr. Wheeler. [*Desk thumping*]

Sen. Dr. Victor Wheeler: Thank you, Mr. President, for allowing me just a couple of minutes. Well, I first want to commend the Government for bringing this Bill to amend the Customs Act, the aim of which is to improve the ease of doing business by providing advance passenger cargo system.

Now, I just have a couple of concerns I would like to raise, first of all, section 72(1), where it says that:

“Subject to section 265, the master of every aircraft or ship, whether laden or in ballast, or his agent...shall, prior to arrival in or departure...provide to the Comptroller advance passenger and cargo information on the prescribed form or by means of a data message in the prescribed manner.”

I am just wondering with respect to those small operators from CARICOM and some of the other islands that bring goods to sell in Trinidad and Tobago, I am pretty certain not all of them will have access to the hardware and software to avail themselves of this, if there is another method in which they can provide this advance passenger information.

The other thing is, for some of them who are bringing perishable goods into Trinidad and Tobago, where I understand they need to provide detailed information on what they are actually bringing in, how will they be affected by having this system implemented?

Also, we know there are lots of nationals who go abroad, who go to America to shop, these suitcase traders who purchase items to come back for sale, will they also be required to register and sign-up and to have themselves registered with this advance passenger information system? I mean, I know they would not be owners of a ship or aircraft, but would they also have to comply with that?

Customs (Amdt.) Bill, 2013
[SEN. DR. WHEELER]

Tuesday, June 04, 2013

The third item I would like to raise is on section 73:

“The advance passenger and cargo information required under section 72(1) shall, except where otherwise allowed by the proper Officer, be provided before bulk is broken...”

Now if section 72(1) says that this information must be provided before arrival, does this mean that if a vessel did not provide this information in advance, does it mean that they will not be allowed to dock in Trinidad, and then after docking provide information? I just wanted to find out if there is an issue with that. And what about those pleasure ships that may be en route to some other island and got into some difficulty, and have to dock in Trinidad for repairs, or maybe someone got sick, they needed to seek attention, how will they be affected if they did not intend to come to Trinidad and were not previously registered? How will they be affected there?

The fourth item is—well, this has been raised by Sen. Beckles and a couple others about the drastic increase in the fees from sometimes \$4,000 to \$200,000; there was even a penalty of \$600,000. Could this potentially be a deterrent by some shipping lines to avoid Trinidad and Tobago, particularly, if in other countries where they may ply, the penalties may not be as drastic? I know that Sen. Beckles had asked for other countries that had comparable fines, and I would also be interested in that.

The last thing I would just like to get some information on is section 271(2), where:

“The applicant shall provide the Comptroller with any further information in respect of his application that the Comptroller may require.”

Now, Minister Bharath has already said that there are issues of corruption in customs, and if you have an individual or an applicant who is applying to get themselves registered, could this subsection be potentially abused by whoever is the officer requesting any further information in this respect, because a breach—or you could be found guilty, or your registration could be denied if you did not provide the information that was requested under section 271(2)?

Mr. President, I believe that this Bill is certainly a good Bill, and my intention certainly is to support it, so I am hoping to get some clarity for those issues that I have raised, and I thank you. [*Desk thumping*]

Mr. President: Sen. Cudjoe?

Hon. Senator: Anyone on the Government Bench?

Sen. Shamfa Cudjoe: Okay. Thank you very much, Mr. President. [*Desk thumping*] Mr. President, I thank you for this opportunity to contribute to this Bill:

“An Act to amend the Customs Act, Chap. 78:01 to enhance border control by providing for advance passenger and cargo information to be submitted electronically to the Comptroller of Customs and Excise and for related matters”

Mr. President, I was not here for the earlier part of the debate, I was at a seminar, but I got the chance to hear Sen. Bharath, and a little bit of Sen. Drayton, so I would make my contribution mostly in response to the little from what I heard from Sen. Bharath, and I also heard the ending of when Sen. Howai would have introduced the Bill.

So, Mr. President, this Bill is pretty much about trade facilitation. This is about trying to make international trade more efficient, more effective. Now, the practice of buying and selling goods and services across national borders is referred to as international trade. It is the backbone of the modern commercial world as producers in various countries try to profit from expanded markets, lower production costs, special industries, surplus national resources, and trying to reach consumer tastes and demands outside of their jurisdiction.

The World Trade Organization is the biggest reform in international trade since the Second World War, and the WTO is pretty much responsible for creating and managing the rules of trade between nations. Now, I want to place on the record that in the earlier days of the WTO, much of the focus was placed on tariff liberalization, but over the years countries would have lobbied for more concessions and commitments to be made to make trade easier and more profitable. So the Uruguay Round of 1986 to 1994 was a very extensive discussion, and it brought what we know to be the WTO of 1995 in an effort to combat these practices of protectionist behaviours that were practised by countries in those days.

Mr. President, there is more to smooth trade. There is more to the transfer of goods between countries than tariff liberalization, hence the reason much focus is placed on dealing with non-tariff measures, and when I say non-tariff measures I talk about customs, I talk about standards checks, the food and drugs exams and so on that have to be done before a product could make its way from the port to the shelves of your grocery store, or to the market. So there is a major difference between country access and market access, so from the time the good meat gets to the port, there is a series of complex procedures that it must go through before it

Customs (Amdt.) Bill, 2013
[SEN. CUDJOE]

Tuesday, June 04, 2013

gets to your marketplace, and these mechanisms, these procedures fall under the whole idea of trade facilitation. So what we are in effect doing today is trying to improve, not just the business environment, but trying to improve our methods of trade facilitation.

Mr. President, this legislation is intended to improve the availability of trade knowledge and trade information to enhance border control and to expedite customs, or the clearing process from days to mere hours. This is what was said by Sen. Howai, and I listened and I paid attention to the news report on the newspaper, and there is a lot of song and dance about what this legislation is supposed to bring, the aims and the objectives.

Mr. President, it is laudable, very laudable objectives, very laudable intentions—*[Interruption]*

Sen. Al-Rawi: Exactly!

Sen. S. Cudjoe:—and I certainly support the aim and the idea in principle. But, Mr. President, I often ask the question whether or not this legislation is enough to do that. We were told that this legislation would bring the clearance process from days to mere hours and everybody is excited, but I cannot get too excited because I remember in March, I had the pleasure of attending a seminar, a trade meeting, a stakeholders meeting on non-tariff measures that was held by the Ministry of Trade, Industry and Investment in the Hilton. And this meeting was conducted by, I think it was the Permanent Secretary, the person who is responsible for trade facilitation in the Ministry of Trade, Industry and Investment and the Permanent Secretary—if I am not mistaken, I will say that one of the officials there was making a statement and applauding the Single Electronic Window programme, and these other programmes that were implemented to expedite the trade process and to enhance the business environment, and everybody was cheering on, but I listened to some of the stakeholders in the question and answer section of the programme.

Mr. President, they highlighted numerous problems, numerous issues and challenges that need to be addressed if we are serious about expediting trade facilitation, and really bringing the number of days for clearance from three days, as we say it is right now, to merely just hours, and I would share some of them with you and maybe you can respond in your winding up, or give us some recommendations of what the Government is working on to treat with these issues.

Mr. President, there were problems of mere traffic, traffic in Port of Spain; when you leave at lunchtime to conduct business you simply cannot get a park, or cannot get to your destination or to the facility to get back to work on time. There

is a problem with the update, or the delay in the updating of the computer records. I remember Minister Ramadhar coming to this House and he made a presentation about registering a business in three days, and a couple of weeks after that, I went to the Registrar's Office in Tobago to try to register a foundation, and I was told that "you have to come back after a week."

Now, I found that strange because I remember being a part of the debate and contributing to the debate, where I was told that you can go online and do your checks ahead of time, your name search, and when I did my name search and I took it in, and I still had to come back after a week. So this is something that we need to treat with, Mr. President. We are passing the legislation and these recommendations and these new mechanisms are placed on paper, but in practice, it is not happening on the ground.

Mr. President, one of the other problems would be discrepancy in product classification. I can share a personal experience where I ordered a drug online, and when it got to Food and Drugs, the young lady I called asking what is the reason for the hold-up, she said the person who is supposed to make the decision is not at work this week, so I would have to wait until next week. So I asked, "Can you please—is there anybody else you can talk to?" She said, "Well I do not know how to classify this you know, I am just going to call it insulin". So she called it insulin. By the end of the week I got my package. I tried to explain to her that this is not insulin, this is whatever it is and she said, well I am classifying it as insulin. So, there needs to be proper training for the people in the departments so they know how to do this work.

7.15 p.m.

There is also a discrepancy in fees and charges—in the fees charged and the tariffs applied, and I guess that has to do with problems with product classification also. I know of a business person in Tobago who ordered some plastic flowers, she has an ornament store and she cleared customs and a couple days later she was asked to pay an extra \$18,000 for the container that the plastic covers came in. So you have one customs officer telling you that you are cleared by just taking the merchandise, and another customs officer calling you later on to tell you, oh \$18,000.

So, Mr. President, there needs to be some investigation into these matters. One of the businessmen at the forum mentioned that he used to be an entrepreneur in Tobago and he decided to leave Tobago and come back to Trinidad because he said, in his words, it would have made him bankrupt or senile. These are some of the issues that were raised by that gentleman.

Customs (Amdt.) Bill, 2013
[SEN. CUDJOE]

Tuesday, June 04, 2013

I also got the chance to speak to members of the Tobago Chamber of Commerce, members of the business community and stockbrokers, and Mr. President, these are some of our challenges.

Now there are a myriad of issues in clearing goods. First things first, the business community, the entrepreneurs from Tobago, have to come to Trinidad to clear goods. So that is another cost in itself. Then you hear of experiences of the business person having to come early in the morning, get here early in the morning, try to get here for about seven o'clock. When you get to the port, they are now taking a roll to see who is going to work today, who is not going to work today. After that, the gentlemen who are responsible for taking the products or your merchandise out of the container, they then go to get something to eat.

So now you are left with the only option to clear the container, break down your container for yourself because you do not want to be there until midday because customs officers are said to take lengthy lunches. So, and you are trying to make it back to Tobago.

Now, there is also complaint that work is done at snail's pace, and some of the investors and the business people believe that it might be to get overtime. We do not know, probably the division is understaffed, but these are issues that we must treat with.

Mr. President, but one of the issues that bothered me a little bit, is when you correspond with some of the customs officers and even when you make complaints to Government officials, people who do business in Tobago are being treated as if we are asking Trinidad for a favour, we are asking Government officials for a favour.

Mr. President, you hear complaints of many officers roll into work about nine o'clock with the attitude of "doh rush meh. Doh rush meh nah. Yuh aint see ah now come in. Ah trying to settle meh self." And I was told that you better be careful not to upset or annoy anyone or else you are going to be blacklisted and you are going to wait a longer time for your merchandise.

Now, I was told that nothing is done during normal time and business persons have to pay extra fees when the container is being cleared after five o'clock in the afternoon. So the overtime fee is being passed on to the business person.

Now, the members of the Chamber of Commerce in Tobago raised a concern that when the idea of the single electronic window was introduced to them under former Minister Mariano Browne that they were told, that they were assured, that this system, that there is a feature in the system to help with monitoring performance and productivity of the customs officer.

So for instance, a job would come to Jane's computer and give her three hours to complete these forms or do whatever it is she has to do. And if Jane does not respond, then it is automatically sent to Cindy, but when it is sent to Cindy, a note is sent to Jane's supervisor letting the supervisor know that she did not complete that task. I do not know if this is still a part of the single electronic window, but I think it is a very good feature to monitor performance and productivity. If the workers in the department allow the transaction to take more than three days, then the person does not have to pay.

So maybe we can investigate the system and see whether or not that feature is still a part of the system and what can we do to monitor productivity and performance in the customs department.

Mr. President, I move on to brokers. Now, if you are unable to come to Trinidad, if the business person is unable to come to Trinidad to clear his or her goods, he must hire or contract a customs broker to do that; that is another cost. Even if you had the time to come to Trinidad, many of the business people avoid coming themselves, they prefer to do business through this customs broker because the customs broker seems to have special relationships with the customs officers to expedite the process.

So sometimes a customs officer may tell you, you want your container in four days or in two days? Pass \$5,000. And you are left to make the decision, do I pass or pay the \$5,000 or do I wait? More than likely you choose to pay the \$5,000, but then you pass on the cost to the consumer.

So the things like the system, and I heard the same comments being made by Sen. Beckles and Sen. Bharath, that there might be something in the system that we have cultivated and this is over different administrations under the PNM, under the NAR, under the UNC, under all of us. I think that this is something that has been cultivated over the years where corruption is a part of the system, where to get things done, in many different areas of this country you have to know somebody or pay somebody. If you are depending too heavily on your network, then you know that you are not doing your work.

So we need to get ourselves together and do what is necessary to make the investment so that business can run the way it is supposed to because we cannot speak about investing in a proper business climate and getting investors to come here, and strengthening the private sector when you have to know somebody to get your business done, and you have to pass special favours and special compensation to people to do the work that they are already being paid to do.

Customs (Amdt.) Bill, 2013
[SEN. CUDJOE]

Tuesday, June 04, 2013

So, Mr. President, this is another concern from a customs broker that in addition to special favours being paid to get goods, to receive goods, before time or before others to get special treatment, customs brokers are constantly asked to donate to staff limes and cookouts and social events. So—[*Laughter*]

Sen. Deyalsingh: Customs brokers?

Sen. S. Cudjoe: Yes. Because they have this special relationship with the customs officers so whenever, apparently, the officers are being moved around from one office to another office or when somebody is going to another office, “they have a little cookout, a little lime and yuh hadda contribute a little something.” So, I am only reporting what was told to me. I googled—and you have Sen. Ganga Singh is telling me that it is true—[*Interruption*]

Hon. Senator: You have a party—

Sen. S. Cudjoe:—and I googled newspaper reports on the papers and customs brokers in the *Newsday* are complaining about the very same thing. So who is going to be the whistle-blower? I do not know, Mr. President, but this is something that needs to be investigated. [*Crosstalk*] [*Laughter*]

Mr. President, further to clearing—further to the Tobagonian having to come to Trinidad to clear goods [*Crosstalk*] when you place orders internationally, it comes in, the package or the container comes in the international side or the international area of the port.

So after clearing your goods—let us say that you did everything that you were supposed to do, you filled out your forms online, and you did everything that you were told to do, you are cleared. Now another fee has to be paid to get that container from the international area over Wrightson Road to the domestic area because now the Tobago business person is getting ready to take his merchandise or his container to Tobago.

It sounds simple, Mr. President, but you have to get the timing right and you have to have the money. You have to pay the customs broker who has gone to do that transaction for you. You have to pay the driver, the truck, you have to rent the truck and rent the trailer, the equipment to get your container from the international side, to the domestic side in preparation to board the ferry.

There is another trick to it, Mr. President, because you are waiting on the ferry—you are waiting in that little holding area—hoping that there is a space on the ferry for you. So let us say, for example, you might have been told, given an estimated time that your container is going to get here on May 05, and you purchase a ticket for May 05 hoping that you get cleared the same day or you might have estimated—the last time I got cleared within two days, maybe this time I will get cleared within two days.

Now you have to purchase the booking on the port, on the ferry, one month in advance to guarantee that you have that space. Sometimes you make plans to take your goods over to Tobago on the 5th and you did not get cleared until the 6th. So you are hoping—the business person is hoping—to get space on the ferry to take his or her goods over to Tobago on the 6th.

Now you are in trouble or as they say “crapaud smoke yuh pipe” if it is a long weekend. Because if it is a long weekend and people from Trinidad are coming to Tobago, priority is given to the people travelling to Tobago and the people taking over their vehicles. So your container may have to wait until the end of the long weekend.

So all these—but if you know somebody working in the port system, you might be able to be accommodated. I was told this by one of—this person is a supermarket owner. If you know somebody on the port, you might be able to pay some money to get your container across, Mr. President. All these extra costs, all the extra services are costly, and at the end of the day the business person transfers that cost, it trickles right down, to the consumer.

So, there are some businessmen in Tobago who have decided to rent warehouses in Trinidad to avoid these problems. So they get cleared in Trinidad, take the merchandise to the warehouse and then take it over to Tobago in smaller parcels. So they would not have to try to be allocated a large space on the port and be denied.

Another concern, Mr. President, is the port lacks the proper equipment to move this merchandise. There is something called, an equipment called top lifter. The top lifter on the domestic side is working, and the top lifter on the international side is not working. Now what the top lifter does—[*Crosstalk*]

Hon. Senator: No relation to the TOP. [*Laughter*]

Sen. S. Cudjoe: What the top lifter does is the container has these slots, on the lid of the container, the top of the container has these slots that the top lifter hooks in the little slots and locks it and then lifts. Without the top lifter, they are using a crane or let us say—[*Crosstalk*]

Hon. Senator: “Why yuh keep talking about TOP all de time. They not ah party again.”

Sen. S. Cudjoe: There is no TOP right now, so the only top—but, Mr. President, oh, no, not even the members of the TOP obsessed with the TOP. Anyway, Mr. President, the makeshift equipment that they are using right now is

piercing holes in the container, so the business person now has to pay for a damaged container. And this has been going on for quite some time. So, I would like to ask the Minister or the Ministry of Trade, Industry and Investment or whoever is responsible to invest in getting the right—the Ministry of Finance and the Economy—equipment to move this merchandise.

So we have a host of different challenges, poor infrastructure, inadequate equipment, unproductive workers or probably insufficient workers that cause unproductivity, faulty procedures and all these create a fertile ground for corruption in the system.

If you have to grease somebody's hand to do their work, Mr. President, and provide these special incentives, at the end of the day these favours cost money, and as I have said before it trickles down to the consumer. Hence the reason, I could only conclude that this is the reason why prices are higher in Tobago because the business person passes on the cost to the consumer. Also, I think this contributes, the problem that we face on the port and in the customs system, these problems contribute to the fact that if a business person is supposed to choose between doing business in Tobago and doing business in Trinidad, they may go ahead and forget about Tobago because the infrastructure is here ready and waiting in Trinidad, and it makes the business environment more feasible and more attractive.

You have to have a really, really good heart to say you know what, I am going to go through and just set up my business in Tobago. We are not talking about non-profit organization, Mr. President, we are talking about business, and at the end of the day, the entrepreneur is trying to gain a profit and earn money.

7.30 p.m.

So, Mr. President, when we make complaints or when we report these matters, I hope that the Government and the officials and the people out there who are listening do not think that Tobago is whining or begging for favours. At the end of the day, we are a part of this national community just like Trinidadians and whatever is available, whatever benefits are available to the business community in Trinidad or the consumers in Trinidad, we want to be a part of that too. At the end of the day it is Trinidad and Tobago.

We have a problem where Tobagonians, we put our vehicles on the boat and come to Trinidad and shop. Many of us have PriceSmart cards, we come and we shop and we take our groceries back over to Tobago, same thing for clothes, same thing for cosmetics and so on. Then you have Trinidadians coming to Tobago for

long weekends and so on, and they walk with everything. Some of the visitors on Pigeon Point Beach were joking with us and saying sometimes they even want to walk with their own ice because they do not want to have to buy anything in Tobago. [Laughter]

So, Mr. President, the problems are real. The issues, the challenges are real and the price difference for materials or if you are talking about housing materials, we have a very, very big problem with that. The prices in Tobago are like three times higher than in Trinidad, and it is all because of this port operation—not customs, more so port operations.

So, Mr. President, there is another issue of the infrastructure at the Scarborough port being inadequate. Because if we have a cruise ship docked at the Scarborough port and the cargo boat has to come, it is more difficult to get goods off the cargo boat because of where it is told or where it is directed to dock. The cruise ship gets priority docking space and then the cargo boat has to dock elsewhere and it is a little bit more difficult to get stuff off, so the prices are higher and the other stakeholders, like the truck drivers and the lifters, they are not too excited to take the goods off when the cargo boat docks in that site.

So, Mr. President, a lot has to be done. Major investments need to be placed in strengthening our infrastructure, in getting the necessary equipment, in trying to improve our business environment in Trinidad and also in Tobago, because doing business in Tobago for the entrepreneur—some of the words they used, they said it is a disaster, it is total chaos, it is very unpleasant, but they also believe that it comes with the territory of simply being Tobagonian or a business person operating in Tobago. At the end of the day, the cost of corruption is very high, not just to the business person but also to the consumer. So, while I listened to the debate earlier and the Minister spoke about how this new initiative is going to save us over \$5 billion, I think, will save us a lot of money.

Sen. Singh: Five million dollars.

Sen. S. Cudjoe: Five million dollars in money. Now, Mr. President, that \$5 million is then transferred in higher prices to the consumer. So it is like you give with one hand and you take back with the next hand. It reminds me of no VAT on that, no VAT on that, no VAT on that, remember what we—[Interruption]

Hon. Senator: What? It is saving \$5 million.

Sen. S. Cudjoe: Right, so the cost is then—[Interruption]—they told us no VAT and then the prices went up.

So, at the end of the day when the businessmen face this corruption and these poor procedures and measures in customs and the different challenges that they meet in the business environment, they just simply pass it on to the consumer.

Sen. Al-Rawi: Where there is a space it grows.

Sen. S. Cudjoe: So, Mr. President, we have to find a way. We have to put our heads together and do what is necessary to treat with that issue of corruption in the customs department and to improve our infrastructure and our equipment and to enhance the different mechanisms to help with this situation.

Mr. President, we cannot achieve the goals set out in this legislation unless there is political will, and the investment in cleaning up the customs procedure. I believe that if we do not do it by will, we will have to do it by force. We find ourselves many times coming to this Senate at the very last minute whenever we are blacklisted or some Government is threatening some sanction against us. We come here the day before and go into late hours of the night trying to get it right, just trying to stay off a blacklist. I say it again, Mr. President, if we do not do it by will, we will have to do it by force.

I want to put the Minister of Finance and the Economy, also the Minister of Trade, Industry and Investment on alert. I have been paying attention over the long weekend to the negotiations and the discussions taking place between the WTO members. There was recently an OECD meeting on August 29 and 30 in Paris, and when I opened my contribution I spoke about WTO and the WTO commitments that were made as it relates to tariff. Now we are at a position, we are at a stage right now in the multinational trade environment where we are being called upon by developed countries to make a further concession, not just in tariff liberalization but they are now very serious about trade facilitation. So, Mr. President, this issue of trade facilitation would have come up in 1996 in the Singapore negotiations and they called it one of the Singapore issues.

Trade facilitation is one of the Singapore issues that they have committed to make legislation and rules and regulations on, so there is also government procurement, trade and investment, and I think the environment, but trade facilitation is being focused upon right now as we speak. And the US and the EU, these developed countries are calling for more commitment and concessions from the developing countries, the G33 countries as it relates to customs and customs procedure.

Now, the trouble about that is the WTO members are preparing for further commitments to be made in December at the Bally meeting, and we have to be sure about what commitments we are willing to make, because if there is a trade facilitation rules and regulations section of the WTO, that means it will fall under dispute resolution and dispute settlement, the dispute settlement mechanism.

Mr. President, we certainly do not have the money to pay for litigation to go up against any country fighting matters in the court or the judicial system of the WTO simply because we did not do what we were supposed to do. There is a draft document of the articles that treat with trade facilitation that the WTO members are hoping to agree upon in December in Bally and most of the articles treat with information sharing. Sen. Al-Rawi would have spoken to information sharing earlier.

Another issue that is covered in Articles 7, 6 and 8 of the draft legislation—the draft rules and regulations for trade facilitation treat with tribunals and mechanisms for appeal. So, if there is a problem with the tariff that you were charged, or the fees that you were charged, or you think that you were wronged or improperly treated by a customs officer, then you have that opportunity, a country has that opportunity to take it to the WTO.

Mr. President, we do not want to do what we need to do by force. I think the political will needs to be invested and I think everybody who has some kind of knowledge or at least good intentions towards developing a proper business environment and improving the investor climate in this country should jump on board and work with the Government and work with all the stakeholders in doing what is best for this country.

So, I would like to pledge my support for this legislation, but I went to Mason Hall Government School where the motto is “Good work or none”. So, Mr. President, I hope we get down to doing good work and do what is best for the development of this country.

I thank you. [*Desk thumping*]

Mr. President: Sen. Armstrong. [*Desk thumping*]

Sen. Dr. James Armstrong: Thank you, Mr. President, for the opportunity to join this debate on this Bill:

“An Act to amend the Customs Act, Chap. 78:01 to enhance border control by providing for advance passenger and cargo information to be submitted electronically to the Comptroller of Customs and Exercise and for related matters.”

Mr. President, before I start I would like to express my congratulations to the Minister of Trade, Industry and Investment, Sen. Bharath on the recent award for excellence in business. [*Desk thumping*] I think it is something that certainly makes us all proud. I am also quite prepared to support this Bill and I welcome that this was brought at this time.

Customs (Amdt.) Bill, 2013
[SEN. DR. ARMSTRONG]

Tuesday, June 04, 2013

In preparing for this debate, I thought it would be useful to meet with some of the business people, the Chamber of Industry and Commerce, AmCham and so on. I am not a business person, but I would also like to indicate that the feedback that I got on this piece of legislation and the efforts being made by the Government in this regard were also positive. I say this, Mr. President, because I think when there are positive things being done, and positive initiatives being taken, I would like to recognize them because when they are not happening I would also like to be critical.

In meeting with some of the business persons and the chambers, reference was made to the roll-out of many initiatives, and I wanted to mention a few of them and, as I said, I am not a business person so I am not very familiar with what is involved, but I would like to indicate that reference was made to plant and animal import permits that are being facilitated, certificates of origin from the Business Development Company, fiscal incentives and import duty concessions from the Ministry of Trade, Industry and Investment and work permits extensions from national security—so investments could now be informed far more quickly, the Companies Registry could be accessed and incorporation of businesses in a shorter period. I was quite pleased with some of this, well most of this.

Reference was also made to ASYCUDA as was mentioned earlier by Sen. Al-Rawi, and one of the things indicated to me that I thought I should also mention is that this system apparently is almost obsolete. Now, if that is the situation, I think it is something that we need to look at. However, if it is the system that would allow us to currently enhance the ease of doing business and to join with other countries to enhance customs processing and so on, then I think that we perhaps would need to join the bandwagon at this time. So I think it is something that we need to look at, and if the indications from these persons, and as said by Sen. Al-Rawi, is correct, I think it is something that we need to give serious consideration and try to ascertain what is the best practice at this time and perhaps also try to enhance or improve our legislation and arrangements.

One of the things that I would like to touch on as well, Mr. President, has to do with training, training for our customs officers and guards. And in doing some of the research, it was indicated that there are particular problems with respect to intellectual property rights, the amount of counterfeit goods and so on that we are having on the international market these days.

7.45 p.m.

I was wondering to what extent we have been really training our customs officers and customs guards with respect to these matters. I am sure that many of us would have gone to New York for instance, and gone down to lower Manhattan around Canal

Street where you can purchase bags and various items that are really counterfeit items. I often wonder how these things actually get into the country because I gather that they are not made there. But it is interesting that they seem to be getting into the US and if they are getting into the US, certainly, I would think that it would be much easier to enter our country.

There is also the situation of, for instance, medical medicines coming into the country where again I understand that very often these are coming in, legally I suppose, but that the product is not what it is really supposed to be, and I would like to encourage that we should look at the possibility of training of our customs guards and customs officers.

Another area that I am concerned about is that—and this has been mentioned by a number of people: by Sen. Beckles, Sen. Dr. Wheeler, and some others, with respect to the significant increase in fines. I cannot recall, and I do not know whether anyone can, that our detection rate with respect to transgressions in the customs department has been such that there is any customs officer that really has been—where the detection rate is such that they have to go to court or anything like that. I cannot recall of any—[*Crosstalk*] several of them. All right, well it is not something that seems to be very well known and maybe these are minor. I have not heard of a major case involving customs officers, although, we are often being told that it is a haven of corruption, and I was wondering really what we might be able to do to really increase the detection of this level of corruption that seems to be prevalent. It is something that has to be addressed.

Sen. Cudjoe recently mentioned the whole business of having to, very often to pay a bribe simply to get your goods cleared. I have had the experience where I brought in goods and I was told in no uncertain terms that this would not be cleared until after working hours. At first I did not quite understand what was happening, but eventually I caught on to it and this is one way of really getting overtime. So that I suspect in some ways we might have a lot of, some push back to what we are trying to do here, both from the customs officers as well as from the brokers, because they are also—some of them on a sort of a gravy train. So that I think that this is another aspect of what we are trying to do that we need to look at and try to clean up.

I also noticed that there is something called the World Customs Organization which has customs enforcement network and that would assist us really in keeping abreast of international best practices. I do not know to what extent we are involved in that, but it is also something that I think we need to look at and see to what extent we can glean some of the examples of best practices to improve our own operations.

Customs (Amdt.) Bill, 2013
[SEN. DR. ARMSTRONG]

Tuesday, June 04, 2013

I noticed that, for instance, there are also in some countries very meaningful partnership arrangements between the Government and the private sector seeking to improve the transformation really of customs operations. It has been reported for instance that in Peru that they were able to modernize and transform their customs operations based significantly on public/private sector relationships, and I think that this is something that we need to also take on board where we have enhanced consultation and participation of the private sector in some of the things that we are trying to do. I say the private sector meaning beyond the Chamber of Commerce and Trinidad and Tobago Manufacturers' Association, AmCham and those types of organizations.

I also note that in the European Union for instance, that their public policy framework also includes requirements for consultations with the private sector. And therefore that seems to be something that could be of some assistance.

The other thing that I want to mention, Mr. President, has to do with our capacity at the ports and the way in which this might perhaps curtail our initiatives to enhance the ease of doing business. My understanding is that, particularly in Port of Spain, the capacity is quite limited. And I would like to suggest again as I did earlier, that one of things that we need to be looking at seriously is whether we really need to be clearing cargo in Port of Spain. It is something that I have been considering for quite some time now and it does not seem to make a lot of sense to me really.

I would like to suggest that we also give consideration to relocating our cargo facilities out of the centre of the city almost, to somewhere else. In recent times I have been hearing, on occasions, and it is often difficult to tell where this information is coming from and how serious it is: we are going to have a port in Beetham; we are going to have a port in La Brea. We are going to have a port here, a new port there, and I do not know to what extent any serious consideration is being given to where we need to have these ports.

In fact, I am very hopeful that with the new national physical development strategies that we are going to be looking at pretty soon, that these kinds of things are taken into consideration because our initiatives to enhance our business capacity and the ease of doing business, if that is successful, it means that all these economic activities must take place in a spatial context. And if you are going to be successful in increasing the ease in which we do business and we are going to encourage businesses to come here to establish a physical presence here, then it means that there is a spatial context to these requirements. I know that we do have a port in Port of Spain, the infrastructure is there. Let us see how best we can perhaps use that.

I would suggest in support of our initiatives to diversify the economy not necessarily with respect to cargo, but maybe more so with respect to the cultural diversity that we have been talking about and linking that again as I have said in the past to the adjacent land that we have at Invaders Bay. That to me seems to be a natural fit. Move the cargo, increase your tourism product facilities in Port of Spain and the onshore side of it would be the kinds of things that would perhaps encourage tourists to come here, and at the same time, also revitalize Port of Spain in general. So, I would like to suggest that we take a serious look at that.

One of the other things that I would like to suggest, and this perhaps would assist in tackling a bit of the corruption that we are hearing a lot about. I was quite surprised that I read in Australia for instance, there is a fairly high level of corruption in a place like Australia. Over the past three years, I understand there was something like—yeah, I was quite surprised—something like 700 complaints with respect to—*[Interruption]*

Hon. Senator: Penal economy.

Sen. Dr. J. Armstrong: *[Laughter]*—port operations, and one suggestion—and I do not know if it is something that we might want to consider in due course, was the pre-shipment inspection operations which can be done at random. So that is another option that I think we need to look at.

With respect to the Bill itself, Mr. President, as I indicated I found that some of these fines, you know, in section 75 moving from \$4,000 to \$600,000 is quite severe, and I could not determine really what kinds of transgressions might really attract such significant fines. In talking to some of the business people, what they indicated is that, for instance, one person expressed the view that it might be a mistake in one of the forms or something like that, and you find that, you are then saddled with a situation in which you have to pay a very serious fine. In any event, I think that it is something that we need to look at, at the committee stage, to see whether we really want to go forward with these kinds of fines. As I said, I am not sure that even the detection rate and conviction and fines and so on, in the past have been significant.

Section 79(b): I noticed that reference has been made to the Comptroller doing things to his satisfaction. And that word “satisfaction”—“to the satisfaction of the Comptroller”—it was used in two instances. I want us to look at that, because that seems to me as if it leaves a lot of discretion really to the Comptroller and I would like us to look at that.

With respect to section 271, I was wondering whether, quite apart from the discretion of the Comptroller, whether we could perhaps have, I do not know, whether in regulations or something, some reference being made really to the

Customs (Amdt.) Bill, 2013
[SEN. DR. ARMSTRONG]

Tuesday, June 04, 2013

qualifications and experience required of somebody to be registered rather than where it made a reference to a unique identifier issued by the Ministry with responsibility for information and communications. So that is something I would want us to look at.

Section 272(3) where it says that:

“...unless the contrary is proved, evidence that the data message was transmitted by the registered...”—person.”

I would prefer to insert in there “deemed to have been” rather than to assume that it is so.

8.00 p.m.

The other section that I would like us to take into consideration is the records to be kept by the Comptroller, and it suggested four years. Mr. President, I would like to suggest six years, and I will tell you why. We have seen in this country that—and, again, with respect to the corruption, I read recently where someone brought in, I think it was chicken or chicken parts or something, and drugs came in, and as far as I know, nothing has happened with that.

The reason I want to move this from four years—retaining these records from four years to six years—is that we have had a practice that if it is four years—and assuming that the person importing these things, that you have some contacts and so on—given the fact that we have elections every five years, it is expected—it is quite simple, quite easy—that perhaps in the fourth or in the fifth year, you will just discard all these records.

So I would like to suggest six years so that in the years ahead, in the decades ahead or whatever, that these records would straddle the period of our elections because we have a history of people making significant contributions to campaign financing and then, no doubt, there would be an incentive—that could easily be an incentive to have records destroyed in four years. If it is in six years, then I believe it could easily become an issue which would have to be addressed, and I think that it could serve as a deterrent because it may very well become a campaign issue as well.

Another concern that I had was with respect to section 277(2), the penalty that amounts to 25 years, initially 15 years, and when you add it up, really, it comes up to—you can be jailing that person for 25 years. And again—I do not know—I think this seems to be exorbitant, these kinds of penalties, really. There are people committing all kinds of crimes and I do not know that these are the penalties, really, that are imposed.

So those are the changes or the considerations that I would like us to make with respect to the Bill itself, Mr. President. As I indicated, I am quite prepared to support this Bill and hope that it would enhance our business environment.

Thank you very much, Mr. President. [*Desk thumping*]

Mr. President: Sen. Hinds. Before you speak, I just wanted to let the Senate know that there is dinner available so that you may singly leave to go to dinner, retaining a quorum if possible, and until then we will continue the proceedings with Sen. Hinds. [*Desk thumping*]

Sen. Fitzgerald Hinds: Thank you very kindly, Mr. President, as you recognize me, such that I am permitted to make a pretty brief contribution to this very important debate. I would like to say from the onset, it was rather kind of you to have extended an invitation to dinner, but I am so pained and angry for my country at this point in time, I find dinner unappealing.

Sen. Singh: “Doh start with your hypocrisy, nah man!”

Sen. F. Hinds: I cry for my country, Mr. President, and that is the truth. My friends on the other side are in protest about what I have just said. They can protest. Things are nice for them. They are happy—[*Interruption*]

Hon. Senator: “Yeah.”

Sen. F. Hinds:—but the large majority of us are not and I am crying for my country. Mr. President—

Sen. Singh: You sound like Evita Peron.

Sen. F. Hinds: Mr. President, we are here this evening at the behest of this Government to amend the Customs Act, Chap. 78:01, and it says that this is a Bill entitled:

“An Act to amend the Customs Act, Chap. 78:01 to enhance border control by providing for advance passenger and cargo information to be submitted electronically to the Comptroller of Customs and Excise and for related matters”

Mr. President, just reading the title of this Bill raises serious concerns and can easily explain why I cry for my country. This Government brings to Parliament a measure that is designed, according to them, to enhance border control, but in a specific way by providing for advance passenger and cargo information to be submitted electronically to the Comptroller of Customs.

Customs (Amdt.) Bill, 2013
[SEN. HINDS]

Tuesday, June 04, 2013

Mr. President, I was in the Parliament in 2008 in the other place and participated in a debate that provided for advance passenger information to be made available by aircraft and by vessels that were to enter the space of Trinidad and Tobago—this Republic—when, Mr. President, we were hosting the World Cup—the Cricket World Cup, [*Crosstalk and laughter*] and there was a concern—[*Interruption*]

Hon. Senator: “Yuh was in de public gallery.”

Sen. F. Hinds: And there was a concern—yes, the Cricket World Cup, let me correct that. And there were concerns from my colleagues who, at that time on the other side, when we were doing the Cricket World Cup—sorry about my dates. And, Mr. President, that was sensible legislation because we anticipated tremendous human traffic into the region for those purposes—[*Interruption*]

Hon. Senator: Clairvoyant.

Sen. F. Hinds:—and at the same time, the world was responding to the American experience of 9/11—[*Interruption*]

Hon. Senator: Clairvoyant.

Sen. F. Hinds:—and there was a major concern about terrorism and the activities of terrorists, and it was felt, as a matter of rationale, that if you had advance information, by the time the aircraft or the vessel got to Trinidad, the authorities here would have known who was on those vessels or aircraft, and could more easily detect them and possibilities.

Research could have been done; intelligence could have been gathered about the particular individuals who would have been identified in the advance passenger project and, therefore, it made life easier for those here and it made things safer for Trinidad and Tobago. That was the rationale.

It is no different on this occasion, except the rationale might be a little different on this occasion because none of the contributions from the other side raised any questions around terrorism and those kinds of concerns. What we are trying to do—and we heard from the Minister of Trade, Industry and Investment, in particular—is to improve and to deal with the concept of the ease of doing business in Trinidad and Tobago, an attempt at modernization and making the system more effective and more efficient.

It is interesting to note, in passing, Mr. President, that the legislation that arose out of the Cricket World Cup—I remember when we were engaged in piloting that, we spoke of legacy items, and that legislation was one of the legacy items from that period. It remains on the books up to today, notwithstanding the vicious criticisms that had come from the other side at that time.

I remember—just to tell you quickly—having to go to the university and other places. I remember attending a discussion at the university—elements of the Government, and I represented the Government at that time; elements of the Opposition, and one particular meeting was chaired by Mr. Alan Alexander SC, and we had to deal with this question. My friends on the other side were telling us at that time, “This thing, you are importing terrorism into Trinidad and Tobago. This is a small island. It cyar happen here.”

So they come today to tell us about a measure to enhance border control, and I am sure—I was not always in the Chamber for the entirety of this debate, but I am sure either my good friend, Sen. Shamfa Cudjoe, or the very brilliant, Sen. Al-Rawi, or Sen. Beckles—I am sure one of my colleagues, and perhaps others from the Independent Benches behind us, must have, along the way, spoken about the need for border protection and control of which this speaks, though pointedly to a particular aspect of same. And I am sure that persons in this debate would have raised the question—and it was reported on the news even tonight—that the Government of Trinidad and Tobago is about to purchase used vehicles—decommissioned vehicles—from the United States to enhance border control in Trinidad and Tobago. It was reported.

Hon. Senator: “Yuh leave de Chamber tuh watch news?”

Sen. F. Hinds: I have a Blackberry. It comes. And I have an iPad, at the expense of the Parliament, and I will not be distracted.

As we seek to enhance border control, and to enhance it, we must because this is an island state. The Comptroller of Customs who would oversee the legislation—the amendment that is before us—a key stakeholder in the matter, he is now afflicted with a very—well, let me put it this way. He does not have a full complement of officers to carry out the work that we expect him to.

I understand that during the course of last year several officers left, the usual attrition and resignations and so on, and there has been no real meaningful replacement of them. They expect, on the attrition arrangements, some 25 or 26 officers to demit office in the year 2013, and we are asking the Comptroller of Customs to assume more responsibilities under this legislation—*[Interruption]*

Sen. George: “Yuh cyar control dem.” They are independent.

Sen. F. Hinds:—and not one care or concern about how he would do it, as we talk about enhancing border control.

So, Mr. President, these are matters that are very, very germane to the success of the amendments that we seek to put in place here today, and I have to remind my friends of this. Other than that, we will be passing legislation here, almost in

Customs (Amdt.) Bill, 2013
[SEN. HINDS]

Tuesday, June 04, 2013

abstract, with no reference to the reality. And this explains why—and I did hear Sen. Beckles make an important point. This explains why, when you heard today, Mr. President, Members of the Government make lofty presentations about how well they are doing and patting themselves on the back, the citizens of this Republic—they are not feeling it.

Sen. Al-Rawi: That is right.

Sen. F. Hinds: They are not seeing it [*Desk thumping*] because this Government is totally disconnected from the reality in this country.

Sen. Singh: You did not listen to Sen. Armstrong's contribution.

Sen. F. Hinds: Did not. Did not.

Sen. Singh: Obviously, you did not.

Sen. F. Hinds: So, Mr. President, clause 5 of this Bill seeks to amend, by repealing and replacing sections 72, 73, 74 and 75 of the mother or existing legislation, and in section 72, it imposes a duty on a master—the master is the man in charge of the ship, I take it, like the captain—his agent or a cargo reporter, someone—and the Act identifies three categories of persons whose responsibility it will be to provide this advance passenger, and on this occasion, cargo information.

We did not deal with cargo in the legacy item of which I spoke earlier. We dealt only with passengers, so this improves the requirement for advance passenger information, and now adds the question of cargo to it. And it is to be done on a prescribed form or by a means of data message.

Now, Mr. President, Sen. Al-Rawi, in his very brilliant and opening contribution—a brisk 95 he put on the board here today—a brisk—and had he more time he would have gone on to a century. I am very impressed.

Hon. Senator: But you were not here.

Sen. F. Hinds: I was right here.

8.15 p.m.

Sen. Maharaj: “Yuh was here in 2008!”

Sen. F. Hinds: Mr. President, Sen. Al-Rawi raised this question about data and Sen. Al-Rawi was at pains to—[*Crosstalk*] He was at pains to point out to the Government, and they have not taken heed, they are laughing themselves into obscurity. [*Desk thumping and laughter*] But while they laugh, we pain, which is

why I told you I am not in an eating mood, Mr. President. Sen. Al-Rawi was at pains to point out that under the electronic transactions legislation to be found in Chap. 22:05, and in particular in section 53—[*Interruption*]

Sen. Singh: “Why you repeating what he said?”

Sen. F. Hinds: Because you did not hear, stick break in you and the whole UNC ears! [*Desk thumping*]

Sen. Singh: Tedious repetition!

Sen. F. Hinds: “If stick didn’t break in yuh ears”, you would have had the three OPVs that the people of this country paid for to enhance border protection rather than go cap in hand now to buy decommissioned vessels from the United States.

Sen. Al-Rawi: Retread tyres!

Sen. F. Hinds: Retread vessels! What is more sad, Mr. President, we were able to make an offer and to purchase—to order, and to purchase those vessels at a time when this country could have afforded it. I do not know when next we will be able to do that in this country. There has been no growth in the economy. [*Desk thumping and crosstalk*] I do not know when next, but the question of border protection remains a valid concern for all of us. [*Crosstalk*] Remains! I see the new Minister of National Security looking after three weeks, jaded—jaded, tired already!

Sen. George: “I like the yellow in yuh tie.”

Sen. F. Hinds: “Telling me about yellow in my tie.”

Sen. George: The tie looking jaded!

Sen. Al-Rawi: “He on his honeymoon still!”

Sen. George: “Ah like the yellow on yuh tie!”

Sen. F. Hinds: Jaded on his honeymoon, not a month in office, and he is beginning to look as miserable as the last failed Minister of National Security.

Sen. Coudray: Who? Your boss?

Sen. George: “You feel you looking good.”

Sen. F. Hinds: Mr. President, I am being distracted, could you protect me?

Mr. President: Senators, shall we listen in silence please.

Sen. F. Hinds: Thank you very warmly, Mr. President.

Sen. George: “Mr. President, he start it!”

Sen. F. Hinds: Sen. Al-Rawi pointed out—[*Interruption*]

Hon. Senators: Again. [*Continuous crosstalk*]

Sen. F. Hinds: Yes—that in section 53, exactly what we are trying to do here today—[*Interruption*]

Sen. George: Quote/unquote!

Sen. F. Hinds:—is already provided for in existing legislation, and we all have it before us so what I will not do is read all of its terms. I will not read all of its terms. [*Continuous interruption and crosstalk*]

However, it is quite clear in subsections (2) and (3)—[*Interruption*]

Sen. George: “At least he eh fabricate it!”

Sen. F. Hinds: It is quite clear that provisions exist for these, for the information to be transmitted electronically, to be created, to be retained, to be issued and to be stored, and in subclause (2)(c), it expressly says such control processes and procedures as may be appropriate to ensure adequate integrity.

Now, this is very, very important, and this is why I read it, because, Mr. President, we have seen in many Government departments—[*Interruption*]

Sen. George: As Mr. Al-Rawi said! [*Laughter*]

Sen. F. Hinds:—including the customs and excise division, as a reality, notwithstanding all of the things of which the Government would boast, sometimes record keeping is a major issue and it is important.

You will recall sometime in 2000 and—I think it was 2011, a private aircraft landed at Piarco carrying a FIFA official. You remember!

Sen. Singh: What is the relevance of this?

Sen. F. Hinds: I will tell you the relevance.

Sen. Singh: Okay.

Sen. F. Hinds: And it has become a serious issue of national concern as to how and in what means a certain quantity of US money came to be in Trinidad and Tobago to be distributed. I filed questions around it, and I am still concerned to know how did US \$1 million come to be distributed? We know some of it, but

there some concerns about how did it come into the country? The question is record keeping is very, very important, whether electronically stored or in hard copy but we must be able to look back, 10 years after, 15 years later, a year after, to determine what, in fact, happened.

Questions now arise, and I am wondering if as we speak, if as we ascribe more responsibility to the Comptroller of Customs, whether he is in a position now to do a search for an enquiry and say, “I can state as a fact that no declaration of US \$1 million was made by Mr. Bin Hamman”.

Sen. Singh: What you presume? It came through him?

Sen. F. Hinds: Assuming that it did!

Sen. Singh: “So you assume, so you set up ah straw man?”

Sen. F. Hinds: Assuming that it did because it is a very relevant question.

Sen. George: It is not!

Sen. F. Hinds: A very relevant question! So, the measures before us provide, Mr. President, for serious penalties if anyone blocks, interferes, changes, tampers with, any of the advance passenger information that the Comptroller of Customs is to expect from the master, from the agent or from the cargo reporter as I have read in clause 5 of this Bill.

Sen. Maharaj: Clause 6.

Sen. F. Hinds: In clause 5. Could you ask the—to stop interfering?

Mr. President, clause 5 of this Bill—clause 5(c) says in section 74 that a master, his agent or a cargo reporter, shall submit an account of all discharged cargo within 24 hours—a strict time limit—and that failure to do so will incur a penalty of \$100,000. So that if the master, his agent or a cargo reporter, fails to submit an account of all discharged cargo, the penalty is very severe.

Of course, you know, and lawyers among us would know, when you incur a penalty of that nature by the court or some tribunal or some lawful authority, and you do not meet their expectation promptly, the very ship could be forfeited, it could be confiscated, and there is a word in maritime law that now escapes me. So that if the master, his agent or the cargo reporter is unable to meet that fine when it is imposed because of his failure to notify and submit an account of all discharged cargo within 24 hours, he would incur a penalty. Sometimes the owner of the ship is not in the country, he is far removed, might be in Spain, might be in Nigeria, might be in Bangalore, and therefore, Mr. President, serious issues can flow.

Customs (Amdt.) Bill, 2013
[SEN. HINDS]

Tuesday, June 04, 2013

But this amendment, Mr. President, reminded me of the responsibility—well, of course, by the time a certain container was discovered to have marijuana in it at the port of Point Lisas, it was already off the ship, it was actually in the port.

Sen. George: It was?

Sen. F. Hinds: It was from the reports that I read!

Sen. George: Or!

Sen. F. Hinds: Now, as Minister of National Security, you should know.

Sen. George: How I should know? I do not know!

Sen. F. Hinds: And you should also know, since you are chiming in, that a chairman of a state board appointed by the Government—*[Interruption]*

Sen. George: I do not know! You have your own way of getting those stories.

Sen. F. Hinds:—was the person to whom that container was directed.

Sen. Maharaj: Go and say that outside!

Sen. F. Hinds: That is a fact!

Sen. Maharaj: “Say that outside, nah. Say it outside!”

Sen. F. Hinds: You see, they want to gag us; they do not want us to speak even in the Parliament.

Hon. Senator: No, no, you cannot say that!

Sen. F. Hinds: And the next thing you know could be in their wicked minds is to send me to the Privileges Committee.

Mr. President: You cannot describe Senators as wicked. You would have to withdraw the remark.

Sen. F. Hinds: That is a biblical term, Mr. President.

Mr. President: Senator! Please withdraw the remark.

Sen. George: No, no, no! It is very unbiblical. *[Laughter]*

Sen. F. Hinds: This is really—I am always, Mr. President, dutifully respectful of this Chair.

Sen. Singh: Withdraw the remark!

Sen. Maharaj: Withdraw it! Withdraw it!

Sen. George: Just withdraw the remark.

Sen. F. Hinds: “Just relax, nah man”, we addressing the—[*Continuous crosstalk*] Can I be protected, Mr. President? This is serious. I just said, and I want to repeat again—[*Interruption*]

Sen. George: “Yuh want to repeat it again?” [*Laughter*]

Sen. F. Hinds:—that that is a biblical term.

Sen. Singh: No, no, no. That is ex post facto!

Sen. F. Hinds: I found it in the *Bible*, my *Bible*.

Mr. President: Senator, I am not concerned about whether it is biblical or not, it is not to be used in this Senate.

Sen. Maharaj: It is not parliamentary!

Sen. George: “This is not ah biblical house!”

Sen. F. Hinds: Are my friends saying that this it is not a biblical house or they have no concerns about biblical things?

Mr. President: Senator, I have asked you to withdraw the term.

Sen. F. Hinds: It pains me, Mr. President, but I will withdraw it. [*Desk thumping*] It pains me!

Sen. Singh: “In yuh heart, yuh withdraw it! [*Desk thumping*] Every part of yuh body, yuh withdraw it!”

Sen. F. Hinds: And I will ask—you can be assured I will ask my God, Jah, to forgive me for this, and I should never forget today.

Sen. Singh: Yeah, Rastafari!

Sen. F. Hinds: I will never forget today, it pains me.

Hon. Senator: Jah! [*Laughter*]

Sen. Maharaj: Say it outside!

Sen. F. Hinds: But I want to continue my contribution and my God will forgive me.

Sen. George: Yes, he will, he will!

Sen. F. Hinds: Mr. President, as I was saying to my friend, the new Minister of National Security—[*Interruption*]

Sen. George: I am not your friend!

Sen. F. Hinds:—he would know—that container ought, under these—if this was already passed, it should have been declared within 24 hours, the contents thereof, but on this occasion, the owner was not immediately present. The container had left the ship and it was on the port at Point Lisas designated to a chairman of a state board appointed by the Government. That chairman—and I did not speak in the past tense—he still is, if I am not mistaken, the Chairman.

Sen. George: You are mistaken right now!

Sen. F. Hinds: Still is! An explanation was given that he did not know how marijuana got into this container, and there was no enthusiasm on the part of neither Attorney General nor the then Minister of National Security, nor the current Minister of National Security, to get to the bottom of it. I do not know what is the status of that investigation.

Sen. Cudjoe: Hmmm!

Sen. F. Hinds: Maybe it is not about what but it is about who. I hope that the amendments that we carry today would be treated differently otherwise it will be meaningless.

Sen. Cudjoe: That is right!

Sen. F. Hinds: Meaningless! The responsibility on the part of the master—
[*Interruption*]

Sen. Singh: Much like the contribution.

Sen. George: Much like the contribution—[*Inaudible*]

Sen. F. Hinds:—the agent or the cargo reporter to declare it.

Mr. President, I move now very quickly to clause 5(d) which reads in section 75—and this was alluded to earlier. I think I heard Sen. Dr. Armstrong, in particular, describe a \$600,000 fine where a master, his agent or cargo reporter fails to provide advance passenger and cargo information or provides false information, and also provides that goods may be forfeited, and the comptroller may refuse to grant a clearance until the advance passenger and cargo information is submitted and/or the penalty is paid.

My question is: is this a strict liability offence? The Minister of Finance and the Economy who moved this legislation is not in front of me. There are five Ministers sitting as we speak and none of them would be in a position to answer,

so it might be reserved for committee stage. I would like to know whether this is a strict liability offence or whether it requires mens rea, because we are not talking here about possession of the narcotic or the items—let us call it that—we are talking here about a failure—a regulatory offence almost—to provide information, and if you so fail, you can be fined \$600,000. That, I agree with those who commented upon it, is in the first place pretty severe.

Secondly, I would like to know whether this is a strict liability offence or whether it requires mens rea in the normal sense of that term. Because, again, the responsibility falls to the master who for all intents and purposes may be an employee on the vessel. It falls to his agent who for the same reasons might be, and was likely to be an employee or a cargo reporter. So, we are not addressing the owner of the vessel, we are addressing these persons—categories of persons with a very severe fine. The owner of the vessel, as I said, may be in Turkey or far removed from the scene, \$600,000, pretty severe!

8.30 p.m.

And then it also raises the question—and this is why my question as to whether it is a strict liability offence or otherwise. In the example I had given earlier with the chairman of the state corporation appointed and maintained in office as if to give support by the Government of Trinidad and Tobago, led by the hon. Kamla Persad-Bissessar, marijuana was found in a container at Point Lisas. If that were a strict liability offence, then somebody would have been easily carted away and found guilty because they would have had the thing without the necessary mens rea, if it were a strict liability offence. But since that is possession of a narcotic, a dangerous drug under the Dangerous Drugs Act, it is not a strict liability offence and it requires demonstration of a mental element. So my question is very apposite and I would want an answer to that going forward.

We, as my colleagues on the Opposition Bench, have already stated, have demonstrated, we have nothing to prove to this country. We have demonstrated over many years in governance in this country that we support the development. We have taken action to procure the development of Trinidad and Tobago. [*Desk thumping and interruption*] That is tripe we “doh” have “tuh” prove that.

Sen. Maharaj: That is Calder Hart.

Sen. F. Hinds: I heard Minister Bharath say today, very disappointingly, in the heat of battle, coming after Sen. Al-Rawi, and I was very disappointed to repeat, that it was the PNM, the government of 1993, who introduced the ASYCUDA system. Well I want to say to Sen. Bharath—[*Interruption*]

Sen. Bharath: It was not?

Sen. F. Hinds: Yes, it was. All organization—yes it was but you said it as though something was wrong and we heard references earlier to UNCTAD.

Sen. George: By Sen. Al-Rawi.

Sen. F. Hinds: And that is an international organization of the United Nations. Not only does it play the role that it does in respect of trade and development but it also, in playing that role, makes recommendations to governments and countries about what they ought to do to improve those systems. [*Crosstalk*] And I have no doubt that UNCTAD may very well have recommended to the Government of Trinidad and Tobago, in 1993, the implementation of the ASYCUDA system. [*Desk thumping*] I have no doubt because that was, for the benefit of the Government, the modern cutting-edge technology of the day.

Sen. Cudjoe: At that time.

Sen. F. Hinds: Wendell Mottley would have been the Minister of Finance in 1993.

Sen. Maharaj: Who was the Minister of National Security?

Sen. George: You are contradicting what you are saying.

Sen. F. Hinds: Wendell Mottley would have been the Minister of Finance.

Sen. Maharaj: Who was the Minister of National Security?

Sen. F. Hinds: A very successful and a very efficient Minister of Finance. Not only did he oversee the introduction of this modern cutting-edge technology of the day, but he also floated the currency—[*Interruption*]

Sen. Maharaj: He is the Chairman of UTC too.

Sen. F. Hinds:—very, very successfully and we have all benefited from it to this day. So when I heard my friend, Sen. Bharath, I wondered where was he going? But what he was doing as usual is when this Government comes or is brought into sharp focus—[*Interruption*]

Sen. Al-Rawi: Again.

Sen. F. Hinds:—whenever that happens, they run to the old and worn out strategy of blaming “who do dis and who do dat. We doh want tuh hear dat.” This is not 1993. This is 2013, 20 years later.

Sen. George: The Senator who said so.

Sen. F. Hinds: Twenty years later.

Sen. Maharaj: “Yuh must not criticize that too?”

Sen. F. Hinds: So the ASYCUDA system was the technology of the day and I want to compliment the Government and the people of Trinidad and Tobago for going there in 1993. That is all. [*Desk thumping*]

Minister Bharath told us here today that we spent over \$100 million improving it. Well I am not surprised. I am not surprised—[*Interruption*]

Sen. Al-Rawi: We said we do not want to tie ourselves.

Sen. F. Hinds: Because you had ASYCUDA 1, you had ASYCUDA 2, 3, 4, ASYCUDA 100, ASYCUDA World and you had to stay on the cutting edge and, of course, deterioration and other problems of managing this software would have set in because it was a French system, I understand, that was replicated in “50-something” countries around the world. [*Continuous interruption and crosstalk*]
Can I gain your protection?

Mr. President: Senators.

Sen. Bharath: Senator, would you give way for just a couple of seconds, please?

Sen. F. Hinds: I am not in the mood. I am sorry. Let me continue to correct you. So, Mr. President, I am not even in an eating or dining mood this evening.

Sen. Maharaj: “Dah why yuh blank de President. Yuh blank de President.”

Sen. George: Unprofessional.

Sen. Maharaj: “Yuh blank the President.”

Sen. F. Hinds: Mr. President, so we continue to upgrade the system. And do you know what? As we move these amendments here today, in clause 3 of this Bill, we would find what we call the interpretation of certain words, the interpretation section. Let me read for you a small element of the interpretation section, a small area of it. I am reading in particular clause 4, which says:

“Section 2 of the Act is amended, by inserting in the appropriate alphabetical sequence, the following definitions:”

And it goes on to say what those things are. One of them is the Customs Border Control System, or the CBCS. Now that, as I understand it:

“means the information system managed and controlled by the Comptroller for the purpose of cargo reporting and passenger document and entry processing.”

Customs (Amdt.) Bill, 2013
[SEN. HINDS]

Tuesday, June 04, 2013

So, when this legislation is passed, assuming that it is, then the Customs Border Control System is what the Comptroller of Customs would have. It is an information system that he would manage and control to store and to record all this information.

“You know something, Mr. President?” Having heard Sen. Bharath at that point, I thought I would have heard him say that the ASYCUDA system was to be replaced, but that is not the case. While it will be now called the CBCS, it is the same ASYCUDA system that will continue to be operated until a replacement is found. So, inefficient as it might be, we have to work with it. We have to try to improve it because that is what we have to deal with.

Sen. Maharaj: Much like the PNM.

Sen. F. Hinds: That is what we have to deal with. So that, even after the comptroller gets this legislative authority for the CBCS, the good old ASYCUDA system continues.

I want to say further, Mr. President, it has its drawbacks and it has its benefits. One of the issues the comptroller will face is how will he treat with this culture of overtime which the Minister of Trade, Industry and Investment spoke about? Because at the end of the day, it is individuals, human beings, human persons, who will manage this operation on behalf of all of us, after we speak in these debates and pass this bit of legislation.

I understand that overtime is a major issue for the customs. I think the Minister said over \$100 million, \$70 million?

Sen. Bharath: It is almost \$400 million for the last 10 years.

Sen. F. Hinds: Right, and in the last year I think it is over \$70 million. So you heard what the Minister said. In the last 10 years it was approximately \$400 million, but in the last year, \$70 million. So something is happening and not only in the customs.

Minister Bharath gave us crocodile tears—I hope that that is not unparliamentary, in my view, crocodile tears—about how he felt pain over the two individuals whose examples of attempting to import motor cars in this country he shared with this honourable House. Some woman was trying to import a vehicle—[*Interruption*]

Sen. Coudray: Some woman?

Sen. F. Hinds: A citizen, a returning resident.

Sen. Maharaj: A 62-year-old woman.

Sen. F. Hinds: Splitting hairs, splitting hairs—and we all, Mr. President, shared her pain and we all acknowledged in our way. Sen. Shamfa Cudjoe made the point, that was not a unique example. In fact, it may be far more the norm than it ought to be. We all shared the pain of that wonderful 62-year-old returning resident. [*Laughter and desk thumping*] Yes, yes.

Sen. George: Nice one, nice one.

Sen. F. Hinds: Mr. President, I was making the point, just to press on, that this overtime thing is very serious. The Minister of National Security is giggling his way to his political grave.

Sen. George: “Eh heh?”

Sen. F. Hinds: Yes!

Sen. George: “Ah want yuh to bury meh wit dat tie yuh have on.”

Sen. F. Hinds: Giggling all the way but he will learn that there is an overtime issue in the police service too.

Sen. Maharaj: “Yuh know ’bout political grave well.”

Sen. George: That happened to you when you were in the police service.

Sen. F. Hinds: Mr. President, we are trying to enhance border control because illicit objects, including firearms, come into the country and the Comptroller of Customs and his department has a critical role to play in this.

We have noticed over the last few days, murders beginning to get out of hand, particularly in Port of Spain again.

Sen. Al-Rawi: That is right.

Sen. F. Hinds: And I know the reason for it. I was a police officer. I worked in national security and I understand.

Sen. George: You worked overtime?

Sen. F. Hinds: You see he is asking me but let me tell him briefly, if you would permit me. What they did, what this Government, under the last Minister with the acquiescence and support of all of his Cabinet colleagues, led by a hapless Prime Minister and that is not unparliamentary.

Sen. Coudray: It is.

Sen. F. Hinds: It is?

Sen. George: Disrespectful.

Sen. Karim: Do not disrespect Mr. Manning.

Sen. F. Hinds: You see? What they did in order to suppress—*[Interruption]*

Sen. Karim: Why you saying that about Mr. Manning?

Sen. F. Hinds:—what they thought was burgeoning crime in east Port of Spain, they emptied Port of Spain of all the specialist sections, they emptied it, police officers. The Organised Crime Narcotics and Firearms Bureau had—they took 40 men from there and sent them to patrol Laventille.

Mr. President: Senator, you appear to be floating away from the Bill.

Sen. Maharaj: Drifting.

Sen. F. Hinds: I was making a point about overtime and they are now getting large amounts of overtime in Laventille, working 24 on. They do not want to go back to their sections in Port of Spain and the criminals have now realized, to move on, that Port of Spain is devoid of police officers fighting and preventing and detecting crime, and it is beginning to run again in Port of Spain. Watch that.

Part of the problem, to continue with the Bill, and we cannot avoid paying attention to it—every one of us know from observations of various budget presentations made by the Minister of Finance and the Economy, who has only now returned to his chair—*[Interruption]*

Sen. George: He was in the public gallery talking to lawyers.

Sen. F. Hinds: You cannot tell what he was doing. You were here.

Sen. Coudray: Where were you?

Sen. Maharaj: “How yuh know whey he is?”

Sen. F. Hinds: It is a fact, Mr. President—*[Interruption]*

Sen. George: Unfair.

Sen. F. Hind:—sadly, in Trinidad and Tobago, that 61—65 per cent of the allocation, the budget allocation, to all ministries and departments is directed to salaries and emoluments, very sad and what is even more sad, everyone will agree with me, is that part of the problem with the customs—afflicts all of Trinidad and Tobago really—is about inefficiency and low productivity.

Sen. George: I still disagree.

Sen. F. Hinds: So there is a serious overtime bill, according to the Minister of Trade, Industry and Investment, 70 million in the last year and at the same time productivity is not improving. And I will also say in passing, corruption and

thievery is on the rise. And without apology, for the last three years, it has skyrocketed in this country, from “captainess to cookess”. That is part of the problem that we are trying to fix in the customs here tonight.

Inefficiency, it is not so much the ASYCUDA system as a standalone, it is about citizens of Trinidad and Tobago working in the customs, working in the police service, even working in the Government, unproductive, wasting time, large amounts of income, large income and contributing nothing really—*[Interruption]*

Sen. George: That is like Manning.

Sen. F. Hinds:—to the serious development of the country and that, I submit, is a problem. So, as we address our minds, Mr. President, to these measures, as we amend the Customs Act, I want the Government, not the Opposition, not the Independent Bench, it is the responsibility of the Government and in particular the Minister of Planning and Sustainable Development, that little Hitler. I am sorry.

8.45 p.m.

Sen. Mohammed: Standing Order 35(5), Mr. President, he has to withdraw the statement.

Hon. Senator: “No man, he cyar make dat at all.”

Mr. President: I think he apologized when he—it slipped from him no doubt. *[Crosstalk]*

Sen. F. Hinds: Indeed. Indeed. That is one between my friend and I. *[Crosstalk]* He does demonstrate some dictatorial tendencies, but I should not call him that. I should not. But it is a matter of concern particularly for the Minister of Planning and Sustainable Development. These are the questions that have to be addressed because they would have come to Government and they would have gone, fat cats, but nothing would have improved. How do we gain more efficiency from the 61 per cent to 65 per cent in the customs department spent on salaries? Those are the questions. *[Crosstalk and laughter]* Pressing on before I get distracted. They want to disturb me.

When people go to use the service at the customs and I heard Sen. Shamfa Cudjoe, Sen. Al-Rawi, Sen. Armstrong and others made mention—Sen. Drayton—I heard concerns and we can all give various examples. I spoke to a businessman in preparation for this debate.

Hon. Senator: Oh you did, really? *[Laughter]*

Hon. Senator: “Yuh take over from Al-Rawi. You?” *[Laughter and crosstalk]*

Sen. George: “I eh know you could speak to businessman.” [*Crosstalk*]

Sen. F. Hinds: I also spoke to a customs broker—[*Interruption*]

Hon. Senator: “Ah customs broker?”

Sen. F. Hinds:—a key stakeholder and they both told me two things. They told me that the whole arrangement with importing goods into this country is smothered in corruption, whether we like it or not.

Sen. George: “All de businessmen who import corrupt?”

Sen. Coudray: The last few years.

Sen. F. Hinds: “Yuh hear how he is interpreting it. You see why he can never succeed as a Minister. Yuh see why yuh will never understand”, and he will fail as a Minister of National Security. Look what I have said and look at his interpretation. Is it not embarrassing, Mr. President? It is.

Sen. George: Quote what you said, come on.

Sen. F. Hinds: I do not want to draw you into it, but I can see it on your countenance—[*Laughter*]—a mark of agreement. [*Crosstalk*] It is the most—[*Interruption*]

Hon. Senator: Conciliation.

Sen. F. Hinds:—yes.

Sen. George: “Da’ is what yuh say.”

Sen. F. Hinds: So, Mr. President, I was making the point, having spoken to a very long-standing businessman who uses the facility through the Comptroller of Customs’ dispensation on a daily basis, and a customs clerk who a fortiori, very, very knowledgeable about the thing. They told me two things characterized their experience: one, corruption, if you “doh pay money to people down there yuh cocoo cook.”

Sen. George: “Who responsible fuh dat, PNM or UNC or PP?”

Sen. F. Hinds: See.

Mr. President: Hon. Senators, the speaking time of the hon. Sen. Hinds has expired.

Motion made: That the hon. Senator’s speaking time be extended by 15minutes. [*Sen. S. Cudjoe*]

Sen. George: So much? So much?

Question put and agreed to.

Mr. President: Sen. Hinds. [*Desk thumping*]

Sen. F. Hinds: Thank you very much. There are all manners of bureaucracy and issues. So Minister Bharath's concern about the ease of doing business, I want Minister Bharath to take into account one little example of how uneasy the businessman must be. When you, for example, import—[*Interruption*]

[*Sen. Dr. Henry enters the Chamber*]

Hon. Senators: “A-A, why he now come from?”

Sen. F. Hinds:—directly, say from a supplier in China [*Continuous crosstalk*] right, they would because of their understanding of how the things work, the Bureau of Standards has an office on the site of the customs, on the port, and they would want to see the origin of those goods. So they want to know the origin of the goods and who is the distributor. If you imported from the manufacturer, he would place on those goods marks that show you are the distributor and once it gets to the Bureau of Standards, they do not have a problem because they know the origin of the goods and they know who the distributor is.

On the other hand, if you buy second-hand goods or you buy from a supplier, not the manufacturer, say, out of Panama, they will not place on the goods the title or the name or the mark of the distributor because they are not taking that responsibility. When the goods come here—and that happens pretty often, particularly out of Panama, and I want the Minister to know this—when they come, there is a problem and the businessman told me it is now routine, if you “doh pay ah few thousand dollars, yuh eh getting yuh goods”. And they tell you, you will leave the goods here and they take possession of them. One of the greatest fears that businessmen have particularly when they import small items like MP3s, for example, or flash drives what they now call—what they call these now, the most up-to-date term?

Sen. Cudjoe: USB?

Sen. F. Hinds: No, these flash drives, there is another name for them now. Yes, it is a more modern name. Anyway—[*Interruption*]

Hon. Senators: Memory sticks.

Sen. F. Hinds: No, no, no, that is an old name, man; not memory stick, man, even at my stage I have—[*Crosstalk*] forget it. But in any event when you import small items like those, one of the greatest fears of the importer is to leave the

Customs (Amdt.) Bill, 2013
[SEN. HINDS]

Tuesday, June 04, 2013

goods overnight. Theft is another major problem and I want to reinforce any suggestions. [*Continuous crosstalk*] I want to reinforce for my own part, any suggestion that we need to improve the security on the part—on the port.

Sen. Coudray: On the part? [*Laughter*]

Sen. F. Hinds: On the part of the Comptroller and the management of the facilities of the port—[*Interruption*]

Sen. Al-Rawi: That is right, tell them.

Sen. F. Hinds:—to put it that way because theft is a major issue; if you leave your things overnight, you could lose crates of it and that is happening. [*Crosstalk*] I am hearing Minister Coudray telling me not now, we all know not now, but you are in Government now, [*Desk thumping*] and at the very least we expected you would have done better with all your boasts and promises, and now you are doing worse. [*Desk thumping and crosstalk*]

Sen. George: “Yuh want to come over here, da’ is yuh problem.”

Sen. F. Hinds: That is the point, at the very least we would have expected you would have done something. So to tell me Minister Coudray, “it going on ah long time”, brings no satisfaction to me, not emotionally, not intellectually and, therefore, it has to be rejected. [*Continuous crosstalk*]

So, Mr. President, these are some of the issues that the Government must deal with. They have to deal with the question of staff. They have to deal with the question of overtime. They have to deal with the question of theft and all these things afflict and affect adversely the question of the ease of doing business. As I approach my own—[*Interruption*]

Sen. George: Amen!

Sen. F. Hinds:—conclusion—[*Desk thumping*] and my contribution to this, I would like to bring reference [*Crosstalk*] to the Computer Misuse Act; an Act that has some bearing on this debate that no one from the Government side had the wisdom or the thought to introduce. Sen. Al-Rawi pointed out that there were several pieces of legislation that have implications for what we are trying to do today, and the Government demonstrated its ignorance, ignored it completely and it fell to us on this side both Front and Back Bench to bring these issues to you. [*Crosstalk*]

Sen. George: “Yuh speaking for all de Independents too, I realize.”

Sen. F. Hinds: Mr. President, everyone else spoke here unperturbed and undisturbed this afternoon, I do not know what, but I think what they are aiming to do is to get me before the Privileges Committee and expel me from this Senate, that is what they do—[*Interruption*]

Sen. George: Yes.

Sen. F. Hinds:—and they are getting help from strange places. [*Crosstalk*]

Sen. George: You are entertainment.

Sen. Singh: “Eh-heh, yuh fighting yuh leader case.”

Sen. F. Hinds: Of course, I am fighting “mih leader” case, because as far as I am concerned he is unjustly before a Privileges Committee, and the country knows that—[*Interruption*]

Sen. Singh: “He—[*Inaudible*] before de committee.”

Sen. F. Hinds:—but time will tell. [*Desk thumping*] They used their majority and hauled my leader before the Privileges Committee, but time will tell. [*Crosstalk*]

Hon. Senator: “Buh Al-Rawi right here.”

Sen. F. Hinds: With all of the complications [*Interruption and continuous crosstalk*] that are around that but, Mr. President, under the Computer Misuse Act—[*Interruption*]

Sen. George: “Ah gehing yuh ah hard hat and ah blowtorch.” [*Laughter*]

Sen. F. Hinds:—there are a number of offences that were committed—Chap 11:17—a number of offences, and I want to list just a couple of them, a few of them: unauthorized access to computer program or data; access with intent to commit or facilitate commission of offence; unauthorized modification of computer program or data; unauthorized use or interception of computer service; unauthorized obstruction of use or use of computer; unauthorized disclosure of access code causing a computer to cease to function, all of these, unauthorized receiving or giving access to computer program or data. All of these are offences that exist in the laws of Trinidad and Tobago, and at least the Government ought to know that.

So whether it is the ASYCUDA system or whether it is a new system under the CB— what is it?

Hon. Senators: CS. CS.

Sen. George: “Like you yourself hah to learn?”

Hon. Senator: “Yeah boy.”

Sen. F. Hinds: That is all right. Under the CBCS as I have described earlier—[*Interruption*]

Hon. Senator: Or bogus email.

Sen. F. Hinds:—all of these offences are likely to be committed if anyone flouted the observation of these laws. [*Crosstalk*] I am saying, Mr. President, the Government ought to know this and, therefore, there is a regime of protection for anyone who wants to interfere with data or program on another computer without authority. And I, therefore, cannot understand what they are mumbling about Privileges Committee and Dr. Rowley—[*Interruption*]

Hon. Senator: “Dey fraid.”

Sen. F. Hinds:—because, of course,—[*Interruption*]

Hon. Senator: “No, no, we mumbling about Dr. Rowley and de Chinese.”

Sen. F. Hinds:—they have already decided—and let me give you a hypothetical case, Mr. President. [*Interruption*]

Hon. Senator: Ohhhh!

Sen. George: Before the Privileges Committee.

Sen. Singh: No. No. No. No.

Sen. F. Hinds: I come here in this debate—[*Interruption*]

Sen. Singh: Hypothetical cannot hide you.

Sen. F. Hinds:—dealing with the amendment to the Customs Act and I identified certain electronic communication whether it is email or so between certain Members of the Government.

Hon. Senator: “Fabricated emails doh work.” [*Crosstalk*]

Sen. F. Hinds: Mr. President, I am speaking to you, I am not speaking to them, you know.

Hon. Senator: “Fabrications doh work.”

Sen. Singh: Or hypothetical or otherwise.

Hon. Senator: “Hypothetical fabrication doh work.”

Sen. F. Hinds: Because they disagreed with what I have said—[*Interruption*]

Sen. Singh: Because you have not proven your case.

Sen. F. Hinds:—they urge you to take me before the Privileges Committee. You will do no such thing, Mr. President, I know that—[*Interruption*]

Sen. Singh: Come and try it here.

Sen. F. Hinds:—because for the first part you will take time to consider the invitation that was made to you, and you will take time to consider whether there is adequate demonstration of any prima facie case—*[Interruption]*

Sen. Singh: “Come wid it.”

Sen. F. Hinds:—and therefore—*[Interruption]*

Sen. Singh: Bring it.

Sen. F. Hinds:—you will come to no foolish conclusion.

Hon. Senator: “Bring it here nah.”

Sen. Singh: Stop “hypotheticating”.

Sen. Coudray: What are you implying?

Sen. George: “Yuh pleading ah case or wat?”

Sen. Coudray: “Nah! Nah! Nah!”

Hon. Senator: Bring it here too.

Sen. Singh: “Come with yuh plan nah man.”

Hon. Senator: Bring it here.

Sen. F. Hinds: So, Mr. President,—*[Interruption]*

Sen. Al-Rawi: “Yuh notice is de people who doh contribute does make all de noise.”

Sen. F. Hinds:—all of these offences—*[Crosstalk]* can be brought to bear against someone who interfered with information on someone else’s computer. Therefore, to call—*[Crosstalk]* and these will have to be investigated, you cannot come to a conclusion before it is investigated.

Hon. Senator: Bring it here. Bring it here.

Sen. F. Hinds: These are the offences. Common sense tells us and common sense should tell the Government, and common sense should tell their friends who provide them with assistance, that you cannot come to a conclusion as to guilt or innocence until the thing is properly investigated; otherwise you run the risk—*[Interruption]*

Sen. Coudray: What are you implying?

Sen. F. Hinds:—as we amend this legislation of finding someone guilty according to their standards and then it is discovered five months from now, or five weeks from now, that the information was useful and valid and substantively correct.

Sen. George: “Repeat it, yuh might convince yuhself.” Repeat it all over.

Sen. Coudray: Bring the other—*[Inaudible]*

Sen. F. Hinds: That is why I cleave to the biblical term earlier—*[Crosstalk]*

Sen. Singh: Oh, yeah?

Sen. F. Hinds:—that I am not permitted to use in this Senate and I leave you all as I conclude, I leave you all to God.

Hon. Senator: No problem.

Sen. F. Hinds: I conclude by saying, Mr. President, we on this side and we speak for the Opposition, we support any attempt by the Government that is sensible and plausible to improve the efficiency of the customs service. We support any effort to remove the corruption and the low productivity that we have all agreed afflicts it. We are by virtue of our track record—*[Interruption]*

Sen. Singh: Or created.

Sen. F. Hinds:—having passed advance passenger legislation in the Parliament of Trinidad and Tobago which remains on the books as a legacy item.

9.00 p.m.

We support the concept of advance information. We understand its value in terms of increasing efficiency, all of that, but we have some issues with some aspects of these measures and we have articulated our concerns. In particular, now the Minister is here, I wanted to know, hon. Minister, whether the failure on the part of the master, the agent or the cargo reporter, where he is subject to a fine of \$100,000 for failing to declare within 24 hours, I want to know if that is a strict liability offence and your colleagues will bring you up to speed on my concerns.

So we have raised our concerns and we will continue to do so at the appropriate time during the committee stage of this. With those very few words, Mr. President, I wish to thank you. *[Desk thumping]*

Mr. President: Sen. Ramkhelawan.

Sen. Subhas Ramkhelawan: Thank you, Mr. President. I am grateful for the opportunity to speak on this the Customs (Amdt.) Bill, 2013. My contribution, I promise, will be short, and not short in the sense of Sen. Fitzgerald Hinds, but a lot shorter.

Let me start by saying that, in recent weeks, we were privileged and honoured to receive both the Vice-President of the United States, as well as the President of China, and it is in this context I recall the Chinese phrase that a journey of a thousand miles begins with a single step. Whether that step is sure-footed or not does not really matter. What matters is that the step is in the right direction and I consider this piece of legislation a step in the right direction. [*Desk thumping*] It takes us in step with international practice in many ways and I want to commend the Government for bringing this to the Senate today. In many ways, it can be characterized as fine legislation in that so many pieces, so many clauses of the legislation reflect new fines or an increase in the fines that would have been attributable under the original Customs Act. But as we come, I believe, to the end of this debate, there were three aspects of the Bill that engaged our attention and is engaging mine as well.

The first is the advance passenger and cargo information, which amends section 72 of the Act and really brings us in line, in using the advance passenger and cargo information, brings us in line to a great extent with international practice, that is, information coming into the hands of customs well before the vessel would have arrived in this country.

[MADAM VICE-PRESIDENT *in the Chair*]

The second aspect is really related to the first in that it puts into place in this piece of legislation electronic data transmission, which was absent from the original Act. Of course, the third, which I have mentioned already, is the introduction of increased fines.

So we are moving from a certain level up to a new stage, in consonance with international practice. The concerns that I have received both inside the Senate and outside are one: what about those vessels which do not have the capability to provide such information in advance; or, even if there was some breakdown, shall we say, in transmission of such data?

I think the response is clear that section 265 of the Customs Act really addresses this in that, and I quote:

“The Comptroller may permit the entry, unloading, removal and loading of goods and the report and clearance of aircraft and ships, in such form and manner as he may direct to meet the exigencies of any case to which the Customs laws may not be conveniently applicable.”

I think that this was one of the concerns, that what happens if there is a breakdown? What happens if there is a vessel that cannot provide the information in advance? Section 265, which was actually referred to in the amendment, addresses this matter quite frontally and, I believe, fairly comprehensively.

But I want to turn my attention to one particular matter, and that is the question of corruption and the question of fines for those officers who apply unauthorized fees or who have been tainted by bribery in accepting bribes. Now, this matter of corruption within the ranks of the customs has been a recurrent theme in virtually all of the contributions that we have received here today and it is in that context that I really want to raise this matter of the fines that are applicable for such unauthorized fees as in clause 8, or the acceptance of bribes as in clause 9.

Now, in clause 9, the limit of the fine for bribery is \$200,000 and I want to appeal to the Minister and to the Attorney General that we need to relook at this fine, on its own, and add to it a prison term for those persons who are guarding the interest of Trinidad and Tobago and, in fact, taking away from the coffers of Trinidad and Tobago in two areas:

- (1) that they are not applying the right levels of duties and fees; and
- (2) that they are pocketing for themselves, if that be the case, income that would have gone into the coffers of Trinidad and Tobago.

Now, Madam Vice-President, this is a most serious matter because in other pieces of legislation—and I am sure the Attorney General is very well aware of this because in previous debates that we have had he has said that customs officers have the powers of the police in certain areas; but when a police officer is found wanting and corrupt, in many of the cases that we have seen, he is subject:

- (1) to a fine; and
- (2) to a prison term.

And I believe, for the purposes of deterrence, especially since this, the spectre of corruption has been raised over and over again with regard to customs, that it is now necessary, as we make this amendment, to lift, not only the fine, which I believe is too low, but also to put in place a prison term.

I will tell you why, Madam Vice-President. If there is a transaction and that transaction saves \$2 million or \$5 million and an officer receives, shall we say as a benefit, a million dollars as a result, or 500,000, it is rather easy to pay the fine of \$200,000. But I think the fear of God starts to get into the minds of persons who are minded to corruption that they might have to sit with a striped coat, in a very confined space, with other gentlemen who may have nefarious thoughts and ideas as the sun goes down.

It is a fearful consideration. It is far more fearful than a consideration of paying a \$200,000 fine, when you may have received \$500,000 as compensation for a job well done in term of corrupt practices. Now, that in itself, would not lead to detection of such a white-collar crime. That, in itself, needs to be complemented, and strongly complemented, by enforcement and the capabilities to detect that. And I want to make the case that detection can actually be easier through a system that provides better disclosure, a transparency, in matters related to customs.

When there is inefficiency and when there is opacity in terms of transaction, it creates room for more and more corrupt practices and, therefore, I believe that the system, the computerized system that is being put in place, it may have its faults, but I think, on the balance of things, it provides us, as a nation, with a better mechanism to identify and detect matters of fraud, provided we have the enforcement capability on the other side, the tracking mechanism itself would be stronger. And so, I repeat this call to the Minister of Finance and the Economy to ensure that we have more measured deterrents in consonance with the crime or the possibility of the crime, white-collar crime.

Much mention was made about clause 5, which is the concern with regard to the extent of the fine for misreporting by the master, cargo reporter or agent. And it is true, based on the research that I have undertaken, that this fine is not in line with international practice. It is far in excess of the fee or the fine that would be charged in the case of that misreporting whether it be for error or otherwise. As such, I would respectfully submit to the hon. Minister of Finance and the Economy that he pays due consideration to adjustment of this fine from the current suggested level of 600,000 to a more reasonable level in the context of the error that is likely to be committed.

These are some of the concerns that I have. Most of the other concerns have been fairly well addressed by those others who have joined in the debate today and so, in concluding, I would like to simply say that we need to go forward with this piece of legislation and I am in support of the legislation subject to any minor adjustments that may be suggested at the committee stage. I thank you, Madam Vice-President. [*Desk thumping*]

Madam Vice-President: Minister Tewarie.

Sen. Singh: Hinds, come and take your seat! Come and take your seat like a man!

The Minister of Planning and Sustainable Development (Sen. The Hon. Dr. Bhoendradatt Tewarie): Madam Vice-President, hon. Senators, I rise to support this Bill, an Act to amend the Customs Act, Chap. 78:01 to enhance border control by providing for advance passenger and cargo information to be submitted electronically to the Comptroller of Customs and Excise and for related matters.

This is a straightforward Bill, Madam Vice-President, which basically seeks to facilitate the flow of goods travelling into and out of Trinidad and Tobago and the hon. Minister of Finance and the Economy, in his presentation, indicated that we are talking about TT \$100 billion per year worth of goods and the idea is that this would be done electronically without compromising the nation's security.

9.15 p.m.

This system operates in about 80 countries now, and it therefore facilitates interconnectivity with multiple external systems and data bases and, therefore, it brings us into the modern system in terms of customs management and border control.

Madam Vice-President, I support this Bill wholeheartedly, and I simply rise to respond to Sen. Hinds and his contribution here and to, perhaps, respond to one or two things that Sen. Dr. Armstrong raised very constructively in his own contribution. I tend to be a very patient person and I tend to be rather restrained, but I think that Sen. Hinds in this particular contribution today has succeeded in testing my patience in this honourable House. He started off by talking about the disconnection of the Government of Trinidad and Tobago with the people of this country. I want to say that Sen. Hinds and the group that he represents are disconnected from all reality in Trinidad and Tobago. [*Desk thumping*] I have never seen a more bold-faced group operating in this Parliament as this group of which he is a part, as it operates here today.

Sen. George: Indeed.

Sen. The Hon. Dr. B. Tewarie: Last week, I saw a clear assault on the vice-presidency of this Senate. I saw a situation in which one Senator stood up while another Senator from the Government side was speaking, refusing to sit down. I saw today, Sen. Hinds making the statements that he did across the floor, and then making a statement about me that was totally unparliamentary and uncalled for which I do not wish to repeat, and then failing to withdraw after the instruction of the Senate President, a statement that he knew he should not have made here, and this is nothing short of a kind of extreme behaviour that is coming from the other

side, especially in the last few months. [*Desk thumping*] It is this mentality of desperation that created the problems in the other House which led to the summoning of his leader to the Privileges Committee. [*Desk thumping*]

Sen. Hinds: “Eh heh!” Explain clause 34!

Hon. Senator: Sing along; sing along!

Sen. George: Indeed.

Sen. The Hon. Dr. B. Tewarie: And it is because they are disconnected from what is happening in this country that they can come here to talk about the disconnectedness of this Government.

He comes here and he talks about his anger. As far as I can tell, every time he gets up to speak he is angry. [*Laughter*] On every single opportunity that he takes to speak, he is angry, and he reflects the anger of his leader as well.

Sen. Karim: Listen! Sit down and listen.

Sen. The Hon. Dr. B. Tewarie: I do not know, and I cannot understand why it is necessary to proceed in this way. The Government is the Government, the Opposition is the Opposition, the Parliament is a certain institution in which we have to engage in a certain way, and yet they abuse on occasion after occasion—they do not do it every time—but there are times in which this Parliament is really abused and, therefore, I want to take note of this matter today.

He complains about being in pain, in pain about what? What is the source of his agony? Is the source of his agony that we are in Government and that they are not? [*Desk thumping*] Is that the source of the strategy to perpetually create the conditions for mistrust of this Government seeking always to undermine the authority and the legitimacy of the Government, and seeking always to assault the institutions of Government? Is that the strategy? Is that the responsible behaviour of a responsible Opposition?

Sen. George: Indeed!

Sen. The Hon. Dr. B. Tewarie: He comes here—how many times has he raised this issue of the OPVs? The OPVs was simple matter.

Sen. Hinds: It happened!

Sen. The Hon. Dr. B. Tewarie: There was a contract that was not met. The Government took its position on the basis of an unfulfilled contract. The matter went to arbitration. The Government achieved its objective of winning the arbitration. What is the “tabanca” about? [*Desk thumping*]

Sen. Karim: Mischief, mischief!

Sen. The Hon. Dr. B. Tewarie: And you come here and you talk about how the economy is stymied and there is no growth in the economy. “Which country you living in?”

Hon. Senator: Mars!

Sen. The Hon. Dr. B. Tewarie: This is Trinidad and Tobago. We came—as the hon. Minister Sen. Bharath indicated during his talk that we came from a position of economic decline when we entered into Government. He mentioned the labour contracts that had to be met; he mentioned the contracts with contractors that had to be fulfilled in terms of financial obligations; he mentioned, well the Clico matter and the BAT matter, all of these issues that had to be addressed as a responsible Government in office in the context of the same continuity that Sen. Faris Al-Rawi talked about that is part of the responsibility of Government. We met all of these obligations.

After meeting all of these obligations and keeping the economy intact, not in any way interfering with any of the funds that are funds of stabilization in this country, and proceeding to manage the country in a prudent way—in a way that could contain the pressures that were combustible in the society—and so we find ourselves in a situation in which in 2012 we have had growth and in 2012 we are predicting higher growth—

Hon. Senator: 2013!

Sen. The Hon. Dr. B. Tewarie:—in 2013, sorry—we are predicting higher growth drawing on the Central Bank as the authority. We have the basis for saying so in the context of a growing non-energy economy, and also the construction sector that has begun to move; both from the public sector point of view and the private sector. It is these synergies that are now beginning to accrue, as confidence builds, that are going to be responsible for the growth and development of this country.

Do you not drive across the country to see what is happening—the construction that is taking place and the work that is going on and the communities that are being developed and affected including—

Sen. Hinds: I want to walk.

Sen. The Hon. Dr. B. Tewarie: You could walk if you want, that is your choice.

Sen. Hinds: I want to walk. “I ent seeing nutting.”

Sen. Singh: Walk with your supporters; walk with your supporters.

Sen. Hinds: “Ah eh seeing none on de corridor.”

Sen. The Hon. Dr. B. Tewarie: It is all over the corridor.

Sen. Hinds: Where in the corridor is it?

Sen. The Hon. Dr. B. Tewarie: It is all over the corridor. All over the corridor there is development. [*Interruption*]

Hon. Senators: Sit down; sit down!

Sen. The Hon. Dr. B. Tewarie: So the economy is, in fact, in growth mode now. That is one of the signal achievements of this Government. [*Desk thumping*] We have moved it from decline into growth and that we are moving into upward growth in this economy.

Sen. Karim: “We inherited decline man.” [*Crosstalk*]

Sen. The Hon. Dr. B. Tewarie: I want to say to you—I want to say to you, Sen. Hinds, that the issues also of corruption that you talked about that have to do with customs and other institutions, et cetera, I want to say that were this Government to stand up in the morning and say that we are going to deal with all the elements of corruption in all the institutions of this society, and that we are going to weed it out wherever it is, you would be the first one to stand up and talk about human rights in this country and the abuse of power by the Government. [*Desk thumping*]

Hon. Senator: I thought you were going to say he is the first one to go. [*Laughter*]

Sen. The Hon. Dr. B. Tewarie: And that is part of the problem of Trinidad and Tobago, which is that the position that you hold in the society, which is meant to be a responsible position, is often abused because politics is the highest law when it comes to your assumption of what your strategy dictates of you, and which is one of the reasons why the development of the country is often hindered, and so we must work with what is possible and we must bring the laws and we must act as is necessary. [*Desk thumping*]

Sen. Karim: Sit down and listen.

Sen. The Hon. Dr. B. Tewarie: So I want to move away with that, and I hope that on another occasion, you would find the means to use the talents that you have which are considerable and not perpetually abuse your talents in the way that you often do.

Customs (Amdt.) Bill, 2013
[SEN. THE HON. DR. B. TEWARIE]

Tuesday, June 04, 2013

I just want to spend a couple of minutes to respond to some of the things that Sen. Dr. Armstrong said. In terms of the national spatial development strategy, you are right, we are looking at the whole development strategy in terms of the land space, the sea space and the sky space that we have.

The issue of ports is an important matter. You mentioned that there are ports being developed and hon. Sen. Vasant Bharath mentioned what was being done in the maritime sector, and how he was proceeding, et cetera, but there is also a port rationalization study that is being supported by the IDB that will look at the rationalization of ports in Trinidad and Tobago, and that will take into account not only Panama, but how do we—what can I say?—strategically deploy the ports in the best asset configuration that we can for Trinidad and Tobago's benefit and development.

Of course, the port strategy will have implications for the kind of maritime, marine, shipbuilding and ship-repair strategy that we already have in train. So the question of how you synergize these things, how you link it to Panama and the development of the port there, for instance, is going to be important. I think those were the issues you raised, Sen. Dr. Armstrong, that related to me and the Ministry of Planning and Sustainable Development and, therefore, I will simply give that in terms of information.

The final thing I want do is, again, respond to Sen. Hinds. You know, he talked about the fact that nothing is happening and nothing is taking place and nothing has happened. I do not know if you feel that when you say these things you make them a reality because this is something that you do perpetually. Okay. This is something that you do perpetually, which is that you keep repeating these things that you know not to be true in the hope that somebody who is listening to you will believe you.

Sen. Hinds: “You want to take me to the Privileges Committee.”

Sen. The Hon. Dr. B. Tewarie: Not at all. You have spoken, and I am responding to you. [*Desk thumping*]

Sen. Karim: Change your glasses.

Sen. The Hon. Dr. B. Tewarie: The people of this country will take you to the Privileges Committee. [*Desk thumping*] We will all have our turn.

Sen. George: Nice one!

Sen. The Hon. Dr. B. Tewarie: We will have our turn.

Sen. George: Nice one.

Sen. Karim: “Doh call de name.”

Sen. The Hon. Dr. B. Tewarie: I just want to close, Madam Vice-President, by thanking you for giving me the opportunity to say a few words. This Bill is, as I said, a straightforward Bill, which I support. There have been very good contributions all around and I thank you for the privilege and the opportunity again. [*Desk thumping*]

9.30 p.m.

Madam Vice-President: Minister Howai. [*Desk thumping*]

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai): Thank you, Madam Vice-President. In seeking to bring the debate to a close, I will try to address the issues which have been raised, some of which remain unaddressed; although during the course of the contribution I think a few matters have been answered. In fact, Sen. Tewarie would have addressed many of the issues raised by Sen. Hinds, other than the issue of the strict liability, section 74, which I will come back to.

With respect to the issues which were raised by Sen. Al-Rawi, that in fact there are other pieces of legislation such as the Data Protection Act and the Computer Misuse Act, and these to some extent, I gather from what was being said, actually deal with a lot of what requires to be dealt with in terms of getting—other than, of course, the advance passenger information in order to make effective the changes that are being proposed.

We have thought about that issue and one of the things for us is that we would prefer—and this is from a policy point of view—to really have the Act as a complete Act. In other words, what Sen. Al-Rawi is saying is correct, and I think as a lawyer he would know where to look, and I think for the man in the street who is not a lawyer, the situation would be entirely different. We would much prefer that the man in the street, the agent, the master of a ship, whoever it is, if he had to go to legislation, he only needed to go to the Customs Act. He did not need to go to the Customs Act and then think that there is something called a Computer Misuse Act or a Data Protection Act that he needs to go to, to understand what the penalties and so on would be.

So we would prefer to keep it as a single comprehensive Act inclusive of all of the issues which need to be addressed as part of making this particular initiative into something that is workable. The issue of the fines came up and, really, there is one aspect of the fine that in a sense had me a little bit bewildered, the issue of

Customs (Amdt.) Bill, 2013
[SEN. THE HON. L. HOWAI]

Tuesday, June 04, 2013

the additional 10 years fine; 10 years imprisonment on clauses 8 and 9, which we took out following discussions with the Opposition in the Lower House, so in a sense we are a little bit baffled by the fact that they seem to be—*[Interruption]*

Sen. Singh: Two different Houses.

Sen. The Hon. L. Howai: Yeah, two different PNMs too, so—*[Interruption]*
[Desk thumping and laughter]

Hon. Senator: One leader.

Sen. The Hon. L. Howai: Yeah, but one leader. But anyway, we take the point and whatever makes good legislation we are prepared to consider and look at, right, so let me say that at the start.

So the issue of the fines; the rationale is that, as you said, there is a fine of \$600,000, and really that comes out of the Immigration Act. As I said, in the Immigration Act, 2006, which had a sunset clause and which was introduced for a specific particular occasion, and a specific reason, which had to deal with the Cricket World Cup, I mean, it was a sunset legislation, it did end and there was new legislation that came into effect in 2008, and the same penalty was put into the new legislation and it remains on the books to today.

So the thing is that what we tried to do is we said, “Look, there is an Immigration (Advance Passenger Information) Act, which deals with the similar issues as we are dealing with in this Act, and, therefore, what we are doing is lining the fines up in accordance with what is there, so that there is not one fine in one place, and another fine in another place.

There is another fine of \$100,000 in respect of the confidentiality and, really, if you go to section 95(1) of the Data Protection Act, you will see that the higher of the two fines in there, is the fine that we took from the Data Protection Act and we put it into this Act. So it is the same fine that is in section 95(1) of the Data Protection Act.

Similarly, there was an issue which had been raised, I think it was by Sen. Drayton, and this had to do with, I think, a \$200,000 fine in respect of bribery, I think it was. I am not sure if this is the one you had raised, but the thing is that in a sense that is out of line with what is in the Prevention of Corruption Act. The Prevention of Corruption Act, as the Senator quite rightly identified, has a \$500,000 fine, and the \$200,000 which we have put in here is out of line with that \$500,000. But I got the impression that—in fact from the discussion that took place and from some of what Sen. Al-Rawi would have said—in a sense the \$200,000 seemed high, but the thing is that we could align it, and we can align it

with the \$500,000 but we did not think, in a sense, that we wanted to do that in this particular instance. We would prefer from a public policy point of view, to maintain the fine at \$200,000, and that is where—[*Interruption*]

Sen. Al-Rawi: [*Inaudible*]

Sen. The Hon. L. Howai: Yeah. So that is where that \$200,000 came in.

Then in section 212A there is a \$125,000 fine, but that is the same penalty as exists now for similar breaches of the existing legislation. So what we did is, we said there are additional similar type of breaches of the law for which certain fines are applicable, and they are similar to the existing fines that exist right now in the Customs Act, and, therefore, we lined those up—all in line together. So what is in 212A, the \$125,000 is the same as exists currently.

The other issue that came up was: what happens if someone is unable to pay the fine? Well, basically, if you are unable to pay the fine you would be taken to court. Under the Summary Courts Act, there will be, I suppose, a fine imposed and some kind of arrangements made for payment, failing which the court will then introduce a different kind of penalty if you are unable to pay. So that was the issue with respect to those particular areas.

Sen. Drayton had also raised the issue of the scanners which had been addressed by Sen. Bharath, and basically there is a new scanner coming in under grant funds from the People's Republic of China, and that will be installed shortly. There are four additional scanners which are used scanners which were donated by the US, but they are used scanners, and there is some refurbishment work to be done, and there is a \$2.2 million cost attached to that refurbishment work. We are in the process of dealing with that so those would be deployed shortly together with some additional new scanners that will also be bought.

There was a question about definition of data message, that is not consistent with the Data Protection Act. When we checked the Data Protection Act, there is actually a definition for "data" but not for "data message"—[*Interruption*]

Sen. Al-Rawi: Electronic Transactions Act, section 2.

Sen. The Hon. L. Howai: Electronic Transactions Act—sorry. Yeah, sorry, Electronic Transactions Act. So what we actually did there was actually put together a definition that fell in line with what we were trying to do in this particular piece of legislation. With respect to 74(1), the person receiving the cargo ought to have checked before receiving, I think is the point that had been raised.

Customs (Amdt.) Bill, 2013
[SEN. THE HON. L. HOWAI]

Tuesday, June 04, 2013

When we speak of discharge, we are speaking here of not discharge within the 24-hour time frame to the importer, who is actually by his discharge from the ship into the port, into the enclosed area which is under the control of customs. So it is still under the control of customs at that point in time, and basically the information that needs to be provided would be provided before the goods actually get into the hands of the importer. So it is discharged from the ship onto the port itself, and still within the control of customs.

[MR. PRESIDENT *in the Chair*]

So I think those were some of the issues raised there. There were additional issues raised by Sen. Cudjoe, many of which were more operational type issues similar to some of the operational type issues that were raised by Sen. Hinds. What I asked the Comptroller of Customs to do was to get the *Hansard* of the points that were raised and we will give those to the person in charge in Tobago, so that they are aware of the issues that were raised so that we could seek to address those specific operational issues. They had to do with updating computer records, Tobago still not responding in the same time frames, differences in classifications, which ought not to happen, discrepancy in fees and tariffs which, again, based on the processes we have, those ought not to happen.

So the thing is that what I decided to do was to simply let the person in charge in Tobago take a look at these specific issues and seek to address them by way of management intervention.

With respect to the strict liability question asked by Sen. Hinds, the answer is yes. There is no issue of mens rea and so on. The intention is that it is a strict liability issue. So that is the intention and that is how it is intended to be interpreted.

There are some issues raised by Sen. Wheeler, with respect to suitcase traders and, I think, basically, a suitcase trader would be treated like a normal passenger bringing in luggage and so on, unless it is a significant amount, in which case, there is no need for advance passenger information in respect of that, it would be put into a separate area—[*Interruption*]

Sen. Al-Rawi: The provisions in the Act which provide for green line when you are coming in.

Sen. The Hon. L. Howai: That is right. So that would be treated with in that particular way. There were some issues with respect to vessels needing to come in if—for example, they came in under duress, for example, there is a hurricane and they simply came in under short notice and so on.

Sen. Al-Rawi: [*Inaudible*]

Sen. The Hon. L. Howai: That is right. So those are already dealt with. I think Sen. Ramkhelawan actually answered the question on my behalf. So I think—
[*Interruption*]

Sen. Ramkhelawan: No charge!

Sen. The Hon. L. Howai: Yeah, no charge. Yes, you are quite right. Yeah, you did, right. So those are dealt with in the normal course of the existing legislation, so those are not issues really as far as this new piece of legislation is concerned.

There is an issue of justification of increases in fees and so on, but these are—I am not sure if the reference was to really the penalties, and I do not think the penalties will, so much in my view at least, be a deterrent for shipping lines coming into Trinidad and Tobago. I think the deterrent is there and it is only if you intend to break the law that you are likely to have a problem. Yeah, I do not think it would, I mean, if you intend to break the law, yes, but if you do not intend to break the law—and remember it is up to, it is not—[*Interruption*]

Sen. Al-Rawi: Section—[*Inaudible*]

Sen. The Hon. L. Howai: Yeah. I think those were some of the major points which had been raised for which I have the responses. I do not think there were any additional issues at this stage before we get into the committee stage, but I want to say, Mr. President, that, you know, this is an important piece of legislation for us. It is something that we would like to see put in place as early as possible. It certainly works to bring us into the 21st Century, and we really look forward to the support of all sides of the House as we seek to bring this very important piece of legislation into effect.

With that, I beg to move, Mr. President. [*Desk thumping*]

Question put and agreed to.

9.45 p.m.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Mr. Chairman: Senators, thank you. We are about to begin.

Clauses 1 to 3 ordered to stand part of Bill.

Clause 4.

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

Sen. Al-Rawi: Mr. President—Mr. Chairman, there are a number of issues in clause 4 that arise, some of which are tied into where they are used in subsequent clauses in the Bill. Just for your guidance, do you propose that we go through—would you prefer, would the Senate prefer, that we go through all of the definitional issues before going through the clauses themselves where they arise in context?

Mr. Chairman: Well, we are told that the Senate would prefer to have it deferred and come back to it.

Sen. Al-Rawi: Much obliged, Mr. Chairman.

Clause 4 deferred.

Clause 5.

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

Sen. Al-Rawi: Mr. Chairman, clause 5, new proposed section 72(1). Section 72(1) as proposed is comprised of 72(1) and (2) and in essence provides for the circumstances in which one is required to fulfil the obligation, the exceptions that can be provided due to exigencies which is the reference of section 265 of the Customs Act in the first line, but there is no statement here similar to other jurisdictions when the computer system is offline. Bearing in mind that there is always a possibility of the failure of technology, we would have set up in 72(1) an obligation for which you are liable in section 75(1) to a fine of \$600,000, and in 75(2) to forfeiture of goods.

I am wondering if it is prudent for us to consider including a position where, if the technology is offline that there can be a certification by the Comptroller of Customs, some form of notice that there has been—that the server has gone offline, that the CBCS is offline. That is the first point. That would provide that at least evidence of a difficulty at the registry's end, if I can use that expression, similar to what would prevail in the Companies Registry or in the Civil Court Registry.

The second position that I would like the hon. Minister to consider would be, and Mr. President, sorry Mr. Chairman, if I could refer the Senate to the fact that what I have just suggested exists in the Dominican legislation, for instance, in sections 25(6) and 25(4) there is some very useful assistance there for when the system is offline what happens; what kind of notice goes up.

The other suggestion by way of addition, by way of a new subsection would be where amendments could be provided for declarations which are not in full order; if I could explain that, Mr. Chairman.

In the Dominican legislation, in the New Zealand legislation, in the Australian legislation, in the Singapore legislation, they all have reference to the position of someone making a declaration and having the ability because of the type of

manifest that would exist in ships for instance. Remember 76, 72(1) deals with aircraft and with ships. Ships have large containers and containers filled with goods, and sometimes the bill of lading or the Caricom declaration, et cetera, may have complications, and someone may wish to correct something which has come to their attention prior to. Now, there are provisions for corrections, but the other legislation provides by way of example in the Dominican legislation—if I could just refer the Senate to section 25(4) of the Dominican legislation, it reads as such:

When a report made under this section is inaccurate, the maker of the report shall within fourteen days of making the report or any longer period that the Comptroller may permit, be allowed to amend it.

It provides an opportunity for the Comptroller of Customs to facilitate persons who have innocently infringed section 72(1) correcting that infringement, and therefore provides a much more transparent approach. That form of approach can be found in multiple jurisdictions, Mr. Chairman, and I am wondering if the hon. Minister could consider that.

Sen. Ramlogan SC: Chairman, the two main points raised by my learned friend, the first one, is if the system goes offline and what would happen. If something happens like that there are backup systems and generators and so on that would kick in, but in any event the information will not be rejected if it is offline, it will be possible to retrieve it once you come back online, and if that happens it is highly unlikely that you would fall within the definition of intentionally or recklessly making a false declaration.

The second one is with respect to the possibility of an amendment. Now, it is intentional or reckless failure to comply in section 75, and I do not think that the court would disregard something that is a mistake, a genuine mistake, such that they would convict. In any event in the full range of judicial discretion in sentencing, they would have the opportunity to take into account any mitigating circumstances that might be relevant so that they could—from reprimand and discharge going straight up, they would be able to reflect a sentence that is commensurate with the facts and the gravity of the particular case.

Having said that, this remains the policy position of the Government with respect to this particular clause, and we are happy to let the matter rest there.

Sen. Al-Rawi: Mr. Chairman—[*Interruption*]

Mr. Chairman: I draw hon. Senators attention to section 265 of the mother parent Act which gives the provisions of discretion—[*Interruption*]

Sen. Al-Rawi: The provisions of exigencies.

Mr. Chairman:—which is the same type of thing.

Sen. Al-Rawi: Mr. Chairman, I am aware; that is why I pointed out 265 positions of exigencies. What I am actually dealing with, Mr. Chairman, is a circumstance which arises very frequently in litigation. The reason, for instance, that the Civil Registry or that the Registry of Deeds post notices is one, in compliance with the laws; it is now cast in the Data Protection Act; and two, so that if somebody tries to raise an argument, well look I sent it to you and my system crashed and it no longer exists and your server was not working on that day.

The registry, in this case here, the CBCS, would be able to go back to its established position at law to say, well we have a list of all times when our system is down because by law we are obliged to post a notice to that effect because we are dealing with technology and there is constant failure of technology. In fact, in researching for this Bill I came across multiple incidences of ASYCUDA World failing in many African countries, notwithstanding redundancy systems, et cetera.

Sen. Ramlogan SC: “Doh say dat nah man.”

Sen. Al-Rawi: No. Well, Zambia, et cetera, I mean it literally that there are instances in Africa where the system is most broadly spread.

Sen. Ramlogan SC: “Talk about Bangladesh and Namibia too nah man.”

Sen. Al-Rawi: So the fact is, I am dealing in terms with protecting the capacity of the Comptroller of Customs to say, here it is, our listing is that our registry was in fact up on this day because we have no notice that it was down. This is borrowed from legislation which is all over the world. It is in Singapore, it is in Dominica, it is in multiple jurisdictions.

Sen. Ramlogan SC: The fact of the matter is, regardless of what you put in place technologically there are ways to break into any system, to hack into any system and to generate anything that people want—fake, lacking in authenticity and lacking in bona fides—but that is the way things can be done.

If you, for example, put the system in place as my learned friend is talking about, when you send something you would have a record on your side to show that something was sent. So that if the system was completely down or malfunctioning and they did not receive it, no court of law looking at the record from your own system to show that you sent it, after the matter is properly investigated and you establish your innocence, will convict you.

That is what happens most of the times when allegations are made and accusations are made—there is an investigation, the facts emerge after the investigation, and people are vindicated because they prove themselves to be innocent or, alternatively, the court may convict in appropriate circumstances. But I think we are happy, with the way this is, and that is the Government's policy position.

Sen. Dr. Balgobin: Chairman, if I may?

Mr. Chairman: Sen. Balgobin.

Sen. Dr. Balgobin: Yes. Attorney General, would you be willing to commit—I know the Comptroller of Customs is also with us—that you are prepared to take on as a policy position that a notification would be posted whenever the site is down, rather than have to enshrine it in the legislation? I do not think it is a big—it is actually a courteous thing to do.

Sen. Ramlogan SC: Well, I mean, I took it, I am advised that that is done in any event and I took it for granted that that would be something that would in fact be done in any event because you cannot predict when the system is going to be down, but once it is down, I mean, there would have to be some form of notification.

Sen. Dr. Balgobin: I was just trying to ensure we have it on the record.

Sen. Ramlogan SC: So that is fine, yes. Perhaps for the record, now that that is there we can move on to the next clause hopefully.

Sen. Al-Rawi: So, Mr. Chairman, I thank the Attorney General for his explanation, I am looking then at the other recommendation, I know that I put two in one, so if I could just go back to the second one. That is the issue of providing for amendments for an innocent infringement aspect, similar to section 25(4) of the Dominican legislation where a time frame is provided for [*Crosstalk*] Yes.

Sen. Ramlogan SC: Chair, we did look at that particular provision in the Dominican legislation. We, the Government, as a matter of policy was comfortable with making this thing tight, having regard to the possibilities for exploitation of almost any loophole that you create, and we rather err on the side of caution because we are about making serious legislation and tightening things up, so that we prefer to leave it as is.

Sen. Al-Rawi: Okay. Mr. Chairman, if I could explain because it will become relevant when we deal with section 75 when we are dealing with the imposition of the \$600,000 fine. I could signal now that my proposal in respect of that is that we put a strike one, strike two, strike three and increase the fines up. But the reason that I am suggesting the amendment is that when you look to the policy position,

Customs (Amdt.) Bill, 2013
[SEN. AL-RAWI]

Tuesday, June 04, 2013

the revenue of Trinidad and Tobago would be in no loss position with somebody saying, look, I made a mistake on the 10,000 items which I imported from China and I would like to correct that mistake now because I am aware of it.

Then the comptroller would have the ability to accept that amendment as opposed to going through a fine and section 224 acknowledgment and going through a waiver and discharge and a formal hearing. It would provide ease of doing business. It would make trade much more attractive but, most importantly, is that the revenue of Trinidad and Tobago would not have been prejudiced in any manner whatsoever. And I am looking at it from a trade policy perspective.

10.00 p.m.

Sen. Ramlogan SC: Chair, permit me to first start by signalling up front that the proposal of the three strike wait will not be accepted by the Government. The policy position is that this legislation needs to be tight and although there may be some measure of inflexibility, that is a deliberate decision of the Government. Once you start creating loopholes you open yourself up to slip-sliding back into the morass that exists.

If the comptroller is given a discretion to accept amendments and to use the example of 10,000 items importing into China, you open the office of the Comptroller of Customs to accusations of arbitrary decisions as to his judgment on who made a genuine mistake and who did not make a genuine mistake. Oftentimes within that 14-day period, that is when you catch them out, you know, because after the container goes through the process and they examine the items and they break the lock and they then put the "lil" tie strap on it and they send the container down, after the document say the man has to pay \$1,000 in customs duties because it has lawn mower and CEPEP whacker in it; down the road when somebody else finds out it really had gold and silver inside it, that is when the mistake comes, and they say, "oh, I really make a mistake, I mix up the two containers, I really brought in four containers and I mix up the one with the gold and silver with the one with the whacker and the lawn mower", and I mean, what is going to happen then? What is to guide the exercise of the discretion of the comptroller?

So, the Government has a policy position, we prefer to keep it tight. If you have a legitimate explanation, make it to a court of law and they would decide if it is illegitimate or not and they would reject it or accept it, but we do not wish to put the comptroller in that position. We feel we should err on the side of caution in this regard.

Sen. Al-Rawi: Mr. Chairman, if I could first of all point the Attorney General to the fact that we are dealing with advance notification. There is no cess and breaking lock and weed whackers, et cetera. [*Interruption*] He is on a totally different area there. We are talking about advance notification, so that does not apply.

Secondly, the Comptroller of Customs, right now under section 224 of the Act, does deal with decision making outside of court and is subject in a quasi-judicial function to this very line of criticism that he proposes should not exist but in fact exists, so I find it unusual that that argument could have flowed. The fact is, Mr. Chairman, that I am proposing something which allows on an advance notification position where there is a fine of \$600,000 if you make a mistake on a form, that this can be a serious prejudice to trade, and what I am proposing, and I hope the hon. Minister would consider, is that the businessmen of this country do not think that they are being blocked out by not allowing for innocent infringement to happen. The Comptroller of Customs is right here and he can tell you that these things happen every single day, but that it is much more difficult for him to deal with it under section 224 than it is under a provision such as this. I have done many of them before the comptroller myself.

Sen. Ramlogan SC: Yes, of course.

Sen. Prescott SC: Chair, if you will permit me.

Sen. Ramlogan SC: You know, I have just conferred with the Comptroller of Customs and Excise, and we are very comfortable in this position. The Advance Cargo Passenger Information, although it is an advance notification, the fact is, it is not coming 12 months before the cargo arrives. It is an advance notification but it will come and when it comes soon after the advance notification, it will in fact have to go through the very process I identified which is the cess and the opening of the containers and so on. But more than that, when the—what is the document?

Hon. Senator: Bill of lading.

Sen. Ramlogan SC: Yes—bill of lading is cut it comes from the source, from the supplier from whom you are purchasing. So, when that bill of lading is cut and you say, “I buy 12 lawn mower, that comes from China, that coming from the man you buy it from, you know. He say this man buy 12 lawn mower, and that 12 lawn mower, that bill is the same one you would then use to actually fill out your customs declaration to say, well, look, it is 12 lawn mower I buy”. So it is that simple. So anybody who making a “mistake”, that mistake there you could real read in the inverted commas trying a fast one. So, we would prefer to err on the

Customs (Amdt.) Bill, 2013
[SEN. THE HON. A. RAMLOGAN SC]

Tuesday, June 04, 2013

side of caution. The comptroller is happy with this legislation, the Government is happy with this legislation, the Opposition did not raise this in the Lower House and we are happy—[*Interruption*—]therefore, with the way this clause is.

Sen. Al-Rawi: Mr. Chairman, if I could say that we are in a separate House, the PNM is on record in both Houses as saying, Houses are separate. The fact is that this Senate is considering something.

Mr. Chairman: I did not get that, you know. I understand from the Government side, they have indicated their policy position; it does not seem to me to, you know—unless something new is to be presented to them, to continue in the same vein, does not get us anywhere. Of course, we would put it to the vote.

Sen. Al-Rawi: Mr. Chairman—[*Interruption*]

Mr. Chairman: If it is something new you want to bring to their attention.

Sen. Al-Rawi: Well, Mr. Chairman, this is legislation and I wish to take my time in doing it, so I really do not accept that the Government may be anxious or happy on anything at all.

Mr. Chairman: I never raised the question of anxiety.

Sen. Al-Rawi: No, what I mean, Mr. Chairman, is about an issue of something new.

Sen. Ramlogan SC: No, but nobody raised anxiety or happiness.

Mr. Chairman: Senator! Senator Prescott.

Sen. Ramlogan SC: Why are you introducing those concepts?

Sen. Prescott SC: I am happy to have the opportunity myself. I have listened to the Attorney General on this and I think he is creating a situation that he may well have to reverse from petty soon when we come to deal with the new section 75 for example, placing in the hands of the comptroller the authority to make decisions based on his experience and the fact that he has brought himself to the position of comptroller can be offensive to a Government.

A Comptroller of Customs who makes a decision that turns out to be corrupt has hoisted himself on his own petard. Why do we not give some consideration to what Sen. Al-Rawi is saying, that for the purposes of trade, which this has to deal with, there might be some sense in considering that the comptroller will act prudently and sensibly and in a justiciable manner when he makes a decision on a mistake. I may not persuade you to change your mind but consider it. Really, all he has to do is to say, look, you are permitted to amend, take off the “s” on stockings and I will treat it as one word.

Sen. Ramlogan SC: Well, Chair, it is not that—I do not know why Sen. Prescott got the impression that we did not consider it. These points are not novel. We, in fact, considered these very points during the LRC stage when the Dominican legislation was in fact considered. It was rejected because in consultation with the persons from the very office of Comptroller of Customs and Excise, it was felt that this was the preferred way and route to go, and the reason for that was in fact the very reason I advanced here, which is that, they would feel more comfortable having regard to what their own experience has been with businessmen who try to actually defraud the Customs and Excise department.

Given the fact that it is relatively easy to know that, look, this is the invoice I am receiving when I buy something and this is therefore what I should be disclosing to Trinidad and Tobago, and they are comfortable in that position because businessmen, on their invoice, get two and three invoices and they have all kinds of variations. So that, if based on the experience in the Customs and Excise department, this is the preferred option, and given the history of Trinidad and Tobago in enforcement in that particular area, we would prefer as a Government to go with this particular option. So, it is not that we have not considered it, it is not that we are aiming for anxiety or happiness, we are simply aiming for the Government's policy to be implemented and translated into legislation.

Mr. Chairman: Sen. Hinds.

Sen. Hinds: Thank you very much. I want you to consider this. This provision is amenable to the, if you like, there is a provision under the parent Act where the Comptroller of Customs gives you the opportunity to elect as to whether you will go to open court or whether you will allow him to treat with the matter. Is this provision amenable to that? I think the answer is, yes. Is it amenable to that decision where the person elects whether they will go to open court or whether they will allow the comptroller to deal with it, is this amendment going to be amenable to that?

Hon. Senator: It could be elected to go to the High Court.

Sen. Hinds: It is? So, it is?

Sen. Ramlogan SC: Sorry, sorry.

Mr. Chairman: Section 224 says:

“Notwithstanding any...provisions of this Act...”

So it becomes one other provision.

Sen. Hinds: Right, and therefore it is amenable to that. Now, I appreciate the point in the protection of Trinidad and Tobago that you have made, hon. Attorney General. People deliberately under-invoice and falsify documents to that purpose. But the comptroller must know—there are cases for example where in the opinion of the comptroller or his agents, his officers, a person may have under-invoiced and it turns out that there is a logical, innocent explanation for it. For example, the man may have purchased goods that are approaching expiration in say a year, so he gets them lower than the normal cost, the same item, for that reason—that has happened.

Sen. Ramlogan SC: But he was not—

Sen. Hinds: Just a moment. That has happened, and therefore what appears on the face of it to have been a deliberate act on their invoicing, turns out to be an innocent, honest act where he got them at a price that appears below the normal price for the item, but it is because it is within a year of its expiry. Now, having said those two things and those are realities, and we are talking about easing business and facilitating trade. If that be so, what the comptroller may have thought to have been an irregular action turns out to be quite innocent and the provision actually says, 75(1):

“The master of an aircraft or ship, or his agent and any cargo reporter who intentionally or recklessly—

fails to comply with the requirements of section 72; or

provides false information,...

is liable...to a penalty of six hundred thousand dollars.”

Now, you see intentionally and recklessly, since it is amenable to the provisions of 224 of the parent Act, it means the comptroller has to make a decision at that point as to whether it was reckless or intentional, and then the person goes before the court, if he so elects, and then the issue arises there, and therefore on those bases—you cannot be as hard and fast as you have suggested, Attorney General, because it may very well be, as I have sought to demonstrate, that it was quite a legitimate and honest act, in fact.

Sen. Ramlogan SC: Sure. Okay, thank you.

Sen. Hinds: It is similar, if you may permit me, [*Attorney General laughs*] to a matter that is engaging current attention as we speak. It may very well be quite correct.

Mr. Chairman: Senator, legitimate act as Sen. Hinds makes it out, then the comptroller will exercise his discretion in section 224, it will never reach to court.

Hon. Senator: That is right.

Sen. Al-Rawi: The problem is the expense and time in that—could I just point you to, Mr. Chairman, subsection (72)(1) says:

“...the master of every craft”—et cetera—“shall, prior to arrival in or...Trinidad and Tobago...”

So, that is where I was drawing the distinction to the hon. Attorney General that this is not a position where it has to pass over cess, et cetera. We have already heard the flag that \$600,000 will be the penalty, which we will come to in a while. But the point is, there is a constant train of inadvertent errors that can happen: you order goods in China, the person does not speak the language properly, translates the documentation wrongly, describes it as underwear as opposed to socks or some other item and then you are in trouble. You can correct that report. It allows the comptroller to save expense, time and procedure, and it allows people to correct innocent infringements in keeping with world standards. This is what happens everywhere else in the world.

Sen. Ramlogan SC: Chair, we are very grateful for the reference to section 224. It is not an extraordinary provision in some respects, in other respects it is. But essentially there is no cost. It simply says you can apply, really, in writing, for your case to be dealt with by the comptroller and the comptroller has a wide—

Sen. Al-Rawi: That is after an offence is given, under 212.

Sen. Ramlogan SC: It has a very—if you do not mind allowing me to speak—wide discretion. This particular section is one that goes to the very heart of the administration of this Act. The Advance Cargo Declaration, in fact, consists of the bill of lading issued at the time of the shipment. So, I do not know of any businessman who, whether they are buying it in “chinee”, Japanese, anywhere, that they will not check the bill of lading they are given to ensure that it is consistent with what they are buying. I mean, that is preposterous quite frankly. They will have to check the bill of lading to ensure that it is consistent and reflects what they are buying.

10.15 p.m.

Sen. Al-Rawi: It happens every day.

Sen. Ramlogan SC: Now, if that happens everywhere, we need to as a country, say well look, you have a responsibility now in light of this law to double-check it and make sure that what you are buying is reflected in the bill of lading which will form the basis of the advance passenger cargo information. But insofar—look, this is a choice between the lesser of two evils perhaps, but for better or for worse, this is in fact the Government’s policy position, because we feel that section 224

Customs (Amdt.) Bill, 2013
[SEN. THE HON. A. RAMLOGAN SC]

Tuesday, June 04, 2013

gives an adequate avenue. But any time we create any loophole whereby you will say “yuh make ah mistake”, and the mistake falls beyond or before the realm of intentional or reckless, then that really quite frankly is to open up a door that the Government as a matter of policy does not wish to go down.

Sen. Prescott SC: Chair, may I once more?

Mr. Chairman: If I was the shipper in Sen. Al-Rawi’s case who recognized through some innocent mistake that he had made his advance notice was given in error, but there is nothing within the system that allows him to correct that—but certainly I would write a letter to the comptroller, and so when the matter occurs that is one of the incidents that the comptroller will take into account to say this is really an innocent person. And that seems like—

Sen. Hinds: Yes, yes.

Sen. Al-Rawi: It involves an admission—to elect under section 224 as the comptroller will tell you, you have to make an admission of guilt, number one—

Sen. Hinds: Yes.

Sen. Al-Rawi:—you have to go through the tribunal process with the comptroller—

Sen. Hinds: Yes.

Sen. Al-Rawi:—and then he has to exercise a discretion. Mr. Chairman, what I am proposing is that it is a cost savings. That is the point. It is a cost savings to the time of the comptroller as well. I am sure he can tell you right here right now how many matters of this type occupy his time constantly.

Sen. Prescott SC: Chair, may I through you ask the Attorney General—

Mr. Chairman: Sen. Prescott SC.

Sen. Prescott SC: Yeah, I need to ask the Attorney General something.

Sen. Ramlogan SC: The sure point is this, under section 224 if there is a genuine mistake or error, I have no doubt that the comptroller in giving the party an opportunity to be heard, will take that into account under section 224. Now I hear the point that to trigger 224, there must be an admission of guilt, that there is an offence. I hear that, but you know if that is the case, he has the option if he so desires. That section is designed, 224, where someone is prepared to admit that they are guilty.

Sen. Hinds: Yeah, that is the point.

Sen. Ramlogan SC: Yeah, and that is the point, but it is not designed to cater for persons who have made a mistake and are not guilty. If you have made a mistake, a genuine mistake, and you are not guilty, your remedy lies to let the matter go to court and when it goes to court, you will be able to raise your defence there.

Sen. Prescott SC: It is at apropos of that point that I wish to make my intervention.

Sen. Ramlogan SC: Sorry, sorry.

Sen. Prescott SC: It is apropos of that very point that I wish to make the point. If therefore, under section 75—the new section 75—the comptroller is satisfied that there is no intentional or reckless action on the part of the master, or whosoever, can he permit the amendments? I will ask the question again, if consistent with section 75, the comptroller has heard the master and is satisfied that he had not acted intentionally or recklessly when he made the error, can he permit the amendment? Spell the name of Marley correctly and changed it from Maldives or put the right number in instead of five put two. If he took a six for a nine can he change it to a six, to a nine?

Sen. Hinds: To bring it to guilt.

Sen. Prescott SC: No, I am not dealing with 224. I am dealing with 75.

Sen. Ramlogan SC: You had a stage before.

Sen. Prescott SC: Beg Pardon?

Sen. Ramlogan SC: You had a stage before that.

Sen. Prescott SC: I am saying that he has appeared before the comptroller and he says look, I made an error in the form and the comptroller is satisfied that he was neither intentional nor reckless in doing so, can he permit him to amend it? And if so, where is his power to do so? The comptroller ought to have that power.

Sen. Ramlogan SC: But you see, that comes back to the point that on the one hand, yes, whilst one might say we must rely and trust on the prudent and professional exercise of that discretion once you give it, there is a flip side to that. And the flip side has a very powerful and potent argument, which is once you open that door this is a serious business of serious money that passes, and before you know it you would be back to square one and I will tell you why. Bear in mind the powers of the comptroller could be delegated, you follow, so that when

Customs (Amdt.) Bill, 2013
[SEN. THE HON. A. RAMLOGAN SC]

Tuesday, June 04, 2013

he delegates it to the two and three deputies and lower down, I mean, then what happens, what happens? You have the man in south, the man in north, and before you know it you are back to square one. Listen, you know, we deliberately want to pass some strong legislation here.

Hon. Senator: Yeah, you are. [*Crosstalk*]

Sen. Dr. Balgobin: May I just am—

Sen. Hinds: If I may say—

Sen. Dr. Balgobin: No, you go ahead, you go ahead, Fitz.

Sen. Hinds: To my mind, the overriding and overarching issue here is the facilitation of trade. That is not to take away from the strong position you have stated about people who want to deny us revenue. But the overarching philosophy is the facilitation of trade. If you catch a scoundrel you deal with him in a certain way. The position of the Government as now espoused, it leaves little flexibility and I say so because Sen. Prescott's position is very apposite. The question is, he will only find himself before the comptroller for that discretion to be exercised to correct the record after he admits guilt—

Sen. Al-Rawi: Similar to the Order 20, rule 11.

Sen. Hinds: Yeah. Similar to Order 20, rule 11 in the old rules. So he will only find himself before the comptroller if he admits guilt and therefore, when Sen. Prescott, will he correct, what will he correct? He will only end up before the comptroller if he admits guilt.

Sen. Al-Rawi: Mr. Chairman, add to this fact that there is no tribunal. All of this work falls on the comptroller and deputy comptrollers. Why put them through an administrative process of having to accept guilty pleas and tribunals, et cetera?

Mr. Chairman: I thought the point being made is before that process was triggered at 224, that somebody has to make a decision—

Sen. Al-Rawi: It only happens via 224, Mr. Chairman.

Mr. Chairman: No, if you would bear me out—somebody has to make a decision that the act was intentionally done or recklessly done, and if the comptroller has at that point a letter which predated the goods coming in, for instance—

Sen. Al-Rawi: Yeah.

Mr. Chairman:—saying, you know I recognized on reflection some error was made, then that will go to the question—

Sen. Al-Rawi: Yeah, but then it still has to go through the process.

Mr. Chairman:—as to whether it was reckless or—

Sen. Al-Rawi: He still has to go through the process of admitting to the guilt of the offence under 224.

Mr. Chairman: No, no, I disagree. He would say there was no offence committed. That is what the comptroller would conclude.

Sen. Al-Rawi: Mr. Chairman, that is not how it works.

Mr. Chairman: Sen. Dr. Balgobin, can I hear you?

Sen. Dr. Balgobin: If I may just make a few—just ask a couple of questions and make a few quick observations—yes, sorry, Attorney General.

Sen. Ramlogan SC: Mr. Chair, I am grateful for my learned friend for giving way, and just one point I just want to make. When you reach section 75, in response to Sen. Hinds, this is not about the businessman or the trader you know. This whole thing is designed and it aims and puts to spot, under the spotlight, the master of the aircraft or ship or his agent.

Now, what this is really is this, 12 businessmen buy stuff to ship to Trinidad and the 12 businessmen will give the bill of lading to the shipping agent. The shipping agent then says okay, these 12 bills of lading, this is what is in those containers and this is what we will give to the shipper. When the shipper collects that information, he then has a responsibility to transmit that information on to our Customs and Excise. Now the shipper, if he chooses to intentionally or recklessly lie about what is on board his ship—[*Interruption*]

Sen. Al-Rawi: Or makes an innocent mistake.

Sen. Ramlogan SC:—or he makes an innocent mistake, but how could he possibly make that mistake, we say, query for the time being, because he is getting the bills of lading from the businessmen whose goods he is transporting. Now if he got a false bill of lading, that is not his problem. He is disclosing in accordance with the bill of lading what is the cargo that he is shipping. He did not buy those items. It is based on the bills of lading that are provided to him.

So, it is not about discouraging trade, it is that you have to be careful. We have had instances where drugs have come into this country on board vessels and so on. And the businessmen concerned have protested to say, look we did not buy that, we do not know anything about that. So this ironically is about protecting the very businessmen and facilitating trade because the business community will now

Customs (Amdt.) Bill, 2013
[SEN. THE HON. A. RAMLOGAN SC]

Tuesday, June 04, 2013

be protected by knowing that the shipper has to provide an advance passenger cargo information which is consistent and must be consistent by law on paying of a very severe penalty, with what it is they put on board that ship to send to Trinidad and Tobago or else you come up with the situation where men—“a container arrive and you say chicken parts and car parts consign to Mr. X and Y came and they found drugs in it”. Mr. X and Y say, “but I never buy no chicken parts, I never buy no car parts” what I bought was, you know, lawn mowers. So that is really what it is about, it is about the shipper. Thank you, Sen. Dr. Balgobin.

Sen. Dr. Balgobin: Yes, let me just—in fact that is where I was going to start, by saying that this section really refers not to the importer but to the master of the vessel, its agent or a freight forwarder or somebody like that. Now what that does is, it imposes a liability or a burden on these people to ensure that the cargo they are carrying is the same as what is carried on the BL, the bill of lading.

Where the complexity arises is quite often, it is difficult to verify. I will give you an example. If I am importing a 40-foot container of Styrofoam cups, the freight forwarder can really only open that container and look at the back if the thing is full stem-to-stern, unless they unpack the entire container. There is really no way of knowing whether it is all cups or half cups and half lids, and it is not unusual for a supplier to send for you all cups when you ordered half cups and half lids. And the only time that that really is discovered is when it lands. When it lands and then you open up the container and somebody says, “oops” and then what happens is, I think the injury to the importer and the businessman, where business people feel quite aggrieved, and I think rightly so, is then you have to put yourself in a position where you are technically admitting to a crime which you do not feel you committed, because you knew what you ordered and you knew what you asked these people to ship for you, there is no penalty to the supplier. The supplier has got his money. He has gone, we have no claim against him. I must now admit to a crime when I really did nothing wrong, as far as I am concerned.

So that is where I think the sense of injury can come in because you end up right back with 224. Well, actually no, you do not. The thing is what the importer loses is his goods, that is where the injury is. The master of the vessel really has to pay the \$600,000 but the importer loses his goods, because if I ask for court of course, that is going to take forever. I have rent, demurrage to pay, I have court fees to pay and, of course, if I have imported something that is perishable, well then, you know I lose my shirt.

So what is needed here is really some sort of clarity on what happens to the importer's goods, because, Mr. Chairman, the error would not be discovered until you crack open the container. So you would not be—unless you falsified it, it is unlikely that you would be able to get a letter from the exporter indicating that there is an error on the BL. You will only know when you open it, because the bill of lading will normally come with the shipment, you see. It does not come too much in advance, so you really do not get a lot of notice if something else is shipped, and you would have done up your entries and everything like that because you only get four or five days free time to get your stuff off the port.

Sen. Ramlogan SC: But once the shipper reflects accurately what is on the bill of lading provided to him, once the container is cracked open, if what is contained in the container does not match what is on the bill of lading that is not the fault of the shipper, that may be the fault of the importer who is importing the stuff inside the container.

Sen. Dr. Balgobin: The importer does not generate the bill of lading.

Hon. Senator: Exactly.

Sen. Dr. Balgobin: The exporter does that.

Hon. Senator: That is right.

10.30 p.m.

Sen. Ramlogan SC: Well, right fine, but he has a duty—now we are saying he has a separate duty to make sure that that reflects it.

Sen. Dr. Balgobin: But that is the problem. You are not taking a plane to go up there and watch them load your container.

Sen. Ramlogan SC: No, but you have to pay based on an invoice.

Sen. Dr. Balgobin: Yes.

Sen. Ramlogan SC: And the invoice will itemize the items which in turn forms the basis for the bill of lading. But may I just answer your question, Senator, by pointing out—highlighting section 265 of the existing law, which says that:

“The Comptroller may permit the entry, unloading, removal and loading of goods, and the report and clearance of aircraft and ships, in such form and manner as he may direct to meet the exigencies of any case to which the Customs laws may not be conveniently applicable.”

Sen. Dr. Balgobin: As long as the comptroller is prepared to invoke that, then that is fine.

Sen. Ramlogan SC: “Yeah”, I hear you. Well, permit me—I understand your question.

Sen. Dr. Balgobin: What I see a lot, is people thrown to 224.

Sen. Ramlogan SC: Well, permit me to say, for the record, that the Government’s intention in this matter is that there will be a robust exercise of discretion that the law permits and vests in the comptroller, such that it would have to be prudently, responsibly, rationally and fairly exercised in appropriate cases. It cannot be that with the existing bureaucracy which really overwhelms those powers and really obscures those powers, will continue.

The idea is to bring to the fore that kind of power, which is why we did not repeal those provisions, so that those provisions ought to apply. So that in that case, for example, of perishable food commodities, one would expect, surely—and the comptroller is here with us for the record. One could surely expect that in such a case, the comptroller will exercise good judgment and let the people clear the perishable items, unless there is good cause, so that you can deal with the offence of whether there is a false declaration, quite independently of clearing the perishable food items or whatever it is.

So that it is only where the items on the container are necessary to prove the offence, or there is good reason to actually hold it back that the comptroller would want to do so because the overriding purpose in the policy of the Government is to facilitate trade. So that I hope that that allays your fears, and we have said that now for the record, and we have no reason to doubt that the comptroller will not, as Sen. Prescott said, exercise that discretion responsibly and fairly.

Sen. Prescott SC: I still wanted to deal with this matter, please. The section 72 offence could also occur where you give passenger information incorrectly.

Sen. Al-Rawi: That is right.

Sen. Prescott SC: Does it include spelling a name incorrectly, or giving the gender incorrectly? And if the comptroller is satisfied that that was a genuine error, does he have the power to say, “Kindly amend it, spell Howai, H-o-w-h-i-g-h instead of H-o-w-a-i”? Correct it? Are simple things like these not a contravention of section 72?

Sen. Drayton: What the AG has just outlined there in terms of the discretion, the powers of the comptroller, would that not be addressed somewhere in rules that underpin this legislation?

Sen. Ramlogan SC: There are regulations to be made, so that if there is anything that, you know, we feel should be in those regulations, we will give due consideration to it. But, you know, we will hear you, Senator, if you have—you know.

Sen. Dr. Balgobin: I think that we also—we are trying to balance protection of importers' interests and the interest of innocent people against the very real threat of corrupt importing, importing of dangerous goods and also movement of dangerous people. So I would be satisfied if we had this addressed in regulations, and given your clear statement into the *Hansard* of your reliance on section 265 in order to deal with matters which require, really, the very quick exercise of discretion by the comptroller or his nominee, if that is, in fact, the intention—

Sen. Al-Rawi: Just to allow you to move quickly, AG, it seems that you are headed there, to sticking to your policy point of view. If I could just put on the record, the proportionality of this when it is tied into section 75, is, in my view, an issue when you are looking to facilitate trade. To give a \$600,000 fine and potential forfeiture of goods may be seen to be a trade disincentive—a serious one—particularly when the average fine is US \$15,000 as opposed to \$600,000, and where that fine in relation to passengers is different from cargo.

The provision of allowing some better proportionality could be had in every body that allows for regulations. There is usually what you call a slip rule amendment procedure. It exists in the rules of court and it exists elsewhere, and the section that I am proposing is for that purpose.

Sen. Ramlogan SC: Chair, the problem here is that in 2006, the Caricom Heads had agreed across the board that that figure would be applicable to all the Caribbean countries. That was since 2006.

Sen. Al-Rawi: Passengers versus cargo.

Sen. Ramlogan SC: “Yeah.”

Sen. Al-Rawi: In all the Caricom countries that I have looked at, up to laws in 2013, cargo fines are \$15,000.

Sen. Ramlogan SC: No, no. For this particular—I am advised by the comptroller that on this particular issue which is now before us, in 2006 there was a Heads of Government meeting—in 2006—when we were not in power—

Sen. Al-Rawi: For cargo, AG? This is not for cargo.

Sen. Ramlogan SC: Yes. I am advised—

Sen. Al-Rawi: Because, AG, if I could just say this—

Sen. Ramlogan SC: But I am advised the answer is yes, for both passenger and cargo.

Sen. Al-Rawi: I have the laws of St. Vincent, St. Kitts, St. Lucia, Dominica—2013 laws—and none of them have that for cargo.

Sen. Ramlogan SC: And I also have them, but the fact that they have not enacted the law pursuant to a 2006 decision, does not mean that Trinidad and Tobago, which has been a front runner in so many respects, ought to be lagging behind.

Sen. Dr. Balgobin: I think I understand why you are not using—

Sen. Hinds: Finally, finally.

Sen. Dr. Balgobin: After you, please.

Sen. Hinds: No, go right ahead. Finally, Sen. Al-Rawi made the point, which has not yet been contested, that an observation of the other countries—there are about 90 countries that have similar legislation but no one else has a fine as severe as the TT equivalent, of \$600,000. What say you?

Sen. Dr. Balgobin: May I help him to answer that? I think I see the issue here is not just an issue of an invoicing, though, it is also an issue of contraband or drugs or some other—

Sen. Hinds: No, no, no. If it is drugs, if it is an illicit substance, under the Dangerous Drugs Act that will be dealt with separately—under that regime. Am I correct? That is correct. That is a separate regime. Illicit substances and drugs, different story.

Sen. Dr. Balgobin: So if it is that you bring in something that you ought not to have brought in, the question is, then, how do you—in other words, is 75(1)—

Sen. Al-Rawi: No, this is the master, “eh”.

Sen. Dr. Balgobin: Yes, that is what I am saying.

Sen. Al-Rawi: He sent it to the shipping line.

Sen. Dr. Balgobin: I am hearing you, I am hearing you. That is what I am getting at.

Sen. Hinds: That is the only good argument AG—is the master.

Sen. Dr. Balgobin: Is this a disincentive to somebody who is attempting to under-invoice? I do not think so.

Sen. Al-Rawi: No.

Sen. Dr. Balgobin: This really is a burden on the master of the vessel. Now, when a master of a vessel—I mean, vessels may have 200/300 containers on them, and if you find that the master of the vessel fails to comply with the requirements of a section, or provides false information, actually, in my experience, US \$100,000 is not a heavy fine “eh”, which is what this amounts to. And I am saying that in the context, colleagues, that if a vessel is late or a vessel has to beg for some extra time on a berth, it is not unusual for them to pay very significant sums of money to keep the vessel there or to discharge it faster. So if there is a problem, I think what we are doing here is, we are holding the master of the vessel to account for what is on his vessel.

Sen. Ramlogan SC: “Yeah.”

Sen. Al-Rawi: You are thinking about big ships. This is all. It is a 24-passenger crew.

Sen. Dr. Balgobin: And I accept that, but I do not know how else to—my sense is, if you have a fine of \$600,000, it is not an automatic sledgehammer, it is a grade.

Sen. Ramlogan SC: Yeah, it is a grade—up to.

Sen. Dr. Balgobin: So, for me, that—I am okay with that, you know, if it is a grade. Is it that that graduation is entirely up to the discretion of the comptroller, or is it going to be set out in regulations that this thing is—

Sen. Ramlogan SC: Well, no. You see, what happens is that it is a matter for the judge, depending on the circumstances of the case, but you could fine somebody \$1.

Sen. Al-Rawi: But what about the cost of—the expense of litigation, AG?

Sen. Ramlogan SC: Well, you know, the thing about it—*[Interruption]*

Sen. Al-Rawi: Trade and litigation is a disincentive, is what we are looking at. Listen, that is the big ship where US \$100,000 is not a problem. What about the case where you have a small ship? You have small fishing vessels which are not excepted from this law. What are we doing to the small man here?

Sen. Dr. Balgobin: But then you would not charge them \$600,000.

Sen. Ramlogan SC: No, it is not the small man at all. Let me say, for the record, this is not about the small man, “eh”.

Sen. Al-Rawi: How could it not be? This law applies to all.

Sen. Ramlogan SC: This is the same voice in society that says the Government is not dealing with white collar crime; we are not being tough on big fish and the Government is not serious about the host of ills that affect society.

Sen. Al-Rawi: We are talking about the master.

Sen. Ramlogan SC: This is not about the small businessman. This is about getting the shipping industry in line, consistent with international standards. In the United States of America, they fine you based on the value of the goods. They sometimes fine you based—to triple or quadruple the taxes that you have avoided. And Sen. Balgobin is right, US \$100,000 is very—is relatively small, compared. But more than that, it will be from zero to \$600,000, and we have to rely on the discretion of the court in appropriate cases. With respect to the expenses argument, I want to say this. Look, it is not a novel and innovative proposition that people who have to go to court to prove their guilt will incur an expense—*[Interruption]*

Hon. Senator: Prove their innocence.

Sen. Ramlogan SC: To prove their innocence, sorry—that they will have to go to court and incur some legal expense. You have that, whether it is date rape, whether it is self-defence, whatever the case is, and you still have to wait your day in court. So what is so different about this that the Opposition is trying to say, well, you know, what about the big businessmen—what about the big businessmen?

Listen, this will apply across the board. If you are innocent, you have nothing to fear. Go to court and prove your innocence, like the small man does every single day in this country, and that is the Government’s position and we would like to move on to the next clause.

Sen. Dr. Tewarie: I support you, AG.

Sen. Dr. Armstrong: Mr. Chairman, I just wanted to clarify with the AG whether he was satisfied with—in 75(2), the second-to-last line that says, “to the satisfaction of the Comptroller”. I had a little uneasiness about—what would make him satisfied? What does that mean? And it happens again when we get to 6.

Sen. Ramlogan SC: Well, you see, this is where you—to use a word that my friend, Sen. Al-Rawi likes—this is where you have a bifurcated approach because you deal with the liability of the master differently with the cargo. So as I read it, the goods—normally, if you have a conviction or a serious crime being committed, the goods being the fruit of the crime or material evidence in the commission of the crime, you would hold back that, but as Sen. Balgobin pointed out, over the years the business community has complained bitterly that, “Look, the goods are there. We have to incur charges.” Sometimes the goods depreciate in value. Sometimes they are rendered valueless by the effluxion of time, or in some cases it may have been perishable items that are now no longer capable of sale. So having regard to that, you have this subsection which says that, look, if the goods are not duly reported they are liable to forfeiture, unless the failure or omission is explained to the satisfaction of the comptroller.

Now, the comptroller may be satisfied by an explanation that it is an error. He may be satisfied that it is an explanation that, “it is not my fault”. Whatever the explanation is, but he must be satisfied such that he can deal with the goods in a manner that does not lead to a confiscation and forfeiture of the goods.

Sen. Dr. Balgobin: Now keep in mind this is a conversation with—

Sen. Dr. Armstrong: So you are prepared to allow the comptroller that discretion?

10.45 p.m.

Sen. Ramlogan SC: For the goods, yeah. For the question of confiscation to be treated differently having regard to the problems experienced with the goods itself, I mean, it does not serve the State’s interest to have the goods await the outcome of the verdict in court, because that may take place sometime in the future.

But, we have a problem right now where in the bond and in the warehouses and so on, you may have goods that are depreciating—cars and so on there. I could tell you from my own personal experience. You have a number of vehicles and so on that the police seize because they suspect them of being stolen, the chassis number is filed away and so on, and there are innocent purchasers who purchased the vehicles, and the vehicles are there wasting away while the State, you know, tries to get its act together to produce a result one way or the other.

So rather than hold on to the goods, the idea is to treat the goods separately. Let it not have to be tied up and wait until the verdict so that that could be dealt with at the Comptroller of Customs and Excise, that can be released into the care and they can sell it, make their profit and whatever the case is. But the idea is that the shipper, the master of the aircraft is treated differently to the goods, because the goods, bear in mind, may not belong to him.

Sen. Dr. Balgobin: And they do not.

Sen. Ramlogan SC:—and they do not! Sorry?

Sen. Dr. Balgobin: They probably do not!

Sen. Ramlogan SC: They most probably would not and they do not. So it is about protecting the businessman whose goods are on board the vessel.

Sen. Al-Rawi: But you do know that the penalty associated with this is forfeiture in 75(2). If I could just here, I know you want to go quickly and perhaps people have gotten there, just for the record from our point of view, it is disproportionate and unreasonable to not allow the amendment just from our point of view, and I will just stop at that point there. I would say that it is a trade disincentive to ship liners to come to Trinidad and Tobago where the penalty is almost 10 times the value anywhere else in the Caribbean and I will stop there.

Sen. Dr. Tewarie: Only if you did something wrong.

Sen. Al-Rawi: Not if you do something wrong, for the same circumstances. [*Crosstalk*] Yes, TT dollars, 10 times.

Mr. Chairman: Sen. Ramkhelawan.

Sen. Ramkhelawan: I am not sure that I heard what was the suggested amendment.

Mr. Chairman: There is no suggested amendment.

Sen. Al-Rawi: Yes, there was, Mr. Chairman.

Sen. Ramkhelawan: I did not hear it. I did not hear it.

Mr. Chairman: Or you—

Sen. Al-Rawi: Yes, perhaps, it was—the suggested amendment was languaged along the following lines: when a report made under this section is inaccurate, the maker of the report shall within 14 days—or whatever period we would suggest—of the making of the report or any longer period that the comptroller may permit be allowed to amend it. That is what it is. It is essentially what I would call a slip rule amendment.

Sen. Ramkhelawan: Well, okay, it is the first time I am hearing the suggested amendment. We have been talking all around it but we have not heard it.

Sen. Al-Rawi: I am looking at adding in a new subclause to 72—

Sen. Ramkhelawan: And where are you drawing your precedent from?

Sen. Al-Rawi: From the laws of Dominica 2013.

Sen. Ramkhelawan: Okay.

Sen. Singh: We have gone through the gamut of that.

Sen. Dr. Tewarie: Which the AG mentioned was considered in the last say and rejected.

Mr. Chairman: AG?

Sen. Ramlogan SC: Yeah, that is fine with me.

Mr. Chairman: So the question is that clause 5 now stand part of the Bill. All those in favour say ayes.

Sen. Al-Rawi: Mr. Chairman, do we do a division on clause by clause? Because there may be other bits that we may be prepared to agree to, and if so, I would like a division on this particular clause. I am unsure of the procedure.

Mr. Chairman: I thought the division related to the Bill as a whole as opposed to clause by clause.

Sen. Al-Rawi: I believe we have done divisions on clauses already.

Mr. Chairman: As I understand it, the question of the three-fifths relates to the Bill as a whole.

Sen. Al-Rawi: Mr. Chairman, I believe that you can.

Mr. Chairman: I am advised that we can have a division if the Senate so wants to have a division. [*Crosstalk*]

Sen. Ramlogan SC: No, I do not think that should be put to the Senate.

Mr. Chairman: Well, a division is called for, are you—is that calling for a division?

Hon. Senators: No, no, no!

Sen. Al-Rawi: Mr. Chairman, if you want to do it at the end that way, we can progress along.

Sen. Ramlogan SC: Sen. Beckles and Sen. Hinds said no and we support them. [*Laughter*]

Sen. Al-Rawi: Sen. Beckles and Sen. Hinds have not said no, the question is a matter of apposite.

Hon. Senator: They just did. [*Continuous crosstalk*]

Mr. Chairman: I understand your leader said they are not going for a division on the clause.

Sen. Al-Rawi: Yeah, we can do it at the end, Mr. Chairman. [*Crosstalk*]

Mr. Chairman: The question is that clause 5 stand part—

Sen. Al-Rawi: No, no, no, sorry, Mr. Chairman.

Mr. Chairman: Sorry?

Sen. Al-Rawi: Clause 5 has four subsections into it and we started off with clause 72(1) as proposed under 5. I did not understand that—

Mr. Chairman: No, we are doing the entire clause 5.

Sen. Al-Rawi: Oh, well, then no, Mr. Chairman, sorry.

Mr. Chairman: That is what I put to the Senate.

Sen. Al-Rawi: Yeah.

Mr. Chairman: That clause 5 stand part of the Bill.

Sen. Al-Rawi: Mr. Chairman, then there are issues on proposed sections 73, 74, 75.

Sen. Ramlogan SC: “We done vote on that!”

Sen. Al-Rawi: No, no. Mr. Chairman, this—I am telling you that I operated under the assumption that we were dealing with section 72(1). Right?

Mr. Chairman: No, we are dealing with clause 5.

Sen. Al-Rawi: Then if you would just permit me to put on the record—because we have not dealt with the policy point in relation to the \$600,000 fine, Mr. Chairman.

Sen. Ramlogan SC: We dealt with that.

Sen. Al-Rawi: No, we have not dealt with that.

Sen. Ramlogan SC: Yes.

Sen. Singh: Where is your head? [*Continuous crosstalk*]

Sen. Al-Rawi: Mr. Chairman—

Mr. Chairman: Sen. Al-Rawi, could you tell us your concerns about 73?

Sen. Al-Rawi: Thank you. Yes.

Mr. Chairman: We have dealt with 75 as far as I am concerned and 72.

Sen. Al-Rawi: Thank you, Mr. Chairman.

Mr. Chairman: It is 73, 74 and 76—rather not 76, there is no 76.

Sen. Al-Rawi: Yes.

Mr. Chairman: 73 and 74.

Sen. Al-Rawi: Mr. Chairman, I am proposing in relation to—[*Crosstalk and laughter*] specifically with respect to section 75—75 included in clause 5, section 75(1), I am proposing that 75 be restructured as opposed to a penalty of \$600,000 instead to an offence of a penalty, \$25,000 on the first offence, \$50,000 on the second offence, and \$100,000, or some higher figure, on the third offence.

Mr. Chairman: Are there any other amendments to clause 5 that you wish to promote?

Sen. Dr. Tewarie: Corruption.

Sen. Al-Rawi: Yes, Mr. Chairman. I am concerned that in subsection (2) of section 75—[*Continuous crosstalk*] I am sorry? Okay. [*Crosstalk*]

Sen. Lambert: “Not you I am referring to, ah make ah statement.”

Mr. Chairman: Can we continue, Sen. Al-Rawi?

Sen. Al-Rawi: Yes. In subsection (2), it reads as follows so 75 goes:

“The master of an aircraft”—this is (1)—“or ship”—et cetera, et cetera, if he does so and so, this happens.

When you get to subsection (2):

“Goods not...reported to the Comptroller under section 72”—(1)—“are liable to forfeiture, unless...failure...”

Question inside of here is: did we want to consider including a caveat at the beginning of subsection (2) saying subject to subsection (1)?

Sen. Ramlogan SC: No.

Hon. Senator: No.

Sen. Al-Rawi: Do you know why you are saying no?

Sen. Ramlogan SC: Yeah, because we disagree with you!

Sen. Al-Rawi: Just so?

Sen. Ramlogan SC: Not just so.

Sen. Al-Rawi: Well, what is the reason?

Sen. Ramlogan SC: “Buh we cyah go into all that now. We already vote on it.”

Sen. Al-Rawi: “But this is legislation, wah yuh mean we cyah go into that.”

Sen. Moore: We already vote on it!

Sen. Ramlogan SC: “Moore, help me nah!” [*Inaudible*]

Mr. Chairman: I understand the Attorney General talked about it being bifurcated.

Sen. Ramlogan SC: But, of course, I already addressed that.

Hon. Senator: Yes!

Mr. Chairman: I really thought we had dealt with this already, quite frankly.

Sen. Maharaj: “Wey yuh was?”

Sen. Al-Rawi: I am sorry? You have something to say?

Sen. Maharaj: Yes, we voted on this, we discussed it already.

Sen. Al-Rawi: Mr. Chairman, I made it clear to the Senate that I was dealing with one aspect of clause 5 and I have made that clear.

Sen. Maharaj: “Yuh want to be the Chairman?”

Mr. Chairman: Perhaps for the sake of the Senate, I will repeat what we will be doing. We are doing clause by clause section. Clause 5 means the entire clause 5, and therefore, if you have any concern within the provisions of clause 5, we are dealing with it and then we move on to clause 6.

Sen. Al-Rawi: Thank you, Mr. Chairman.

Mr. Chairman: All the provisions 72—in case anybody gets it wrong—73, 74 and 75 are all within clause 5, so that if you want to address the Committee, you can take any of those you wanted under consideration from clause 5.

Sen. Al-Rawi: Yes, okay. Mr. Chairman, so that I do not detain the Senate—thank you for the clarification.

On subsection (3)—

Sen. Lambert: I am a layman and still I understand it. [*Laughter*]

Sen. Al-Rawi: If the Government wishes to be cavalier in its approach to legislation, that is its choice.

Mr. Chairman: Sen. Al-Rawi, can we?

Sen. Al-Rawi: Subsection (3)—I do not chose to be cavalier. Section 75(3), I wondered whether we wanted to consider dealing with aircraft in that subsection between commercial and non-commercial aircraft. Can we refuse to land a commercial aircraft? Do we want to put that power in the comptroller of customs per se? Should that not be a matter—there is already the Immigration (Advance Passenger Information) Act, No. 9 of 2008, which has the \$600,000 penalty, et cetera. In that particular Act, there is no provision for keeping an aircraft in the air. So this subsection says:

“The Comptroller may refuse to grant clearance to an aircraft or ship”—I have no problem with a ship necessarily—“until the advance passenger and cargo information required under section 72”—(1)—“is provided to the Comptroller or the fine imposed under subsection (1) is paid.”

Are we comfortable with telling the commercial airline industry that you may have the potential of not landing when our other laws do not permit that, particularly Act No. 9 of 2008?

Sen. Ramlogan SC: Chair, we have already voted on this section and we have taken note of what my learned friend has said, but our position remains the same.

Sen. Al-Rawi: Great! On section 79 then Mr. Chairman—

Sen. Ramlogan SC: No, no.

Mr. Chairman: That is in clause 6.

Sen. Al-Rawi: Sorry, that is clause 6. Okay.

Sen. Ramlogan SC: Yeah, yeah.

Mr. Chairman: So shall I take that to be the end of it and I will propose?

Sen. Al-Rawi: Well, those are my observations on the record showing the points that I disagree with. Thank you, Mr. Chairman, for the facility.

Question put and agreed to.

Clause 5 ordered to stand part of the Bill.

Clause 6.

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

Sen. Prescott SC: Chair, may I make an intervention on clause 6?

Mr. Chairman: Sen. Prescott.

Sen. Prescott SC: Just an enquiry. In section 79 which is to be repealed, I noted the word “staved” had been used. Perhaps I could just identify precisely where it is.

Mr. Chairman: Sorry, I did not quite catch what you said.

Sen. Prescott SC: Sorry. In the section which is to be repealed, section 79 of the Customs Act, the following can be seen in the last five lines. If you have the Act, it is at page 58 in the red text.

“...before report of the aircraft or ship has been made as provided above or if at any time after arrival any goods are staved, destroyed or thrown overboard, or any package is opened without the knowledge and consent of the proper Officer, in every such case the master or his agent shall incur a penalty of four thousand dollars, unless cause is shown to the satisfaction of the Comptroller.”

I noted that the word “staved” had not appeared in the new section 79—the new proposed section 79. I wondered whether there was some thinking behind that that we should be made aware of. “Staved”, as I understand it, means to bash or crush the cargo, the thing. It does not seem to be captured by any other word in here.

Mr. Chairman: Yeah. We did hear earlier about dinosaurs, and I do not know if that was part of the—[*Laughter*]

Sen. Prescott SC: It may well be an answer and I may be prepared to accept it, Sir.

Mr. Chairman: I am not pronouncing this.

Sen. Prescott SC: If that is the answer, I accept it Sir, but maybe there is a thinking behind it that we ought to be told about.

Sen. Ramlogan SC: I think based on the experience at the customs, that part of it was omitted in accordance with their instructions.

Sen. Prescott SC: So, should we put it in or leave it out?

Sen. Ramlogan SC: No, leave it out.

Sen. Prescott SC: Leave it out?

Sen. Ramlogan SC: Yeah.

Sen. Prescott SC: People do not stave again?

Sen. Ramlogan SC: They did not see—no, that is right.

Sen. Prescott SC: Okay. [*Laughter*] Then, I have one other observation. In the same proposed section 79, if we go down to the last four lines, I am now dealing to the proposed section 79.

Sen. Ramlogan SC: Yeah.

Sen. Prescott SC: It says that you:

“commits an offence and”—you are—“...liable on summary conviction...and any goods in respect of which the offence has been committed on board the aircraft...are liable to forfeiture, unless the act, inaccuracy or omission, as the case may be, is explained to the satisfaction of the Comptroller.”

In section 75(2), however, which we have just accepted, “failure or omission” appear.

Sen. Al-Rawi: Not in consistency.

Sen. Prescott SC: Now, it is not clear to me that one could—an inaccuracy or omission is really contemplated by section 79, they just find themselves in the section.

Sen. Al-Rawi: Yes.

Sen. Ramlogan SC: I think—

Sen. Al-Rawi: AG, read it please, just read it aloud, because it is either you break bulk, you open a package, you throw goods overboard; you cannot be inaccurate about that.

Sen. Hinds: “Buh yuh could have ah good reason though.”

Sen. Ramlogan SC: Yeah, exactly! [*Laughter*]

Sen. Prescott SC: The act refers to there is the act of breaking, throwing overboard or opening. There is no reference to—nothing in there suggests that you could be inaccurate or omission—

Sen. Al-Rawi: That is right!

Sen. Prescott SC:—or omit anything, but those words suddenly appear.

11.00 p.m.

Sen. Ramlogan SC: I get the impression—one second please. The concern is with respect to the treatment of the goods, as opposed to the liability above?

Sen. Al-Rawi: The use of “inaccuracy”.

Sen. Ramlogan SC: Or the use of?

Sen. Al-Rawi: Just the use of the word “inaccuracy” there. Look at it. How can you be inaccurate in breaking bulk, and throwing packages overboard?

Mr. Chairman: Or omission.

Sen. Prescott SC: Both.

Sen. Ramlogan SC: I think it is “inaccuracy or omission”.

Sen. Prescott SC: Both should go. That phrase should go.

Sen. Al-Rawi: That is right.

Sen. Prescott SC: Or be explained. I do not know what it means, how it finds its way in there.

Sen. Ramlogan SC: Well—

Sen. Prescott SC: The offence is breaking the bulk.

Sen. Ramlogan SC: Yes.

Sen. Prescott SC: Permitting the goods to be thrown overboard and those are acts. What is the inaccuracy we are complaining of or the omission?

Sen. Al-Rawi: And AG, could you also look higher up because it is tied into this. Section 79(b) I am reading from the chapeau and then jumping to (b):

“A master of an aircraft or his agent”—et cetera—“who, without the knowledge and consent of the proper Officer, causes—” look at (b)

“...any”—jump to the second line—“packages to be opened at any time after the arrival of the aircraft or ship in Trinidad and Tobago, commits an offence...”

So, any time after, it is not confined to not having declared, under section 72(1). It is not subject to section 265. It says if you open a package at any time after the aircraft lands, you are guilty of an offence. So you—

Sen. Ramlogan SC: Sorry, the Chair is engaged.

Sen. Prescott SC: If you would just permit one other.

Sen. Ramlogan SC: Yes, but can I deal with this one first?

Sen. Prescott SC: Sure.

Sen. Ramlogan SC: Section 79(a) deals with bulk to be broken contrary to section 73. Now, section 73, if we go back, deals with the advance passenger and cargo information.

Sen. Prescott SC: Before it is provided.

Sen. Ramlogan SC: Before it is provided, right. So the inaccuracy or omission may relate to the information provided there. But I hear you. That is the explanation given as to why they wanted it in, but I hear you, Sen. Prescott. As to whether it is superfluous, it certainly does not—

Sen. Prescott SC: Look at it and try to—

Sen. Ramlogan SC: Yeah. We can—I would leave it as is for now—always tweak with it but it does not really impose any new liability or affect any rights, per se but, from what I am told, the explanation is that they wanted it in because of the correlation to section 73.

Sen. Prescott SC: So what you are offering to do is to go back to it and address what looks like a lacuna there.

Sen. Ramlogan SC: I am conceding it is a lacuna, I am saying that this is—

Sen. Prescott SC: Or an error?

Sen. Dr. Balgobin: How is it? It is possible—*[Interruption]*

Sen. Ramlogan SC: Because if you look at section 79(a)—

Sen. Dr. Balgobin:—that you can cause a package to be opened as a result of an inaccuracy or an omission.

Sen. Ramlogan SC: Yeah, true, that is why I want to leave it in.

Sen. Ramkhelawan: On this same clause 79, I have read 79 and it seems to me that, I stand to be corrected by the AG, is it a master of an aircraft, or ship, his agent blah, blah, blah, consent of the proper officer? Should it not be: (a) causes bulk to be broken, rather than causes a bulk to be broken because (b) is: “permits any goods”?

Sen. Prescott SC: So (a) causes.

Sen. Ramkhelawan: In (a) and instead of causes being before (a), it should be: (a) causes bulk to be broken and then (b) permits.

Sen. Ramlogan SC: We picked up that and that can be tidied up in the—

Mr. Chairman: Really in the chapeau—

Sen. Ramlogan SC: And we can do it here.

Mr. Chairman:—it should be “causes or permits”.

Sen. Ramlogan SC: Sure.

Mr. Chairman: Because you could permit bulk to be broken too.

Sen. Ramlogan SC: Indeed.

Mr. Chairman: So “causes or permits” should govern both (a) and (b).

Sen. Ramlogan SC: Sure and we will deal with that, just not by way of an amendment but we will deal with that as part of the correction of a typographical error.

Sen. Ramkhelawan: Fine, I just wanted to know.

Sen. Prescott SC: AG, pardon me.

Sen. Ramlogan SC: Fair enough.

Sen. Prescott SC: Chairman, could the AG just tell us why we cannot do it now?

Sen. Ramlogan SC: No, because it is not necessary to do it now by way of an amendment.

Sen. Prescott SC: What do you mean? I may be wholly wrong, I may be on the wrong foot but why can we not just amend it now?

Sen. Ramlogan SC: No, well I am saying that the—well why is there any need to amend it if it is that they will correct it as part of the normal cleaning up process which they do?

Sen. Prescott SC: What will they be saying please, Chairman? When they finally correct it, how will it read?

Sen. Ramlogan SC: Well, the suggestion made by Sen. Ramkhelawan is what will prevail.

Sen. Ramkhelawan: Well, I think the Chairman said “causes or permits” so you take out “permits” in (b) whatever but—

Sen. Ramlogan SC: Sen. Prescott, the Chair made a suggestion, a nice way to tidy it up.

Sen. Prescott SC: I am not surprised and, therefore, we remove from (b) the word “permits”.

Hon. Senator: Yes.

Sen. Prescott SC: Good, thank you.

Sen. Al-Rawi: Sen. Prescott, I think the issue for the AG is whether it ought to be amended per se, which I think it ought to, or whether it can be done as he calls it “clean-up” and I do not think it can be done by a clean-up.

Sen. George: You do not think it can be done by a clean-up?

Sen. Al-Rawi: No, because it is a substantive change.

Sen. Hinds: What does “clean-up” mean?

Sen. Al-Rawi: “Clean-up” is where you have an (a) and an (f).

Hon. Senator: I thought we are in committee to clean up.

Sen. Ramlogan SC: Chair, I am advised by the Chief Parliamentary Counsel this is a matter they will deal with. For the record, I have said that we have accepted the point and it would be dealt with and that is the position.

Sen. Al-Rawi: Okay, AG what about in (b): “or any”? Now, subsection (b) is not tied into any other clause. It is not section 73, et cetera. It says if you:

“...without...knowledge and consent of the proper Officer, causes or permits—any packages to be opened at any time after the arrival of the aircraft...”—you commit an offence.

Sen. Drayton: This is a material change.

Sen. Dr. Balgobin: Chairman, if I may.

Sen. Ramlogan SC: Yes.

Sen. Dr. Balgobin: I would be more—I think, if I may, Chairman—cautious about treating changes now as typographical amendments and so my—sorry—it is a substantive change and, therefore, I would be more inclined to say that the words “acts or omissions” or what was it? “inaccuracy or omission”, really do not do any injury to the section and, therefore, I am inclined to leave it as it is.

Sen. Ramlogan SC: Well we—yeah—

Sen. Dr. Balgobin: As opposed to—[*Crosstalk*]

Sen. Ramlogan SC: Listen, “causes”/“permits” is a grammatical error.

Sen. Dr. Balgobin: That is where I am going. I do not see it—

Sen. Al-Rawi: That is totally different. AG “causes” or “permits”—sorry.

Sen. Dr. Balgobin: Go ahead.

Sen. Al-Rawi:—is a substantive amendment, one. Two, could we look at the issue of “or any packages to be opened at any time after...arrival”? It is not tied into anything else. So what we are saying is, if you open a package any time after a ship has arrived, whether you have cleared and gone home, it is in your possession, that you have committed an offence.

Sen. Dr. Balgobin: Yes, without the knowledge and permission of the officer. What I was getting at, Chairman, was that where we are on with “causes” or “permits” or “causes” and “permits” or whatever, is either we say if we put in “causes or permits”, that is an amendment.

Mr. Chairman: I hear you. I understand the AG suggests that could be part of a clean-up. I am not here to pronounce.

Sen. Ramlogan SC: Sure, sure. But we do have the word “or” as well.

Sen. Dr. Balgobin: So would it be, if we said (a) causes, (b) permits, would that be an amendment?

Sen. Prescott SC: No, that is a clean-up.

Sen. Ramlogan SC: Well that is what I thought.

Sen. Prescott SC: “Well say so nah!”

Sen. Ramlogan SC: Well that is what I have been saying.

Sen. Al-Rawi: No, because you can permit bulk to be broken, what is the point?

Sen. Ramlogan SC: Sen. Prescott, would you be happy with that?

Sen. Prescott SC: If you use the word “causes” into (a), I going home now.

Sen. Ramlogan SC: And we would do that as part of the clean-up and that is fine.

Sen. Prescott SC: Fine!

Sen. Ramlogan SC: Okay, good, we are in agreement. We will clean it up by putting in that. That is fine. “Doh leave as yet, eh. Ah want yuh tuh vote before yuh go home.” [*Laughter*]

Sen. Al-Rawi: Chairman, could I have an answer to subsection (b), where you are opening any package at any time after the arrival?

Mr. Chairman: Without the knowledge or consent to the officer.

Sen. Al-Rawi: What is the answer, sorry?

Sen. Ramlogan SC: Without the knowledge and consent of the proper officer.

Sen. Al-Rawi: Yes, but in what context?

Sen. Ramlogan SC: Any context, once you open it without the knowledge and consent of the proper officer.

Sen. Al-Rawi: Yes, but what I am suggesting to you—perhaps I should be a bit more explicit—is that this can potentially be a nonsense because it is not tied up.

Sen. Ramlogan SC: I am tempted to respond to that.

Sen. Al-Rawi: Because it is not tied into any offence per se, to any breach of anything. I am committing an offence for opening a package, in what circumstances?

Sen. Ramlogan SC: Any circumstances without—

Sen. Al-Rawi: Yes, but after arrival is different from the tie in to section 73.

Sen. Prescott SC: Yes, 73 is missing. The thing needs to be looked at again, you know. It only makes sense because 73 says: before advance passenger and cargo information is provided, if you permit goods to be thrown overboard, et cetera.

Sen. Al-Rawi: That is the point, exactly that.

Sen. Prescott SC: It only applies to (a) regrettably, the 73, when it probably is meant to apply to both (a) and (b). So AG, it does appear that you have to look at it again and do more than tidy up.

Sen. Ramlogan SC: Well, why do you say—

Sen. Al-Rawi: So if I open a package now, AG, now and I have cleared, it has passed through, right now I could be breaking the law, which does not make any sense. I am not offending the advanced passenger notification issue, which is the section 73. I have not done it. Section 73 must apply to the whole thing.

Sen. Ramlogan SC: No, but, well whether section 73 applies or not, if you do it without the knowledge and consent of the proper officer, then that is wrong.

Sen. Al-Rawi: Yes, but it must be contrary to something, not just knowledge or consent. I can do something without somebody's knowledge or consent right now. Is it required? Why would the knowledge or consent be required? In part (a) it is required because of 73. In part (b) there is nothing to tie it down.

Sen. Prescott SC: We have to go again. Maybe Chairman—

Sen. Al-Rawi: Do you understand what I am saying?

Sen. Prescott SC: Yes, of course. Maybe Chairman, what probably could be considered and it would need amendment, is to say that: If contrary to section 73, a master of an aircraft, et cetera, et cetera.

Sen. Al-Rawi: Exactly, causes or permits (a) and (b).

Sen. Ramlogan SC: Yeah. You see—

Sen. Prescott SC: It starts off with “if contrary to section 73”, this happens or that happens.

Sen. Ramlogan SC: The comptroller has advised that this was deliberately drafted this way in accordance with his instructions because—

Sen. Prescott SC: This comptroller?

Sen. Ramlogan SC: That—there is only one comptroller of the country, Sir.

Sen. Prescott SC: “Nah.”

Sen. Ramlogan SC: And the reason is because he says people might be tempted to remove things from the package before.

Sen. Al-Rawi: Yes, I agree and accept that. The point is that it must be you are attempting to remove it before what? Before you have complied with section 73. So the point is that subclause (b) does not tie into that.

Sen. Ramlogan SC: But you will only get the knowledge and consent of the officer after you comply in any event.

Sen. Al-Rawi: AG, read the thing “nah”.

Sen. Dr. Balgobin: Mr. Chairman I, think it would be an act of infinite resource and sagacity if we accepted some minor amendments and carry this thing forward. I do not know if the Government is implied to agree but I feel that we can make the minor amendments as long as it is not substantive. This would be my suggestion.

Sen. Ramlogan SC: Sure, let me make sure that the comptroller agrees with you all first because, I mean, this is about his office at the end of the day.

Chair, this is a piece of legislation that is really meant to regulate the customs department in the exercise of their duties and we are very fortunate to have with us the comptroller himself and—[*Interruption*]

Sen. Al-Rawi: AG, I am sorry to interrupt you. If you look at the old 79 that you are repealing, it is one paragraph long and it makes it specifically subject to section 73 or 74. We have changed 73. There is no breaking into paragraph (a) or (b), et cetera, so the old law that we are replacing was very clear. It made the acts in (a) and (b), which we have now split, subject to section 73. What is missing in (b) as a matter of interpretation, fact and substance is the reference to section 73.

Sen. Ramlogan SC: Um-hmm, um-hmm.

Sen. Al-Rawi: It is simple. You start it off: “If contrary to section 73, a master of an aircraft does” so and so, you put that up at the top. You put “causes”, you bring up “causes or permits” into the chapeau and you read (a) and (b). It is a simple fix.

11.15 p.m.

Mr. Chairman: AG, read back the old one, it does not have any section 73 and 74, and it has nothing to do with “or if”—[*Crosstalk*]

Hon. Senator: “Faris yuh want to just read dat out?”

Sen. Al-Rawi: Listen, it seems to me it is a very simple thing to fix. [*Interruption*] No, not that. The simple thing is that you do not want that to go back to the House.

Hon. Senator: No. No. No. [*Crosstalk*]

Sen. Ramlogan SC: When you look at the old 79 as you suggested, the reference to sections 73 and 74 has nothing to do with the part below that deals with if:

“...goods are staved or destroyed, thrown overboard...

...or...”—if the—“...package is opened without the knowledge and consent of the proper Officer...”

Now, we have retained the relevant part on the instruction and advice of the Comptroller of Customs which is the knowledge and consent of the proper officer. That is the part that we have put and we have split it and there is nothing wrong with that. The sections 73 and 74—it does not apply lower down.

Sen. Al-Rawi: AG, I am not following the argument. I really want to agree with you, but I genuinely believe that section 73 is the thing that has to be tied in to both, because (b) by itself just does not make any sense.

Mr. Chairman: If I may say this, Sen. Al-Rawi, the way I read the old section 79, it has no reference to sections 73 or 74 as governing what is now (b), and in what is in that where it says: "...or if at any time the goods...are staved" and so on.

Sen. Al-Rawi: Perhaps for the benefit of others who have not seen it, the old 79 says:

"If after arrival within Trinidad and Tobago bulk is broken contrary to section 73..."

Then it goes down.

Mr. Chairman: Right, and then go to the second half of it where it says: "or if at any time..."

Sen. Al-Rawi: "...or if at any time after arrival any goods are staved, destroyed or thrown overboard, or any package is opened..."

But, Mr. Chairman, it is all one long sentence of about 10 lines.

Mr. Chairman: But to my reading, the reference to 73 and 74 does not apply to the "or if at any time".

Sen. Prescott SC: Chairman, may I myself now jump in?

Mr. Chairman: Sen. Prescott?

Sen. Prescott SC: I am going to the old 79 myself, following from what the Chair has said, that part which deals with the opening of the package says if it:

"...is opened without the knowledge and consent of the proper Officer,..."

In ours, does it say the same thing?

Mr. Chairman: The chapeau says without the knowledge and consent of the—

Sen. Prescott SC: Good. So the new 79, therefore, says:

A master of a ship who without the knowledge and consent of the proper Officer opens a package is guilty of an offence.

Sen. Al-Rawi: At any time after you arrive in Trinidad.

Sen. Prescott SC: He has gone home with the package—

Sen. Al-Rawi: Four days later, one week later.

Sen. Prescott SC:—and he has opened it and he has committed an offence.

Mr. Chairman: What I take happens is that you arrived, let us say in an aircraft, you go through customs—

Sen. Prescott SC: Yes.

Mr. Chairman:—and that amounts to a consent that you may now take and do with the packages as you leave, but between the aircraft and going through customs, you may not open the package. In other words, I brought a bar of chocolate and I decided to eat it before I reach customs, “or ah drank ah bottle ah rum or whatever it is”.

Sen. Prescott SC: You are right. You are right.

Mr. Chairman: Thank you. I am not going to drink one, no. [*Laughter*]

Sen. Ramlogan SC: And that is why it is phrased the way it is here and there is nothing wrong—I mean, I accepted the point on (a), but I really do not see any problem with the rest of it, barring the inaccuracy and the omission point, but even then there is no harm in leaving that in.

Sen. Prescott SC: So a reading of section 79(b) says, causes permits?

Sen. Ramlogan SC: No, we dealt with that before.

Mr. Chairman: According to the chapeau, causes or permits.

Sen. Prescott SC: So the “or” comes after the letter “(b)”?

Hon. Senators: No. No, it happens before.

Sen. Prescott SC: So it says: causes or permits bulk, and then we delete the word “permits” in (b)?

Sen. Al-Rawi: That is right, and then you go to “any goods”.

Sen. Prescott SC: So are we amending or are we not?

Sen. Al-Rawi: That is an amendment. [*Crosstalk*]

Sen. Ramlogan SC: We can put—

Hon. Senator: Causes or permits a bulk.

Sen. Ramlogan SC: No. No. or we can put “causes” before the word “bulk” that is fine.

Sen. Prescott SC: I think that is where we were one time.

Sen. Ramlogan SC: Sen. Prescott, just to say the word “causes” before the word “bulk” and we would be fine.

Sen. Prescott SC: I would have just slotted the word “causes” before “bulk” and—

Sen. Ramlogan SC: Well, that is what I plan to do.

Sen. Prescott SC:—pretend it was not amended.

Sen. Ramlogan SC: And that is fine? Okay.

Sen. Prescott SC: And I would have been home already.

Question put and agreed to.

Clause 6 ordered to stand part of the Bill.

Sen. Prescott SC: We would not use the words “as amended” is that right?

Mr. Chairman: Sorry, there was an—

Sen. Prescott SC: Sorry, I was—

Sen. Ramlogan SC: “Nah, nah, he was saying how he wants to go home fast.”

Sen. Al-Rawi: He was asking if you were using the words “as amended”.
[Laughter]

Mr. Chairman: Oh, I see.

Sen. Ramlogan SC: No, no, no, because it is not an amendment.

Mr. Chairman: I understand there was no amendment.

Sen. Prescott SC: Just a correction—

Mr. Chairman: Just a clean-up exercise to perform.

Sen. Prescott SC:—as cleaned up, yes.

Mr. Chairman: As cleaned up, yes. I do not think that comes into the permutation of—[Laughter]

Clause 7.

Question proposed: That clause 7 stand part of the Bill.

Sen. Al-Rawi: Mr. Chairman—

Mr. Chairman: Sen. Al-Rawi.

Sen. Al-Rawi:—just a question and perhaps it is just for the AG to put the policy on record in respect of this. Is there really a need to legislate in the parent Act for matters 212A (a), (c), (d) and (e), insofar as regulations can take care of the flexibility of rules? I accept that subsection (b) which is a breach of any condition imposed by the comptroller, would have to be stated. That is what would give teeth to the regulations from that perspective, but are we looking at this position and then secondly, the second point would be so it would be a policy statement. The second point is, is it within our contemplation that a summary conviction can result in a penalty of \$125,000. I could not remember if the hon. Minister of Finance and the Economy had referred to the Proceeds of Crime Act in this particular context. I looked at that one, section 91 or 95, I believe it was, and I saw that for indictable offences it was the higher point, but for summary offences it was the lower one. Over to you AG.

Sen. Ramlogan SC: Mr. Chairman, these matters could be dealt with in regulations, but we felt that having regard to the kind of information to which persons would have access, and having regard to the potential mischief that one can do if they access information, private trading information of competitors, for example, that one would want to safeguard it in the Act itself, and that is why if you use without proper authorization, the authentication code or if, for example, without permission you falsify, delete or impair record or messages there, because of the consequence of that, we felt that we should put it in the parent Act as opposed to regulations. I mean if you take (a), for example, which Sen. Al-Rawi pointed out:

“Any person who—

- (a) Falsifies or, without the permission of the Comptroller, deletes, damages, alters or impairs any record, data message,...” et cetera.

I mean, that is a very important provision because if you alter that information, the consequences could be that somebody is liable to commit a criminal offence.

Sen. Al-Rawi: AG, I catch you there, can you turn your attention to subsection (d)? Everyone else has (a), (b), (c), (e) all have authorization, (d) says:

“being registered as a user of the CBCS under section 272, uses the authentication code of any other registered user;”

Sen. Ramlogan SC: Because any time you permit someone to use the authentication code which is given to another person, I mean you start corrupting the system.

Mr. Chairman: I think (d) really refers to you already are a registered user—

Sen. Ramlogan SC: That is right.

Mr. Chairman:—and you are using somebody else’s code.

Sen. Al-Rawi: I understand that, I was on the zone of one man hired by 15 persons who uses multiple codes because that is his job to do it. So, I was wondering where the authorization facilitation in (d) could come in.

Sen. Ramlogan SC: No, but you see in a case like that, the man who employs 15 persons, he can get 15 authentication codes for then, he just has to apply for them, but this mischief here is to prevent someone who is not registered as a user from actually—suppose someone breaks in a competitor’s place and they take their registered user code and so and they go and use it.

Sen. Al-Rawi: No, I follow that, but I understand that, thanks for that explanation. What I am looking at here is the specific language. Any person who “being registered as a user...uses the authentication code of any other registered user. I may do that legitimately.

Sen. Ramlogan SC: No. Well, you cannot because we are making it an offence here.

Sen. Al-Rawi: So, if I am employed—

Sen. Ramlogan SC: “Why would you not use your own one?”

Sen. Al-Rawi: I will tell you this, let us assume that I was employed by four different persons, right, and I have the authorization—I am using one code because I have one code, but I am now using someone else’s code—

Sen. Ramlogan SC: No, you should not do that.

Sen. Al-Rawi:—under their instructions to use their code for their purpose—

Sen. Ramlogan SC: You should tell them no, you take no such instructions. If somebody instruct you—

Sen. Al-Rawi:—instead of them doing it themselves.

Sen. Ramlogan SC: Listen, that is like somebody instructing you to join the PNM, if it is wrong do not do it. [*Laughter*]

Sen. Al-Rawi: Maybe the answer is, I want you to tell me. Is the answer acceptable in the context of an agency principle scenario? In other words then, this does preclude agents from acting?

Sen. Ramlogan SC: Listen, this thing only applies to you being a registered user. If you yourself are a registered user, you must not use anybody else's authentication code, use your own, it is that simple. It applies to someone who is already—

Sen. Al-Rawi: I understand the intention. I was looking at the specific language, the language in the simple use, not for any purpose, I understand what you are getting at. What I am trying to make sure that we sweat out here is whether we have got the language correct for what we want to say.

Sen. Ramlogan SC: Yes.

Sen. Al-Rawi: Yeah? Okay.

Question put and agreed to.

Clause 7 ordered to stand part of the Bill.

Clause 8.

Question proposed: That clause 8 stand part of the Bill.

Sen. Al-Rawi: Mr. Chairman, clause 8 concerns the issue of bribery amongst customs officers, and whilst the sum of \$200,000 seems to be under par for what other offences look like, I am concerned that we should be adding a jail term along with this.

Sen. Ramlogan SC: That was something raised by Members of the Independent Bench. It is something which we had in the original Bill that was brought before the other place, but when the Bill was brought in the Lower House, the Opposition objected most vociferously and vehemently to the jail term in the Bill which was being debated there. It was as a result of those strenuous and vociferous objections by the Opposition in the other place, that the jail term was, in fact, taken out. Is it that the Opposition has now changed its position on that matter?

Sen. Al-Rawi: This is a separate House and we have said this three times already, that we are at liberty in the Senate under guidance of our leader and direction to amend as we see fit.

Sen. Ramlogan SC: And is it, therefore—

Sen. Al-Rawi: And the position is in this Senate, the Houses are separate and we have made that issue several times. In this Senate the suggestion is for a jail term.

Sen. Ramlogan SC: And if it is—and may I through you, Chair—subject to the guidance and direction on quote of your leader, who happens to be the Leader of the Opposition of the country, that under that direction and guidance you can change your position, I want to ask specifically for the public record whether the hon. Leader of the Opposition, who still happens to be your own leader has, in fact, signalled his guidance and direction to you, that you have authority to change the position now on behalf of the Opposition Bench in the Senate, which is a different House, to pose a jail term?

Sen. Al-Rawi: AG we could cut this very, very short. I have given the position to you already, you are belabouring the point.

Sen. Ramlogan SC: No, no, no, I am not belabouring the point.

Sen. Al-Rawi: I know that this is an issue raised by the Independent Bench already.

Sen. Ramlogan SC: “Doh talk for de Independent.”

Sen. Al-Rawi: No, no, no, you have said it. You have spoken for the Independents earlier. So the question is whether you are prepared to consider it or not. [*Crosstalk*]

Hon. Senator: [*Inaudible*]—“bypass de leader.”

Sen. Ramlogan SC: Chair, you see, I—

Sen. Al-Rawi: What is your position AG, on the policy?

Sen. Ramlogan SC: I am saying that the Government needs to get it correct and clear first because if this is a proposal that the Opposition, having taken cognizance of what was said by their leader, is now telling the population on the record that they have changed their position between the Lower House and Upper House, if that is said then we can respond and treat with that.

Sen. Hinds: What he said—

Sen. Ramlogan SC: But perhaps Sen. Hinds wants to clarify. Could you put on the mike, Sir I am not hearing you? I want this for the record.

Sen. Hinds: What he sought to explain to you—

Sen. Ramlogan SC: Yes.

Sen. Hinds:—is that this Senate as part of the Legislature, if for some good reason some error is detected, you do not blindly go along with it. It is our business to analyze the proposals and to bring to bear our thoughts on it. It is not any difference, but if you see something that is worthy of attention, at this stage a proper legislator, proper legislature will attend to it. That is all he is saying.

11.30 p.m.

Mr. Chairman: What I would like to suggest, if I may, is that if Sen. Al-Rawi would like to make a suggestion as to what amendment he would like, if he perhaps could put it before the Senate.

Sen. Hinds: It is all right. We have—

Mr. Chairman: Sen. Ramkhelawan.

Sen. Ramkhelawan: Chair, before you go there, I just want to make it very clear that neither the Government nor the Opposition speaks for any Member of the Independent Bench. Each Member of the Independent Bench speaks on his or her own accord. Just for the record, because there is a lot of crosstalk going on there.

Sen. Ramlogan SC: Indeed. Chair, I just want to say in response to my learned friend, Sen. Hinds, I accept entirely that if there is something that is an omission, whether through inadvertence or otherwise, that we are entitled to correct it, whichever we are. However, this is not a simple matter of an omission. The Government brought a Bill which was introduced in the Lower House. In that Bill, the Government had a jail term. The Bill we brought had a jail term for this particular clause in the Bill.

In the other place, the Opposition, collectively, led by the hon. Leader of the Opposition, objected on the record, strenuously and vociferously, to the imposition of a jail term. It was not an omission. It was an act of commission and it was a positive and deliberate and wilful decision to object specifically to the inclusion of the jail term in the Bill that the Government brought.

The Government, having listened, acceded to the request of the Opposition in good faith and removed the jail term, only to come in the Senate and the very Opposition Bench in the Senate now says something completely opposite and says that the very jail term that the Opposition in the Lower House insisted we take out, we want it—

Sen. Al-Rawi: AG, we could truncate this. Let the Independents put their positions in—

Sen. Ramlogan SC: Let me finish, please. Let me finish, please. Let me finish, please!

Sen. Al Rawi:—and the Opposition could easily deal with its own position.

Sen. Ramlogan SC: Let me finish, please! No.

Mr. Chairman: Sen. Al-Rawi.

Sen. Al Rawi: So we could deal with it that way.

Sen. Ramlogan SC: No.

Sen. Singh: “Sen. Al Rawi, listen nah man.”

Sen. Ramlogan SC: The very Opposition now does a U-turn, flip-flops on the Government and says that they would like to have the very jail term that we took out reinserted, and they do not do so on the basis that they are entitled to change bad law because Sen. Al-Rawi was very careful and the *Hansard* would record him as saying, under the guidance and direction of the leader whom he serves, they have the position to adopt today. And I am enquiring, as I am entitled to for the record, whether the very same leader, who caused the Government to remove this jail term in the Lower House, has given such guidance and direction—and Sen. Al-Rawi is on his cellphone while we are speaking in the Chamber, on his cellphone while in the Chamber—most disgusting behaviour, quite frankly, totally disrespectful of the Chair. It cannot be that you are on your cellphone whilst we are in the middle—whilst we are in session and I would like to hear the Independent Bench perhaps on that. We are in session, man.

Sen. Hinds: I simply want to say that you have put all kinds of interpretations. I have already told you—[*Interruption*]

Sen. Ramlogan SC: I am not finished, you know. I want to—Chair, Chairman, I am objecting to Sen. Al-Rawi using his cellphone while we are in session and I ask you to rule on that matter. He should be asked to step outside.

Mr. Chairman: Sen. Al-Rawi, of course, cannot hear me at this point, but I would like—[*Interruption*]

Hon. Senator: “He ain’t taking on nobody.”

Mr. Chairman:—him to proceed outside of the precincts of the Senate.

Hon. Senator: “He ain’t taking on nobody.” It is embarrassing.

Mr. Chairman: Sen. Al-Rawi. Sorry, you can speak on your cellphone, but outside of the precincts of this House.

Sen. Al Rawi: I certainly was not on the phone, Mr. Chairman. Who said I was? [*Laughter*]

Hon. Senator: “Oh, gawh, nah, nah, nah, nah.”

Sen. Ramlogan SC: Really Faris? Come on Faris.

Sen. Al Rawi: I am sorry, Mr. Chairman, do you know that I was on the phone?

Mr. Chairman: You had your phone to your ear.

Sen. Al Rawi: Okay, all right. That being the case, Mr. Chairman, sure.

I have had a chance to look at the *Hansard* record, Mr. Chairman, which I have here. A question was put by the Lower House and the Government dropped the jail term. There was no fight or insistence. I have it right here, the entire committee stage. So all the song and dance and gallery by the Attorney General with deprecation and words of fury mean nothing to me in the context of the *Hansard*, Mr. Chairman. So I really do not know what he is talking about. Perhaps, instead of “gallerying”, we could deal with the issue before the Senate. I understand that the Independents have a position as well—Sen. Ramkhelawan has said that—so I do not need to be lectured by the AG.

Mr. Chairman: Senators, shall we proceed? Is there before this House a proposal for an amendment to clause 7 and if there is a proposal for an amendment, I will—

Sen. Hinds: No. There is none. Let us proceed.

Mr. Chairman: Clause 8, sorry.

Sen. Ramlogan SC: There is none they say. Could we have that for the records, Sir, so we could move on?

Mr. Chairman: There is no proposal for amendment to clause 8.

Question put and agreed to.

Clause 8 ordered to stand part of the Bill.

Clause 9.

Question proposed: That clause 9 stand part of Bill.

Sen. Ramkhelawan: Chair.

Mr. Chairman: Sen. Ramkhelawan.

Sen. Ramkhelawan: With regard to clauses 8 and 9, we had suggested that—I think it was in clause 9—in addition to the fine of \$200,000, that we should have a prison term. I think that is well recorded in the *Hansard* and we suggested that it would be brought up at this point in time. I did speak to the hon. Minister of Finance and the Economy on the matter and I would just like to get his views for the record.

Sen. Ramlogan SC: This matter being a matter which the Government originally brought as part of the Bill, we will have no difficulty considering same and perhaps this is a matter which can be dealt with in the—

Sen. Howai:—in the Finance Bill.

Sen. Ramlogan SC:—in the Finance Bill subsequently, but the Government was never opposed to a jail term. In fact, the original Bill had a jail term in it. So we are giving an undertaking to the Senate to, on the record, review this matter and in the Finance Bill treat with it.

Mr. Chairman: And that is relative to clauses 8 and 9, is it?

Sen. Howai: Yes, to 8 and 9, which would be to put the request which you had for a term of 10 years?

Sen. Ramkhelawan: Yes.

Sen. Howai: For a term of 10 years, we undertake that we will include that in the Finance Bill to become the Finance Act and the adjustment will be made at that time.

Sen. Ramkhelawan: Thank you very much. Thank you very much, Mr. Chairman. Thank you very much.

Mr. Chairman: Can we enquire when the Finance Bill is expected before the House?

Sen. Howai: This will be subsequent to this budget, the reading of this budget.

Mr. Chairman: All right, sure.

Question put and agreed to.

Clause 9 ordered to stand part of the Bill.

Clause 10 ordered to stand part of the Bill.

Clause 11.

Question proposed: That clause 11 stand part of the Bill.

Sen. Dr. Armstrong: Mr. Chairman?

Mr. Chairman: Sen. Dr. Armstrong.

Sen. Dr. Armstrong: Under clause 11, if you look at 270—

Sen. Ramlogan SC: Two what?

Sen. Dr. Armstrong: 270. “Yeah”.

Sen. Ramlogan SC: Right.

Sen. Dr. Armstrong: “Registered users”, under (b), it says:

“a person who applies under section 272 to become a registered user.”

And then I went to 272 and it really sent me back to 271. Should that not be 271?

Sen. Ramlogan SC: You will land back there eventually, but I take the point of the indirect route.

Sen. Dr. Armstrong: Why did we not just say 271 there? Because then I went to the 272—

Sen. Ramlogan SC: Because you see, if you look at it, it says, “issue an authentication code”. I see what you are saying, yes.

Sen. Prescott SC: He has a point there.

Sen. Ramlogan SC: I see your point, yes. Mac, should that be 271?

Sen. Prescott SC: The application is under 271.

Sen. Ramlogan SC: It should be that?

Hon. Senator: Come on!

Sen. Ramlogan SC: That was in fact a typographical error. Thank you very much. So it should be 271. Yes, Prof. Ramkissoon.

Sen. Prof. Ramkissoon: 271(2):

“The applicant shall provide the Comptroller with any further information in respect of his application that the Comptroller may require.”

That can be open to abuse.

Sen. Ramlogan SC: Where are you? On 272?

Sen. Prof. Ramkissoon: 271(2)

Sen. Ramlogan SC: Oh, 271(2), beg your pardon. Okay, right, yes.

Sen. Prof. Ramkissoon: Could we say “any further relevant information”?

Sen. Ramlogan SC: Well it is implied, “eh”, he would not really be in a position in law in any event to ask him for something that is not relevant and we cannot ask him for, you know, information about how many girlfriends he has and so on.

Sen. Prescott SC: That was not relevant.

Sen. Ramlogan SC: Exactly. Yeah. And I am grateful, Sen. Prescott, for that matter of self-preservation. [*Laughter*]

Mr. Chairman: The question is that clause—

Sen. Ramlogan SC: For the satisfaction of the point that Sen. Prof Ramkissoo, I would say for the record, Professor, that the comptroller—what is envisaged here by the Parliament and certainly the Government is that the comptroller will be able to request such further information as may be relevant to the application, so that will be on the record.

Sen. Prescott SC: And may I just add that the court would interpret it that way if the need arises.

Sen. Ramlogan SC: Yes, indeed.

Mr. Chairman: So the question is that—

Sen. Dr. Armstrong: Sorry, sorry, Mr. Chairman, just one last point. I just want to get some clarification on the very last para on that page—

Hon. Senator: Four?

Sen. Dr. Armstrong: Four. “Yeah”. I had a note to myself here whether we needed to have qualifications and experience apart from what is said here.

Sen. Ramlogan SC: This is 271(4)?

Sen. Dr. Armstrong: “Yeah, yeah, yeah”. I was wondering whether we need to have somewhere the—any qualifications and experience of the person who—

Sen. Ramlogan SC: Well, the person with responsibility for IT and communications technology would have to have experience. You would not have a person with responsibility for that in a Ministry, without experience. That is really the head of department you are talking about

Sen. Dr. Armstrong: “...unless that person is the holder of a unique identifier issued by the Ministry with responsibility for information and communications technology.”

You happy with that?

Sen. Ramlogan SC: Yeah, because “the Ministry with responsibility for information and communications technology”, they will not give it willy-nilly, but it is a matter we can look at in the regulations perhaps because I understand what you are saying.

Sen. Dr. Armstrong: All right.

Sen. Ramlogan SC: You do not want a wet-behind-the-ears fellow with two O levels who get hired for the summer vacation getting the authentication codes and so on. “Yeah”. All right, that is fine. “We will look at putting dem people in de Senate”.

Sen. Al-Rawi: Mr. Chairman, are we going through clause 8 en bloc or, any one of the 14 subclauses is open?

Mr. Chairman: We are dealing with clause 11.

Sen. Al-Rawi: Sorry, 11, so there are 14 sections there.

Mr. Chairman: We are dealing with all of clause 11.

Sen. Al-Rawi: All, en bloc. Mr. Chairman, can I ask a question in relation—

Mr. Chairman: Not en bloc. It is the whole of clause 11, period.

Sen. Al-Rawi: Well, of the 14 sections, new sections in there—en bloc, sorry I meant in reference to those 14. Mr. Chairman, my question arises in respect of 271(4).

“Unless a person is the holder of a unique identifier issued by the Ministry...”

The Government’s position in respect of the usage of one code for customs and one for the single electronic window, that is the question that arises. Is the position that there must be two, and what is the rationale for that?

Sen. Ramlogan SC: Two what?

Sen. Al-Rawi: Two codes. The legislation proposes a unique identifier issued by the Ministry for the TTBizLink and also one for the CBCS. So it first arises in 271(4). It is then tied in to 272.

“(2) The Comptroller may impose such conditions...”

as he comes in respect of, you see the words “authentication code” there.

I have two other issues, perhaps you may wish to hear them and you could respond to all. In subsection (6) of 271, on page 10:

“The Comptroller may, in relation to the use of the CBCS, impose such conditions as he considers necessary on the registered user.”

Would there be any requirement that those conditions be in writing or notice will be provided?

11.45 p.m.

Also too the issue arises in respect of 272(2):

“The Comptroller may impose such conditions as he considers necessary...”

The issue that I am diving at there is the provision of notice in respect of those issues.

Sen. Ramlogan SC: With respect to the first one: why the need for two as opposed to one. It is a control issue because the comptroller is very concerned about restricting the access to this particular system. So that they want to have some degree of management and control over it, hence the reason for the subset code will be authorized specifically to have access to the system.

With respect to 271(6), the Comptroller—those conditions, I suppose they could be in writing. They may be oral, it depends on the circumstances, but one would not want to put that in the legislation. If you are dealing with aircraft, you might want to relay it over, you know, the radio. I do not know. But there is no need to specify orally or in writing or the form of which the notification of the conditions must take place in the legislation. That can certainly be dealt with on a case by case basis or looked at in the regulations—

Sen. Al-Rawi: Thank you.

Sen. Ramlogan SC:—and the same thing would apply to 272(2).

Sen. Al-Rawi: Can I ask a question? With respect to the TTBizLink and the protection to the access to that entire system, why is this any different from that? There is no legislation surrounding that. It accesses 11 arms of the Government, and there is no protection of a similar kind as we see in this Act.

Sen. Ramlogan SC: The border control system is part of the architecture for the national security of the country. The implications and ramifications of what we are doing here are quite great, and we want to restrict. We would not want to afford as liberal an access as obtains in the “Bizlink” world for this particular thing. So it is necessarily a little more regulated because of that. Sen. Drayton.

Sen. Drayton: Just a quick question with respect to 272(1). If the code becomes compromised, is there a procedure that will be stated in the regulation?

Sen. Ramlogan SC: “Certainly, yeah, yeah!”

Sen. Drayton: That will be taken care of in the regulations.

Sen. Ramlogan SC: Yes, if the code is—

Sen. Drayton:—compromised.

Sen. Ramlogan SC:—compromised or corrupted in any way.

Sen. Drayton: So there will be a regulation governing—

Sen. Ramlogan SC: Indeed.

Sen. Drayton:—how one would approach that.

Sen. Ramlogan SC: Absolutely.

Sen. Drayton: Okay.

Sen. Ramlogan SC: Certainly, thanks.

Sen. Al-Rawi: With respect to 274(2):

“A record kept under subsection (1) shall be retained for a period of at least four years...”

The Board of Inland Revenue provision is six years for particular information—this is four years, and there are other provisions in the Customs Act for the maintenance of information for seven years—why are we going for four?

Sen. Ramlogan SC: Because the international best practice for such records is between three and four years. You really do not keep it beyond that. If it is required for legal proceedings, the limitation period in any event might very well be in civil proceedings four years. I mean, if you do not detect the criminal offence within four years, you are really unlikely to get it after that. So we are comfortable with it as it is.

Sen. Al-Rawi: In all the legislation that I have here, it is all seven years.

Sen. Ramlogan SC: I know, but that is why we are changing it and making new legislation.

Sen. Al-Rawi: In all of the international best practice legislation that I have on the desk right here, it is all seven years.

Sen. Ramlogan SC: That is why people like Vice-President Biden and the President of China—

Sen. Al-Rawi: In the US, it is seven years.

Sen. Ramlogan SC:—are coming to see what we are doing here, because we are making path-breaking laws.

Sen. Al-Rawi: In Singapore, in the US, the Caricom.

Sen. Ramlogan SC: Yes, and in Haiti and in Dominica and in Venezuela, we looked at all and we are comfortable with this.

Sen. Dr. Armstrong: Mr. Chairman, I really would be more comfortable if you would have more than the four years, in fact, minimum six.

Sen. Ramlogan SC: We thought about it. It was a matter that generated quite some discussion and debate. The people from the Ministry of Finance and the Economy and the Office of the Comptroller of Customs and Excise, they were comfortable with four. We have to be careful because, of course, experience has shown even in the legislation where we have the six- and seven-year periods and so on, if we cast our minds back to the last 15, 20 years, we have not really seen, based on the experience of the comptroller, that there has been any infringements that have led to the need to retrieve information beyond the four-year period, so that—

Mr. Chairman: If I may point out to the Committee, it does go on to say, “unless required in legal proceedings”. So if your proceedings, as you would expect, have started within a four-year window, you continue to have an obligation to keep the record.

Sen. Ramlogan SC: And it is highly unlikely if you did not detect a criminal offence within four years that you are going to do so thereafter, you know.

Sen. Dr. Armstrong: “Yeah!” But, Mr. Chairman, my concern is that after four years—

Sen. Ramlogan SC: “Yeah!”

Sen. Dr. Armstrong:—before five years—

Sen. Ramlogan SC: “Yeah!”

Sen. Dr. Armstrong:—you can—

Sen. Ramlogan SC:—dispose of it? “Yeah!” Well, I mean, there must be a cut-off point.

Sen. Dr. Armstrong: That is the concern that I have.

Sen. Ramlogan SC: And to take that argument.

Sen. Dr. Armstrong: What is the danger? What is the problem in keeping—I mean to say electronic—what is the problem really with—

Sen. Ramlogan SC: Well, one may take that point and raise the bar to the next level, “Well, I am concerned about what will happen after five years, between the fifth and sixth year, and why not keep it for the fifth and sixth year. It does not cost you anything.” I mean, you know, you can use that same point to argue it straight down to 20 years. But the point is, we were advised that consistent with what is happening now in the world in this particular area, it was between, how many years?

Hon. Senators: Three to four.

Sen. Ramlogan SC: Three to four years, and that was the advice of the Comptroller of Customs; that is what was his considered view and the Government accepted that view as a matter of policy and we said, “Well, okay, we will go with four.”

Sen. Al-Rawi: Are there any jurisdictions you could point us to?

Sen. Ramlogan SC: And, also, based on our own experience in Trinidad. Where we kept the information beyond four years, it did not prove to be useful, and the retrieval of the information was not necessary. So based on our own empirical data and the experiences they have had, it really did not serve any useful purpose, so why continue with it. I mean, this is not DNA sample, DNA results and so on. This is really, you know—and it will be a lot of information.

Sen. Dr. Armstrong: I do not see a problem in keeping it and that would be my recommendation.

Sen. Ramlogan SC: I hear you; I hear you, Sir.

Sen. Dr. Balgobin: Could I just ask for clarification unless my English fails me? Does 274(2) not say “retained for a period of at least four years” and that, therefore, as a matter of policy or practice, you may retain the records for a longer period?

Sen. Ramlogan SC: And you would do so in court proceedings and so forth. So it is not that it must be destroyed after four years. Four years is the minimum period.

Sen. Dr. Armstrong: Sorry. The point is that if there is a need to destroy for whatever reason, you can do it within four years.

Sen. Ramlogan SC: No, no, no, not within four years at all.

Sen. Dr. Armstrong: Or at least immediately after four years.

Sen. Ramlogan SC: Yes, you can. Yes. And we are saying that is—you have to select a cut-off point somewhere as Minister Moore said in another debate. You have to select a cut-off point somewhere. I mean, if you say, five, six, the same arguments hold.

Sen. Moore: There must be some certainty to being on risk. There must be some point at which the risk taker is off risk, and four years appears to be acceptable from a civil perspective, and I take the Attorney General’s point that if you have not detected a crime in four years, it is unlikely that you would detect it in four years and one month.

Sen. Dr. Armstrong: The concern that I have, Mr. Chairman, is that in this country we have had experiences where people have been able to get off once there is any discretion with respect to the requirement for any legislation to be in place, or if you can get around it, you get around it. And the point that I am making is that if immediately after four years you can dispense with this information with the data, then that person goes scot-free. I am almost sure that if it is a party financier, all right, and it runs into the next term, that person is not going to get off scot-free. In fact, it would then become part of the campaigning. I am almost sure if there is a change that some effort would be made to bring that person to justice.

Sen. Ramlogan SC: Well, for that to happen—

Sen. Dr. Armstrong: And we have so many examples of that right now.

Sen. Ramlogan SC: Of course.

Sen. Dr. Armstrong: And that is the point.

Sen. Ramlogan SC: Well, for that to happen, one would have to engender the support of the Comptroller of Customs and Excise, and one would hope—because this power is very specific and it is given to the comptroller—so one would hope that, you know, the office of the comptroller would not become so compromised.

I hear you, but one may then say, Senator, well if you say five years or six years, whatever time frame you put, the same risk and the same consequences could flow from it. Bear in mind that we came into power after a Prime Minister did not serve out the five-year term, and bear in mind you could run it into the sixth term. You could finance a campaign to get them into power so that within one year thereafter they do the same thing and destroy it. I mean, the argument, it sounds good but, in reality, it could apply for any cut-off point, not only four years.

Sen. Hinds: AG, let me tell, what is lurking in the back of his mind is clause 34.

Sen. Ramlogan SC: “Yeah!” [*Laughter*]

Sen. Dr. Balgobin: May I just make a suggestion if I may? Attorney General, I mean, the fact is, though, that some of these things really do take years to come to light and, in fact, you may find one shipment that is questionable, which you would then wish to analyse using a time series, years going back, and you may find all sorts of other things. Right? Would you object if we change “at least four years” to “at least seven”?

Sen. Ramlogan SC: Yes, I would. But what I would tell you—but what I will say to give you some comfort is this. Perhaps, we can—

Sen. Dr. Balgobin: Would you commit in regulations to saying seven?

Sen. Ramlogan SC: Well, I cannot. Or no, I cannot do that because it would be contrary to the parent Act. But what I can say is, perhaps, we can consider in making the regulations to give some guidance, you know. It may very well be that some guidance in the exercise of the discretion given in 274 could be given in the regulations, and we will look at that. All right?

Sen. Al-Rawi: Just to state the Opposition's position on the record—

Sen. Ramlogan SC: Which one? Which one of the Opposition now, Lower House or Upper House?

Sen. Al-Rawi: AG, AG, AG—[*Laughter*] I am not following for your debate or bait. And contrary to your arguments, the Prime Minister moved the Motion in relation to the removal of jail term and the *Hansard* demonstrates that. The Opposition had no part of that. So I am not taking your bait.

Sen. Hinds: You mean he was lying to us?

Sen. Al-Rawi: Well—

Sen. Ramlogan SC: He said it was in response to a question before, you know.

Sen. Al-Rawi: There is absolutely nothing in the *Hansard* record.

Sen. Ramlogan SC: Who posed the question?

Sen. Al-Rawi: So do not try your tricks tonight on that, and I mean that genuinely.

Sen. Hinds: Well, let us take him to the Privileges Committee.

Sen. Al-Rawi: Anyway, the Opposition's point on this position for the record, in light of things like section 34, et cetera, [*Laughter*] is that we ought to have a minimum period of seven years. That is international best practice.

Sen. Hinds: Mr. President, Mr. President, I want at this point—

Sen. Ramlogan SC: Chairman, Chairman.

Sen. Hinds: Mr. Chairman. If it is—because I have not had the opportunity as Sen. Al-Rawi just did—that Sen. Al-Rawi's last submission is correct, I want to put this Senate on notice, we will be bringing the Attorney General before the Privileges Committee.

Sen. Al-Rawi: Look it here, read it. It is right there on the *Hansard*—

Sen. Hinds: I am serious.

Sen. Al-Rawi:—at the bottom of the page, left hand side. And you could move it now under—

Sen. Hinds: Thank you very much, Mr. President.

Sen. Al-Rawi:—under 26(5), you could move it now.

Sen. Hinds: And, in fact, I will take a little time. I would not act hastily like some people. I would take a little time to review it personally, and we will take you before the Privileges Committee for misleading this House, knowingly doing that.

Hon. Senators: Ohooo!

Sen. Ramlogan SC: And I welcome any such attempt.

Sen. Hinds: I know, because you all have a lot of court clothes and a lot of money, but we will do it. [*Laughter*]

Sen. Al-Rawi: “The man threaten right there.” Mr. Chairman, sorry.

Mr. Chairman: Sorry.

Sen. Ramlogan SC: Wake up, wake up.

Sen. Hinds: Go right ahead, Sen. Al-Rawi.

Sen. Al-Rawi: Mr. Chairman, [*Crosstalk*] relative to—

Sen. Hinds: I am going to drag you there.

Sen. Al-Rawi:—the provisions under the CBCS, Mr. Chairman, if I could ask about—could I ask about the incongruity between the offences as set out under the Computer Misuse Act and the provisions of sections 276 go onward under this clause that we are considering? The offences under the Computer Misuse Act are much less than this particular provision, and there is, for instances, when you look at 276 (3)(c)(i):

“any program or data held in the CBCS is altered or erased;”

where very, very, wide provisions including alterations, just bare alteration, and I want to know what the Government’s position is in relation to moving from the positions in the Computer Misuse Act into this position here?

12.00 midnight

Sen. Ramlogan SC: Chair, as I indicated before, this Bill has implications for the national security of the country. There are issues that go into that realm, and therefore it was felt that there should be some specific separate treatment for the

abuses that could take place under this Act, hence the reason as a policy decision we opted to not just rely on the general law in the Computer Misuse Act, but to actually have a subset that will deal with it, specifically.

Sen. Al-Rawi: Thank you, AG. Under section 280; Mr. Chairman, I am proposing that we consider the introduction of whistle-blowing provisions into section 280. When you look at 280(3):

“A person, being in possession of any information which to his knowledge has been disclosed in contravention of this Act, who makes use of or publishes or communicates such information to any person is liable on summary conviction to a penalty of one hundred thousand dollars and imprisonment for a term of eight years.”

If we look to the Data Protection Act, we have a specific term for whistle-blowing provisions at the end of the Data Protection Act, and I am asking that we consider the introduction of a whistle-blowing provision inside of this.

Sen. Ramlogan SC: That provision would very well apply here as well, but, Chair, you know, this is a—one second. I am advised that that provision in the Data Protection Act will in any event be of general application.

Sen. Al-Rawi: Okay. Mr. Chairman, if I could have it clear, please? The specific provision on whistle-blowing in the Data Protection Act has not been proclaimed.

Sen. Ramlogan SC: Sure.

Sen. Al-Rawi: The Act potentially is unconstitutional and may fall, I do not know, it is section 99 of the Act. In taking your stated policy of making sure that this piece of legislation stands on its own, separate and apart from Electronic Transactions Act, or the Computer Misuse Act, I am asking that we consider the introduction of a specific whistle-blowing provision in relation to 280, as proposed under clause 11.

Sen. Ramlogan SC: Sure. And, Chair, the Government is happy to rely on the general provision that already exists in the Data Protection Act, and when it is okay—*[Interruption]*

Sen. Al-Rawi: It is not law, AG.

Sen. Ramlogan SC: Can I speak please, if you do not mind?

Sen. Al-Rawi: “Yeah.”

Sen. Ramlogan SC: Do you mind? And when it is proclaimed it will become of general application, and it will apply to this particular Act as well—
[*Interruption*]

Sen. Al-Rawi: Thank you, AG.

Sen. Ramlogan SC:—and that is the Government’s position.

Sen. Al-Rawi: Can I have the Government’s undertaking as to when this would be made law, as you have given undertakings in respect of everything else? When will the Data Protection Act be proclaimed fully, and when will this particular section of the Data Protection Act on whistle-blowing be made law, and if it is not made law and it is struck down for some reason, is the Government’s stated policy an undertaking tonight to introduce it?

Sen. Ramlogan SC: The Government will decide when proclamation has to take place based on the state of preparation and readiness of the infrastructure that is necessary to support the Data Protection Act which as we speak, is in the process of being constructed by the public service and they are working very hard. It is 12.00 midnight and we have public servants who are still working with us, and, therefore, when they are ready and they signal to us that they are ready, we will in fact so proclaim, and that is the Government’s position.

Sen. Al-Rawi: So it is an undertaking?

Hon. Senator: It is a statement.

Sen. Ramlogan SC: It is a statement, I am not prepared—[*Interruption*]

Sen. Al-Rawi: You are not prepared to give an undertaking?

Sen. Ramlogan SC: I do not have to give an undertaking to you.

Sen. Al-Rawi: I see.

Sen. Ramlogan SC: But the Government has explained its position.

Sen. Al-Rawi: No! No! No! An undertaking has to be given. We have no timeline for the introduction of the finance provisions, for the jail term that we are seeking to introduce; we have none of that, so we cannot be hot and cold. It is either you give an undertaking in similar terms to what you gave already or not.
[*Interruption*] Of course I can, I have freedom of speech here. Yeah!

Hon. Senator: Like you on the phone or not?

Sen. Al-Rawi: Yeah, you have three phones, not me.

Hon. Senator: No, but you cannot be talking in the House.

Sen. Ramlogan SC: Chair, permit me? There was a little outburst earlier with a reference to the Privileges Committee, and I just want to say that for the record that I have in fact checked the *Hansard*, as I did before, and in fact I maintain the position for the record that it was the Opposition, who during the course of the debate in the other place, took objection to the Bill proposed by the Government which included a jail term, and in fact, I would want to refer my learned friends to the *Hansard*, page 34 in particular, and the contribution of Mr. Colm Imbert and other Members of the Opposition. And perhaps if they read their contributions in the other place, their contributions here might be considerably curtailed. Thank you very much.

Question put and agreed to.

Clause 11 ordered to stand part of the Bill.

Clause 12.

Question proposed: That clause 12 stand part of Bill.

Sen. Al-Rawi: Mr. Chairman, a question through you to the hon. Attorney General. Is there any ability to amend the schedule in the parent Act? I am not sure, so I am asking whether we are casting it in stone, I am not quite sure what the answer is.

Sen. Ramlogan SC: Sorry?

Sen. Al-Rawi: We are introducing by clause 12, a new Ninth Schedule. I am just enquiring whether there is any power to the Minister perhaps by order to amend the Ninth Schedule. I do not know where the authority is.

Sen. Ramlogan SC: I mean, there is under section 263(1), in the parent Act, a power in the President to make regulations. One can conceive that those regulations can in fact pertain to such matters in 263(1), but in any event I think this is such a comprehensive listing that really if there is need to change it, that would come as part of a review of the legislation which one would expect would have to take place at, you know, in the sufficiency of time; all right? So, Chair, we are okay. Thank you very much.

Question put and agreed to.

Clause 12 ordered to stand part of the Bill.

Clause 4 reintroduced.

Sen. Al-Rawi: Mr. Chairman, just one observation on clause 4. Mr. Chairman, would we be prepared to amend the definition of “authentication code” to link it to the unique identifier under section 271(4)? The language which would probably be apposite to that would be:

“‘authentication code’ means a form of identification issued by the Comptroller to a registered user under section 272, and which is linked to the unique identifier under section 271(4);”

Sen. Ramlogan SC: Minister Moore will deal with that.

Sen. Moore: Senator, I do not know that that is necessary, I think that “authentication code” here is sufficiently clear to capture, and the related sections, all the related sections capture the descriptor that you are suggesting. I do not think that it is necessary to put it in there.

Sen. Al-Rawi: Okay, if I could just state that my intention was, again, to come back to the issue of one code as opposed to two. Secondly, the definition of “data message” is significantly narrower than section 2 of the Electronic Transactions Act. It specifically omits plans, other forms of communication via computers, et cetera, and I was wondering, insofar as the ASYCUDA system which is currently the CBCS, is a web-based package, that a data message may in fact be transmitted by voice or by video as opposed to by specific message. Did we want to leave the definition of “data message” as narrow as it is, or did we want instead to go with the broader definition as contained in section 2 of the Electronic Transactions Act?

Sen. Moore: Senator, I believe that the definition that you see here contemplates how the ASYCUDA system receives information.

Sen. Al-Rawi: Sorry. Thank you, hon. Minister. I am looking at evolution and not being technology specific. Insofar as there is a broader definition permitted to us under the Electronic Transactions Act which can allow us to take in a lot more by way of development, I am looking at it from that perspective.

Sen. Moore: I understand that you are looking at it in a futuristic way, but the specific system is designed to send and receive a particular set of data and a particular set of information, so perhaps there is no need for the breadth that you are telegraphing.

Sen. Ramlogan SC: Okay, that is a good explanation.

Sen. Al-Rawi: That is a good woof.

Question put and agreed to.

Clause 4 ordered to stand part of the Bill.

Sen. Dr. Balgobin: Chairman, although we have just agreed to it, I would point out to the hon. Sen. Moore, that I think that we ought to pay closer attention to the definitions under the Interception of Communications Act as well as the Act that Sen. Al-Rawi referred to, because I think that ASYCUDA is going to have to give way to something more modern in due course, and when it does we do not want to be constrained by the legislation. And we have in fact adopted much more comprehensive and expansive definitions elsewhere, so there is no need for us to do something different here, really.

Sen. Ramlogan SC: I would note it for the future, Chairman.

Sen. Al-Rawi: And just for the record, my position is that the definition is too narrow.

Mr. Chairman: I just point out, of course, that the definition of “data message” just say, “or other information,” without reference to whether it is in paper form or non-paper form, so long as it is generated by or received from or stored in the CBCS system by electronic means, which could include the very voice that you talked about earlier on, or any other form of communication which is capable of being kept by electronic form. I just point that out.

Sen. Ramlogan SC: We are grateful for that observation, Chair, and could you permit me now to invoke the words of Bunji Garlin and say, “We ready”.

Preamble approved.

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

Senate resumed.

Bill reported, with amendment.

Question put: That the Bill be now read the third time.

12.15 a.m.

Mr. President: I think the ayes have it. This Bill requires a special majority. The Clerk will now conduct a division of the Senate.

The Senate divided: Ayes 23

AYES

Howai, Hon. L.

Ramlogan SC, Hon. A.

Coudray, Hon. M.

Singh, Hon. G.

Moore, Hon. C.

George, Hon. E.
 Karim, Hon. F.
 Tewarie, Hon. Dr. B.
 Bharath, Hon. V.
 Mohammed, Hon. J.
 Moheni, E.
 Oudit, Mrs. L.
 Maharaj, Hon. D.
 Ramnarine, Hon. K.
 Lambert, J.
 Ramkhelawan, S.
 Drayton, Mrs. H.
 Balgobin, Dr. R.
 Ramkissoon, Prof. H.
 Wheeler, Dr. V.
 Prescott SC, E.
 Armstrong, Dr. J.
 Bernard, Dr. L.

The following Senators abstained: Miss P. Beckles, F. Hinds, Dr. L. Henry, Miss S. Cudjoe, F. Al-Rawi, Mrs. C. Baptiste-Mc Knight.

Question agreed to.

Bill accordingly read the third time and passed.

Mr. President: Leader of Government Business.

ADJOURNMENT

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Mr. President, I beg to move that this Senate do now adjourn to Friday, June 14, 2013 at 10.00 a.m., where the Senate will deal with the Finance (Supplementation and Appropriation) Bill.

Question put.

Sen. Al-Rawi: Mr. President.

Mr. President: You have a query.

Adjournment

Wednesday, June 05, 2013

Sen. Al-Rawi: Sorry. Just a query. Can we in fact adjourn to consider a Bill that has not been laid in the House—that we have not seen—and in respect of which Standing Order 48(2) has not been moved; for your guidance. I do not think we can.

Mr. President: Well, sorry. I should say that I have not said that we were adjourning to consider anything. I put before the Senate the question that this Senate would be adjourned, as to whether that Bill will come or not is not within my province. I did hear the Leader of Government Business mention that is what he anticipated, but this Senate is not being asked to pronounce on that matter. [*Crosstalk*] It is only being asked to pronounce on the question of the adjournment.

Sen. Al-Rawi: May I then enquire what business this Senate would be conducting, Mr. President? [*Crosstalk*]

Mr. President: I am asked to put the question of the adjournment. There is no question as to what will be. I am sure that in due course of time you will be— [*Interruption*]

Sen. Ramlogan SC: You will get the Order Paper.

Mr. President:—circulated with an Order Paper telling you what will occur. Sorry. Sen. Armstrong.

Sen. Dr. Armstrong: Yeah. If you could just permit me please. I just wanted to alert the Leader of Government Business that we do have a joint select committee meeting at 10 o'clock on that same day. I do not know whether you are aware of that.

Sen. Singh: Well the—Mr. President, [*Crosstalk*] it is a matter in which the— [*Interruption*]

Hon. Senator: You are in the wrong place.

Sen. Ramlogan SC: “You always right.”

Sen. Al-Rawi: “Tell me ah wrong.”

Sen. Singh:—the Senate will take precedence over the joint select committee.

Sen. Ramlogan SC: Yeah. That is all.

Question agreed to.

Senate adjourned accordingly.

Adjourned at 12.21 a.m.

WRITTEN ANSWER TO QUESTION

The following question was asked by Sen. Fitzgerald Hinds:

**Children's Life Fund
(Contributors and Beneficiaries)**

56. Sen. Fitzgerald Hinds asked the hon. Minister of Health:

Would the Minister provide:

- (i) A list of all the contributors and the respective amounts contributed to the Children's Life Fund as at 31st January, 2013;
- (ii) A list of all beneficiaries of this Fund and the amount expended in each case? date?

The following reply was circulated to Members of the Senate:

The Minister of Health (Hon. Dr. Fuad Khan):

- (i) The following is a list of all contributors and the respective amounts contributed to the Children's Life Fund as at 31st January, 2013:

Trinidad and Tobago Dollars Contributions (TT\$)

Government of the Republic of Trinidad and Tobago (Paid on October 2011 and December 2012 at \$30mn. each)	TT \$60,000,000.00
Government Ministers	TT \$1,391,309.64
Trinidad and Tobago Consulate General Toronto	TT \$15,935.62
Trinidad and Tobago Consulate General of New York	TT \$31,280.50
The Arya Pratinidhi Sabha of Trinidad	TT \$20,000.00
Indian High Commission Women's Group	TT \$25,000.00
Consular Corps of T&T	TT \$100,000.00
Society of Tribologists and Lubrication Engineers	TT \$10,000.00
National Energy Corporation	TT \$150,000.00
Arya Samaaj Foundation of Trinidad and Tobago	TT \$15,000.00
Prime Minister Charity Golf Classic	TT \$75,000.00
Xtatik Limited	TT \$100,000.00
The Greater Tunapuna Chamber of Ind. and Comm.	TT \$10,000.00
A-1 Auto Supplies	TT \$1,008.00
Territorial Services Limited	TT \$800.00
The Christmas Flea Market Committee	TT \$1,000.00
Columbus Communications	TT \$15,000.00
Ramdath Rampersad	TT \$10,000.00
Soctiabank T&T Limited	TT \$15,000.00
ADM Limited	TT \$100,000.00
Bombay Dreams	TT \$74,060.77

Written Answer to Question

Wednesday, June 05, 2013

Mission of Azerbaijan	TT \$12,200.00
Prime Minister Charity Golf Classic	TT \$50,000.00
Over the counter bank deposits	TT \$203,757.03
Members of the Opposition	TT \$0.00
TOTAL	TT \$62,426,351.56

United States Dollars Contributions (US\$)

Caribbean Airlines Limited	US \$199,975.00
Bank of Baroda	US \$2,000.00
Bank of Baroda	US \$5,000.00
The Rotary Club of Penal	US \$10,000.00
Al-Razi Mohammed	US \$5,000.00
Over the counter bank deposits	US \$718.00
TOTAL	US \$222,693.00

It is indeed unfortunate that for a fund created to assist children in our country afflicted with grave illnesses requiring expensive treatments, there is not one single contribution recorded by the Children's Life Fund as coming from any Member of the Opposition. Not one single contribution.

(ii) The following is a list of all beneficiaries of this Fund and the amount expended in each case:

Avithal Justin Chanka	TT \$451,833.94
Alisha Lalchan	TT \$176,813.30
Kimberly Martin	TT \$277,073.88
Giovanni Pierre	TT \$273,528.35
Shania Hernandez	TT \$172,828.97
Angelina Beepath	TT \$996,802.77
J'Nasha Amaya Wahadali	TT \$6,093.51
Mesut Hosein	TT \$261,778.53
Alexander Mastay	TT \$173,749.21
Arielle Phillip	TT \$83,844.31
Angelle Ramsamooj	TT \$384,003.45
Kymani Leacock	TT \$163,177.51
Raveena Rambharose	TT \$289,906.29
Faith Dyer	TT \$562,613.92
Sheldon Khan	TT \$226,351.77
Nathan Harbuckhan	TT \$331,228.12
Amiyah Archibald	TT \$874,690.92
Nikolai Gordon	TT \$259,226.08