SENATE

Tuesday, February 27, 2018

The Senate met at 1.30 p.m.

PRAYERS

[MADAM PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Madam President: Hon. Senators, I have granted leave of absence to Sen. The Hon. Paula Gopee-Scoon, Sen. The Hon. Dennis Moses, Sen. Wade Mark and Sen. Dr. Dhanayshar Mahabir, all of whom are out of the country.

SENATORS' APPOINTMENT

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

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

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

President.

TO: MR. NDALE YOUNG

WHEREAS Senator Paula Gopee-Scoon is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, acting in accordance with the Prime Minister, in exercise of the power vested in me by Section 44(1)(a) and Section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, NDALE YOUNG, to be temporarily a member of the Senate, with effect from 27th February, 2018 and continuing during the absence from Trinidad and Tobago of the said Senator Paula Gopee-Scoon.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 26th day of February, 2018."

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

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

President.

TO: MS. ALISHA ROMANO

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

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by Section 44(1)(a) and Section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago,

do hereby appoint you, ALISHA ROMANO, to be temporarily a member of the Senate, with effect from 27th February, 2018 and continuing during the absence from Trinidad and Tobago of the said Senator Dennis Moses.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 26th day of February, 2018."

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

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

President.

TO: MR. SEAN SOBERS

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

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by Section 44(1)(a) and Section 44(4)(b) of the Constitution of the Republic of Trinidad and Tobago, acting in accordance with the advice of the Leader of the Opposition, do hereby appoint you, SEAN SOBERS to be temporarily a member of the Senate, with effect from 27th February, 2018 and continuing during the absence of Senator Wade Mark.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 26th day of February, 2018."

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

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

President.

TO: MS. STACY CUMMINGS

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

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, STACY CUMMINGS, to be temporarily a member of the Senate with effect from 27th February, 2018 and continuing during the absence from Trinidad and Tobago of the said Senator Dhanayshar Mahabir.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 26th day of February, 2018."

AFFIRMATION OF ALLEGIANCE

Senators Ndale Young and Stacy Cummings took and subscribed the Affirmation of Allegiance as required by law.

OATH OF ALLEGIANCE

Senators Alisha Romano and Sean Sobers took and subscribed the Oath of Allegiance as required by law.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the National Institute of Higher Education (Research, Science and Technology) for the year ended December 31, 2010 [*The Minister in the Ministry of Finance* (*Sen. The Hon. Allyson West*)]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Siparia Regional Corporation for the year ended September 30, 2012. [*Sen. The Hon. A. West*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Police Complaints Authority for the year ended September 30, 2015. [*Sen. The Hon. A. West*]
4. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Police Complaints Authority for the year ended September 30, 2016. [*Sen. The Hon. A. West*]
5. Ministerial Response of the Ministry of Health to the Fourth Report of the Joint Select Committee on Social Services and Public Administration, Third Session (2017/2018), Eleventh Parliament, on an Inquiry into the Prevalence of Sexually Transmitted Diseases (STDs) amongst School Students and into General Services Administered to Treat STDs in Trinidad and Tobago. [*The Minister of Energy and Energy Industries* (*Sen. The Hon. Franklin Khan*)]

URGENT QUESTIONS

Lengua Road, Indian Walk

(Alleviation of Poor Infrastructure)

Sen. Taurel Shrikissoon: Thank you, Madam President. To the Minister of Works and Transport: In light of the recent protest action by residents of Lengua Road, Indian Walk to highlight the poor state of infrastructure in their community, what immediate action is being taken by the Ministry to alleviate the plight of these residents?

Madam President: Minister of Works and Transport, you have two minutes.

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Thank you, Madam Vice-President. Madam Vice-President—

Hon. Senator: Madam President.

Sen. The Hon. R. Sinanan: Sorry, Madam President, sorry. It is no secret that the constituency of Moruga, there are some challenges in terms of the soil that is in that area. Unfortunately, at the Lengua Road, there was a WASA pipeline that was ruptured and that caused severe damage to the base of that landslip. Unfortunately, the landslip gave way, and at this time the Ministry is initiating temporary action where we will be putting in a base coat and hot mix, and the long-term plan is to have it included in our Bridges and Landslip Programme for a more permanent fixture. Thank you.

Sen. Shrikissoon: Thank you, hon. Minister, for your response. With respect to this same issue, has this action been communicated to residents and any assurances given?

Sen. The Hon. R. Sinanan: Thank you. Madam President, immediately upon the report, the Ministry would have dispatched a team to the area to investigate, and

my information is that as of today they would be looking at bringing in remedial work.

Madam President: Next question. Oh, sorry. Sen. Shrikissoon, one more?

Sen. Shrikissoon: Yes. Thank you, Madam President. With respect to the same issue again, there is a particular resident's house that was damaged during the process, has consideration been given to that resident at all in this matter?

Sen. The Hon. R. Sinanan: Madam President, I am happy to inform the honourable House that the resident moved out yesterday with the help of the HDC and the Member of Parliament, and now work can go on. That was one of the challenges in trying to bring repairs yesterday. We had to ensure that the resident had vacated his house.

Bamboo Village, Cedros

(Assistance for Evacuees)

Sen. Paul Richards: Thank you, Madam President; good afternoon everyone. To the Minister of Social Development and Family Services: What immediate assistance will be given to the five families from Bamboo Village, Cedros who were evacuated yesterday after losing their homes to severe coastal erosion?

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. The Ministry of Social Development and Family Services is one of the second responders responsible for providing support to needy families and individuals in crisis and emergency situations. Obviously, what happened in Cedros yesterday is one such incident. Facilities that are available include household items up to $10,000; clothing grant $1,000 per person; school supplies, $1,000 per child attending secondary, $700

primary; house repairs up to the value of $20,000; house rental grant $25,000 per month for an initial period of three months and which could be—

Hon. Senator: Twenty-five hundred.

Sen. The Hon. F. Khan: Two thousand, five hundred per month for an initial period of three months, and if alternate accommodation is required they may be extended a further three months depending on the needs of the situation, and obviously counselling support. Accordingly, affected families will be visited by officers of the Ministry of Social Development and Family Services between today and tomorrow. But more importantly, Madam President, at 7.00 a.m. this morning social workers attached to the Social and Community Relations Department of the HDC were dispatched to Cedros to interview and conduct an assessment of the affected families. Eight families presented themselves as persons in need of emergency housing assistance. They were interviewed and assessments are being conducted as we speak. Vacant housing units have been identified in the Point Fortin area, which is the closest HDC development to Cedros, and very likely the affected families will be provided with temporary solution there.

Sen. Richards: Thank you, Minister, for your comprehensive response. Has consideration been given, Minister, in light of this relocation, though it may be temporary, to the children who are involved in terms of giving them transportation facilities so that their school services are not disrupted?

Sen. The Hon. F. Khan: I am almost sure all these factors will be included, bearing in mind Cedros is in the south-western extremities of the island, and the closest town to Cedros with HDC settlement is Point Fortin. But Cedros is part of the Point Fortin constituency, so I am almost sure that temporary arrangements

would be made for them to transport them. Because if they are primary school students, I am almostcertain they are attending schools in Cedros.

Bamboo Village, Cedros

(Repairs Re Coastal Erosion)

Sen. Paul Richards: Thank you, Madam President. To the Minister of Works and Transport: What immediate measures are being taken to repair the infrastructure of Bamboo Village, Cedros in the aftermath of yesterday's incident of severe coastal erosion in that area?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Thank you, Madam President. The Ministry of Works and Transport currently has a team of specialists on site conducting an assessment to identify the prevailing cause of severe coastal erosion which occurred in Cedros. Based on the preliminary report of homes being eroded, the Ministry of Works and Transport in its evaluation seeks to identify whether other properties are at risk, and the root cause of the cliff failure. At the moment, it will be premature to provide any recommendation until this assessment is completed. On completion of the assessment, the Ministry of Works and Transport will prepare a report outlining the recommendations to be implemented, bearing in mind that the way forward may include the collaboration with other Ministries and agencies. I thank you.

Sen. Richards: Thank you again, Madam President. Minister, can you indicate, given the fact that these five homes were the ones that were destroyed due to the erosion, but there may be other homes in precarious circumstances and other lives in possible danger, the kind of timeline indicated in assessing the possibility of danger for these other homes in the immediate vicinity.

Sen. The Hon. R. Sinanan: Thank you, Madam President. As a part of the programme of work, today is to identify other properties at risk. As we speak, the

team from the coastal department are on site with drones and technology to complete this survey by today; so I expect this report by tomorrow.

Sen. Richards: Thank you again, Madam President. My final question. My information, it may be erroneous, it is gotten through the media, so excuse me for this, but there are other families who have grave concerns that their properties are in immediate danger and some sort of assurance where they are concerned in terms of what the possibilities are?

Madam President: Sen. Richards, I would not allow that. It has kind of been covered by what the Minister said before. Sen. Ameen.

Carat Shed Beach, La Brea

(Dangers of Consumption of Dead Fish)

Sen. Khadijah Ameen: Thank you, Madam President. To the Minister of Agriculture, Land and Fisheries: In light of reports of dead fish and bird carcasses washing up on the shores of Carat Shed Beach, La Brea yesterday, what steps are being taken by the Ministry to warn residents of the dangers of consuming the fish?

Madam President: Minister of Agriculture, Land and Fisheries, you have two minutes.

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, thank you. I am very surprised at the question. But, Madam President, the Ministry has taken no steps to deal with this issue, simply because it is not normal for residents, particularly those in fishing communities to consume decomposing fish found on the shore.

Sen. Ameen: Madam President, the question is not about them consuming the dead fish, but consuming fish in general. So, I do not know if the Minister—the question is with regard to a warning to ensure that people are well informed and

well educated about the dangers of the fish that are still alive, but may somehow be affected by whatever is affecting the fishes that are dying?

Sen. The Hon. C. Rambharat: Madam President, purely in the public interest, because the question directs me to dead fish. But purely in the public interest, nothing that happened yesterday at Carat Shed Beach, La Brea, raises a concern in the minds—in my mind and the Ministry—in relation to the consumption of fish. Thank you.

ORAL ANSWERS TO QUESTIONS

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Madam President, the Government is pleased to announce that it is in a position to answer all four questions, but I have been informed that because of Sen. Wade Mark's absence, the Opposition would not be proposing, at this sitting, question No. 37 and question No. 51. So, we will answer the other two.

The following questions stood on the Order Paper in the name of Sen. Wade Mark:

National Gas Company
(Details of)

37. Can the hon. Minister Energy and Energy Industries inform the Senate of the following:

i) whether the NGC or any of its subsidiaries has deposits and/or investments in any bank(s) or other companies in Ghana;

ii) if the answer to (i) is in the affirmative, please identify the financial institution(s) or the companies in which the investments were made;

iii) When were the deposits/investments made; and

iv) the sums of money involved in each case?

Housing Development Corporation

(Eviction of Illegal Occupants)

51. To the hon. Minister of Housing and Urban Development:

Given the decision of the HDC to evict illegal occupants from Clifton Towers and the threats to the lives of residents, can the Minister inform this Senate what steps are being taken to ensure the security of said residents?

Questions, by leave, deferred.

Acquisition of Laptops for Secondary Schools

(Details of)

15. Sen. Khadijah Ameen on behalf of Sen. Wade Mark asked the hon. Minister of Education:

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

a) the number of laptops acquired as at September 30, 2017;

b) the total cost of said laptops;

c) the name of the foreign supplier or manufacturer of said laptops;

d) whether there is a local agent for the supply of the laptops; and

e) if the answer to (d) is yes, the name of the local agent and the commission fees paid to said agent as at September 30, 2017?

The Minister of Education (Hon. Anthony Garcia): Thank you very much, Madam President. No laptops were acquired as of September 30, 2017. And, as a result, the answers to parts (b) to (e) of the question are not applicable. Thank you.

St. Anthony's College

(Measures to Address Indiscipline and Violence)

54. Sen. Khadijah Ameen on behalf of Sen. Wade Mark asked the hon. Minister of Education:

Given recent reports about an upsurge in school indiscipline and violence involving bullying at St. Anthony's College, can the Minister inform the Senate of the measures that have been taken to address this issue?

The Minister of Education (Hon. Anthony Garcia): Thank you very much, Madam President.

Madam President, let me reiterate that there is no upsurge of violence and indiscipline at our nation's schools. At the Ministry of Education there is an established standard procedure for treating with incidents of violence and indiscipline which may occur, as in the case of St. Anthony's College, or any of our schools in the near or foreseeable future. The procedure involves:

1. Submission of written reports from students who are victims, perpetrators and witnesses. These reports must be signed by their respective parents or guardians;
2. Parents conference with principal, dean, students and members of the Student Support Services Division;
3. Students' suspension for seven days with a request for extended suspension where appropriate;
4. Student referral to the Student Support Services Division, which includes referral to the Learning Enhancement Centre, if necessary;
5. Address to the student body by the principal at morning assembly emphasizing zero tolerance to such a behaviour; and
6. Implementation of individual, group or whole-school programmes as may be recommended by the Student Support Services Division. Thank you.

Sen. Obika: Thank you, Madam President. Through you, I would like to ask the Minister—we thank the Minister for the general thing, but, specifically, in St. Anthony's College, which of these measures were implemented?

Hon. A. Garcia: Thank you very much, Madam President. When the incident occurred at St. Anthony's, the principal did a thorough investigation, and as a result of the investigation, some of the students were suspended. And that is the position as it stands. Thank you.

Sen. Obika: Thank you, Madam President. Regarding the—because these children are not adults, even persons who may be bullies, what would be the corrective measures taken beyond suspension to prevent it from recurring when they re-enter the school system?

Hon. A. Garcia: Madam President, the principal in his or her discretion will determine the severity of the incident. In this case, the principal determined that the person should have been suspended for a maximum of seven days, and that is what happened.

Sen. Ameen: Another supplemental: Given the measures outlined by the Minister with regard to deans and Social Support Services Division, et cetera, is the Ministry of Education adequately staffed with social support services and other social and psychological support services staff to deal with the problems of violence and bullying that are in the schools?

Hon. A. Garcia: Madam President, in the other place I answered that question. I can reiterate my answer: Yes, we are convinced that the Student Support Services Division at the Ministry of Education is adequately staffed. Thank you.

Sen. Hosein: Thank you, Madam President. Can the Minister indicate whether or not the Ministry has taken any steps in order to devise a cybercrime-bullying policy with regard to schools?

Madam President: No, I would not allow that question.

Sen. Ameen: We have another supplemental on this?

Madam President: Yes.

Sen. Ameen: My final supplemental: What mechanisms are in place to measure the effectiveness of the measures that you outlined earlier?—the effectiveness of the way to treat with—

Madam President: Minister of Education.

Hon. A. Garcia: Again, thank you very much, Madam President. I mentioned just now that in some cases we will have a case conference involving the parents, the dean, the principal and the student. At this conference the entire situation is examined carefully, and as a result of discussions involving all parties, a final decision in taken. In this case, at the conference, it was decided that the seven-day suspension was sufficient, and there was no need for any further action.

ARRANGEMENT OF BUSINESS

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Madam President, in accordance with Standing Order 31(5), I beg to move that the Senate consider Government Business instead of Private Members' Business.

Question put and agreed to.

2.00 p.m.

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

[Second Day]

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

That the Bill be now read a second time.

Question again proposed.

Madam President: Those who spoke on this Bill already are set out as follows: Hon. Faris Al-Rawi, MP, Attorney General; Sen. Wade Mark, Sen. Dr.

Dhanayshar Mahabir, Sen. Allyson West, Minister in the Ministry of Finance; Sen. Khadijah Ameen, Sen. David Small, Sen. Dr. Lester Henry, Sen. Saddam Hosein, Sen. Taurel Shrikissoon, Sen. The. Hon Paula Gopee-Scoon, Minister of Trade and Industry. Sen. Sobers. [*Desk thumping*]

Sen. Sean Sobers: Good afternoon, Madam President and other hon. Members of this Senate. I would definitely like to thank Madam President for giving me the opportunity today to contribute to this Bill, an omnibus type of Bill that has been entitled, The Miscellaneous Provisions (Mutual Assistance in Criminal Matters, Proceeds of Crime, Financial Intelligence Unit of Trinidad and Tobago, Customs and the Exchange Control) Bill.

A lot has been said already on this particular Bill, but there are still things that I believe the country should be made aware and it is my intention today to touch on some of the things that have been spoken on before, elaborate a bit more on them and raise new issues that have not been spoken of before. The intention of the Bill before us, as proffered by the Government is one, to bring forth legislation in a—hopefully a meaningful way that would address some of the deficiencies as it relates to the current pieces of legislation that we have. In particular, these pieces of legislation attempt to provide some level of enforcement, meaningful enforcement to certain existing agencies that treat with the Bill before us, the legislation before us today.

In particular, I considered the Financial Intelligence Unit and the units that work alongside those units, which would be, the Financial Intelligence Bureau or Branch and also the Customs and Excise unit. And those agencies have been operating for quite some time without the level of efficacy and efficiency that one would hope and I can understand and appreciate where the Government is going in trying to provide those agencies with this level of enforcement.

Many persons from the public domain constantly talk about bulldog agencies being alive, but these bulldog agencies do not have the level of teeth or enforcement that is required to do their jobs effectively, and I can understand and appreciate the Government's aim to try to marry the two, to move forward and provide these agencies with the level of enforcement required. But there is still a pertinent ingredient missing in that marriage.

You have the agencies existing, the bulldogs roaming and now you are trying to provide the teeth, the level of enforcement required. But there is still a particular limb missing to ensure the effectiveness of the legislation that you are trying to put on the books today, which is a brain. These agencies lack that type of skill, that type of technical capability and infrastructure to ensure what the Government's intention is, to be properly carried out, meted out at all levels of society and it is my hope today, through my contribution, that I can highlight some of these deficiencies in the agencies and give solutions as to how maybe the Government can get it right this time around.

So I will quickly jump into the Bill itself. The first clause deals with the Mutual Assistance in Criminal Matters Act, Chap. 11:24. Well, not the first clause, clause 2 of the Bill. Clause 2 of the Bill proposes an amendment to this Act. The Explanatory Note states that the Bill proposes to remove one of the many powers granted to the Central Authority:

> "by deleting section 22(2)(k) of the Act which empowers the …Authority to refuse a request that relates to a criminal offence under the tax laws of a Commonwealth country."

Now, many Senators would have spoken on this issue and I would like to touch, in particular, in terms of what Sen. Hosein would have said about this particular section. The section as it stands on the books today allows the Central

Authority, which is an arm of the Attorney General's Office, to do certain things, to accede to certain requests and to not accede to those requests. Thesection actually states that:

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

That provision allows the Central Authority to say, yes, we will accede to the request based upon these criteria. We also retain our sovereignty to say no, when we believe the request may be flippant or frivolous or does not account for what is placed within the criteria. What the Government is trying to do is to remove that ability for the Central Authority to say no, we are not going to accede to that request. And I find, to interfere with a clause like that, to interfere and amend it like that is interfering with our nation's sovereignty as it pertains to the Central Authority's ability to say, no.

It is not sufficient that we as a Parliament or as a Republic should just accede to any request made by any agency, be it, CFATF or FATF or whatever. We must retain some level of sovereignty and for us to continue to slavishly operate based upon requirements given to us, not retaining any element of sovereignty, in my opinion, is absurd. [*Desk thumping*] I would like to see in this particular clause that the section is amended, where in it would reflect legislation to maintain some level of scrutiny or criteria in terms of testing the request made by the organization or the entity or the State, whosoever makes the request, so as to guard against any level of mischief and malfeasance that may arise from the

country giving the request. [*Desk thumping*] That way we ensure that we do not flippantly give away our sovereignty. Everywhere else in the world, people jealously guard their sovereignty. We here, we are willing to give it away. That cannot stand.

I move on now, because there is a lot to be said, on the Proceeds of Crime Act, Chap. 11:27. Now, from time to time, once given the opportunity and I am here, I constantly like to say that the Opposition, we operate in a particular manner. We do not just come here to oppose for opposing sake as many of you may not believe, but that is our intention not to come here and oppose for opposing sake. And when the Government brings forth legislation that can get it right, I am one who would call and affirmatively address the situation. And I think in terms of the amendment to this particular clause, clause 3, which simplistically attempts to allow for a hybrid situation with respect to money laundering offences, allowing for persons to be able to access the summary courts. I think, in my opinion, it is a step in the right direction.

And I say that based upon the fact that what would—the end result of that situation would allow for persons who—persons will one, firstly, get an option to choose, whether they would like their matters to go to indictment and possibly spend quite some time in the judicial system before it actually reaches a court in the High Court or they can actually deal with the matter summarily and have it disposed of either by pleading guilty and having it dealt with there and then, or engaging in a trial at the Magistrates' Court and cut down on the length of time that the matter will take on indictment. And that system, in terms of allowing persons a choice, has been echoed by one of our celebrated judges in the puisne court by Justice Lucky.

Madam President, if you would allow me, an article in the Trinidad and

Tobago *Newsday*, 26th of this instant month is entitled:

"Estonian sentenced to time served"

Within this article:

"A high court judge has offered several recommendations for greater efficiency in the criminal justice system…"

She speaks in this article about an individual who would have been sentenced to five years—he spent actually:

"…five years and 22 days in prison on a conspiracy to traffick cocaine charge. He wanted to plead guilty to the"—offence in—"January 2013, but"—was unable to so do because that particular offence was indictable only.

So the court was not able to treat with his situation.

"His case was heard summarily and he"—had to spend—"two years, eight months in prison and it took an additional eight months before he could"—have been—"sent back to Estonia…"

In his—"case he was charged with conspiracy since he admitted he did not swallow any of the pellets and also assisted the police in their investigations. While not ascribing blame to any department, Lucky said something had to be done to fix the 'blockage' in the criminal justice system."

It is my belief that in terms of making this a hybrid situation, allowing persons to exercise a choice as to where they want their matters to be heard is alleviating some form of blockage in the system.

Justice Lucky further went on to say that a Guilty Plea court is also a suggestion with respect to dealing with cases in an attempt to fast track these issues. And that would definitely allow then for persons or agencies who would like to come to speak about statistics as they pertain to these acts that you would

not be able to come to the floor and talk about persons just only being charged. You would be able to further that and say that there have been persons who have been convicted, either because they plead guilty at the Magistrates' Court, because now they have that option, or they chose to deal with the matter at the Magistrates' Court and were found guilty. So you would have recorded convictions showing that the law itself has been tried, tested and proven to be true. It would also definitely act as a deterrent for persons who continue to breach the law. They would have the ability now to have the situation dealt with at the Magistrates' Court.

Now, in terms of considering the solution envisaged in giving an option at the Magistrates' Court, there is also a consideration of a drawback. The drawback relates then to a balance between the ability to choose and then the ability to actually make the choice. I as a quasi-criminal attorney cannot see for myself giving any advice to any client about pleading guilty in the Magistrates' Court or engaging the Magistrates' Court with respect to a situation like this, where the fine on summary conviction is $25million, [*Desk thumping*] and to imprisonment for 15 years.

If you want to encourage persons to avail themselves of the option available in the Magistrates' Court, that fine as it is right now, or is being proposed, is too harsh. It must be reduced to consider or to at least entice persons to consider that choice of being tried in the Magistrates' Court. It is too harsh as it is right now. I would also want to suggest to the Government that they look at possibly having certain individuals, professionals in that field to treat with cases of this nature if they engage the Magistrates' Court. Because I daresay that there may be a level of very minute deficiency in that area with respect to judicial officers being able to hear these matters in the Magistrates' Court. I move on.

The next point brings me on to the Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01. That Act deals with some changes to the Financial Intelligence Unit. Now, I may have missed it in terms of listening to the contributions because I was not here on the last occasion, but I know that there may be, at least for the benefit of the viewing public, persons may not truly understand what the Financial Intelligence Unit is. And I juxtapose its operations to that of the Police Complaints Authority. The Financial Intelligence Unit is a unit engaged to take reports from financial institutions such as banks and others and then investigate those reports. If there is any level of criminality they would then forward those reports to the agencies that can take action, such as the Financial Intelligence Bureau, the Anti-Corruption Bureau, the Fraud Squad, all arms of the Trinidad and Tobago Police Service, and then they would then pass those investigations on to the DPP's Office for charges to be laid, if necessary.

> Now, in terms of the FIU and its relationship with the FIB, this is a clear example of where you have the agencies operating and existing and now you are providing greater level of enforcement, teeth for them. But there is a missing limb of that technical capability to do the will that Parliament has envisaged in this Senate, to carry out the will of Parliament and effect the legislation to bring about convictions. And I say that, because, if Madam President would allow me, in the Trinidad and Tobago *Newsday* again, February 26th of this instant month, it is entitled:"27 charged for money laundering"

This is a release from the Financial Intelligence Bureau:

> "Since its establishment in 2011, the Financial Intelligence Branch…has charged 27 people for money laundering to the value of $14 million, over US$40,000 and more than a thousand Canadian dollars."

In seven years 27 charges only, no convictions; seven years.

> "The FIB plays a pivotal role in the investigation, detection, and prosecution of money laundering and terrorist financing, as well as the restraining and subsequent forfeiture of assets, cash seizures, and investigations relating to the Proceeds of Crime Act, 2015,"—this is what was said by—"Inspector Avinash Singh of the FIB"—not you, hon. Senator.

But, throughout the entire excerpt here, throughout the entire article he breaks down the charges, the amount of money, the different investigations, but nowhere in the body of this article does he speak to convictions. He goes on to say:

> "He added that there are 45 investigations being conducted by the FIB and several of these cases surround allegations of terrorist financing and money laundering."

But not one hint or talk or mention of a conviction in seven years. That speaks to capability or a lack thereof and there is a reason for that.

If Madam President would allow me, this is an article from Trinidad and Tobago *Express*, on 19th of February, 2014. And I bring up this article because what is contained here is unfortunately reasonable for us to understand where we are currently, right now, as one considers the FIB and its interactions with the FIU and trying to bring about convictions based upon this legislation.

> "The investigation of white collar crime in Trinidad and Tobago is non-existent"—this coming from an—"attorney and anti-money laundering expert David West…"—in this matter.

He says that, at that point in time:

> "We are still deficient from the third round evaluation by the Financial Action Task Force"—which is the—"(FATF) and going into the fourth round of evaluation with no legislation (for new requirements like Weapons

of Mass Destruction and tax evasion); come 2014 after we are evaluated we will see exactly where we stand, which I can say from now does not look like a pretty picture…"—the picture worsens.

"When suspicious transactions are reported to the FIU, they in turn hand it over to four investigative bodies: the Financial Intelligence Bureau…of the Trinidad and Tobago Police Service…; the Board of Inland Revenue; Customs; or Immigration. After their investigations, they in turn hand over those files to the Director of Public Prosecutions."

He goes on to say:

"But the investigative capacity of the FIB is diminished by lack of expertise and training.

The FIB was set up ad hoc because we had to comply with FATF guidelines and they staffed the department with people they seconded and have a few years left on their contracts. They aren't interested in money laundering. Then they send these people away for training two weeks in Jamaica and then expect them to be qualified to investigate money laundering? That cannot work."[*Desk thumping*] "And the US and British do training sessions, but under their laws, not ours, so (it is difficult to reconcile the differences). They are at a loss with no proper guidance."

This is the agency tasked to investigate documentation forwarded to it from the FIU.

So if this particular agency, this bulldog is not equipped to treat with this high level and technical investigation, that is the exact same reason why after seven years we only have 27 charges and no convictions. [*Desk thumping*] And to come to the Senate with legislation to deal with sanctions and to deal with providing this teeth to these agencies and not dealing with infrastructural

capabilities, technical capabilities, stacking these agencies with skilled persons who have gone upon training within our own jurisdiction to deal with our own laws, you are not going to have an issue where here after we pass this Bill, if it is passed, that you are going to have convictions being recorded magically, because you are dealing with the same khaki pants, the same persons without the level of capability and skill required to properly effect the legislation. That has to change. And I have not heard anything from the other side talking about what infrastructural overhauls, if any at all, happening at these agencies. [*Desk thumping*]

I wanted to also—so more needs to be done; more needs to be done with these agencies.

I was a bit confused as it pertains to section 18G of this very said Act, wherein there is a section that sets out to deal with respect to the issuance of a warrant and whatnot. In the current legislation it deals with a person of the rank—of above a sergeant rank which is an inspector, and that person being able to execute a warrant and whatnot. I am a bit confused as it pertains to the wording here, whether or not that situation has how been changed and it allows just for a police constable to execute the warrant. If that is the case I would want to say then that some inspection needs to done as it pertains to how the warrant is obtained. I am not comfortable being a criminal practitioner knowing how warrants are obtained. Police officers usually, they have the ability to go to a magistrate or to a Justice of the Peace. In most, if not all instances, they go to the JP because they are on first name basis with the JP. I am not comfortable. I think the law needs to be changed or there should be some section to deal with how the warrants are procured and the warrant should definitely come from a judicial officer, either a magistrate or a judge. That would definitely make me feel much more

comfortable. [*Desk thumping*]

Moving on. So I now go to the Customs Act, Chap. 78:01. And I will start off with section 23 of the Customs Act section 23 of the Customs Act deals with the value of goods imported. Section 23(2A) states that:

> "The Comptroller may, within one year from the date of entry of imported goods, adjust the value accepted by an Officer at the date of entry where he discovers that the value accepted by the Officer was incorrect—based on new information concerning the goods; or for any other reason."

Clause 5 of the Bill proposes to amend this section so that it empowers the Comptroller of Customs to adjust the value of goods accepted by an officer, within six years from the date of entry of the goods via notice in writing to the importer. From one year to six years.

Why are we going back? Why are we regressing? Why are we allowing custom officers the ability, no offence to customs officers, to now have that luxury to operate in a laissez-faire manner in terms of treating with back taxes? Why are we allowing a guillotine to be constantly hung over the necks of the business community, wherein they submit invoices, they pay their taxes and now they have to wait for six years to see whether or not this comptroller or this customs officer is going to approach them concerning back taxes and interest to be paid on the taxes?

As a responsible Parliament and a responsible government we should not be moving regressively but actually progressively. I know for a fact when persons come into this country and you come into the airport and the customs officer tells you, "Well, open up that suitcase, let me see what is inside" and you take out two iPhones, iPhone 10 or 12 or wherever they reach right now, and he enquires of you, "What is the price of that? How much you paid for that?" You tell him a boldfaced lie, "I paid US $400 for it." The customs officer at the desk there is

going to tell you, no problem, hold on. He is going to go into the backroom, he is going to google the iPhone 10 or 12 that you produced to him, with the same specifications, know that you are being untruthful in terms of your declaration, come back out, face you with the untruth and tell you, "You need to pay the correct duties on that." If he can do that in five minutes, why are we now saying that we are going to give these persons six years to do the very same thing? It happens on a bigger level at the port, I agree, but six years is too long. [*Desk thumping*] And I would have spoken to members of the custom brokerage community, I have spoken to importers and they tell me this thing is going to encourage bribery. It is going to encourage racketeering. [*Desk thumping*]

You are going to have a situation where you submit your documents, you pay your duties and your taxes and you are home relaxing. You do not have these documentation stacked up, prepared and waiting and five and a half years later these custom officers are going to come back and tell you, "You owe this to the Government." That cannot be right. We do not know what could even possibly happen to the documentation. There is a possibility that fire could have ravaged the person's home. Flood could have destroyed the documentation. What position does that place them in? More needs to be done. More needs to be done. I would have liked to see, instead of a change from one year, we increase the infrastructure at the customs authority, give them the requisite skills that they require to move them from having this position of six years or even one year to six months and that is a step in the right direction. Not giving them this time of six years and the reason being advanced is because we want to get everybody on the same playing field as persons from BIR and what not. That is insufficient. It is insufficient.

Clause 5 of the Bill is set to further amend section 23 by the addition of a new subsection after subsection (2A). The new subsection (2B) will give the

Comptroller of Customs the power to refuse entry or delivery of subsequent shipments of an importer, where an adjustment is made to the value of his goods and he has not paid the adjustment and fails to commence proceedings before the Appeal Board within six months from the date of notification.

I opine that there are three things wrong with that position. The first and foremost is that particular position, in my opinion, is against the principles of natural justice. It cannot be that I am the Comptroller of Accounts and levying a charge against you as it pertains to fraudulent tendering of documents or an improper amount being tendered and I come at you now to require further back taxes from you. The Comptroller of Customs had six years to get this done. You have to do it within six months if you want to lodge an appeal. You simply cannot get it done. It cannot be that the judge also, now dealing with the jury aspect of things, is not giving you the opportunity to have your situation ventilated. Before the issues are being ventilated he puts a sanction on you wherein you cannot move forward. Your goods are left outside of the port. You cannot import these goods before the situation had been properly ventilated. That goes against the principles of natural justice. Both sides must be able to be heard and a decision arrived at. Not one side is being advanced, the other side is trying to get its house in order and a decision has already been made in terms of your guilt. That has to change.

Secondly, it removes the ability of working capital for the individual to fight the appeal. If your business is largely related to goods being imported into the country for you to restock your business and have your sales going, you need money in any event to deal with the appeal, to treat with this new sanctions that have been levied against you. If you cannot import your goods, you cannot pay the lawyer or you cannot pay whoever else to treat with your appeal. So you have been cut off. You are now being placed under duress because you have no income

coming in to treat with this sanction that has been placed against you.

2.30 p.m.

Further, it renders the enforcement procedure by the very said Customs Authority otiose. If I have levelled a sanction against you to pay $500,000 or $600,000 in back taxes, and in order for you to pay those back taxes you have to have your goods coming in to have them stock your business places and have sales going and those goods have been stopped from coming in, how are you now, even if you would like to, pay these back taxes, going to pay them? Because you no longer have your working capital. It is counterproductive. The same level of enforcement that they are trying to implement against you that you would like to work with them on, you cannot treat with because you do not have the working capital. The Government needs to look at that holistically and try to deliver a better option in terms of implementing this sanction.

At section 45(1), it goes on to say—of the Customs Act—lists the goods which are being prohibited from being imported:

> "Arms and ammunition, except with the written permission of the Commissioner of Police;"

—are prohibited under section 45(1)(c).

This subsection will now be deleted by clause 5 of the Bill and substituted with a more detailed provision to include:

> "…firearms, ammunition, bullet-proof vests and firearm accessories including—
>
> (i) lasers;
>
> (ii) lights;
>
> (iii) holsters;
>
> (iv) scopes; and

(v) tools for the purposes of maintaining a firearm…"

So this particular clause intends to make it illegal for a person to import lasers, lights, holsters, scopes and tools for the purposes of maintaining a firearm unless one has an FUL or one gets permission from the Commissioner of Police. One would naturally think then, if it is illegal to import these items, it would also then naturally be illegal to have them in your possession unless you are the holder of an FUL or unless you have received permission from the Commissioner of Police.

Currently, under the Firearms Act, the definition of a firearm:

> '"firearm' means any lethal barrelled weapon from which ammunition can be discharged or any prohibited weapon, and includes any component part of any such weapon and any accessory to any such weapon designed or adapted to diminish the noise or flash caused by firing the weapon, but does not include any air rifle, air gun, or air pistol, of a type prescribed by Order made by the President and of a calibre so prescribed;"

Nowhere within that definition of a firearm do we see lasers, lights, holsters, scopes. And further down in section 6(1) it is illegal for a person to have in their possession a firearm if you do not have an FUL or an FUEC.

So if we are making it illegal for lasers, lights, holsters, scopes and tools to be imported without the requisite permission, and it should also be illegal for a person to hold these things in their possession without having the requisite permission or the FUL, then the Firearms Act, as it pertains to the definition of a firearm, should be amended to include lasers, lights, holsters, scopes and tools. [*Desk thumping*] Because as it is right now, it is not in the Act. It is not in the Act and you would not want to be in an embarrassing position where you are saying, "Ay, you cannot import these things because a law has now been passed saying that you cannot, but persons are in possession because the law does not say that

you cannot be in possession of it." It does not form part of a firearm. The Act needs to be amended as well, too.

Lastly, as it pertains to the Exchange Control Act, Chap. 79:50—as a matter of fact, the Exchange Control Import and Export Order, 1993, as well. I listened to Sen. Mahabir as it pertained to how he viewed the disparity in the amounts with respect to the instruments that persons would have been allowed to carry and getting the requisite permission, and I largely agree, in principle, in terms that the US allows, then, for persons to have and not declare up to US $10,000.

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

Sen. S. Sobers: Thank you, Madam President. And in principle I believe, then, that the figures should be amended to reflect that position and not be kept as it is right now in its current form, or what is being proposed by virtue of the amendments.

In closing, I think that there are a lot of gaps in terms of this Bill that has come to the floor. Fresh eyes by other Senators may also illuminate these other gaps and I do encourage persons to look at this thing with an open mind and consider that it should have been sent, and can still be sent, to a joint select committee [*Desk thumping*] for these issues to be properly fleshed out and ventilated so we do not find ourselves in an embarrassing position, having passed this piece of legislation in this House. I thank you, hon. Senators.

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

Sen. Melissa Ramkissoon: Thank you, Madam President. Before starting, I have to commend the Attorney General on the piloting of this Bill and the manner in which it was done. It was truly an excellent piloting in which he gave us not only the clause by clause but a reasoning behind why we were seeking to amend these pieces of sections for the different Acts at this time, and I thought that was very

commendable because it is not a small Bill. It is a large Bill because we are looking at five different Acts at this present time in one omnibus Bill. And it is very helpful for any Senator sitting here to know what is the reasoning or what is the rationale, or what is the purpose, or why we, as a country, need to go in this direction.

Madam President, also at the last sitting when we started this debate on this omnibus Bill, the Minister of Trade and Industry, during her contribution, highlighted our country's reputation and how it is important for our revenue streams, sustainability, our economy and also our diversification. And I was very proud to learn that Trinidad and Tobago has improved in its ranking in the Corruption Perception Index, moving from 101 in 2016 to 77 in 2017. [*Desk thumping*] So, commendable, to the present administration for getting us there. I do think it is something we should all be proud of. We always speak about it during our budget deliberations that this is where we want—we want to see ourselves improving and we have improved, and I had to acknowledge it before I dive into this Bill before us.

So, Madam President, I have highlighted that we are looking at five pieces of legislation and we have outlined them, and I am going to attempt to do my best in bringing across the points within the time that is given. I do believe it is an ambitious task because there so many different aspects that can be looked at when we are looking at five different Acts in one sitting, or one debate.

So, Madam President, there is a little tickle I have when we look at Bills, when we are not looking at the entirety but we are looking at clauses, and sometimes we, as a Parliament, tend to miss things because, obviously, because of time constraints we do not look at every single clause and we just try to see what is going to best affect us now, so we amend as such, which is good, but sometimes

we miss something that is very, very important that also impacts directly to the amendments being made presently.

So for example, if we are amending the Proceeds of Crime Act, we will have 2018 on the front page and we would expect that in 2018 it was looked at. And when I was looking at the Proceeds of Crime Act I saw that in section 56B we spoke about a joint committee of Parliament to handle the proceeds of crime, which we do not presently have. So, again, we will be missing this in 2018, or maybe not addressing it in 2018 even though it is before us presently. So that is my only issue when we look at select sections and not the proceeds of crime as a whole.

So, Madam President, the speaker before me, Sen. Sobers, did touch a lot on the proceeds of crime and in terms of the money laundering, but I would like to give my points from a different angle. Firstly, we learnt during the piloting that we are implementing these fines—or not additional fines because existing fine is $20 million and the additional would be, for indictable offences we are doubling it to $50 million. And that is to put a hold or kind of sober Trinidad and Tobago into being reluctant to turn to a life of crime, or turn to money laundering as a sort of criminal offence. And I thought it was very interesting to see that we went to section 53(1) which states:

"A person guilty of offence under sections 43, 44, 45 and 46…" But I did not hear any other Senator go to that section which is section 43, 44, 45 and 46, which is what we are amending. And if you look at it, in 42, which is Part II under "Money Laundering", it says:

> "An offence committed under sections 43 to 46 shall be known as a money laundering offence and the term 'money laundering' shall be construed accordingly.

(2) The offence of money laundering is an indictable offence."

But we are now, two pages after, in section 53:

"A person guilty of an offence under sections 43, 44, 45 and 46 is liable on summary conviction to a fine of twenty-five million dollars and to imprisonment for fifteen years; and

on conviction on indictment to a fine of fifty million dollars and to imprisonment of thirty years."

So I said a lot of words there. What I am trying to say is, two pages before, in sections 42, 43, 44, 45, we are saying it is an indictable offence, but yet in another clause we are giving you a fine for summary conviction and indictment. Why? We did you not amend it before? But yet we are giving you fines for it. So I did not find it was very consistent.

And then we are going to talk about—Sen. Sobers brought up the point of, in the present or existing legislation, there is the fine of $25 million which he found was high, and I have to say I agree with him because when I initially read it—$25 million—I did not believe this was for new offenders. And I can prove why I am making that statement, because we do not make assumptions or feeling thoughts here. We try to look at our country's history and we try to see what guided this figure, what guided this fine, and why we want this as our present legislation or part of how we are going to change the paradigm of money laundering offences in Trinidad and Tobago.

So let me explain my hypothesis. In a *Guardian* article, Wednesday, June 28, 2017, an "Accountant on money laundering charges". There was an accountant, Mr. Cox—was granted $600,000 bail for fraud charges and money laundering. He was charged 18 of the 21 charges he got for bail. But what was his offence? He made false cheques of $30,000 and in total, a sum of $90,000. So he

had a money laundering charge, alleged, that he disposed of various sums of money totalling TT $30,600. And then I am thinking, we want to charge Mr.Cox $25 million for this money laundering offence of $30,600. I am not exactly sure what message we are trying to send. And maybe, is this why we have no charged persons? Because we have 27 charged but we have not convicted. Is this why no one is convicted because these fines are very unfair and very high? And we know that somebody who has a money laundering offence of $30,000 cannot pay a fine of $25 million and he is just going to go to prison for 15 years? Is this why we have not convicted any of these persons? And this, for me, was not addressing any of our issues that we are trying to change, by changing or amending these present Bills before us.

Sen. Dhan, in his contribution, highlighted an issue with the Summary Offences Act, section 42, where all cases punishable under this Act, which is summary offences, may be prosecuted at any time within 12 months after the commission of the offence. Now, in the same article I just quoted from on June 28, 2017, they said:

> "Cox was ordered to report to the Fraud Squad once a week and has to return to the San Fernando court on July 25."

So he has already stretched the case by one month. Now, we are reading in our present law that if your case is—you are only punishable under these fines if you are convicted within 12 months. And Sen. Dhan has raised the point before about how these cases, or these time lapse now can affect us or affect this implementation of enforcement of these present clauses before us. And this, I find I have a little bit of an issue with because we are coming here to try to put a handle or put a hold on what is happening outside and we want to make sure what we write, or what we amend can work in our present society, in our present institutions

and our present culture.

Madam President, there is another article, June07, 2017 and this is an *Express* article:

"17 charged with money laundering in six years. …cops provide data".

And it went on to say that:

> "The Financial Investigations Branch…which was established six years ago by the Commissioner of Police has so far charged 17 people, with a total of 52 money laundering offences."

So the amount of people does not impact on the number of charges—so 17 persons. Now in 2018, we learnt that there are 27 persons with 355 money laundering charges. So there was a spike that was alluded to earlier. From 2017 to 2018 we have had a spike of money laundering charges and I would share my belief into why there is a spike. But the article went on to say that:

"The money value of these charges"—was approximately $14,382,000.

Again, these figures do not allude to the fine, but there was an important part of the article that I thought was very helpful. They said:

> "There were several other matters, for which applications for forfeiture are before the court in respect of those matters, said the police."

And the article said:

> "The"—Financial Investigations Branch's—"strength has been increased by 55 per cent - from 29 to 45 officers."

And this was in 2017. So my hypothesis is that they have increased their number of officers in the FIB, so obviously we will have more persons looking into these types of crimes and now we would obviously expect more people, more value for money, more work done, so you will expect your figure to climb from 17 charged to 27.

So it may not be that more persons are involved in these types of crimes from 2017, but more have been caught because of the beefing-up of the FIB. So that was my interjection into the thoughts that it may be that more people are going towards these types of crimes. I do not believe that. I think we just have more persons in these institutions who can dedicate their time and effort into charging or convicting persons.

Madam President, I did visit the FIU website and it had the list of all the persons who have ever been charged with money laundering charges, and the figure were not very, very high. As in, for example, the highest I saw in a table was $2 million or approximately $2.6 million, and that was from our very popular prisoner, Vicky Boodram. And there were so many others, and there were even ones that had a charge of—

Madam President: Sen. Ramkissoon, you are giving a lot of information about the offence, the crime of money laundering. The Bill that is before us deals with a specific aspect of the Proceeds of Crime Act. So I need you to—yes—tie the data that you are presenting to the specific clause in the Bill. Okay?

Sen. M. Ramkissoon: Thank you, Madam President. So I am trying to tie it into section 53(1)(a) and (b) which speaks about the fines, and I am trying to put a sort of rationale, or trying to give some kind of explanation why I think these fines are very exorbitant and it may be very difficult to say any justice system can charge these offenders with such a fine. That is what I was trying to bring across with the—not as Sen. Ramkissoon's opinion only, but to show why I formed this opinion from the figures or the data before me. So for example I was trying to share, one of the persons who was charged, they had been charged with a money laundering offence of $61,000. Now, these persons have been charged, but they have not been convicted and I do not know if this is the reasoning behind not being

convicted because of the fine versus what they have done.

So my second point that I want to—before I move on to the next piece of the Bill before us—is the fact of the imprisonment, or the time of the imprisonment which is 15 years. And the hon. Attorney General, in his piloting, did speak a lot of the FATF recommendations, which is the Financial Action Task Force, and there have been the 40 and the nine recommendations, and it was revised in February 2012. And one of the recommendations that they gave was:

> "Where countries apply a threshold approach, predicate offences should at a minimum comprise all offences that fall within the category of serious offences under their national law or should include offences which are punishable by a maximum penalty of more than one year's imprisonment…"

So there is a recommendation that countries should criminalize money laundering for a maximum of more than one year, so not less than one year. And it said, for persons who had a minimum threshold for offences in their legal system, they should be punished by a minimum of more than six months.

So I find for one year or two years, but 15 years, Madam President, again, I find is a little bit harsh. It is in our existing legislation and now we are trying to double it. So existing $25 million and imprisonment to 15 years, and now if you do go to court, you can have a fine of $50 million and imprisonment of 30 years. I really do find these, based on what we have seen in our history or who have been convicted—these fines do not deter, or do not prevent, such petty or small crime offenders.

The next piece of legislation that I want to speak about is the Financial Intelligence Unit of Trinidad and Tobago Act, 72:01, and I want to commend the Director of the FIU who has been consistently providing annual reports. I have not seen any other unit that has such a dedication and that is very commendable. What

I wanted to highlight was the amendment section 27(4) which states:

> "A person who contravenes regulations made under this section commits an offence and shall be liable—
>
> (a) on summary conviction to a fine of five hundred thousand dollars and to a further fine of twenty-five thousand dollars for each day that the offence continues;"

And it went on to say:

> (b) on conviction on indictment to a fine of one million dollars and to a further fine of fifty thousand dollars for each day that the offence continues."

And I felt that this was, in fact, captured in section 21(1). So I am not certain as to if this is a repetition. But the only change in word is the regulations. So the only change from 21(1) and 27(4) was the term, "contravene regulations". And I did not know why we wanted to put in this clause because if you look at the regulations, it is there under section—and I would not read it out, but I will just tell you what section it is. It is under regulation 36. So it is there.

So my question to the Attorney General is probably: Is this a repetition? Why the need to put in this, clearly when it is captured in the Act—existing law? Right? And my other comment in relation to this is when I did look at the regulations, if we wanted to pull out critical penalties in the regulations into the existing law, then why not pull out the regulation 11(3), which had a much more critical penalty that was not captured in the existing law, and that was basically for persons who took information from the director wrongfully or without permission, they will be fined and charged. And that was not captured in the existing law. So I felt that if we wanted to include something from the regulations, that one should have—and that is 11(3) from the regulations.

My next point is on section 18G (2B). And this is on the warrant under subsection (2), and many Senators have spoken about it, but I just wanted to bring one extra point into it, and that is: Subsection (2B):

> "A warrant under subsection (2) may include the requirement to provide a police officer with any information or any explanation on any information in accordance with subsection (1)(b)."

Great. But then in that same breath, section 18G, subsection (2E) states:

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

So we are trying to put in (2E) to bring a proportionality to the Bill or to the clause of the warrant, but then I am thinking, for me, we are giving the power to the police but then we are taking it away in the same breath.

I went to this forum on dispute resolution and I met a lot of police officers who were attending this course, and their concern during—or issues raised during the training was, they do not have a lot of rights, or they do not have a lot of privileges when questioning persons who are under their arrest. And I felt that, okay, there is a warrant. We are trying to give the police some power here to get more information than normal, or maybe that is in the existing remit or powers of the police officer, but yet in the same, same clause, we are telling them, "Okay, you can only do this much. After that you cannot get any more information because this may incriminate the client before you or the person who is being charged."

So that was just my two cents to that particular clause that has been discussed during the debate. My other piece of legislation I would like to deal with is the Customs Act and that is 78:01. And the comment made was that there is to provide criminalization of failure to provide information. And I was a bit

uncertain on how we, as a Parliament, or even the administration before us, how they are going to do this, or how they are going to criminalize persons who are not providing information, because in my line of work I deal with procurement of materials.

3.00 p.m.

I was very surprised when reading the Customs Act that there is a whole schedule on what type of iron to import, zinc to import, all the different alloys. I was very impressed, honestly; I never knew these things existed. But in the industry, Madam President, it is very difficult to get good material because we are a developing country, so we get a lot of substandard material in our nation and especially in our oil and gas sector. So how come we have a customs schedule that deals with this, but yet we are still receiving poor or substandard materials such as pipes, valves, pumps, when this is addressed in the schedule of rates? So my question is: How are they checking it; what are we asking the customs officer to do?

In the industry, Madam President, we have to get special equipment to test new material. We have to use a positive material identification, extra machine to try to tell you what type of silver, or gold, or alloy it is. Here we are asking our customs officer to tell us that it has met these standards, how do we intend to get this result from them? I could not see that because we are not providing them with materials to test our pipes, or our valves, or any of our equipment, so how is it that they are going to tell us that it has met this?

Now, we are going to provide them with a mill test certificate which is the data. So we are asking the clients now to provide the customs officer with the information. So, I would provide you with a mill test certificate to tell you the type of material, the chemical properties and how much I paid for this, but you cannot

tell me what I provided you is false or true. You have to just be like, okay this was provided, this matches your mill test certificate if they know what the serial number is, if it is going to match.

Madam President: Sen. Ramkissoon, I am sorry, what specifically in the Bill are you dealing with? Could you just—I am just trying to get you to—yes.

Sen. M. Ramkissoon: Okay, Madam President, I apologize. So I am trying to look at section 23(A) and section 228(4). So we want to retain paper—okay, let us start with that. We want for members of the public, or anyone who is dealing with the Customs Division, to provide paperwork. Correct. That is a normal. What we are asking them to do, is now we are changing it from retaining it to one year to six years. Okay, great. But what I am trying to say is the paperwork that is presented, there is very little that they can do to say okay this matches what has come into the country, and we are now holding them accountable for something they cannot be accountable for in some aspects.

Now, when we think of laptops, and computers, and phones, yes, but this schedule does not only deal with it. The Customs Act deals with so many different articles of materials, machinery, electrical, so many different things. Remember everyone passes through Customs. So we might be looking at one group, but we are impacting on all the other areas. So that is why I was trying to make the examples. So maybe I should have said that before I brought into the example of my experience in procurement and how it is not a simple test to know what is before you, or what has been brought in. It is difficult to ask or hold persons accountable for something they cannot be held accountable for, and that will bring into my point which was raised.

We are in 2018. Now these prices we are giving them 2024, that is six years after—did I do the maths correct?—that these persons can still be charged taxes if

an error was made. So you had an invoice and there was an error in it, six years later someone picks it up and says company X has underpaid because the invoice was doctored and this is not the actual price they have paid for it, who now pays that? These goods have been sold, these goods have passed on, what are we trying? I have no problem with keeping the documentation for six years, but why are we now asking them to pay taxes, or fines, or additional fees six years after? That I think is very unfair. Actually it is very unfair because four years later, or five years later, having to pay something that has been passed on is very difficult to do. And, Madam President, we are not taking into consideration human error.

So if, for example, a customs officer does make an innocent error and has undercharged you, should the company, or the owner now tell you, you have to pay more fines because of a human error? And that is the other side or the other spin to it. So yes, we can repeal it, but what does that mean? Six months to repeal, yes, but really there is so much that could have been lost, there is so much to prove in that factor. So keep your documentation yes, but charging you six years after, I think there should be a limit of probably two years maximum because six years is such a long time, Madam President. The goods would have passed, we would not want to keep equipment that long in any field.

The other point that I had highlighted was section 228(4) where an importer, or exporter, or a person having an interest in the importation or exportation of goods fails to provide the information or documents required under subsection (1) or to subscribe to a declaration as required under subsection (3), he commits an offence and is liable to a summary to a fine of the $150,000. So that is the amendment. In the present existing legislation there is for the goods that the person will not receive the goods, but we have taken out that and I would like to know why. So if the person does not have their paperwork they just have to pay a

fine of $150,000. I believe they have to pay a fine, but they will get their goods. So, Madam President, are we now encouraging persons because they do not want to pay a large sum that they are just going to willingly lose their paperwork, pay their fine and receive their goods? So I am trying to find the actual point because the existing legislation says—section 4—"refuse entry or delivery of such goods". So the existing legislation takes that into consideration. They said the refusal. We are repealing this part and we are changing to just a fine, and I find that that is a loop and it can encourage wrongdoings. So we should really keep that in the amendments and we can also add the fine which is not a problem, but we should definitely not allow them to keep their goods or have their delivery of their goods.

The last point is the Exchange Control Act which deals with clause 6(2)(6) and this is the exemption from the provisions of section 22(1)(c) of the Act, and that is the importation into Trinidad and Tobago of bearer negotiable instruments brought in on the person or in the baggage of the traveller to the extent of US $5,000 currency in value. I know a lot has been said in the other place about the bearable goods and the currency of the US $5,000, and I did appreciate the Attorney General's comment that this can be easily amended by way of a financial Bill which we really do not have a vote on, but we do have a voice. I did find it settling to learn that this can be amended at a later time to increase it to the US $10,000 if so be it, because the US has it, Australia, all these different countries have the consistency of the US $10,000 as the need to declare, and we would not want the "declare line" being extra long because everyone has US $6,000 coming into our country.

Madam President, I have really tried my best to not make this as confusing as it sounds because it is the time constraint we are trying to work with in the Senate and I have touched on four of the five Bills before us. It is very difficult to

vote on an omnibus Bill when you do not agree with all the amendments. It really does put someone in a very difficult position, because yes, you support the mutual assistance in criminal matters, you support some of the amendments to the proceeds of crime, but you not support all of it and it—[*Interruption*]

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

Sen. M. Ramkissoon: Appreciated, Madam President, and also I appreciate all your guidance in this particular debate because it was one very difficult for me, because I tried to go through all my points and all my ideas in such a precise manner and tying it in with the legislation before us, or the amendments before us, sorry.

So, Madam President, I do not support the money laundering fines and also the addition of the summary conviction, because clearly in item 42 it says it is an indictable offence. Also, I do think that the customs fines that can be retroactive six years prior is unfair to any company or business person who is not myself because I do not own a business. I am an employee. I also do not believe that having all these in one Bill was a best approach for us to evaluate it as Senators, and I always appreciate the Attorney General and his team for being very ambitious and putting their best foot into trying to change the paradigms around us in terms of the criminal aspects and the offences that we see. We do hope more can be convicted and not just charged. So maybe we could look at lowering the fines so it could be something that we can really operationalize, and really have persons held accountable and then really deter them from going this way.

So, Madam President, I did say a lot. I do thank you for your ears and all who have been listening. I thank you. [*Desk thumping*]

Madam President: Minister of Agriculture, Land and Fisheries. [*Desk thumping*]

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Thank you very much, Madam President, for the opportunity to contribute to the debate on this Bill, which is an Act to amend a series of legislation set out in the Bill. Let me start off by saying that just before taking up this role I was employed with one of the largest financial institutions in the world, and when I listened to Sen. Ramkissoon and the sovereignty on the $25 million fine, and when I listened to Sen. Sobers on the issue of sovereignty, I feel it is very important that I establish from the outset.

On the issue of sovereignty, Madam President, with all due respect, in the world of international finance, little attention is being paid to territorial sovereignty and citizenship. It is all about the money, and it is all about the currency in which you do business and the method in which you do business, and there is very little room for sovereignty and my employer found that out the hard way. Despite its size and its spread around the world, on account of business it did in Mexico it faced a $5 billion fine in the United States and incurred a cost of several billions of dollars to satisfy the Department of Justice in the United States that it could clean up its act and continue to hold its licence in the United States. The consequences, Madam President, of the loss of a licence to operate in the United States would have been fatal to the bank and would have caused tremendous loss not only of jobs, but tremendous loss to the community in which the bank operates.

So the issue of money laundering, Madam President, and the issue of the passage of the proceeds of criminal activity through the financial system is not a simple matter, and it defies sovereignty and it defies citizenship. Notwithstanding, Madam President, notwithstanding that, I want to make the point that not every agreement to cooperate with an ally means that you have condescended, you have conceded, or you have eroded your sovereignty. In the comity of nations the need

to make such concessions and to facilitate the movement of information has to be balanced, of course, by the fundamental rights of the citizens of each nation, but the need to share information is something that is fundamental to operating in the global environment.

Madam President, parallel to that life I had, a lot of people felt that I was employed as a journalist. A lot of people have forgotten that I am a lawyer by profession, but parallel to that I was also a columnist with the *Express* and I wrote a few times on this issue of the Financial Intelligence Unit. In 2014, the report of the FIU highlighted $1.2 billion in suspicious transactions and for a country of this size I found that to be an incredible number, and by my calculations that meant that on average—the $1.2 billion I believe dealt with about 30-something transactions and I asked the question in my column: Who in this country has $30 million sitting around that they cannot account for?

Madam President, the Lotto tomorrow night is 20 million—I do not know if you will play, but if anyone of us had $20 million, Sen. Ramdeen, I would think that we could account for it, but here it is the report was saying $1.2 billion could not really be explained. In the world of banking there is something called an SAR, or an STR—Suspicious Transaction Report or a Suspicious Activity Report—and who is the person who can approach a counter in a bank, a financial institution, with 20/$30 million and not be able to account for it?— and I found that to be amazing. But a few months ago when the FIU report for 2017 was published, well I was even more astonished—and I think that Sen. Ramkissoon and Sen. Sobers, and all of us should take note— on average—because in this case the FIU was reporting $22 billion in suspicious transaction. Where in this country's economy, Madam President, we could have $22 billion?

Madam President, I will tell you this. My eyesight is not as good as it used

to be and I had to pull out my magnifying glass to count the zeros because I was looking for a full stop. I could not believe I was seeing two, two, zero, zero, zero—22,045,740,881. What that means and that relates, it is split in two, 13 million—we have two categories as I said. We have transactions which were completed and transactions which were attempted. So let us deal with completed and completed related to the insurance companies, and in the insurance companies about $7 billion in suspicious transactions were completed and reported—seven billion; and in the banking system, $13 billion in transactions were attempted, and those were only 54 transactions. They were not 200,000 transactions each valued on average $50,000. So it means while I was wondering and writing in 2014 about $1.2 billion, 37 transactions, the FIU is saying to us that in the banking system, on average there were 54 transactions, with an average value of $256 million that people attempted to move through the financial system.

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

Mr. Vice-President, that is more than the budgetary allocation for some Ministries for the fiscal year. That is not a simple matter. What the FIU report is saying to us, it is saying to us that certain things are happening particularly as it relates to criminal behaviour, criminal intent, and dealing with the proceeds of crime. I wrote a column once which I called the "Keel of Crime", and if you know from your yachting or boating business, the keel is the steel framework upon which the vessel is constructed, and I was making the point criminals are not committing crime for fun. Criminals are committing crimes for money, and if you deal with the movement of the money, as the AG likes to say, "follow the money", then you can deal with the crime. And what this Bill proposes in many respects is to strengthen our ability to deal with the money, and here is where we separate the sheep from the goat.

If you win the Lotto and you can go— I would go to the credit union. You could approach the counter, but if you are a goat looking to move $256 million, the banking system is telling you we have no room for you, and by strengthening FIU, Customs, and all the pieces of legislation that we need to fix, we are fixing our ability to deal with money, Mr. Vice-President. Because if you do not and you hold on to red, white and black and cry sovereignty, the foreign banking system will deal with you, because you will not be able to deal with credit card transactions and the merchants would not be able to do business because we are dealing with money and we are dealing with being part of an international financial system.

So in my view, Mr. Vice-President, there are four things I set out to say. One is that there is a rationale for this piece of legislation—it is not whimsical—and the rationale in my mind fits squarely into what we are dealing with in relation to crime. There is going to be an impact with this legislation. There is a necessity, and finally it is an important part of continuing the work that is to be done by the FIU, and let us talk about the rationale. Well, I would say that the most important reason for the legislation would be to strengthen the FIU, and in the Bill I would go to clause 17. Clause 17 is a simple provision that gives the FIU the authority to publish in the *Gazette* and in two newspapers, a list of countries identified by the FATF as non-compliant and, more importantly, not sufficiently compliant with its regulations in the jurisdiction. So that, Mr. Vice-President, is a method of strengthening the FIU in doing its work.

When you go to section 18G, when you go to the proposal to amend section 18G, again, dealing with documents and the requirement for persons to submit documents and the power to deal with the warrant, that is again an attempt to strengthen the FIU; and throughout the clause which seeks to amend section 27 of the FIU Act it is an attempt to strengthen. Alongside that, Mr. Vice-President,

alongside the efforts to strengthen, I think the AG has made it clear, and he has made it clear in the other place, again we are not operating, as I said at the opening, on our own. We are operating in the context of the FATF and CFATF, and whether you like it or not, whether you feel that it interferes with your sovereignty and all of that, the fact is that it is something that as a small nation we require the support.

The FATF as the Attorney General has set out has made certain recommendations and some of these provisions are meant to comply with the FATF's recommendations, or in some cases the FATF and the CFATF. Some of them, the intention is to comply with some of those recommendations because the country, as the Attorney General so succinctly put together for us in his piloting of the Bill, a series of recommendations that must be adhered to because the country goes through periods of review, and there is a risk and some of our neighbours have been blacklisted. There is a risk that will come if it comes at a price that Trinidad and Tobago cannot afford—we cannot afford—and alongside strengthening the institutions, strengthening the law to enable the institutions, we are also meeting some of the requirements of the FATF and the CFATF.

Mr. Vice-President, these provisions as I say, did not materialize just like that. Every provision in this Bill can be linked to the FIU's report, which as Sen. Ramkissoon says, they render every year as required, and/or link to a CFATF or FATF recommendation. So there is a process that is set in train which brings us to this Bill, and let me give you an example. In June 2016, the FATF published the Fourth Round Mutual Evaluation Report for Trinidad.

And as I said, you would see those reports appearing on a periodic basis, based on reviews conducted with the country, and in that report, in the "Executive Summary" of that report—and I would read that section—the FATF is telling the

country this and I quote:

> "The large volume of currency declarations being reported to the FIUTT by the Customs and Excise Department coupled with the increasing amount of reports the FIUTT has been receiving from the…"—money value transfer services providers—

That is like your Western Union and so on.

> "…and the monetary value of cash seized by Customs and Excise Division are indicators that significant amount of monies are being moved across the border."

3.30 p.m.

This is 2016. So they are saying to us because we recognize in the world of finance, these money value transfers services had been flagged; had been flagged as a vehicle for money laundering and the movement of cash across borders, had been flagged. And the evaluation report says that we have seen it, we have looked at the declarations; we have looked at what has been submitted to the FIU and we have looked at the cash being seized by Customs and we recognize that it is an area of risk that must be dealt with. So there we have, Mr. Vice-President, a provision being introduced in this Bill: a provision to deal with the value of instruments which you can carry on your person or in a bag as you move across borders and that is the rationale for it. It is tied to what the Customs are saying, what the FIU is saying, the experience in dealing with cash, and it finds its way from a 2016 report into a Bill that is before us so that we can plug a loophole or a hole that has been highlighted to us.

Mr. Vice-President, the report also, because you know in this country, we do not believe or we are not convinced as a country that terrorism affects us. We do not believe so but the reports have been showing, whether or not you believe that

there is terrorism in the form of bombs and guns out there, and maybe here too, whether you believe, the FIU and the other agencies have been saying to us that there is evidence in the financial system of terrorism money making its way through our country. And, Mr. Vice-President, I do not have to tell you, I do not have to tell anybody.

The fact that these casinos, for example, have sprung up, in the world of money laundering and in the world of dirty money that is a red flag bigger than the flag we had up at Macoya. It is at Macoya or down by the stadium? Well, we had one by Macoya. That is "ah" red flag bigger than that. We are telling the world "we are open for dirty business". And of course, in one of the Joint Select Committees of Parliament, there is a gambling Bill and I, above everybody, even though I am going to play the Lotto, I look forward to the day, Mr. Vice-President, when I see what is happening in my community—in Rio Claro and Biche and Mayaro—I never thought the day will come when I would stand by the roundabout in Rio Claro, little Rio Claro—coffee, cocoa, fig, dasheen, little Rio Claro—and stand in the junction by the roundabout and see three casinos in front of me. Three. I never thought I would walk into one of the watering holes and see three walls of machines with people playing all day. And, in the world of dirty money, that is your biggest red flag. That is your biggest red flag because it is based on cash and it allows for the collection, for the deposit and for the movement of dirty money wherever it has to go.

So that likewise with terrorism, the reports have been saying to us you have people, you have people who are using your country, because, Mr. Vice-President, there are many countries in which there are severe restrictions on the receipt of cash in the banking system. There are countries in which institutions must report receipts from certain places and certain people but if we have a low fence in

Trinidad, if we have a low fence with our regulation and if we have a low fence with our reporting, then it is open for business, and anybody in the business of terrorist financing will step over the fence, not necessarily to do damage here you know, Mr. Vice-President, to clean up and make Trinidad the source of their deposit that moves into another place, merely a conduit, merely a conduit for the movement of terrorism funds and that is what it is. The FIU is saying to us and the AG is saying to us "We have to strengthen, we have to clean up" and this is not the last Bill of this nature that will come to this Parliament, and the more Bills of this nature, Mr. Vice-President, that come here will tell us the more attention we are paying to the loopholes in our financial system and our ability to plug the flow of money because crime is about the business of money. There is no other reason for crime.

Mr. Vice-President, I listened to Sen. Sobers and I appreciated the fact that he treated with the issue of enforcement in a way that the failure or the deficiency really does not reside in a particular political administration. I have said on many occasions that we are in this House and we in the Parliament could produce the best legislation, the best, but it falls to people outside of here to implement and to get the business done and again, the FIU reports and the periodic reports from the FATF have pointed to challenges in moving from suspicious activities and suspicious transactions to charges and convictions.

And you have to remember, in some jurisdictions, the equivalent of the FIU, they have their own prosecutorial powers, and in our jurisdiction, the FIU does not. So the FIU provides intelligence to law enforcement; the FIU provides information for those who have the prosecutorial powers and the investigative powers and relies on those institutions to do what has to be done. So of these, all these SARs and last year in the last report, there was an increase in the reports from the banks,

there was a decrease in the reports from the casinos, and overall there was an increase. So it points to more reports reaching the FIU, more analysis to be done by the FIU, but it also points to a greater backlog ending up somewhere. Because if we are not moving to convictions in the face of the volume of reports in terms of money and numbers, if we are not moving to prosecutions, there is a bottleneck somewhere in the system, that one day the Attorney General may have to come and ask us to deal with.

So let me just go back to Sen. Mark because he is not here. [*Laughter*] When Sen. Mark—and it was reported in the newspaper, Mr. Vice-President, and I have to respond. When Sen. Mark said that the increase in the value and volume, he said $22 billion in questionable money means that corruption is flourishing under the PNM. Well, it is just like workplace accidents. People believe that the more reports of injuries in workplace you have, the more unsafe the place is. Well, it is not like that. The more reports mean that the system is working because you do not want to have a situation where your reports start to decline, you want to see that the reports are increasing. So when the FIU says that the number of reports are increasing, it is a good sign, and when you see billions of dollars in transactions being flagged, it is a good sign. That part of the system is working. It leaves you to wonder where is the money coming from? The fact that the institutions are flagging it "is ah good sign" but where is the money coming from, is a question that we have to confront. And the number as Sen. Mark referred to it, and blamed the PNM being in Government, well, if it is increasing we should remain in Government. [*Laughter and crosstalk*]

There are a few factors. One is—[*Interruption*] if the reporting system is improving and getting better under us, so leave us here. Mr. Vice-President, the increase in reports has to do with a few factors. One is, the increase in registration

by entities which are required to report. So in the period covered by the last FIU report, there were 267 more entities reporting. In fact, that represents now about 10 per cent of the number. So right now, we have about 2,502 institutions registered with the FIU to report and in the last period, that number had its highest increase in any year since the FIU has been reporting and that contributes to more reports of suspicious transactions. There has been an increase in compliance, Mr. Vice-President. In 2013, there was a 68 per cent compliance rate by reporting institutions; in 2014, it went up to 74 per cent; 2015, 84 per cent; 2016, 86 per cent and 2017, 88 per cent. So in 2016, we have seen from 2013 to 2017, an increase in the rate of compliance by registered institutions and that should result in an increase in the activity reporting.

[MADAM PRESIDENT *in the Chair*]

Madam President, credit to the FIU. The FIU has consistently maintained its presence and has conducted awareness training and all of that and in the last reporting period, the FIU conducted close to 1,200 awareness sessions for institutions around the country. All those things, Madam President, will contribute to a more buoyant system of reporting and a better environment in which we could deal with this issue of money laundering, terrorist financing and the keel of crime, which involves those individuals who are in crime for money and who need to get their money into the financial system and out of the financial system.

As I close, Madam President, I just want to—as I made the point about wanting to know where the $22 billion comes from and it is important that we know where it comes from because we want to know why it has been suspicious, but I will just point to two factors. One is that the FIU has said that approximately $10 billion in transactions relate to attempts at fraud and forgery. So it is not so much drug transactions or those types of transactions or profits and proceeds of

drugs, that it has to do with fraud and forgery. And another important element I want to flag is that the FIU is saying 307 of those transactions were transactions which were US-dollar transactions and the value of that, out of the TT $22 billion, US $3 billion and of those transactions, those 307, 12 of those transactions amounting to US $2 billion. So divide $22 billion by 12 and you would see the volume of the US denominated transactions which tried and in some cases, succeeded and some cases, did not succeed.

And that tells us, Madam President, that this issue of sovereignty, while it is important for the health of our financial system, we must consistently bring legislation like this if Trinidad and Tobago wants to continue to be a player in the international financial system because there are consequences and in relation to two areas, suspicious cash, the last report of the FIU tells us, with the biggest red flag, that you are in the game, and the reports on terrorism financing, the last report tells us that 111 transactions related to the financing of terrorism. So if you do not believe that we have the presence of people who will plant bombs, you better believe that somebody in our system is facilitating the movement of money intended for terrorist action.

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

Sen. Taharqa Obika: Thank you, Madam President, for allowing me to make my contribution to this Miscellaneous Provisions (Mutual Assistance in Criminal Matters, Proceeds of Crime, Financial Intelligence Unit of Trinidad and Tobago, Customs and the Exchange Control) Bill, 2017.

Now, I must acknowledge the sterling contributions made by the Senators who have went before me and those who have gone in the other place. Because we have significant illustrious legal minds who have contributed prior and who will contribute after me, I will focus on the concept of consultation and aspects of the

Customs Act as well the FIU, and the way in which they have decided to make the amendments and the impact that that can have on our whole legislative agenda going forward.

Now, I wish to begin with the FIU amendment. Madam President, it is disturbing, not in the least, when you look at section 18G of the FIU Act and where it says any officer with no rank specified will be able to execute the matters that are there regarding a warrant and so on. Now, I am not sure to what extent in terms of breadth and depth of training in anti-money laundering, counter financing of terrorism that each and every single police officer, with all due respect—as I said my grandfather on my mother's side was a police sergeant, rest his soul—has in Trinidad and Tobago. So it is very disturbing when they did not specify, okay, maybe a particular unit, officers of a certain rank, if you decide to go across the entire force but you basically make it that any officer and that to me is dangerous. And for this reason, I wish to start by outlining what we look at when we talk about money laundering and counter financing of terrorism. Now, the Egmont Group, all countries and regarding the FIUs, the Financial Intelligence Units, all countries are expected to have a Financial Intelligence Unit which would deal in suspicious activity reports. That is their currency or suspicious transactions reports or unusual activity reports, UARs or SARs. Now, the Egmont Group provides international cooperation amongst FIUs, however, again, I am not sure that the level of training that a compliance officer, for example, in a large financial institution will have, you will expect each and every officer who is precept to also have. I stand to be corrected but I believe that it is next to none in terms being sufficient to carry out the tenets of the law.

Now money laundering, for those who are listening, has three basic characteristics. You have placement; after placement, you have layering, and then

you have integration. Now, I am not going to make this a class on money laundering, all right, so I will stop at that point. Persons can research on their own. Google is very extensive in the explanation of those terms. But I believe that if it is that you are saying that a police officer can execute the law to the fullest, they must have full training and not two weeks or one session somewhere all right, and I believe that that part of the law should be revised.

Now, I want to go on to the—and I quote the source for the Hansard, a document by CFATF, the: "Anti-money laundering and counter terrorist financing measures Trinidad and Tobago the Mutual Evaluation Report for June 2016". Now, the findings here are so significant and the gaps are so vast that it is embarrassing being a citizen of Trinidad and Tobago. Nonetheless, we are here to bridge those gaps. I would like to ask if of all these recommendations that were made, why is it that we are only choosing these minute aspects? And it begs the question that if the changes in legislation re: the FIU are guided by anything other than really and truly fulfilling the recommendations of CFATF.

Because really and truly, especially when you look at that aspect of lowering it to the rank of any officer. So someone can just go to the six months training, they have passed out, they have not had any extensive training or experience in the process of the courts in terms of anti-money laundering or terrorist financing and they can execute a warrant. They can decide to be part of this process that can end someone's entire name, their good name, because in Trinidad and Tobago, once you are fingered in the eyes of the public, unfortunately you are guilty even though our system is counter to that which is really you are innocent until proven otherwise.

So one of the recommendations on page 10 regarding the "Assessing risks & applying a risk-based approach" is that:

"The authorities in Trinidad and Tobago have not fully identified or assessed the money laundering and terrorist financing risks of the jurisdiction neither do they fully understand these risks."

I feel embarrassed even reading that so I would not read the others because they are even more damning. But the reality is, Madam President, if this is the case for our country, how do we expect the newly passed out officer to be on top of things? So I think they really need to change that. The recommendations here are too many and I believe really and truly, if this Government was serious in any way in terms of addressing these recommendations, we would be looking at this Bill in a different way and we would definitely be thinking about a joint select committee of Parliament.

Another point that I would like to raise as regards the "Global Forum on Transparency and Exchange of Information for Tax Purposes, Plenary Meeting" of the 15th to 17th November 2017, Yaoundé, Cameroon, where it was outlined—and the Attorney General pointed to this fact—that Trinidad and Tobago is the only non-compliant regarding the exchange of information regarding the other members. So, however, if that is the case, you are the last student in the class, being the country Trinidad and Tobago, is it that we are just trying to make sure that we are not last but probably second to last in the next assessment? Why not bring something that is much more substantive to the Parliament so that we can jump the ladder? All right. I think a serious rethink of the entire approach needs to be done.

I would like with your guidance to read just a brief part of the FIUTT's Annual Report for 2017 and this is in the preamble by Susan François, the Director. She says:

"At the institutional level, the FIUTT was able to increase its complement of

staff in the analysis division by five analysts and in the compliance and outreach division by seven…officers. However, while the sanctioned staff level is 49…"

—which is a very small number when you compare it to the investigative staffing component of even maybe one major commercial bank in Trinidad and Tobago, I think it should be much more than 49 but a number of positions are still vacant, all right, and they plan to fill them in the coming year. But I believe that really and truly, if it is we have so many SARs coming forward and UARs coming forward to FIU and we are getting much more compliance across the system, I believe that we need to really relook at the staffing complement of the FIU to really make them competent.

Now, also Madam François outlined and I read with your permission:

"Looking forward, the FIUTT is a critical agency for Trinidad and Tobago to be able to demonstrate effective implementation of FATF 40 Recommendations. In the year ahead, therefore, the FIUTT's main priorities will be:

- producing useful intelligence reports in a timely manner;"

How can you produce timely reports given the fact that you are understaffed already and even when you reach the full staff complement, you may not have the capacity to handle everything?

"• actively promoting co-operative relationships with reporting entities;
- providing a resilient learning environment for new staff to ensure that they are fortified for their tasks ahead;"

And I hope that this is not a veiled plea for looking at the absence of training but rather that there is funding for training and they are mainly stating the obvious.

"• upgrading the existing Information Technology Infrastructure by

implementing a secure electronic communication system with reporting entities;"

4.00 p.m.

This, Madam President, is a very alarming statement. Is it that, at the moment, the electronic communication system is not secured? So persons' personal financial information which, based on the agreements with FATF and CFATF, should be private and confidential except to the reporting agencies, may actually not be private and confidential. Then this information should be brought to the authorities and this should be corrected with immediate effect. I really hope the Attorney General, in his winding up, can bring some clarity as to whether or not there is a breach or not. Madam François outlined some others, but I would not go there.

Now, Madam President, I turn to the substantive ethos of the contribution by the Minister of Agriculture, Land and Fisheries. The thrust of his argument, in that—no, before I go to the thrust of his argument, the Minister mentioned Rio Claro and being little and talking about cocoa, but I would like to remind the hon. Minister that there was time in Trinidad and Tobago where cocoa was king. At the moment the farmers and the stakeholders in the cocoa industry are committed to a revitalization of the sector, and by virtue of a change in the colonial style agreements that they had that they pervaded in the past, they are now able to increase their revenue potential by 1,000 per cent, 10 times effectively, because the prior agreement no longer stands. But that is an aside. I was just responding to the hon. Minister.

Now, the other issue that I find it, I am not sure if the Minister misspoke, but he said that increased reports of suspicious activity is a good thing. I posit that only under a PNM Government that could be good, because that is money

laundering. [*Desk thumping*]

Now, Madam President, the issue of international finance, the Minister of Finance said that that defies sovereignty. And he stated that it has to be balanced by the fundamental rights of citizens. So he is saying, yes it is a new world we are living in. There is a new world order and in the world of money laundering you basically cannot worry about sovereignty, because international finance operates by different rules. But I would like to share an article by Yale Global Online. The Hansard, it is yaleglobal.yale.edu/contentglobalisation-versuseconomicsovereignity. So the article commented on some commentary by a Chinese researcher, Pang Zhongying on Friday, December 02, 2005, where he states, and I read with your permission again:

> "Almost all countries in the world have accelerated their tempo of economic opening up since the beginning of the 21st century.
>
> They hope to integrate their domestic economy into the global market, and to develop economic muscles that can punch a worldwide weight."

Nothing is wrong with that. We want to punch above our weight in Trinidad and Tobago.

> "However, for any country, opening the economy to the outside world is by no means a free lunch. The policy will inevitably come at a cost."

So what is the cost?

> "That cost can be perceived to be a weakening of the nation's 'economic sovereignty,'".

All right? So, yes, the hon. Minister said that in the world of international finance the issue of sovereignty should be compromised somewhat. However, the issue is, it is the weaker nations that usually do more of this compromising, and it is the stronger nations that really set the rules, and as a result we should always be

guarded against giving up our sovereignty, given this scenario. [*Desk thumping*]

And there are some examples that are very familiar to all of us in the Caribbean. One would be the International Monetary Fund. Another would be the World Bank. So we know, and for those reasons we have institutions like the Caribbean Development Bank, all right, which, really is an attempt to protect our sovereignty as a Caricom space. So that is the extent of my contribution regarding the FIU and the response to the hon. Minister of Agriculture, Land and Fisheries, who went prior.

At this time, Madam President, I would like to look at the Customs Act and the amendments made therein. The entire aspect of my contribution regarding this piece of legislation is the concept of consultation. All right? Now I wish to share some views on consultation. Dwight D. Eisenhower, we all know who he is:

> "I assure you that it is our desire and intention to keep the doors of consultation always and fully open."

He said:

> "There must never be a final word between friends."

This is in view of the impact of the amendment to the Customs Act on the players in the industry.

Donald Rumsfeld states:

> "Test ideas in the market place. You learn from hearing a range of perspectives. Consultation helps engender the support decisions need to be successfully implemented."

I state there today, without consultation in this Bill we lay waste, basically, all our efforts regarding the Customs Act today. And from the writings of Bahai:

> "The Great Being saith: 'The heaven of divine wisdom is illumined with two luminaries of consultation and compassion.'"

Now, the UK consultations principles, they said that:

> "We will use more digital methods to consult with a wider group of people at an earlier stage in the policy-forming process."

At an earlier stage—Madam President, not after the fact, not when we have already come to a hard position—in the policy-forming process.

> "We will make it easier for the public to contribute their views, and we will try harder to use clear language and plain English in consultation documents. We will also reduce the risk of 'consultation fatigue' by making sure we consult only on issues that are genuinely undecided."

Now, I say this and I turn to our local context. In Trinidad and Tobago, there is the National Trade Facilitation Committee. This committee, and I quote from an article: News.gov.tt, March 24, 2016, where the hon. Minister of Trade and Industry, on the 23rd of March, was quoted as saying that:

> "…the newly established committee, that 'the Government is aware of the many challenges faced by traders on a daily basis,"—they meet—burdensome procedures, time lags in importation and exportation, loss in perishable goods and lack of transparency. The Agreement on Trade Facilitation seeks to alleviate…"

And this really comes from the global body, from the WTO.

> "…these issues by creating a reliable, fast and cost-effective trade environment that will benefit all trade-related stakeholders'. She challenged the Committee…"—thereafter.

Now, furthermore, it says here:

> "The establishment of this Committee and the implementation of the TFA"—Trade Facilitation Agreement—"will build on the Government's… objective of enhancing competitiveness…"—and so on, and so forth.

That will be tested as I continue my contribution.

On the committee we have many members, one of which is Mr. Nicholas Rostant of the Customs Clerks and Brokers Association. Also, we have the Minister of Trade represented, and so on.

I turn to clause 5 of the Bill, which is basically the clause of the Bill I have been speaking on, indirectly. Madam President, clause 5 of the Bill would seek to amend the Customs Act, among other things, to give the Comptroller of Customs the power to detain subsequent shipments of an importer where an adjustment is made to the value of his goods and he has not paid the adjustment and fears to comments proceedings before the appeal board within six months from the date of notification.

So what does this mean for the average Trinbagonian worker in their small and medium enterprise business? This means, Madam President, that the Comptroller of Customs has now been elevated to the status of judge, jury and executioner of many an enterprise that depend on imported goods for their survival. I qualify that statement, all right, because we know that there is a Tax Appeal Board. However, the way in which this amendment is framed can—because timing is all that matters in business, timing of cash flows, timing of a decision, timing of a change to your business model. In the case of an importer, timing of the arrival of your goods, so that you can get them to market and you can recoup your capital in the shortest possible time and generate some profits.

Now, if the timing between getting your matter resolved from an undue—I would not say unjust, but let us say undue, meaning you cannot afford to pay if that word sits correctly and you cannot afford to effect the payment—and the timing between that decision by the Comptroller of Customs and the Tax Appeal Board to allow you to pay what maybe a more due payment, or where you can find the funds

to pay, and all your future shipments are detained, it means that you are unable, and this point was hammered by prior speakers so I would not go too much into that. It means that you are unable, really, to liquidate your goods and you are unable to stay afloat. It may mean the death of many businesses in Trinidad and Tobago. So put simply, now this is a small island open economy, you have to import to survive in many an industry, even education. If you cannot import you cannot survive. All right?

But in this scenario we have a Comptroller of Customs who can, on a good day, or I dare say a bad day at the office, utilize discretion with no checks and balances and charge what may be an arbitrary fee for the shipment of a particular importer. This is the first major problem, Madam President. Where are the checks and balances to this division? All of the frameworks that guide governments working with the customs brokers, with the importers, speak of checks and balances. The only check and balance we hear of is the Tax Appeal Board. But what of within the decision-making process at the Comptroller of Customs? So the Comptroller of Customs should be challenged by agency X or Y, based on such criteria.

The second major concern, Madam President, with the amendment to the Customs Act, is regarding the ability of the Comptroller of Customs to detain and prevent further shipments of the importer. All right? This too should have a caveat outlining the reasons that the Comptroller must satisfy before he can so do. This then ensures justice can be done as the powerless party in all of this would be the importer. This amendment therefore is wholly unjust and it is unthinkable that it can sit here without these checks and balances, given these concerns outlined. [*Desk thumping*]

Now, Madam President, I turn to the impact of this Customs Act amendment

to business. Let us examine a regular scenario, with importers and businessmen, myself a consultant for entrepreneurs. A businessman imports goods. He has his first shipment detained and he has the other shipments on the way. He may have used trade financing to do so. All right? Now, most times it really is with the final container that this importer can see returns on his investment. All right, because he can repay the bank overdraft facility. He can pay the inventory loan, and he can pay his staff and generate profits. By preventing this businessman from the first container, that he may not be able to pay for, for whatever reason, may mean the end of his business. Why do you tie the future containers to this first container? All right? Let this first container sit in the arbitration process and allow the businessman the other containers. All right? That, to me, is harsh and oppressive regarding the law.

This amendment will definitely be a death knell for medium scale and small businesses, especially the new entrepreneurs who decide to enter the business of distribution.

Now, regarding the challenges that businessmen face in Trinidad and Tobago I wish to highlight some points from two articles that would have been in the daily newspapers. Madam President, I beg to find out how much time I have remaining.

Madam President: You have 14 more minutes.

Sen. T. Obika: Thank you very much, Madam President. And so the first article is from the *Trinidad Guardian*:

"Efficient Customs agency critical for trade"

This submission was by no other than Tomas Bermudez. I believe he would have been the outgoing IDB country representative for T&T and Krista Luncenti IDB Trade Specialist. That would have been September 02, 2017.

And Mr. Bermudez basically said that:

"Trinidad and Tobago has untapped advantages in the maritime sector, both as a southern Caribbean transhipment and logistics" hub "and as a special economic zone."

But he said that:

"Corruption at Customs is endemic across countries irrespective of their level of development…"

So he is not saying it is something that is unique to Trinidad and Tobago, but even:

"In Trinidad and Tobago, shippers and traders note that there is no consistency or transparency in the application of fees or charges, increasing the risk of rent-seeking behaviour by agents."

Rent-seeking behaviour is a term common in the world of economics. It basically means you get paid for no work done. All right?

So, in light of—the article is very long. I cannot deal with it in the time I have. However, I would like, given that it comes from no other than the Inter-American Development Bank representative for Trinidad and Tobago, I think the Government should really look at that, when they vest all these powers, real powers, in the hands of the Customs authority.

Another article in the *Trinidad and Tobago Guardian* of Saturday, March 01, 2015:

"Port and Customs blamed for high prices"

It said that:

"…inefficiency and additional costs from the Customs and Excise Division…"

They are blaming basically:

"The operating costs of manufacturers also go up as we see business people

have no choice but to pass them on to the consumer."

So the inefficiencies, and based on the commentary by the IDB specialist, the rent-seeking behaviour of the persons at the Customs authority and the port, really and truly, can have a deleterious effect.

And when you vest the role of being a fair and unbiased body in an organization that has already been accused by none other than the Inter-American Development Bank country representative of rent-seeking behaviour, and you are vesting this role under their care, without sufficient checks and balances, they can basically decide which businesses will survive and which businesses will die in Trinidad and Tobago.

Now, consultation with customs brokers, I to this aspect, Madam President. I submit today that this amendment to clause 5 and section 23, that ties up the future shipments was done without any consultation of any meaning with the members of the affected parties, the importers, the shipping agents, the freight forwarders and the customs brokers.

Now, this amendment flies in the face of good business practice and is a testament to the fact that there is no plan by this Government for the industrial development and trade development under this Dr. Keith Rowley-led PNM.

Now, I have, on behalf of these parties, the importers, the shipping agents, freight forwarders and customs brokers, engaged them and ask their opinions regarding this particular amendment and solicited responses. And what they said was, the words that came from most of them was it was unfair. I spoke to the President, the Vice-President, a senior broker and a legacy broker whose family was in the business. They said that dubious business practice may be encouraged as a dummy company will probably now be created, so that businessmen can carry on their activities. All right? And they say sometimes matters take an undue time

to be clear by the review committee.

The President of the Customs Brokers and Clerks Association was livid when I spoke to him, that such an amendment could even be conceived without first consulting with the association. He said that he felt betrayed, because they are part of the Trade Facilitation Committee, Madam President, and for this amendment to be brought to Parliament he said it is totally unjust and he cannot believe. He doubted me until I sent him the details of the Bill that would have already been debated in the House of Representatives. All right?

So now the Trade Facilitation Agreement came into force. I think he said in 2018, at the beginning of year, and he said that this amendment is not supposed to happen like this. The Trade Facilitation Committee appointed by the Government includes heads of various stakeholders in the country and his name is Mr. Nicholas Rostant.

Madam President, the other amendment regarding the six and three years, I think that was already dealt with significantly by Members on this side and Members to come may also look at it. So I would not go there.

But the last point I want to state on this Customs Act is if you have to now advise a business that is entering Trinidad and Tobago, you have to now warn them, that by virtue of the change in legislation, that the Comptroller of Customs, if he decides, can effectively stall your business to the point of which it may mean its end, especially given the fact that it is done so without consideration for your financing commitments for your products.

Now, I turn to responding to some of the issues raised by the hon. Attorney General and by Members who went prior. Now, I want to look at the post-clearance audit aspect that was dealt with by the Attorney General. Now, post-clearance audits—I know the Attorney General only had 40 minutes, so he did not

have time to expound on what that meant and to explain that what it really means is a culture shift in the way we treat with assessment of value of imports and exports in Trinidad and Tobago, particularly imports in Trinidad and Tobago. Because that is where the State can be defrauded or where persons can unknowingly avoid payment of taxes. All right?

Now, Madam President, I read the source into the record. It is from the United Nations Economic Commission for Europe.

> "Post clearance audit (PCA) or audit-based controls are defined by the Revised Kyoto Convention…as measures by which the Customs satisfy themselves as to the accuracy and authenticity of declarations through the examination of relevant books, records, business systems and commercial data held by persons concerned."
>
> "Administrations that do not use audit-based controls usually concentrate their controls entirely at the border and at the time of import, and often apply a 100% physical examination approach. This leads to unnecessarily long delays…"

—and generally is not good for good business practice in Trinidad and Tobago. So, therefore, a post-clearance audit is good news for business, however, the trouble lies within the details.

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

Sen. T. Obika: Thank you very much, Madam President. This really effectively, is my last point.

"PCA requires…"

—and this is where the United Nations Economic Commission for Europe group, just for the *Hansard*, it is tfig.unec.org/contents/post-clearance.htm.

"requires an enabling environment such as a dedicated PCA organization

within Customs, the legal powers to access commercial records…"

—which this legislation is trying to do, albeit the time of the record is an issue and—

"to enter traders' premises, properly trained staff, as well as the existence and proper application of accounting standards."

So, I wish this Government could indicate what the staffing component at the competent authorities is, be it the Tax Appeal Board, be it the Comptroller of Customs, that would be charged with the responsibility of post clearance audit. And if, in effect that staff complement is not significant, Madam President, what you may really find is that they may be nitpicking and not necessarily taking an holistic approach to the system, and we may find that some traders and importers may find themselves being unfairly targeted because they may know of persons who may be doing things, because there are not sufficient number of staff in the competent authority, they cannot be prosecuted or pursued.

So, the World Customs Organization also has some points on post- clearance audit. And I will end by just stating that if persons want to get more information they can look at the guidelines for post-clearance audit, Volume I of the World Customs Organization, June 2012.

Madam President, can I ask how much more time I have remaining?

Madam President: Three more minutes.

Sen. T. Obika: Thank you very much. So, at this point, I really want to appeal to use the remaining time I have. I hope that the Attorney General would have been here so I could have asked this question, but I would defer it for persons to come after, since he is not in the room.

So, basically what I want to appeal to the Government is, notwithstanding that they sit on that side and we on this, listen to the public. All right? The

Customs Brokers and Clerks Association has stated that this is an unjust, although maybe, for whatever reason they could not come out and say it openly, but we made representation on their behalf and this is an unjust change. They have been broadsided and blindsided by it because it did not come as a part of their deliberations in the Trade Facilitation Committee and they should remove the amendment after consultation with all the stakeholders, in the form of a Joint Select Committee of the Parliament of Trinidad and Tobago. I thank you very much. [*Desk thumping*]

Sen. Sophia Chote SC: Thank you, Madam President. I do not know if I am going to have four minutes or 40.

Madam President: Four.

Sen. S. Chote SC: Four? Well then, Madam President, perhaps I could just open by saying that many of the issues which I wanted to speak about have already been addressed by the other speakers, and very adequately so. So in my contribution today I intend to look at two things, that is to say the proposed amendment to the Proceeds of Crime Act, with respect to the issuing of a warrant and the impact of the warrant on the person being required to provide information. And, secondly, with respect to the fines imposed under the Proceeds of Crime Act for matters which will now be dealt with summarily.

So, those are the two issues which I would like to address, and I do not know if I can urge your indulgence by asking that the break be taken because it will be impossible for me to get off the ground on either of these.

Madam President: Hon. Senators, at this stage we will suspend and, because I am feeling exceedingly generous, we will resume at 5.00 p.m. So we are suspended until 5.00 p.m.

4.28 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

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

Sen. S. Chote SC: [*Desk thumping*] Thank you very much, Mr. Vice-President. So after my exciting two minutes, I will continue where I left off. May I begin again by saying that I understand why we consistently need to upgrade legislation of this kind. I understand the policy because it means that when we come under scrutiny from financial institutions or international institutions, we are able to say that we are moving with the times and we are taking more stringent measures to deal with new crimes and to deal with the assets of those crimes.

So it is not to say that I think that we should not have amendments to these pieces of legislation. I certainly do think they should be amended, but with respect to two particular areas I have deep concerns and I endorse what was said by Sen. Ramkissoon, when she pointed out that we would love to support this legislation, but there are aspects of it which simply cannot get my support if it is taken as a whole. Perhaps if it had been taken in different pieces of amendment, this may have been an easier walk in the park for all.

Now, listening to the speakers who went before me, I realize how difficult it is for parliamentarians to understand and to speak about money laundering. And I must say that it must be even more difficult for the man on the street to understand what on earth we are talking about here, when we talk about concepts like money laundering. We throw words around without really knowing what they mean or how they can impact our lives.

Some people might be money laundering and not even realizing it; doing cash transactions and not knowing that they are laundering money or doing

something wrong at all.

So, I think it is important for us when we address legislation such as this, to try to keep it somewhat simple and structured, so that those listening to us will have an idea of what we are talking about and we will be able to get the buy-in or the connection with our listeners.

Now, I wish to refer, first of all, to the Financial Intelligence Unit of Trinidad and Tobago Act and to the amendment which is proposed to it. If I may go to page 4 of the Bill which we have, and in particular the insertion of certain subsections after 18G. It says:

> "(2A)In order to secure compliance with the written laws listed undersection 18F, the FIU"—Financial Intelligence Unit—"may require any person to provide to it any documents, information or explanation on any information."

Well, before I make my analysis I will just say what else this section requires. It says; it allows a police officer to obtain a warrant and on that warrant the person issuing the warrant may put down a requirement that the person who is in receipt of the warrant or upon whom the warrant is being executed must give certain information or must give an explanation on information.

So it gives a draconian power to the police officer and to the person issuing the warrant. It goes on to say:

"(2C) Without prejudice to any other written law, a person—who…

(a) willfully obstructs a police officer in the exercise of his powers or the performance of his duties under this section;

(b) willfully fails to comply with any requirement properly made to him by any such police officer;…

(c) without reasonable excuse, fails to give such police officer any

other assistance which he may reasonably require to be given for the purpose of exercising his powers or performing his duties under this section,

commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for twelve months."

And then it goes on to talk about:

"(2D) A person who, when required to give information to a police officer…knowingly gives false or misleading information…"

That person can also be convicted for an offence. It continues by saying this rather odd thing. It says:

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

Well, it seems to me that the insertion of that subsection basically negates what the earlier part of the section has dealt with. And I think this is a deep error, I think that this entire portion of this section must be excised or much of it must be culled so that we do not breach our constitutional requirements.

This is not about catching criminals—catching criminals is what police officers do. As parliamentarians, when we stand here we try to ensure that the laws which are passed, are passed with due respect and regard for our Constitution because if we have no regard for our Constitution, then God forbid that we should ask anyone else to have such regard.

And one of the basic things that you have protected in a constitution and indeed in the common law; is your right against self-incrimination and your right to silence. And the two things are connected, but they are similar.

So what this is saying is that the FIU may not only say to someone, you have to produce certain documentation for me, but what the FIU is permitted to do, is to

say, you have to give me information and you have to give me explanations about any information.

Now, unlike any other aspect of criminal law, there is nothing here which requires that the person be cautioned, be told of his right to silence, be told of his right to have an attorney-at-law. There is nothing like that, no protection at all.

But I am saying that this subsection must be excised for another reason and it is a legal reason. And the reason is this; in law legislators stay away from tampering with or taking away from constitutional rights, such as the right against self-incrimination. When you look at the case law you see that there are three main cases where this right was abrogated over the last 30 years or so in the Commonwealth, and the three cases are road traffic offence cases. And these cases are described by the academics as being outliers. Because it means that the courts have said that in matters such as these and road traffic matters, there may be instances where it would be in the public interest, it would be proportionate, it would be reasonable to expect someone directed by a piece of legislation to speak, and not rely on his right to silence.

Now, there was another case which I think is very important for our purposes and that is the case of *R v K,* and I wrote the citation down somewhere. Yes, this is a case which involved tax evasion, similar to this but a pecuniary case, a case about pecuniary matters. It is about financial impropriety, it is about the statutory penalty and investigation of financial impropriety. And the English House of Lords was asked to consider whether the right to silence and the right of self-incrimination should be abrogated in that case, and the court said no. This is what the court said:

> The Court of Appeal—I beg your pardon—emphasized the weight of the public interest expressed in terms of social need, in bringing to

conviction perpetrators of offences of the type charged. The Court acknowledged that the protection of the public revenue was an important social objective, but nonetheless considered that the admission of evidence obtained from the accused under threat of imprisonment was not a reasonable and proportionate response to that need.

Accordingly, the Court held that the compulsory obtaining of that kind of evidence could not be used in evidence against the defendant.

So it leads me to yet another point, because even if you are saying you can force someone to speak, what essentially you are also acknowledging is that if you take it to court, you cannot use that evidence. So what is the point? Why play fast and loose with an entrenched constitutional right of this kind? [*Desk thumping*]

Now, so I think we are being pointed in a certain way if we are to consider this legislation in the context of the larger legal principles. And I know this is not a courtroom, so I am not speaking like a lawyer or at least I am trying not to speak like a lawyer. I am simply trying to articulate in a logical manner as possible, to say this is why we should not go down the road of accepting this particular proposed amendment.

Now, the second one talks about the issuance of a warrant. It says the warrant itself may compel the person to give information. Now, I do not know how many in this Senate have ever really seen how a money laundering case operates.

So far, how it operates is that police officers will obtain a warrant and they may go to a home or premises which may not necessarily be the home or the premises of the suspect. It may be the home of his ex-wife, his daughter, his mother and they will go there to see if they can find any assets and take steps to confiscate those assets, usually cash.

5.15 p.m.

So it means that this old lady, or that ex-wife or this daughter, keeping cash in her cupboard for this suspect, is now forced to give away her constitutional right to silence while he is not, is now forced or maybe compelled by a warrant to speak, is now forced to statutory penalties if he or she, depending on who the person is, fails to do so. So when you legislate, you have to look at all the possible permutations of the law, and how it will impact or have an impact upon the citizens for whom these laws are being made or on whose behalf these laws are being made.

So I am respectfully suggesting that this is self-defeating because essentially what you are now going to permit to happen, is that the person who might be the witness against "the big guy" for whether it is—money laundering, human trafficking, terrorism, whatever you may call it—you are now saying to this person, your potential witness, either you talk now, or you will be fined and go to jail. You know what will happen? That person will remain silent and take the fine [*Desk thumping*] which will probably be paid for by Mr. Big Daddy.

So when we talk about making laws which have to be dealt with in the criminal justice system, I think we must have some familiarity with how the system operates, how the system currently treats matters as these and how the system has impacted the citizens of this country thus far. So it seems to me that while this sounds, you know, very, very stern, and it gives the impression that Trinidad and Tobago is fighting money laundering with everything that it has, listen, we do not need to sell our souls and our Constitution to anybody by having this clause included in any piece of legislation. [*Desk thumping*]

Going in with a warrant and searching premises and taking documents is something you can do. And what you can also do, as experienced police officers

already do, is that you can speak to the person who is holding the asset, and you may, if that person is willing, take statements from that person and pursue the investigation to the ultimate perpetrator. Why are we insisting on picking up minions? Is that how we battle, how we deal with money laundering? And with all due respect, this is what this will allow. [*Desk thumping*]

We do not want our stringent money laundering laws to be undermined or watered down. Let us not do that. Let us keep them strong. I urge that upon this honourable Senate. Let us not allow those who are intent on perverting these laws be given the avenue to do so, which I think is what is likely to happen here.

Now, it gets even more complicated if the warrant now is taken to the Mr. Big. Mr. Big, quite probably will say, "I know that I have to remain silent, so I too will take my fine, and I too will know that because you ask me these questions and because I know I have my right to silence when I go to trial, my lawyer can take an argument which would disallow any evidence that you have." So it is counter-productive.

It is undermining the investigatory and the prosecutorial arms of our justice system. It is not, you know—I know that the hon. Attorney General's intention is not to do that at all, but I am simply pointing out, as someone with experience in this field, that this is how it is likely to play out. So let us not let ourselves be played by those who break the law on the outside and who will benefit in certain respects from this proposed amendment.

Now, if I may very quickly move down, if we move down to (f) which says in section 27:

> "(f) in section 27, by inserting after subsection (2), the following new subsection:"

And if I may go to 4(a) where it is talking about the contravention of regulations, it

says:

> "(a) on summary conviction to a fine of five hundred thousand dollars and to a further fine of twenty five thousand dollars for each day that the offence continues; or"

Now, I suspect that this is just a question of cleaning up some drafting, because if you have been convicted it means that the offence has come to an end. The trial has come to an end and you have received your conviction—let us say it is the maximum and you have been convicted and received a fine of $500,000—how does this further fine of $25,000 for every day that the offence continues come into play? You cannot have the offence continuing if you have already been convicted of it. So I am not quite sure what this is intended to do but, as it stands, it does not make a lot of sense.

And if we look at 4(b) over on the other page, we see that this is also referred to for the conviction on indictment:

> "a fine of one million dollars and to a further fine of fifty thousand dollars for each day that the offence continues."

Again, same point. If you are convicted the offence could not be continuing

Now, I had said that there were two aspects of these amendments that I wish to focus on because so much has been said about other aspects of the proposed amendments. The other one that I would like to look at is the proposed amendment to the Proceeds of Crime Act which provides for:

> "on summary conviction, to a fine of twenty-five million dollars and to imprisonment for fifteen years; and
>
> on conviction on indictment, to a fine of fifty million dollars and to imprisonment for thirty years."

Because I realize that this might be difficult for people who are unfamiliar with the

criminal justice system to understand, basically what we need to remind ourselves of is that all matters start in the Magistrates' Court regardless of which piece of paper starts the matter—whether it is called an information or and complaint—it means that all matters start in the Magistrates' Court, and it says that if you are convicted in the Magistrates' Court you may be liable to a fine of $25 million and to imprisonment for 15 years. Well, this sounds a lot but I understand that this is the maximum that can be imposed.

Now, initially I had no problem with this, but when I listened to Sen. Ramkissoon and she spoke about the statistics of the offences charged under the Proceeds of Crime Act and the amounts which had been dealt with, I mean, the disparity between the amounts that have been the subject of criminal cases and criminal prosecution and the increase in fines which you now proposed here is so vast that it seems to be on the face of it unreasonable.

Now, if it is that we had the mechanisms and the processes and we lived in a developed country like the United Kingdom where their Proceeds of Crime legislation works very well to the extent that you get many guilty pleas for money laundering and all that you fight about is the confiscation aspect, we have to understand that we do not have those mechanisms and processes. So it seems as though we are legislating for a legal environment which is not ours. [*Desk thumping*] I am not saying that money laundering offences should not be heard summarily. There may be some that should be heard summarily, but I am saying is that there must be some sort of reasonable connection between the crimes that you are dealing with and the penalties that you are imposing for those crime. So I respectfully would ask the hon. Attorney General to consider a reassessment or a re-evaluation of the fines for those matters.

Now, one thing I want to make clear as well is this. People think that

nobody gets caught or charge for money laundering in the Trinidad and Tobago. That is not true. There are people before the courts facing charges under the Proceeds of Crime legislation. Our laws also say that if you have essentially one set of facts, you do not look around your law books and find, I think like the Americans do, you find 10 things that you could charge the person our law says that could be counter-productive. It basically points the investigator into and investigation and focus on the most serious offences and they go with that.

What I have seen happening though is that while sometimes investigations lead to charges such as obtaining by fraud, obtaining by false pretences, offences under the Prevention of Corruption Act and so on, sometimes there is a temptation to raise the stats by slapping on some money laundering charges. So you look back on all your fraud cases that you had charged people for, and you go back and you charge them for offences under the Proceeds of Crime Act. I am not talking out of a storybook, I am talking about what I know.

And happens to your justice system as a result? Those cases continue to be called and called, nobody pays any attention to them and police officers do not prosecute money laundering offences. There is no staff at the DPP's office to do so. So those cases are dismissed and the police continue with the substantive charges. So this accounts, perhaps, for the low numbers in terms of prosecutions and convictions for money laundering offences. It is not that wrongdoers are not being arrested and charged and convicted. They may very well be facing the courts and facing criminal liability, but not necessarily for a charge call money laundering. So I want to clear that up, because otherwise it gives the general public the impression, that people who conduct fraudulent activity which may be money laundering, but which may be something as well, that these people are walking free and that is not so.

So I thought, Mr. Vice-President, that in closing, I would make that point, because I think that when we come to deal with criminal legislation, we must have some sort of insight into, one, how it operates currently and two, how it is likely to operate in the future, because we cannot come back here every three months and decide that we want to have amendment after amendment after amendment.

So for those reasons, I would respectfully suggest that we remove the proposed amendment under the Financial Investigations Unit of Trinidad and Tobago Act and, perhaps, we rethink the penalty under the Proceeds of Crime Act. So thank you, Mr. Vice-President, for the opportunity to speak. [*Desk thumping*]

The Minister of Public Utilities (Sen. The Hon. Robert Le Hunte): Mr. Vice-President, it is indeed a privilege to stand here among my esteemed colleagues in defence of the Bill that speaks to amend the following, the Mutual Assistance in Criminal Matters Act, the Proceeds of Crime Act, the Financial Intelligence Unit of Trinidad and Tobago Act, the Customs Act and the Exchange Control Act.

Mr. Vice-President, dealing with white collar crime, money laundering and the combating of financing of terrorism is a journey, not a destination, and it is one that we must embarked on as a responsible Government. As such, it is our intention to continue to adopt and operate in accordance with international best practice and this Bill allows us to do just that. It enables us to effectively contribute to the global fight against crime, especially cross-border crime.

Mr. Vice-President, we have often heard the saying that the world is actually getting smaller, and a lot of times this is attributed due to the fact that our communication methods have definitely improved. As a matter of fact, we could now travel throughout the world in a very short space of time. I for one, and I know my colleague on the other side, have traversed from here to Africa in a very short space of time and actually come back. I did that very recently you would

recall. [*Laughter*] We all could recall. I am also aware that you could actually jump on a flight and make that journey within seven hours if you chose to want to take a private plane. The reality is that as the world gets smaller, there is the whole movement and we have to be able to put measures in place to protect the movement of funds because as much as we could move quickly from place to place, so too can funds move from place to place very simply.

As a matter of fact, it was very common practice in Africa whereby you could actually sit with your phone and transfer or receive money from any part of the world. These are things that are happening right there. So the concept of the movement of money and the movement of people is something that we have to deal with at present.

We live in a world where we can operate anywhere, anytime, and we are all interconnected and funds and information can move alone these webs of connections at a very fast rate. As a country it is, therefore, imperative that we have international agreements with other states to monitor and, where necessary, apprehend the flows of funds connected with illegal activities.

This idea of mutual assistance is an essential part of our fight against criminal elements. These elements live among us, and if we accept that they exist in all societies, then we have to accept that—and, as we know, no man is an island—we have to work together to be able to fight against crime. As such, not only must we work together, but we must do so with the aim of staying a few steps ahead of the criminal elements wherever that is possible.

The purpose, therefore, of this Bill is to institute amendments to the relevant Acts that would facilitate the strengthening of our international relations and provide tools that will in turn enable us to track and apprehend criminal elements, both white collar crime and otherwise. We all know that money is an essential

factor in the crime cycle. In fact, it is actually said to be the fuel of crime. It is, therefore, important for us to have the capacity to monitor financial transactions and to stamp out money laundering to make our information mechanisms more efficient and expansive.

This Bill, via its amendments to the Mutual Assistance in Criminal Matters Act, is an attempt to build that capacity by closing the loopholes in relevant legislations as identified by the international experts. These amendments, once enacted, will also serve to improve our standing as a country in the eyes of the international community. As you will know and as we have all seen recently, we have heard that Trinidad and Tobago has found itself on the blacklist of the European Union blacklist as a result of and I deem and I quote:

A harmful potential tax regime.

We are also aware that the last report that was recently down on us at the Fourth Round Mutual Evaluation on the Trinidad and Tobago published by the CFATF, that we also did not fare too well in that particular report. The EU has also noted that we have not yet signed and ratified the OECD Mutual Convention on Mutual Assistance in Tax Matters. These amendments that we are talking about here will strengthen our tax regime, and by extension improve our international standings and, in this regard, every citizen—regardless of our political suasions and regardless of whatever our social standings—should really support these activities.

As a former banker, I can speak to the impact of what it really means to be on a blacklist, and why it is important for us to be able to get out of this blacklist and do what is required to make that happen. One of the impacts or the negative impact of the blacklist is centred around this idea of correspondent banking. And what is really a correspondent bank? Simply speaking, it is just as simply as all of

us have a bank account, a correspondent bank is really for a financial institution. They also have bank accounts and that bank account is what links the local banks here. They have these accounts in different countries and this is what allows for the trade that allows for the flow of money, it allows for a flow of documents and so forth to facilitate trade.

When a country is blacklisted, it means, therefore, that these financial institutions will have difficulty in maintaining this thing called a correspondent bank account, because when you are blacklisted, it means therefore that people view your country—and you are blacklisted mainly because of failures or weak legislative laws to facilitate money laundering.

We heard my colleague talk about one big bank that was charged large sums of money and, therefore, a lot of these big banks they will not want to have correspondent banking relationships with small banks if they feel that the countries in which these small banks are operating in or these banks are operating in have laws that are not very stringent against especially money laundering, because it means, therefore, that funds could enter these institutions and these funds would be able to find their way into these big correspondent banks. The end result of that, really, is that, of course, they then impose a lot of fines, they then impose a lot of fees and by extension these fees find themselves into all of us who then have to pay a lot more for these services.

When you lose your correspondent banking relationship, you know, to a lot of people that is just, well that is something out there, but if you have to bring that home to us, you do not have correspondent banking relationships, that would have an impact on very simple day-to-day transactions that you have gotten accustomed to. It would impact your ability to be able to buy things on the Internet, to use your credit cards, to send funds for your kids to go to school and to pay for medical

attention abroad. Simple things like that it is facilitated in the country because of your correspondent banking relationship, and losing that or being on a blacklist and by extension putting those things at risk, you have to ensure that you put all measures in place to get out of that blacklist.

Right in the Caribbean here you have a number of Caribbean countries and you have one, in particular, who has actually lost their correspondent banking relationships because, again, of lax laws within the country and, therefore, this Bill attempts to tighten up those laws, especially those laws that relate to money laundering, And when you look at some of the recommendations coming out of the CFATF report, it actually gives a clear indication of what they saw that was really needed in our legislation.

When you look at them, they found that in Trinidad the laws and the fines against money laundering was actually too low and they found that they were not strong enough to act as a deterrent. They also found, when you look at some of their findings, they felt that the FIU should be able to enter and gather information on what is happening, and there are too many impediments to prevent the FIU, the institution, from going and gathering information. And, therefore, what we are attempting to do with this legislation is to stop and to fill these loopholes and strengthen the legislation governing money laundering and all matters relating to tax evasion and so forth.

Mr. Vice-President, this matter brings me to another important point. I have also sat and I have heard a lot of objections to people complaining or having, I would say, some issues with one particular element that is being proposed—the one that deals with the anti-business and the one that people speak about when they mentioned that it is against business if it is after six months, if you are charged and you are not able to make the appropriate representation, then your goods could be

withheld. I want to remind individuals that what are we talking at here?

First to begin, we are talking about people who are making an attempt, we are looking at trying to fill a gap or to prevent people from overcharging and over-invoicing. Over-invoicing results in a country being deprived of much needed tax revenue, and that in itself has an implication for the poor individuals or for the poor people. When you are under-invoicing, you are actually stealing from the people and, therefore, this small group of people who are doing this, you are impacting the lives of all the people for the country who requires the taxes to be able to get school services, to have medical attention, et cetera.

5.45 p.m.

I have no problem at all in going and letting the business people, or the businessman or woman, who recognize—and I want to send the signal very strong to him that the hands of the law are very long, in that I could come at you after six years and, truly, if you are caught doing this you run the chance of being put out of business. I will like the businessman who wants to do that, or who is thinking about doing that to think twice, and in my mind good law is also an attempt to ensure that that happens, and I have no objection. I have worked in a bank and I have dealt with business people before and a lot of the business people in this country are honest businessmen so they have nothing to worry about. There are a few businessmen who go about doing and trying to under-invoice and, therefore, trying to steal this country from taxes, and, therefore, those people need to recognize that that activity needs to stop.

Mr. Vice-President, I also want to support some of the measures—one of the measures again that was also mentioned by my colleague spoke again to the statement, and I think it was Sen. Mark when he commented on the statement made by the Attorney General, and I quote that the Attorney General noted that in

2016/2017 the total monetary value of 877 suspicious transaction reports and suspicious activity reports submitted by the FIU amounted to over $22 billion, which is almost five times the cumulative value of 2011 to 2016. Mr. Vice-President, I have heard colleagues on the other side make the point that this rise in suspicious activities happened when the PNM came into power. I would like to remind a lot of them that, again, the PNM came into power in September 2015, and by making that reference they were making the point, if I understood the point, that here it is, this was a report and this rise in suspicious activities was happening at this point in time.

Well, I know my colleague on the other side, who also spent some time with me in Africa, could also attest to this. [*Laughter*] But, you know, having been in that particular environment, what I could say is that it is well known in that environment that when there is a change of government that the regulatory authorities and the banks are really on—their eyes are open, because they expect around that time, that particular year, that first year when it happens that is when you find that suspicious transactions rise to the highest level. And the reason for that is, of course, that, as you know, a lot of times a lot of money that is collected, illegal transactions collected during one regime, tries to find itself into the banking sector and the banking sector is the sector that they use to wash money.

Therefore, I am not surprised that at this time—when you look at the time, and we have heard in this country of people, and we know that when bribes and when illegal activities are being paid, are being done, they are done with cash. So it is known internationally that when there is a change in government you will find a substantial rise in suspicious transactions, and, as I said before, that is really as a result of all this illegal cash, all these bags of money where you hear about people were taking money out in brown bags, and so forth, and suitcases, that this money

now have to find [*Desk thumping*] itself in the bank.

So the reason why you find that also, that is the reason, basically, why that particular year, right after the PNM Government demitted office, that you find in that particular year you found that substantial amount of increase in suspicious transactions, and that amount of money being found out in the banking sector. So I just felt that I wanted to put that on the table to clarify that particular point made by Sen. Mark.

Mr. Vice-President, from whatever angle you wish to view this Miscellaneous Provisions Bill, it is obvious that the proposed amendments contained therein are necessary both in the context of the safety of Trinidad and the development of Trinidad and Tobago, and to the maintenance of our international relationship upon which we rely. As a country it will help us in our fight against money laundering, tax evasion and corruption in general, and it will improve our standing in the international community.

From a citizen's perspective it will act as a crime deterrent while ensuring the safety of our citizens, and from a banking perspective it will strengthen our correspondent banking relationships and reduce the cost of compliance, thus ensuring that the customer does not have to pay for our noncompliance while keeping us and our country internationally connected. Is it perfect? I would say, no, no Bill is perfect, but—as I will end as I started—this is a journey, and this Bill takes us along the path in that journey. But what it does is that it adds to our arsenal of weapons so that we are in a better position to protect our society from criminal activities of all types. This Bill takes us along that journey, it has all the good elements. It takes us along the path that helps us in our fight against money laundering. It allows us to be able to share information among people, to help us with the tax evasion, and it also increases a lot of the fines that are required that

will allow for it to be a deterrent.

As I said, this Bill, Mr. Vice-President, as such, I truly believe that this Bill is a must if we wish to build a progressive society and one that is good for the future of Trinidad and Tobago. I therefore, without hesitation or reservation, support it 100 per cent, and it is my hope that all the Members in this esteemed House will join me in supporting it. I thank you. [*Desk thumping*]

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

Sen. Stacy Cummings: Thank you very much, Mr. Vice-President. I will like to begin by expressing my gratitude for the opportunity to address this honourable House for the very first time. I certainly did not expect to ever be given this opportunity, however it is one which I take on with the utmost humility and sincere appreciation. I hope, Mr. Vice-President, today, that whatever contribution I make to this debate on the Miscellaneous Provisions Bill, 2017, that it is of some value to the hon. Members in this House, and it would help to make a better Bill at the end of the day.

Mr. Vice-President, I listened very intently to the contributions of those who went before me, and I want to start by saying that as a citizen of this country, normally I am a "glass-half-full" kind of person, but I stand here today terrified of what the next FIU report would hold. If the 2017 report is any indication, Mr. Vice-President, we are in a world of trouble.

I wish I had the optimism of the hon. Minister of Agriculture, Land and Fisheries who said to us today that the increase—the shocking, amazing increase in the reporting of suspicious activities—is something that we should look upon as positive because it indicates that the system is working. I do not have that kind of optimism within me, [*Desk thumping*] because the way I see it, it means only that we are in a lot more trouble than we thought we were. [*Desk thumping*] What it

means is that the situation is worse than we could have ever imagined. [*Desk thumping*]

Now, before I get into the meat of my contribution today, notwithstanding my previous statement, I know that we are facing a mountain; this is a very serious problem, this is a $22 billion, and growing—not even an industry, it is an alternate economy that is mushrooming before our eyes, and so I must give commendation where it is due to the Attorney General for his attempts to strengthen the institutional and legislative framework which we need to do in order to begin to tackle this problem. However, having gone through the Bill I have just a few comments that I will like to make. Many of the previous speakers went into great detail on various clauses so I would, in the interest of time, not repeat those positions.

I would just like to point out two particular clauses in the Bill that I have some concerns about. I want to start with clause 3 of the Bill, which has been mentioned before which makes the trial of money laundering triable, both summarily as well as on indictment. There are a couple of issues with this, Mr. Vice-President. Many speakers before me have said, and those of us who have been in the criminal justice system for a long time understand the situation that the Magistrates' Courts have to operate under. [*Desk thumping*] And the reality is that while I understand the intent of that clause—you want to free up the High Court, you want to move the prosecutions along quicker—if we simply impose this behemoth and an already struggling magistracy, all we are really doing, Mr. Vice-President, is rearranging "the deck on the chairs" of the *Titanic*, and it is an exercise in futility.

So I would like to suggest—I am sorry the Attorney General is not here, but, through you, I would make the suggestion anyway, that perhaps we could consider

a few options here, one of which is that not all money laundering offences should be tried both summarily or indictably. [*Desk thumping*] The hon. Minister of Agriculture, Land and Fisheries went into great details about the size of some of these transactions, and I know, Mr. Vice-President, that none of us really could anticipate a Magistrates' Court hearing a money laundering case to the value of $150 million. That is not practical, and given the nature and the seriousness of that offence, perhaps what we need to look at is capping the value of money laundering offences that could be tried summarily at a certain point, and everything else be tried indictably to reflect the seriousness of the offence. [*Desk thumping*] So that would be my first contribution.

My second comment on this clause is money laundering offences are not easy offences. In fact, financial crimes in general are not easy offences to prosecute. You cannot just pluck anybody from anywhere, put that in front the court and say, "Here, prosecute this offence"; they are notoriously complex, challenging and time consuming. What we have to consider is the type of cases that typically would come before a Magistrates' Court. Money laundering offences would take much more judicial time than your average larceny case, or your average common assault case, which typically when they get started will take two to three days to complete, but a money laundering offence, given its nature, would go on for weeks, maybe months at a time. So it requires a lot of judicial time, so maybe consideration could be given to establish within the Magistracy, for those offences—money laundering offences that we agree, given the value, could be tried summarily—we can establish a financial crimes court within the magistracy system, [*Desk thumping*] and that way money laundering and the financing of terrorists, and those kinds of specialized financial crimes could have the appropriate attention and would not be competing for judicial time with other

typical common crime.

And if, as a society, we agree that we want to give priority to the prosecution of these types of crime, I think that is one way that we can achieve the objective of this legislation to speed up the prosecution of money laundering, and those types of financial crime, while at the same time ensuring that the magistracy is able to sustain the burden of what is expected of it. So I would hope that those on the other side would pay some attention, maybe take the suggestion through you, Mr. Vice-President, back to the Attorney General to consider this suggestion.

I would like to move on to clause 4 of the Bill, which a lot of people have mentioned, it is the new section 18G of the FIU Act, I believe it is, and a lot of attention has been paid to the issue of the warrant, and so on. I would not repeat those, but I would like to draw your attention, Mr. Vice-President, to the new subsection (2C)(b), and I will, for the ease of reference, just read quickly:

"Without prejudice to any other…law, a person who—

(b) willfully fails to comply with any requirement properly made to him by any such…officer;

…commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for twelve months."

I do not know if this bothers anybody else, but I do know that one of the foundation principles of criminal law is that when you are creating an offence you need to be specific, and this offence, I do not really even know what it is. I do not know what it means to fail to comply with any requirement properly made by the police officer. What is the mischief that is intended to be addressed by this clause? I am unclear and I would like to—perhaps I do not know what the drafters had intended, but to me it comes across as extremely vague and overly broad, and we either need to remove it from the Bill or tighten it to make it much more specific

and much more clear.

So that is the second comment I had to make on the specifics of the Bill. I do not want to take up too much more time, Mr. Vice-President, but I want to make a personal plug. Other speakers before me have talked about the issue of enforcement, and I want to make a personal plug here, for an office that, you know, as Sen. Sobers referred to these offices as "bulldogs", I believe—"bulldog offices"—I would borrow that term—the DPP's office. Some 20 years ago, Mr. Vice-President, when I was fresh out of law school, I marched off to the DPP's office all optimistic and joined the office as a prosecutor, and I would have to say that our values as a country are reflected in the way we spend our money. [*Desk thumping*] And having worked in that office we like to talk a lot about, "The DPP's office is very important", "They are at the forefront of the fight against crime", but 20 years ago the DPP's office was understaffed and under-resourced, and 20 years later the DPP's office is understaffed and under-resourced. [*Desk thumping*]

I remember the days when we were located on Henry Street and we would be meeting with witnesses, or we would be coalescing as colleagues do, talking about our day, and we would have company in the ceiling of our offices, because we were faced against a supermarket in the next street and the rats would come across and keep us company sometimes.

I am happy to report that the Port of Spain office has since moved into more appropriate accommodation, but the San Fernando office was even worse, because when I first was assigned to San Fernando where we were located that office was actually condemned by T&TEC for being unfit for occupation. It was a fire hazard, and we were working every day, going to court, fighting crime, but we felt like second-class citizens within the context of the legal fraternity of the

Government. I was very sad to read newspaper reports about the south office of the DPP being relocated to Gulf City Mall, and I read it in the newspapers and my heart sank because I said to myself, nothing has changed. Nothing has changed.

You know, the lawyers among us would know—you know the term a "mall lawyer"?—we know that it is not a compliment, and yet we are reducing our premier legal agency, entity, the warriors in the fight against crime, to "mall lawyers". [*Desk thumping*] Where are our values and our priorities as a country? That was very disappointing, although I have to say, as a "red-blooded Trini woman", I can understand the perks of having your office located in a shopping centre, but I do not think that it is appropriate, an appropriate place given the statute of the DPP's office, [*Desk thumping*] given the nature of the work that they do, given the contribution that they make, given the sacrifice that they continuously make.

Hon. Al-Rawi: Senator, would you give way for a moment? Thank you very much, hon. Senator. Senator, just to put onto the record that the location of that office was an exercise with the Office of the DPP, and that the Government itself has absolutely no part to play with that, other than to pay the bills for it. So I just wanted to put on record that that proposed move to the mall in Tobago, because it is more than just the mall in San Fernando; the mall in San Fernando and the move to the Park Street locations is an exercise which resides with the Office of the DPP itself.

Sen. S. Cummings: Thank you very much, Mr. Attorney General. I appreciate that clarification, but I did also read a comment from the DPP himself in speaking about this move where he said that the decision was made to move to the Gulf City Mall, it was less than ideal. So I sensed that it was a kind of last resort. I do not know the circumstances that led to the decision, but I would have to say that I do

not think that it would have been a first choice for the DPP himself.

[MADAM PRESIDENT *in the Chair*]

He must have felt compelled that this was his only resort, his last resort. But I do not want to belabour the point too much except to say, just to repeat what I said first, that our values as a country are reflected in how we spend our money, and I do not believe—because we have had several, you know, we have had an economy boom within the time that I left the DPP's office and now—I do not think it is a question of money. I do not think we have a money problem, so much as a values problem, and we need to ensure [*Desk thumping*] that we spend our money in a way that is consistent with the things that we say are important to us as a country. It is not meant as a relay. I do not mean to direct any criticism in any particular direction, but I just would want to, since my heart is close to the Office of the DPP, and I know the kind of strain that they are under, to appeal to those who have the ability to make their situation better, that if we could take some corrective action and give the DPP's office the resources that it needs do its job, I think that that would go a long way to ensuring that these pieces of legislation actually get implemented. [*Desk thumping*]

So with that, Madam President, I would like to once again say thank you for the opportunity to address this honourable House, and I hope that we, in the spirit of cooperation, we can work towards tweaking this piece of legislation, making it better and stronger so that we are able to tackle the scourge that is financial crime. Thank you very much. [*Desk thumping*] [*Crosstalk*]

Madam President: Hon. Senators, even though Sen. Obika is taking the lead, permit me to congratulate Sen. Cummings on her maiden contribution. [*Desk thumping*] Sen. Richards.

Sen. Paul Richards: Thank you very much, Madam President, and good afternoon to all. May I also join with you, through you, Madam President, in congratulating Sen. Cummings on what is a very impressive debut contribution, very well done and very focused. I know do not intend to be long myself, Madam President, because I understand I am the final speaker today in this Bill, which is entitled, "an Act to amend the Mutual Assistance in the Criminal Matters Act, the Proceeds of Crime Act, the Financial Intelligence Unit of Trinidad and Tobago Act, the Customs Act and the Exchange Control Act", and the Exchange Control (Import and Export) Order, 1993. And, you know, it is really, to me, and the hon. Attorney General can correct me if I am wrong, in terms of strengthening the country's fight against money laundering and to ensure compliance, both of which are interrelated and very important in the present context of global finance and Trinidad and Tobago's reputation internationally, financially, and otherwise.

So it is, in large respect, as the titles of the various pieces of the Bill we seek to amend include the Mutual Assistance in Criminal Matters Act, but I really want to focus on the issue of the money laundering, which is to me of significant importance, and the issue of the resources placed in the agencies which are tasked with the responsibility of operationalizing. Because we find ourselves at a point in Trinidad and Tobago where we are passing laws and amending laws, but in large respect we have little or no measure past what we see coming out of the courts, or passing through the courts to see how successful these laws are and these amendments are, and very often it comes down to the barometer of murders in the streets of Trinidad and Tobago, which many people may not realize are directly connected to the very issue of money laundering when you think of the scale of money laundering in Trinidad and Tobago.

6.15 p.m.

Madam President, one of the things I want to get clear today, as I think Sen. Chote and others have indicated, is that we toss around terms in this honourable House, and in the other place sometimes, and the general public, especially when it comes to the details of these parts of this Bill, do not realize how much these amendments, if passed successfully, will affect their daily lives, because there are several aspects that talk about a person who knowingly or unknowingly contributes to the movement of property and/or finances, and people do not realize sometimes that they are being unwittingly used to perpetrate these acts.

So for the purpose of this contribution, which I really hope to be short, because a lot has been said already so there is no need for tedious repetition, is for the public listening and watching, to define the issue of money laundering, which is:

> A conversion or transfer of property or funds knowing that such property is derived from serious crime for the purpose of concealing or disguising the illicit or origin of the property or of assisting any person who is involved in committing such an offence or offences to evade the legal consequences of such actions. The concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to ownership of property or funds knowing at the time of receipt that such property was derived from a criminal offence or from an act of participation in such an offence.

When we are debating these Bills, to me there are several questions that we have to ask ourselves, because if you go through any of the research regarding money laundering, it is regarded as the world's largest industry after international oil trading and foreign exchange. The International Monetary Fund estimated the size of money laundering to be between 2.5 per cent of the world's GDP, which

translated in figures, is actually between US $590 billion and as much in some estimations as $1.5 trillion.

I will not go through all the details of the FIU's report, which to me, because of how many times it has been cited in this debate in the last day and today, has to be commended because the information coming out has been referenced by many of the speakers before me. Because of its impact, some are touting the $22 billion range, which is about one-third of our national budget or a little more than that, which is significant, almost half. And that tells you and it also leads me to make the differentiation between suspicious transaction reports and suspicious activity reports in this context, and the fact that the FIU has been able to do a lot more with a lot less in terms of identifying these STRs and SARs.

So while we debate today we really need to ask ourselves how much of the new law or amendments is full-fledged in order to combat money laundering, and how much of it is effectively being addressed in association of the threats of how far the law goes with internationally accepted benchmarks and principles. And that is where to me the compliance parts of these amendments, especially of the Mutual Assistance in Criminal Matters Act, Chap. 11:24 and the Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:02 are concerned, in terms of compliance with FATF and CFATF benchmarks and what we need to do, not only to protect ourselves as a country, but particularly our financial services sector.

Sen. Le Hunte spoke about the fact, and the hon. Attorney General, where being grey listed and to the point of almost blacklisted can seriously affect our day-to-day lives in Trinidad and Tobago. Very many of the transactions or the liberties we enjoy financially and commercially will be seriously affected if we do not comply with these international benchmarks through FATF and CFATF. So we really need to focus on strengthening of these bits of legislation to meet the

compliance benchmarks.

Also, is the law sufficient to bring good governance, policies in the financial institutions and promote the rule of law, economy and national security? How money laundering by politically exposed and corrupt persons is controlled in the fight against money laundering? What are the security and policy implications of these new laws or amendments on money laundering? How the banking sector and their competencies in fighting money laundering would be another point of security, vis-a-vis, the risk of correspondent banking. And how much the laws are holding public officials accountable, since it is almost impossible for corruption, including money laundering, to take place at the levels that the FIU's data is suggesting, without the knowledge, participation and hindrance to law of several agencies in Trinidad and Tobago, including some state agencies, some aspects of the banking sector, some aspects of the financial auditing companies in Trinidad and Tobago, because they have to verify the financials of very many institutions; retail businesses, and family members.

So the net really goes far and wide into almost every sector or dimension of lives in Trinidad and Tobago, and we need to realize that. It is very significant. Of course, as I said before, the laws ensuring cooperation, compliance and full disclosure between agencies and institutions which are critical in terms of the information necessary for effective application of laws and the protection of the population and the economy, because it really is about protecting the interest of the population when it comes down to it.

Very often, the public does not realize the trickle-down effect of money laundering, as Sen. Cummings indicated. When you get to the point where the suspicious transactions almost meet half of your national budget, you realize how much of an impact it can have in all or most of these I am about to outline:

undermining the legitimate private sector—because we really have no idea or no way of measuring, without curtailing money laundering and financial crime, of how well our economy is doing if we cannot quantify how much of that is based on an alternative economy, as Sen. Cummings indicated; undermining the integrity of financial institutions which, if they are not compliant, they can be black and grey listed; reputational risk for financial institutions and the country at large. And we all know we do not need any more bad news surrounding Trinidad and Tobago, because I, like many of you, including you Madam President, love our country. We cannot relish, no matter who is in power or who is not in power, in the bad news circulating around Trinidad and Tobago in international media.

It seems now it used to be every six months or so we would get an international travel advisory. It seems we end up on international media every three to six months. Now it seems like every two weeks. Even ending up in the UK Parliament on a highly viral video clip last week talking about the number of adjournments a murder trial had taken on a British national. So I do not think we can do with any more bad news.

It is also operational risk, legal risk and possibly international sanctions. Then of course there are the macroeconomic risks and the effect on the rule of law, including, as many have indicated before, the issues related to gang violence and the connection between money laundering and gang violence. Because as many would have indicated and spoken about, in terms of the large fines, as espoused in clause 3, which I will, with your leave quote, Madam President, of the Bill—clause to simplify the prosecution in defence of money laundering in two steps by making it no longer just an indictable offence.

But also there were many conflicting views on the sum, and I will quote section 53(1) shall be:

> "substituted with new wording which would provide that a person who commits the offence of money laundering shall be liable on summary conviction to a"—$25 million sanction—"and to imprisonment for fifteen years…or on conviction on or indictment he shall be liable to a fine of fifty million dollars…and to imprisonment for thirty years.

When you think of what Sen. Rambharat spoke about earlier and what the data from the FIU indicated in terms of the size of money being transferred illegally, that is a drop in the bucket. That is nothing for somebody who is engaged at that level, because it is not Mr. and Mrs. Average Trinbagonian who are involved in moving those sums of money. I approve and endorse the ceiling of it, because when you think of money laundering I think at that level, with much respect and humility, I may suggest to the AG, because there is such a variance of sums of money in terms of money laundering, from small amounts to huge amounts, that the wording—and I am not a legally trained mind, so I will take it under advisement, and maybe the AG can advise—to up to $25 million, with the judicial officer having the option, depending on the size of the offence to deal with.

Hon. Al-Rawi: That is how it is interpreted in law. So a statement of a maximum penalty $25 million, and let us say 10 years for instance, it is the maximum limit to which the judicial officer can go, and the range is from zero to that amount. So that is the way it is interpreted.

Sen. P. Richards: I am much obliged; thank you very much. That gives me much comfort, because then now I understand. Because I do not think putting it at $10 million or $15 million is productive, given the size of these sums that are laundered through our financial systems, and especially in the context of the proportionality with the $22 billion as identified by the FIU. That is a drop in the bucket, but the judicial officer, as the AG has now graciously indicated—it is up to the discretion

of the judicial officer, and it can go up to that amount. Quite frankly I think it should be higher, given what we are seeing in the world today. So I thank you for that, hon. AG.

Madam President, when you think of the main players involved in the issue of money laundering in Trinidad and Tobago, and they are so diverse and come from so many sectors in society, multidisciplinary, multi-dimensional, and you look at the research involving money laundering in any sector and the level of resources.

I looked at a situation in New York City where it took the FBI, the CIA and the NYPD operating in total secrecy for up to four years, up to $15 million to $20 million invested in resources, just to get to the final point, because very often if you get to the—I will call them the underlings, the small men, which are the ones who sadly are gunned done in the streets of Trinidad and Tobago every day, or their family members who unwittingly are dragged in—you do not stop the problem. And this is the grand old USA that had to invest this level of resources from agencies that are so much better resourced than we could possibly be in Trinidad and Tobago. You see how a TT $25 million fine is nothing compared to the resources that are invested in holding these persons accountable in the US.

So you look at what is happening in Trinidad and Tobago—and I know Sen. Rambharat and others spoke about the sectors that are involved in money laundering—and when you look at the business sector and alarmingly in Trinidad and Tobago gaming and gambling, which I know is before a joint select committee of Parliament presently, but I do not think we could move with the level of urgency that is required, given what we are seeing.

There are financial institutions in Trinidad and Tobago—some people chastise them for it—that have refused to do business with many of these

institutions because of just the cost of due diligence which is astronomical in other jurisdictions, trying to be compliant with FATF and CFATF regulations in terms of due diligence with these gaming and gambling—I cannot call them casinos because they are illegal in Trinidad and Tobago, but of course that is the work around—where they are "members clubs", and being used for funding millions and millions, hundreds of millions of dollars through our economy into the dark hole of illegality.

And also the spectre of the terrorist financing which, you know, we may not want to admit it, but when you start seeing articles online and publications:

"Carnival J'ouvert in Trinidad and Tobago, Feb16...

(CNN)—US troops participated in anti-terror raids Thursday in the Caribbean nation of Trinidad and Tobago helping to capture four 'high value targets', two US military officials told CNN."—which is linking Trinidad and Tobago internationally to terror cells and terrorist activities.

Also the:

"jadedobserver.

Development and Modernization.

February16, 2018...

The Latin American and Caribbean region is no stranger to corruption, bad decisions and organized crime. However sometimes, a member of this community takes things to a new level that risks both damaging and redefining long-term image and future prospects..."—of a tiny Trinidad and Tobago, which is quoted as:

"A Nation Turns Into The Caribbean's Hive of Scum and Villainy"

I take no pleasure in announcing this, Madam President, in this honourable House, because I am born and raised in Trinidad and Tobago and love my country.

The article goes on to read, and I quote:

"In fact, it seems as though TT is content with mimicking Venezuela's failed economic policies."

And talking about indebtedness and corruption in state-owned companies and an unwillingness to deal with white-collar crime. We have to deal decisively with the issue of money laundering and financial crime in Trinidad and Tobago, because no matter who goes into or comes out of power, it is not going to be enough to kick the can down the road, because it is damaging us every day and every week seemingly now. So I commend many of these initiatives in this omnibus Bill.

We also need to look at the fact that in addition to casinos, if you look at the issue of money laundering around the world, another dimension of it is the fact that it is being funnelled through, unwittingly in some instances and knowingly in some instances, very well-known, media and entertainment, which we do not like to talk about in Trinidad and Tobago. So we are seeing several "entertainment endeavours", and there is no accountability factor being built in, because Carnival is such a cultural milieu in Trinidad and Tobago and we all go into hyper drive and overdrive, but we are not paying attention to what happens in that very distracted period in Trinidad and Tobago. We need to more assertively take a look at these sectors, because they are not being used and regulated properly.

Madam President, let me just go quickly to the other parts in the Bill that have caused me concern. This part is referring to section 18G where the Act sets out powers of the FIU. I may sound like a cynic, but I cannot help it, given what we are seeing in Trinidad and Tobago. These Bills and amendments and laws have to be operationalized by individuals and agencies, and if these agencies and individuals are not as trustworthy as they should be, when I see nebulous language it is cause for pause for me. When I see:

"without reasonable excuse, fails to give such police officer any other assistance which he may reasonably require to be given for the purpose of exercising his powers or performing his duties under this section,"

And also (2D):

"A person who, when required to give information to a police officer in the exercise of his powers or the performance of his duties under this section, knowingly gives false or misleading information to any such police officer is liable on summary conviction…"

I always have a concern because of the issues—and I would say it before I make my point. Most, I believe, of the officers of the Trinidad and Tobago Police Service are hardworking, honest officers, but there is a cadre of officers who are not honourable. When we grant this kind of power to those officers we have to ask ourselves, as Sen. Cummings indicated, what the possible mischief is, and that is my concern when we see issues like "reasonable".

I know it is legal drafting, but it is legal drafting that is from an era or referenced from a time when we had full confidence or significant confidence in many of the institutions that we are depending on to operationalize these laws, which is not the case today, and that to me we need to be cognizant of. We cannot just presume that, well, that is the case, we have to trust the police and that is the end of it. No, I do not agree with that at all.

Madam President, also on the issue of section 18G of the Financial Intelligence Unit Act which also seeks to amend the new law subsections (2A) to (2E), which will require any person to provide the FIU any documents, information or explanation or any information provided for a warrant under subsection (2), to include a requirement to provide a police officer with any information or explanation on any information to make it an offence to obstruct the police officer

in the execution of his or her duties and knowingly give false or misleading information to a police officer, and to protect individuals from self-incrimination.

I cannot remember which Senator it was, but I think it may be Sen. Sobers, but I want to underscore the need for some provision to be made, if not in the Bill, in the regulations, for special training for specific officers exercising these duties, because we all know these are specific to a particular type of crime, and not every officer may be trained to identify the information that is required, that is relevant, and so this part of the clause may be really not as productive as envisioned by the drafters of the legislation.

So it is very important when you amend the law or enact a law, to ensure that the persons who have to operationalize these aspects of the law have the necessary training and competence, because one, it puts the public at a disadvantage, and two it negates the intended effect of the law down the road. So when you say, "a police officer" it is kind of vague to me. Yes, one can presume, well the Commissioner of Police is not going to send any officer, but it is not specified in law. So it could be a police officer who is not trained in this regard, and to me it is not as effective as it should be in terms of the language.

I also want to talk about the issues related to—and I am not seeing it, and I know there is a cybercrime special JSC, but when we are talking about money laundering and terrorist financing in today's context, I do not know if it will be in this Bill or an upcoming Bill, but I have not heard one word about the paradigm of bitcoin in this debate and the impact of bitcoin globally and its significant penetration on the paradigm of money laundering and terrorist financing.

Hon. Al-Rawi: Thank you, hon. Senator. What an excellent point to make. It is something which is under active scrutiny. The concept of electronic money, which bitcoin falls to be a part of, is contained in both the Anti-terrorism Act and in

aspects of money laundering. But the Government is undertaking a separate exercise specifically in respect of cryptocurrency, because it deserves a certain amount of regulatory approval of its own, and that is an active product right now which will stand alone very shortly.

Sen. P. Richards: Thank you, much appreciated. I appreciate that because when you look at the ways international money launderers, drug runners, gun runners and terrorist groups are now trading to elude international agencies and carry out their illegal trade, that is now the preferred avenue. If you understand how bitcoin operates, it is several million computers all around the world supposedly verifying, as opposed to one financial institution and that is how they are able to hide and be anonymous in their transactions.

We may not understand it in Trinidad and Tobago. We may not be au courant with what is happening, but we have to presume that because of the data coming out from the FIU that we are also subject to that sort of infiltration in terms of our financial institutions in Trinidad and Tobago, and also make sure that our laws are not only catching up, because I know one of the challenges of the hon. Attorney General, and any AG for that matter in the last 10 or 15 years, is that we are playing catch up. We are putting all our resources in playing catch up, and we need to sit and pause for a while and think of how we can jump ahead of the curve, given what people are seeing as the evolving paradigm all over the world.

Madam President, I just want to end by focusing on the issue of the agencies that have to operationalize these laws. As I said before, it took the New York jurisdiction four years, several extremely well-resourced and professional agencies working together in total secrecy, to make a significant dent in money laundering activity in that jurisdiction. We do not have those resources so we are already behind the curve and at a disadvantage, but we have to think in that way.

One of the issues that these agencies encounter, because they were able to very productively, while they were enacting the exercise, do a lot of research along with it. They were able to publish a lot of the research in the Contemporary Justice Review for the *Hansard,* September 2003. The author is Christopher W Mullins from the South Illinois University, Carbondale. It has ended up in 46 publications and has had, at the time of my downloading it, 599 citations, which kind of shows the strength of the research.

It is titled:

"A Complicity Continuum of State Crime".

The general trend of it focuses, in addition to the laws and the legislation that were used and the resources too, to deal with the money laundering spectre in that jurisdiction, on the failure and/or complicity of state agencies and entities in money laundering. Because what was found is that money laundering cannot successfully occur without state agencies being involved at some level, state officials being involved, the banking sector, the financial audit sector and several other sectors in society.

They went on to define State crime which focussed on the fact that it:

"1. Generates Harm to Individuals, Groups and Property.

2. Is a Product of Action or Inaction on Behalf of the State or State Agencies…"

I will just be able, with your leave, Madam President, to quote:

> "Crimes of omission as well as commission become readily apparent when one begins to examine state and corporate-state crime...Due to the nature of trust involved in a state as a social institution,..."—that we just presume are operating above board, and we have no idea of the level of level of corruption that would have infiltrated these

agencies—

4. Is Committed, or Omitted, by a Governmental Agency, Organization or Representative—which means public officials—

5. Is Done in the Self-Interest of (a) the State Itself or (b) the Elite Groups Controlling the State"—which is, you know, the point at which I will end my contribution.

The general public looks on and we have had as many as the $22 billion in suspicious transactions identified with 27 charges. According to this article the general public says, well, you know, governments come and governments go, administrations come, administrations go, but there is an unwillingness or incapability to focus on the elite, those holding the huge pockets in society, because there is the presumption or the suspicion that, well, they are involved with governmental or state officials and they are untouchables.

If we do not show, by putting the resources in the Office of the DPP, as Sen. Cummings indicated, in the institution of the FIU, in the PCA and other such agencies to show that we are serious about this, all these debates will come to nought. We will continue to be ravaged. Our economy will continue to be undermined by a dark, alternative economy, and we will continue seeing bloodshed on the streets without abeyance. We have to show that we are serious about this. We have to show that we are willing to put our public money where our mouth is, and no matter who it is, further what our basic rights of our Constitution says: The protection of life, liberty and the equal application of justice to all. As I speak now, I do not think the public gets the impression, based on the track record, that justice and the resources are being applied to all demographics in society.

With that I think these amendments are in the direction of strengthening the legislative backbone needed, but I do also think it will come to nought again if we

do not put the resources into the institutions and stop playing lip service and catch-up in terms of really becoming decisive and serious about money laundering, and showing the results.

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

6 45 p.m.

Sen. Anita Haynes: [*Desk thumping*] Thank you, Madam President, for the opportunity to join in this debate on the Miscellaneous Provisions (Mutual Assistance in Criminal Matters, Proceeds of Crime, Financial Intelligence Unit of Trinidad and Tobago, Customs and the Exchange Control) Bill, 2017.

Before I get into the substance of my debate, I would just like to congratulate the speakers that went before me both today and on the previous occasion, because they made my role here very easy. A lot of the points have been clarified in-depth and we have seen some very insightful and well-researched contributions to this debate.

When Sen. Mark opened the debate, he articulated the Opposition's stance in this matter and he noted that the changes being made to this Bill should be sent to a joint select committee. When he articulated our position, there was a lot of fuss about this notion of this particular Bill being sent to a joint select committee.

When Sen. Ameen spoke, she noted that we support the principle of the Bill, of the legislation and that we agree that money laundering is a problem, and that we do need to act decisively to take the financial benefits out of crime, and that it will have an impact on our crime situation.

Sen. Hosein also raised a number of the finer points of the law and offered suggestions to the Government. Today, we had Sen. Sobers point out the effectiveness of the law and what would be the actual impact, and we had Sen. Obika discuss in-depth the consultation aspect and whether or not there had been

sufficient consultation on this Bill.

And as I am joining the debate at this time I have to use my opportunity to correct what I think is a very false narrative painted around what the Opposition's stance on this matter is, and I took the pains to highlight what went before, because despite our standing here, speaker after speaker articulating our position, the essence of it seems to be that the Government insists on painting us as obstructionists and that we are refusing to support this important piece of legislation, and that is simply not the case. We want the legislation, we just want it to be good and effective. We would like to have a useful piece of legislation that would impact on the people of Trinidad and Tobago and have the desired impact.

And so what we are looking at is a group of people in the Senate who have a lot of ideas and a lot of good intentions, and we are intending to use our space in the Parliament and parliamentary procedure, such as the joint select committee which I find strange because the Government uses the term "the Joint Select Committee" as an obstruction, as opposed to what it actually is, which is an important and effective parliamentary tool for scrutiny.

When Sen. Ramkissoon spoke she raised the point that there was a difficulty with this legislation, when you have so many small components that you may be inclined to support one part, but because of the nature of the omnibus Bill, that you cannot support the amendments in totality.

And, you know, as I was doing my research for the Bill, I looked at an article in *The Washington Examiner*, that omnibus Bills "…may be heading for extinction..." in the Congress. And this is a US article, but the point remains the same, that omnibus Bills by their nature, allow for, and this is a direct quote here:

> "…gimmicks and trickery to evade scrutiny and public vetting. In short, omnibus Bills represent a terrible way to run the legislative railroad."

Now, I have no problem with it being an omnibus Bill, because there are certain, just like there are drawbacks to certain things, there are positives because we do want to get this done, and we may want to get it done quickly, but we should always be seeking to get it done right.

In my very first debate in the Senate I raised the point about Government's priorities and at that time I was talking about money and how they prioritized spending. Today, I am talking about how they prioritize our time. You see, sending this Bill to a joint select committee did not have to be an obstruction had the time, the legislative time been prioritized in a sensible fashion. You see, if this came earlier on you could spend the time to scrutinize effectively, and then all the concerns aired by the Opposition, by the Independents would have been ventilated. The discussions would have been had and we would have all had an opportunity to be comfortable affixing an affirmative vote to the legislation, which is what I think we should always be seeking to do. We should always be seeking to pass good law.

You see, the joint select committee allows for the consultation that Sen. Obika noted was lacking; it allows for the scrutiny that Sen. Ramkissoon and others raised that may have been lacking; and it allows for the passage of good law. It should not be painted as an obstacle. In reality, if you looked at proper prioritization of legislative time, we can get all of this done. Instead, we are constantly being forced into this rush job, and I do not know if it is the goal of the Government to bring the legislation and insist that it gets passed in a short space of time as a way to blame the Opposition for their ineffectiveness in getting their job done.

You see, if you properly laid out your work in a systematic fashion, you could get of all this done, it can be all done in the right way, the right and proper

function and we could use the Parliament as it was meant to be, as a check on the Executive, as a check on the Executive policy and to scrutinize legislation in a manner that we give the population the best possible option.

Part of the narrative that has been painted, the Attorney General spoke extensively that this Bill will allow us to follow the money. It is billed and framed as an important crime-fighting tool that I think Sen. Rambharat raised, he said that, by strengthening our ability to deal with the money aspect of crime that we would, in effect, reduce criminal activity. That all, I think, sounds good in theory, but what is the real impact? What would we really see happening here?

Before I came here today, as we were discussing, I spoke to some people and I told them what we were discussing proceeds of crime and I was reliably informed that while we are talking about following the money and that this will have a massive impact on crime and criminality in our country, I was told that the police service, there was no funding released to service police vehicles. [*Desk thumping*]

So, when we are looking at all these—we had people talk about, in terms of the effectiveness, the technical expertise that will be needed to enact this legislation effectively, both in the FIU and the TTPS and everybody else, that you would need a specific level of technical expertise. I do not know that we will get that because that requires money for training and specific training, and if you cannot do something as simple as service police vehicles, you are not going to find the funding for this. Right? [*Desk thumping*]

As we look at what the legislation intends to do. Yes, it is laudable and it is something that we need, and I know that in response, someone on the Government's side will say, well you have to start somewhere. Yes, I agree. Typically, you start at the beginning, so that, you know, this is the problem.

Money laundering is a problem. But you know what is a bigger problem?—our low detection rate.

So, when you look at what they are proposing in clause 3 of the Bill, right, with that amendment, that you are increasing the fines. My assumption is that you are doing this as a deterrent, so the amendment seems—you are now liable on a summary conviction with a fine of $25 million and 15 years in prison or $50 million and imprisonment of 30 years. Before this amendment is passed it is that you are liable on conviction on indictment with the fine of $25million and imprisonment for 15 years. But everyone who has spoken before me has acknowledged the magnitude of the problem. Right? We have heard the statistic that it was 27 convictions in seven years—27 charges in seven years and no convictions and how many billions of dollars is passing through.

So before this amendment is passed there is already this $25 million deterrent which is ineffective. So you increase the money pretending that the deterrent will now be effective without having equipped any of the agencies meant to deal with these types of crime with any kind of specialist training, any kind of tools that will allow them to enact this legislation effectively. So my question is: Are we as a Parliament engaging in a process today that will improve the lives of the citizens of Trinidad and Tobago, or are we simply participating in allowing the Government to check a box? So that they have created this narrative that the biggest scourge facing or country is all this money that is being passed through the system and once they pass this piece of legislation and whichever other pieces of legislation, our ills will be cured.

And I do not agree with that, and I think they are looking for an achievement. It has been two and a half years, and any time anybody gets up to report on an achievement you hear a memorandum of understanding which is not

an achievement. You hear a piece of legislation with no details on how it has impacted the population. You never hear what was done to improve the lives of citizens. You just hear about pieces of paper left, right and centre [*Desk thumping*] and that is what this will do.

And so, I would like, respectfully, to suggest that as we think about how we use parliamentary time and the types of legislation that we bring, that you do not think so much about political expedience, and what would allow you to talk about corruption and follow the money and who you coming for and who you looking for, but what will impact the lives of average Joe and Jane on the street.

People in this country—we have been on several walkabouts in various areas, various communities, almost everyone on our Bench here has been on a walkabout recently, and the thing that people tell us the most is that they do not feel safe, that they cannot go out at night and feel safe. As a matter of fact, when we were leaving to engage with communities, my parents also had that concern about where "all yuh walking going". And these things need to be dealt with in an expedient and efficient manner, and I do not think that this is the way that you would do it.

When you look as clause 3 of the Bill for the amendments and you look at this idea that increasing the fines, and a lot of persons before me spoke about how onerous the increases would be. And I mean, if you do not feel like the system is capable of catching you, I do not think that this would do anything because I do not know that people feel that we are getting anybody, any criminals. You feel like you can commit crimes and there is no redress for the average citizen. So, I cannot remember the last time you have heard of any "Mr. Big", I do not think that you have ever heard of "Mr. Big" being arrested and charged.

Sen. Ramdeen: Mr. Baksh.

Sen. A. Haynes: Well, you know, we are still awaiting the outcome. Right? [*Crosstalk*] We are still awaiting the outcome of that particular bit of following the money. I do not know how quickly, you know, how much teeth that would get. [*Crosstalk*]

Hon. Senator: It in the pipeline.

Sen. A. Haynes: It in the pipeline. Careful "yuh" have to come over here just now, you know. [*Laughter*] Sorry.

Madam President: Please, address me. And hon. Senators, please, let us listen to Sen. Haynes.

Sen. A. Haynes: When we—also the Senator, the Minister of Trade and Industry when she contributed on the last day, a good bit of her contribution was focused on the reputation of Trinidad and Tobago internationally, and that this legislation would help with the reputation of Trinidad and Tobago internationally. Now, this in this context of a country which was once seen as a global, you know—and the Minister of Trade and Industry made the point and accused the Opposition of not caring about the reputation of the country which is why we would not lend support to the Bill. And I have already said that is a false narrative, we have no problem supporting the Bill if it is done according to the best parliamentary practices and allows for the kind of scrutiny that a joint select committee would allow for.

But this is in the context of, recently the Secretary of State, Rex Tillerson visited Jamaica, Mexico, Argentina, Peru, Colombia, and there was this discussion about the energy powerhouse of Caricom, and he billed Jamaica as being the energy power. And so, you cannot on one hand talk about the things that you are doing and about the reputation of the country when this Government is facilitating our international reputation being dragged through the mud; from energy to national security, we really do not have a good imagine, and the attempts to put

that—

Madam President: Sen. Haynes, I have been listening very carefully to your contribution, and you have spent a good bit of it talking about the need for the Bill to go before a joint select committee and what you see is the merits of that position, but now I would ask you to focus a little more on the Bill itself. You have given a context, but I need you now to be a little more focused on what is before the Chamber. Okay? Thank you.

Sen. A. Haynes: Well, I also wanted to address some things that were put before the Senate in terms of the reputation of the country and what this Bill will do. I think the essence is that when we look at it in totality, would we get the desired effect?

And so when you look at the amendment, and I want to just, again, focus on the amendment to the Proceeds of Crime Act because I think that in and of itself shows that we are doing things, we are pursuing activities without thinking of the real impact on the day-to-day lives of citizens, so that you are doing things like creating a deterrent without treating with getting to the point of making it effective.

Madam President: Sen. Haynes, I think you have made that point and you have really made it, and I would ask you to make some other points. Okay?

Sen. A. Haynes: Right. I just need to regroup. So, I will also look at, one second, too much paper. Yeah. So, I just lost my position here. Right. I also wanted to focus on this idea of being proactive with legislation. So we had and I think Sen. Shrikissoon spoke about it, the blacklisting by the European Union in December and the Organisation for Economic Co-operation and Development and its report and putting Trinidad and Tobago as noncompliant which facilitated the blacklisting. And we have all, and this goes back into my earlier point of prioritization.

Last year, the early part of last year while we were going through the FATCA debate, and as we are all talking about international co-operation, we heard a lot about sovereignty and that international money crimes hold no borders. We will be faced within the coming months with having to pass a number of pieces of legislation that would avoid us being put on the Global Forum blacklist, and we have not seen the legislation needed to prevent that being brought before the House. And so my question is, why? So, we are doing this now and putting this on the front burner and then seeing us being rushed between March and July to pass what would be a bulk of legislation that would prevent the blacklisting.

So could we not be proactive and do all of that earlier on, facilitate further consultation, joint select committee if you will, and focus on that? But instead, we find ourselves doing, occupying parliamentary time and doing a number of other Bills without being proactive and we could have done that last year as a matter of fact, so there would have been enough time for us to go through the pieces of legislation that would have prevented us from being blacklisted by the European Union.

And again, that comes down to Government's priorities and doing things for political expedience as opposed to doing it in the best interest of the population of Trinidad and Tobago. Because they are going to come here very soon with pieces of legislation and tell us that you have to do this now, you have to pass it now, the sky is falling.

The essence of my contribution in this Bill is to just point out that as the Opposition we do support the principles of the legislation. We do want what is best for our country in terms of fighting crime. We think that it could be done in an effective and responsible manner if the Government would be so minded. And if you do the right things and you allow the legislation to be scrutinized properly,

we have no problem supporting you. So act in the best interest of the country and you will get our support. Thank you. [*Desk thumping*]

ADJOURNMENT

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Madam President, I beg to move that this Senate do now adjourn to Tuesday 06 March, 2018, at 1.30 p.m. We will revert to Private Members' Day, and based on the Opposition's request, we will be doing Private Members' Motion No. 1, that is the Motion on the autonomy of the Parliament.

Madam President: Hon. Senators, before I put the question on the Adjournment, leave has been granted for a matter to be raised on the Motion for the Adjournment of the Senate. Sen. Obika, you have 10 minutes. [*Laughter and desk thumping*]

Caribbean Airlines
(Expansion of Route into Cuba)

Sen. Taharqa Obika: Thank you, Madam President, and I take note. Today, I stand on this matter on the Motion for the Adjournment of the Senate regarding the need for the Government to explain the reason for the recent expansion of Caribbean Airlines route into Cuba.

Now, when you look at what normally obtains when an airline is expanding its options, there normally are four, generally, four basic considerations: demand forecasting; connectivity at the hub; aircraft availability and the competitive environment. All right? I will start with the last point.

Now, if the route is not currently being serviced, one may argue that the environment may not be a competitive one that will warrant the use of an airline, of an aircraft. However, that may be scuttled by an article in the, this would be on Wednesday 17th February. I am looking for the actual news. I will probably have to supply that thereafter, but I am sure we are familiar with the article that surfaced

in the media last week regarding Caribbean Airlines, and it follows the signing of an aviation agreement by the United States and Cuba on Tuesday, all right?—which paves the way for regularly scheduled flights between the countries. I would beg to cite thereafter because I did not print the page which the newspaper noted. All right? Now, the *RJR News*, that is the name of the source, but it is also featured in local media houses as well.

So, yes, the agreement was signed between the United States and Cuba that facilitates flights. However, that is not necessarily a sufficient condition, it may be a necessary, but not a sufficient condition that would warrant a competitive environment.

Aircraft availability: that is a question for Caribbean Airlines to answer. Connectivity at the hub: Caribbean Airlines, and well the Government through whichever spokesperson they choose, must explain what are the benefits at the hub, and how does the environment at the hub facilitate going to Cuba? Viva la Revolución, people would say or Vive Cuba, yes, it will help our tourism thrust, maybe it may help our transportation thrust, however, these things spoken in a vacuum without information really and truly do not help advance any position that the Government may have.

Demand forecasting: as an economist the need for forecasting is significant. There are many variables that act independently on the issue of an airline being successful on a particular route. What was the forecasting method used by the airline or by an independent body to facilitate the decision to go the Cuba route?

Now, I looked at the same article that I cited, it says that the, Dennis Lalor the Jamaican representative on the board of Caribbean Airlines is interested in adding Cuba to its list of destinations, and he said that:

> "The Cuban connection was a part of Air Jamaica's operation. We had a fairly large percentage of the traffic going into Cuba…and so we (as Caribbean Airlines) are seriously contemplating going back…"

However, we bought Air Jamaica and that position was something that may have been done more out of regional sovereignty concerns as opposed to business practice necessarily and probably protecting the Caribbean market space, but it may not necessarily have been because we really believed in the decision making of the executive at Air Jamaica.

Therefore, given that it is internal and it is also internal and part of an organization that we would have taken over, I think it would be very irresponsible if that is the only source for the Government's decision to go to Cuba. I understand that the routes are being sold at half price, so it can be price competitive with going to New York at just over TT $3,000 per round trip.

7.15 p.m.

Therefore, it begs the question, when the full fare is laid, would the route even be a consideration for the travelling public that they would have enticed with the initial offer? Or, is it that we are planning to run the Cuba route, what you call it, at a net loss position? Now, I understand all the significance—may I ask how much more time I have, Madam President?

Madam President: Five more minutes.

Sen. T. Obika: Thank you. Good. Now, I understand the importance of Cuba in our trade facilitation and our trade expansion drive, having worked in a prior incarnation at the Ministry of Trade and Industry myself. And I also understand the importance of Cuba because of our trade specialization with Caricom. That was my thesis at the undergrad, but it still begs the question, on a broad scale yes,

but on a narrow specific scale of a particular route to Cuba, maybe or maybe not.

There are accusations that, okay, maybe it is a question of the tail wagging the dog. Is it that the board is in agreement, or is it something that only the management of Caribbean Airlines has decided on and the Government is just going along in tow? There were positions advanced to go to Senegal in the past, and what happened is that, I understand that the management brought their own feasibility studies that downplayed the importance of going to Senegal, despite the fact that so many Trinidad and Tobago companies are going to West Africa, Senegal being the most westerly African country.

Now, the question the Government must ask: Where is the feasibility study? Does it outline these things? And, I would like to posit that Caribbean Airlines, if they are looking to become more profitable, can seek to cut waste, if there exists any, and also, look at benefiting from the existence of the University of Trinidad and Tobago by virtue of adding a maintenance repair organization aspect to the operations. Our former Minister of Tertiary Education coined the phrase "cutting cane to flying plane", and we have many of our young academics being trained in that degree in Aircraft Maintenance and Repair in UTT in Central. They do not need to look far. Qantas has a hangar project at LAX where, basically, it looks at utilizing the same issue of return overnight, return over day, aircraft maintenance terminology, basically, which means having an effective aircraft repair and maintenance facility, which can bring significant revenue, much like the dry docking facility in our maritime sector.

So, Madam President, all I am saying is, we have opportunities that Caribbean Airlines can benefit from, and we want to make sure that going to Cuba is actually something that was done based on sound, independent advice from

experts in the industry of aviation, and they have exhausted all possible options that exist, for example, a maintenance and repair organization.

Now, I take the last minute of my time to basically reiterate that in our state enterprises we must remind the executive management at these enterprises that they are not above the final shareholder, which is the taxpayer of Trinidad and Tobago and, therefore, Parliament must be seen, not as a rubber stamp but an organization within which they should table these changes to their business models and their operations.

Thank you very much, Madam President.

The Minister in the Ministry of Finance (Sen. The Hon. Allyson West): [*Desk thumping*] Thank you, Madam President. Madam President, I will start my response by indicating that the state boards, peopled by individuals appointed by this administration, do not operate in a *vaille que vaille* manner.

So, this is what Caribbean Airlines did to come to the determination. The decision to expand operations into Cuba was a business decision taken by the board of directors of Caribbean Airlines Limited, as an initiative to improve profitability. The decision was based on studies and an analysis of the circumstances. So, firstly, a three-year network optimization and fleet study was undertaken by ICF SH&E Limited, which is a renowned aviation consultant, in 2016, to determine the potential for new business routes.

The issues that were considered in determining whether Cuba should be among those new routes were as follows: A go-to-market analysis of the detailed commercial and trade aspects related to the Cuban market, highlighted opportunities and advantages for Trinidad and Tobago as follows:

1. The Trade and Economic Agreement signed in November 2017 between

Caricom and Cuba, with granted access to manufacturers to expand in the market.

2. The Barbados Chamber of Commerce signed an MOU with the Cuba Chamber of Commerce at the Havana International Trade Fair in 2017.
3. Trinidad and Tobago's Trade Facilitation office has a presence in Cuba and coordinates Trinidad and Tobago's participation in the trade fair.

This resulted in the following companies from Trinidad and Tobago entering the Cuban market and exporting consistently. Those companies are:

- Angostura Limited.
- Associated Brands Industries Limited.
- Carib Glass Works Limited.
- Caribbean Development Company Limited.
- John Dickinson & Company (West Indies) Limited.
- Sasha Cosmetics.
- SM Jaleel and Company Limited.
- Trinidad Nitrogen Company Limited.
- Universal Foods Limited.
- Trinidad Tissues Limited.

ANSA McAL has recently, this was October 2017, entered into distribution arrangements with Freixenet, a Cuban distribution company, and another 20 companies in Trinidad and Tobago are actively negotiating with Cuban companies.

Another consideration, the opening up of this route gives us access to a large regional market that is considered virgin territory, due to the limited presence of traditional competitors and dominant local, regional and international brands. It

creates opportunities for investments in a market that is currently in transition and focusing on developing its productive capacities, in particular, tourism and agriculture. It gives us an ability to capitalize on the strengths of Cuba in areas such as medicine, education and services. It creates opportunities for multi-destination tourism, health tourism and sports tourism.

Further, Caribbean Airlines financial projections for operating the Cuban route during the initial period of 2018 to 2020 show positive returns as follows—I have a breakdown by year, so if you want that I can provide it for you, but for the purpose of moving this along I would give you the total for the three years—total projected revenue is $20,910,748; the total operating expenses projected $17,698,661, giving you a return before tax and interest of $3,212,088, which is a 15 per cent return on investment.

Based on the above route analysis and opportunities/advantages for trade between Trinidad and Tobago and Cuba, Caribbean Airlines proceeded to operate two weekly services from Port of Spain to Havana, with connections from Guyana, Barbados and Grenada. Additionally, the opening up of the Cuban market to the globalized world presents countless opportunities for Trinidad and Tobago with respect to trade, hence the strengthening of the commercial relationship between Trinidad and Tobago and Cuba is important for the advancement and support of trade.

Furthermore, the Cuban Government views Trinidad and Tobago as a gateway to the Caricom market. Objectives for Trinidad and Tobago's participation in the Havana trade show include:

- to improve the commercial relationships with Trinidad and Tobago and Cuba;

- to enhance those mechanisms that would promote increased trade between both countries;
- to strengthen the collaborative relationships between local exporters and importers within the Caribbean market;
- to gain a better understanding of the business culture in Cuba; and
- to increase export sales through market presence and recognition by Cuban buyers, importers and distributors.

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

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 7.25 p.m.