

SENATE

Tuesday, March 10, 2020

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. Foster Cummings and Sen. Sophia Chote SC, both of whom are ill.

SENATOR'S APPOINTMENT

Madam President: Hon. Senators, I have received the following correspondence from Her Excellency the President, Paula-Mae Weekes, ORTT:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By Her Excellency PAULA-MAE WEEKES, O.R.T.T., President of the Republic of Trinidad and Tobago and Commander-in-Chief of the Armed Forces.

/s/ Paula-Mae Weekes

President.

TO: MS. ZOLA L. PHILLIPS

WHEREAS Senator Sophia K. Chote SC is incapable of performing her duties as a Senator by reason of illness:

NOW, THEREFORE, I, PAULA-MAE WEEKES, President as aforesaid, in exercise of the power vested in me by section 44(1)(b) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby

UNREVISED

appoint you, ZOLA L. PHILLIPS to be a member of the Senate temporarily, with effect from 10th March, 2020 and continuing during the absence of Senator Sophia K. Chote by reason of illness.

Given under my Hand and the Seal of the
President of the Republic of Trinidad and
Tobago at the Office of the President, St.
Ann's, this 9th day of March, 2020.”

OATH OF ALLEGIANCE

Senator Zola Phillips took and subscribed the Oath of Allegiance as required by law.

ARRANGEMENT OF BUSINESS

Madam President: Hon. Senators, we are awaiting one further instrument. So with your leave we will revert to this item when we are in receipt of the instrument. Thank you.

MISCELLANEOUS PROVISIONS (AGE OF RETIREMENT OF JUDGES, INTERPRETATION AND CHIEF JUDICIAL OFFICERS) BILL, 2019

Bill to amend the Constitution (Prescribed Matters) Act, Chap. 1:02, the Interpretation Act, Chap. 3:01 and the Judicial and Legal Service Act, Chap. 6:01, brought from the House of Representatives [*The Attorney General*]; read the first time.

TAX INFORMATION EXCHANGE AGREEMENTS BILL, 2018

Bill to make provision for the implementation of agreements between Trinidad and Tobago and other States providing for the exchange of information for the purposes of taxation, and for related purposes, brought from the House of Representatives [*The Minister in the Ministry of Finance*]; read the first time.

Motion made: That the next stage be taken on Thursday, March 12, 2020.

[*Hon. A. West*]

Question put and agreed to.

INCOME TAX (AMDT.) BILL, 2019

Bill to amend the Income Tax Act Chap. 75:01, brought from the House of Representatives [*The Minister in the Ministry of Finance*]; read the first time.

Motion made: That the next stage be taken on Thursday, March 12, 2020.

[*Hon. A. West*]

Question put and agreed to.

MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS BILL, 2018

Bill to implement the multilateral Convention on mutual administrative assistance in tax matters which would make provision for the implementation of agreements between Trinidad and Tobago and other States to provide for the exchange of information for the purposes of taxation, and matters incidental thereto, brought from the House of Representatives [*The Minister in the Ministry of Finance*]; read the first time.

Motion made: That the next stage be taken on Thursday, March 12, 2020.

[*Hon. A. West*]

Question put and agreed to.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Office of Procurement Regulation for the

2. year ended September 30, 2019. [*The Minister of Public Administration and Minister in the Ministry of Finance (Sen. The Hon. Allyson West)*]
3. Annual Audited Financial Statements of the National Entrepreneurship Development Company Limited (NEDCO) for the financial year ended September 30, 2017. [*Sen. The Hon. A. West*]
4. Annual Audited Financial Statements of the University of Trinidad and Tobago (UTT) for the financial year ended September 30, 2015. [*Sen. The Hon. A. West*]

JOINT SELECT COMMITTEE REPORTS

(Presentation)

Land and Physical Infrastructure

Promotion of Non-Traditional Methods of Farming

Sen. Deeroop Teemal: Madam President, I have the honour to present the following report:

Ninth Report of the Joint Select Committee on Land and Physical Infrastructure, Fifth Session (2019/2020), Eleventh Parliament, on an Inquiry into the Policies for the Promotion of Non-Traditional Methods of Farming including Digital Farming Technology.

Social Services and Public Administration

Teenage Pregnancy and the State's Capacity to Minimize

Sen. Paul Richards: Madam President, I have the honour to present the following report:

Thirteenth Report of the Joint Select Committee on Social Services and Public Administration, Fifth Session (2019/2020), Eleventh Parliament, on an inquiry into the prevalence of Teenage Pregnancy and the State's capacity

to minimize the occurrence of teenage pregnancy and to provide services and assistance to teenage parents.

URGENT QUESTIONS

Usine Ste. Madeleine/Brechin Castle

(Demolition of)

Sen. Wade Mark: To the Minister of Agriculture, Land and Fisheries: Consistent with Government's policy to preserve and rehabilitate historic buildings, can the Minister indicate whether the Government intends to reconsider its decision to demolish the sugar mills/factories at Usine Ste. Madeleine and Brechin Castle?

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Thank you very much, Madam President. I have taken note of the newspaper stories and a petition that is circulating, and I believe a lot of this is driven by lack of information.

The first thing I would say is that the management of the former Caroni (1975) Limited assets—management is the responsibility of at least four Ministries: the Ministry of Finance, the Ministry of Rural Development and Local Government, Ministry of Community Development, Culture and the Arts, and the Ministry of Agriculture, Land and Fisheries insofar as the Commissioner of State Lands is involved.

In 2003, based on the VSEP that was offered to the former Caroni (1975) Limited workers, a decision was taken to discontinue factory operations at the Brechin Castle factory in Couva, but maintain operations at Usine Ste. Madeleine. So July 01, 2003, was the last date the BC factory was operational.

Subsequently, by vesting Act effective June 01, 2006, the assets of the former Caroni (1975) Limited were distributed between Sugar Manufacturing

Company Limited and Rum Distillers of Trinidad and Tobago Limited, sugar Manufacturing being responsible for the former sugar assets, Rum Distillers being responsible for the rum assets.

In 2009, a decision was taken to dismantle the factory at Brechin Castle and the one at Usine Ste. Madeleine, those factories being non-operational, and to also put in place long-term arrangements for the other non-sugar assets under Sugar Manufacturing Company Limited.

So what is happening now, Madam President, that is 2009, 11 years have passed. If you go—

Madam President: Minister, your time has expired.

Sen. The Hon. C. Rambharat: Thank you very much, Madam President.

Sen. Mark: Madam President, through you, can the Minister give the assurance that the Government will reconsider its 2009 decision to demolish those sugar mills/factories?

Sen. The Hon. C. Rambharat: In relation to the reference to preservation of heritage buildings, I want to make it clear that the sugar factories and the preservation of the sugar history in this country are two separate matters. In relation to the preservation of the sugar history, Sevilla House, which is a historic building in Couva, had been identified to be converted into a sugar history museum to store some of the written records which have already been archived, and also to put on display on the grounds around the Sevilla House, equipment and other things relating to the history of the sugar industry in Trinidad and Tobago.

So some of the concerns have to do with preservation of historic buildings. Sevilla House is as historic and as connected to the sugar industry as we could get, in that, substantial sums were already spent to preserve that building, and also put

on display some of the elements of the sugar history in this country.

In the dismantling of the factories, we are talking about things not related to the manufacture of sugar. There will be items which we can put on display as part of the Sugar Museum which is at Couva. So the factories are distinct from the Sugar Museum which is something that is ongoing, and is meant to preserve our heritage in relation to sugar manufacturing in our country.

Madam President: Sen. Mark?

Sen. Mark: Can we go on to question 2, Madam President?

Madam President: Sure.

Falling Oil Prices

(Impact on Country's Fiscal Situation)

Sen. Wade Mark: To the Minister of Finance: In light of falling global demand for crude oil coupled with the precipitous fall in oil prices, can the Minister indicate what impact these developments will have on the country's fiscal situation?

The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert): Thank you very much, Madam President. Just a short while ago I completed a press conference which was carried live on TTT updating the country on the situation with respect to the collapse of oil prices.

Oil prices have dropped from \$62 a barrel in January, just two months ago, to \$33 a barrel as of a few minutes ago. The prices had dropped from 62 to 42 between the first week in January and the middle of February. So there had been a one-third reduction in the price of oil between January and February. There has now been a further reduction. Oil prices are now at about half the budget price of \$60.

We have done some calculations to determine what effect this will have on Government revenues. We had gone through this before, as I have said in another place. We had this same problem in 2016/2017, where \$20 billion in oil revenue was lost, and that is annual; \$57 billion in 2014 dropped to \$36 billion in 2016/2017. So we faced this kind of crisis before, and we have come through it and the country has survived.

This year, based on what we are seeing, we are now estimating an average oil price for the year of \$40 per barrel. I apologize, let me repeat that: We are estimating an average oil price of \$40 a barrel, and a wellhead gas price somewhere just below \$2, \$1.80. This from our preliminary estimates will cause a reduction in revenue of about three and a half billion dollars.

Madam President: Acting Prime Minister— Right.

Sen. Mark: Madam President, in light of this massive reduction in Government revenues, can the Minister share with this House what measures will be taken to address this \$3.5 billion deficit?

Hon. C. Imbert: Madam President, could you confirm whether that is a supplemental or whether he has gone on to question three?

Madam President: Sen. Mark, if you look, your supplemental question—yes. Next question, Sen. Mark.

Falling Oil Prices

(Contingency Measures Adopted)

Sen. Wade Mark: To the Minister of Finance: In light of plummeting oil price, can the Minister indicate what urgent contingency measures will be adopted to avoid an economic crisis?

The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert):

Thank you very much, Madam President. As I indicated, in 2016/2017 we had to deal with a \$20 billion drop in revenue. We dealt with that in a number of different ways. We restructured the energy taxation regime, for example, shifting from a profits-based hydrocarbon tax to a volume-based hydrocarbon tax. In layman's language, from petroleum profits tax to royalties which has doubled the revenue from energy over the last two years. In addition, we conserved expenditure. We cut \$10 billion out of the national budget, and we also had a number of streams of extraordinary revenue.

To deal with the present problem, which is nowhere as severe as it was in 2016/2017, we will be resorting to a number of supplementary revenue measures, including increased borrowing. We will be looking at extraordinary sources of revenue, and we will also be looking at a possible withdrawal from the Heritage and Stabilisation Fund, but that would require some restructuring of the Fund, and that would require consultation with stakeholders.

Sen. Mark: Could the Minister say in light of the ongoing battle between the Russians and the Saudis, and the coronavirus globally, to what extent is this average price of oil of \$40 realistic? Can I ask the hon. Minister?

Hon. C. Imbert: It is extremely realistic. As I indicated at the press conference, the weighted average price of local crude oil in Trinidad and Tobago, which we get from a number of sources, including Heritage Petroleum, Perenco, BHP, BP, et cetera, for the first four months of the fiscal year was \$62. So we were above our budget projections for the first four months of the fiscal year.

In the fifth month, February, the weighted average price was closer to \$54, so it was a little below. So when you take into account the \$62 for the first four months, the \$54 in the fifth month and our expectations going forward, an average of \$40 is quite reasonable. Even if oil remains at \$30, it will average out the year at

\$40.

So we have done a lot of homework over the last couple days to look at the figures and the data.

Madam President: Hon. Senators, the time for Urgent Questions has expired.

ANSWERS TO QUESTIONS

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Madam President, the Government is pleased to announce, as per usual, it will be answering all questions on the Order Paper. With regard to Written Answers, we would like to indicate that from questions 120 onward they are not due.

ORAL ANSWERS TO QUESTIONS

Trinidad Petroleum Holding Limited

(Details of Loan Facility)

41. Sen. Wade Mark asked the hon. Minister of Finance:

As regard the securing of a US \$720M loan facility for the Trinidad Petroleum Holding Limited, can the Minister advise as to the following:

- (i) the procurement procedure used to select the individual(s) and/or firm(s) who provided legal, banking and other advisory/support services in connection with the sourcing and securing of said loan;
- (ii) whether said individual(s)/firm(s) were paid directly or by a third party; and
- (iii) whether the procedures used to secure the services referred to at (i) were consistent with the provisions of the Public Procurement and Disposal of Public Property Act?

The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert):

Thank you very much, Madam Speaker. Are we on to Question 41 now?

Madam President: Yes we are.

Hon. C. Imbert: Thank you very much, Madam Speaker. Sorry, Madam President, I apologize. I am advised that Petrotrin and Trinidad Petroleum Holdings used established and transparent procurement procedures to select individuals and firms to provide advisory and support services for the sourcing and securing of the referenced loan, which was used to partially refinance the US \$850 Petrotrin bond that matured in August 2019.

I am advised that in September 2018, on the cusp of the November 2018 restructuring exercise, requests for proposals were issued to 20 potential financial services firms and consortiums for the provision of banking, financial and technical services. The following four proposals were subsequently shortlisted from the following firms or consortiums: Credit Suisse in partnership with First Citizens Bank and Bladex, Morgan Stanley in partnership with Ansa Merchant Bank, Goldman Sachs and Citibank.

These firms and consortiums made presentations to a selection committee comprising members of the board and management. The Credit Suisse and Morgan Stanley consortiums were subsequently selected for the consideration of the Tenders Committee and chosen eventually to provide banking, financial and technical services. Trinidad Petroleum also contacted several major law firms with energy sector experience for the provision of legal services, some of which indicated their inability to act on behalf of the company due to conflict of interest. Subsequent to this, Thomas Hobsons and Paul Hastings were contracted to provide legal services for the securing of the US \$720 loan facility.

Answer to part (ii): The Credit Suisse and Morgan Stanley consortiums were paid directly from the proceeds of the financing.

Answer to part (iii): The procedures used to secure all services were regulated by the State Enterprises Performance Monitoring Manual as well as the company's internal policies and procedures.

Sen. Mark: Madam President, can the Minister indicate how the legal firm was selected? Was it on the basis of sole select?

Hon. C. Imbert: Madam President, I thought I explained that. What I said is that Trinidad Petroleum contacted several major law firms with energy sector experience for the provision of these legal services. Some of the law firms indicated their inability to act on behalf of Trinidad Petroleum for the transaction due to a conflict of interest. After all of that, the firm of Thomas Hobsons and Paul Hastings was contracted to provide legal services. So it is a process of going into the market, determining the best firms in the world for this service, many of whom said we have a conflict of interest because we have provided advice or acted on behalf of associated companies, and they ended up with Thomas Hobsons and Paul Hastings, a well-respected international law firm.

Madam President: Sen. Mark.

Sen. Mark: I will go on to my next question.

Royal Dutch Shell

(Percentage Share of Discovery of Oil/Gas)

42. **Sen. Wade Mark** asked the hon. Minister of Energy and Energy Industries: Given reports that Royal Dutch Shell will be paying all the costs for the seismic survey in Heritage Petroleum offshore fields, can the Minister advise as to what percentage share of the discovery of oil and gas will be remitted to Royal Dutch Shell?

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin

Khan): Thank you very much, Madam President. The commercial terms for the exploration and production of oil and gas from Heritage Petroleum's offshore fields, formerly known as Trinmar, have not yet been finalized, and their respective teams continue to meet to advance the relevant agreements.

Currently, participating interest of 40 per cent and 60 per cent for Heritage and Shell respectively are contemplated. The 2019 non-binding memorandum of understanding between the parties is still under consideration. The non-binding MOU includes plans for the parties to jointly acquire and use technology seismic data, and assess opportunities in a specified part of Heritage's underdeveloped offshore acreage, as well as the appraisal and redevelopment of the main field and exploration and development of new undiscovered reservoirs.

Sen. Mark: Can the Minister indicate to this Senate when the commercial terms are expected to be formally concluded between parties?

Sen. The Hon. F. Khan: Madam President, there is a lot of technical work still to be done; not a lot, but a significant amount. You have to firstly quantify the value of the seismic programme. You have to quantify the extent of the acreage that will be covered and, more importantly, you have to quantify the risk, which is the probability of success.

If you are exploring a prospect that has a low probability of success, let us say 10 per cent, obviously the person who is investing the capital will require a higher percentage if a discovery is made. If you assess the probability of success to be 40 per cent well then Heritage's back-in proposal will obviously be at a higher percent. But those figures are now being crunched, and very shortly we will come to a final decision, bearing in mind that the memorandum of understanding that was referred to is non-binding.

Sen. Mark: Madam President, can the hon. Minister indicate how did the

Government go about choosing Royal Dutch Shell for this partnership with Heritage having regard to the fact that Shell is major player both in the gas industry and, by extension, crude oil production?

Madam President: Sen. Mark, I will not allow that question. Next question Sen. Mark.

Scarborough Port Ramp Construction

(Details of)

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

In light of reports of the need for construction of a ramp at the Scarborough Port to facilitate the docking of the *Jean de la Valette*, can the Minister provide the following:

- (i) the cost of construction of the ramp; and
- (ii) the procurement process used to select the preferred contractor?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Thank you, Madam President. The contract sum for the construction of a ramp in Tobago for the *Jean de la Valette* is TT \$8.9 million VAT exclusive. Because of its adjustable landing platform, the ramp can be removed and used for similar operations in different locations for different vessels in the future.

The procurement process used to select the preferred contractor was sole select based on the following considerations: Firstly, the free board height of the *JDLV* is significantly greater than that of the *T&T Spirit* and as a result the existing shoreline ramps which are used by the *T&T Spirit* would not work for the *JDLV*. In order to facilitate the operations of the vessel therefore another structural steel ramp had to be designed and constructed in Scarborough.

Secondly, the ramp was required to be structurally stable to accommodate the safe loading and offloading of 156 vehicles, and to facilitate operations in both high tide and low tide. To achieve those requirements NIDCO had to identify a competent and experienced contractor, and complete the associated designs and construction work within a time frame of approximately three weeks.

2.00 p.m.

Given the extremely short time frame, the method of sole select tendering was pursued. It should be noted that the sole select method is routinely used in the public sector when time is of the essence.

In so doing, utilizing its knowledge of the industry, NIDCO entered into discussions with Steel Structures Trinidad and Tobago Limited, a well-known and experienced firm of structural engineers, fabricators and erectors with a good track record of building ramps for vessels.

The choice was based on the experience of the contractor. This organization has done considerable steel fabricating work in the industry, including ramps for the *Galleons Passage*, C3 Centre in San Fernando, and multi-storey car parks at Richmond Street.

The financial capacity of the contractor: Given the short time frame, the contractor would be required to fund the project; the contractor's ability to rapidly negotiate competitive rates with NIDCO based on past performance; maximum use could be made by NIDCO of the cost data relationship that was generated between parties during the production of the ramps of the *Galleons Passage*.

It should be noted that the ramps have performed well, thus allowing the *JDLV* to provide the high quality fast ferry service on the inter-island sea bridge. I thank you.

Madam President: Sen. Hosein.

Sen. S. Hosein: Thank you very much, Madam President. Madam President, can the Minister indicate whether or not a similar type ramp is also present and fabricated for the Port of Spain Port, please? This deals with the Scarborough Port.

Madam President: Minister.

Sen. The Hon. R. Sinanan: Madam President, my information is that at both ports ramps were developed, not only for this vessel, but these ramps are also being used by the *Galleons Passage*, and whenever there are cruise ships and so, we have to move around the vessel so, yes, there have been additional ramps to give us more berthing space. Thank you.

Madam President: Sen. Hosein.

Sen. S. Hosein: Thank you very much, Madam President. Madam President, following the figure that the Minister gave of \$8.9 million for the cost of the ramp, can the Minister indicate whether or not this is the cost for both ramps at Scarborough and Port of Spain?

Madam President: Well, the question was specific that was posed was specific to Scarborough, Sen. Hosein, so I will not allow that question.

Sen. S. Hosein: Can I ask another supplemental, please?

Madam President: Yes.

Sen. S. Hosein: Madam President, can I ask the Minister whether or not at the time of the procurement of the *Jean de la Valette*, whether or not they were aware that there was the need for an additional ramp at both ports in Scarborough and Port of Spain?

Madam President: Minister.

Sen. The Hon. R. Sinanan: Madam President, if the hon. Senator understands the

maritime industry he will recognize that our infrastructure has been built for certain vessels, and once you go out for procurement of additional vessels, you will have to make adjustments. If you remember, the *Superfast Galicia* came into this country and could not be berth for five months. We paid €15,000 per day for almost five months and the vessel was out in the ocean because there was no berthing in Trinidad. We had to park it up eventually by the Hyatt.

So whenever you bring a vessel to Trinidad, you will have to make adjustments based on the vessels because there are no vessels out there just suited for Trinidad alone. Thank you.

Caricom Diplomatic Office in Kenya

(Details of Officials Employed)

88. Sen. Taharqa Obika asked the hon. Minister of Foreign and Caricom Affairs:

In light of the recent opening of a Diplomatic Office by Caricom in Kenya, can the Minister state whether Trinidad and Tobago officials are employed at said office?

The Minister of Foreign and Caricom Affairs and Minister in the Ministry of National Security (Sen. The Hon. Dennis Moses): Thank you very much, Madam President. The Government of the Republic of Trinidad and Tobago is aware of the proposal for the establishment of a joint Caricom diplomatic mission in Nairobi, Kenya, but has received no information relating to whether Trinidad and Tobago officials are employed there. Accordingly, the response to the question is, no. Thank you.

Madam President: Sen. Obika.

Sen. Obika: Thanks, Madam President. Can the hon. Minister indicate if the

Government of Trinidad and Tobago has any intention to send staff to the mission in Kenya?

Madam President: Sen. Obika, I will not allow that question. Next question. Any further supplemental?

Sen. Obika: Can the hon. Minister indicate whether or not the Government of Trinidad and Tobago will be using the Caricom office in Kenya?

Madam President: Minister.

Sen. The Hon. D. Moses: Madam President, beyond the information I have just conveyed, we are not in a position to offer any specifics as regards the nature of the representation in the facilities that I am informed that were offered by the Government of Kenya. Thank you very much.

Madam President: Sen. Mark.

Sen. Mark: Can I ask the hon. Minister, whether Trinidad and Tobago was consulted when this mission or diplomatic office by Caricom was formally proposed and ultimately opened? Can you tell us if Trinidad and Tobago was consulted?

Madam President: Minister.

Sen. The Hon. D. Moses: Madam President, the parties directly involved in the conveyance of the offer did not include Trinidad and Tobago. Thank you very much.

Madam President: Sen. Obika.

Sen. Obika: Madam President, can the hon. Minister indicate whether or not the Government of Trinidad and Tobago is intent on communicating to Caricom to get further clarification as to the benefits, given that Trinidad and Tobago was not part of the deliberations when such an office was formed in Kenya?

Madam President: Sen. Obika, that question does not arise. Next question, Sen. Obika.

December 2019 Flooding in South Trinidad

(Details of)

89. Sen. Taharqa Obika asked the hon. Minister of Agriculture, Land and Fisheries:

Given the December 2019 floods experienced in South Trinidad, can the Minister indicate:

- (i) the number of farmers who have made claims for assistance; and
- (ii) the total dollar value of said claims?

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, just by way of background, the question refers to floods experienced in south Trinidad. The Ministry operates two regional offices; regional office north and regional office south. Regional office north has responsibility for four counties, Victoria, St. Patrick east, St. Patrick west and Nariva, Mayaro. So I believe my friend's question relates to that area, Victoria, St. Patrick and Nariva, Mayaro.

Madam President, as a result of the flooding in December 2019, 116 claims for assistance were received by the regional administration office of the Ministry in south. Of this number of claims, after investigation 89 claims were approved for settlement. Madam President, the 27 claims not yet approved for settlement were on account of missing documentation, and in one instance because the damage simply did not relate to flooding. The 89 claims which were approved have a total value of \$1,310,205.34. Madam President, I thank you.

Madam President: Sen. Obika.

Sen. Obika: Thank you, Madam President, can the hon. Minister indicate if the claims as he indicated, if the final payment has been disbursed to the claimants?

Madam President: Minister.

Sen. The Hon. C. Rambharat: Madam President, I am not aware. I am not aware if payment was made.

Madam President: Sen. Obika.

Sen. Obika: Then can the Minister give an undertaking to this Senate to give that information in two weeks perhaps or a time that is convenient to him that he can state more?

Madam President: Minister.

Sen. The Hon. C. Rambharat: As my friend pleases, Madam President, in two weeks' time I will come with the good news or not so good news relating to the claims, and whether they have been paid out. But they have been approved, 89 of them, just over \$1 million.

Madam President: Sen. Mark.

Sen. Mark: Can I ask the hon. Minister when were these payments approved? Can you tell me—not me, the honourable Senate through the President?

Madam President: Minister.

Sen. The Hon. C. Rambharat: Madam President, I can say with certainty to my friend Sen. Mark, that the payments were approved after December 2019, after the flooding, so sometime between December 2019 when the floods occurred and today the claims were approved. That is as much as I could say.

Grand Bay Paper Products Limited Loan

(Details of Repayment)

102. Sen. Saddam Hosein asked the hon. Minister of Finance:

Can the Minister indicate the terms of repayment for the US \$5 million loan granted by the State to Grand Bay Paper Products Limited?

The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert):

Thank you very much, Madam President. Madam President, the question is based on a false premise since the State did not provide a loan to Grand Bay Paper Products Limited. As Minister of Finance, I have observed that misinformation about this alleged US \$5 million loan—I was going to say imaginary—by the State to Grand Bay Paper Products Limited has been a feature of discussion on the public platforms of hon. Members of the Opposition over the last several years, but the claim of a state loan to this company is entirely false.

Madam President: Sen. Hosein.

Sen. S. Hosein: Madam President, can the Minister indicate whether or not any government guarantee was given for a loan to be acquired by this company in the sum of US \$5million?

Madam President: Acting Prime Minister.

Hon. C. Imbert: Yes. I can state. And, no, no guarantee was given.

Relocation of Civil High Court

(Details of)

103. Sen. Saddam Hosein asked the hon. Attorney General:

In light of the impending relocation of the High Court for civil matters from the Hall of Justice to the International Waterfront Centre, can the Attorney General indicate the following:

- (i) the projected cost of the relocation, including the retrofitting of the space; and
- (ii) the name of contractor(s) retained in relation to (i) above?

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam President. Madam President, permit me just get the correct answer. Madam President, in accordance with the Central Tenders Board Act, Chap. 71:91, the Urban Development Corporation of Trinidad and Tobago, UDeCOTT, is engaged to provide the project management services in respect of the outfitting of Tower D at the International Waterfront Centre to accommodate the relocation of the Civil High Court, Port of Spain, and civil division of the Court of Appeal from the Hall of Justice at an estimated cost of \$56,730,029.48 VAT exclusive.

The project entails the outfitting and renovation of 13 floors at Tower D for the civil courts, and includes the demolition of walls, construction of new walls, electrical and plumbing, configurations, finishing and furniture works, construction of courtrooms and provision of equipment including IT infrastructure.

Due to the urgency of this project, the tender was issued via selective tendering process on January 24, 2020, to the following contractors from UDeCOTT's prequalified tender list: Bewil and Company Limited, Agostini Interior Limited, Shanghai Construction Group Limited, Amarnath Limited formerly Massy Technologies Limited, Keach and Owner Limited, and UNICOM Limited.

The deadline for submissions of tenders was March 06, 2020, and UDeCOTT has indicated that a contractor will be selected within the next two weeks at latest, and works will be commenced immediately. The timeline for completion of the project is 16 weeks from the date of commencement however, upon the removal of the Parliament, initial works were commenced by the Parliament as it vacated.

This relocation will provide in the Hall of Justice 40 courtrooms, 24 hearing rooms, five mediation rooms, a total of 69 criminal courtrooms being more than

the eight courtrooms which they now have. And at the waterfront will provide 12 civil courtrooms, two Court of Appeal courtrooms, 32 judges' chambers for judges and masters, all of which can have hearings. There is also parking available for 1,000 cars at Furness Smith car park.

The relocation will allow the Judiciary administrative offices which are located in multiple buildings in rented spaces to be consolidated and moved into Tower D including the JEI, Judicial Education Institute accommodation. This will result in a saving of almost \$6 million per annum through the consolidation of offices. This is nothing short of brilliant news, well accomplished by a caring Government. [*Desk thumping*]

Polymer \$100 Notes

(Details of)

104. Sen. Saddam Hosein asked the hon. Minister of Finance:

As regard the polymer \$100 notes, can the Minister advise as to the following:

- (i) the number of notes ordered and received;
- (ii) the cost of the notes in relation to (i) above; and
- (iii) the supplier of the notes?

The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert):

Thank you very much, Madam President. Answer to part (i). The Central Bank has advised that 94 million new polymer \$100 notes were ordered of which 80 million have been received today.

Answer to part (ii). The Central Bank of Trinidad and Tobago has advised that consistent with section 56 of the Central Bank Act, it is unable to provide this type of detailed information on its transactions with the private supplier.

Answer to part (iii). De La Rue International Limited is the supplier of the new polymer notes.

Madam President: Sen. Hosein.

Sen. S. Hosein: Madam President, can the Minister indicate when the other 14million notes would be received by Trinidad and Tobago?—if we ordered 94 million and we only received 80 million to date.

Madam President: Acting Prime Minister.

Hon. C. Imbert: Madam President, I cannot give a precise timeline, but what I can say is that the Central Bank will take delivery of the new polymer notes as and when required, when it is necessary to change out the old notes. Polymer notes have a life span of about seven years as compared to the cloth for cotton notes which have a lifespan of somewhere between two to three years. So that the Central Bank will take delivery of the remaining 14million polymer notes as and when existing notes become destroyed or worn out. So it is difficult to give a time frame.

Demonetization of \$100 Paper-Based Bills

(Details of Conversion)

113. Sen. Paul Richards asked the hon. Minister of Finance:

Having regard to the demonetization of the one hundred dollar paper-based bill, can the Minister advise as to what percentage of the reported total 8 billion paper-based bills has been converted as at January 31, 2020?

The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert): Thank you very much, Madam President. I am advised by the Central Bank of Trinidad and Tobago that as at January 31, 2020, the value of \$7.525 billion in cotton paper based \$100 notes, old notes, was converted. This would be

approximately 94 per cent of the estimated \$8 billion in paper-based bills that were in circulation prior to demonetization.

Madam President: Sen. Richards.

Sen. Richards: Can the Minister indicate, based on his answer, if there is any mechanism envisioned to identify and collect the remaining 5 per cent?

Madam President: Acting Prime Minister.

Hon. C. Imbert: I wish I could find that out too, Sen. Richards. I would love to know who have that missing \$500 million. I assume that through a process of auditing in terms of bank notes that would have been sent out to the commercial banks and so on, it may be possible to discover who has that extra 500 million, but it will be very laborious. Perhaps the police, FIB, FIU may be investigating this matter as we speak. I would not want to say much more.

Madam President: Sen. Richards.

Sen. Richards: Through you, Madam President, can the Minister indicate if there is information that he has available if that quantum is reposed in or out of Trinidad and Tobago?

Madam President: Acting Prime Minister.

Hon. C. Imbert: Madam President, Trinidad and Tobago currency has no value outside of Trinidad and Tobago. So if somebody shipped it out I do not know why they would do that. So I would have to assume [*Interruption*] that some may be somewhere in Trinidad and Tobago. I would not take bait from my friends around me to say that it is buried under somebody's house. [*Interruption*] Please, stop. But I do not know, but I think most of it would be here.

Importation of Paraphernalia

(Re: the Coronavirus)

114. Sen. Taharqa Obika asked the hon. Minister of Health:

In light of the Coronavirus, can the Minister advise whether there are any concerns for the spread of the virus to Trinidad and Tobago via the importation of paraphernalia and costumes for Carnival?

The Minister of Health (Hon. Terrence Deyalsingh): Thank you very much, Madam President. The COVID-19 cannot survive more than three days on an inanimate object. The transit times from China to Trinidad and Tobago for both air and sea freight exceed three days. Accordingly, there are no concerns for the spread of the coronavirus COVID-19 to Trinidad and Tobago via the importation of paraphernalia and costumes for Carnival. Thank you very much.

DEFINITE URGENT MATTER

(LEAVE)

Plummeting Oil Prices

Sen. Saddam Hosein: [*Desk thumping*] Thank you very much, Madam President. Madam President, in accordance with Standing Order 16, I hereby seek your leave to move the adjournment of the Senate for the purpose of discussing a definite matter of urgent public importance, that is, the short- and medium-term plan which the Government has put in place to cushion the effects of the plummeting oil and gas prices internationally.

The matter is definite because it pertains specifically to an ongoing international crisis where oil and gas prices have been on a sharp decline, and the oil price has declined by over 30 per cent.

The matter is urgent because with the continuous plummeting of the oil and gas prices, the revenue stream of Trinidad and Tobago will begin a precipitous decline.

UNREVISED

The matter is of public importance as it affects every citizen of Trinidad and Tobago. The importance of the matter is further emphasized by the fact that Trinidad and Tobago is largely dependent on oil and gas. Thank you very much, Madam President.

Madam President: Hon. Senators, I have considered the Motion as presented, and I am not satisfied that it qualifies under this Standing Order. I wish to point out however, that urgent questions on this issue were allowed.

TRINIDAD AND TOBAGO REVENUE AUTHORITY BILL, 2019

Order for second reading read.

The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert): [*Desk thumping*] Thank you very much, Madam Speaker. Madam President, I apologize. It is my pleasure to be here in this House today. I would say at the outset, no disrespect, I know, Madam President, you all have a rule in your Standing Orders that says you cannot leave immediately after you have spoken—I do not know who came up with that—but unfortunately I have to go to the airport to meet the substantive Prime Minister on his return later this afternoon. So I am going to introduce the Bill, and then I am going to leave the very able Minister in the Ministry of Finance, Sen. The Hon. Allyson West to be in charge and control of the Bill, ably supported by the Attorney General to complete the debate on this Bill. So I just want to say that out front, lest I be accused of disrespect.

Madam President, this Bill has a bit of a history. Prior to this Bill being tabled in the Senate, there was a joint select committee in the other place; well, it was established in other place together with Members of this Senate. And that committee did its work, and it reported to the House of Representatives in 2019, and we actually debated the report of that committee in 2019.

We were unable to complete the debate, so that the report lapsed in the other place, and we have now brought it to this House and introduced it into this House. The Members of that Joint Select Committee from this place were Ms. Amrita Deonarine, Mr. Deeroop Teemal, Senators both, and I am looking for—and Mr. Barry Padarath from the other place and Sen. Wade Mark from this place. We did a lot of work on that report. I might as well list all the Members of the committee. The committee comprised myself as chairman, Mr. Faris Al-Rawi, Mr. Terrence Deyalsingh, Mr. Adrian Leonce, Mr. Barry Padarath, Mr. Rudranath Indarsingh, Mr. Franklin Khan, Ms. Allyson West, Mr. Robert Le Hunte, Mr. Wade Mark, Ms. Amrita Deonarine and Mr. Deeroop Teemal.

And as the Attorney General has reminded me—yes, I called Franklin Khan—that this went through the process for such a long time that there was actually a change in membership in the Senate. Sen. Shrikissoon who was previously a Member of Independent Bench and was then replaced, was also a member of the committee in the early days. That committee invited stakeholders to comment on the Bill, and the stakeholders invited were, the Inland Revenue Division of the Ministry of Finance—

Madam President: Acting Prime Minister, if I may. Could I ask you just look at the procedural brief. There is just something that I need you to put to the Chamber.

Hon. C. Imbert: You are quite right. I beg to move:

That a Bill to establish the Trinidad and Tobago Revenue Authority and for related matters, be now read a second time.

Go ahead now? Thank you very much. I apologize, Madam President.

So as I was saying, that committee did a lot to work, invited invitations from stakeholders including the Inland Revenue Division, Ministry of Finance; Customs and Excise Division, Ministry of Finance; Central Bank of Trinidad and Tobago; the Personnel Department; the Public Services Association; the Public Service Commission; the Financial Intelligence Unit of Trinidad and Tobago; the Customs Clerks and Customs Brokers Association; the Institute of Chartered Accountants, the University of the West Indies, Social Sciences Faculty; the Department of Management Studies; the Trinidad and Tobago Manufacturers' Association; all Chambers of Commerce in Trinidad and Tobago; the National Union of Government and Federated Workers; the National Trade Union Centre; the Federation of Independent Trade Unions and NGOs; the Law Association of Trinidad and Tobago; and the Tobago House of Assembly.

We received written submissions from Inland Revenue; Customs and Excise; Central Bank; Financial Intelligence Unit; Customs Clerks and Customs Brokers; Institute of Chartered Accountants; NUGFW; Service Commission department; American Chamber of Commerce; Couva/Point Lisas Chamber of Commerce; the Energy Chamber; Tobago House of Assembly; The UWI; the Joint Trade Union Movement. We also had 12 submissions from members of the public.

We met with all stakeholders and did a complete review of all submissions and examination of statements made, questions posed, answers given at various sitting of that Joint Select Committee.

We went through the Bill clause by clause. The Bill before us is not a very lengthy Bill as Bills go. I mean, I have seen Bills in this place 275 pages long. So this is a Bill that has 42 clauses, and we went through every single clause and made

appropriate amendments based on fulsome discussion among ourselves as members of the committee, and together with stakeholders, members of the public, persons who had made submissions, we looked at written submissions and so on.

So, as I did not say before, I beg that this Bill be now read a second time. The Bill is the instrument that will merge the functions of two revenue collection agencies, the Customs and Excise Division, the Inland Revenue Division into an efficient and effective revenue administration that is robust and flexible to adapt to changes in national and international environments; and it could not come at a better time. We had some discussion today outside of this Senate and inside this Senate on what we as a country should do to deal with the revenue shortfall that will come as a result of the collapse of oil prices resulting from the COVID-19 epidemic, and the associated problems which will include disruptions to supply chains. It has already damaged world stock markets and damaged demand for commodity products worldwide and so on especially in the economies that were the major consumers of energy such as China.

So that we in Trinidad and Tobago must—this, what has happened over the last week underscores the reason why it is now imperative that we as a country move to a much more efficient system of revenue collection. I will give you an example. Just a week ago we were faced with a problem where some representatives of the business community were complaining about what they described as new procedures for the importation of commercial supplies.

The procedures were not really new at all. What had happened is that for years several years shipments of commercial supplies not for personal use, not for individual use, but for trade, retail, distribution and so on were coming in without

customs entries, and that resulted from some confusion that emanated from a statement made in the 2011 budget speech by one of my predecessors, the hon. Winston Dookeran, who had indicated that he was raising the limit on the value of shipments that did not require a customs entry. Our research tells us that what he probably meant was that he was raising the threshold on shipments that do not require a declaration. There is actually a difference between an entry and a declaration.

The entry tells you the country of origin, the name of the supplier, the nature of the goods, the value of the goods and all the necessary information that you need with a computerized system, the ASYCUDA system, so that if you need to do a check or you need to inspect a shipment in greater detail, you can go immediately to the computer and determine who the consignee was, who imported the goods, where the goods came from and so on.

For some reason from 2011 onwards, commercial shipments valued less than 20,000 were coming in without a Customs entry so they were not entered into the computer system. So it made it virtually impossible for Customs to determine critical information about the nature of the importers, the goods themselves.

And there has been, we are told, quite a lot of revenue leakage, so that what Customs did from about two years ago, was to start to enforce the law, which is the requirement for a customs entry, because the law was never changed to remove the requirements for a customs entry. A practice just developed and it really was not a good idea at all.

2.30 p.m.

The de minimis value in Canada, for example, for a shipment is 20

Canadian. Once you cross 20 Canadian you have to enter the formal system of customs information. Somehow in Trinidad and Tobago it was determined to be a good idea in 2011 to change the de minimis value which at that time was just \$1,000 TT to \$20,000. Prior to that it was a \$100, it went to a \$1,000 in the early 2000s, and then somehow in 2011 it was decided at that time to from 1,000 to 20,000. Think about it, Madam President, you could have multiple shipments coming in at \$19,000, and persons who do not have the best interest of the country at heart could bring in multiple shipments. Sorry, Madam President, I am sorry I may fall into error from time to time and refer to you as Madam Speaker, please forgive me.

So, Madam President, you could have multiple shipments of commercial supplies coming in and inadequate declaration or inadequate description of the goods, and you can see the potential for revenue leakage. So just as an aside, as Minister of Finance, I am meeting with the courier companies tomorrow to see if we can reach some sort of middle ground, because it cannot continue as it is. You cannot have commercial supplies. It is not personal use, commercial supplies valued at \$20,000 and there is no restriction on the amount of them you can bring in with no customs entry. That cannot work in this modern world. That might have been okay 20 years ago, but is not appropriate now, especially with the scrutiny this country is being placed under by FATF, by Global Forum, by the EU and so on.

We have gone through a system in this country for the last 10 years where we have had to restrict wire transfers down to as low as \$1,000 US. Am I not correct, Attorney General? It is as bad as that. Because what the terrorists were doing were sending money to finance their terrorist activities using wire transfers

of \$900, they would send 100 of them. So that now once you send a wire transfer over \$1,000, this is a worldwide standard, you have to report it, declare it and so on. So that in the modern era we have to have a modern Customs and Inland Revenue Authority. And I just said all of this in passing because these are some of the things that people may miss. You know there is a lot of noise and heat around certain issues, but there are things you may miss, because in that noise and heat about that matter, what was missed is that items for personal use are not affected by the enforcement of the customs—of the requirement for customs entry, only items for retail for distribution and trade.

So, for those of us who may go on Amazon and use a Skybox and bring in something for personal use, we are not affected by any new procedure, and that was the fear that was put into people that they can no longer go and do their shopping online, they will now be subjected to customs brokerage fees, and I heard all sorts of numbers being bandied about. You bring in an item for \$100 and then you have to go and pay a broker a \$1,000, so your item now goes from 1,000 to 1,100. None of that is not true, Madam President. This is only a situation dealing with commercial supplies. It does not affect the person who buys the computer or whatever personal item you might buy on Amazon and it comes through a courier. There is no effect, there is no change whatsoever. But the fact that in Trinidad and Tobago in the new year 2020 we have commercial shipments valued at less than 20,000 coming in without a customs entry, underscores the need for modernization of this system.

Now this is not new, revenue administration reform goes back at least 20 years. There have been a number of attempts to look at our tax administration system, and despite all of these attempts over the last 20 years by different

governments, PNM governments, UNC governments, we still have an unreasonably high incidence of corrupt practices, poor customer relations in terms of the interface of the public and the revenue agencies, anti-business rules and regulations, because we have to look at the both sides. We have to look at the ease of doing business, and we have to look at revenue collection. We cannot stick hard and fast to either side. It cannot be all an open door, everybody else just walk through without checking anything, and on the other hand you cannot have a closed door where businesses and individuals are trying to do business and they cannot get in because the door is shut in their face.

So we have to find some sort of middle ground. So, in addition to poor customer relations we also have anti-business rules and practices, deficient human resource management, inadequate management capability, inadequate training, inadequate information exchange between the various agencies and other agencies, lack of control over and accountability for budgetary allocations, inadequate employed compensation packages, inadequate staff development, inefficient systems for internal investigation and enforcement. The question is why do these things still persist after 20 years and multiple efforts by successive governments? And may I ask now, Madam President, how much more time do I have?

Madam President: You finish at four minutes past three.

Hon. C. Imbert: Probably because there is no clock in front of me like we used to have, so okay. All right. *[Laughs]* So, I have about half an hour? Thank you. Thank you, Madam President.

So, why do these problems still persist after 20 years and multiple governments? Why? The reason is that previous reform and improvement efforts

realized only limited success. I would say very limited success because of the bureaucracy of the public service, and that leads me to a question: I saw the hon. Minister in the Ministry of Finance gave a broad-based, wide-ranging interview in the weekend newspapers, and, you know, as night follows day, the newspaper is to accommodate and then they come at you with an editorial, and I saw an editorial followed the next day asking the hon. Minister to deal with the objections of the Opposition, one of which is the theory, which I would say is a complete fallacy, that we can reform the existing revenue system within the existing public service arrangement. That is just pie in the sky, and successive governments have tried to do that for the last 20 years. Like they say, for the last 40 years, successive governments have tried to reform the Customs and the Inland Revenue departments within the existing public service system, and it has not worked. It has failed.

And you know, if I could use a cliché, Einstein says that the definition of insanity is doing the same thing over and over and expecting a different result. So it just makes absolutely no sense, and other governments including governments formed by hon. Members of the Opposition, their party, have recognized this. For example, the Civil Aviation Authority, that was a continuing effort of two Governments, UNC, PNM. TTPost was formed by the UNC. They understood then that you had to move away from the Civil Aviation Division in the Ministry of Transport and move towards an independent Civil Aviation Authority, and there were reasons for it. Because the world had changed, and the civil aviation department in the country had to be able to react quickly to new regulations that were being issued on a six-monthly basis by the international Civil Aviation Authorities and so on, and the Civil Aviation Division of the Ministry of Transport

simply could not cope. Could not cope with the certification requirements, could not cope with the multitude of technical regulations that were emanating from the international authorities.

And if we had not moved from a Civil Aviation Division to a Civil Aviation Authority, our airports would have been deemed to be substandard, we would have been downgraded. In fact, we were downgraded under a UNC administration, and it was in fact my privilege and honour when I was made Minister of Works and Transport in 2005 to complete the work of my predecessor, who is now the Minister of Energy and Energy Industries, and bring us from Category 2, which we have been placed in by the other side, into a Category 1 status with the Federal Aviation Administration of the United States. But, we could not have done that unless we converted the Civil Aviation Division, the bureaucratic Civil Aviation Division into an independent modern cutting edge Civil Aviation Authority, and that was the work of two administrations, and it is no different with the Trinidad and Tobago Revenue Authority.

Because of inefficient public service arrangements, both Customs and Excise and Inland Revenue are severely understaffed. There are hundreds of vacancies in the Board of Inland Revenue, and hundreds of vacancies in the Customs Division. And, you know what the irony of all of this is, Madam President? From time to time the Personnel Department would advertise for filling of vacancies for customs clerks, customs officers, et cetera, and the process normally takes about two years, and Members of the Opposition will come and ask me to assist them to get somebody to get inside into the queue to become a customs officer of one type or another. So they recognize that there is a problem. They recognize it takes years to fill all of these vacancies in these critical

departments, and under their administration they could not fill the vacancies. They could not fill the hundreds of vacancies in Customs and Inland Revenue. The Government before that could not do it and this Government cannot do it, because of the way our Constitution is structured, that the Service Commission is an independent body and we cannot tell it what to do. We could only ask, we could only urge, we could only cajole, we could only beg, but we “cyar” tell them what to do.

So that you have these situations where for years, I as Minister of Finance, have budgeted for the filling of vacancies in Customs and Inland Revenue. Every year millions of dollars are put into the annual appropriation for the filling of vacancies in these two critical revenue departments. We “cyar” fill them, because it is not up to us. It is up to the Personnel Department, which moves at its own speed. So, at this time we have vacancies, as much as 50 per cent in critical areas of Customs and Inland Revenue. All of the studies have identified the inflexibility of the public service as the major hindrance to revenue administration reform in Trinidad and Tobago and in other countries. Hence the trend by other countries, including in the region, Jamaica, Barbados, Guyana, to move their revenue administrations from within the public service towards semi-autonomous revenue authorities, is nothing new about this.

According to the Organization of Economic Corporation and Development, OECD, which comprises more than 60 countries—no, according to the OECD more than 60 countries worldwide have gone the way of the revenue authority model that we are trying to do. This gives us a degree of legal and financial autonomy, allows the authority to manage its own operations including recruitment, retention and remuneration of staff. It allows the organization to

respond effectively, and in a timely manner. So let us go now to what we know. Let us talk about the VAT tax gap. So the question is why do we want to do this? Why can we not use the existing system? Well I have explained that, and as I said for 20 years, possibly 30, successive governments have tried to reform Customs and Inland Revenue and have found it virtually impossible within the existing public service arrangements. In 2019 a VAT tax gap study was conducted by the fiscal affairs department of the International Monetary Fund. The IMF found that gaps in both policy and compliance contributed to Trinidad and Tobago's VAT tax gap, estimated at 5 per cent of GDP, which is about \$8 billion.

Now, the VAT gap has two components, a policy component, so in Trinidad and Tobago we have a number of items that are exempt from VAT, basic food stuffs and so on. So as a policy, this Government and governments before it, going all the way back to 1990, have made a decision not to collect VAT on a number of items. So when the Fiscal Affairs Department looked at our VAT administration, they said, look, there is 5 per cent of GDP that you are not collecting. Half of that is attributed to policy, and we understand your policy. You have exempted basic items from VAT, and they had no argument with our policy. But they said the other half, the other 2½ per cent of GDP is enforcement. So, you are looking at \$4 billion in GDP, well \$4 billion in total, 2½ per cent of GDP that is not being collected because of problems with enforcement. And why do you have problems with enforcement? Understaffing, archaic systems, restrictive regulations, it is just impossible for our VAT office to function in an efficient and modern manner because of the strictures imposed upon it by the public service.

Now, can you imagine if we had that extra \$4 billion, that is just VAT alone I am talking about you know. I am not speaking about corporation tax. I am not

talking about personal income tax. I am not talking about petroleum profits tax, because with this new revenue authority can you imagine, we heard a lot about leakage of petroleum revenues, we had the PO10 report, which came up with huge numbers of leakage of revenue from LNG for example, in the billions of US dollars being leaked out because of inefficiencies in the system. So, we are looking at VAT alone where it is estimated by the Fiscal Affairs Department of the IMF that at least \$4 billion is being lost every single year because of poor enforcement, and when you add in all of the other taxes, personal and corporate, you can see that the problem is much worse than that. So that what have we done? In order to support a revenue authority we secured the services of a Tax Administration Diagnostic Tool from the IMF, acronym is TADAT. This allowed us to do an independent assessment of our revenue department using a scientific approach. The TADAT first reported in 2017 and identified that out of 28 indicators, Trinidad and Tobago received two ratings of A, the highest rating, that is two out of 28; one rating of B; seven ratings of C; and 18 out of 28 ratings of D. And when you look at the various areas it involves a multiplicity: Customer relations, enforcement, ease of doing business, interface with the public and so on. We got 18 Ds out of 28, and seven Cs. The report also indicated where we should focus and the areas of weakness that we should strengthen and the strengths that we should improve upon.

In 2019 we did not leave it there, because we continued to do our work, and I expect Minister West who has been responsible for the whole construction of this proposed new revenue authority would explain all of the work that has been done in the Ministry of Finance. We continued with our work. In 2019 we did a second review using the diagnostic tool. We conducted another host TADAT strategic

review, and looked at what progress had been made by Inland Revenue between 2017 and 2013—2019, sorry. And what we discovered, there was some improvement, but still many of the major weaknesses still exist in the Inland Revenue and Customs and it is because of the structure, because they are within the very bureaucratic public service.

So, we believe, we in this Government believe that the only way to go as 60 other countries in the world have gone, to get the kind of revenue we need, especially at a time like this where oil prices have collapsed, to run this country, to pay salaries, to keep people in jobs, to pay arrears to contractors and so on, to pay for goods and services, to pay for pensions. Pensions, Madam President is over \$3 billion a year. Senior citizens pensions alone, three and a half billion dollars a year. To pay for all of that, we believe we must bite the bullet now and establish a revenue authority. [*Desk thumping*] We do not accept, we do not accept what we have been told by the Opposition, and I want to compliment now the hon. Senators, Independent Senators who were members of the Joint Select Committee, who understood the need to establish a modern revenue authority. [*Desk thumping*] I want to compliment Sen. Teemal and Sen. Deonarine, who were very—

Hon. Al-Rawi: Sen. Shrikissoon.

Hon. C. Imbert: And Sen. Shrikissoon who were very business-like and very professional in their approach as we went through the clause-by-clause examination, and recognized how important it is for this country to move into the modern era in terms of revenue collection, and how difficult and virtually impossible it is to reform the system within the public service bureaucracy.

So going to the Bill now, Madam President. The Bill at clauses 5 and 6

establishes the TTRA as a body corporate. The first four clauses are just standard things like Act binds the State in consistent with the Constitution, et cetera. The meat of the Bill starts at clause 5. So clauses 5 and 6 established the authority as a body corporate and identify its functions, assessment and collection of taxes, administration of revenue laws, enforcement of revenue laws, et cetera. You go on to 7, there is a board of management of the authority comprising a chairman, a vice-chairman, Permanent Secretary of the Ministry of Finance, the director general of the authority, a rep from the Tobago House of Assembly, an attorney-at-law, a chartered or certified accountant and two other persons. And the members of this authority will be selected from persons who have the capacity to oversee and have considerable experience in overseeing the management of a large and diverse organization, and have qualifications and experience in the area of tax or customs administration, and so on.

The Board by way of clause 8 will be responsible for formulating and approving and ensuring the implementation of policies in relation to the monitoring of and performance of the authority, carrying out its functions, the finances, real estate and other assets and resource of the authority, human resources, service standards, performance targets, code of conduct, strategic plan, the mandate for collective bargaining, et cetera. But I must emphasize that the authority will be driven by its management. Its management. So, if you go to page 7 of the Bill, clause 8(2), it states that:

“In the exercise of its functions, the Board shall not be responsible for the functions of the Authority as specified in section 6 and shall not—

(a) provide the specific directions to the Director General or any employee

of the Authority with respect to the functions of the Authority.”

And this is important, because it is important to distinguish, a lot of the mystique that is out there, a lot of the noise and heat that is out there, is because of a false premise that the Minister of Finance would somehow be able to get inside people’s tax returns, dig into their personal business, give instructions to the Revenue Authority to go and extract people’s personal information. Nothing could be further from the truth, Madam President. Not even the board would have that kind of authority. It is the management, the director general of the Authority that would have that responsibility, and so it should be, and that is how it is in other countries. So the board shall not have access to any information concerning an individual or other person, shall not have access to any documents or other information concerning legal actions instituted in the name of the authority and so on and so on. It says:

“The Minister shall give...such general policy directives with respect to the”—Board—“with respect to the carrying out of its functions...”

So all the Minister can do is give policy directives. If you go to clause 9:

“A member shall disclose any direct or indirect interest in a matter being considered or about to be considered by the Board by writing to the Board or requesting to have entered in the minutes of the Board the nature and extent of the interest.”

So if there is any conflict of interest, a member of the board must put in writing the nature of that conflict of interest. Clause 9(3), states that:

“Where a member has a direct or indirect interest in a matter...a member shall disclose in writing...the extent of his interest as soon as”—he—

“becomes aware...”

And then clause 9(4), the most important clause of all:

“A member”—of the Board of the Revenue Authority—“ shall recuse himself from participating in a matter in which he has an interest.”

As we go on, standard clauses, the chairman and vice-chairman of the Board shall be appointed for five years, other members for three years, so we have succession planning. Under clause 11 just indicates how people resign or remove from the Board. Clause 12, standard, in the case that the Board shall meet at least once per month, and so on. Part IV of the Bill speaks to the staff of the Authority, and this one is very similar to how the Commissioner of Police is selected. So again, nothing is going to be hid in the dark, everything out in the open. So if I read clause 13:

“The Minister, shall by Notification subject to affirmative resolution of Parliament, appoint the Director General”—who is the main person akin to the Commissioner of Police—“and such number of Deputy Directors”—again, similar to the Deputy Commissioners of Police—“as are required on terms and conditions determined by the Board...”

It means that when you are selecting the person to head this new Revenue Authority you have to come to Parliament with his or her name, and you have to have a debate, so people would know who this person is, and if there is any issue with them it can be ventilated in these august Chambers so that everybody will know who it is would be running the Revenue Authority, and this applies to the Deputy Director Generals as well. Right now, Madam President, right now, the Chairman of the Board of Inland Revenue is chosen by the Cabinet. It does not

come to Parliament, it does not go to the Opposition for any support. Nobody knows, a recommendation is made and the Cabinet decides who would become the Chairman of the Board of Inland Revenue. That is the existing law. This is a vast improvement where you now bring it to the Parliament to be ventilated for all to hear.

If I move along, Madam President, whereas that clause also disqualifies people from becoming the Director General or Deputy Director General of the Authority, if you are a Member of Parliament, House of Assembly, municipal corporation, or the usual thing if you are discharged bankrupt, you have been convicted of an indictable offence or certified to be mentally ill, you are not qualified. But the most important thing is that you cannot be an MP, a Senator, a Councillor or anything like that. Now the Director General is the main person, as I indicated, just like the Procurement Regulator, for example, has this level of authority and autonomy. The Director General shall be responsible for the daily management and direction of the administration of the Authority, the daily management direction of the functions of the Authority, advising the Minister on his own initiative or at the request of the Minister on any matter that could affect public policy or public finances, and so on. The Director General, in standard clause, may resign or, again, if we want to remove the Director General because of misconduct you come to Parliament, and you have to do a notification, you have to debate it and Parliament has to agree that the Director General be removed. This is a completely superior solution to what we have now, where as I said, the Chairman of the Board of Inland Revenue, selected by Cabinet, and removed by the Public Service Commission, behind closed doors, Madam President. As we go along, standard clauses:

“The Board may, on such terms and conditions as it may determine, employ such persons as the Authority may require.

The Board may enter into contracts...”

It also provides the standard provisions that we took from the TTPost legislation, passed, promoted, debated by the UNC Government of the Panday era, and we are taking it straight out of that TTPost legislation, which was affirmed by the Privy Council in the Martha Perch decision, and it reads as follows:

“This section applies to an officer who, on the date of coming into force of this Act-

holds a permanent appointment... holds a temporary appointment...has served”—for—“two...years..., an office in the Public Service on the establishment of the Inland Revenue Division or Customs and Excise Division.

(2) A person to whom this section applies may, within three months of the coming into force of this Act, or...such extended period as the Minister may, by Order subject to negative resolution of Parliament allow, exercise...”

Madam President: Acting Prime Minister, you have five more minutes.

Hon. C. Imbert: Yes I am aware, thank you very much. I looked at the clock. Thank you very much, Madam President.

3.00 p.m.

“...exercise one of the following options:

(a) voluntarily retire from the Public Service on terms and conditions agreed between him or his appropriate...association and the Chief

Personnel Officer;”

That is option one.

- “(b) transfer to the Authority with the approval of the appropriate Service Commission on terms...no less favourable than those enjoyed by him in the Public Service; or
- (c) remain in the Public Service provided that an office commensurate with the office held by him in the Public Service prior to the date of”—coming into force—“of this Act, is available.”

Lifted straight out of the TTPost legislation which I said was affirmed by the Privy Council.

As we move along, the pension benefits of the person is preserved and protected in clauses 19 and 20. It goes on to 21. In standard clause in 22— that the Board is required to establish a pension fund. Part V is the standard financial provisions, where the Board will have moneys appropriated by Parliament or moneys paid to the Authority by way of fees, fines, grants, rent, et cetera, and moneys borrowed by the Authority and the usual controls established by a Minister of Finance with respect to these matters.

Clause 24 gives them the power to borrow; 25 gives them the power to invest all with the approval of the Minister; and 26, 27 align the Exchequer and Audit Act to the Authority; and 28 exempts them from the Central Tenders Board but they will be obviously subject to the Public Procurement and Disposal of Public Property Act. And the other clauses are quite standard, they are required to prepare strategic plans, keep books, and their accounts will be audited by the Auditor General. And as we go towards the end, we deal with actions made in

good faith, breaches of confidentiality, and so on.

So, Madam President, the fact of the matter is, this Revenue Authority is desperately needed in Trinidad and Tobago, desperately needed, especially in view of the economic problem that we face because of the volatility of oil prices and the fact that we, this little island, cannot control things like COVID-19 virus. We did not have anything to do with that but we are going to be the victims of the fallout from that and therefore, we need to maximize our own internal ability to collect revenue, we must do it, Madam Speaker.

If we continue with the old mantra, “There is nothing wrong with the system, just tweak it, just fix it, use the public”—that cannot work. It cannot work. That is just talk. And I want to stress that no Minister will be able to tell any officer in Customs or in Inland Revenue what to do about the personal transactions of people and companies in Trinidad and Tobago. The existing systems, where no Minister of Finance can interfere with the work of Inland Revenue and Customs, are preserved. No Minister will be able to seek information and get into the personal affairs of any person in this country. So with those few words, Madam President, I beg to move and I commend this Bill to the Senate. Thank you very much. [*Desk thumping*]

Question proposed.

Madam President: Sen. Mark.

Sen. Wade Mark: Thank you very much—

Madam President: Sen. Mark, with your leave, I just want to go—hon. Senators, as I indicated earlier, I would like now, with your leave, to revert to an earlier Item on the Order Paper, Item 3.

SENATORS' APPOINTMENT**Madam President:**

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND
TOBAGO

By Her Excellency PAULA-MAE WEEKES,
O.R.T.T., President of the Republic of
Trinidad and Tobago and Commander-in-
Chief of the Armed Forces.

/s/ Paula-Mae Weekes

President.

TO: MR. HARVEY BORRIS

WHEREAS Senator Foster Cummings is incapable of performing his duties as a Senator by reason of illness:

NOW, THEREFORE, I, PAULA-MAE WEEKES, President as aforesaid, acting in accordance with the advice of the acting Prime Minister, in exercise of the power vested in me by section 44(1)(b) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, HARVEY BORRIS, to be a member of the Senate temporarily, with effect from 10th March, 2020 and continuing during the absence of Senator Foster Cummings by reason of illness.

Given under my Hand and the Seal of the
President of the Republic of Trinidad and
Tobago at the Office of the President, St.
Ann's, this 10th day of March, 2020.”

UNREVISED

OATH OF ALLEGIANCE

Senator Harvey Borris took and subscribed the Oath of Allegiance as required by law.

TRINIDAD AND TOBAGO REVENUE AUTHORITY BILL, 2019

Sen. Wade Mark: Thank you very much. [*Desk thumping*] Madam President, thank you for allowing me to intervene in this debate on a Bill entitled Trinidad and Tobago Revenue Authority Bill, 2019. As the hon. Minister of Finance indicated in his presentation, this Bill was the subject of a joint select committee of which I was a member. Let me say from the outset that we in the United National Congress, the alternative government, the party that will form the next government is very—we are very, very clear.

Madam President, there is a fundamental policy difference between the PNM and the UNC on this matter of the Trinidad and Tobago the Revenue Authority. [*Desk thumping*] So there must be no ambiguity or equivocation on this question. We completely reject the Government's policy approach to this question of revenue administration through this particular governance model known as the TTRA. [*Desk thumping*]

But, Madam President, before I get into the meat of my contribution, let me say from the outset that the Government's strategy in parachuting this Bill into this place called the Senate should be made abundantly clear to all. Madam President, the Government deliberately— well, I would not say deliberately, but the Government allowed the JSC report to lapse. So when the Parliament prorogued on September 27, 2019, they did not save the work, they did not save the report of the JSC. But you know what they did on the 20th of September in the other place? They saved cybercrime. You know what they saved, Madam President, the three tax Bills that we are being called upon to deal with on Thursday; they saved the

Constitution (Amdt.) (Tobago Self Government) Bill; they saved the Gambling (Gaming and Betting) Control Bill, in terms of the report; and they also saved the National Statistical Institute of Trinidad and Tobago JSC report. But when it came to the JSC on the Revenue Authority, they allowed it to lapse. And the question is: Why? And then surreptitiously, or I should say, they allowed or they sought to use the amendments in the majority report, brought it into this Bill that we have before us, tabled this Bill on the 27th of November in the Senate, because the Government's strategy is clear.

They believe, Madam President, and they know that the United National Congress will not be supporting the TTRA, they know it. So they have brought it here with the clear understanding that they would get the support, or they believe they will get the support of the Independent Bench, they will get 19 votes, they will pass it, and then they will engage in propaganda as it goes to the other place once again. But that is the strategy of the Government. [*Crosstalk*] No, I am not accusing nobody of anything. I am not accusing anybody of anything. You are saying so. I am not saying so. I never said so, Madam President. So do not put words in my mouth.

So, Madam President, it is clear what this Government is about. But we are also very clear what we are about and no Minister of Finance, coming in this House, is going to mamaguy us, fool us or mislead us—not mislead us, Madam President, I know you always say that is wrong. But he is not going in any way—the hon. Minister that is—to use his presence here to give the impression that this thing called the TTRA is the best thing after slice bread. The Government is on a mission of invasion, intrusion and interference, and we have seen a pattern of conduct on the part of this Government as it relates to the intrusion, interference

and invasion of people's rights in this country. And this TTRA is no different, it is a policy on their part, Madam President. And I will show, in this legislation that is before us, that this legislation is flawed, defective and completely at odds with good governance, accountability, transparency, political neutrality and most importantly, the insulation and protection of workers from political abuse by the political directorate.

Madam President, we had a Bill, as we have today, no policy relating and directing this Bill. We had to insist and demand of the Minister of Finance to bring a policy and he came kicking and screaming and presenting this policy last minute on this Bill and that policy is yet to even be tabled in the Parliament. So the Government had no policy for public consumption on this Bill until we forced them to produce one.

But, Madam President, we have said that when we look at this Bill, in its current form, there are very critical areas that leave a lot to be desired. The power of the executive is at play in this piece of legislation. And, Madam President, we do not support everything the IMF does or promotes but, Madam President, I must tell you, when I look at certain reports commissioned by the IMF through an organization called CARTAC, we were very convinced of the approach that they suggested to the Government that ought to be taken. And, Madam President, I do not have the Cabinet Note with me today but there is a Cabinet Note dated the 9th of February, 2017 in which the Cabinet of Trinidad and Tobago agreed with CARTAC that there are four options available to the Government of Trinidad and Tobago as it relates to reforming tax administration in Trinidad and Tobago:

“Option A.”—was—“A Revenue Authority

Option B:”—was—“An Integrated Revenue Administration in the Ministry of Finance.

Option C:”—was—“A Revenue Ministry”—and—
“Option D: An Enhanced Status Quo”

Madam President, we had four options in this Cabinet Minute. The Government, without debating this Bill in 2018 so that Members could have criticized the merits and principles, took the Bill to a joint select committee and they did not give the Joint Select Committee the opportunity to look at these options. They came with a one-size-fits-all approach to revenue reform and revenue administration and tax administration, and they said, “You see this TTRA, that is our policy and all we intend to do, Madam President, is to allow some tinkering here and tinkering there, but we are going with this TTRA.”

Madam President, we do not live in a dictatorship. We have a democracy, and as Members of Parliament, we are not here to rubber stamp the Government’s policy. That is not our role. We are here to criticize, we are here to examine, I should say, the merits, analyze the merits and the principles of the Bill or any law that the Government brings here. But, Madam President, if we are not happy with the merits and the principles of the Bill, the Opposition has a right to put forward alternative policy options, and this is what we were denied. We were not given the opportunity to deal with options for revenue reform and for tax administrative reform. We came with one, that is, the Government had an agenda and the agenda, Madam President, was to go with this thing called the TTRA and that was their approach.

And, Madam President, we made it very clear that when we looked at the

section of the law that established the Authority and we looked at how the governance model was being promoted in this piece of legislation, we said we could not support that approach. The Government of the PNM was seeking to outsource to a government-owned statutory authority or corporation, the task of collecting 95 per cent of this country's revenues. And, Madam President, when we look at this statutory corporation or authority and how it was going to be appointed and who was going to appoint these people, we realized that the Government, representing the Executive, was going to be appointing all these people to the Board or to the Authority. And how can we allow the Cabinet, whether it is a UNC Cabinet or a PNM Cabinet, to have the authority to appoint all the members of the Board of the Authority? We rejected that. We said we do not support the political influence of the Government in these arrangements. This is 95 per cent of Trinidad and Tobago's revenue and why must, for instance, the Minister of Finance and the Cabinet of Trinidad and Tobago have the authority, as is in the legislation here before you, to appoint the board of directors?

But, Madam President, it does not stop there. It goes further, the Director General and the Director and Deputy Director Generals, they too are going to be appointed, they are going to be selected by the Minister of Finance and the Cabinet. And then we come to Parliament, as the Minister said, and where the Executive has an in-built majority—and we could argue from now until doomsday, they have an in-built majority, that is the Government— and at the end of the process, Madam Speaker, you will have the “ayes” having it. So a director general is appointed by the Executive of the State and that person is accountable to the Minister of Finance, by extension.

Madam President, how can we in 2019 and in 2020 support that kind of

interference or that kind of governance model where the politicians would be responsible for selecting those persons to run the Revenue Authority of Trinidad and Tobago? And, Madam President, we rejected that. We told the Government, find a new governance model, we do not want “no” Minister of Finance, whether it is in our administration or in your administration, that is the PNM administration, to have that kind of power. Madam President, your confidential file that you send to the BIR, companies operating in this country who send their corporation returns and so on to the Board of Inland Revenue today or you and I who would send our individual tax returns, Madam President, there is a provision in the Income Tax Act that says no one there can in fact release your information to anyone. It is private and confidential, and that has been in existence since that Act came into being.

And Madam President, We have never heard, I have never heard, maybe it exists, but we have never gotten information of leakages of confidential tax information under the BIR. But this body called the Revenue Authority of Trinidad and Tobago, which is a political appointed body, we have fears, we have concerns, we believe that kind of political appointment can lead to the kind of interference in which individuals and companies can have their privacy compromised. And unless there is some arrangement in place to give an assurance in law that that would not take place, Madam President, how can we support the outsourcing of 95 per cent of our revenue to a political outfit, a politically-driven outfit? Within the public service structure, there is neutrality between the employees and the Government represented by the Ministers and politicians.

But, Madam President, where you are going to be having 2,175 workers being employed on contract in the Revenue Authority, Madam President, as you

know, “he who pays the piper calls the tune”. And this is what caused the big fundamental difference and problem between the Government’s approach to this TTRA and our approach. We want a buffer between the politicians and the workers. And right now, Madam President, in the public service arrangement, in spite of all the limitations that may exist, there is a buffer that protects the public officer from the direct invasion, intrusion and interference by the politicians. But when you go to this governance model, we are going to have an open field. We are going to have a field day, where workers are going to be in fear because the Government will be appointing the entire board; the Director General will be accountable to the Minister, even though he gets approval from the Parliament with the majority of the governing party approving it even if we opposed it; the Government will have its way at the end of the day and, Madam President, what goes on?

So, Madam President, wherever we have looked for the workings of this agency, there have been difficulties and problems. A lot of corruption eventually seeps into revenue authorities. And we are of the firm view, like the IMF, that there should be options available to the Parliament and options available to the people of Trinidad and Tobago. Do not come here in this Parliament or in the country and seek to impose a one-size-fits-all model and say that is the best approach. And, Madam President, you know what is even more astonishing and alarming? This Government has not produced a report showing, for instance, over the last few years how much revenue has been foregone because of inefficiencies, bureaucracy within the Board of Inland Revenue. There is no study available to this Parliament or the people of Trinidad and Tobago on this question about revenue foregone. All we are getting from the Government is that this model will

generate greater efficiency, you will get more taxes being collected and therefore, let us go with the TTRA.

Madam President, you remember when we had the tax amnesty? The Government boasted this year that they collected last year over \$1.5 billion—

Hon. Al-Rawi: 2.4.

Sen. W. Mark: Or 2.4 billion; thank you AG, 2.4. So the same BIR that you are criticizing and attacking and saying they are inefficient, once they were able to be given the proper resources and the people who are to pay their taxes, we have put the arrangement in place, what did they do, Madam President? They complied. The problem here is tax compliance. When a government owes the business community over \$5 billion in VAT, what you expect to take place? [*Desk thumping*] Do not blame the BIR and do not blame, for instance, the workers of the BIR for you not collecting taxes. [*Desk thumping*] It is the Government that is causing the problem. And, Madam President, I want to tell this Government, under the former Prime Minister, may his soul rest in peace, the hon. former Prime Minister of this country, Patrick Manning, he brought this Bill in 2010 in this Parliament, not in this kind of surrounding.

3.30 p.m.

But we were in this Parliament. We defeated that Bill and, Madam President, you know what went on? We went and campaigned against that Bill in the public and the Government of Trinidad and Tobago, led by Patrick Manning, was defeated. [*Desk thumping*] They were defeated on this Revenue Authority Bill. You know why, Madam President? Two thousand, one hundred and seventy-five workers would be facing the breadline with this Bill because everyone is going

on contract under the Revenue Authority Bill. [*Desk thumping*] How can we support that? How can we support where you have 2,175 workers who are now—they now have security of tenure. They are now guaranteed by their employment, by the Public Service Commission.

The hon. Minister of Energy and Energy Industries cannot go into the Ministry of Energy and Energy Industries with seasoned public officers and instruct them, and fire them if they do not respond. He cannot do that now. No Minister can do that where public officers are concerned, but when you appoint your own board of directors and you have your own general or Director General, you can do that. And, Madam President, we will never support that kind of arrangement in this country. [*Desk thumping*] What this Government has been seeking to do over the last few years is to dismantle indirectly the Public Service Commission. That is what they have been doing. So they have been deliberately running down the BIR—hear the Minister boasted today, 50 per cent vacancies exist at the BIR and he is blaming the what? The Public Service Commission for not appointing 50 per cent to fill vacancies at the Customs and Excise Division and at the BIR.

The Minister of Finance is responsible for finally giving the Public Service Commission the all clear to employ people because the Public Service Commission can interview people. They can say well look you have passed, but you know, Madam President, they cannot appoint anyone unless they get the all clear from the Minister of Finance to ensure that these workers are able to receive their emolument when they go and work at the BIR and the Customs and Excise Department. But, Madam President, what has happened? It is my view that the Government of Trinidad and Tobago has exercised a strategy and a policy of not

filling vacancies within the BIR and the Customs and Excise Department because they want to run down those institutions in order to privatize.

This is privatization of our public service. It is a form of privatization and, Madam President, we cannot support it. Madam President, you know what is even more disturbing? The Minister spoke for 40 minutes here, he said nothing about the trade unions. The Minister promised us at the JSC that he is going to look into the question about successorship for the Public Services Association and the NUGFW. We have a Bill before us today in which there is no succession whatsoever for the Public Services Association and the NUGFW to continue representing the monthly rated workers and the daily rated workers in the BIR and the Customs and Excise Department. So what is this telling you? The Government is engaged in union busting. [*Desk thumping*] That is what the Government is engaged in.

They want, Madam President, to get rid of the PSA so that the workers would have no representation at the level of the Board of Inland Revenue and Customs, and leave them open to who? The Minister of Finance, the Attorney General, the Minister of Energy and Energy Industries. They will now become the new bosses of the workers of the BIR, and the Customs and Excise Department or Division. So that when they say jump, you say how high boss. That is the kind of power they want, and they want us in this Senate to give them this power. Madam President, we will not support legislation that does not provide the relevant checks and balances to protect the interest, first of all, of the public, and most importantly the workers who work in those institutions must be given protection by this Parliament. [*Desk thumping*]

Madam President, I was astonished when I read a report known as the Final Report of the Committee appointed by Cabinet to examine the feasibility of establishing a Revenue Authority in Trinidad and Tobago and it is dated August 22, 2002. Madam President, when I read this there is a section that deals—and, Madam President, may I tell you that this body, there was a body established headed by a chap called Mr. Gordon Dean—he was the chairman—and you had a number of distinguished persons including Mr. Randolph Kowal who has now passed on; Mr. Vishnu Dhanpaul, he is the Permanent Secretary in the Ministry of Finance; among others, but they interviewed what is called a group of tax practitioners. They interviewed a group of tax practitioners and you know who are the members of this group?

“On May 7”—I am quoting from page 29 of this report—“the Committee met with...”

—that is this committee I just mentioned headed by Mr. Gordon Dean—

“...two Tax Accountants and one Tax Attorney from the major accounting firms in Trinidad and Tobago: Ms. Allyson West”—of—“Price Waterhouse Coopers; Mr. Peter Inglefield” from “Price Waterhouse Coopers; and Mr. Gregory Hannays”—from—“Ernst and Young.”

They met with this particular committee to deal with what, Madam President? A Revenue Authority. Hear what my distinguished friend who is now promoting a Trinidad and Tobago Revenue Authority—hear what our distinguished friend, who is now a Minister in the Ministry of Finance, said in 2002 on this matter of a Revenue Authority. I quote on page 34 for the record and the *Hansard*, and I want to associate myself completely with this position after.

[*Desk thumping*]

I quote, Madam President, on page 34, paragraph 4.6.22:

“Miss West expressed the fear that the integration of the BIR and the C&E”—which is the Customs and Excise Division—“would produce a cumbersome and inefficient entity.”

I want to say what Ms. West said at the material time.

“...that the integration of the BIR and the”—Customs and Excise Division—“would produce a cumbersome and inefficient entity.”

It goes on:

“She indicated that improving the efficiencies of both agencies separately”—would be considered or—“should be considered before integration.”

May I repeat this?

“She indicated”—that is Ms. West—“that improving the efficiencies of both agencies separately should be considered, before integration.”

That is what Ms. West said. [*Desk thumping*] Madam President, it goes on in 4.6.24:

“...formation of a Revenue Authority was not the ideal solution. Rather, improving the present structure would be the better solution since the BIR has a poor organisational structure.”

Madam President, this is what PricewaterhouseCoopers and Ms. West indicated to this Dean Committee in August of 2002 when this report was published. So we want to associate ourselves with the views of Ms. Allyson West.

[*Desk thumping*] Ms. Allyson West at that time supported the improvement or improving the efficiencies of both agencies separately. That should be considered before any integration, meaning any formation of a TTRA. That is what was said. You come today in this Parliament with this on the record of our library and give the impression now that you have made a 360 degrees turnaround, and telling us and the workers that they must support this particular approach that is being advanced.

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

Sen. W. Mark: Madam President, we are clear in our minds when we look at the legislation, they are making the Director General a revenue collector. The Director General is a contract officer. It collides with the Exchequer and Audit Act that makes it very clear, anyone who is collecting the revenues of the Republic of Trinidad and Tobago or public moneys must be a public officer. And here you have, Madam President, the Director General being given the power to collect revenue, and this Director General is on contract and he is a contract officer. So that is in complete contradiction to what the Exchequer and Audit Act says in real terms.

So, Madam President, we do not, as I said, support this legislation. We want to make it very clear that our position is very clear. We believe in improving the inefficiencies that exists within the current structure. You will have to do some reengineering, you will have to do some restructuring, but we want the Board of Inland Revenue and we want revenue administration to remain within the public service. We want the PSA and the NUGFW to continue representing the workers of those two organizations or institutions, and we want to associate ourselves with

the position outlined by the International Monetary Fund in their paper through Qatar that there are several options available to Trinidad and Tobago as it relates to revenue reform and tax administration. We have not examined those options and that is why we totally opposed what is before us.

So, Madam President, in winding down, there are several issues in the current legislation that remain outstanding and we need to address. We need to address the security of tenure of the 2,175 workers who, if this Bill is passed into law, will all lose their jobs and they will all have to reapply for jobs at the BIR and the Customs and Excise. The unionization question remains outstanding. The Government has refused to have successorship for the PSA and the NUGFW in the legislation to represent their workers. Madam President, pensions, I did not go into that, but there is a whole problem with pensions in the legislation, and most importantly we have to protect workers from political abuse from the political directorate, and therefore, there must be a cushion and there must be a buffer between the politicians and those persons who represent us and who we have to deal with as it relates to service that they offer.

So, Madam President, we believe that without a clear public policy for national consumption, it is evidently and manifestly clear that this new governance model, which is being externally driven, will not be able to be fertilized and cultivated domestically if we do not take into account our reality and not just only borrow and transplant unto the soil of Trinidad and Tobago some foreign institution called a TTRA without looking at our own history, our own governance, our own transparency and accountability, and protection for the workers of this country and, most importantly, to ensure that leakages do not take place as it relates to confidential information that is provided to individuals or by individuals

and companies to the BIR.

So, Madam President, I want to thank you for the opportunity of making my intervention on this matter, and to close by indicating that we completely reject and repudiate this Bill and you will not get any support from us. [*Desk thumping*]

Madam President: Sen. Seepersad.

Sen. Charrise Seepersad: Madam President, thank you for the opportunity to contribute to the debate on the Bill, An Act to establish the Trinidad and Tobago Revenue Authority and related matters, 2019. The Bill before us seeks to merge the Board of Inland Revenue and Customs and Excise Division into one organization or business entity called the Trinidad and Tobago Revenue Authority. This Revenue Authority has been contemplated since at least 2003. In April 2009, the then Minister of Finance stated that it was critical that this new and more efficient Authority be established. In July of 2012, the BIR submitted a strategic plan which listed several initiatives to address the rapid changes in the dynamic environment in which they continue to exist. The sitting Finance Minister explained in the 2017 mid-year budget review that the Government now seeks to focus on revenue collection and boost efforts to improve tax administration and compliance. He said this would be done with the help of a Revenue Authority.

The objective of the Revenue Authority is to modernize the outdated revenue collection system so as to see a quantum leap in the performance of revenue collection by the respective agencies as soon as possible since there is no doubt that tax leakage and tax avoidance are widespread, resulting in a loss of revenue to the Treasury in billions of dollars. The general shortfall in revenue collection, it is believed, is due to a major problem which continues to be the

longstanding weaknesses in our tax administration in both Customs and Excise Division and the Board of Inland Revenue.

The project objectives attributed to the BIR include:

1. Establishment of a risk management function to facilitate the identification, analysis, evaluation and treatment of all types of risk that is a threat to the achievement of the BIR's mission;
2. Establishment of a process management function to establish a system to manage processes and procedures within the Division; provision of e-services to implement an electronic system to facilitate electronic filing of tax returns, electronic payment, online taxpayer registration and the provision of information;
3. Establishment of an inspection internal affairs unit to strengthen the division's investigative capacity;
4. Establishment of a communications unit to improve the communication between the BIR and its external and internal stakeholders;
5. Establishment of a performance management system for all operations of the division to measure the achievements of the operations of the division against established performance standards;
6. The development and implementation of a database for the storage and processing of land and buildings data to computerized land and building taxes;
7. Improve the records management system for tax returns;
8. Implement a records management system for tax returns for all types

with improved security features, retrieval and filing facilities;

9. Establishment of the system review function to determine whether the processes and products of the integrated tax processing system satisfy the requirements of the division and to verify the accuracy of the rules and configurations of the system; and
10. Establishment of an operational policy function to implement, disseminate, and manage a database of tax and non-tax related policies within the BIR.

Madam President, over the counter service to the public is not highlighted in these initiatives. It is no secret that customer service training and possibly retraining is needed. Interacting and interfacing with over the counter public service employees is inextricably demoralizing. The service in public service is lost. Tax evasion, as already mentioned, is a major problem and statistics obtained from a study by Dr. Karl Theodore and colleagues in 2015 and 2016 estimated tax evasion as between \$12 billion to \$15 billion per year broken down as follows:

- Corporation taxes: \$5.1 billion to \$6.6 billion;
- Income taxes: \$5 billion to \$6 billion;
- VAT: \$1.9 billion to \$2.4 billion.

In the second quarter of 2019, the IMF tax experts estimated that the VAT compliance gap, which the Minister of Finance spoke about, was about 5 per cent of GDP or \$8 billion annually, of which 4 billion is due to VAT exempted items and 4 billion is actually due but is not collected. This is because of the inadequate assessment of taxpayers who are obligated to pay VAT. In December 2019 during the demonetization of the old hundred dollar paper bill to the new polymer bank

note, two commercial banks reported that in two days customers converted \$270 million of the old hundred dollar paper bills. This shows that beyond the proceeds of crime there is a significant amount of cash circulating outside the formal sectors, and it is an indicator of the extent to which the tax burden is not shared equitably.

Madam President, the real issue of taxation and revenue collection is the inadequacy of the mechanism of collection. Government must improve the connection mechanism of all taxes. The tax burden must be borne by all, and the tax net must seek to encompass at least 80 per cent of all of the taxable population. If the revenue collecting agencies can collect 50 per cent of what is not now collected in corporation tax, personal income tax, VAT, petroleum profits tax and customs duties, the Government revenue can increase by as much as \$3 billion to \$5 billion. The Caribbean Regional Technical Centre (CARTAC) described Trinidad and Tobago's tax collection system as inefficient and recommended the creation of a Revenue Authority. One of the biggest problems identified was the ability to recruit, train and compensate staff causing numerous vacancies.

Currently at the Board of Inland Revenue and the Customs and Excise Division at least 50 per cent of positions are vacant. The ugly menace of corruption it is alleged continues in the Board of Inland Revenue and the Customs and Excise Division. The Public Service Commission is the recruiting body and the Chief Personnel Officer is responsible for setting the terms and conditions of employment in the public service. Persons apply for jobs in the public service and do not get even acknowledgement, interview, or any indication that their application is receiving attention. This bureaucratic system needs significant work. In contrast, the autonomous TTRA will be able to recruit, train, and adequately compensate staff as outlined in Part IV of the Bill.

There are several laws such as explain your wealth, civil asset forfeiture, non-profit organizations, and transparency and beneficial ownership which will also assist in pursuing persons with unexplained income. In 2009, the Finance Minister said in part that the intention is not to put the 2,175 persons on the breadline, but to find mechanism to filter across and allow the best people to be employed in a new dispensation to fit the new jobs which are being built in this new institution. My understanding of the Bill that this sentiment is still policy.

In Part IV of the Bill, No. 18, section 2, public service officers can within three months of the date of assent exercise the option to either voluntarily retire from the public service, transfer to TTRA with the approval of the Public Service Commission, or remain in the public service provided that there is an office commensurate with the office held by the officers in the public service available. Persons who transfer will have their superannuation benefits preserved. All persons in the Board of Inland Revenue and Customs and Excise Department will be redeployed to the TTRA or throughout the public service.

Madam President, I am familiar with organizational restructuring and the work required to achieve a seamless transition especially with the natural resistance to change by affected personnel. In such an undertaking a changed agent or agents with the requisite skills and track record is essential to ensure that agreed objectives are measurable, achievable and realistic. Most failures in organizational transformation are due to the inadequate engagement of all players in the stream of performance and delivery. At the end of the day, the ultimate objective of creating an efficient and effective tax revenue collection system is to optimize tax revenue so that all Trinidad and Tobago's citizens can enjoy efficient and functioning social services and public utilities, and a reasonable quality of

living including safety, health, education, water, power and roads to name a few. Therefore, if the centralized regional authority can help in this objective in a meaningful and significant way, then it is imperative that the methods of recruitment and the employment terms and conditions of affected personnel can be amended according.

Madam President, at this present economic juncture of depressed energy prices collection of all revenues due to the country is even more necessary. Further, since the Authority is essentially a financial organization dealing with a large amount of transactions and financial resources, adequate checks and balances must be implemented to safeguard the revenues collected from and on behalf of the citizens of Trinidad and Tobago. Thank you, Madam President. [*Desk thumping*]

Madam President: Attorney General.

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam President. Madam President, it gives me great pleasure to enter this debate here in the Senate. It seems that I am a fixture of both Houses of Parliament, but it is always a pleasure to be here. I have come here today, Madam President, having the right of audience as Attorney General in this Chamber specifically to speak to Trinidad and Tobago, through you, Madam President, and to the voices that will eventually speak on the Independent Bench. I say that with the greatest of respect because we have had a very clear position coming from the Opposition which has not been just the contribution of Sen. Wade Mark today, it has been the voice of the Opposition for nearly close to 20 years.

Sen. Mark made a very bold assertion saying that the Government has come with a one-size-fits-all approach, purported to refer to deliberations and statements made

by my colleague, Sen. West when she in private practice as an expert in the tax industry, 18 years ago made a statement—let me repeat that. Eighteen years ago, in 2002, made a statement as to the then considerations for improvement of tax efficiency, Sen. Mark makes the statement that the Government comes here to do something, firstly, without having provided the Opposition an opportunity to speak to, a plan for efficiency measure relief in the Customs and Excise Division and the Board of Inland Revenue. Secondly, supposedly without data as to the efficiency requirements to improve taxation collection and to better law enforcement.

4.00 p.m.

Thirdly, Sen. Mark alleges very boldly, that workers in the Revenue Authority will be causing prejudice to the existing public servants and contract officers in the Inland Revenue Division and in the Customs and Excise Division. He then sought to remind us that the UNC Government went about to campaign against the Revenue Authority pursuant to legislation in 2010 which was then brought by the Minister of Finance, Karen Nunez-Tesheira, and Sen. Mark also went on to raise allegations against constitutionality and went further to say, quite boldly, that the Government will not have the support of the Opposition.

Now, I want to say this. I was called by a newspaper this weekend to ask me about my reflections as a first-time Minister. I have now stood in the Parliament of Trinidad and Tobago, in June of this year, it will be 10 full years in the Parliament, and I have had the opportunity now to reflect upon being a Minister of Government, in this case, the Attorney General, and in reflecting upon the highs and lows of service, I indicated that the privilege, the most high privilege, was the ability to fashion a national agenda and a constituency agenda, but that the lowest

point of service as a Government Minister, as the Attorney General, was working with the UNC in their refusal to support legislation which was required for the betterment of Trinidad and Tobago.

I received a report of a meeting last night where the Opposition spoke to support of legislation and that Member of Parliament, David Lee, the Member for Pointe-a-Pierre, boldly said that the UNC had supported seven pieces of essential legislation. I want to put on the record today, as we welcome aspirants into political cycles; Sen. Obika himself being named a candidate in the general election for his party which I congratulate him for. [*Desk thumping*] Sen. Sobers being named a candidate for San Fernando West, my own seat, which I congratulate him for. In dealing with these particular positions, I asked the nation to pay attention to issues, because the record of the Parliament demonstrates the same arguments by the UNC: constitutionality, joint select committee, delay, filibustering.

And in respect of this legislation and the process by which we came here, I want to put on the record: the Opposition had five years and three months to cause reform in the criminal justice system and in the revenue management systems of Trinidad and Tobago which, of course, include border control at the Customs and Excise Division; five years and three months. They also had the benefit of 2017, '18, '19 and now in 2020, of participating in joint select committee work to consider amendments to the Board of Inland Revenue and revenue management structures and also Customs and Excise Division. In that period of time, we saw absolutely no attempt to assist the people of Trinidad and Tobago to get to a better place.

So let me get to the Bill. This Bill, Madam President, is really quite simple and it is certainly not a one-size-fits-all, so permit me to say what the Bill does and what the Bill does not do, and then permit me to address, Madam President, if you will, a few core issues. Number one, the constitutionality of the mechanisms which we propose or may yet consider. Number two, permit me to treat with the worker-aspect union integration issue of successorship. Position three, permit me to treat with the process of managing the ministerial control or Cabinet control as there is an allegation of overreach by the UNC. And then permit me, in laying those three positions, to now reflect upon the aim of the legislation and the data which brings us here. So let us get to the legitimate aim of this legislation as we underwrite constitutionality.

Proportionality or constitutionality is anchored first and foremost to a legitimate aim. What is the legitimate aim? The legitimate aim is multi-pronged. Firstly, Trinidad and Tobago has a system of taxation and revenue management which is necessary for all of us to live here. It is what pays our bills, our salaries, our wages. It is what pays for the unemployed, for the grants offered to our aged, for the welfare of our citizens, even our prisoners are paid for by taxation. Potholes are repaired, water is run, electricity is brought to our homes, safety is brought to our environment. And we are in a system where in 2016, we recognized because of external shocks to our country, that our country lost 96 per cent of our revenue in a storm involving terrible negotiation by the UNC of our oil and gas benefits and also the collapse of oil prices down to \$27 per barrel coupled with escalating public debt which was left to be paid by the PNM Government.

In managing that 96 per cent loss in revenue, this Bill now comes as one of the legitimate aims, today even more so relevant than ever before where we are

watching the price of oil headed from an estimate of \$60 per barrel down to \$30 per barrel, if not \$20 per barrel. We say in this country that we ensure the issues to be managed by a fair and equitable system. Madam President, the working poor and the working population who receive a salary, the vast majority of Trinidad and Tobago who receive a salary all pay their fair share. It is under the system of pay as you earn, PAYE. There is fictional money, you see it on paper, it is deducted at source, it goes into the Consolidated Fund through the Exchequer and Audit provisions and there, right then and there, you never see that money in your bank account.

However, in estimating the tax gap and contrary to the ridiculous submission made by Sen. Mark that there is no data, we have tons of data on the tax gap. The Minister of Finance in piloting this Bill referred to the CARTAC, referred to the IMF tax analysis, and on the website of the Revenue Authority and at the Ministry of Finance, you will find for instance, paper submitted to the Ministry of Finance for all to see by Prof. Karl Theodore, dated September 04, 2017, it is called Calculating the Tax Gap for Trinidad and Tobago. In calculating that tax gap, in looking at a number of indices—electricity, income, other aspects—scientifically demonstrated, we have noted that the tax gap in Trinidad and Tobago is anywhere between \$12 billion to \$15 billion per annum; \$12 billion to \$15 billion per annum. Our deficit year on year, in our worst years, has been \$7 billion.

So our tax gap, the money that we are not collecting that we should collect from corporation taxes, by tax evasion, by fraud, by something that is masked as avoidance but it is not, by inefficiency, our tax gap is nearly double the amount that we have by way of deficit that we have to borrow for, we have to pay interest on, we have to watch debt to GDP ratio. And knowing as we do, amplified as that

equation is by the tax transferring, the pricing issue, tax transfer issue as it exists in the oil and gas industry in particular, we are looking at Trinidad and Tobago, if it is just simply going to say to our citizens, let everybody pay their fair share, this country can run with a tax surplus added to a budget surplus.

Let me repeat that. By simply implementing a more efficient, fair and equitable system of revenue collection, this country need not look to its oil and gas industry exclusively; this country need not look to high rates of taxation. This country can simply apply for everybody to pay their fair share. Now, why should we pay our fair share as a legitimate aim? Because every pothole that your tyre falls into is to be paid for by a tax dollar. But how can it be fair that 60,000 public servants pay their fair share and the rest of the working population of Trinidad and Tobago—as we saw in the demonetization effort, we saw one person in this society with \$32 million in cash, no taxes paid. We saw people entering with million dollars, no taxes paid. Why should they have a voice on the state and condition of Trinidad and Tobago if they do not pay their fair share? Why should we not all have the benefit of dropping taxation from 30 per cent or 25 per cent to 12 per cent? Why? Now, we can only do that if we collect from everyone and that is legitimate aim number one.

Legitimate aim number two: crime. Crime is the largest issue occupying our daily attention more so than the economy because we worry about our loved ones, we worry about our condition, but we know that prior to this Government, the focus on anti-crime measures was exclusively zoned to amendments to law which included firearm amendments, bail restrictions, anti-gang—what I call blood crimes, hard crimes.

Under this Government, we brought to the fore civil aid enforcement provisions, civil asset forfeiture, “explain your wealth”, non-profit organisation, beneficial ownership. We brought a host of “follow the money” legislation so that we can track crime in a better way by saying if we cannot catch you with guns or with trafficking in persons, let us find the proceeds of your crime. In this Bill, legitimate aim number two in anti-crime manoeuvring, we find an anchor that mortifies the UNC. Anytime you talk foreign tax account, local tax account, amendments to the Board of Inland Revenue, income tax legislation, Global Forum, the UNC goes into an apoplectic fit of panic and scandal and delay, and in those instances is where we note where people get jumpy and this Bill adds a very important measure to the Proceeds of Crime Act.

Tax evasion is listed in the Schedule to the Proceeds of Crime Act. Tax evasion allows a specified offence to be triggered. That triggers the civil asset forfeiture “explain your wealth” legislation. That triggers the FATCA legislation, the Global Forum legislation and therefore, having a more efficient, fair and secure mechanism to look at your Inland Revenue and Customs and Excise compliance means that you are giving crime-fighting a chance. How many cases do we see in the courts of Trinidad and Tobago for tax evasion, for stamp duty fraud? How many cases do we see? How many cases do we see for breaches of the gaming legislation? Now, look at the areas that the UNC refuses to support: gaming, income tax amendments, FATCA, Global Forum. Look at the areas where there was massive delay until it just got unbearable when they were beaten into support by the community, by Trinidad and Tobago, and understand the reflections on this law today. Legitimate aim number two is controlling the scourge of crime.

Let us go to legitimate aim number three. Legitimate aim number 3, in the

definition of insanity, as put forward by the Minister of Finance, it is watching our revenue laws. Madam President, let us look at our Laws of Trinidad and Tobago. We are looking at Chap. 75:01, the Income Tax Act. That was passed on the 22nd of December, 1938. Let us go to the Customs Act. The Customs Act that we are looking at, Chap. 78:01 is an Act of Parliament, Act No. 22 of 1938. Let us go to the Schedule to the legislation to the Bill before us right now. Let us look at what other laws articulate with this, and Madam President, you will see that the Schedule identifies 25 individual laws including the Customs Act and the income tax regime laws. Twenty-five individual laws, all of which are of that degree of antiquity.

Let us look now to the aim of improving efficiency. Many people may be confused as to what this legislation does so let me put it very simply. This legislation is akin to taking an engine that is of recent vintage and quality, that it is properly calibrated and installing it into a type of vehicle which has effectively two ends: the income tax end and the customs end. So picture two engines moving, two vehicles moving by one engine. At present, the Board of Inland Revenue is structured under the Income Tax Act. At present, the Customs and Excise Division is structured under the Customs Act. In those two pieces of law and if we take the Inland Revenue law by itself, contrary to the ridiculous assertion coming from the Opposition that we are somehow including ministerial intervention right now, let me put on the record what the Income Tax Act says. The Income Tax Act says, section 3, "Administration":

“(1) For the purposes of this Act there is hereby established a Board of Inland Revenue.

- (2) The Board shall consist of five Commissioners whose offices shall be public offices within the meaning section 3 of the Constitution...
- (3) The President shall appoint one of the Commissioners to be Chairman and the Chairman shall preside..."

Section 80 of the Constitution says, unless you say the President in his or her own discretion, "President" means the Cabinet.

The Income Tax Act says effectively, the Government, a political entity, appoints the Chairman of the Board of Inland Revenue. In the Bill before us, we are saying that the Director General is to be appointed by the Government subject to a process of transparency, and that transparency process is exactly one which resembles the appointment of a Commissioner of Police, where you bring the name of the person that you wish to appoint and you subject it by way of a motion to a debate on the person's credentials, qualifications and characteristics. So contrary to the existing law, we now take a quantum leap forward to add public and parliamentary scrutiny by way of affirmative resolution to adopt the person for Director General.

In the Customs and Excise Division and in the Board of Inland Revenue structure, there is a bifurcated run. You have public servants within the meaning of public servants as defined in the Constitution who are contract officers or public officers. The two streams are in existence right now. Contrary to the ridiculous submission coming from Sen. Mark that there is a collision with the Exchequer and Audit Act which says that a receiver of revenue must not be a contract officer and that it must be a public officer only. That is nonsense. We passed the Criminal Division, we passed the Family and Children Division where, by way of example,

we allow the Executive Court Administrator to be a receiver of revenue under the Exchequer and Audit Act by way of a contract appointment. But Sen. Mark has the audacity to come here today and just make up the law just so, just so. So when you look to the efficiency structures of the Board of Inland Revenue and the Customs and Excise Division, we are putting into place this Revenue Authority.

Now, what does this Revenue Authority consist of? This Revenue Authority consists of a board which is confined solely to general purposes. It consists of a Director General and assistance to that person, deputy directors who are completely separated away from the board. The board is appointed by the Minister. On the board, you have the Permanent Secretary who is a public officer subjected to Public Service Commission backing. On the board, you have the Director General. The Director General is appointed by way of public scrutiny by an affirmative resolution. On the board, you have if you are going to dismiss the Director General, that you must come to the Parliament and say why you are going to dismiss that Director General in an open affirmative resolution debate, so you cannot even get rid of that. Not even the Public Service Commission has that power.

The Public Service Commission, like any other Service Commission, remains unknown to the people of Trinidad and Tobago. If we conduct a poll right here, right now, and ask the majority of us to name the Chairman of Public Service Commission, the Chairman of the Teaching Service Commission, the Chairman of the Judicial and Legal Service Commission and other Service Commissions, you would not know who they are. You do not know their workload, you do not know their process flow, you do not know what they do, you do not know how long it takes. What you do know is that you have these Service Commissions and they are

simply not working the way we intended them to work in our Constitution.

Madam President, when we get to the Bill and we look to the board, we note that the board is ostracized specifically. You compare clause 6, you compare clause 8 and you will note that the board cannot have access to any secrecy or litigation or material which is under oath of confidence in the Revenue Authority. It cannot have it at all; it is an offence to have it. And if you look to section 4 of the Inland Revenue structures, the Income Tax Act where there is a secrecy provision, that section 4 is effectively replicated where we deal with the inclusion of an oath of secrecy in this Bill as we put it into clause 36 for which there is a breach of the law. So you have the same safeguards. If you look to the oath of secrecy, you have the oath of secrecy.

Let us go further to what this board does. This board and this entity via the Director General, these characters operating under the Revenue Authority, they are in the powers and functions specified, and if you look to the clause 6 elements, subject to sections 8 and 14, the functions of the authority are assessment and collection, administration, enforcement, et cetera.

Madam President, one of the ills that we have in Trinidad and Tobago is that the section 4 secrecy provision has been used as a complete block to transparency in our revenue management and in our customs management, and in that block to transparency, we have effectively killed efficiency. And the efficiency that we are looking for right here, right now, is for Trinidad and Tobago to be told that the policy of regulating gaming; or the policy of regulating the tax administration; or the policy of going behind more people paying less tax; or the policy of computerizing the Board of Inland Revenue and revenue management; or the

policy of auditing in transparent and safeguard positions, those policy items ought to always be uppermost in our mind.

So, Madam President, this functionality set out in clause 6 of the Bill is a very noble functionality into the third limb of legitimate aim which I asked us to consider a little while earlier. Madam President, what time do I end in full time?

Madam President: You end at 4.37.

Hon. F. Al-Rawi: Much obliged. Madam President, let us get specifically to the issues of constitutionality. This Bill has a Preamble. This Bill says that it requires a three-fifths majority. This Bill does contemplate that we are dealing with two saved laws. We are dealing with the income tax regime, we are dealing with the Customs and Excise regime which are both laws prior to our 1976 Constitution saved by the savings law clause which is section 6 of the Constitution. In these two respective regimes, the Board of Inland Revenue and also the Customs and Excise Division, in the package of 26 laws, have certain powers which include offences to section 4 and section 5 of the Constitution. They have the power, for instance, to enter, to search, to seize, to obtain information. They have the power to enforce. These are powers contained in the laws. The Bill has the three-fifths majority clause because we are saying we want to preserve those powers and take them over into the Revenue Authority.

But, Madam President, there is an alternative to that, you know. The alternative to that is that you can amend the existing laws to actually have them managed in a different way and you would remove the obstacle of a three-fifths majority with respect to sections 4 and 5 rights. But this law also requires considerations of the Public Service Commission and whether we would be

offending constitutionality by moving away from the protection of the Public Service Commission as it relates to the employees of the entities, and this law also has reflections of the saved law powers that we have for enforcement as it relates to power of distress or other aspects, for instance, where there is a discretion by the officers to exercise quasi-judicial functions. Those are the constitutional corners.

But, Madam President, if I deal with the second issue now of constitutionality, I want to put onto the record that this law, in my respectful view, as it relates to the Public Service Commission argument, that limb of constitutionality, we do not trip constitutional offence and I will tell you why. That is to be reflected upon in, first of all, access or reference to the Constitution and I mean specifically, Madam President, section 74 of our Republican Constitution and also a reflect upon section 54, and secondly, by a trilogy of cases: *Griffith v Guyana Revenue Authority*, [2006], 69 WIR 320; secondly, the Court of Appeal Guyana decision in *Chue v Attorney General of Guyana*, 72 WIR 213; and also very importantly in the case of *Martha Perch v Attorney General of Trinidad and Tobago*, [2003] 62 WIR 461.

Let me explain what I mean by that. The constitutional provision that you must have a public service commission backing the employees comes about if you are reflecting upon whether you are dealing with taxation as a core Government function, whether the employees must have a service commission backing, whether to have those employees in a different entity, the Revenue Authority, not having Public Service Commission backing is something which is offensive to the Constitution. The Martha Perch case which dealt with the establishment of the TTPost regime in Trinidad and Tobago as put onto the record of our laws at the highest level in the Privy Council decision, clearly says that we have the authority

to create entities of this type. That is point number one.

Point number two, there is absolutely nothing wrong with creating a revenue authority with workers of this type without Public Service Commission backing because of the safeguards that we have which include the Auditor General, the transparency of documents, the operational plans, et cetera, the budgetary plans, the audit plans. All of these things which we have as safeguards, there is nothing wrong with workers of this type having functions transferred on to them because section 74 of our Constitution is not entrenched by section 54 of the Constitution. In other words, section 74 which allows for the Executive transfer of powers and functions and permit me to put onto the record section 74. Section 74 of our Constitution, Chapter 5, “EXECUTIVE POWERS”:

- “(1) The executive authority of Trinidad and Tobago shall be vested in the President and,”—shall—“subject to this Constitution...be exercised by him either directly or through officers subordinated to him.
- (2) Without prejudice to the generality of subsection (1), the supreme command of the armed forces of Trinidad and Tobago shall be vested in the President...exercise of this power...regulated by law.”

4.30 p.m.

And then it goes on:

“Nothing in this section shall prevent Parliament from conferring functions on persons or authorities other than the President.”

Let me repeat that. Section 74(3) says:

“Nothing in this section shall prevent Parliament from conferring functions on persons or authorities”—stick a pin, Revenue Authority—“other than the President.”

Section 54 of the Constitution is where you say what the degree of entrenchment is. Sections 4 and 5, section 13 you have the three-fifths majority, section 54 talks about two-thirds and three-quarters majority.

Section 74 of the Constitution is not entrenched to any degree, it is simple majority. And we can actually today, in comfort of the trilogy of cases that I have just given you, that is Perch, that is Chue and that is also to be found in the case of Griffith, we are comfortable that from the Privy Council down has said that we can transfer these functions of the State in the manner that we do.

So, Madam President, when we look—Madam President, are you permitting me to go to the end? Much obliged.

Madam President, if we look to the argument of constitutionality now, I want to warn the UNC that this law does not, if it is amended appropriately, require a constitutional majority provision.

Sen. Mark: Well, you change the law.

Hon. F. Al-Rawi: And, Madam President, what I can say not having yelled at Sen. Mark through any aspect of his histrionics, Madam President—

Madam President: Sen. Mark, please. You have made your contribution, please allow the Attorney General to make his. Attorney General.

Hon. F. Al-Rawi: Thank you, Madam President. The reason that I am putting this on the record, knowing as I do the UNC’s penchant as it appears legislatively—

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

Hon. F. Al-Rawi: Much obliged. Knowing as it appears from their record to be to block everything, is to say the time is right for the move to a Revenue Authority.

You hear Sen. Mark a little earlier, the Government intends to come, hopefully will have support from the Independent Bench, pass this law, but that the UNC will never do it. Madam President, if you are careful enough in your drafting of law, if you do surgery to the offensive clauses and conditions that are going to be managed in the 25 laws that we are referring to. If you take away the section 4 and section 5 issues from those laws, if you put in the due process provisions allowed by way of reflecting upon the decisions in the majority of the Francis case or the classic case of Suratt as Baroness Hale has put it and many other cases, Northern Construction, et cetera. If you come to that line of authority we do not need to be troubled by the UNC's consistent behaviour in not supporting legislation.

Because, Madam President, what is very material to note is the fact that since 2002 when Sen. West spoke, we have come a very long way. This Government as you know, took aggressive steps in reforming plant and machinery, people, processes and law. This Government as we opened the courts at Tower D will have added 125 hearing rooms to Trinidad and Tobago. This Government will have taken the concept of managing cases from two masters in the High Court to 31. This Government will have raised the judicial age of retirement from 65 to 70. This Government will have created divisions of court. This Government created the hard crime management. This Government introduced plea bargaining, judge only trials. This Government introduced criminal proceedings by way of rules to be managed. This Government introduced the concept of white collar crime across companies, entities and businesses, land and also cash. This Government

introduced processes into the Board of Inland Revenue. This Government brought us in line with the Financial Action Task Force allowing us to come off the grey list that we were put on in 2015, January 2015 when we failed that review abysmally. This Government will allow us to pass the Global Forum amendments. But these things are relevant to the Bill today, Madam President, because what has happened is the sophistication of the system.

ASYCUDA is at work. The digitization of records is vastly and, in the most part, in gear. And when we look to the improvements that the Comptroller of Accounts, when we look the going live of our electronic payments by way of legislation brought by this Government. Financial instructions brought by this Government at the motor vehicle traffic and road traffic end, Licensing Division, Inland Revenue Division, Registrar General Division, Judiciary of Trinidad and Tobago. Now is the time with those institutional improvements to replace the obscurity with transparency, to allow the Revenue Authority to come into full operation, Madam President.

So I am not troubled by the UNC's traditional obstacle placing. I am not troubled in the least, [*Crosstalk*] because there is always a plan B. And that plan B has been well thought out and if my colleague Sen. Sean Sobers wants to be the face of objecting to the reform of Trinidad and Tobago, then so be it. If Sen. Mark wants to be, then so be it. Sen. Sobers and I will argue it on the floor in San Fernando West, when we stand up to say: what do we stand for by way of issues?

I will ask, Madam President, as I wind up what troubles the UNC so terribly about transparency. I thank you, Madam President. [*Crosstalk*]

Madam President: Sen. Mark, I am—yeah. Hon. Senators, the sitting will be

suspended and we will return at 10 minutes past five.

4.37 p.m.: *Sitting suspended.*

5.10 p.m.: *Sitting resumed.*

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

Sen. Taharqa Obika: Thank you, Mr. Vice-President. I want to start off by first putting on the record that when it comes to supporting legislation, the Government must be minded that we did support legislation regarding FATCA and Global Forum, and it is because of the work of the Opposition, the work of UNC that much proper legislation finds its way onto the law books. And that the Government should also be minded that only when the position is clear, only when the rights of the people of Trinidad and Tobago are protected that you will see support for legislation.

And the fundamental reason, notwithstanding the reasons advanced by the Attorney General, the fundamental reason for non-support of the TT Revenue Authority in the form that it is presented in, in this piece of legislation, is to prevent one very important crime. Because the Attorney General spoke about financial crimes and the importance of legislation to fix and fight against a financing of terrorism and white collar crime and so on. But, Mr. Vice-President, when you want to have an effective and efficient state apparatus, when you want to set the example for all institutions in the country, the highest level of crime that must be prevented is misbehaviour in public office.

And where you have a government—this Government, this Rowley administration—having such a propensity to bring to the Parliament laws that insert the Minister in places that a Minister does not belong. We dealt with a Bill

last week where we did not support. Each and every time this Government is coming with important legislation to trample on the rights of citizens, where trespasses the rights as enshrined in the Constitution, the reason you trespass is because looming large is a Minister, a member of the executive, someone who takes their instruction from Cabinet having powers that they do not deserve to have.

So what we are saying is we will not countenance, not in the United National Congress, not among the conscious minds of this country any legislation that tramples the constitutional rights of citizens in this country for sole purpose of empowering, enabling the whims and fancies of a Minister of Government. So I want the Attorney General to be minded of that whenever he brings any criticism of lack of support, because support they will not get on this piece of legislation today or any other day once it is bought in the way it has been advanced.

I want to say, Mr. Vice-President, that even the IMF, even the IMF, I wish to look for the part that speaks to it. October 01, 2006, an IMF working paper, there was a summary regarding revenue authorities and the summary basically states that revenue authorities have been adopted, I quote:

“Revenue authorities...have been adopted by some countries as an alternative delivery model for improved revenue administration.”

Alternative. Does not mean ideal. They did not say “preferred”, alternative. They did say the “sole model”. So it is not a one-size-fits-all as this Government is trying to promote by advancing this Bill.

“They are sometimes seen as a possible solution to problems such as low rates of tax compliance, ineffective tax administration staff, and corruption.”

So you notice what the IMF said in the conclusion, in the summary of the working paper 2006, is that the revenue authorities—2006, mind you, was just a few short years before. By the end of 2006 would have been no more than 30 months roughly before the Government under the late Patrick Manning advanced the revenue authority.

So at the same time that the IMF produced for public consumption, at the final quarter of 2006 this working paper, the Government of Trinidad and Tobago under Patrick Manning would have been planning this Revenue Authority scheme.

So the point, for the benefit of at least the Minister of Trade and Industry, Mr. Vice-President, is that the Government at the time would have had the benefit of the IMF working paper which concluded that they are sometimes seen as a possible solution to problems. Those two words have nothing to do with panacea. They have nothing to do with a fulsome comprehensive solution, sometimes and possible. They did not say they are oftentimes seen as highly probable or good or beneficial, sometimes seen as a possible solution to problems, such as low rates of tax compliance, ineffective tax administration staff and corruption.

So, therefore, I think because of that, I too would want to lend my support as Sen. Mark did to the position the learned position advanced by none other than the person with superior tax knowledge in this House, the Minister in the Ministry of Finance, the hon. Sen. Allyson West. Because, to me it was a very comprehensive and all-embracing answer because, Mr. Vice-President, any angle you could have taken the debate was captured in four to five short lines. [*Desk thumping*] Such was the potency of the solution of the conclusion rendered by the hon. Allyson West and, Mr. Vice-President, I want to say that in the history of Trinidad and Tobago,

in the history of Trinidad and Tobago's tax administration, revenue collection, that contribution is one of the greatest contributions to our development of a tax base in this country. And I think, if for nothing else, the hon. Minister deserves a national award.

So, Mr. Vice-President, I think it is very difficult to continue a debate after such a sterling and potent contribution. Although vicariously given through Sen. Mark, it was not directly rendered, but I would still try to add some meat where I feel it may assist others. If not it may assist hon. Allyson West to remember that sterling contribution. Because then it leaves me to wonder—it begs the question, the history of time, the passage of time has not eroded the relevance of Sen. West's contribution 18 years ago. It has not, in fact, in my mind it has strengthened, like wine it has gotten sweeter with age. [*Laughter*]

So I want to submit, Mr. Vice-President, before I enter the realm of poetry. I want to submit that it begs the question if at this moment on this particular Bill the hon. Minister in the Ministry of Finance is operating under duress. But I would hope not.

Sen. S. Hosein: “If she is, blink twice”.

Sen. T. Obika: But if the hon. Minister is under duress, blink twice we will be able to phone the authorities.

Sen. S. Hosein: We will call Gary.

Sen. T. Obika: So, Mr. Vice-President, I want to now look at specific clauses in the Bill, because there were some statements made by the hon. Minister of Finance that must be addressed as well, because there are implications for them in the Bill. The Minister of Finance stated that the main reason for this whole issue is that we

have a tax gap, the tax gap has been mentioned at 5 billion in some instances by this Government, by the Minister three and a half billion—[*Interruption*]—three and a half billion not the tax, three and a half billion is the revenue gap as the Minister mentioned, but 5 billion, 12 billion as a tax gap. And then the Minister introduced in his contribution the concept of the revenue gap because of the current decline in oil prices globally with the spat between the Kingdom of Saudi and the Russian Federation.

Now the Minister of Finance indicated increased borrowing, exploratory revenue sources and Heritage and Stabilisation Fund withdrawals would be contemplated or required to make up the three and a half billion dollars shortfall, which really is about a half a billion US. And one would have thought given the current price of oil that the Minister may have already contemplated as he did withdrawing from the HSF. It would have been more forthright in my mind to come to the population and say exactly how much you will be thinking about taking from the HSF. Because if increased borrowing there are Bills that are to come, not Bills, there is a Motion to come so we will leave that to when it comes to us regarding increased borrowing, if it should come.

But what exactly did the Minister mean by exploratory revenue sources? And it begs the question as to how does that fit into the notion of a tax gap and how does that fit into this Bill here. The International Monetary Fund has spoken and they have said time and again without number. Cannot even count how many times you have said it, that Revenue Authority is the best thing since slice bread. But let us look at why this legislation may not be that slice bread that we are thinking about.

Now, when you turn to even the preliminary—clause 3 of the Bill, section 3 of the Act. I speaks to border control and we know that is the realm of Customs and it speaks to regulation of conveyances and travellers entering or departing from Trinidad and Tobago, patrolling, surveillance and protection of the borders of Trinidad and Tobago. Is it that Customs and Excise has a good handle on this? One would suggest no. The problems articulated in the press by members of the business community alone shows you that maybe there is something to fix in Customs, something serious to fix in Customs.

And when you put an organization such as Customs and I could recall in a contribution to another Bill prior, there was an Inter-American—IDB, I believe, consultant that said where it comes to Customs issues there were significant issues regarding corruption. And basically painted the organization of the Customs and Excise Division as one of the most corrupt institutions in this country.

Now, Mr. Vice-President, when you place that submission alongside the confidence that persons have with the BIR, being one of the most decent, law-abiding and protective organizations in this country, because we have to depend on the BIR for our pensions, to manage our funds, to keep secret the information that we want to keep secret. You are going to take one of the most saintly organizations, bar some issues, but in the general, in the main, people are happy with the BIR. And you are taking one of the organizations that this international consultant as well as sentiments echoed locally, is one institution that has significant problems with corruption along its entire chain.

So you are going to poison the BIR with Customs because of the organization that it is. Now if that is the case why should we do that, why do we

not fix Customs? Fix the bad parts of Customs, cleanse the organization, and then after we do that, Mr. Vice-President, maybe we may arrive at a stage where there is no need to address any tax gap because there may be no significant tax gap. Because if you cleanse and you fix the Customs and Excise Division—

Sen. Gopee-Scoon: How?

Sen. T. Obika:—by taking the bull by its horns, and looking at the reports that are into Customs and fixing the problem, hard work. If you fix Customs, you will fix a significant part of the tax gap. If you fix the—because then are we saying that by putting Customs, we are saying the borders are porous, money is coming and going, persons are not declaring stuff, containers are not being cleared. Are we saying that when you bring the TTRA together with Customs magically you are going to have all the containers being checked properly, and that you would not have containers passing through, slipping through the cracks and entering our market without paying custom duty? Are we saying that?

Are we saying that by bringing Customs together with BIR magically a cargo shipment that would have fetched a duty of half a million dollars, but only fetches \$50,000 we will fix those problems? Are we saying that? Are we saying that we are going to fix terrorist financing and so on that exist through Customs? Are we saying that or are we not saying that? Are we really saying that what we really want is just a system where a Minister could come in, employ the board? The board employs the staff, but the Minister is in charge of hiring and firing the board.

Yes, we have this mechanism of bringing it to Parliament for affirmative resolution, whether it is a simple majority it still lies with the Executive. Cabinet

still has the power, we are not going to be sidetracked by that reference by the Minister of Finance. We understand what that means. It means nothing in terms of who is in control, it does not change anything. The Minister, the Cabinet remains in full control of each and every appointment along the entire organizational chart of this TTRA.

So what you will have is you are moving from a scenario where you have the Customs officers, the majority of whom are working hard in the best interest of this country, and then you have the few bad apples there that give the organization a bad name. But the ones who are working in the interest of the country are confident that they can be whistleblowers, because they know that their tenure is protected, based on the terms and conditions of their employment.

But when you move them from that system to a system where the partner of the Minister, the party hand, the mock-station agent fella “who doing he ting”, because he connected if you are blow the whistle he could get you fired because the system for hiring and firing is much more short circuited under this TTRA method. The Minister could reach in, the arm of the Minister reaches directly to the pay package, promotion scheme and the ability to terminate each and every single person in the TTRA. This provides the perfect opportunity for the crime that this Parliament is sworn to prevent, misbehaviour in public office.

5.20 p.m.

Now, Mr. Vice-President, it is clear that the Government did not seek good advice in bringing this matter forward. Another way in which this Bill as presented, because of the way in which the board is constituted and the Director General is also appointed, encourages misbehaviour in public office, and

corruption, and nepotism, and all these ills that we wish to prevent, is when he turned to Part VI of the Bill—sorry, clause 6 of the Bill on page 4 where it states:

“6. (1) Subject to sections 8 and 14, the functions of the Authority are—

(a) the assessment and collection of taxes under the revenue laws;”

Now, Minister belongs to party A, businessman is branded supporter of party B, businessman is bringing in a shipment, and a next businessman connected to party A say, “Hear wa going on, meh competitor bring in ah shipment. If he get dat in at x price through customs, he go lick meh up. Charge him double. People in the TTRA ‘fraid to do it, buh hear wa going on, if they don’t do it, they could lost dey wuk, because dah one come from high”—as we say in Trinidad—“dey come from high”.

Now, it does not come necessarily directly through their bosses. It comes through a fella connected to party A. Party A is in power. The officer decides that if he does not follow the instructions of the man from the political party, he will lose his job because the Minister has sweeping powers under the law. I mean, nobody in their right mind could approve of this. Nobody, no individual, Mr. Vice-President, who cares about decency in public office could support this? No individual who is sworn to uphold the Oath that we take here in this Senate, could justify that in the furtherance of that Oath, that this piece of legislation is worthy, is good and right, in the face of the Oath that we took. Because clause 6 of this Bill allows for that interference.

So let us go further into the Bill itself. So it goes to talk about the appointment of the board. There should be established board in authority and:

“(2) The Board shall be appointed by the Minister...”

Again, Sen. Mark explained that. But when you go down to clause 7(2)(h), one of the persons, one of the positions, you have:

- “(a) ...Chairman;
- (b) ...Vice-Chairman;
- (c) ...Permanent Secretary...
- (d)”—DG—“an *ex officio*...
- (e) ...person...Tobago House of Assembly;
- (f) ...Attorney-at-law;
- (g) ...chartered...accountant...”

And so on. Then it has:

“(h) two other persons.”

Mr. Vice-President, two other persons. Three simple words. So, are we saying, notwithstanding the pains that the drafters of this legislation took to outline the positions and from where they should come, they just state simply:

“(h) two other persons.”

Which could be drafted I guess from the 1.35 billion citizens of the country. So it could be member of party group A, party group 100, the person sitting in the mock station for election. It could be someone who normally sits as a Deputy Presiding Officer and has influence over a particular polling division in election. It could be anybody. The point I am making is, and serving in the EBC does not disqualify you from being on the Revenue Authority by the way. So of you are a part-time person serving in the EBC, which many professionals do, teachers and so on, it

does not debar you from sitting on the TTRA as a member of the Board.

So that is something they may want to consider. The persons involved in the electoral process via the—whether it be Deputy Presiding Officers and so on, may also be disqualified; something to consider from sitting on the TTRA. But then of course, that is a mere detail in the law. The functions of the Board. The functions and powers of the Board. Clause 8(1)(d), human resources, so:

“...the Board shall be responsible for formulating, approving and ensuring the implementation of management policies in relation to...

(d) human resources, including those related to recruitment, remuneration, promotion, training and development, performance assessment, conditions of work, discipline, termination of employment and superannuation benefits;”

So, the Board decides the structure. The Board creates the architecture of the organization. The Board appoints the DG. There should be a vote in Parliament. The vote in Parliament for affirmative resolution requires only a simple majority. So we develop the story. Clause 10:

“(1) The Chairman and Vice-Chairman shall be appointed for a term of five years.”

So this one for example, just to show you how it can cause problems. “For five years”—that is the term. So it is very specific and it is clear. This could be a poison pill. So, the Government, they know they are facing demission of office, they will leave office in a few months. They create this Revenue Authority and impose on the people of Trinidad and Tobago someone who should sit for a period of five years, someone appointed as a creature of politics. And then of course, in clause

10(3):

“Subject to subsections (1) and (2), the appointment of a member, other than the Permanent Secretary and the Director General, shall be on such terms and conditions as may be determined by the Minister.”

So what does that mean? The Minister is holding the arm as we should get many from Ghana in short order. And the Minister is holding the carving knife. So the Minister grants you the position, and the Minister also determines the limits of your remuneration package.

Now, when you have such a peculiar very with relationship with a particular Minister, it stands to reason that this Minister has way too much power by virtue of the appointment coming in the form of a blessing from a particular Minister. It also presents the opportunity for someone to be beholden to a Minister, notwithstanding the powers that are granted to the Minister.

Now, clause 13 of the Bill spoke about the affirmative resolution regarding the notification of the appointment of the DG and the Deputy DG. So we would not be fooled by that, we would not be fooled by public debates and so on, because this Parliament has witnessed many public debates where the Government said we will not listen to the Opposition. We will take no advice from the Opposition. We are not interested in their opinion. At the beginning of the debate you know. In piloting many debates in this House, in my two years and a half going onto three years. I have been subject to Members of this Government telling us, “We doh care wha yuh think, we ain’t care wa yuh saying, we passing it anyway. Say whey yuh want”. And we must be impressed by a Bill that says they will come to Parliament? I mean, we are not in a fool’s paradise, Mr. Vice-President, we live in the real

world.

So there is another issue here, clause 15 of the Bill, Part III which speaks to what happens upon the death or resignation of a DG or Deputy DG. And it says that:

“...a person shall be appointed to hold or act in the vacant office, as soon as is reasonably practicable.”

So, Mr. Vice-President, no time limit is given, no restriction is given on the Minister as to what is considered to be reasonably practicable. We had evidence here of a government that delayed, deferred and denied local government elections seven years because it was reasonably practicable. So Mr. Vice-President, we will not be impressed by that. That is another part of the law that makes absolutely no sense.

Now, the other part that is also very dangerous as well is the Annual Report. It says that:

- “(1) The Board shall, within sixty days after the submission of the Auditor General’s Report submit an annual report to the Minister in respect of the Authority.
- (2) The Minister shall lay the annual report in Parliament within three months of receipt of the report.”

What is the reason for such a delay? That was not spoken to. And also regarding the Schedule, the Schedule is to be amended via negative resolution of Parliament. That is clause 42.

Now, Mr. Vice-President, there are significant variations in the organizational setups regarding taxation across the world. For the Minister to say

that 60 countries in the world use a revenue authority does not impress anyone because that is not by far the majority at any rate. Sixty nations can never be considered to be a majority. So, the number of countries doing it is not necessarily going to impress one. What the Minister should have focused on was where those countries were located. What was the result of the revenue authority in those countries versus what existed prior? And then, he would have made a better contribution to the debate. Because if all the countries are in Europe and some other countries that belong to the OECD, and major trading partners that are moving away from being developing to developed, it does not necessarily reflect what may obtain in Trinidad and Tobago. So, the Government has not assisted themselves in their contribution.

Now, what would be our significant objection? The Minister of Finance spoke at length about TTPost, but to me it was ludicrous in the least for a Minister to speak about provisions to safeguard the public's interest with the post office, versus an organization that if you run afoul of the provisions you can either end up in prison for the rest of your natural life. You, and even your family if they are implicated. So we are not going to be impressed by referring to the transition of the TTPost from being under the State, under a Public Service Commission, to being a standalone authority.

And there was a very damning statement that the Minister of Finance made. I am still in shock that the Minister of Finance would have ventured to place that on the public record. The Minister of Finance stood in this House and stated that persons approached him which meant he alluded to the fact that he can do it; to place and plant persons into the Customs Division. Now, you are already saying that—hopefully, I would hope that the Minister is not saying that currently he has

placed persons in strategic positions for promotion and otherwise, in the Customs and Excise Division. I am hoping that that was not what he meant. I am hoping so. But of course I cannot un-hear what I heard.

So, the Minister is speaking about the Customs and Excise Division as if it is a party group to place members. Are we saying that this is going to be the modus operandi when we have the Revenue Authority? You are going to be planting persons? Because he is saying that he had difficulty planting persons in these places because they were not hiring people. So, is it that if they are properly financed that persons can be now planted in the Customs and Excise Division and provide as much information as they wish? As well as, now once they are joined with the BIR, the TTRA, then the Minister can have anything he wants. So, I am saying the Minister should be careful not to make these public statements. It does not auger well for confidence in the institutions, especially one such as Customs which has been accused time without number of being engaged in corrupt practices, and arbitrary pricing for businesses and persons engaged in import and export in this country.

Now, I think it was shameless of the Minister to even speak about the tax gap because they have perpetuated the biggest crime against business in this country by not paying VAT returns. You have over \$6 billion in VAT returns due to business and when you came to the Parliament for this budgetary cycle, the Minister of Finance could have only offered them bonds at rates of less than, significantly less than the yield curve at Central Bank. And even when you ask questions to the Minister in Parliament, he gives us you flippant disrespectful responses, that you did not ask the question in that particular way and so on, and if you ask specifically this and that. The business people are not engaged in this

banter. The business people want to know what would be the terms and conditions of the bonds. You had a perfect opportunity as a Minister of Finance to ventilate that.

Mr. Vice-President: Senator, you have five more minutes.

Sen. T. Obika: Thank you. But then again, I only say that because I would assume a Minister of Finance would care what the business community who employs the majority of workers need. But maybe I should not ascribe such virtues to a Minister of Finance under this Rowley regime. Maybe I should not. Maybe I should, but maybe I was setting the bar too high.

Now, so if you are not paying VAT, Mr. Vice-President, you are not paying VAT, and you expect businesses to pay you VAT? You expect businesses to decide to register for VAT. The whole point of registering for VAT, I do business advisory to businesses and I strongly advise businesses to register for VAT. You know why? They get back some of the VAT you pay. Persons think registering for VAT makes you exposed to the Government because you pay more in VAT, but in your business process you buy items that already have VAT added to them in the price. The VAT is already included. Even if it does not show in the bill, you can request that they check their suppliers. So you buy steel, steel would have VAT if it is imported, it must have, unless it is a zero rated item.

So the point is, I encourage my clients to register for VAT. But they tell you well, your argument is that they register for VAT you get back some of the VAT. But this Government has not been paying VAT returns. So, you are not paying VAT returns, and you are complaining that there is a VAT gap in the country, and you are saying that when you create the TTRA, magically you will fix the VAT

gap, because VAT is a significant component of the tax gap. But then, it defies logic. You will not fix it because the people are not going to be getting their VAT returns. If you come forward and say you will give VAT returns in the face of having the Revenue Authority, they may consider getting VAT returns, but you are registering for VAT, and paying VAT, and recording VAT. But you have caused the problem. So again, this Government's approach to revenue collection is one way, we must collect money but we must not pay you what is due to you. It will never work.

Now, I want to close by reminding the Government that they must stop selling falsehoods on loss of revenue. About 94 per cent, I heard the Attorney General out of his depth talking about 94 per cent of revenue lost.

Hon. Al Rawi: Ninety-six.

Sen. T. Obika: Ninety-six per cent, that is utter madness and rubbish, Mr. Vice President. Okay, I want to say—not no rubbish—it was utter madness. [*Desk thumping*] Because they said, it dropped to \$1 billion, but when you check the Ministry of Finance documents it shows you that income from oil and gas companies, it may have dropped from 19 billion to 8 billion, all right. So what they are doing, they are selectively choosing a line item of income from oil companies. All the money from the oil it may have declined by 50 per cent in a particular year, 60 per cent in a particular year, and then it rebounded. So they are making up figures as they go. And they should not allow the Attorney General to embarrass himself by quoting wrong figures. [*Desk thumping*]

Now, I want to close in saying, because as I have come to the end of my time in this contribution this Government has come to the end of its time and now

is the time for the people of Trinidad and Tobago to show them the door, and to get Trinidad and Tobago working again. [*Desk thumping*] I thank you.

Mr. Vice-President: Sen. Deonarine.

Sen. Amrita Deonarine: Thank you, Mr. Vice-President, for the opportunity to contribute to the debate today. First of all, I would like to commend the Government for bringing this legislation and taking a policy decision to redefine the institutional dimensions of our revenue collection divisions under the direct remit of the Ministry of Finance.

The deficiencies in the tax collection and the wider tax administration system has been a problem from government after government, not only today but for decades, Mr. Vice-President. It is just that now we are in an economic situation where we cannot afford annual leakages of an approximate \$5 billion. With the existing dire economic situation, there is no more fiscal room to allow for this leakage, and to allow for deficiency in the tax administration system. Since the initial mention of this policy position, Mr. Vice-President, in 2008, almost 12 years ago, Trinidad and Tobago has suffered a decline in revenue from the highs of 56.8 billion in 2008, to a peak of 58 billion in 2014, and then a significant decline of 36.2 billion in 2016. As a matter of fact, in the first two months of this fiscal year we have suffered a 1.2 billion revenue shortfall due to energy and non-energy sector receipts.

Mr. Vice-President, during this 12 years we have ran 12 fiscal deficits. We have racked up debt by almost \$50 billion. Foreign exchange reserves are depleting and the tax revenue ratio has declined from 30 per cent of GDP in 2008 to an average of 20 per cent over the last three years. Facing tight fiscal conditions and

having the flexibility to adopt a counter-cyclical fiscal policy, the Government has pursued a policy position to adopt a system where rather than introducing new taxes, they are taking a policy position to tighten up the tax administration system, to collect somewhat \$5 billion that is leaked on an annual basis.

Mr. Vice-President, we have reached in a position where we cannot afford wastage, wastage in any form, wastage in tax leakages and also wastage in public expenditure. The date for a solution to clean up the miserable failing grade we scored on the TADAT 2017 Report has expired. Whether this is the best solution, that is the subject for debate today.

The second thing I want to mention before I move to the specifics of the Bill, Mr. Vice-President, is that the Government of the day, we need to understand that the Government of the day decides on the fiscal policy position. And in this instance, this sitting Government has decided that the best way to enhance the revenue collection mechanisms which feeds into how they determine government expenditure, in this instance, the Government has decided that establishing a Revenue Authority is the best way to do this, and that is their fiscal policy decision.

The third thing I want to mention before I go on to the Bill, is that tax compliance in this country is a serious problem, and it continues to plague government after government. This is everybody's problem. The size of the informal sector according to a study in 2017 by the Inter-American Development Bank, the name of the study is "Estimating the Size of the Informal Economy in Caribbean States". It estimated that the informal sector in Trinidad and Tobago approximated between 30 to 40 per cent of GDP between the years 1990 to 2014.

This accounts for \$25 billion to \$35 billion lost in GDP. During those periods the GDP in the country averaged at \$85 billion. Many citizens in Trinidad and Tobago are simply just not tax compliant.

One deficiency in the existing system is that there are existing privacy provisions in the respective laws which protect taxpayers from law enforcement agencies and the tax administration. Therefore, taking investigative action on individuals who are non-compliant is difficult. More importantly, Mr. Vice-President, it is difficult to ensure equitable compliance with tax laws. The secrecy provisions do not even allow the Central Statistical Office to access information, so that they can adequately calculate the GDP figures of the country. But, Mr. Vice-President, we have to be cognizant of the reason why people are not tax compliant. Yes, one reason is that the existing structure does not allow the State to target individuals who break the law, but there are also other reasons, and it has to do with the allocation of Government expenditure and the efficiency in which allocations are spent.

If citizens perceive an inefficiency in public expenditure and we end up having a situation where persons would hesitate to be compliant with their tax obligations—They think that the Government waste their hard earned money. Failing to provide the necessary public service to the population such as health, education, security, et cetera. Perceived unfairness also plays a role, the belief that their fellow countrymen either avoid their taxes or do not contribute in some proportion.

When persons of higher income brackets for example, are discovered to be shirking their taxes, it creates a snowball effect. We begin to feel that institutions

are unfair and we lose heart for paying our own contributions. The Government has to allocate resources in such a way that it will cultivate a level of trust in the State, such that people feel confident that by paying their taxes, social benefits will accrue to them. They need to know that if I for example, give the Government \$1,000 every month from my small scale business that earns approximately \$11,000 a month, the total value of social benefit that I receive, or my family receives, my dependents receive, is worth at least \$1,000.

People should be able to walk into a hospital and get treatment in a timely fashion. They should be able to go about their daily routines and feel a sense of security. So, Mr. Vice-President, while this Bill attempts to correct for the institutional inefficiencies in tax administration, we have to ensure that in focusing on improving the efficiency of tax collection, we need to balance this act, and ensure taxpayers do receive equitable access to goods and services provided by the Government. [*Desk thumping*]

So, I move to the Bill now, Mr. Vice-President, and the first thing I want to address is the legal form and status. The legal form and status is, as everyone would have mentioned so far in the debate, it merges the functions of the Inland Revenue and the Customs and Excise duty and forms a statutory board. Mr. Vice-President, in the legislation the Minister is responsible for quite a number of things.

6.00 p.m.

If we consider the extent to which the Minister of Finance is involved, we have the following:

- He appoints the board.

- He gives general policy directives to the board.
- He determines the tenure and office of the appointment of the members of the board.
- He approves the rules that govern the conduct and affairs with respect to meetings of the board.
- He appoints the Director General, Deputy Director General, although that is subjected to affirmative resolution by Parliament.
- He approves the ability for the Revenue Authority to borrow and may guarantee funds borrowed.

The Director General also submits to the Minister a monthly report and also deposits revenues collected into the Exchequer Account which the Minister of Finance has oversight in. But I also think, Mr. Vice-President, that the extent of this involvement by the Minister of Finance is well justified.

Mr. Vice-President, we have to bear in mind that the Government of the day, the Executive, is in charge of the revenues earned by the country. The revenue collection function should be under the ambit of the Minister and therefore having this board being appointed outside of the Executive would mean that the Government of the day is possibly giving up control of its revenue collection function. This hinders their ability to give policy directives as it relates to the fiscal policy stance of the country. The Government of the day decides how to tax, how to allocate resources based on tax revenues; it decides how much money to borrow and it decides how to alter taxes to meet its financing obligations. Therefore, Mr. Vice-President, the revenue-raising agency who carries out the revenue collection function must have intervention by the Minister of Finance of

the day.

If the Minister of Finance is to give general policy directives to the board with respect to carrying out its function, and the board shall give effect to such directives, having the board appointed by Her Excellency, for example, or some other agency or in some other way, would mean that there is no requirement for the board to take any directive from the Minister of Finance, the person in charge of fiscal policy in the country. Therefore in my humble view, Mr. Vice-President, the Minister should be the one to appoint and give general policy directives to the board. In addition, with respect to the Director General who is expected to advise the Minister of Finance on matters of public policy and public finance, and anything related to the effectiveness and efficiency of the administration or enforcement of revenue laws, although the Director General is appointed by the Minister, there is that layer of protection in the legislation which allows for the affirmative resolution of Parliament in that appointment.

Most countries that have established revenue authorities operate in such a way that it is not very far removed from the Government. Ministers of Finance are usually considered to have general supervision and oversight of the revenue authority with the possible exception of Guatemala, I believe, where legislation clearly establishes a significant independence for the revenue authority. With respect to Government oversight on investments, interest earned from those investments and the power to borrow, it is welcomed. Given that the Government would be allocating, giving budgetary allocations to the Revenue Authority and also be the guarantor of these potential debts, the Minister should have sufficient room to intervene. Now, a point of caution here, Mr. Vice-President, since our debt is already substantially exposed to contingent liabilities, it currently accounts

for 30 per cent of public sector debt outstanding.

Contingent liability stands around \$30 billion based on the most recent figure I saw in the Central Bank Economic Bulletin that was published in January, and of this \$30 billion, 50 per cent is usually guaranteed by, or contingent liabilities by statutory authorities. Now, historical performance of statutory authorities have shown that they tend to operate in deficit and the Government guarantees are initially issued in the form of letters of comfort and eventually replaced by formal guarantees. Statutory bodies receive transfers from Government which accounts for around 13 per cent of total expenditure. This figure would therefore increase with the establishment of a revenue authority, which is also another statutory body. But how much does the Government estimate annual transfers to this new entity to be? I expect it to be a significant chunk of money because we are talking about transforming the existing structure of an organization; the creating and transformation of the existing structure of an organization. We are talking about creating a technologically-driven institution, staff with a knowledge-based workforce skilled in areas such as results-based performance management systems, benchmarking, continuous improvement, data analytics, business process re-engineering, risk management, et cetera, just to name a few.

Basically, you are trying to transition into an agile work environment where the structure of how work gets done is going to be reworked. But in an agile operating environment, Mr. Vice-President, you have less rules and persons are driven by positive intent, persons are goal-driven, open to new technology, flexible, dedicated to a culture of trust, creative, innovative, performance-driven and data competent. So though I would have sat on the committee, I want to raise

some concerns—not really concerns, but I would like to receive the reassurance from the hon. Minister in the Ministry of Finance in her wrap up, in terms of matching the comparative skill set of the existing workforce to the skill set that is required by the Revenue Authority. Now, the Bill before us allows the board to take over the hiring and firing of the staff of the Revenue Authority, so hiring and firing would no longer be constrained by the provisions of the Civil Service Regulations which allows for that—which would allow for some flexibility.

So, Mr. Vice-President, if the skill sets are wide, if the gap between the skill set is wide, we would end up with a situation where we have a significant amount of persons who would not be employable by the Revenue Authority and therefore would not be able to take advantage of one of the options in the proposed legislation. I believe it is under clause 18(2)(b). So I suspect that there has been or there will be a major upskilling drive to ensure that there is a high proportion of skill set compatibility to make it easier for persons to take advantage of this option in the legislation. With respect to the transitional provisions available to public officers who decide to stay in the public service and not be transferred to the Trinidad and Tobago Revenue Authority, if there is no equivalent position in the public service, I would like to receive some sort of reassurance that these persons would be absorbed or there are positions available that match their skill set to hire them to ensure that they do not end up in that pool of persons in the labour force where we have a level of tension.

So another concern, another point I would like to raise and I would like to receive some reassurance is with respect to those persons who are employed in the public service but are on temporary employment for less than two years. Now, Mr. Vice-President, how I see this is that, for example—[*Interruption*] Sure. For those

persons who are employed in the public service but they are on a temporary appointment for less than two years, so clause 18(1) of the legislation, part (b). [Interruption] Yeah? So what I need clarification on is, if I am working in the public service and I am working as a Clerk I, for example, and for the past one year and nine months I have been acting as a Clerk II and that position, does it automatically mean that I would not be able to apply for a position in the Revenue Authority as that Clerk II or do I need to resort to my Clerk I post and apply for that equivalent position?

Also, no provision is made in the legislation for contract workers, so I would just like to raise that. So, this brings me to the transition plan, Mr. Vice-President, I would have liked to see one. Mr. Vice-President, in the report made available to this honourable Senate and also to members of the committee, was a report completed by the IMF CARTAC, the Technical Assistance Report in 2016, and it placed emphasis on ensuring that there is no uncertainty surrounding initial staffing as it could damage the support of the Revenue Authority. And the report went on to say that:

“The authorities will need to be clear on the approach to this issue in early days to avoid any communication challenges.”

The report also went on to say that the initial steps should also be communicated very clearly. There should be a dedicated implementation team and also a change management team.

So, following the establishment of the Revenue Authority, I have some consequential expectations and it has to do with improving the compliance. Now, what if we think differently and we try to take a behavioural insight perspective in

improving tax compliance? What if we incentivise tax compliance? What if we create a reward system that makes tax compliance contagious?

So offering rewards can be a tool to change perceptions and beliefs and as a result, behaviour. The design of a rewards programme is key to their effectiveness. An innovative policy implemented in Argentina, for example, provided valuable lessons on the design of rewards seeking to increase long-term tax collection with a spillover effect on third parties. Behavioural intervention, to make people understand the consequences of late payment. So, for example, in Argentina as well it was found that by including messages on peoples' tax bills, for example, about the fines and about the reassuring them or reminding them of the punishments associated with tax avoidance and it resulted in an increase in tax compliance by about 5 percentage points; also personal visits by authorities to tax delinquents in Columbia increased the probability of those persons who avoided taxes making payment towards their debt increased by 88 per cent, presumably because the visit convinced them that the Ministry or the respective government authority was serious about prosecution.

But what is also important, Mr. Vice-President, is that the Government provide some sort of accountability on how taxpayers' money is spent and this is beyond the account that the Government gives during the midterm budget review and also during the budget. In Barbados, for example, as part of their structural adjustment programme they have introduced a system where they create a lot of videos to communicate to the taxpayers exactly how money collected is being used to provide services for the population, and maybe consideration can be given to ensuring a greater degree of accountability on how taxpayers' money is spent.

So, Mr. Vice-President, as I conclude, I want to say that according to the words of Benjamin Franklin, he once famously said that:

“In this world nothing can be said to be certain, except death and taxes.”

While no one to date has been known to escape death, many do escape their taxes, and in the process deal significant harm to society.

[MADAM PRESIDENT *in the Chair*]

Tax compliance, Madam President—welcome back. Tax compliance is a house made of cards, it takes time and dedication to build and it is very fragile. One smart citizen who manages to pay no taxes and boast about it for the world to hear, threatens the entire structure. Thank you, Madam President. [*Desk thumping*]

Madam President: Sen. Dillon-Remy. [*Desk thumping*]

Sen. Dr. Maria Dillon-Remy: Madam President, I thank you for recognizing me as I make my submission to this honourable Senate on the Trinidad and Tobago Revenue Authority Bill, 2019. I know that this Bill has been long in coming and from what the Minister of Finance has said in his presentation, it has been long in its gestation, over 20 years. I think that the move to establish the Trinidad and Tobago Revenue Authority at this time is a good move. Madam President, the Minister of Finance, reading from several reports of the IMF, and recently Sen. Deonarine just spoke about the number of reports that gave us failing grades in many areas of our tax management system, and the bringing of this Bill to this Parliament therefore is now welcomed.

Madam President, it is good to set up institutions, however, if the institutions are not set up with good foundations and with well-established outcomes, well-established rules and guidelines, in a short space of time we would see some of the

same problems that is facing the current authorities, like the Inland Revenue and the Customs and Excise Division, we may very well see that the same things are occurring in whatever the new structure that is going to be put in place, and I would not like to see this. So I would hope that in the consideration of this Bill, that the foundations that will be put in place will be solid so that we will see the intended outcomes of good management of the revenue, et cetera.

My specific comments about the Bill, I would like to start with clause 7, clause 7(2) where it is said that:

“The Board shall be appointed by the Minister and shall comprise nine members...”

Now, there is nothing in this part of the Bill that says this must be brought to Parliament. In the Explanatory Notes it says that:

“All members, except the ex officio members, would be appointed by the Minister by Notification subject to affirmative resolution of Parliament.”

I would like to see that put in the Bill itself, because it is done in clause 13 where it talks about the appointment of the Director General. Clause 13(1) says:

“The Minister shall, by Notification subject to affirmative resolution of Parliament, appoint the Director General...”—et cetera.

It is not said here and I would like to see it put in that part of the Bill.

I too, like Sen. Obika, I am concerned about the other two persons, part (h) of subclause (2) of clause 7. I really do not think that that should be just left to chance. The other persons, the other areas talked about what you wanted, attorney-at-law, certified accountant, et cetera. Notwithstanding subsection (3), which talked about the demonstrated capacity to oversee and have considerable

experience in overseeing the management, et cetera, I would like to see the two other persons being given specific assignments. For instance, two other persons, one who must have extensive experience in customs, administration; another, experience in possibly the trade unions, I do not know, but I do not think it should be left like that. And my reason for saying that is that I am not casting any aspersions on our current Finance Minister or any other subsequent Finance Ministers, however, leaving it like that I think it would be easy game for somebody to just put two other persons in that post who do not necessarily have the qualifications, and that would not be good for the—in other words, I do not think that is starting off on a good footing.

I do appreciate the statement, as I said, in the preamble that talked about all members, so even though these members are being brought to the Parliament for affirmative resolutions, I think they should be specified as to what kinds of experiences you want those two persons to have. I am saying again that I hope that in choosing of the persons to be on this board, the person should not just be competent in skill but in integrity. The persons must be of integrity. We can change our structures ad infinitum if the people that we put in place are not people who are competent and people who have integrity, very soon the same things that are happening now will be there, and therefore, I think we should really seek to make sure that the people we are putting in those positions are such. [*Desk thumping*]

In clause 11(5), it says that:

“The Minister may appoint a person who is not...”

Okay, clause 11 deals with the members, other than the Permanent Secretary and

the Director General appointed under section 7, so therefore I am assuming that it deals with the other people, like the attorney-at-law, the chartered certified accountants, et cetera. Am I right, Minister?

Sen. West: Yes.

Sen. Dr. M. Dillon-Remy: Yes. I am right, okay.

Subclause (3) says:

“If a member dies, resigns, is removed from or otherwise vacates his office prior to the expiry of the term for which he has been appointed, the Minister shall appoint a person to hold or act in the vacant office of the member as soon as reasonably practicable.”

Again, that is okay.

“An appointment of a member under subsection (5) may be for the unexpired period of the term of office of the person in whose place he is appointed or for a new term of office.”

And subclause (5) says:

“The Minister may appoint a person who is not a member to act as a member in the same capacity during any period when a member is absent from duty or from Trinidad and Tobago or is, for any other reason, unable to perform the duties of the office...”

The Minister is appointing these members to act and the Minister is not being required to come back to Parliament for these acting positions; I am just a little concerned about that. Perhaps it may not be practical, but realising that the Minister was coming to Parliament before, for affirmative resolution for the persons that were being selected, these people are now acting and they can be

acting for up to a period of—it says here, subclause (5) says that:

“...a person appointed to act during a vacancy”—oh, it said—“shall not continue to act for more than six months.”

Right. So at least there is a time limit to that but I do not know whether it may be of importance, but I think it should be considered.

I would like to turn my attention, Madam President, to other matters that concern me as it relates to this Bill, the establishment of the Revenue Authority for Trinidad and Tobago. How does this Bill relate and affect the Tobago House of Assembly? Other than the appointment of a member of the board who will be appointed by the Tobago House of Assembly, there is no other mention of the Tobago House of Assembly in this Bill. And I refer to section 49, subsections (1) and (2) of the Tobago House of Assembly Act, 40 of 1996, which states:

“Notwithstanding section 13 of the Exchequer and Audit Act, all revenue collected in Tobago on behalf of the Government and payable thereto in respect of activities undertaken or discharged in Tobago shall be paid into the Fund.”

And subsection (2):

“Upon the coming into force of this Act...”

That is the Tobago House of Assembly Act:

“...any company, financial institution or a person operating a business in Tobago shall pay in Tobago all taxes, fees, duties, levies and other imposts in respect of its operations in Tobago.”

Madam President, I would like the Minister to consider that clauses 26 and 27 of the Bill should ensure that the Revenue Authority will be bound by the

provisions of sections 49(1) and (2) of the THA Act, and as a result they would establish institutional arrangements in Tobago accordingly. For instance, something that says like:

Notwithstanding section 13 of the Exchequer and Audit Act, all revenue collected in Tobago on behalf of the Government and payable thereto in respect of activities undertaken and discharged in Tobago shall be payable to the Fund.

This fund now being—now run by the TTRA, Revenue Authority, and also again that all taxes, fees, duties and levies and other imposts in respect of its operation in Tobago should be paid in Tobago. I am saying this because it is one of the sore points of the—well, one of the things that have been discussed over the years, re: taxes that are collected in Tobago, and with the coming of this new authority I think it should be stated in the Bill.

Another point, under Part V, clause 30, it seems necessary that the monthly and annual reports that are going to be produced by the Authority, by the TTRA should also detail progress and outcomes of the arrangement that give effect to the aforementioned section, section 49(1) and (2) of the Tobago House of Assembly Act.

6.30 p.m.

Madam President, the laws that we are talking about here highlight the need for the constitutional reform that is being considered with the internal self-government Bill for Tobago. The reason I am saying this, when laws like these are made, it should be second nature to consider how laws like these would affect Tobago's management and we should not have to be having to come to ask for it, it

should be a matter of course.

Madam President, I would like the Minister to consider, in view of what I just said about those parts of the Bill that would have an impact on the Tobago House of Assembly, whether in consideration, the Minister would consider appointing a deputy director general with responsibility for Tobago, with the—giving effect to section 49(1) and (2). And I am saying that because clause 13(1) of this Bill says:

“The Minister”— shall—“by Notification subject to affirmative resolution of Parliament”—as I mentioned before—“...appoint the Director General and such number of Deputy Director Generals of the Authority as are required on terms and conditions determined by the Board...”

My question is, whether it would be considered specifically that the Deputy Director General would be appointed to deal with issues related to the funds collected in Tobago?

I am also asking the Minister to consider whether clauses 30, 32, 33, 34 and 35, which all deal with the making of plans and reports and stuff like that, strategic plans of the Authority, whether it should not include elements designed to give effect to section 49(1) and 49(2) again of the THA Act. Because sections 30, 31, 32, they all deal with planning, things like forecasting, et cetera, it should include what happens in Tobago in terms of planning for management of funds in Tobago.

I am saying this, Madam President, because so often when it is mentioned that these things should be dealt with, as far as Tobago is concerned, people tend to say that Tobago is just another region of the country, Trinidad and Tobago, and why are you not asking the same thing for other parts of Trinidad. We are one

country, two separate islands and the island of Tobago is under the management currently of the Tobago House of Assembly. That is why I am saying that these things should be considered up front as this Bill is being put into place.

Madam President, the other point I would like to make is under the Schedule on page 24, the “Revenue Laws”. There is nowhere there that mentions the Tobago House of Assembly Act and Minister, I would like you to consider that the Tobago House of Assembly Act should be included in there, particularly the references to section 49(1) and (2). I trust that the Minister would consider these areas specifically as it deals with the relationship with the Tobago House of Assembly, as we wait very eagerly for the debate of the Constitution (Amdt.) (Tobago Self-Government) Bill.

I thank you.

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you, Madam President. It is an honour and pleasure, once again, to join in this debate on a Bill entitled “an Act to establish the Trinidad and Tobago Revenue Authority and for related matters”.

First of all, I would like to congratulate and thank the Minister of Finance and the Minister in the Ministry of Finance for bringing such pioneering legislation to this Parliament. [*Desk thumping*] My colleague in the Senate here, the Minister in the Ministry of Finance, had single point accountability for this legislation, and I want to personally thank her for a job well done. [*Desk thumping*] I will also like to thank the members of the Joint Select Committee from both Houses, including the Opposition and all the relevant stakeholders who made contributions and who made comments in making today a reality.

Before I get into the meat of the matter, I really have to start off in responding to my counterpart on the opposite Bench, Sen. Mark. I take umbrage for his opening statement that it is the strategy of this Administration to bring special majority Bills to the Senate, knowing that we may get the support of the Independent Bench, compromising the integrity and independence of the Bench itself.

Sen. Mark: Madam President, Standing Order 46(6), I never implied that. I never implied that.

Madam President: Minister, continue.

Sen. The Hon. F. Khan: Let me make the point, I made it earlier in this term—I do not know if some of the newer Senators were there—when Sir Ellis Clarke and his team drafted the Republican Constitution and made the bicameral system introducing a Senate— check the composition of the Senate: there are 15 Government Senators; nine Independent Senators; and six Opposition Senators. Nine and six is 15. If we bring bad legislation here and the Independents do not vote for it, it cannot pass. [*Desk thumping*] So our role, apart from preaching to the public, we have to convince at least one for a simple majority of the nine of you, or four in case of a three-fifths majority.

I have always told the AG, who is here all the time because most he pilots most of the legislation as Attorney General, that I, as Leader of the House, would not like to pass a Bill here with one Independent vote because that signals that it is not good legislation. So if good legislation comes to the House or comes to the Senate, we expect support for the legislation. If we bring flawed legislation, we know that it would be pointed out to us by the Independent Bench. That is why I

am the Leader of the House. This House operates under a Whip. Sen. Mark is the Leader of the Opposition in the Senate, it operates under a Whip. Sen. Paul Richards is the coordinator, there is no Whip there, and everybody votes as an Independent in their own right. That is all I would say and that is how this system has operated successfully since the Republican Constitution was passed in 1976.

Sen. Mark made all his spurious allegations as usual. He continues to take this line of argument that the Minister should have no authority, that the Cabinet should have no authority. What is an Executive for? He was ably rebutted— not rebutted, but exposed by Sen. Amrita Deonarine's contribution because the Minister, who is accountable to the Parliament and is accountable to the nation, has to have some form of executive authority especially in the management of the country's revenues because it is revenue that drives the economy.

So, I want to thank Sen. Deonarine for her contribution. [*Desk thumping*] I want to thank Sen. Seepersad for her contribution. Further, I want to thank all the Independent Senators who have spoken today and who will continue to speak. You have a right to be independent. If you are not impressed with what we have brought, tell us, and if you feel in your conscience you cannot support it, do not support it. We are not pampering to you and vice versa, because that is what independence is all about.

Sen. Dillon-Remy makes her plug for Tobago because as a Tobagonian on the Independent Bench, obviously, she has an interest, and justifiably so. So, that is what makes the Senate good, that is what makes our bicameral system very good.

Just before I leave Sen. Mark for the rest of the night, he spoke about the BIR works so well because they collected \$2.4 billion, they had a tax amnesty.

Hon. Al-Rawi: Under asset forfeiture.

Sen. The Hon. F. Khan: No, but not only that. What is a tax amnesty? People who did not pay their taxes. So the very fact you have to implement tax amnesties every three years, it means the BIR is not functioning effectively and efficiently. So it is a non-point that was made by Sen. Mark.

Hon. Al-Rawi: Continually so.

Sen. The Hon. F. Khan: I wanted to say something about Sen. Obika. He is not here, but he spent an inordinately long time in his contribution on the electoral process. I guess because he was recently nominated—

Sen. Gopee-Scoon: To lose.

Sen. The Hon. F. Khan:—as the candidate for Point Fortin. But I just want, through you, Madam President, to tell him he has now gotten a second term as an Opposition Senator. [*Desk thumping*] And finally—

Sen. Gopee-Scoon: If they bring him back to the Senate.

Sen. The Hon. F. Khan:—just as a piece of trivia. Sen. Deonarine said the only thing you are sure about is death and taxes, which is true. Even in the *Bible*, Jesus was asked, “Should we pay taxes to Caesar Augustus?” And he said, “Render unto Caesar the things that are Caesar’s.” It is there. It is in the holy book. Even our great calypsonian, the Mighty Sparrow, said “De Doctor say to pay as you earn.” “Help meh out Sen. Ahye, ah cyar sing de calypso”, but Sparrow says you are paying to learn. So taxes have always been topical with society. The taxman is the most hated man in society throughout civilization but it is a reality that we have to face.

So, Madam President, let me get back down to this Bill. Let me put this Bill

in context. You see, I deal with developmental issues. That is why I was so enthused with former Prime Minister Manning's vision to make Trinidad and Tobago a developed society by the year 2020. It is 2020 and we are far from being developed, whatsoever that means. But one of the signs of underdevelopment is when countries do not have modern institutions to carry out the important functions of an efficient running of the society and the economy. It is not people, you know, it is institutions. Institutional set up, integrity of institutions.

I make no apologies for saying that Trinidad and Tobago has suffered and to some extent, continues to suffer from inertia. As a society, we just seem to fail to act on key strategic issues. We keep kicking the can down the road. We refuse to break the mould for decades.

I must say that this Keith Rowley administration has decided to change that. We have brought pioneering and what I call "brave legislation" to this Parliament. We hear the Attorney General here week in, week out speaking about the suite of legislation to reform the criminal justice system.

This administration took the bold step of imposing a 12.5 per cent royalty on natural gas, a decision that was 20 years late in coming. We almost, when the horse already bolted, closed the door. Property tax, they do not want to see it. Trinidad and Tobago is one of the few countries in the world that does not have property tax. The only countries that do not have property tax are the Emirates, the big rich countries in the Middle East, Kuwait, Dubai, Abu Dhabi, Qatar, Saudi Arabia and some of the small islands in the Caribbean like Cayman Islands and Turks and Caicos, and some of these places.

We will be bringing gambling legislation to sort out what has been a

bugbear in Trinidad and Tobago for decades.

Hon. Al-Rawi: Only country in the world on record.

Sen. The Hon. F. Khan: We will be doing that. We will be bringing campaign finance reform legislation before the end of this term. That is some of the pioneering legislation. That is where we will be breaking the mould because unless we do not develop institutions, modern institutions, we will never be developed. You could get all the revenue you want. You could get it, energy prices could go through the sky, you will not become a developed nation unless you have strong institutions.

Before I go into some specifics, I will make one last general point. British colonialism had its pros and cons. India would tell you, for example, that with all the wrongdoings of the British Raj, the British left in India, two fundamental good. One is an advanced railway network that connected every corner of the Indian subcontinent and secondly, it brought an independent Judiciary and a fairly efficient public service. Today India is a powerhouse of economics. But they did not sit idly by. They went ahead and transformed some of the very British institutions that they learned. India has one of the best education systems in the world today built on the British. So what you have to do—we have had a good foundation. As I said the British Raj was not the best man in the world nor was the Trinidadian Governor but we have had a good foundation in which to work on, and if we do it right, one day in the not-too-distant future, we could be an economic powerhouse in the world and an envy to most of our neighbours.

They have transformed their revenue collection system. In Trinidad and Tobago, we can do the same. We have to do it differently. You know my pet

peeve, I have said it here all the time, is the Marlborough House independence discussion and the creation of the Service Commissions. We have so long outlived that, it is not funny. But I will tell you something, if you want to lose an election, go out and campaign and say you are going to disband the Service Commissions. Because somehow people feel that it protects you from some political interference, whatsoever that means. So be it; what the society wants the society gets. I say no more on that.

So, Madam President, today we take a giant step in the creation of the Trinidad and Tobago Revenue Authority. It is a step in the right direction. I am quite confident that in a few years from now, just as one may proudly say on the streets of Port of Spain that, “I am an employee of bp” or “I am an employee of Shell”, people would be saying, “I am an employee of the TTRA, well paid, well-resourced, well-motivated and highly productive.” [*Desk thumping*]

But how is a country run? What is the role of a government? Security, health, education, inter alia infrastructure. I have made the point in this Senate on several occasions, there is one source of revenue to the Government and that is taxes. There are other less significant resources that are there and I will name a few: dividends from state enterprises. In the glory days of the NGC it was a lot, but so few state enterprises are profitable, the dividends from state enterprises are not a significant contributor to Government revenue.

Then there is the one-off liquidation of assets that we had in 2018 and 2019, largely through the Clico bailout. Last year, 2019, there was a one-off payment from our negotiations with Shell for TT \$1.9 billion, with bp for TT \$1 billion, so that helped on the revenue side. Then there is, of course, borrowing. Borrowing

has its own economic dynamics, debt to GDP, how do you borrow and how do you repay, and what have you, what have you. But at the end of the day, if you do not have a broad tax base and if you do not have a proper collection system, you are not in this dance and ultimately, the economy will grind to a halt.

That is why, to me, this is one of the most important pieces of legislation that is coming to this Parliament over this term, 2015 to 2020. Because without revenue, you cannot do anything and the revenue must be collected in a credible way.

As Minister of Energy and Energy Industries, in a sense, I have oversight of the sector. The sector is by far the largest contributor to total Government revenue. It has been so for decades. The energy sector has continued to be the main driver of revenue contribution to an average of 25.7 per cent of GDP over the period 2014 to 2018. Within the past decade, energy revenues peaked at 28 billion in fiscal 2014, declining considerably in 2019 to 14 billion. Falling energy prices may account in part for this. Oil prices averaged \$99 in 2014—which was during the UNC heyday; what they did with the money, God alone knows—declined to an average of \$58 per barrel in 2019.

As the Minister of Finance clearly articulated today in the press conference, the price of oil is now \$31.13, just a few hours ago, largely due to two factors, as it is well-known now, the coronavirus and the price war between Russia and the Saudis. Gas prices are also down. We are under \$2 Henry Hub and these factors will cause a serious dent in our revenue forecast.

Luckily, as Minister of Finance and Acting Prime Minister indicated, we are already about half of the fiscal year, and during the first half of this fiscal year we

did get fairly good prices both for our Galeota crude, which is benchmarked at about Brent, Brent plus one sometimes, and our Heritage crude which, surprisingly to me initially, we were getting WTI plus \$5. So even though we go through a depressed period here now, how long it would last is still to be determined. These markets change so fast. As I said in an interview on the *Guardian* yesterday:

“Russia and Saudi could hug up tomorrow and everything will be sorted out...”

I was in Moscow last year when the King of Saudi visited Moscow and Moscow was shut down for him. He had a contingency of 160 people. All of Red Square was shut down, he was treated like royalty, as he is. Today, the geopolitics is playing out differently because both Saudi and Russia have different agendas. The Saudis want to maintain market share, so do the Russians but the Russians are more interested in the geopolitics of isolating the US shale producers out of the market. I was reading in an article today that Russia can survive for an extended period of time on 25-dollar oil.

So who suffers in that? When the two elephants fight, it is the grass who suffers and in this case, we are the grass. We are a small price taker and we just have to keep monitoring the international situation. We are not a member of OPEC, so I cannot say that we have insider information. So we just have to monitor the news and monitor the international intelligence agencies as to see where this goes.

But, Madam President, I want to deal with the aspect of energy taxation. There are two legal mechanisms in the energy sector that governs the interaction between the Government and energy companies in the context of contracts. One is

called the “exploration and production licences” and one is called the “production sharing contracts”. bpTT, which was formerly Amoco who was here in the earlyies, its entire portfolio is exploration and production licences. Under the exploration and production licence, the only taxes for gas that you were subject to was petroleum profit tax. Now, that is corporation tax. But on corporation tax, you have your depreciation and your write-off, and your write-off of capital expenditure.

So we found ourselves in a position—I will explain that and I will explain it again—where in the case of bpTT, which produces close to 60 per cent of the country’s gas, which was producing one trillion cubic feet of gas per annum, did not have a tax liability in a wasting asset. So here you have a big multinational producing one trillion cubic feet of gas per year, and at the end of the year, they can declare to Inland Revenue that they have no tax liability. Hence the reason, one of the single most important policy decision this Government took was to implement a 12½ per cent royalty on natural gas. How that was never implemented for the last 20 years, I do not know, under both administrations. That, Madam President, brought in \$2.288 billion in 2018 and the estimate in 2019 is \$3.391 billion. That is money that could have slipped through the cracks.

So, in the energy sector, there are few players with large tax contribution. So, in a sense, it is easy to collect the tax if you know what you are looking for. But imagine you have to collect \$3.3 billion in taxes in the manufacturing sector. It is 10,000 manufacturers you have to deal with, so the potential for leakages and for—I would not say tax fraud—but non-compliance, is much higher. The amount of staff that you will require to collect that sum of money, when bp alone will pay \$1.5 billion in taxes.

And hear what happens now, bp is paying petroleum profit tax. They supposedly are the largest tax contributor to Trinidad and Tobago. But I, as Minister of Energy and Energy Industries do not know how much taxes they pay, you know, nor the Minister of Finance, you know, because he or she cannot go to the BIR and say, “Tell me how much tax is bp paying”.

7.00 p.m.

We know the taxes because bp had to declare it in other agencies in London, and through the Trinidad and Tobago—how are they named again?—TTEITI, Extractive Industries Transparency International, and luckily, Trinidad is one of the few countries in world where the taxes declared by the oil companies, and the taxes the Government claimed they receive, is almost identical, which means it “eh ha no cheating”, at least from the Government side. But we have to have a closer relationship with the revenue collection agency because when you declare income and then you have to deduct expenses and capital allowances, if you do not have the trained eye on the side of the Inland Revenue department, you can be fooled.

So, bp now drills an exploration well for US \$10 million, that is TT \$67 million. The UNC allowed them to write-off that in one year. So when you give a company the opportunity to write-off that level and they may drill three exploration wells for the year, so that is \$130 million. When you had a chance to write-off that in a year, in the year in which the expenditure was made, you do not have a tax liability remaining, you know.

So these are some of the things we put right, and I would hope that the TTRA would have a close working relationship with the technocrats at the Ministry of Energy and Energy Industries for advice because my staff does not

want to see the figures, you know. You just say, “This is a claim, do you think it is valid?” This is what they are claiming here, there and there. Do not tell me the numbers, just seek advice on a technical nature as to the validity of some of these claims.

Then there is the production sharing contract which was supposed to be an advanced version of the E&P licence. What the production sharing contract does, it gives you a lease. The oil companies go and explore the lease, they find gas. So it takes a lot of money to explore and find gas, do not get me wrong, and any company that invests that sum of money deserves a fair rate of return on their investments.

So there is something called “cost recovery” oil or gas and then, “profit” oil or gas. So, during the cost recovery phase, the Government’s share is small. So, during the cost recovery phase, the income is shared say 70 per cent, oil company; 30 per cent, Government. And when the oil companies recover their cost, its shares 50/50 or 55/45 either way.

So when the Government is in the profit sharing phase, it gets significant sums of money because the Government share is supposed to pay all the tax liability and the surplus is a profit. And the Ministry of Energy and Energy Industries, through the production-sharing contract, has been depositing hundreds of millions of dollars in Treasury deposit accounts over the years, and that is the two forms of taxation that comes the way of the State through the energy sector.

So, then there was the other issue that the Minister of Finance and Acting Prime Minister mentioned today is the leakages itself which was fairly well-articulated in the Spotlight on Energy by the Poten report on transfer pricing issue,

on the—well, no hands-on relationship between subsidiaries, and where we found that, based on the Poten & Partners report, this country was haemorrhaging billions of US dollars per annum. We have basically plugged those holes in 2019 with our negotiations with Shell and with bp.

The way forward now is that there is more transparency. We have told them that they have to declare the FOB prices— Point Fortin— as to where the market in which the commodity was sold. So by and large, in terms of energy taxation, we are in a fairly good position. Now we have no control of price. So if we are getting taxes, if we are getting, say, \$3billion in prices of \$4 per MMBtu and it drops to 120, you will get less. Okay? You have no say in that. That has nothing to do with the tax administration, that has something to do with the commodity prices.

So, Madam President, I have explained how energy taxes operate but the real substance of this legislation is the efficiency and productivity of the tax collection system. Most of the speakers dealt with the tax gap. Okay? Prof. Theodore's figures are much higher than some of the other figures. We are still not sure who is right or who is not so right, but we know that there is leakage and there is a tax gap. The only way to close it is to put the Revenue Authority in place. It "eh ha no maths" in that, you know. It is such an obvious decision, and to come here and talk about this, that and the other, and whether it is positive resolution or negative resolution, you are haemorrhaging billions of dollars per annum in a country that is going down the slippery slope of the economy.

Sen. Gopee-Scoon: The small man paying his taxes.

Sen. The Hon. F. Khan: And who is paying the taxes? The small man. And how many people are outside of the tax net? And you bring spurious arguments. Sen.

Obika was like he was writing a conspiracy novel about if this friend of the PNM is here and it is this customs officer and this one is bringing a container and you say, “Tax the other containers twice”—foolishness. I mean, at this level of debate that is the kind of mundane things you will bring to this House? This is serious, serious legislation. This has far-reaching consequences. The future of the economy depends on this especially when low energy prices, if you do not close the tax gap, we are in for a very, very rough ride.

So, Madam President, it is simple arithmetic, I just did some calculations. If you have a tax liability of \$1 billion and your compliance is only 60 per cent, that is 600million. If you have a tax liability of 800 million but you have a 90 per cent compliance, it gives you 720 million which is a 120 million more than with your big tax liability of 1 billion.

So the secret in this equation is to improve compliance, improve efficiency, improve the quality of your staff, improve your systems, improve the data analytics, as Sen. Deonarine said, and all these modern systems are what will get you where you want to go.

Madam President: Minister, you have five more minutes.

Sen. The Hon. F. Khan: Five more minutes already? So I think this is pioneering legislation, it is good legislation, it is common sense legislation, it is survival legislation, and we have no choice as a country but to approve this Bill.

The other—I want to spend two minutes on the investigative powers of the BIR and by extension, the Trinidad and Tobago Revenue Authority because tax fraud and tax non-compliance should not go unpunished. Because just as you say, “Corruption is taking away bread from the poor man”, tax fraud and tax

non-compliance does the same thing because if you owe the Exchequer, if you owe Caesar Augustus, you have to render onto Caesar the things that are Caesar's.

And I just want to close by reminding this House that in the United States, people in the United States prefer to be investigated by the FBI than the IRS, to tell you how powerful the IRS is. People prefer go under an FBI investigation than to come under an IRS investigation. When the FBI could not catch Al Capone, the IRS caught him.

So, Madam President, this Bill requires no begging. Any intelligent, patriotic citizen of Trinidad and Tobago will support this Bill. And if you do not support it, I will have to conclude that you are unpatriotic, [*Crosstalk*] you are—no common sense, no seeking the national interest and no seeking the interest of the citizens of the Trinidad and Tobago. Madam President, I thank you very much for making this intervention.—[*Desk thumping*]

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

Sen. Khadijah Ameen: Madam President, my name is Khadijah Ameen and I am a patriot of Trinidad and Tobago [*Desk thumping*] and I do not support the PNM, and I do not support this legislation.

Madam President, I thank you for this opportunity to contribute to this debate on “an Act to establish the Trinidad and Tobago Revenue Authority and for related matters”.

March 2020 marks four years and six months of this Government's term in office. They have six more legitimate months as a Government, and they have put forward this Revenue Authority in today's debate as though it is going to solve all their problems. In the four and a half years of this Government, we have seen the

increase in VAT from zero to 12 per cent on over 7,000 zero-rated items. We have seen the introduction of a tyre tax that was supposed to go towards recycling tyres and we have yet to see a single tyre recycled by any Government or state agency, but the tax is there. We have seen the introduction of an online purchase tax, the removal of the fuel subsidy, the increase in corporation tax from 25 to 30 per cent, and 35 per cent for banks which, by the way, is being passed on to the average citizen who are customers of the banks. We have seen an increase in business levy and Green Fund tax. We have seen taxes and duties introduced on hybrid vehicles over 15,000 cc.

Property tax, Madam President, is something that they continue to strongly advocate for and that is before a joint select committee at present in the package of legislation for local government reform but I want to tell you, that property tax, in the present PNM form, will not get the support of the Opposition. You will not get the support of this side for property tax. And every tax, Madam President, has a purpose.

The Attorney General was right, for once I agreed with him. Taxes are supposed to improve the conditions and the services that the Government offers to this nation. And just as I pointed out, that the Government introduced a tyre tax that was supposed to go towards recycling tyres, a tyre tax that will be collected and a procedure for which we have seen nothing put in place to recycle tyres. It is the same way, Madam President, that this Government seems to have come up with a number of taxes in its term in office which it claimed to be for certain purposes that are yet to be used for those purposes.

Madam President, taxes are supposed to be used to improve roads, improve

road conditions. I ask the citizens of Trinidad and Tobago, with all the increases in taxes in this country, are you driving on better roads? The Attorney General made a claim in his contribution, that if everyone pays all the taxes that they are supposed to pay, we will not have to depend on revenue from oil and gas. I do not know if the Minister of Energy and Energy Industries agrees with him but certainly, Madam President, we have not seen an improvement in social services, in infrastructural development. We have to ask ourselves if our children in schools are getting better meals. We have to ask ourselves about the schools throughout Trinidad and Tobago, dozens of schools that are in a state of disrepair and neglect after being almost completed under the previous government and being abandoned and neglected by this Government. Is that not what you are supposed to use tax dollars for?

When we look at health care in this country, we ask the ordinary citizen about the availability of medication in the hospitals, in the health centres, about the availability of beds. Well, thankfully now, Madam President, they are not warding people at the Couva hospital, but they are taking them there to have X-rays, and MRIs and other tests done because the equipment was placed there by the People's Partnership when in government with taxpayers' dollars.

Madam President, when I look at social welfare, for the most vulnerable in society, the baby grants have been stopped. Food card assistance to over 18,000 people have been cut. The requirements for the disability allowance have been changed and has dramatically affected negatively hundreds or thousands of persons with disabilities who previously benefited. Cerebral palsy children, their mothers no longer get assistance and what are the taxes being used for? The people of Trinidad and Tobago are questioning whether boats, paintings and \$23 million in

rent for buildings owned by one person is more important than the social well-being and infrastructural development in this country? [*Desk thumping*]

Madam President, I know that the previous PNM Government spoke about elements of this Revenue Authority and they came in for a lot of blows. I am not surprised therefore that the Government shelved this Revenue Authority position for some time. What I am surprised about is, why would you do something that made you lose election in 2010 in an election year 2015, when you are about to face the population again? Is this some kind of desperation? In four and half years you made no move towards improving collection of revenue and collection of taxes, and here you are, at the 23rd hour of a 24-hour day, bringing a Revenue Authority Bill to Parliament.

The Government had said in their debate on the anti-gang legislation that that Act would be the silver bullet, that it would dramatically reduce crime. We are still waiting for that reduction in crime, Madam President, but I also heard Members on other side indicating that this Revenue Authority Bill would dramatically improve revenue collection, that it would boost the economy, and that all the problems that we see, all the inefficiencies of the State in collecting revenue, will be a thing of the past. And we have to ask: What have you not done with the present system that you could have done with a little bit of political will?

Madam President, I do not intend to support this legislation and I do not intend to—I intend to spend more time speaking on platforms than in the Parliament in this rounds because I feel, Madam President, that speaking to people of this country directly is more important than speaking in this Parliament sometimes. We have a system of governance where the Opposition has a role to

contribute, to contradict, to object, and the Government has its role to bring legislation, and sometimes the Government blatantly tells this Parliament that it brings its legislation here to be rubber stamped, and that, Madam President, in my view is a total disrespect to Parliament. [*Desk thumping*]

We have a Bill before us at present where the Government has so indicated, and we had a Bill recently where the Attorney General made a frightening statement in his closing remarks that there are measures that can be taken to avoid the requirement for special majority— dangerous. And if that is the intention of this Government, then do not mislead the country and tell us that you are coming to get the blessing of Parliament, to pretend as though the Opposition has an input, and that what we will come up with is better legislation.

I can tell you, Madam President, that Bills of this nature—when the People's Partnership was in government, when Kamla Persad-Bissessar was in government, was the Prime Minister, the reason you had so many Bills being supported by the Opposition is because we did not bring legislation to rubber stamped. We did not— even though we had a majority in Parliament, a special majority—we did not shove anything down anyone's throat. The Opposition was an active part of consulting. Many Bills went to joint select committees but what we have seen, Madam President, is in this Parliament, in the four and a half years, it appears to be a constant effort to marginalize and discard the views of the Opposition. [*Desk thumping*] That, Madam President, does not augur well for democracy but there are so many other things that this Government does that does not augur well for democracy.

I am concerned, Madam President, about the insulations that are built into

the public service, to the service commission process that insulates the agencies of state from political interference that would be going out the door with this Revenue Authority.

Madam President, the hiring of staff, disciplinary action towards any person within the organization, dismissal of staff, these are three elements of employment and human resources that ought to be protected from political interference.

We have to ensure that the reach of the political arm does not lead to victimization in disciplining persons who are known to support another political party, or who refuse to carry out directives of the political arm or who, for any reason, the political arm is unhappy with. We must minimize and eliminate nepotism in the hiring of whoever is in charge in government, and the firing of who was hired previously, which is something that happens as a matter of course in many state agencies in this country. This Bill allows political influence into this process and it exposes key members of staff, and I am concerned about that protection for those persons.

And no Minister could tell the nation that the Minister empowered in this legislation will not be able to access certain information. I heard the Minister of Energy and Energy Industries, the Leader of Government Business make that point in his contribution. And you know what I remembered? When we were debating the changes, the sweeping changes made in the SSA Bill, the Government told us that even though the director of the SSA was going to be politically appointed and so on, certain information would be very confidential and certain information would not be able to be accessed by the political arm.

We were told that the Minister of National Security or any Member of the

Government would not be able to get information on, or to cause an investigation, or to interfere in an investigation on political opponents but we have seen some things in the public domain in the last few weeks that make us very sure that that is not true.

So I ask the question, your claim that there can be no political interference, that the political arm and the Minister will not be able to access information is purely dependent on the integrity of the person who holds office at the time. And if the person is mischievous, if the person is of low moral standards, you will have what is happening now with certain confidential information from the Ministry of National Security coming out and targeting political opponents. That we must be very careful about, that is something that we must not accept as a Parliament, and it appears that the Minister or the Government is endorsing this process and procedure for—well, what I call political interference, but what is political influence on the hiring, disciplining and dismissal of staff. They seem to be accepting—

Madam President: Sen. Ameen, I have given you a fair amount of time to present your arguments on this matter but you are now starting to echo a lot of what has been said by previous speakers. So I am going to ask you, please, to try and bring in some new points in your contribution.

Sen. K. Ameen: Thank you, Madam President. Madam President, what I sense from this legislation is a bit of desperation and frustration in the bureaucracy that exists in the fact that the Government is prevented by the checks and balances that currently exist from interfering. The fact that the Attorney General could make utterances and suggestions that the Opposition is somehow opposed to this

legislation because we are trying to evade tax or paying our taxes, is absolutely ridiculous. [*Desk thumping*] And that desperation is not a good sign.

7.30 p.m.

Madam President, I am also concerned about the time frame for implementation. The Government has six more months to go. Can it implement, properly implement this Revenue Authority Bill and the related Bills in the six months that it has before it demits office? Madam President, I would like to hear the views of the Minister in the Ministry of Finance, who I know this is an area that she has done a lot of work on with regard to the implementation. Madam President, I also think it is important for the people of Trinidad and Tobago to know and understand what the Government intends by bringing this legislation. The Government is bringing this legislation at this hour in their time in office, they will not be there to account for its implementation. There are other pieces of important legislation such as local government reform, which I have seen a similar delay in. It will come to Parliament, it will get the approval of their majority, and it will be us, the incoming UNC Government who will have to ensure that it is properly implemented. [*Desk thumping*]

This, Madam President, to me it is lazy governance, bringing a Bill and having it passed is a certain percentage of the work, but is that your achievement? Successful implementation of it, I have seen very little focus from the Government, so I suspect that the Government wants to list this with a number of other pieces of legislation as their achievements, but if it is not making a difference in the lives of the people, if the people cannot see and feel an improvement in their lives, the Government has lost its function, and its purpose, and its usefulness. Madam

President, I will not support this. Thank you. [*Desk thumping*]

Sen. Hazel Thompson-Ahye: Thank you, Madam President, as I rise to speak on a Bill for an Act to establish the Trinidad and Tobago Revenue Authority and for related matters.

Simply, this can be said that this Bill is about taxes, and Franklin Roosevelt said:

“Taxes after all are the dues that we pay for the privileges of membership in an organized society.”

But Will Rogers said:

“The income tax has made more liars out of the American people than golf has.”

Now, I do not know anything about playing golf, I understand some people do, but if we substitute for American people, Trinidad people, or as my mother used to say, “Trickydadians”, she never said anything about Tobagonians for some reason, maybe because Moses almost reached the promised land. [*Laughter*]

Now, this I think we will all agree, that this legislation, this type of legislation is necessary. Whether it is in the form that we would like is an entirely different matter. But we have heard the Minister, one of the Ministers speak about the trend across the globe to reform tax legislation, and when we look at the IMF working paper, WP/17/88, “Tax Administration Reforms in the Caribbean: ‘Challenges, Achievements, and Next Steps’” by Stephane Schlotterbeck, and I will make it available to *Hansard* at the end, you see that some of the conclusions are that:

“In the region, the value of accumulated tax arrears compared to the total tax

collected is generally high by international standards, reflecting low collection enforcement capacity and insufficient resources devoted to this function...”—and they say that—“...where the stock of arrears exceeds the annual collection, a limited percentage is ultimately collectable (most of the debts are old and/or un-collectible). There are various reasons for this situation. Some of it can be attributed to the financial crisis, but this mainly reflects weak debt management, the absence of write-off mechanisms, and weak compliance monitoring by tax administrations. Collection enforcement may not be seen as a strategic priority, but more importantly, in some countries, it does not receive the political support it deserves. In some cases, collection enforcement may be subject to political interference, and in others, the tax administrations are not given sufficient power to carry out this mission. Periodic amnesties are an example of damaging policy decisions that may ruin tax administrations’ efforts to recover arrears.”

Government, you can ignore that part of it, because you know we like tax amnesties. And, Madam President, thank you for indulging me to read, I did not ask your permission first, but if I may continue:

“While well engaged in some countries, these reforms have yet to produce the expected outcomes in terms of effectiveness and efficiency. It is important not to minimize the positive impact of structural reforms on revenue mobilization, even though they require long-term efforts.”

I do not think anybody would seriously doubt that in Trinidad and Tobago there are many avenues of corruption in this whole tax regime. More people walk the avenues of corruption than walk Ariapita Avenue in the night, and some of

these I will detail: Receipt of bribes to ensure specific returns are not brought for collection and enforcement. Inadequate internal control, taxes are paid over to Government, and there is a disparity between the collections, and there is no reconciliation with actual receipts; audits are not done, there is improper assessment. When you come to objections, the cases expire, there is a deliberate lack of accountability. Staff members, some of them, it is always some you know, it is never all of them, thank God for that, some of them double as tax consultants, himself to himself, for the benefit of himself and themselves. So you have a reduction of assessments, we have no collection, and when you look at the Customs side of it, we have business people who have personal customs officers, they know when they are returning and they know when their goods are coming in and they meet them and they treat with them.

You know, I spoke to a very senior lawyer this morning, because I heard that there was a lot of consultation before the Bill, but what we did not hear is what the consultations brought forward, and one perhaps was led to believe that everybody was happy with this Bill. But this senior person was telling me, “You know, I personally know of many people who work Inland Revenue, and the houses in which they live and they lifestyle which they live”. It is evident that something is rotten in the State, not of Denmark, but in Trinidad and Tobago. So we are in trouble, so there is no doubt that it is necessary that we do something. I did not say do anything, I say do something; so we are doing something. But one of the objections to this Bill, and I understand it is very strong, is the powers given to the Minister. People are not happy about the powers that we see throughout the Bill. When we look at section—sorry clause 7, we have the appointment of the board, you have the board, the establishment of the board of management and we see that:

“The Board shall be appointed by the Minister and shall comprise nine members as follows:

- (a) a Chairman;
- (b) a Vice-Chairman;
- (c) a Permanent Secretary of the Ministry;
- (d) the Director General who shall be an *ex officio* member of the Board;
- (e) a person nominated by the Tobago House of Assembly;
- (f) an Attorney-at-law;
- (g) a chartered or certified accountant; and
- (h) two other persons.”

Madam President: Sen. Thompson-Ahye, could you just give way.

PROCEDURAL MOTION

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Procedural. Madam President, in accordance with Standing Order 14(5), I beg to move that this Senate continue to sit until 10.00 p.m. inclusive of matters on the Motion for the Adjournment.

Question put and agreed to.

TRINIDAD AND TOBAGO REVENUE AUTHORITY BILL, 2019

Madam President: Continue, Sen. Thompson-Ahye.

Sen. H. Thompson-Ahye: I am obliged, Madam President. Now, the members shall be selected—I am reading from sub (3):

“The members shall be selected from among persons who-

- (a) have demonstrated the capacity to oversee, and have considerable

- (b) experience in overseeing, the management of a large and diverse organization; and
- (c) have qualifications and experience in the area of tax or customs administration, corporate management or areas such as accounting, economics, law, business or other relevant fields.”

The only consultation or seeming consultation is (2)(e):

“a person nominated by the Tobago House of Assembly;”

So the member who hails from Tobago is in fact privileged because they get to nominate someone. When you compare Jamaica Board of Management it says:

“(1) The Board shall consist of nine members appointed by the Minister by instrument in writing, namely-

- (a) the Commissioner General who shall be member ex officio;
- (b) five senior public officers in the Ministry responsible for finance or other public body, designated by the Financial Secretary, being persons who appear to the Financial Secretary to have appropriate experience and expertise;
- (c) three persons drawn from the private sector who shall be, respectively-
 - (i) a person with expertise in the financial management of large entities;
 - (ii) a person with expertise in human resource management and practice of industrial relations; and
 - (iii) an attorney-at-law having wide ranging expertise in law.

(2) The members appointed under sub-paragraph (1) (b) and (c) shall be known as “appointed members”.

(3) The appointments...”—are—“...made by the Minister after consultation with members of an advisory committee...”

And that advisory committee comprises:

- “(a) the Jamaica Confederation of Trade Unions;
- (b) the Jamaica Chamber of Commerce;
- (c) the Private Sector Organization of Jamaica;
- (d) the Jamaica Manufacturers Association; and
- (e) a body appearing to the Minister to represent micro, small and medium- size business enterprises.”

So you have some degree of input from somebody other than the Minister, and whom he thinks should be members of the Board. Now, when you look at clause 9, I find that a bit worrying. Clause 9 deals with disclosure of interest. So here is a matter of ethics, and it says:

“A member shall disclose any direct or indirect interest in a matter being considered or about to be considered by the Board by writing to the Board or by requesting to have entered in the minutes of the Board the nature and extent of the interest.”

So far, so good. Sub (2):

“Disclosure required by subsection (1) shall be made—

- (a) at the meeting of the Board at which the matter is first considered;
- (b) if the member did not then have an interest in the matter, at the first

meeting of the Board after the member becomes interested;”

What does that mean? So you are at a board meeting, you did not have an interest, and then you could become interested in that matter that was being considered? It gets even more worrying.

“(c) if the member becomes interested after the decision is made, at the first meeting of the Board after the member becomes interested;”

It becomes “curiouser” and “curiouser”.

“(d) if the member was interested in the matter before becoming a member, at the first meeting of the Board after becoming a member.”

When you look at the Jamaica legislation, it follows what one normally sees. If you have an interest in a matter, you declare that interest and of course you step out of the meeting, you do not take part in that meeting. So how can you come afterwards and become part of that meeting or at least become interested in a matter, it means that it can open to all sorts of wrongdoing, and we must remember that we have just come out of a situation where we had to wonder if insider trading was going on or insider trading was not going on. So, you should not ever be in a situation where a matter is discussed and then you are becoming involved in a matter that is part of the board deliberations. So that is something, it does not happen in that way generally, and that is something that needs to be looked at. When do you disclose interest? Can you disclose interest afterwards? Can you have an interest cropping up afterwards? That is a matter of some concern.

When you look at clause 11, again you see that the Minister has the power, and this clause deals with resignation and removal of members, to appoint someone:

“...for the unexpired period of the term of office of the person in whose place he is appointed or for the new term of office.”

And there is no sort of rider to that. In the Jamaica legislation what is stipulated is that the same conditions must apply. The same specifications under which someone is appointed must follow if someone is appointed to continue the term of some other person, of somebody who was there before. It seems to be *carte blanche* insofar as who can be put into the place to replace someone who has left office for whatever reason, dies or resign, or is removed. The appointment of the Director General which is clause 13, again, it is the sole preserve of the Minister:

“The Minister shall, by Notification subject to affirmative resolution of Parliament, appoint the Director General and such number of Deputy Directors General of the Authority as are required on terms and conditions determined by the Board and for terms not exceeding five years...”

And it goes on:

“...shall be persons who have demonstrated skill and experience in the area of tax or customs administration, corporate management or areas such as accounting, economics, law, business or other relevant fields, and who have a capacity to manage and direct large and complex organizations and who have an understanding of the welfare of employees.”

Now, from whence do these people come? How does the Minister find these people? Who recommends these people? Those are all questions that we need to look at. When we compare with the Jamaica legislation, which is the Second Schedule, and the equivalent positions of Commissioner General and Deputy Commissioner General, we see that submissions are made:

“...the Board shall invite submission...of applications for the position...”

And that is wide open:

- “(a) daily newspapers circulated throughout Jamaica...
- (b) periodicals and professional publications available in Jamaica or...
- (c) on-line professional job banks;
- (d) professional recruiters; or
- (e) any other method considered suitable by the Chief Personnel Officer.”

And:

“(2) The Board shall approve the content of such advertisement or announcement.”

And:

- “(3) The secretary shall—
- (a) receive and examine all applications;
 - (b) draw up a shortlist of no fewer than three suitable applicants for submission to the Board.”

Reminds you a bit of the Commissioner of Police, does it not? His appointment?

“(4) A Selection Panel as constituted in sub-paragraph (5) shall select a Commissioner General from among the shortlisted candidates using the assessment tools and methods considered suitable by selection.

The selection Panel shall comprise—

- (a) the Chairman of the Authority;
- (b) the Financial Secretary;
- (c) the Chairman of the Public Service Commission;

(d) the President of the Jamaica Civil Service Association; and

(e) the Governor of the Bank of Jamaica.”

So it is wide open as to who may apply for that position, there is a panel, so it is not again the sole preserve and the sole discretion of the Minister coming to Parliament, and of course if you have a majority and you know it is very easy to get the affirmative resolution.

So we have to look to see how can we open it up so that people are not so uneasy that everything is done by the Minister in his more or less sole discretion, and we just accept because that is the way that it is done and that is the only way that you can go. So, I would say again, even though we need the legislation, we need something to be done about our tax regime. We still need to be sure that what we are doing is a method, what we are using would in fact stand scrutiny and have people comfortable that we have done the best that we can do in the circumstances that we have. And with those few words, I thank you, Madam President. [*Desk thumping*]

Sen. Deeroop Teemal: Madam President, thank you for this opportunity to contribute to this debate on a Bill to establish the Trinidad and Tobago Revenue Authority and for related matters.

Madam President, I think based on the present state of the economy it is not surprising thus far that a lot of emphasis would be placed on the impact, the possible impact that this Revenue Authority could have in alleviating the difficulties regarding the economy, and of course the benefits to the people of Trinidad and Tobago. But, Madam President, I traverse the East-West Corridor a fair amount, I live there, I work there as well, and the way that that corridor is

structured, there are numerous schools that are on the northern side of that corridor, and sometimes I find myself on that Eastern Main Road about the time that schools are dismissed, and you see thousands and thousands of school children coming on to the main road as well as the bus route, seeking transport to go home and it causes a lot of traffic jams, and there is one singular thought when I am in that situation, caught up in that traffic and seeing all the school children. One singular thought that goes through my mind all the time, one common thought. What is the future? What does the future hold for these school children here in our nation of Trinidad and Tobago?

And this Bill cannot only be taken in the context of the relief to the economy at present. Madam President, it really deals effectively with the present and future generations of this country. For, as Sen. Seepersad mentioned in her contribution about the Theodore Lewis deficit—that study, \$12 billion to \$15 billion annually, and when Sen. Amrita Deonarine in her contribution, she referred to the informal economy, as much as 30 to 34 per cent of the GDP, and equated it to \$25 billion to \$35 billion lost in GDP. And as a country how long can we, how long could we survive with such—and I would not use the term “leakage”, but it really enters into the sphere of hemorrhaging, tax hemorrhaging, and not only difficult circumstances really should cause us to look at this particular Revenue Authority in the context, as I was saying, but what such moneys could do to ensure a good, happy and prosperous life for future generations of our country.

Madam President, myself and Sen. Deonarine, we joined this Joint Select Committee that was looking at this particular Bill, rather late in its life when we were appointed as Independent Senators, and when we got in a lot of discussions had already taken place. And we really got in at the stage where we were going

through clause by clause on the Bill, and maybe just had the opportunity to take in one or two of the interviews with the respective stakeholders, and as such in an effort to grasp rapidly what was taking place and come to that understanding so that I could have made a definitive, positive contribution to what was taking place, there was this particular study, this particular report from the Fiscal Affairs Department of the IMF, it has been referred to already, the Technical Assistance Report of November 2016, “Trinidad and Tobago: Strengthening Institutional Arrangements and Core Operations”.

And in that particular report, in the executive summary of that report, Madam President, several points are made, and one being it is said for close to two decades possible reforms have been looked at for the Customs and Excise Division and the internal revenue department division because of their inability to function properly, and it was based on several factors:

“An inability to recruit, retain and compensate staff appropriately has resulted in a perennially high number of vacant positions. Inadequate operating budgets exacerbated problems and allegations of extensive corruption have dogged the organizations. Despite regular technical assistance and support, the departments have been unable to implement extensive reforms and few improvements have been realized in recent years.”

Madam President, that same very report identified four possible scenarios or four possible options:

1. The creation of the Revenue Authority;
2. Integrated revenue administration in the Ministry of Finance;

3. Revenue department outside of the Ministry of Finance; and
4. A status quo with additional oversight.

And it was not really a question of an analysis of four options which the report did really, but the other three other than the first were “just in case” options should the Revenue Authority fail to pass the necessary legislative majority in the Parliament.

8.00 p.m.

So the other three options were really fallback situations and the ideal or the best option was really, according to that report, the formulation of the Revenue Authority. And in that context, Madam President, the report also referred to a July 2013 FAD report in which:

“...proposed reform action and...recommendations”—made specifically—
“in...key areas of weaknesses...”—identified in that 2013 report. One, in
terms of—“workforce”—two—“compliance enhancement”—three—
“legislation”— and four—“...service”—those key areas of weakness.

The report concluded:

“In the three years that have elapsed”—when they were re-looking at things
in 2016—“long standing...(HR) issues remain and the”—Internal Revenue
Division and the Customs and Excise—“have struggled to realize solid
progress in many of the key areas of revenue administrative reform. A
progress review against the 2013 FAD report shows that very few
recommendations were actioned let alone fully implemented...”

And, Madam President, being a newcomer to that Joint Select Committee,
this particular aspect of the report in which three years had elapsed after a detailed

study was done, and the lack of implementation, the lack of action in that three-year period, it convinced me that any stopgap measure, any interim measure of reform would probably suffer the same faith of limited action and limited results. And as such, I took the position to support the establishment of this Revenue Authority. Because for decades, we are well aware of all the reports and the talk, and to stop this tax hemorrhaging, a bold step was needed and this Revenue Authority is that bold step that would ensure a fighting chance for our future generation.

Madam President, I would like to really just, based on that same report, to remind the Government of the recommendations within that report, particularly with regard to implementation. And the report—on page 19 of the report, paid a lot of emphasis on project governance. How is this transition going to be governed and this, being just the first stage in it all, success must be ensured through effective project governance and the report did specifically focus on this aspect. And it was a two pronged approach in terms of project governance. They spoke about an effective project management team led by capable project manager.

In fact, it even went so far as to suggest that the project team should be led by a senior official assigned to the Revenue Authority on a full-time basis, not a part-time basis, but a full-time basis by someone who is not preoccupied by other responsibilities within the Ministry, a dedicated project manager, senior enough to have ready access to senior officials within the Ministry of Finance and other departments or agencies, for instance, the Customs and Excise Division, Board of Inland Revenue, Public Service Commission, et cetera.

The other recommendation regarding project governance was the

establishment of a steering committee within Government that would be able to oversee the entire implementation of the establishment of this Revenue Authority. So I would just I like to draw that to the attention of those on the Government Bench.

And secondly, Madam President, is the question of the establishment of a key communication strategy because there are many sensitivities, as we have heard during the course of this debate, particularly with regard to the unions and also, your internal public through the staff, existing staff at BIR and CED. And the report recommends a well-developed and execution of a definitive communication strategy. So I would also like to ask the Government Bench to please note that—this key aspect with regard to implementation.

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

The Minister of Labour and Small Enterprise Development (Sen. The Hon. Jennifer Baptiste-Primus): Madam President, I greatly appreciate the opportunity to contribute to the debate on this very important piece of legislation, the Trinidad and Tobago Revenue Authority, 2019. However, before I get into the meat of my contribution, I would just like to respond to two— just two, I do not have the luxury of time to respond to all. I think my colleague, Minister Khan, would have done an excellent rebuttal to some of the inaccurate articulation by our colleague, Sen. Wade Mark.

The first issue I would like to deal with is the position that Sen. Mark placed into the record, where he accused the Minister of Finance indicating that it was his responsibility to advise the Public Service Commission to appoint, to fill all the vacancies that exist in the Board of Inland Revenue and Customs.

Madam President, as someone who is this extremely familiar with the public service procedures and regulations, perhaps at this time I better establish my bonafide in that regard. Having been the former President of the Public Services Association for 12 years and an officer of that institution for almost 30 years representing public officers, I think I have the authority to pronounce on the issue. Anyone who is familiar with the regulations and procedures in the public service would know that a Minister cannot interfere in the operations of the public service. It is the responsibility of the Permanent Secretary or head of the division or unit to link, to collaborate with the Director of Personnel Administration who is the link to the Public Service Commission to have those positions filled.

I mean, Madam President, all the Ministries within the public sector could come here and tell you about all the vacancies that exist that are not being filled. The Ministry of Labour and Small Enterprise Development, which I have the honour to lead, we are in a similar position. So to put onto the record that the Minister of Finance must accept responsibility for the filling of positions is highly inaccurate. The second point that I would want to respond to, Sen. Mark did not go into it, but he made a very flippant statement as to the problem of pensions, that is another issue.

Madam President, for the benefit of this honourable House and also, the benefit of the listening public, I would like to put into the record that provision article 22 of this piece of legislation states:

“22. (1) The Board shall, within two years of the coming into force of this Act, establish a pension fund for the benefit of all officers and employees of the Authority.”

Sen. The Hon. J. Baptiste-Primus (cont'd)

But this piece of legislation goes a little further than that. It makes provision to cover the public officers who transition, who up to transition to the Authority. At 21(1) it states:

“Where an employee of the Authority who exercises the option referred to in section 18(2)(b) retires or dies and is a member of the pension fund plan, he shall be paid superannuation benefits by the pension fund plan at the amount which when combined with the superannuation benefits payable under section 19 is the equivalent to the benefits based on his pensionable service in the Public Service combined with his service in the Authority and calculated at the pensionable salary applicable to him on the date of his retirement or death.”

So that this piece of legislation, Madam President, makes provision for the payment of a pension to the employees of the Authority. So that when Sen. Wade Mark infers that there is a problem with pension thereby sending a signal to public officers from the Customs Division and the Board of Inland Revenue that, “Listen your pension is up in the air here”, creating fear, unnecessary fear in the minds of public officers. So that, Madam President, the statements made by Sen. Wade Mark is without foundation.

As I proceed, Madam President, I would want to commend both Sen. Seepersad and Deonarine for well-research, well-articulated contributions here. What it reflects is that they read the Bill. Sen. Mark did not read the Bill because if he had read the Bill, he would have known there is provision for the payment of pension. So it is either he did not read the Bill, or he read the Bill and still decided to mislead persons.

Sen. The Hon. J. Baptiste-Primus (cont'd)

Having said that—

Sen. S. Hosein: Madam President, I stand on Standing Order 46(6), please. Imputation of improper motives.

Madam President: Minister, yes, you are infringing the Standing Order, so I would ask you to just retract that statement and move on.

Sen. The Hon. J. Baptiste-Primus: It is never my intention to impute improper motive, Madam President, and I do so unreservedly and withdraw it, but to say that the statements made by Sen. Mark were totally incorrect, totally incorrect. Having said that, I stand here with a sense of déjà vu, Madam President, because you see, almost 18 years ago in the year 2002, when I was the President of the PSA, the then Cabinet of the country under the distinguished leadership of Patrick Augustus Mervyn Manning, formed a Cabinet-appointed committee to explore the establishment of a Revenue Authority.

The PSA had membership on that Committee and worked—well, you know, the thing about being part of a union is that union challenges established procedures and one understands that. But a wise leader always understand when it is time for change and would sit with the administration and engage in a dialogue that would seek to implement changes, necessary changes while understanding the responsibility to protect the job security of their members. And it is within that context, the then executive and myself, as leader of the PSA, sat with the Government and began working out the chinks, identifying what was needed because we all understood that we could not continue the way we were. We understood because we represented public officers, so we understand all, we understood all the challenges that were involved.

Sen. The Hon. J. Baptiste-Primus (cont'd)

Madam President, there was the Revenue Authority Advisory Committee upon which I sat as president at the inaugural—that Committee's inaugural meeting was held on Monday the 23rd of October, 2006. I was not in a position to attend that inaugural meeting but my then second Vice-President, Mr. Toolsie Narinesingh ably helped me and we continued to meet with the government working out the plan for change with regards to the Custom and Excise Division and the Board of Inland Revenue.

Madam President, it was in 2009, regrettably a situation developed which caused a separation between the PSA and the Government, but it had nothing to do with the PSA not agreeing to the necessary changes. It had to do with the job security of public officers. We wanted the right to have public officers transferred to the new Authority and those public officers, who did not want to transfer, they must have the option to return to the wider public service. Because we had a situation similar to what the Government was trying to do and I recall the Civil Aviation Authority. When the Civil Aviation Bill was passed, there was a seamless transaction from the Civil Aviation Division to the Civil Aviation Authority. The PSA through our representative on that Committee again, Mr. Shazard Mohammed, God rest his soul, he represented the PSA on that Committee. And we worked with the Government and there was a seamless transition, not a boot was heard in the corridors of Port of Spain marching. There was a seamless transaction because understood that there was need for change and we sat and we worked it out with the employer. But we protected the job security of those public officers, Civil Aviation Division, they had the option to transfer and they did transfer. Today many of them are still employed, they are employees of the Civil Aviation Division.

So, Madam President, in 2009 when there was a separation between the PSA and the then Government, which is ironically the Government I am a part of now, it was because we were not assured of the public officers' job security. And I want to take the opportunity, at this point in time, to speak directly to public officers. The concern that was there about your job security that concern is no longer there. This piece of legislation grants you the public officer at clause 18(2) (a), (b) and (c):

“(a)”—allows you the public officer to—“voluntarily retire from the Public Service on terms and conditions agreed between him or his appropriate recognized association and the Chief Personnel Officer;”

That is what we asked for in 2009.

“(b) transfer to the Authority with the approval of the appropriate Service Commission on terms and conditions no less favourable than those enjoyed by him in the Public Service...”

The public officer will not lose, or:

“(c) remain in the Public Service provided that an office commensurate with the office held by him in the Public Service prior to the date of the”—coming into force— “of this Act, is available.”

And that is standard, that is standard.

Madam President, I will advise public officers, here you have your security of tenure. If you want to continue your career path, there is nothing to lose. You are transferring on terms and condition no less favourable. Now, Madam President, even though—[*Interruption*—Madam President, I will not entertain disruption from Sen. Mark.

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Sen. The Hon. J. Baptiste-Primus (cont'd)

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Madam President: Sen. Mark—

Sen. The Hon. J. Baptiste-Primus: I did not interrupt him.

Madam President: Sen. Mark, please—

Sen. Mark: Sorry, Madam.

Madam President: And apologize to the Minister as well. [*Crosstalk*] Minister, continue.

Sen. The Hon. J. Baptiste-Primus: Thank you. I sat here and I listened to everyone, I did not say a word. So, Madam President, I could even see a situation where those public officers, who up to voluntarily retire, they could do that and still come back and be employed with the Authority, so that they would get their public service pension and they continue contributing. So, Madam President, and public officers, you have nothing to fear at this point in time. No matter what is said by my friends on the other Bench, they do not know how public officers feel about their job security and it is enshrined in this piece of legislation. So I say no more on that for now.

Madam President, I would like to remind my colleagues, including my colleagues on the other side, about the nature of change. I know about the nature of change. I have lived that all my life and represented members of the PSA who were, by and large, public officers to the best of my ability. Even when those times required us to lose members, our responsibility was to go around that table and negotiate the best possible separation package for our members that would see them having funds that they could start a new career. But let me share this, Madam President, with yourself and this honourable House, and it has to do with the concept of change. Change—and these are words by Mr. Rupert Mullings,

Consultant Advisor to the President of the Caribbean Development Bank and he had this to say about change:

Change brought us where we are. Change in our world today and change will be our constant companion for the future. Whatever the field of endeavour, we and the societies are either victims, vanquish by change or victors over the vicissitudes of change. Nothing but change is permanent in our economies and those that interact with ours. It is how we bring it about as agent of change ourselves that will determine where we are, how we shape our economic world of today and condition of tomorrow.

And I believe that Mr. Rupert Mullings' definition of change, Madam President, is well represented at this point in time.

Madam President, defining the problem. The national and international nature of tax administration has changed over the last 25 years and there are several efforts have been made to make meaningful changes to our national tax administration system in this country. It is well known that the existing state revenue collection agency are under-resourced, inefficiently structured, poorly administered and continue to attempt to discharge the obligations within an administrative and legislative framework that is out of step with the contemporary designs.

Madam President, at this point in time, the future of work, the kind of digital progress and an advancement that is being made at this point in time— I mean, we see it with this coronavirus. In China, you have robots serving persons who have the virus. So that the changes that are necessary within this administration is in bringing it in to the highly digitalized world also.

Sen. The Hon. J. Baptiste-Primus (cont'd)

Madam President, our current financial and economic circumstances underscores the need of a transparent, fair and most importantly, an effective, an efficient national revenue collection system. The hon. Mr. Colm Imbert, Minister of Finance, has identified for us the fact that tax leakage and avoidance is widespread in this country and these practices result in the loss of billions of dollars in revenue, billions of dollars, Madam President, that can be utilized to ensure a better present and a better future for our children.

Madam President, whether it is income tax, corporation tax, VAT, customs duties, many of us, undoubtedly, we have experienced difficulties with the current tax administration system. We have had to wait too long for our tax returns to be processed and refunds issued, we have questioned the fairness and equity of the system. I recall Sen. Deonarine quite succinctly pointing out the inequity in our system where some people do not pay tax and others are heavily taxed. And this Revenue Authority will help to bring a high degree of equality among the citizenry of Trinidad and Tobago. It is imperative that we improve our tax administration and compliance. This country needs a transparent, fair, effective and efficient national revenue collection system. We definitely need to do better.

Madam President, I turn my attention to the revised Bill.

“This Bill seeks to provide for the establishment of the Trinidad and Tobago Revenue Authority...to replace the Board of Inland Revenue and the Customs and Excise Division.”

The Authority will be a government authority, a government agency which will be responsible for the collection of government revenue and the provision of other services for the protection of government revenue, including: investigation of

tax evasion, the conduct of audits and boarder protection.

Madam President, under this proposed legislation, the Authority will have amongst others, the following functions:

- “(a) the assessment and collection of taxes under the revenue laws;
- (b) the administration of the revenue laws;
- (c) the enforcement of the revenue laws;
- (d) the enforcement of border control measures...”

—and—

- “(f) the facilitation of legitimate trade.”

“Revenue Laws”, Madam President, are set out in the Schedule to the Bill and includes: the Provisional Collection of Taxes Act, Chap. 74:01, Income Tax Act, Chap. 75:01; Health Surcharge Act, Chap. 75:05; and Tax Information Exchange Agreements Act, Chap. 76:51. The Authority, Madam President, will essentially subsume the powers, responsibilities and functions of the Board of Inland Revenue and the Custom and Excise Division under the provisions of the Exchequer and Audit Act and other relevant legislation.

Madam President, this piece of legislation makes provision for a director general who will:

- “...be responsible for the daily management...”—and—“administration and operations of the Authority, the administration and enforcement of the revenue laws and the giving of advice to the Minister in respect of the administration and enforcement of the revenue laws.”

Sen. The Hon. J. Baptiste-Primus (cont'd)

Madam President, in addition it is important for us to know that the Bill will also provide for the establishment of a board of management for the Authority, because it is the aim of this Government to ensure that the people of Tobago are not left out in the decision-making process of this country. And we are ensuring this by providing for the board of management for the Authority to include a person nominated by the Tobago House of Assembly. The other suggestion was made by Sen. Dr. Dillon-Remy. I would leave—some of the sound suggestions, I would leave for Minister West to respond.

8.30 p.m.

Madam President, an analysis of the Bill demonstrates that the Authority and the board are and will be held accountable at their respective levels for the carrying out of their respective functions. The board and Authority are not one and the same, and the functions of the board and Authority, and their limitations, are clearly delineated in this piece of legislation. Permit me, Madam President, to remind everyone that within the legislation the functions of the board have been clearly defined and are limited to, one, approving and ensuring the implementation of management policies in relation to finances including procurement, and human resources including recruitment, remuneration, promotion, training and development—[*Interruption*]

Sen. S. Hosein: Madam President, may I just stand on 53(1)(b), please, tedious repetition. These points have already been made several times throughout the debate please.

Madam President: Minister, continue.

Sen. The Hon. J. Baptiste-Primus: Thank you. Thank you, Madam President.

Performance assessment, conditions of work, discipline, termination of employment, and superannuation benefit.

It also focuses on service standards and performance targets, codes of conduct for the employees, the strategic plan, budget and annual reporting, and establishing the mandate for collective bargaining. It also ensures, Madam President, probity in using an allocation of resources, that is to say in respect of the allocation provided by Government for the operations of the TTRA, not, I repeat, in the management of revenue collection. It also focuses on the use of modern corporate governance procedures and practice, a concern that has been raised by several of the Independent Members on the Bench. It also focuses on overseeing the internal audit of the Authority so that, Madam President, on the other end of the spectrum we have to look at the fact that in this digital age where data and information are almost like currencies, it is very important for us all to be aware of the protection of our data whether it be personal data or business information.

As such, I am very pleased that the Bill provides that the board would also be prohibited from having access to information held by the Authority in respect of individuals, companies or firms for the purposes of the administration and enforcement of the revenue laws. And once again it shows that Sen. Mark did not read the Bill, because if he had read the Bill he would have seen that the data pertinent to people's individual records will not be available to anyone at the level of the board and management. The board would also not have access to information pertaining to legal actions by or against the Authority in connection with the administration and enforcement of the revenue laws. So we put that fear to rest, Madam President.

Clause 35 of the Bill requires the board to submit an annual report to the Minister in respect of the Authority, and the Minister has a responsibility to come to Parliament and lay that report each year. Parliament can then have robust oversight, and for all you know perhaps in the next incarnation of this Parliament when Sen. Wade Mark continues to sit on the Opposition Bench he might be the chairman of one of those oversight committees, having oversight over the TTRA. You could never tell. I could not resist that one, Wade. In addition, Madam President, and in keeping with stakeholder recommendations made during the Joint Select Committee, another layer of accountability required the board must develop a strategic plan for a period of not less than three years along with an operational plan for submission to the Minister of Finance, who is then charged with the responsibility of laying both plans in Parliament within three months of receiving those plans.

Madam President, I want to, as I approach my conclusion, protected workers, I want to come back to this point. The amendments provide that all staff at the Inland Revenue Division, and Customs and Excise Division, will transition from their respective positions to the Authority at terms and conditions no less favourable. I want to remind public officers to be very careful about following the advice of the current President of the PSA, not to be influenced because I heard him on television telling public officers, “All of you all will be retrenched. All of you all will lose your jobs.” The fear factor, please do not listen to half-truths, innuendos and outright untruths. Your jobs are safe. Do not take the advice of someone who has ballooning political ambitions.

Madam President, an objective of the Authority is to better compensate, incentivize—[*Interruption*]

Sen. The Hon. J. Baptiste-Primus (cont'd)

Madam President: Members please, I would ask you to obey the Standing Order and allow the Minister to make her contribution. Continue, Minister.

Sen. The Hon. J. Baptiste-Primus: Thank you, Madam President. “It is a pity when people like to give they can’t take eh.” So then, Madam President, an objective of the Authority is to better compensate, incentivize, train and equip staff to execute their duties more efficiently and more effectively.

Clause 18 of the Bill provides for public officers within three months of the date of assent of this Bill the option to access any of the three options as outlined in clause 18(2)(a), (b) and (c). Madam President, as I indicated earlier, approximately 18 years ago the then Cabinet took this decision to create this Revenue Authority, and as I look back from then to now this piece of legislation should have been implemented more than 10 years ago. So we have considerable catch up at this point in time. The expectation is that compensation will be highly competitive in this Authority, and the job functions would be discharged from the comforts of modern, state-of-the-art offices, and I reiterate that this Bill lays a sound platform for the meeting of the staff expectations.

I want to share a little, Madam President, about the staff expectations because when we stand here to talk on a piece of legislation like this, we must talk from a position of fact and not fiction. Madam President, in 2009, there was a survey, a survey that was conducted—we called it a cultural survey—and our then first Vice-President of the PSA, Mr. Stephen Thomas, he sat on this committee representing the PSA where a cultural survey was conducted across all levels of staff at both the Inland Revenue Division and the Customs and Excise Division.

I want to share the outcome of that survey because the outcome was

Sen. The Hon. J. Baptiste-Primus (cont'd)

analysed and condensed for presentation to the human resource interim committee at that time. Specifically the purpose of the survey was identified very simply as follows:

1. To assess Customs and Excise and Inland Revenue Division readiness for change;
2. To identify the cultural practices which employees would like to see changed or retained under the Trinidad and Tobago Revenue Authority arrangement—vast progress was made with regards to this piece of legislation—aligned to the purpose with the following dual objectives;
 - (i) To obtain feedback which could be used as inputs into TTRA's communication and change management plans.

And that was one of the concerns that Sen. Teemal raised. A very, very valid concern.

- (ii) To provide data which could be helpful—[

Madam President: Minister? Minister, you have five more minutes.

Sen. The Hon. J. Baptiste-Primus: Thank you, Madam President.

—to TTRA planners in the development of operational, managerial, and human resource policies and procedures.

Madam President, the demographics of age, gender and job positions were essential factors. Without presenting detailed analysis of the findings as part of the report, the conclusions distilled from survey revealed:

1. There is a high demand for change in three key areas:
 - (i) human resource management policies;

- (ii) managerial policies;
- (iii) operational policies.

So Sen. Teemal was right on target. So that, Madam President, in recognizing that values and customs that the employees cherished needed to be identified and preserved, and to harmonize those with the new progressive culture of the successor organization, that cultural survey was conducted.

Madam President, I would want to—in closing, Madam President, I would want to indicate that the Government has relied on granting tax amnesties to taxpayers along with using limited resources to focus mainly on large taxpayers as a means of building compliance and improving the efficacy of tax collection. This is a rather unsustainable model. We need a better model and system of tax collection, and with this Bill, this piece of legislation, the Government has laid out a carefully considered framework. My fellow parliamentarians, it is clear that we have a challenge with tax collection in this country as highlighted by several Independent Senators, and that is the challenge that is negatively affecting our economy.

The challenge, yes, is monumental, but each climber who has travelled Mount Everest began that quest with two convictions, Madam President:

1. The will to overcome impossible odds; and
2. The commitment to taking the first step.

We inside this Chamber, we have a duty to the citizens of this country. We are charged with protecting and preserving the best interests of our fellow citizens. Let us resolve to overcome this challenge. Let us commit to taking the first step to doing what is right. I therefore call upon all my colleagues in this Chamber to

Sen. The Hon. J. Baptiste-Primus (cont'd)

support the passage of this Bill. Madam President, I thank you. [*Desk thumping*]

Madam President: Sen. Hosein.

Sen. Saddam Hosein: Thank you very much, Madam President, and I am grateful for the opportunity to contribute on this Bill, which is an Act to establish the Trinidad and Tobago Revenue Authority and for related matters. And, Madam President, I believe everyone in this House, and also the public, would know what the Opposition's position with respect to this particular piece of legislation is, this Bill having been subject to a joint select committee of two sessions of this Parliament. Recently I saw an *Express* editorial, I believe, taxing matters on this Bill that deals with the establishment of a Trinidad and Tobago Revenue Authority. We heard a lot of talk and we heard a lot of quotes this afternoon, Madam President, with respect to this debate, and one of those is "render unto Caesar what belongs to Caesar". Well, I want to tell this Government render unto the people of Trinidad and Tobago what belongs to the people of Trinidad and Tobago. [*Desk thumping*]

It seems as though that this Government forgot who Caesar was because Caesar was an oppressor, because Caesar was a dictator [*Desk thumping*] and for this Government to be modelling their policy with respect to governance of Trinidad and Tobago seems as though they are going down the narrow road of dictatorship. [*Desk thumping*] So if your policy is "render unto Caesar what belongs to Caesar", we on this side will render what belongs to the people of Trinidad and Tobago. [*Desk thumping*]

Madam President, we heard about this tax gap. For many years Trinidad and Tobago has been running on what we term a budget deficit. That budget deficit

has been decreasing over time. In the last fiscal package that was presented in this last session of this Parliament, the Minister of Finance would have indicated that the oil price used to calculate the projected revenue for Trinidad and Tobago would have been \$60 per barrel. As traditionally done, right after the budget was read you would have the post analysis taking place with several economists, and you would have seen that the Minister came for severe criticism with respect to pegging the oil price so high at \$60 per barrel.

They advised the Minister that that should have gone down to \$50 a barrel. Now we have seen that the prices have crumbled overnight by one-third. by 33 per cent almost we have seen that the oil price has gone down. But now this brings this debate into perspective because the Government is relying on the establishment of the TTRA in order to close the budget deficit because they had promised this in 2015 that they would have a balanced budget by 2018. Yet they failed to do so, so they are now going to use increased collection of tax revenue in order to close that deficit. But the point, Madam President, is that when you had projected oil price at \$60, obviously the revenue would have been higher and the deficit would have been smaller. So that budget in itself was pledged on a false premise, and this is the economic gymnastics which this Government has been playing.

They want to rush the implementation, the establishment of the TTRA, so that when the campaign starts for the general election they can come to the population to say that they increased revenue when they did nothing to diversify the economy of Trinidad and Tobago. [*Desk thumping*] Absolutely nothing, because they raised revenue via taxation and other energy revenue. But then I heard—I was very surprised that the Minister of Energy and Energy Industries would have

indicated in his contribution that Trinidad and Tobago is going down a slippery slope. But, Madam President, I remembered, again when the budget was read, Trinidad and Tobago was told by the Minister of Finance that the economy has turned around, that better days are coming. So how can the Minister of Energy and Energy Industries now come and tell the country that we are going down a slippery slope when a couple months ago we heard that the economy has turned around, that the economy is more robust now. Again, Madam President, this is the gas lighting that this administration is involved in with respect to the people's business of Trinidad and Tobago.

Now I admit that the prerogative of any country—in fact, dating back for centuries is that countries are allowed to raise revenue via taxation. They are allowed to tax their citizens, and those taxes come in several forms. We have income tax, tax that is charged based on your earnings, tax based on your property, you have tax based on the running of businesses. So there is no argument or there is no contention about taxation, but when you overburden a population with taxes especially when there is low confidence with respect to business, we are going down a very dangerous path.

Madam President: Sen. Hosein, I am not sure that I am following your arguments, and the reason I am not sure about it is because we are dealing with this Bill that is before us, the Bill to establish the Revenue Authority. But you are dealing with issues that are not really pertinent to the Bill directly. So I would ask you to try and tie it up.

Sen. S. Hosein: Madam President, let me just tie up the points here, in that we looked at the generation of taxation, one; and two, the collection of taxation which

this Bill is involved in; three, the enforcement of the tax laws of Trinidad and Tobago. Now when you look at, for example, the loss of revenue with respect to taxation, I want to make a simple point here, Madam President, that you would record a loss with respect to revenue as indicated earlier by several speakers. This comes from leakage because of a weakness in terms of the tax collection methods that are being used currently by the system that exist which is the Board of Inland Revenue.

But, Madam President, we must understand what happened in Trinidad and Tobago which would have also contributed to a reduction in tax collection, that we had hundreds of businesses in this country being closed down, loss of corporation taxes, you have thousands of persons who are put on the breadline, again loss of taxation through income tax. Now we are looking at the TTRA and we are looking at an establishment, we are looking at a model in order to improve collection of the taxes. Now this Bill deals with certain things in terms of the establishment of the Authority itself, what comprised the Authority, who is the board that will be managing this Authority, but the Minister of Finance when piloting this Bill, and all of the Government speakers so far, failed to tell this Senate, in fact, what is the organizational structure of this TTRA. What is the structure? What is the establishment for this body, or this Authority, going to look like?

The 2,175 workers that will be affected, will all of those workers be rehired under the new Authority? Because these are things that the persons who currently are employed under the Board of Inland Revenue and the Customs and Excise Division would like to know because you are asking them to accept certain packages, you are asking them to take up certain contract positions, but how many of these contract positions will be available to these persons? What are going to be

the job descriptions? What are going to be the terms and conditions of persons who are hired under the TTRA, which is the Trinidad and Tobago Revenue Authority? Those are questions that we would like to get answered, because we on this side we already gave our position and that position is let us strengthen the current institutions that we have. Let us strengthen them. Minister West in a previous incarnation also gave that viewpoint, that we should strengthen what we have before we even move towards creating a Trinidad and Tobago Revenue Authority. [*Desk thumping*]

Now, Madam President, we hear the complaints about leakages of taxation because of weakness in collection. Sen. Teemal went so far to talk about haemorrhaging, but what about the loss of revenue because of corruption in this country? What about the loss of revenue with respect to corruption? The same expediency you are engaged with with passing this TTRA Bill, why do you not bring the same expediency and the same attention to the Public Procurement and Disposal of Public Property Act [*Desk thumping*] so that you will fix issues with respect to haemorrhaging of money with respect to corruption? Because when one company in this country can make over \$175 million in profits, we have a problem in this country; when one person can make \$23 million worth of rental in this country we have a problem. [*Desk thumping*] The problem is not a weakness in tax collection. The problem is corruption in this Government. [*Desk thumping*] That is the problem of this Government, it is corruption. [*Desk thumping*]

Madam President, there is a very relevant report to this particular piece of legislation, and that is the Joint Select Committee Report that considered this particular piece of legislation, of law. Strangely, I have sat on several joint select committees, I have sat on several enquires, and it is ordinary that you will have

submissions coming from members of society who belong various groups. So you would have various interest groups such as AMCHAM, the business community, civil society but they will come in groups, but when I look at this report, Madam President, I saw submissions from ordinary members of the public. Twelve in fact, and every single one of these submissions condemned the Government's move to the TTRA. [*Desk thumping*] Every single one.

Madam President, it started off with one person, Firaz Hosein, who said—no relation to me. Is that, is he saying in his conclusion that the concept of a Revenue Authority is very expensive and there are no definite studies to prove that there would be an increase in revenue collection. This is what the members of the public are saying. Too often we are accused in this Chamber that we do not listen to the ordinary man, but here they are putting their views on the record of the Parliament so that we on this side can raise those pertinent issues on behalf of those citizens of Trinidad and Tobago.

I want to move to submission No. 7 which I found was very interesting. This submission, No, 7, it came from concerned employees dated the 20th of June, 2018, and this is what they outlined, you know. I heard the Minister of Labour and Small Enterprise Development, but I do not know if she read this JSC report because hear what they say, employees, Customs and BIR.

Madam President: Sen. Mark, please allow Sen. Hosein. There is absolutely no need—

Sen. Mark: Yes, he needs support.

Madam President: No, you do not need to. He is doing very well on his own. Okay? Sen. Hosein, please continue.

Sen. S. Hosein: Madam President, allow me to read this for you please? This is what the employees had to say: there was no consultation with the staff by the Government one; two, fear of job loss; security in the new entity; employees currently hold permanent appointments. This one is worrying. These are employees, eh. Fear of bullying by management in carrying out instructions. This is the autonomous Revenue Authority you want to create and this is what employees are complaining about. The uncertainty of terms and conditions of the new entity; promotion based on merit rather than seniority. Who determines merit? No information on organizational structure salaries; no union representation in the new entity; the ability of the board to recruit, discipline and terminate employees; no information whatsoever on terms and conditions of employment. Section 18(c), if there is no available position for the employees at the public service, what happens? Compulsory retirement?

These are the views of the employees of the BIR and the Customs. Why are you having people living in fear of their jobs in this country that they do not know whether or not they would be able to have a job when this new TTRA comes; how they are going to feed their families and their children in this country? This Government has engaged in union busting and the highest levels of unemployment in the history of this country. [*Desk thumping*] Highest levels of unemployment, Madam President.

Madam President, I heard that the Minister of Labour and Small Enterprise Development spoke of process and the process of the interference of the Executive with respect to those employees that are currently in the public service, and the Minister went on to say that the Minister has no business in terms of the employees who are appointed by the Public Service Commission. Those matters are dealt

with via the PS and the DPA. When this TTRA comes the Minister of Finance has a direct hand in the employment of the employees of this particular Authority, and I say this because the Minister is the one who is going to be crafting policy. The Minister is going to tell the Authority how “much people he want” on the establishment. He is going to dictate the terms and conditions for those employment. The Minister is going to craft the Authority and they have to carry out his mandate. How can that be an independent, autonomous Authority? How can we on this side support that when currently we have a very isolated Board of Inland Revenue that all needs to be done is to strengthen and institutionalize that particular board, Madam President. [*Desk thumping*]

9.00 p.m.

I heard that the Minister of Labour and Small Enterprise Development also indicated that they are listening to the public servants. Madam President, the public servants do not want to listen to this Minister because when Petrotrin was being closed down, the Minister was nowhere to be found, [*Desk thumping and crosstalk*] nowhere. And all I heard from this particular Minister was a regurgitation of the Bill, it lacked analysis with respect to these pertinent issues that we have raised on this side, but let me move on, Madam President. Let me move on. [*Crosstalk*] Minister, we know that you do not like anyone to distract you while you are speaking.

Madam President: Sen. Hosein, you are not at liberty to be speaking directly to anyone except to me, please.

Sen. S. Hosein: I do apologize, Madam President, I do apologize. Now, Madam President, we heard another argument and this argument is absolutely ridiculous

that the appointment of the Director General is akin or similar to the appointment of a Commissioner of Police, and this came from no other person than the Attorney General of Trinidad and Tobago.

Let me explain how this Director General is being appointed. Minister comes, he wants to appoint Sen. Wade Mark as Director General in the morning, come to Parliament, lay a notice, all of the Government Members vote, Sen. Wade Mark is now Director General of the TTRA. Do you know how we appoint a Commissioner of Police in this country? First you go through recruitment. You have a recruitment exercise under the regulations, robust recruitment exercise. You have interviews, you have various tests that they have to complete, you have examinations. It is one of the most stringent recruitment processes before that notification can come to the Parliament. And that notification does not come in “ah brown paper bag yuh know”, it comes in a merit list because you do not have one person who is going to be vying for the position of Commissioner of Police, you have a list. And then the Government brings name after name as we have seen previously before Commissioner Gary Griffith was appointed, that they will debate each one of the nominees and then the Parliament will decide who the nominee is. Where is that in this Bill? Where is that in this Bill, Madam President? It is absolutely nowhere. It is the Minister who is going to hand-pick the Director General and then come to this Parliament to rubberstamp his decision. [*Desk thumping*]

The Minister of Energy indicated you know, they have “ah Whip” on that side, anybody going and vote against the notification that the Minister or the nominee that the Minister of Finance put up as Director General? No way. No way. That is “ah sham”. This is a cloak to appease the population that there is

some level of independence when really there is no independence in the TTRA.

[*Desk thumping*]

What are the terms and conditions of this Director General? I want any one of them on that side to explain to me and tell me what are the terms and conditions of the Director General. If this person is so secure, why his salary is not coming out of the Consolidated Fund or the SRC? Why is his salary not being determined by SRC? Because when you insulate and you protect persons of public office, you make sure that their salaries are regulated under the SRC. They want to compare the Commissioner of Police to the Director General, they want to do that. You know the Commissioner of Police of this country has an entire service commission called the Police Service Commission who is in charge of monitoring his performance and giving him an appraisal. Who is going to monitor the performance of the Director General? Who is going to give him an appraisal? The Minister. Who is the boss? The Minister. Who is going to be able to access your taxpayers' information? The Director General. Who could apply pressure to the Director General? Minister. Where is the independence? Where are the safeguards? Any one of you all on the Government side, tell me where are the safeguards for the Director General. [*Desk thumping*]

You know, at page 12, look I have a note here, they talked about the welfare of employees in the Bill, well I already dealt with that. We know that this Bill does not have the welfare of the employee at hand. Madam President, we know that. Now what is strange is that, I see—I do not know if this particular clause is present in any other piece of legislation. So we have “Mr. Independent Director General” but at clause 34 of the Bill, this is what it reads:

“The Director General shall submit to the Board and...”

And who?

“to the Minister a monthly report, or such other time as the Minister may direct, in respect of the revenue collected.”

So every month, the Director General must report to the Minister. Why does the board not be the one communicating directly with the Minister? Why must it be the Director General? Give the Director General some room, isolate him from the involvement of the Minister. And that is why you all require a special majority for the passage of this particular piece of legislation because you have intrusive powers.

Now, I want to look at, for example, clause 15(2)(h). Clause 15(2)(h) deals with the Director General and the Minister being able to remove the Director General as Director General of the new authority, and there are several grounds and this is the process. Let me outline the process first. Again, the Minister must come to the Parliament and he must come with the affirmative resolution to remove the Director General or the deputy. There are several grounds: if he is unable to perform his functions, if he becomes disqualified because he holds some other office as a parliamentarian or a councillor, if he brings the authority into disrepute, if he is declared bankrupt, if he convicted of a criminal offence, failing to fulfil duties or failing to comply with section 9(1) which is the functions of the Authority or for any other sufficient cause. Now that is a very wide power being given to the Minister to remove the Director General.

And you know what is the sad thing about this, Madam President? Because of this procedure that is prescribed for the removal of the Director General, it now

means that if a Director General is aggravated or aggrieved by the decision of the Minister to remove him, that decision is not subject to a review by the court because his removal is being done by the Parliament. The court has no jurisdiction under the Judicial Review Act to enquire into a decision made by the Parliament with respect to the passage of a particular piece of legislation in terms of the notification. So he is not operating as though he is an ordinary employee who is aggrieved, who has some sort of procedure to appeal the decision of the Minister, he is now subject to the will of the majority of the Parliament which is the Government. And again, Madam President, that shows that that is another area in which pressure can be applied on this particular Director General for his untimely and may be unlawful removal from office if he fails to comply or falls out of favour with any Minister of Finance. I am not casting aspersions that it will be a PNM Minister of Finance or this particular Minister of Finance.

Now, I also looked at clause 17 of the Bill and clause 17 of the Bill spoke of may be the employment of independent contractors and also the outsourcing of services. Now nothing is wrong because in certain instances, you may need some level of expert services that would not be present in-house but I think this has to be strengthened in terms of confidentiality. Because under section 4 of the Income Tax Act, it provides for the secrecy provision whereby taxpayers' information will not be subject to disclosure unless you meet certain grounds that exceptions are created for under section 4. And I believe that if an independent contractor or a person who is outsourced to conduct service on behalf of this authority should be mandated legislatively so that there would be no breach of confidentiality that that section 4 that is present in the Income Tax Act also applies to independent contractors and persons who have been outsourced by the authority. That is one of

the most fundamental issues in terms of taxpayers confidentiality and non-disclosure of their information I have flagged.

Now, Madam President, I know Sen. Mark would have spoken extensively with respect to the transition with respect to employees who are currently in the public service and who are going to retire to now be part of the TTRA but this has been a practice of this Government. Because this is not the first time that this has happened and we must learn from our past experience. When you look at what happened when the Judiciary was currently being restructured, you had several protests by persons who have served as JSOs, who are judicial support officers and secretary to judges for years and they are being asked to resign their permanent position so that they can now form part of the Criminal Division or the Children Division of the Judiciary, and this is the exact model that is being adopted here. Because we heard that this Government has issues with respect to Service Commissions and those issues stem from the inadequacy to fill vacancies in a timely manner.

But I think the Government is missing a fundamental point because the framers of the Constitution probably did contemplate a Government like this, one who is upset with Service Commissions and one who has a problem with Service Commissions. Madam President, we must remember why—because this Bill deals directly with that yuh know. This Bill deals with removing persons who are permanently employed to now accept contract positions under a new authority where there is no or little protection, especially from the political directorate.

I want to just raise one particular decision of the Privy Council with this honourable Senate this afternoon and that decision is a very important decision. It

was cited in a very important matter in this country that dealt with the appointment of the Commissioner of Police, *Harridath Maharaj v The Attorney General*. I think that was a case where the Attorney General was not successful. And within that judgment, there is a case that was quoted *Thomas v The Attorney General of Trinidad and Tobago* [1982] AC 113, and this is Lord Diplock. Lord Diplock, in that case, was explaining what the service commissions are and their isolation all the way in the Privy Council. This was in 1982.

And Lord Diplock in that case discussed that because of how political the environment is in Trinidad and Tobago, especially with the party system, there must be some level of isolation and insulation of the public service from the Executive and the Legislature. So you are protecting the public service from two arms of the State which is the Legislature and the Executive. He spoke of harassment, he spoke of summary dismissal. He spoke of placing pressure on ordinary public servants. And this judgment is very relevant and pertinent especially coming out from the Attorney General's contribution where he indicated that there is a plan B. Because once he does not get his way in this Parliament, when he does not get the special majority, "dey chop it off". "Dey chop it off."

Let us remember what is happening with our neighbours in Guyana in terms of an erosion of democracy. That three-fifths majority clause in our Constitution was placed there for a reason you know. It was placed there for a very important and fundamental reason and for any Government to come on a whim and a fancy and remove this three-fifths majority every time that they do not have the support of the majority of the Parliament, they remove it. That is dangerous, Madam President, that is absolutely dangerous. [*Desk thumping*] That does not augur well with a democratic society especially Trinidad and Tobago where there are so many

competing rights and so many competing groups in this country. It is not right for the Attorney General to come every single time and threaten us.

But, Madam President, we are lucky today that in our country, in our beautiful Trinidad and Tobago, we have an independent Judiciary and anytime that this Government feels as though they can trample on the rights of ordinary citizens, we will take them to court [*Desk thumping*] to ensure that the Constitution of this country is upheld because we would not associate ourselves with this particular Government with respect to continuously removing three-fifths majority from legislation. We heard it is coming for another Bill that was passed in this House; now we are hearing it is coming for the TTRA. You have Lord Diplock in the Privy Council saying how important it is to insulate and isolate the public service from the political directorate. That contribution by the Attorney General flies in the face of Lord Diplock. That is what it does. The Attorney General is plainly wrong. The Bill requires the special majority. If he wants, Madam President, to have a special majority, let them to go to the polls and try to get that three-fifths majority and then come back in this Parliament and pass that Bill. [*Desk thumping*] Do not bully and threaten us in this Parliament to do that.

Madam President: Sen. Hosein, please, you are on this point a little too long now. You need to move on, please.

Sen. S. Hosein: Madam President, thank you very much. There was one other clause that I would like to look at in this particular Bill and I believe Sen. Dillon-Remy would have touched on it and also my friend Sen. Taharqa Obika. They spoke on clause 7 of the Bill which is the appointment of the board. Now, Sen. Obika spoke of the two other persons, just the two other persons that can be

appointed to be on the board. Now I want to raise issue with 7(2)(f) and (g). It says that:

“The Board shall be appointed by the Minister and shall comprise nine members as follows:

(f) an Attorney-at-law;”

And:

“(g) a chartered or certified accountant...”

It went on to give that they must have considerable experience in management and tax laws, economics, business and other fields. But what should be the experience of these persons in terms of the number of years? Because we have passed particular pieces of legislation in this Parliament where you establish a board, but, for example, an attorney-at-law must be at least five years experienced, a chartered accountant must be at least 10 years experienced to serve on this board. What is the experience required?

And these are some of the issues together with Sen. Mark, Sen. Ameen, Sen. Obika. Consolidate all of our contributions together, we would have now set out a case whereby we have shown that this Bill is, one, deficient and two, it is not needed right now. Because if we go along with the model that we are going to strengthen the tax collection system, let us not do it through the TTRA. I am winding up my contribution now, Madam President. Let us not do it through the TTRA, let us strengthen and institutionalize the BIR. If you have issues with respect to staffing in the Public Service Commission, we have joint select committees of this Parliament that can conduct enquiries to determine what is going on in these service commissions so that pertinent recommendations can be

made so that these vacancies can be filled. Stop trying to take the shortcut way and put your hand in the cookie jar. That is not your business, [*Desk thumping*] that is the business of independent Public Service Commission. Your business dealt with the appointment of the Commission through together with the Prime Minister and Leader of the Opposition, that is it there, your job is finished. Let the Public Service Commission and the other independent commissions do their work in this country. Stop trying to interfere in their business and their work, Madam President.

And as I close with respect to this debate, we have seen time and time again that this Government, it is only eroding rights and privileges of persons. They have complete disregard for the Constitution and, Madam President, we on this side cannot continue to stand for that flippant disregard for our institutions of this country, and I thank you very much. [*Desk thumping*]

ADJOURNMENT

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you, Madam President. I now beg to move that this Senate do now adjourn to Thursday March 12, 2020, at 2.00 p.m. During that sitting, we plan to do the three Bills that were laid today: the Tax Information Exchange Agreements Bill, 2018, the Income Tax Act (Amdt.) Bill, 2019 and the Mutual Administrative Assistance in Tax Matters Bill, 2018.

Madam President: Hon. Senators, before I put the question on the adjournment, leave has been granted for two matters to be raised. Sen. Obika.

Discontinuation of Financial Support to Private Preschools

(Government's failure to explain decision)

Sen. Taharqa Obika: Thank you, Madam President. The matter which I sought to raise tonight is the failure of the Government to explain its decision to discontinue financial support to private preschools and to consider the adverse impact said decision is having on access to early childhood education.

Now, the United Nations Convention on the Rights of the Child states that child rights as the minimum entitlements and freedoms that should be afforded to every citizen below the age of 18 regardless of race, national origin, colour, gender, language, religion, opinions, origin, wealth, birth, status, disability or other characteristics. Now, one of those is wealth, Madam President. Another that should be there, of course, is your geographic location. Because we know that in Trinidad and Tobago, we have early childhood centres for education that are operated and owned by the State in certain towns and districts and certain other towns and districts would not have because the programme is not yet fully rolled out and this Government has saw it fit to keep closed early childhood centres in Valencia, in Cedros and prevent access in Point Fortin because, of course, they have not opened the primary school at Chatham because the early childhood centre in Point Fortin, Warden Road is not available for preschoolers.

This Government has a policy that is against early childhood education and there is no better way to illustrate it than the denial, the refusal to allow preschoolers in private preschools to be accessing funded tuition. Now what had to have been in the mind of a Minister of Education, of a Cabinet, of a Minister of Finance, of a Minister in the Ministry of Finance, what had to be in mind of such persons to deny, to rob preschoolers? Children from the ages of two and a half

years to four and a half, five years of tuition. I mean, there can be no greater criminal act than to deny harmless children access to education.

And I raised this matter last year and one would have thought that the Government would have been so embarrassed that they would have scrambled the little pennies that it would have been required in the votes that are available to them to pay for these preschoolers to get free education. This has to be the most wicked Members of Government in the history of this country.

Madam President: Sen. Obika, please, your language is inflammatory. I would ask you please to withdraw that statement and refine what you have to say as you proceed.

Sen. T. Obika: I will follow your instruction and I withdraw that statement. I would say that no one who cares for will allow such a decision to happen. No one.

Now, one of the principal rights of children is the right to development under the United Nations Convention on the Rights of the Child. Under the rights to development, you have four clear rights, the right of education is the first right, the very first right. Under the Kamla Persad-Bissessar Government, private preschoolers were afforded \$400 per month to the private schools to cover their tuition expenses. Now what gives a Government the right to take away that money from children? What really gave them the right to do that? Under the right for development, there is also the right to learn. So when you deny these three year olds, two and a half year olds access to education simply because their parents do not have money, what you are saying it is a crime to be poor in Trinidad and Tobago under a PNM Government. That is what you are saying. Because who is protecting these children rights to learn? Who is doing so?

Then, of course, there is the right to relax and play. The environments available in these preschools may be very superior. If you can imagine that parents cannot afford to send their children to school, you can only imagine what is the home situation, and the situation at the schools gives them the opportunity to relax and to play. And the fourth right under development is the right to all forms of development: emotional, mental and physical.

Now, Madam President, I have two young children and my wife travelled to study to complete her degree, her final year in her degree with our children of course, and my daughter was out of school for two weeks because there was a language barrier and she had to acclimatize to the new language because it is a French-speaking country that they are in and I was disturbed for two weeks because the amount of development that happened when my child went to preschool in four weeks, it was phenomenal. Interpersonal skills, her communication, everything improved dramatically. And I am saying I can imagine the torment that these parents in this country simply because they cannot find \$400 to send their child to school that the Government was paying for under Kamla Persad-Bissessar that this Keith Rowley administration took away from their children.

Now this decision amounts to an abrogation of the rights of the child to development, those four rights. Four rights were taken away. Now one can only imagine what would be the Government's argument for such a dastardly act. Of course, we would hear the Government's response. But whatever is the Government's response, in the interest of social justice, they must stand accused. They must stand accused of denying the children access to education. Madam President, I want to submit that this Government is discriminating against

preschool children because that is the only conclusion that I can arrive at, where we can find money to pay for paintings but we cannot find money to pay for the education of preschoolers in the nation that we love. [*Desk thumping*]

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, thank you very much and thank you for the assistance in identifying the contribution as inflammatory and I want to use a word that I learnt having had my preschool education paid for a little less than 50 years ago, the word “preposterous”. [*Crosstalk*] Having learnt it on account of preschool. You do not get to Z without getting through ABC.

Madam President, Sen. Obika’s Motion is premised on two things at the start: the Government’s failure to explain what he describes as the discontinuation of financial support to private preschools and the adverse impact.

9.30 p.m.

Well, as he has pointed out, he has raised this matter before and it has been explained. So there is really failure to explain, I think there is a failure to understand. So I will help Sen. Obika with that aspect of his Motion. And the adverse impact, I would say this, Madam President, Sen. Obika talks about the denial of access, it is a crime to be poor and all of that. But if you are saying that the funding has been discontinued and children are not going to school, they are being kept home, well tell me one school. Is it a school in Debe, in Exchange in Couva, in Rio Claro, where is the school?—one. And where is the one student. We heard enough about your two children and your family—[*Crosstalk*—I know, but where is the data? This—[*Crosstalk*].

Madam President: Sen. Ameen, if you do not want to hear the response of the

Discontinuation of Financial
Support to Private Preschools
Sen. The Hon. C. Rambharat (cont'd)

2020.03.10

Minister you are free to leave the Chamber, but once you are in the Chamber—
[*Interruption*]
—Sen. Ameen, I am speaking. But once you are in the Chamber you would please remain quiet while the Minister gives his contribution. Continue, Minister.

Sen. The Hon. C. Rambharat: Thank you, Madam President, for the second time. So there is no data, this adverse impact, if we are to be persuaded, there is no data of who, where they are, the number. I will give you some numbers. And you have spoken about a policy against early childhood education. I do not want to list for you the PNM's approach to education from cradle to almost grave.

We invented it for this Trinidad—[*Crosstalk*]
—but I will tell you this. There was no Cabinet decision. What you put in place was a three-year arrangement with 200 early childhood education providers, three years: 2014 to 2017. And when the three years came to an end, the Ministry of Education did not renew the arrangement and I will tell you why.

But I find it strange that you talk about people suffering so much for lack of access to education. This was three years out of maybe 70 years of preschool education in this country. So are you saying to me that prior to 2014, nowhere in this country people could access preschool education? There was a three year, no more than an experiment by the Government of the time. And I will tell you why it failed. These are the reasons, I will give you seven reasons, only seven, I could give you 77. I learnt to count in preschool, my parents paid for it.

One, many of the centres did not have the physical environment infrastructure and facilities to implement the curriculum. Two, more than 60 per cent of the providers were found to be charging compulsory school fees even

though the Ministry was paying school fees to the providers. Three, there was a high turnover of staff at the centres resulting in unqualified persons being employed in the private schools. Four, there were numerous complaints by parents about the administering of corporal punishment on children. Some of the centres were changing their location and violating the policy of the Ministry. Six, some providers engage in unlawful practices in order to increase their grants such as forging signatures of parents on some of the documentation. And seven, more than 60 per cent of the providers engaged in overcrowding of the centre's capacity and did not adhere to the 1:15 staff-child ratio.

So the support was discontinued in 2017 when the agreement expired. But the Ministry also found that there was no impact, because through the Ministry of Education there are 139 fully operational early childhood centres and 57 Servol centres and these provide for 10,209 children. In fact, at a recently concluded data collection drive the Ministry found that there are places for 15,716 students in the early childhood centres that are available in the country.

So, Madam President, the failure to explain as I said is really a failure to understand and I do not think I could have explained it any better than that. If you cannot learn from me, you cannot learn from anybody. And the adverse impact there is no data from you but there is information from me via the Ministry to show that there is no adverse impact. But I will close by saying this to you. Even in the difficult circumstances we find ourselves, the Government has been able to renegotiate the arrangements with private secondary schools for school places for students out of the SEA exam. I myself was part of that negotiation with the Minister of Finance and the Minister of Education. The Government has been able to maintain its funding for 14 special needs schools in the country. I am happy to

say that the one in my hometown of Rio Claro is funded by the Government.

The Government, notwithstanding the noise from time to time, has been able to maintain school transport for secondary school students from rural areas across the country. And most importantly, as far as I am concerned, the Government in the difficult circumstances have been able to maintain the School Feeding Programme; breakfast and lunch for students across the country who are desirous of having it and who would not be able to have a meal sometimes Monday to Friday, because of their circumstances.

So, I dare say, Madam President, that we had reasons on the one hand to discontinue the contracts when it came to an end. But this Government has demonstrated as it did from the moment we assumed Government in 1956 that the cornerstone of a PNM Government is always the education of the citizens of this country. I thank you very much.

Lake Asphalt (1978) Limited

(Workers' Job Security)

Sen. Wade Mark: Thank you very much, Madam President. Madam President, I rise this evening to deal with concerns of workers of Lake Asphalt (1978) Limited in relation to a statement made by the company's CEO, Mr. Roger Wiggins, on the whole issue of workers' job security. Madam President, the workers of this company over 200 of them are very worried about their future job security and I would argue that their insecurity as it relates to their future employment stems from decisions taken by this Government over the last year and a half. The Government must take direct responsibility for job insecurity at this particular company.

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Madam President, you would remember that this Government unjustifiably, inexplicably unleashed what I would call a “double whammy” on the workers of Lake Asphalt. First, they shut down Petrotrin, and by shutting down Petrotrin they denied the supply of bitumen that would normally have been supplied by Petrotrin to Lake Asphalt. And they would have in turn, Madam President, sold bitumen to the road paving companies Coosal and Junior Sammy and a number of others who are involved in that kind of economic activity in this country.

Madam President, it did not stop there. The PNM Government, the Rowley-led administration, went a step further. They removed the common external tariffs that would have been in place in respect of the importation of bitumen into this country leaving the market open for any road paving company or contractor to import directly their bitumen from outside sources and most of them are importing, I understand, from Barbados at this time. So Lake Asphalt which is a State owned company, 100 per cent State owned, importing bitumen as well, but cannot sell or compete with the elements that are importing directly.

So, Madam President, there is a crisis in terms of cash of that particular company. And it appears that the Government of this country is doing everything in its power to run down the operations of Lake Asphalt to maybe privatize, divest to their friends and whoever, families.

Madam President, would you believe that the working capital of this company stood at close to \$300 million in 2016 and today, Madam President, as we speak workers had to protest in front of Lake Asphalt company for what? Job security and to ensure that they are paid their wages and salaries. And, Madam President, this arose out of the fact that the CEO before Carnival told the workers

that he cannot guarantee them any wages and salaries after the Carnival period. So you have 200 workers and they do not know if they will be paid from the 1st of March.

They wrote to the Chairman of the company on this matter, I understand from sources, they wrote several letters to the Prime Minister. He is too busy, he is all over the place, he is a frequent flyer. So he has no time for these workers. And then they wrote to the hon. Minister of Energy and Energy Industries and I understand that a meeting is scheduled between the union rather representing the 200 workers and the Minister.

Madam President, the Minister must tell this country, what is the true intention of the Government? Is the Government committed to selling out the assets of Lake Asphalt to a Chinese company? Let the Minister indicate that tonight, this evening whether the whole plan is to run down the company in order to sell it to the Chinese, let us know. Why, Madam President, these workers have to be going through this crisis? These workers have been speaking about job security, they have been speaking about poor sales, Madam President, poor health and safety practices at this company, and lastly, Madam President, poor management of that company.

So we need to get from the Government this evening what is the future role of this very important company called Lake Asphalt. We have pitch in this country for centuries, Madam President. We were supposed to be exporting pitch to Europe and China. What is happening? Why has this company reached the point today where they cannot guarantee workers their salaries and their wages on a regular basis?

And why did the Government remove the CET to allow private sector firms to import their own bitumen competing with this company that depended on this kind of monopoly in order for them to survive? And, Madam President, the question that is being asked is: Who is determining the quality of the bitumen that is being utilized by these road paving companies to ensure that the road quality is of a high standard? I do not know who is doing that. But we know that they are importing and they are causing a real crisis for the company as well as the employees.

So the question is, we are asking this evening, what is the plan of the Government of this country on the future of this very important company called Lake Asphalt? The Government needs to clear the air and inform these workers, 200 workers, and their trade union, the Contractors and General Workers Trade Union, what is the future plan the Government has for this company? What is the Government going to do, Madam President, to ensure that there is some arrangement in place for Lake Asphalt to import bitumen and sell that bitumen to the road pavers rather than have this company just there competing?—but they cannot compete because, Madam President, the cost of the product seems to be very high. And therefore, no private road paver would be willing to buy this product from Lake Asphalt.

So I have raised this matter this evening to get the hon. Minister of Energy and Energy Industries—

Madam President: Sen. Mark, you time is up.

Sen. W. Mark: Yes. To respond. Thank you, Madam.

Madam President: Minister of Energy and Energy Industries.

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The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. [*Desk thumping*] Madam President, in response to Sen. Mark's enquiry and concern vis-à-vis the workers of Lake Asphalt, the incident he spoke about, I just want to read a media statement issued by Lake Asphalt immediately thereafter. And I quote:

“The Chairman and Board of Directors of Lake Asphalt of Trinidad and Tobago (1978) Limited...give the assurance to employees of Lake Asphalt and the wider public of Trinidad and Tobago that there is no impending closure of the Company, nor will there be any job losses.”

That is the Government's position and that is the Government's commitment.

But having said that, Lake Asphalt finds itself in a changing marketing environment, because you cannot sit where you are since 1978—the year is now 2020—and hope to operate under the same business model. The name of the company is Lake Asphalt Trinidad and Tobago, Lake Asphalt. You know what that means? In 1978 this company was set up to mine the asphalt in the lake.

Over the years due to laziness and because of governments' treating them in a special and a preferred way they became, as the Prime Minister rightfully said last year, became a PO Box for bitumen sales coming out of the Pointe-a-Pierre refinery. So here you had Petrotrin producing refine products highest level aviation fuel come down to super, come down to premium and what you call the bottom of the barrel products was bitumen.

Petrotrin sold to bitumen to Lake Asphalt at very, very concessionary prices. Lake Asphalt onward sold it to the road pavers at a fairly sizable margin which was an economic cost. It was so bad that all Lake Asphalt did for that money is they

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take a request, "I want a load of bitumen", they filled out the sheet you pay them and you go back to Pointe-a-Pierre and collect it.

What happened over the years is that Lake Asphalt reached a position where 60 per cent of their revenue came from the sale of bitumen. They generated a fairly reasonable profit. Sen. Mark is right in 2016 their cash resources was over \$200 million. However, we cannot keep a losing refinery of \$2billion a year to support Lake Asphalt. So when Petrotrin was restructured there was no bitumen. What do you do? Then Lake Asphalt got the wakeup call.

I personally told them, I said, "Mine the lake. Your business model cannot survive on the sale of bitumen". We do not set CET, it is COTED. Okay, and we had to open the market. Lake Asphalt imports bitumen, it sells to certain contractors, but the large road pavers are allowed to import their bitumen also because it is a free market economy. So the state of play with Lake Asphalt now is that is that they have lost significant market share. Where they traditionally controlled 100 per cent of the bitumen market they are now down to about 30 or 40 per cent and the big contractors import and that is their right.

But the more fundamental issue here is what will Lake Asphalt business model be? Lake Asphalt exports TLA, which is supposedly the best polymer additive bitumen in the world. It is only used—it is so good, it is used to pave airport runways, particularly in China, in California, in the mid-west in the United States. But they never aggressively marketed their product and there are two shortcomings there. One, they still export their TLA in drums that when it is exported it is hard, it is like pitch. You have to re-crush it and all that makes it now uneconomic because the industry has gone to convenience and packaging. They

had built a pelletization plant which is—was transformed into pellets which never operated efficiently and effectively.

However, the future of the company is this. They have made a proposal to the Ministry of Energy and Energy Industries and to the Minister of Finance, patenting and pending production of a cold mill TLA which makes our world renowned Trinidad Lake Asphalt mined from the pitch lake in La Brea more user-friendly. It is a crushed powder, so it could be exported in bags. So when you import the bags it is easy to add to your optics. But they sat on this. And they sat on this because when companies are supported by the State, I make no apologies for them, they get lazy, the management gets lazy and when the reality comes of the economic circumstances hit you in the face, then you will get the wake you call, at least better late than never.

I will be meeting with the union next week to outline the new strategic direction for the company. This will call for an investment of some close to \$100million which we will see how we can fund it, whether we will need a joint venture partner or whether they can secure a loan through a commercial loan based on the cash flow of the plant.

But we want to make the commitment that there is a future for Lake Asphalt. Lake Asphalt is fundamental to La Brea, Lake Asphalt in a sense manages a heritage site for Trinidad, which is the pitch lake. Okay? Sir Walter Raleigh came and plugged his boats there.

The pitch lake has always had potential and people have this wrong impression that the roads bad in Trinidad and we have a big pitch lake. You do not pave road with pitch, you pave road with hot mix and the components of hot mix

are aggregate and bitumen plus some other additives and bitumen can be sourced through refined products and now new synthetic polymers. So you do not really need pitch to have a good road. In fact, when I was a child all the minor roads used to be paved with pitch, pure pitch. "They had men who used to come with a big stick early in the morning four o'clock and beat the pitch and spread it out". All those things have gone past us.

Lake Asphalt now has to remodel its business to market the asphalt from the lake in a user-friendly fashion and the powder form and the new factory they are going to build will secure a great future for Lake Asphalt.

I just want to finish by saying the pelletization—Lake Asphalt is proposing to build a plant to manufacture powdered TLA with an annual capacity of 60,000 metric tonnes or 3 per cent of the global market, which is big. The company has solved the technical issues that affected the pelletization plant. The product will be in the form that it is customer friendly and will be competitively priced. And this is really the positive news. The project economics indicate the project will be viable with a payback period of five years which is good for big investment projects a net present value of 15.35 million and an internal rate of return of 17.7 per cent.

But I just want to conclude in that we only act in this country in a crisis. We have to be in business in particular, we have to start to read the market and remodel your business to suit coming events and through you, Madam President, this is the state of play with Lake Asphalt as it is today.

I conclude by saying the Government is committed in giving the assurance to employees of Lake Asphalt that there is no impending closure of the company, there will be no retrenchment or loss of jobs, but the company business model will

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and had to be changed. [*Desk thumping*]

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 9.58 p.m.