

**SENATE**

*Tuesday, November 17, 2020*

The Senate met at 1.30 p.m.

**PRAYERS**

[MADAM PRESIDENT *in the Chair*]

**SESSIONAL SELECT COMMITTEES****(APPOINTMENT OF)**

**Madam President:** Hon. Senators, in accordance with Standing Order 79(2), I have appointed Members to serve on the Sessional Select Committees of the Senate for the First Session 2020/2021 Twelfth Parliament.

**Standing Orders Committee**

Ms. Christine Kangaloo	Chairman
Mr. Nigel De Freitas	Member
Mr. Clarence Rambharat	Member
Mr. Wade Mark	Member
Dr. Varma Deyalsingh	Member

**House Committee**

Mr. Franklin Khan	Chairman
Dr. Amery Browne	Member
Ms. Donna Cox	Member
Ms. Jearlean John	Member
Dr. Maria Dillon-Remy	Member

**Committee of Privileges**

Ms. Christine Kangaloo	Chairman
Mr. Nigel De Freitas	Member
Mr. Randall Mitchell	Member

Mr. Wade Mark	Member
Ms. Amrita Deonarine	Member

### **Statutory Instruments Committee**

Ms. Christine Kangaloo	Chairman
Mr. Clarence Rambharat	Member
Mr. Rohan Sinanan	Member
Ms. Jayanti Lutchmedial	Member
Mr. Evans Welch	Member

### **Business Committee**

Ms. Christine Kangaloo	Chairman
Mr. Franklin Khan	Member
Ms. Paula Gopee-Scoon	Member
Mr. Wade Mark	Member
Mr. Paul Richards	Member

## **JOINT SELECT COMMITTEES**

### **(APPOINTMENT OF)**

**Madam President:** Hon. Senators, I wish to draw your attention to the correspondence dated November 11<sup>th</sup>, 2020 from the Speaker of the House in relation to the appointment of Members of the House of Representatives to Joint Select Committees. As a result of the large number of committees and appointments listed in said correspondence, the Clerk was directed to circulate same to all Members in an effort to efficiently utilize the Senate's time.

### **PAPERS LAID**

1. Civil Aviation [(No. 9) Approved Training Organisation] (Amendment) Regulations, 2020. [*The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan)*]

2. Civil Aviation [(No. 12) Aerodrome Licensing] (Amendment) Regulations, 2020. [*Sen. The Hon. R. Sinanan*]
3. Ministerial Response of the Ministry of Social Development and Family Services to the Seventeenth Report of the Joint Select Committee on Human Rights, Equality and Diversity on an Inquiry into Persons living in Poverty and Extreme Poverty in Trinidad and Tobago with specific focus on Vulnerable Groups. [*The Minister of Social Development and Family Services (Sen. The Hon. Donna Cox)*]
4. Annual Report of the Telecommunications Authority of Trinidad and Tobago for the period October 2018 to September 2019. [*The Minister of Public Administration and Digital Transformation (Sen. The Hon. Allyson West)*]
5. Report of the Auditor General of the Republic of Trinidad and Tobago on the Statement of Recovery of Expenses of the Ministry of Energy and Energy Industries for the year ended December 31, 2019. [*The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan)*]
6. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the San Juan/Laventille Regional Corporation for the year ended September 30, 2016. [*Sen. The Hon. F. Khan*]
7. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the San Juan/Laventille Regional Corporation for the year ended September 30, 2017. [*Sen. The Hon. F. Khan*]
8. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Airports Authority of Trinidad and Tobago for the year ended December 31, 2014. [*Sen. The Hon. F. Khan*]

9. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Airports Authority of Trinidad and Tobago for the year ended December 31, 2015. [*Sen. The Hon. F. Khan*]
10. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Airports Authority of Trinidad and Tobago for the year ended December 31, 2016. [*Sen. The Hon. F. Khan*]
11. Response of the Trinidad and Tobago Police Service to the Fourteenth Report of the Joint Select Committee on Social Services and Public Administration on an Inquiry into the Challenges of Prisoner Re-entry into Society and Prisoner Reintegration Services in Trinidad and Tobago. [*Sen. The Hon. F. Khan*]

## **URGENT QUESTIONS**

### **Closure of UTT Campuses**

#### **(Government's Intention to Mitigate Fallout)**

**Sen. David Nakhid:** To the Minister of Education: In light of the UTT's decision to close four of its campuses, can the Minister advise as to how the Government intends to mitigate against the socio-economic and psychological fallout from said decision?

**Madam President:** Minister of Education, you have two minutes.

**The Minister of Education (Hon. Dr. Nyan Gadsby-Dolly):** Thank you, Madam President. UTT has taken the decision to consolidate its campuses in order to keep operating costs at the minimum in this time of funding difficulty. While the O'Meara, Corinth, Chaguanas and Valsayn campuses are closing, students and staff will be filtered to the seven campuses located nationwide: Tamana in the east, Chaguaramas in the north-west, John D. in Port of Spain, ECIAF in Centeno east, Point Lisas in south/central, San Fernando in south, Academy of the Performing

Arts which is APA in Port of Spain and Camden in Couva central. Thank you, Madam President.

**Sen. Nakhid:** Madam President, was this done in consultation with the students and staff—of those who have to be relocated?

**Madam President:** Minister.

**Hon. Dr. N. Gadsby-Dolly:** Thank you, Madam President. The UTT is managed by a board and the board is cognizant of the details and financial information that is necessary for this type of decision and therefore that type of decision is not one taken in consultation with students, that is a decision taken by a board in response to financial circumstances.

**Sen. Nakhid:** Madam President, my question was: Was this done in consultation, in strategizing with the students and the staff? She has said—

**Madam President:** You just have to pose a question.

**Sen. Nakhid:** Okay, I repeat my question. It is a yes or no.

**Madam President:** Yes.

**Sen. Nakhid:** Was this done in consultation with any of the students and staff who will be relocated?

**Madam President:** Sen. Nakhid, that question will not be allowed. Next question, Sen. Nakhid.

### **Establishment of Bursary for Students**

#### **(Institution Responsible for)**

**Sen. David Nakhid:** To the Minister of Education: Given the Government's decision to establish a bursary to cater for approximately 500 students as a result of a reduction in the number of national scholarship awards, can the Minister indicate which institution will be responsible for administering this arrangement?

**The Minister of Education (Hon. Dr. Nyan Gadsby-Dolly):** Thank you, Madam

President. The Ministry of Education will administer the 500 bursaries. [*Desk thumping*]

**Sen. Nakhid:** Madam President, what criteria will be used for the selection of these students, please?

**Madam President:** That question does not arise. You have one more that you can ask.

**Sen. Nakhid:** Madam President, since it is up to the discretion of the Minister of Education, how do we know that no discrimination will be pursued in selecting those for the bursaries?

**Madam President:** Sen. Nakhid, that question does not arise. Next question, Sen. Mark.

### **COVID-19 Outbreak at Maximum Security Prison**

#### **(Measures to Address)**

**Sen. Wade Mark:** Thank you, Madam President. To the Minister of National Security: Given reports of an outbreak of COVID-19 among prisoners housed at the Maximum Security Prison, can the Minister indicate what measures are being taken to address these prisoners' health and safety concerns?

**The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat):** Thank you, Madam President. Four measures in particular have been taken. The first is that from the outset the prison system built out a parallel system for inmates who may test positive and also for the primary contacts to be dealt with. The system has been in place from the early days of the COVID in Trinidad and Tobago.

The second measure is that the prisons continue to work closely with the Ministry of Health to isolate inmates and to treat those who have been tested positive within the prison system.

The third measure is that the prisons continue to take the appropriate precautions in line with the advice of the Ministry of Health and the situation involving COVID nationally and the situation involving COVID in the prisons is being monitored closely.

And finally, Madam President, in relation to the Maximum Security Prison, there is a space that was identified very early and is being specifically and exclusively used to house the inmates who have tested positive and to keep them separate from the Maximum Security population. Thank you.

**Madam President:** Sen. Mark.

**Sen. Mark:** Yes. Madam President, can the Minister indicate how many frontline doctors, nurses and appropriate medication have been used to treat with these inmates who are claiming that they have been left without any treatment or attention by the medical authorities?

**Sen. The Hon. C. Rambharat:** Madam President, as with any other COVID case in Trinidad and Tobago, the healthcare resources, which are available in the country, the support of the regional partners and the support of the international partners is available to the prison system and in particular via the North Central Regional Health Authority. So the prison system benefits from the same support that the country benefits from taking into consideration, Madam President, that it is not a normal facility so the Ministry of Health and the Ministry of National Security, together with the Trinidad and Tobago Prisons Service, work in relation to matters which are specific to the prison.

**Madam President:** Sen. Mark.

**Sen. Mark:** Yes. Madam President, could the Minister indicate what provisions have been put in place to protect prison officers who are tasked with supervising and engaging with these prisoners?

**Madam President:** Sen. Mark, that question does not arise based on the question posed. Next question, Sen. Richards.

### **Cuts to GATE Funding**

#### **(Expected Number of Affected Students)**

**Sen. Paul Richards:** Good afternoon, colleagues. Thank you, Madam President. To the Minister of Education: Can the Minister indicate the expected number of tertiary level students who will be affected by cuts to GATE as announced by the Government?

**The Minister of Education (Hon. Dr. Nyan Gadsby-Dolly):** Thank you, Madam President. For academic year 2020/2021, none of the approximately 30,000 GATE funded students will be affected by changes in the GATE policy. The approximately 800 post-graduate students currently receiving GATE will continue to do so until the end of the academic year 2020/2021. New students will not be eligible.

There are approximately 900 students in Jamaica and Barbados including the 2020 intake will be funded at the present level of GATE for the normal duration of their programmes. Future students applying for GATE at those institutions will receive funding at the cost level of these courses at the St. Augustine Campus.

**Madam President:** Sen. Richards.

**Sen. Richards:** Thank you, Madam President. Thank you, Minister, for the response. Can the Minister indicate, given the announcement by the Government, the quantum of expenditure expected to be reduced relative to the students who will not be funded in the future?

**Hon. Dr. N. Gadsby-Dolly:** The quantum is estimated at approximately \$30 million.

### **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, we will be answering all questions. [*Desk thumping*]

### WRITTEN ANSWER TO QUESTION

#### COVID-19 Biohazardous Waste and Hospital Amenities

##### (Disposal of)

**18. Sen. Jayanti Lutchmedial** asked the hon. Minister of Health:

As regard to the disposal of biohazardous waste and the sanitizing of hospital amenities at the institutions where COVID-19 positive patients are treated, can the Minister provide:

- i) the names of the external contractors engaged to provide these services; and
- ii) the sums paid by each Regional Health Authority and/or the Ministry of Health to the external contractors?

*Vide end of sitting for written answer.*

### ORAL ANSWERS TO QUESTIONS

#### COVID-19 Private Tests

##### (Details of)

**1. Sen. Wade Mark** asked the hon. Minister of Health:

Given the commitment made by several private medical institutions that patients who test positive for COVID-19 would receive their results between 48 to 72 hours following the test, can the Minister indicate whether these tests must be sent to the Ministry prior to the patients being advised of their results?

Question one.

**The Minister of Health (Hon. Terrence Deyalsingh):** Thank you very much,

Madam President. The test results are sent directly to the patients and the Ministry is informed of positive COVID-19 cases for further follow-up action on clinical treatment and care. As a precautionary measure, if the private sector laboratories believe there is a possibility of a false positive result, then the sample will be sent for CARPHA for retesting in the first instance. Thank you very much.

**Madam President:** Sen. Mark.

**Sen. Mark:** Madam President, can the Minister indicate how many private sector laboratories are engaged in these tests?

**Madam President:** Sen. Mark, that question does not arise.

**Sen. Mark:** Madam President, can the hon. Minister indicate how effective this arrangement has been thus far?

**Madam President:** Minister.

**Hon. T. Deyalsingh:** Thank you very much, Madam President. Within the bounds of the accuracy of the PCR tests, which are about 99.5 per cent correct, that will be the parameters under which we could guarantee results. No COVID test, including PCR, is 100 per cent accurate but the PCR we do in Trinidad is over 99 per cent correct. So I hope that comforts the population and my colleague.

**Madam President:** Sen. Mark.

**Sen. Mark:** Madam President, can the Minister indicate how many citizens have accessed these private sector laboratories thus far?

**Madam President:** Sen. Mark, that question does not arise. You have one more.

**Sen. Mark:** Can the Minister indicate whether the Government has been putting the relevant mechanisms in place to monitor these private sector laboratories?

**Madam President:** Minister.

**Hon. T. Deyalsingh:** Thank you very much, Madam President. The answer is yes and it is done under the Office of the Chief Medical Officer. Thank you very much.

[*Desk thumping*]

**COVID-19 Positive Patients Monitoring  
(Systems in Place)**

2. **Sen. Wade Mark** asked the hon. Minister of Health:

Can the Minister indicate what systems are in place to ensure medical monitoring of COVID-19 positive patients who have been directed to self-isolate?

**The Minister of Health (Hon. Terrence Deyalsingh):** Thank you again, Madam President. The medical monitoring of COVID-19 positive patients on self-isolation is conducted at several levels within the public healthcare system to ensure adequate clinical assessment and follow-up treatment and care provided. These interventions include:

1. Follow-up care and clinical assessment twice per day by the respective County Medical Officer for the area.
2. The provision of pulse oximeters to patients where medical officers can track and monitor the patient's oxygen levels through tele-medicine.
3. The availability of medical officers at the COVID-19 hotline for advice and follow-up care and intervention.
4. The immediate intervention of the National Emergency Ambulance Service Provider, GMRTT, for treatment and care if any adverse circumstances do arise.
5. The list of self-isolation patients is shared with the Trinidad and Tobago Police Service to ensure adherence and compliance with the measures under the Quarantine Act.
6. The use of a daily monitoring tool to track the number of new active symptomatic and asymptomatic cases and those patients who are

hospitalized, discharged and have unfortunately passed.

Thank you very much, again, Madam President.

**Madam President:** Sen. Mark.

**Sen. Mark:** Can the hon. Minister indicate how effective the monitoring by the Trinidad and Tobago Police Service has been thus far?

**Madam President:** Minister.

**Hon. T. Deyalsingh:** Thank you very much. I cannot give an actual percentage but it has been extremely, extremely effective. However, as in all systems where human behaviour occurs, there have been one or two patients, admittedly—and we have said so publicly—who have broken quarantine. There was one case in Point Fortin where the gentleman went to a gym twice knowing he was under quarantine. We then alerted the police and he was put under state quarantine and my information is he will be charged, but those are exceptions rather than the rule. Again, no system is 100 per cent foolproof. We do have to rely a lot on the individual responsibility of people but so far, by and large, it has worked well. Thank you very much.

**Madam President:** Sen. Mark.

**Sen. Mark:** Madam President, through you, since the outbreak of COVID-19, can the Minister indicate how many citizens have been asked to self-isolate? Can you share with us the number of patients that have been asked to self-isolate thus far?

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

**Sen. Mark:** Now the Minister talked about some county medical doctor visiting twice per day the particular patient in question. Can the Minister indicate how effective that system has been thus far?

**Madam President:** Minister.

**Hon. T. Deyalsingh:** Thank you again, Madam President. To my colleague, thank

you for the question. That system, now it is not the individual County Medical Officer of Health, we have staffed them with additional resources and they do the actual follow ups, mainly by telephone. It has proven to be extremely effective. They get their calls on mornings and evenings. They are asked, for those who have the pulse oximeters, tell us what your heart rate is, your pulse rate, tell us what your oxygen saturation levels are, how you are feeling and so on. So from that end, it has proven to be extremely effective. Thank you, Madam President.

**Increase in COVID-19 Cases  
(Government's Plans to Address)**

**3. Sen. Wade Mark** asked the hon. Minister of Health:

In light of the increase in the number of COVID-19 positive cases, particularly over the period August 01-31, 2020, can the Minister indicate:

- (i) what action is being taken by the Government to ensure that persons who undergo testing receive their results within 24 hours; and
- (ii) what are the Government's plans for increasing the rate of testing?

**The Minister of Health (Hon. Terrence Deyalsingh):** Yes. Thank you again, Madam President. This Government has taken several measures to increase the rate of testing in both the public and private sectors. In the first instance, the number of testing sites has increased significantly from one to seven in the public sector. These labs include:

- The UWI virology lab at Eric Williams with a daily capacity of 400 tests per day.
- The laboratory at the Medical Research Foundation, capacity 400.
- Laboratory at North Central Regional Health Authority, capacity 200 per day.
- Laboratory at the South West Regional Health Authority, capacity 100

per day.

- Laboratory at the Tobago Regional Health Authority, capacity 50 per day.
- At the Eastern Regional Health Authority, capacity 50 per day; and
- The laboratory of the Trinidad Public Health Laboratory, commonly called TPHL, daily capacity of 50 per day.

Thank you very much, Madam President.

**Madam President:** Sen. Mark.

**Sen. Mark:** Madam President, does the Government intend to introduce any mobile testing systems or sites where people can drive through in order to get their test conducted? Is there any intention on the part of the Government to introduce such a system as exists in the United States and in Korea?

**Madam President:** Minister.

**Hon. T. Deyalsingh:** Thank you very much, Madam President. We are looking at the feasibility of that, especially now that we have the rapid antigen tests. So we are looking at that feasibility and that plan. If you ask a supplemental as to when, I could not give you a date as yet but it is something that we are looking at. Thank you very much for the question.

**Madam President:** Sen. Mark.

**Sen. Mark:** The rapid antigen test, as the Minister referred to them a short while ago, can the Minister indicate, Madam President, how many of these rapid antigen tests have been deployed thus far in the system?

**Madam President:** Minister.

**Hon. T. Deyalsingh:** Thank you very much, Madam President. As indicated at a press conference some time ago, when you introduce a new testing regime into an established system, you do not go cold turkey, you have to put on your training

wheels all that is being done now. Some of those pieces of equipment have already been deployed in Tobago, Sangre Grande and TPHL for validation by CARPHA first. So we have to validate the machines, that is ongoing, training is ongoing. Once validation and training have been completed, hopefully within the next two weeks, then Tobago, Eastern and Port of Spain will start to ramp up their individual testing. That is phase one.

When we are comfortable that the results we are getting match closely with the PCR standard, then we start to roll it out in phase two across all accident and emergencies and all district health facilities like Couva, like Siparia and so on, Rio Claro and so on. So that is the plan moving forward. We have already deployed, we are training now and we are validating now. Thank you very much, my colleague.

**Madam President:** Sen. Mark.

**Sen. Mark:** Madam President, through you, can the Minister give us a time frame for the implementation of this rapid antigen system given the fact that various phases have to be completed before that system is applied? Can he share with us when it will be effective and people can be—?

**Hon. T. Deyalsingh:** I appreciate the question because it is an important question. It will be difficult to give an exact date now, it all depends on the results of the validation. So as I said, the validation is ongoing now. Once the validation is finished and we start to test it out at three sites, depending on what we get then, then we can have a firmer date as to roll out. But I do not want to commit to a date right now because I will be misleading the House and I really do not want to do that. Thank you very much, Madam President.

**Madam President:** Sen. Mark.

**Sen. Mark:** Hon. Minister, can you tell us where these rapid antigen test kits have

come from geographically and whether, in that context, they have been approved by the World Health Organization?

**Madam President:** One question. Senator—Minister. Minister of Health.

**Hon. T. Deyalsingh:** Thank you very much. [*Laughter*] I used to be a Senator. Important question, those test kits have been purchased through PAHO which is a WHO organization and have been validated by WHO and PAHO. The reason why we did not go with earlier tests is because those earlier tests, in the infancy of that technology a few months ago, the rate of false negatives which is dangerous—a false negative is more dangerous than a false positive—the rates of false negatives in those early tests were as much as between 25 to 50 per cent. So we did not go with that, we waited until the technology was tried and proven and it is almost as accurate as the PCR and as stated, as I said, we are validating that right now. But they were purchased through PAHO. Thank you very much, Madam President.

### **Trafigura Pte Limited**

#### **(Details of Payments)**

- 6. Sen. Anil Roberts** asked the hon. Minister of Energy and Energy Industries: Can the Minister indicate the following:
- (i) whether Paria Fuel Trading Company Limited made payments to Trafigura Pte Limited for the purchase of approximately 200,000 barrels of gasoline/fuel, during the period March to April 2020;
  - (ii) if the answer to (i) is in the affirmative, how much money was paid to Trafigura Pte Limited; and
  - (iii) from which Paria Fuel Trading Company's account were said payments made?

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Thank you very much, Madam President.

In answer to (i), during the period March to April 2020, Paria Fuel Trading Company Limited purchased 1.24 million barrels of gasoline from Trafigura Pte Limited.

(ii). The sum paid to Trafigura were in accordance with the supply contract with Paria. The price is based on US Gulf Coast Waterborne from the Platts US market scan plus a premium which is typical for the fuel trading business.

(iii). These transactions were conducted from Paria Fuel Trading Company Limited day-to-day operational bank accounts.

**Madam President:** Sen. Roberts.

**Sen. Roberts:** Could the Minister advise on February 27<sup>th</sup>, 2020, was one of these shipments purchased by Paria originating out of Augustus, Italy, and under consignment to Shell rather than Trafigura?

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

**2.00 p.m.**

**Sen. Roberts:** At what stage did the cargo transfer from Shell to Trafigura on its way to Pointe-a-Pierre at Paria?

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

**Sen. Roberts:** Was this gasoline purchased from Trafigura for domestic sale or for resale?

**Madam President:** Minister.

**Sen. The Hon. F. Khan:** Madam President, as is public knowledge, Paria is involved in supplying the domestic market in addition to the Caricom market. So its supply— just like money, gasoline is fungible. Some is supplied to the local market. Some is exported largely to the Caricom market.

**Madam President:** Sen. Roberts.

**Sen. Roberts:** So the issue there is—or Aruba or Venezuela, members of

Caricom?

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

### **Payments Received from ES Euro Shipping SA**

#### **(Details of)**

7. **Sen. Anil Roberts** asked the hon. Minister of Energy and Energy Industries: Can the Minister indicate the following in respect of payments received from ES Euro Shipping SA on the sale of 148,968 barrels of gasoline/fuel:
- (i) when was payment received by Paria Fuel Trading Company Limited;
  - (ii) what is the exact amount received; and
  - (iii) into which account was payment received?

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Thank you, Madam President. Madam President, in answer to 7(i) and (iii), on April 15, 2020, payment from ES Euro Shipping SA was transferred from Deutsche Bank to Paria's account at the Royal Bank of Canada.

In response to question 7(ii), obviously, for commercial reasons the payment received from ES Euro Shipping SA on the sale of the 148,968 barrels of gasoline or fuel by Paria Fuel Trading Limited cannot be disclosed.

**Sen. Roberts:** In light of an advertisement printed in the daily public newspapers where a—

**Madam President:** Sen. Roberts, the first thing that has to happen is that I have to recognize you. So I now recognize you to ask your supplementary question.

**Sen. Roberts:** Thanks very much, Madam President. In light of a public advertisement printed in all three daily newspapers where Paria Fuel Trading Limited told the nation that the payment went into its RBC account, is the Minister now saying that that information is secret having been put into all the daily

newspapers on the 15<sup>th</sup> of April from Deutsche Bank to Paria's RBC account?

**Madam President:** So, while I will allow the question, I will ask that when supplemental questions are being asked that they be as succinct as possible, without statements being made. Minister.

**Sen. The Hon. F. Khan:** Madam President, if the hon. Senator had listened to my answer, I said ES Euro Shipping SA transferred the payment from Deutsche Bank into Paria's account at the Royal Bank of Canada. That is exactly what you said. What I said I cannot disclose is the exact amount and that is subject to confidentiality and non-disclosure agreement.

**Sen. Roberts:** Thank you, Minister. I am glad you clarified. Could you now clarify for me, by document laid in the Parliament of Trinidad and Tobago by the Ministry of Energy and Energy Industries, the invoice dated April 27<sup>th</sup>, with the regard to this payment was, and I have it here, states that the payment is to be made to Paria's First Citizens Bank at 9 Savannah. How is that possible if it went into an RBC account, when the invoice states payment to be made to a First Citizens Bank account?

**Madam President:** Minister.

**Sen. The Hon. F. Khan:** Madam President, well, I am not particularly seized of what the hon. Senator is saying, but if he has that information, it is on the *Hansard* and I will check it to verify if there is some veracity to that and what are the reasons behind it.

**Madam President:** Sen. Roberts.

**Sen. Roberts:** Thank you, Madam President. And while you are checking that, documents that were laid in Parliament by your good self and your Government, please check and please advise—

**Madam President:** Sen. Roberts, please state your question. Okay? A follow-up

question, just state it. Okay?

**Sen. Roberts:** Thank you, Madam President. How can an invoice be paid on the 15<sup>th</sup> of April when the invoice is created on April 27<sup>th</sup>, please, Minister?

**Madam President:** Sen. Roberts, that question—and it is not even a question, really, is not allowed. Next question, Sen. Roberts.

**Sen. Roberts:** Question No. 8, “ah” wish it was “tuh de Minister ah Energy”—Minister of Health, the hon. Minister of Health.

**Madam President:** Minister of Health.

### **Approved/Accredited Private Laboratories**

#### **(Number of)**

**8. Sen. Anil Roberts** asked the hon. Minister of Health:

Can the Minister indicate the number of private laboratories that have been approved/accredited by CARPHA to conduct COVID-19 testing?

**The Minister of Health (Hon. Terrence Deyalsingh):** Thank you very much again, Madam President. The number of private laboratories that have been approved or accredited by CARPHA to conduct COVID-19 testing is three and they are:

1. The St. Augustine Medical Laboratory Limited.
2. The Caribbean Forensic Services Limited; and
3. Victoria Laboratories Limited.

Thank you very much, Madam President.

**Madam President:** Sen. Roberts.

**Sen. Roberts:** Thank you, Madam President. But CARPHA cannot validate nor accredit laboratories as stated by CMO, Chief Medical Officer, Dr. Parasram. So how can this answer be valid?

**Madam President:** Sen. Roberts, two things. I will not allow that question. And

secondly, I urge you to listen to what I am saying about how you pose supplemental questions. Do you have another supplemental question to ask?

**Sen. Roberts:** On what basis did CARPHA validate and sanction and accredit these three laboratories?

**Madam President:** Minister of Health.

**Hon. T. Deyalsingh:** Thank you. So, Madam President, in my answer I said “approved and/or accredited”. I think we need to focus also on the word “approved”. They do this following their own internal checklist of what the laboratory has or does not have. There is an approved checklist that CARPHA uses. We use it in addition to the Office of the Chief Medical Officer and PAHO. So three entities: CARPHA, PAHO and the Office of the Chief Medical Officer will carry out the approval of these labs against international standards, of course.

**Madam President:** Sen. Mark.

**Sen. Mark:** May I ask, through you, Madam President, for the Minister’s clarification, which body or institution or individual is responsible for granting accreditation to private sector laboratories in the Republic of Trinidad and Tobago?

**Madam President:** Minister of Health.

**Hon. T. Deyalsingh:** Thank you. So, Madam President, in my answer I said “approved and/or accredited”. My colleagues are focusing on the word “accredited”. That is why the answer said approved. Accreditation carries a different connotation which may have legal ramifications. But we will approve it and/or accredit it. Thank you very much, Madam President.

**Madam President:** Next question, Sen. Lutchmedial.

### **Funeral Agencies for COVID-19 Deceased**

#### **(Details of)**

**16. Sen. Jayanti Lutchmedial** asked the hon. Minister of Health:

Can the Minister advise as to the following:

- (i) the names of the funeral agencies approved for the conduct of funerals for deceased COVID-19 patients;
- (ii) the process and criteria by which each funeral agency listed at (i) were selected and approved;
- (iii) the cost agreed between the relevant Regional Health Authorities and the agencies listed at (i); and
- (iv) the party or parties responsible for bearing the costs listed at (iii)?

**The Minister of Health (Hon. Terrence Deyalsingh):** Thank you very much, Madam President. The names of the funeral agencies recommended via the guidelines for the conduct of funerals for deceased COVID-19 patients include: Armour's Funeral Home; Armstrong Memorial Funeral Services; Belgroves Funeral Home; Boodoo's Funeral Home; Clark and Battoo funeral home; Clive Allen Funeral Services; Dass Funeral Home; Guide Funeral Services; Elite Funeral Home; Allen and Sons Funeral Directors; Lee's Funeral Directors; Muslim Funeral Services; de Souza Memorial Chapel; Simpson's Memorial Limited, Shaym Islamic Funeral Services; Union Funeral Home; and Wight's Funeral Home Limited.

The selection was based on the compliance with the Ministry's COVID-19 guidelines for funeral agencies in preparation of facility, staff and conduct of services for deceased COVID-19 patients.

The cost agreed between the Regional Health Authorities and the funeral services engaged for the services range from \$1,500 to \$7,575 per deceased person for services rendered such as transportation, use of facility and crematorium services. And the cost of the services rendered by the funeral agency is shared between the Regional Health Authority and the family. Thank you very much,

Madam President.

**Madam President:** Sen. Lutchmedial?

**Sen. Lutchmedial:** Madam President, supplemental with respect to (ii). Who conducted the exercise whereby— or the assessment of these funeral agencies and approved them in accordance with the guidelines according to the Minister of Health?

**Madam President:** Minister.

**Hon. T. Deyalsingh:** Thank you very much, Madam President. The guidelines were developed by the Office of the Chief Medical Officer and the conduct of the approval was done between the Office of the Chief Medical Officer and the North Central Regional Health Authority. Thank you very much.

**Madam President:** Sen. Lutchmedial.

**Sen. Lutchmedial:** Madam President, through you, can the Minister of Health comment on, given the price range that he has provided us with here, information that was in the public domain of a \$16, 000 bill being given to a family whose loved one was deceased and had been buried in accordance with the guidelines and the approved funeral agency?

**Madam President:** All right. I will allow the question but I will ask you in future to rephrase it to bring it more in line with a supplemental question, but Minister.

**Hon. T. Deyalsingh:** Thank you, Madam President. Madam President, I would not have the granular details of the cost borne by every single family, but if the hon. Senator poses the appropriate question, the research can be done and an answer provided. Thank you very much, Madam President.

**Madam President:** Sen. Lutchmedial.

**Sen. Lutchmedial:** Madam President, is there any consultation with the family with respect to the cost and with respect to which agency is selected prior to the

agency being—sorry, is there any consultation with the family during the process of assigning a funeral agency to deal with the disposal of the remains of a person who died from COVID?

**Madam President:** Minister.

**Hon. T. Deyalsingh:** Thank you very much, Madam President. That is done between the family and the North Central Regional Health Authority. Because the North Central Regional Health Authority is the one where all the health care facilities, where people unfortunately passed due to COVID are housed, either Couva, Arima. So those discussions are normally held between the North Central Regional Health Authority and the family. Thank you very much, Madam President.

**Madam President:** Sen. Lutchmedial.

### **Disposal of Biohazardous Waste**

#### **(Details of)**

**17. Sen. Jayanti Lutchmedial** asked the hon. Minister of Health:

Can the Minister advise as to the following:

- (i) the protocols for the disposal of biohazardous waste and the sanitizing of hospital amenities at the institutions where COVID-19 positive patients are treated; and
- (ii) the department in each Regional Health Authority, or otherwise, responsible for verifying and confirming the carrying out of the disposal and sanitation processes referred to at (i)?

**The Minister of Health (Hon. Terrence Deyalsingh):** Thank you again, Madam President. The protocol for the disposal of biohazardous waste and the sanitizing of hospital amenities at the institutions where COVID-19 positive patients are treated are guided by the following:

- (a) The infection prevention and control policies and guidelines for health services of the Ministry of Health and those specific to the Regional Health Authorities.
- (b) The guidelines for treatment of biomedical waste by the Pan American Health Organization.

Two, in each of the Regional Health Authorities, the following department is responsible for verifying and confirming the carrying out of disposal and sanitation processes:

- (a) The Environmental Department at North West Regional Health Authority;
- (b) The Engineering Department at North Central RHA;
- (c) The Facilities Department at ERHA, Eastern;
- (d) The Engineering Department at South West Regional Health Authority.

Thank you very much, Madam President.

**Madam President:** Sen. Lutchmedial.

**Sen. Lutchmedial:** The other parts of that particular question, No. 18, were placed on the Order Paper for Written Answer. They were on the 21<sup>st</sup> of October. May I ask for an update on those please?

**Madam President:** Leader of Government Business, the response to Question No. 18, it is supposed to be a written response. Is it available?

**The Minister of Energy and Energy Affairs (Sen. The Hon. F. Khan):** Madam President, although I boasted that we will be answering all questions, I seek your indulgence to ask for deferral of Written Answer No. 18 from the Minister of Health for two weeks.

**Madam President:** So Question No. 18 is deferred for two weeks. Minister?

**Sen. The Hon. F. Khan:** Motions relating?

**Madam President:** So, Leader of Government Business, the Minister has indicated the answer to Question No. 18 will be circulated in today's proceedings. Okay? Leader of Government Business.

**Sen. The Hon. F. Khan:** Thank you, Madam President. Having regard to the correspondence from the Speaker of the House—

**Madam President:** Minister, just hold one second.

### **PUBLIC ACCOUNTS COMMITTEE**

#### **(APPOINTMENT OF)**

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Madam President, having regard to the correspondence from the Speaker of the House dated November 11, 2020, in relation to the appointment of Members to the Joint Select Committees, I beg to move that the following four Members be appointed to serve with an equal number from the House of Representatives on the Public Accounts Committee:

Mrs. Paula Gopee-Scoon

Mr. Randall Mitchell

Ms. Jearlean John

Mrs. Charrise Seepersad

*Question put and agreed to*

### **PUBLIC ACCOUNTS (ENTERPRISES) COMMITTEE**

#### **(APPOINTMENT OF)**

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Madam President, I beg to move that the following four Members be appointed to serve with an equal number from the House of Representatives on the Public Accounts (Enterprises) Committee:

Mrs. Renuka Sagrarsingh-Sooklal

Mrs. Laurel Lezama-Lee Sing

Mr. Wade Mark

Ms. Amrita Deonarine

*Question put and agreed to*

### **JOINT SELECT COMMITTEE**

#### **(APPOINTMENT OF)**

#### **Public Administration and Appropriations**

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Madam President, I beg to move that the following five Members be appointed to serve with an equal number from the House of Representatives on the Public Administration and Appropriations Committee:

Mr. Clarence Rambharat

Mr. Hassel Bacchus

Ms. Yokymma Bethelmy

Mr. Wade Mark

Ms. Amrita Deonarine

*Question put and agreed to.*

#### **Parliamentary Broadcasting**

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Madam President, I beg to move that the following four Members be appointed to serve with an equal number from the House of Representatives on the Joint Select Committee on Parliamentary Broadcasting:

Ms. Christine Kangaloo

Mr. Avinash Singh

Mr. David Nakhid

Dr. Maria Dillon-Remy

*Question put and agreed to.*

#### **Government Assurances**

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Madam President, I beg to move that the following four Members be appointed to serve with an equal number from the House of Representatives on the Joint Select Committee on Government Assurances:

Ms. Christine Kangaloo

Ms. Yokymma Bethelmy

Mr. Damian Lyder

Dr. Varma Deyalsingh

*Question put and agreed to.*

#### **Finance and Legal Affairs**

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Madam President, I beg to move that the following four Members be appointed to serve with an equal number from the House of Representatives on the Joint Select Committee on Finance and Legal Affairs:

Mr. Clarence Rambharat

Mrs. Renuka Sagramsingh-Sooklal

Ms. Jayanti Lutchmedial

Mrs. Hazel Thompson-Ahye

*Question put and agreed to.*

#### **Land and Physical Infrastructure**

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Madam President, I beg to move that the following four Members be appointed to serve with an equal number from the House of Representatives on the

Joint Select Committee on Land and Physical Infrastructure:

Mr. Franklin Khan

Mr. Nigel De Freitas

Mr. Anil Roberts

Mr. Deeroop Teemal

*Question put and agreed to.*

### **Social Services and Public Administration**

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Madam President, I beg to move that the following four Members be appointed to serve with an equal number from the House of Representatives on the Joint Select Committee on Social Services and Public Administration:

Mr. Rohan Sinanan

Ms. Allyson West

Mr. David Nakhid

Mr. Paul Richards

*Question put and agreed to.*

### **Local Authorities, Service Commissions and Statutory Authorities (Including the THA)**

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Madam President, I beg to move that the following four Members be appointed to serve with an equal number from the House of Representatives on the Joint Select Committee on Local Authorities, Service Commissions and Statutory Authorities (Including the THA):

Mr. Nigel De Freitas

Mrs. Renuka Sagramsingh-Sooklall

Ms. Jayanti Lutchmedial

Dr. Varma Deyalsingh

*Question put and agreed to.*

### **State Enterprises**

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Madam President, I beg to move that the following four Members be appointed to serve with an equal number from the House of Representatives on the Joint Select Committee on State Enterprises:

Mrs. Paula Gopee-Scoon

Mrs. Laurel Lezama-Lee Sing

Mr. Wade Mark

Mr. Anthony Vieira

*Question put and agreed to.*

### **National Security**

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Madam President, I beg to move that the following four Members be appointed to serve with an equal number from the House of Representatives on the Joint Select Committee on National Security:

Mr. Randall Mitchell

Mr. Nigel De Freitas

Ms. Jayanti Lutchmedial

Mr. Paul Richards

Sorry, Madam President, providing that any Member who the Committee, by a majority, determines as a conflict of interest be disqualified from the Committee without recourse to the House.

**Sen. Mark:** Madam President—

**Madam President:** No, Sen. Mark. Those questions are put without any sort of

deliberations, any sort of comments from the floor.

*Question put.*

**Sen. Mark:** No! We want a division. We do not think that power should be in the hands of—that is a dictatorship.

**Madam President:** Sen. Mark, the division is being called and I would ask for comments to be—

*The Senate divided:*      Ayes            17            Noes            8

## **AYES**

Khan, Hon. F.

Gopee-Scoon, Hon. P.

Rambharat, Hon. C.

Sinanan, Hon. R.

Hosein, Hon. K.

West, Hon. A.

Mitchell, Hon. R.

De Freitas, N.

Cox, Hon. D.

Singh, Hon. A.

Sagransingh-Sooklal, Hon. R.

Bacchus, Hon. H.

Lezama-Lee Sing, Mrs. L.

Bethelmy, Ms. Y.

Thompson-Ahye, Mrs. H.

Dillon-Remy, Dr. M.

Welch, E.

## **NOES**

**Mr. Mark:** No, we do not support.

**Madam President:** Sen. Mark, please. It is a simple yes or no. No means that you do not support it.

*Division continued.*

John, Ms. J.

Lutchmedial, Ms. J.

Nakhid, D.

Lyder, D.

Roberts, A.

Deyalsingh, Dr. V.

Seepersad, Ms. C.

*The following Senators abstained:* Mr. P. Richards, Mr. A. Vieira, Ms. A. Deonarine.

*Question agreed to.*

**Madam President:** Leader of Government Business.

### **Energy Affairs**

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Madam President, I beg to move that the following four Members be appointed with an equal number from the House of Representatives to serve on the Joint Select Committee on Energy Affairs:

Mrs. Paula Gopee-Scoon

Mr. Kazim Hosein

Mr. Anil Roberts

Ms. Charrise Seepersad

*Question put and agreed to.*

### **Foreign Affairs**

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Madam President, I beg to move that the following four Members be appointed to serve with an equal number from the House of Representatives on the Joint Select Committee on Foreign Affairs:

Mrs. Paula Gopee-Scoon

Mr. Avinash Singh

Mr. Anil Roberts

Dr. Maria Dillon-Remy

*Question put and agreed to.*

#### **Human Rights, Equality and Diversity**

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Madam President, I beg to move that the following four Members be appointed to serve with an equal number from the House of Representatives on the Joint Select Committee on Human Rights, Equality and Diversity:

Mr. Kazim Hosein

Ms. Donna Cox

Ms. Jearlean John

Mrs. Hazel Thompson-Ahye

*Question put and agreed to.*

#### **Constitution (Amdt.) (Tobago Self-Government) Bill, 2020**

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Madam President, having regard to the correspondence from the Speaker of the House dated October 16, 2020, in relation to the establishment of a Joint Select Committee to consider and report on the Constitution (Amdt.) (Tobago Self-Government) Bill, 2020, I beg to move that the Senate concur with the House of Representatives in the establishment of the committee and that the following six

Senators be appointed to serve:

Mr. Clarence Rambharat

Mr. Nigel De Freitas

Mrs. Renuka Sagramsingh-Sooklal

Ms. Jearlean John

Dr. Varma Deyalsingh

Dr. Maria Dillon-Remy

*Question put and agreed to.*

**2.30 p.m.**

**Miscellaneous Provisions (Local Government Reform) Bill, 2020**

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Madam President, having regard to the correspondence from the Speaker of the House dated October 16, 2020 in relation to the establishment of a Joint Select Committee to consider and report on the Miscellaneous Provision (Local Government Reform) Bill, 2020, I beg to move that the Senate concur with the House of Representatives in the establishment of the Committee and that the following six Senators be appointed to serve:

Mr. Clarence Rambharat

Mr. Kazim Hosein

Mrs. Laurel Lezama-Lee Sing

Mr. Anil Roberts

Mr. Paul Richards

Mr. Deeroop Teemal

*Question put and agreed to.*

**Cannabis Control Bill, 2020**

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

**Khan):** Madam President, having regard to the correspondence from the Speaker of the House dated October 16, 2020 in relation to the establishment of a Joint Select Committee to consider and report on the Cannabis Control Bill, 2020, I beg to move that the Senate concur with the House of Representatives in the establishment of the Committee and that the following six Senators be appointed to serve:

Ms. Paula Gopee-Scoon

Mr. Clarence Rambharat

Mrs. Renuka Sagramsingh-Sooklal

Ms. Jayanti Lutchmedial

Mr. Paul Richards

Mr. Evans Welch

*Question put and agreed to.*

**Representation of the People (Amdt.) (No. 2) Bill, 2020**

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Madam President, having regard to the correspondence from the Speaker of the House dated October 16, 2020 in relation to the establishment of a joint select committee to consider and report on the Representation of the People (Amdt.) (No. 2) Bill, 2020, I beg to move that the Senate concur with the House of Representatives in the establishment of the Committee and that the following six Senators be appointed to serve:

Mr. Clarence Rambharat

Mr. Nigel De Freitas

Mr. Randall Mitchell

Mr. Wade Mark

Mr. Paul Richards

Mr. Deeroop Teemal

*Question put and agreed to.*

**Fisheries Management (No. 2) Bill, 2020**

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Madam President, having regard to the correspondence from the Speaker of the House dated November 11, 2020 in relation to the appointment of members of the Joint Select Committee to consider and report on the Fisheries Management (No. 2) Bill, 2020, I beg to move that the following six Senators be appointed to serve on this Committee:

Mr. Franklin Khan

Mr. Clarence Rambharat

Ms. Yokymma Bethelmy

Mr. Damian Lyder

Dr. Varma Deyalsingh

Dr. Maria Dillon-Remy

*Question put and agreed to.*

**Shipping Bill, 2020**

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Thank you, Madam President. And, Madam President, finally, having regard to the correspondence from the Speaker of the House dated November 11, 2020 in relation to the appointment of members of the Joint Select Committee established to consider and report on the Shipping Bill 2020, I beg to move that the following six Senators be appointed to serve on this Committee:

Ms. Paula Gopee-Scoon

Mr. Rohan Sinanan

Mr. Randall Mitchell

Ms. Jearlean John

Ms. Charisse Seepersad

Mr. Deeroop Teemal

*Question put and agreed to.*

### **ARRANGEMENT OF BUSINESS**

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Thank you, Madam President. Madam President, I have been in contact with the Leader and Coordinator of the Benches opposite and with regard to today's proceedings an agreement was reached that Private Members Business will be considered instead of Government Business. As such, debate will commence on Motion No. 1 under Private Members Business as listed on the Order Paper.

**Madam President:** Hon. Senators in accordance with Standing Order 117, I wish to announce that an agreement was reached that Private Members Business will be considered instead of Government Business at today's sitting of the Senate, in particular, Motion No. 1 under Private Members Business as listed on the Order Paper.

### **COVID-19 Pandemic**

#### **(Speaking Time in Debates)**

**Madam President:** Hon. Senators, further to the Motion passed on August 29 and October 23, 2020, in relation to speaking time during the period of the COVID-19 pandemic, the time limit for speeches in debate will now revert to being limited to 30 minutes for the mover or Member wrapping up and the first speaker on the Opposition and Independent benches, and 20 minutes for all other speakers. Sen Vieira.

### **SERVICE COMMISSIONS REFORM**

**Sen. Anthony Vieira:** Madam President, I beg to move the following Motion standing in my name:

*Whereas* the four (4) constitutionally entrenched Service Commissions namely the Public Service Commission, the Police Service Commission, the Teaching Service Commission and the Judicial and Legal Service Commission have been charged with the responsibility for the appointment, promotion, transfer and discipline within the Public Service;

*And whereas* the Service Commissions were also established to insulate persons holding or acting in public office from political influence, patronage and discrimination;

*And whereas* reported deficiencies within these Service Commissions have negatively impacted the Public Service including the extended delay within the systems of appointment, promotion and disciplinary control of public officials;

*And whereas* no definitive action has been taken by Governments to restructure the systems and operations of Service Commissions to better regulate the functions of the Public Service and improve service delivery to citizens;

*Be it resolved* that this Senate call on the Government to review the Trinidad and Tobago Constitution and the enshrined Service Commissions and to table in Parliament, within a reasonable time, a clear plan for the update of the Constitution and reform of the Commissions.

Madam President, my purpose in bringing this Motion is to ascertain whether our Service Commissions, public, police, teaching, judicial and legal are fulfilling their missions. And if not, then to pinpoint where the failings lie and hopefully to come up with solutions.

While this Motion zeroes in on the role and the functions of the Service Commissions, in a broader sense it is also about the country's overarching administrative structure and about improving service delivery on the part of the executive and the public service, both of whom share a common objective of achieving outcomes for the people of Trinidad and Tobago.

This Motion is not about pinning blame or criticism on any group of persons, but about seeking improvements over processes to achieve desired outcomes. Indeed, let me recognize from the outset the competence, commitment and professionalism of many fine persons who serve on the Service Commissions and those public servants who are devoted to duty and giving their best within a stifling bureaucratic environment, often under-resourced and under-funded. If I were to characterize the situation, I would describe the Service Commissions as a boat designed with noble and ambitious intentions. However, having sailed for 58 years since Independence in the last century the vessel is now aged and may be faulty and leaking. While the hands on deck may be labouring hard to keep the vessel afloat and on course, the country has an interest in determining whether it is still fit for purpose, whether it is in need of upgrade and repair, or whether it has outlived its usefulness and should be replaced with a craft which is sleeker, more fuel efficient, and better suited to the needs and circumstances of the time.

The Service Commissions are independent agencies of the State established under the Constitution to ensure equal opportunity to citizens in employment and promotion in the civil service. Like Parliament, and the Judiciary, the Service Commissions and by extension the public service are an important part of our colonial legacy designed to serve as guardians of democracy and the public interest. They are grounded in the separation of powers principle. The statutory mandate of the Service Commissions is to ensure fairness, reasonableness and

justice in the appointment, promotion, transfer, and discipline of public servants.

Essentially, the Service Commissions are quasi-judicial regulatory bodies having thousands of persons under their respective jurisdictions. They are protected under the Constitution from political interference. The applicable law is the Constitution, relevant statute, regulations, codes, orders, the principles of natural justice, and the principles and practices of good industrial relations.

It needs to be noted that the Service Commissions do not manage or exercise any managerial control over the public service. They are not employers and they do not determine the terms and conditions of employment. Rather, they form part of an interlocking system of powers and responsibilities, and under this system the Government and its Ministers determine the public interest in terms of policies and programme priorities, and it falls to public servants within the requirements of the legal framework to advise on, and to implement those decisions.

Ministers are accountable to Parliament for their policies and for the effectiveness of their portfolios, yet they depend entirely on the public service for the implementation and operational efficiency. As their status is based on public law, public servants are servants of the State and they are neutral to party politics. They enjoy security of tenure and cannot be dismissed at Government's pleasure. They are accountable to the Service Commissions for the way in which they administer Government policies. So this symbiosis requires Ministers and the Executive to have confidence in the professionalism and the performance of the public service, and by extension the Service Commissions. There is no code. There are no rules governing the relationship which is largely influenced by convention.

So, it should therefore be self-evident that where any part of this interlocking and finely balanced system is missing, or is weak, or broken, where lines of accountability and responsibility have become blurred, and where there are

fractures or roadblocks the public interest suffers.

In his book *Political Order and Political Decay: From the Industrial Revolution to the Present Day*, political scientist Francis Fukuyama recognizes the need for institutions that can check and channel the impulse to favour friends and family over others if successful political order is to prevail. But he also warns about the potential for political decay when institutions do not adapt to new circumstances because of the self-interest of insiders, cognitive inertia, or conformism. And he perceives this decay as manifesting in a declining quality of bureaucracy ultimately resulting in a weaker and less efficient State.

So in the event, the Service Commissions are a critical cog in this interlocking administrative machinery designed to operate in delicate balance coupled with the rule of law and democratic accountability. If by failing to adapt effectively to changed circumstances the Service Commissions have become unwieldy, inefficient and unresponsive, it puts the entire administrative machinery at risk, and the State's capacity to function effectively and efficiently is impaired. And so, it is against that background that I now want to turn to some of the specifics.

**Appointments:** The Public Service is a career-based institution where persons can only be appointed to established posts. The Fifth Report of the Joint Select Committee inquiring into the Service Commissions and Others during the Tenth Parliament, that was the 2011/2012 session, they concluded that serious problems and challenges will continue to occur especially within new Ministries if immediate efforts are not made to reduce the existing numbers of vacancies.

The Seventh Report of the Joint Select Committee inquiring into the Service Commissions and others during the Eleventh Parliament the 2017/2018 session, they bemoaned the lack of succession planning, problems regarding placement on

the order of merit list, and that the Secretariat of the Public Service Commission is not equipped, is not equipped, with the manpower to efficiently meet the demands of the public service. And yet, we have droves of talented well educated young people who cannot get jobs. Why is there this disconnect? Why is it that persons who have done well in the civil service recruitment exams are not being placed in numerical order, or getting the top placements as they should under the order of merit list? If we accept that the public service is a critical instrument of the modern State and that an efficient bureaucracy serves as the foundation of good governance, then why have we allowed a parallel system using contract workers to develop?

We know—and particularly at this time in our history—we know that there is urgent and important work to be done, yet competent, and willing, and deserving persons are unable to secure employment. Is it fair to have persons working on a three, six, or 12-month contract with no job security and no government—no guaranteed pension in sight? Whatever the reason, it is untenable that in this day and age the Service Commissions still cannot get their act together when it comes to making appointments in a timely and holistic way.

Promotions: The Service Commissions can only make promotions where there are clear vacancies and when recommendations for promotion have been forthcoming from the relevant quarters, with the appropriate notes and recommendations at hand. Bear in mind, the Service Commissions are not the custodians of the data. They rely entirely on others for the information necessary to make promotions. And if the paperwork has not been done correctly, or it is not up to date, then the person deserving promotion remains in limbo.

Promotions are also impacted when persons who are qualified for the post are unaware when those posts become vacant. Promotions are also less than

optimal when seniority matters more than ability, and there is no proper place for measuring and monitoring performance. The Seventh Report of the Joint Select Committee inquiring into the Service Commission and Others during the Eleventh Parliament the 2017/2018 session, they saw as a major challenge the incompleteness of performance appraisals on a continuous basis. They found that:

“6. The tardy submission of performance appraisals is a pervasive matter which has been reported on by previous Joint Select Committees and continues to affect the...”—Service Commissions’—“...efficiency in making appointments and effecting promotions.”

They drew attention to the:

“2. Non-compliance and non-familiarity with the Regulations by Directors of Human Resources and PS’s;”

And they noted the drawbacks of the manual “paper-based system” which is being utilized, and:

“5. The lack of an EDMS system has prolonged the inadequate...”— their words—“...has prolonged the inadequate and ineffective operations of the Commission.”

They recommended that:

“...all internal and external vacancies should be advertised in order to reduce the continued rotation of internal candidates.”

Especially where:

“External candidates may have the required expertise and experience and may be better suited for the existing vacant post.”

The Fifth Report of the Joint Select Committee inquiring into the Service Commissions and Others during the Tenth Parliament 2011/2012 session, they recommended that the current system for promotions which is based on seniority

requires revision in order for consideration to be given to performance rating of the officer over a period of time rather than only the static submission of an up to date performance appraisal report. They concluded that the lack of performance appraisals will not only affect the ability of the Service Commissions to gauge the effectiveness of public officers but also the setting of performance targets. This in turn will impact the public service as a whole in terms of delivery against targets. They recommended that job specifications and compensatory packages should be reevaluated in order to be competitive and attractive to retain suitable candidates.

Transfers: The power to transfer public officers between offices, divisions, and Ministries, again, is vested in the Service Commissions, and yet one hears of transfers being made in breach of the Commission's Regulations. Case law indicates that this may arise for all kinds or reasons, as a means of circumventing disciplinary procedures, as a weapon of victimization, as a measure aimed at maintaining the integrity of an ongoing investigation, or by way of penalty and punishment. The question is: If the power to transfer is properly vested in the Commissions, then, are transfers made outside the Commissions unlawful or invalid? And what are the points? Why should that be happening at all? Is it because the procedure is long and tedious? Is it because of poor succession planning or relevant information not being processed in a timely and helpful manner? Whatever the reason, it is clear that a faster delivery of service needs to be facilitated in this regard.

I turn now to discipline. Under the current system public servants are precluded by law from suing for wrongful or unfair dismissal. They can only be disciplined and removed by the applicable Service Commissions. Ministers have no power to discipline staff. They can only complain to the Permanent Secretary or the head of the public service and hope it will lead to disciplinary proceedings.

Now, when one considers how in another country a certain president and his captains have been able to fire, transfer, and micromanage career civil servants in that country's administration, one sees the wisdom in guarding against political victimization, patronage and clientalism. But this assumes that the disciplinary regimes at our Service Commissions are operating in a timely, efficient and effective manner. And from what I can tell that does not appear to be the case.

The importance of discipline in an organization cannot be understated. Discipline is the foundation on which every workplace functions. The enforcement of discipline is fundamental for good order and for a peaceful environment. An effective disciplinary regime is conducive to work production in that it ensures that all employees are treated equally and with respect. It promotes appropriate behaviour and it motivates employees to respect their organizations.

Conversely, since employee morale and industrial peace is linked with a proper maintenance of discipline, when discipline breaks down or is absent the well-being of the organization suffers, as well as each employee. It is no secret that disciplinary proceedings get stuck in internal processes for years at the Service Commissions, and that there is huge backlog.

Former Independent Senator Ian Roach once told me about leaving for South Africa in 1994 and ten years later after his return being able to pick up and carry on with a case which had started before he left. All the while, that person who is being disciplined is on full-pay. Now, is this fair and efficient? Does this make sense? Everyone in the value chain kicks the can and passes the blame.

Service Commission has pointed out that they do not gather the evidence, they have no knowledge of the matters placed before them, and they depend on the submissions from Ministries and departments. Secretariats complain about tardy submissions and that even though clearly set out, the regulations are not being

followed. Permanent Secretaries and department heads complain about the lack of knowledge or understanding by directors of human resources, and civil service managers, as well as a lack of a proper system in place for monitoring and measuring performance.

**3.00 p.m.**

Some complain about the failure to inform public servants of areas of weaknesses or shortcomings, and yet others complain about being hamstrung in the exercise of their powers and functions and failures on the part of those who perform delegated functions. Whatever the reason and regardless of who is to blame, the end result is systemic failure to enforce and maintain discipline. Several joint select committees and others—many people have written about this—they have made findings and they have made recommendations towards containing and remedying the situation and yet the problem persists.

Time does not permit me to catalogue all the difficulties plaguing disciplinary proceedings at the service commissions, but they include: the processes take too long, they have too much red tape, the baton is not being passed as quickly or as safely as it should from Ministry and department to the commission secretariat and then to the commissioners themselves.

The entire ecosystem needs to be computerized. This will speed up matters and it may eliminate many of the problems occasioned by manual paper-based processes. Structural problems at the service commissions are inhibiting the commissioners' ability to perform. Structures need to be revised to address the current workload and demands. And the secretariats themselves, they are not sufficiently equipped, including having the necessary manpower to proficiently meet the current workload and demands. Everyone in the value chain, whether upstream or downstream, is unhappy. They feel inadequate, they feel frustrated

because of shortcomings in the system. A more practical—

**Madam President:** Sen. Vieira, you have five more minutes.

**Sen. A. Vieira:** Thank you, Madam. A more practical results-oriented approach is needed. It is time for a change. Things cannot remain as they are. The service commissions are not sacred cows. If they need upgrade or repair or if they have outlived their usefulness as currently formatted, it is our duty to do something about it. There is a strong correlation between prosperous countries and those that have the strongest institutions. So we should not ignore Fukuyama's warnings that resistance to change is an inherent characteristic of institutions, and that by failing to adapt to the needs and circumstances of the day, institutions are capable of hindering progress in society, and that failure to act, failure to act can lead to stagnation and political decay.

The country deserves a public service that can respond professionally and in a timely way. If we care about the delivery of the public service in Trinidad and Tobago, we cannot, not after having been made aware of systemic faults, choose not to see them or to deal with them. This Motion is about ensuring that the service commissions are fit for purpose. [*Device goes off*]

**Madam President:** I just need to remind Members about your phones. If you cannot manage to keep it on silent, switch it off. The next phone that goes off, the next computer that pings or anything, I will have to ask the Senator to leave the Chamber. Continue, Sen. Vieira.

**Sen. A. Vieira:** It is about responsibility and accountability in the public sector, and about the need to achieve a balance between the values of democracy and efficiency. It is about achieving better outcomes for the people of Trinidad and Tobago. If we do not call on the Government to review the Constitution and the enshrined service commissions to table in Parliament within a reasonable time, a

clear plan for the update of the Constitution and reform of the commissions, then we are complicit in maintaining a system which negatively impacts and perhaps even cripples the public sector. Our citizens deserve a strong, modern capable state that can provide public goods and change will not happen until we make it happen. This is on us. Because the reform of the service commissions will involve amendments to the Constitution, a collaborative and constructive approach will be needed. We in this Parliament have a duty to be responsive to the needs on the demands of citizens. We have to make this happen, and I beg to move. [*Desk thumping*]

*Seconded by Sen. A. Deonarine.*

*Question proposed.*

**The Minister of Public Administration and Digital Transformation (Sen. The Hon. Allyson West):** Thank you, Madam President. Madam President, I think before we get into the meat of the debate, we first have to understand the structure of the service commissions. So, as Sen. Vieira accurately indicated, we have four service commissions. We have the Judicial and Legal Service Commission whose members are appointed by the President after consultation with the Prime Minister and the Leader of the Opposition. It is chaired by the Chief Justice and members of the commission are comprised of the chair of the Public Service Commission and three members appointed by the President.

The Judicial and Legal Service Commission has powers to appoint, promote, transfer, confirm, discipline and remove judicial and legal officers. It also has the power to appoint persons to these very key offices, many of which fall under the Constitution: be it Solicitor General, the Chief Parliamentary Counsel, the Director of Public Prosecutions, the Registrar General and the Chief State Solicitor after consultation with the Prime Minister.

We then have the Public Service Commission whose chair, Madam President, is full time and whose deputy chair is also full time but whose other members are part time. That entity or those members are also appointed by the President after consultation with the Prime Minister and the Leader of the Opposition, and they too have the power to appoint, promote, transfer, confirm, discipline, enforce standards of conduct and remove officers in the civil service, the fire service and the prison service.

The Police Service Commission, Madam President, is an interesting variation from the other commissions. That commission has a chair and four members appointed by the President after consultation with the Prime Minister and Leader of the Opposition as well, but that commission has the power to appoint, promote, confirm, discipline, remove, monitor performance, and the offices of the Commissioner of Police and the Deputy Commissioner of Police. That is the ambit of the authority of the Police Service Commission. In addition to that, they are empowered to monitor the performance of these officers: the Commissioner of Police and the Deputy Commissioners. In turn, it is the Commissioner of Police that has the complete power to manage the police service, including powers to appoint, promote, transfer, discipline, remove and delegate powers. Now, to me, that is a significant distinction that we need to bear in mind.

Whereas the Public Service Commission is in charge of appointment and disciplining and everything of all public servants—of all persons in the civil service, the fire service and the prison service, the Police Service Commission is responsible for appointment, disciplining, et cetera, only the Commissioner of Police and the Deputy Commissioner of Police. To me, that is a significant distinction, and I will get back to it as I go further into my contribution.

The next service commission that we have is the Teaching Service

Commission, which in accordance with section 124 of the Constitution is made up of a chair and a maximum of four members, again, appointed in the same manner—President after consultation with the Prime Minister and the Leader of the Opposition—and it has the same powers in respect to persons employed by the teaching service. Another important issue to bear in mind is that while these various service commissions essentially have the same power, the workload that they carry differs significantly. So the Public Service Commission is in charge of approximately 40,000 people which it is responsible for promoting, disciplining, appointing, confirming, all of these things with respect to 40,000 members of the public service; 33,000 under the civil service; 2,600 under the fire service; 4,200 under the prison service.

The Teaching Service Commission is the next in line in terms of workload. They are responsible for 17,000 officers. In contrast, the Judicial and Legal Service Commission, I am advised, is responsible for 280 officers and the Police Service Commission, most important, is directly responsible for four officers.

So why were these service commissions set up? The service commissions were established as independent agencies of the State to ensure equal opportunity to every citizen for employment and promotion in the public service and other services. It was also established to ensure that citizens employed in these service commissions were treated fairly and reasonably in respect of matters of discipline, transfer, confirmation and so on.

Lord Diplock said in the Privy Council case of *Thomas v the Attorney General* that in respect of each of these autonomous commissions, the Constitution contains provisions to ensure its independence from both the Executive and the Legislature. The point being that it was determined, at the time that these commissions were set up that persons employed in the public service—and I will

use that term widely—needed to be protected from politicians. So that these service commissions were formed and protected by the Constitution so that they could provide the protection that it was felt was needed to the members of the public service. And the Constitution—“guaranteed” is too far a word—but the Constitution shored up the protection of the service commissions, and through them, the protection of public servants by requiring a special majority for passage of any amendments to those provisions.

Now, how do these commissions operate? They operate under regulations, and these regulations guide the functions of the commissions in the discharge of their mandate. The regulations among other things identify the Director of Personnel Administration, the DPA, as the technical advisor with special responsibility for implementing the policies and decisions of the commission. The DPA heads a secretariat which is the Service Commissions Department, which serves the public service and the Public Service Commission and other service commissions. In this role, the Service Commission Division provides the service commission with the necessary administrative and advisory support. So you have a service commission or service commissions that are set up with no staff of their own, no way to direct the work that they have to do, by and large, because they need to await reports from the secretariat, which is the DPA, to do what needs to be done.

As I indicated earlier, the effectiveness of the Public Service Commission, in particular, because that is the one that bears the greatest burden of the work, is impacted of necessity by the fact that most of the commissioners are part-time persons. All matters for the consideration of the service commission are forwarded by Ministries and Departments to the Director of the Public Administration. The Director of Public Administration then processes and analyzes the issues, puts

together a report—they will be back and forth with the Ministries to determine we do not have enough information, we need confirmation of this and so on—and it is only after that process is done that it gets referred to the service commission and it is then for the first time that the service commission is aware of the fact that there is an issue.

So while many members of the public would sit back and blame the service commission for being inactive on a particular thing, it may be that the matter is not yet properly before the service commission because it is awaiting the process. The service commission is not—as Sen. Vieira accurately said—the custodian of the records of the persons who fall under their purview. So all information in respect of any matter that the service commission has to deal with must come either from the Ministry to which that person is assigned or the DPA. So they have to await the information.

Finally, there is no indication ahead of time to the service commission, which meets generally once a week, of the number of matters before it and the nature and range of those matters. So how these five people in the Public Service Commission organize their work to ensure that they make reasonable progress is something that has me baffled. Over the years, there have been complaints about the activity of these service commissions, and there is some merit in that. How do we explain the fact that the service commissions are not as effective as they should be?

The service commission complains about the fact that they have no direct control over their matters. They complain about the fact that they have no direct staff, that they have to rely on the DPA and that they cannot control their agenda. The DPA, in turn, then complains about the fact that her staffing is inadequate, that he has or she has to rely on the Ministries to get information and the Ministries are

not as responsive as they should be.

Sen. Vieira talked about computerization of records. The DPA has embarked on this process and has put a system in place to allow for electronic exchange of information, but that process is ongoing, and even as it is ongoing, it has been partially rolled out, the Ministries are not always as responsive in that way as they should be. So the DPA would ask the Ministry to supply information electronically and wait weeks to get a hard copy file because the Ministries are not being as responsive as they should. So computerization certainly is an issue that needs to be addressed.

So having recognized that there are challenges in the system, what has been done to address these challenges? One, the Constitution gives the service commissions the power to delegate some of its authority and it has done that through regulations. But even as it has done that, and it has done that in terms of allowing the Permanent Secretaries and Ministries, the Directors of HR in different Ministries and heads of other organizations, such as, Commissioner of Prisons, the Chief Fire Officer, the Chief Administrative Officer of the THA, all of them have been delegated with authority to allow persons within their Ministry to act in positions for six months, once there is no change in remuneration; to transfer officers from one post to another within the Ministry; to confirm appointments of persons once they have successfully completed their probationary period and satisfied all the other criteria. So these powers have been delegated to make things more efficient and to relieve the service commissions of some of that burden so that they can more effectively focus on other more significant matters. However, what the service commission and the DPA in particular is saying, is that Ministries resist exercising the delegated powers. So although they have tried to lighten their load so they can more efficiently deal with the issues before them that has not been

as successful as it could be.

Other avenues taken to address the shortcomings created by the civil service or the service commission system is an item that Sen. Vieira alluded to, the appointment of contract officers. I do not think that as a general rule either Ministers or DPS's want to appoint contract officers. They do not want to appoint people for six months and have them rolling over, unless it is a special project that requires short-term supplementation of resources. But there is a clear recognition by all that it takes a long time under the current process to get a post confirmed, to get remuneration agreed, to get the interview process set up and have an appointment.

So even within my Ministry which houses the unit that advises on the organizations of different Ministries, they advise different Ministries that yes, we agree that you need this post or that post. Yes, we think that it should be a permanent post on the establishment, but having regard to the fact that we know it is going to take forever to get it done, we recommend that in the short term you seek Cabinet's permission to appoint contract officers. So the appointment of contract officers, by and large, is influenced by the fact that we expect the process to take a long time.

We have also done other things to circumvent the inefficiencies in the public service. We have created statutory authorities but the statutory authorities, some of them work well, some of them do not. So lots of attempts have been made to make different aspects of the public service more efficient. Many of them have failed to produce the kind of results that we need to see.

So what in my view is the fundamental problem? The fundamental problem is that we have given responsibility for particular things to one group of people, responsibility for other items to another group of people and there is no one

individual who has the right to do everything that needs to be done to get something efficiently completed. And so, we have the politicians on the one hand who determine the wage bill, who determine what the programme is, the work programme is; who through the PS, gives instructions to the public service as to what needs to be done, who is trying to get better customer service and so on, but they do not have the power to do anything about an individual who is not doing what needs to be done to get the mandate fulfilled. So we have responsibility for that authority and vice versa, and that is a fundamental problem. I cannot think of—I would challenge anybody in the private sector to tell me if they can conceive of efficiently running an organization in a scenario where the manager of that organization has no authority to deal with staff, and this is what we have here. So while we recognize and completely acknowledge the rationale for the establishment of the service commission system, in my view, it has a flaw that does need to be addressed.

And as we move into the digitalization world for which my Ministry is responsible, where we need public servants who are agile and responsive and citizen-centric, we cannot do that properly in the context of civil servants who are prepared to say, “Well, she cah do meh nuttin” or “he cah do meh nuttin”. “It will take 10 years for the public service to deal with any complaint raised against me, and by then I will be gone. I would have received all my salary and I will be on my pension.” It is not conducive to the kind of world that Sen. Vieira is seeking to promote and that I am seeking to create in Trinidad and Tobago. So, Sen. Vieira, I unreservedly agree with you that something needs to be done.

I indicated that the Police Service Commission is the one service commission that creates, in my view, a structure that is sort of workable because the responsibility for disciplining and appointing and treating with staff falls to the

person who is charged with the responsibility for managing that staff. And there is a layer on top of that that provides protection to the staff in that if anything is done contrary to the way it should be done, then that person has the right to go to the service commission to challenge the action of the manager of the service, and that is a structure that can work. The structure in the other service commissions, especially in the Public Service and the Teaching Service Commissions creates some challenges.

We would have inherited the system or the system would have been imposed on us by the United Kingdom when we were switching to an independent state. Even the United Kingdom is moving away from this service commission system because it is generally recognized that there is a fundamental flaw in the system and that we need to deal with that fundamental flaw. So the kinds of things we need to consider, it is not an easy fix at all because we recognize that there are circumstances in which people working in the public service can be taken advantage of by politicians, by senior officers.

Now, when the service commission system was introduced, we did not at that time have a robust labour court to treat with labour matters. So that is something that we need to bear in mind when we consider how we move forward. We need to consider things like, what kind of public service do we want? Do we want a small agile service? Is there a role for contract officers and what should that role be? What are the key success factors and how do we achieve that in the shortest possible time? A comprehensive framework for human resource management which we do not have now. We have something that we call an HR system but we all acknowledge that it is not effective. The reports that generally come out in respect of staff tend to be generalized with no specific focus on either development of the staff, identifying their flaws, improving their performance. So

that needs to be addressed. We need to define the leadership in the public service. We have this concept of a head of the public service which is the PS in the Office of the Prime Minister but are any of us clear on what his role is or what his role should be?

**3.30 p.m.**

We need to look at the system of managers that we have in each of the Ministries. Does each Ministry require the same level of person at the top? Are all Permanent Secretaries equal? Should all Permanent Secretaries be equal? How do we treat with succession planning? At the moment, we do not. It flabbergasted me the other day, as head of the committee looking at privatization of the port, I was having this discussion about the effectiveness of the staff at the port and I was told by the General Manager that the Port Authority, which is supposed to be an independent body, promotes people on the basis of seniority. I said, “One of the reasons you would create an authority is to move away from the public service mode of operating”, but even having done that they still continue with the public service mentality. And in seeking to change the service commission system we have to recognize that the problems that we face are broader than just the public service. We have a public service mentality in Trinidad and Tobago that we need to address.

Training our public servants. The issue of developing the skill of a public servant in one area and then moving him to something completely—an area that is completely different and outside of his skills just because it is time, it is the only way to get him more remuneration, is something that needs to be addressed. So there are several issues that we need to look at, several issues that we need to address. And, again, I will endorse something that Sen. Vieira says: we need a two-thirds majority to effect any change to this system. We cannot come to the

table thinking that we cannot let the current administration be successful in this because they will look good and that would not augur well for us. We have to come with open minds with the benefit of the country at the centre of our approach.

The country cannot afford to continue to operate inefficiently. The citizens of the country—

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

**Sen. The Hon. A. West:** The citizens of the country deserve better, and the only way we can do that is to have an open discussion, do not look at protecting our own turf but look at what is best for Trinidad and Tobago and come up with a solution that both protects the persons employed by the public service, but allows the public service to operate in such a way that it benefits the citizens. It cannot be that we continue to sacrifice the needs of the whole for the benefit of a few, and that is what we are doing now. So, Sen. Vieira, I endorse your Motion. Madam President, I thank you for the opportunity. [*Desk thumping*]

**Madam President:** Sen. Mark.

**Sen. Wade Mark:** Thank you, Madam President. Madam President, I listened to the mover of the Motion and obviously some of his concerns for efficiency, efficacy of delivery of services in a modern economy and society, and my distinguished colleague, Sen. Vieira, also stated in his conclusion that service commissions are no “sacred cows” and they may well have outlived their usefulness, and we have to measure the value of democracy versus efficiency. And, Madam President, I also paid attention to some of the views enunciated by the Minister of Public Administration and Digital Transformation when we were told that the system of service commissions was imposed by the United Kingdom on Trinidad and Tobago when we became an independent country, and therefore the

United Kingdom itself is moving away from this arrangement.

Madam President, that statement of an imposition by British colonialism and imperialism is something associated with the utterances of a former Prime Minister in 1993, when he too at a party meeting and when he could not have his way in removing Jules Bernard as Commissioner of Police, he too described the service commissions as a British imperialist imposition, and therefore they had outlived their usefulness. And therefore, an amendment of the Constitution through our Constitution (Amdt.) Bill was introduced in 1994 to abolish the service commission and allow the Cabinet to appoint its members. What is lacking in many of these contributions and statements is what I call “historical accuracy”. I do not believe that some of these individuals associated with the PNM understood the “founding father” position on service commissions, and they have gone off on a frolic of their own in the attempt to demonize, destroy, undermine, eradicate service commissions if they were given the opportunity to do so.

I have dubbed it, Madam President, this struggle by the PNM to get rid of service commissions, from Manning to Robert Le Hunte. And, Madam President, when we look at an article written by Mr. Robert Le Hunte, who was a former Minister in the Cabinet, in the Trinidad *Guardian*—I cannot remember the date but I have the article here, I could always get the date for my colleagues. Madam President, one of the things that was said by the distinguished gentleman was that:

Let us not be scared to dismantle and rebuild old outdated institutions.

Hear “nah”:

...old outdated institutions like our service commissions which wield tremendous power, are manned and chaired by individuals who are invisible and seemingly accountable to no one.

And then, Madam President, the gentleman went on to say, and I quote:

For this to be achieved the public service, and by extension service commissions need to be radically overhauled if not completely eradicated.

That is the thinking of the PNM as it relates to service commission.

We have heard it from the Leader of Government Business. Every time he speaks in this Parliament he talks about the negative impact on service commissions on the operations of the public service. And, Madam President, the reason why, whether it is the Prime Minister, the Minister of Energy and Energy Industries, whether it is the former Minister of Public Utilities, whether it was the former Prime Minister, Patrick Manning, they all have one thing in common, the PNM wants total political domination and control over the hiring of citizens in the public service. That is what they are concerned about and they use false narratives in order to peddle what I call their “feast of falsehoods” on our nation.

Madam President, I would like to take you to an article written by Reginald Dumas on March the 8<sup>th</sup>, 2010, and he provided us with some historical accuracy in terms of information, and I quote, Madam President:

On September the 20<sup>th</sup>, 1957, the then Chief Minister of Trinidad and Tobago, Dr. Eric Williams, moved a Motion in the Legislative Council calling on the Secretary of State for the Colonies to approve a number of constitutional changes as the indispensable basis for more comprehensive and far-reaching reforms to be considered in due course.

I continue:

One of the requested changes was a remodeled Public Service Commission which, inter alia, would be an independent body whose advice the Governor would be bound to accept.

Madam President, this is Eric Williams as the Chief Minister, as premier and as Prime Minister—later on—proposing and advocating, not British colonialism, not

British imperialism imposing service commissions on our nation. It was the “Father of the Nation” who called for the establishment of independent service commissions in Trinidad and Tobago, and that is why I am amazed to hear these persons who have inherited his great party moving away from the thinking of the father of the PNM. The PNM under Eric Williams promoted independent service commissions.

Madam President, you know what happened during the period of the 1950s when we had, for instance, colonial rule here? They began to put into the Constitution then, service commissions. It went on to 1962. Service commissions in our independent Constitution was placed there by the “Father of the Nation”, Dr. Eric Williams, not British imperialism. So I want the PNM to understand that when they speak against service commissions, they are speaking against a position taken by Eric Williams in 1957. [*Desk thumping*] Madam President, Dr. Eric Williams did not stop in 1957, he went on to '62, and he placed in the Constitution, drafted by Sir Ellis Clarke, service commissions: police, judicial and legal and the Public Service Commission. The Teaching Service Commission was not established then. We had three service commissions, Madam President.

And you know what was even more alarming, Madam President, and interesting? The then Prime Minister in '62, under the Constitution, the Governor General acting on the advice of the Prime Minister appointed members to the Public Service Commission, to the Police Service Commission and to the Judicial and Legal Service Commission. Now, Madam President, from 1962 to 1976, Dr. Eric Williams was charged under the Constitution with appointing the first Chief Justice of an independent Trinidad and Tobago, Sir Hugh Wooding, a man of great caliber, an icon in the judicial system of our country. But, you see, we had big men who were mature and who had a responsible approach to our development to some

extent. So nobody raised any noises during the period 1962 to 1976; 14 years, Eric Williams appointed all members of the service commissions, all members—the Public Service Commission that is—all members to the Police Service Commission and all members to the Judicial and Legal Service Commission.

The same Eric Williams, Madam President, in 1976 with the Constitution, Republican Constitution coming into existence, he amended this provision that says the Governor General would act on the advice of the Prime Minister, and with the republican status coming in, the Governor General went out and the President came in. And when the President came in, he adjusted the provision under Chap. 9 of our Constitution, saying to maintain some independence, even though we know what goes on—I would not go into details here, but we know that the majority party elects the President, and the President is the person under the Republican Constitution who appoints the members of the Police Service Commission after consultation with the Prime Minister and the Leader of the Opposition. So no longer did you have a Prime Minister appointing members to the Judicial and Legal Service Commission and also the Public Service Commission, and also the Police Service Commission, and by that time the Teaching Service Commission came about after '76. It was enshrined in the Constitution, Madam President.

We now had a situation where the President of the Republic in consultation with the Prime Minister and the Leader of the Opposition appointed these members to the various service commissions. And, Madam President, the purpose of these commissions was to protect, act as a buffer between the politicians and the public servant. Madam President, do you know that there is a Cabinet Note, Cabinet Minute No. 557, dated the 9<sup>th</sup> of May, 2007, entitled, Delegation of Authority by Cabinet to Ministers and Ministries? And do you know under this Cabinet Minute no contract officer since 2007 could be employed in the public service without the

express approval of the Minister? Right now in our public service Ministers are responsible in collaboration with their Permanent Secretaries in approving, in accordance with this Cabinet Minute, workers on contract. So there are already, Madam President, you have the political directorate employing thousands and thousands of contract workers, but they are not satisfied with the parallel public service that they have created.

You know what they want, Madam President? If the PNM gets a chance—I know my hon. friend, Sen. Vieira, is not advocating for a moment the abolition and the eradication of the service commissions in Trinidad and Tobago. I did not get that from your tenure and your contribution here today. You were talking about reforming the service commissions, not abolishing the service commissions. Your position, hon. Sen. Vieira, is diametrically opposed to that of the PNM. The PNM is interested in eradicating, eliminating the entire service commission system in our country so that they can have direct control, as the Minister of Public Administration and Digital Transformation said a short while ago. “Tell me, Madam President”, the Minister said—“Tell me, private sector, which private sector manager would want to have a situation where they cannot control their own human resource staff or the human resource base within the operation”?

What does that say, Madam President? It says that the main objective to getting rid of the service commissions is to give the PNM the power to hire and to fire, and to discipline and to promote, and to transfer at their whim and fancy any worker within the so-called public service. [*Desk thumping*] That is what they want. That is what they are committed to having. And, Madam President, you only have to look and see what happened when we removed ourselves from the Ministry of Health and created the RHAs, and the RHA right now is a breeding ground for that. They hire who they want, when they want; they fire who they want, when

they want. You know why? Because they no longer fall under the Public Service Commission. The RHAs can do their own thing, Madam President, employ their family, their friend, their uncle, their “nennen”, and there are no systems in place to regulate these people. They are playing mas even though we are having no carnival next year.

Madam President, it does not end there. The revenue authority that they want to create here is another institutional attack against the Public Service Commission. They want to create a revenue authority, not to create efficiencies in terms of tax collection. That is a cover for their real sinister plan, Madam President. Their real objective is to abolish the Board of Inland Revenue and they will employ their own people to deal with tax collection through contract. Then they want to abolish the VAT office so they can do their own thing at VAT, and most importantly they want to control the Customs and Excise Department. So you want to abolish the service commissions, that is what the Government wants to do, Madam President. So do not come—I understand what my colleague is attempting here, but I want to ask my hon. friend, Sen. Vieira, through you, Madam President, why cherry-pick? Why cherry-pick? Why only choose the service commissions? If we are talking about constitutional reform, why are we only focusing on the service commissions? Let us amend your resolution and engage in a massive overhauling of the Constitution in our country. [*Desk thumping*]

That is what we should be doing, Madam President. Let us deal with meaningful constitutional reform. But you see, Madam President, we have so much hypocrisy in our country; it is amazing. On the one hand we hear the Government of the PNM saying, “Oh, we must abolish the Privy Council, embrace the CCJ, that was a colonial relic, we should not be part of that”. And, Madam President, at the same time they hold on to the British Westminster model, first past the post,

single-member constituency, winner takes all. That is a British imposition. When Sir Hugh Wooding in 1974, proposed a mixture of first past the post and proportional representation, the former Prime Minister spent almost 10 days in the House of Representatives, or a little under that, attacking Sir Hugh Wooding and that report, saying that that report was a dagger aimed at the heart of the PNM, because they do not want change. They did not want change and they still do not want change. [*Desk thumping*]

So it is convenient to say, “Get out of the Privy Council, that is a British colonial relic; that is an imposition from imperialism”, but the same imperialist imposition, they have adopted the first-past-the-post system which is a British system, not the Americans. We did not go with the Americans. The Americans have a different system. We went with the British. So you cannot be blowing hot and blowing cold and speaking from both sides of your mouth at the same time. Let us be serious, Madam President. So I would ask my colleague and brother, Sen. Anthony Vieira, let us change your resolution, “doh” cherry-pick because you might be innocently falling into a trap. [*Desk thumping*] The PNM likes this, you know. You see this matter here, Madam President, the PNM likes it because it plays into the hands of the PNM, because they are interested in abolishing the service commissions. [*Desk thumping*]

I want to serve notice on this Senate, the United National Congress is not interested, will never be interested in abolishing service commissions in Trinidad and Tobago. [*Desk thumping*] We will be about strengthening the management of the service commission. Madam President, would you believe, under section 85(1) of our Constitution, and I want to share this with you and this honourable House, because the PNM, 66 years old, has been in power for as long as anybody could imagine and they have done nothing to bring about radical reform, greater

accountability. Could you imagine, Madam President, five years in office and they are yet to operationalize and implement the Public Procurement and Public Disposal of Property Act. Up to now, they have not done it, for five years and they had it in their manifesto when they mamaguyed the population in 2015—“Oh, the UNC so corrupt”. “Look, they are bid rigging. Look what going on with contracts, and we are going to bring about change. We are going to implement, operationalize the public procurement law.” Five-and-a-half years later they have not done it, but they want to sell out Petrotrin and the refinery to their friends without any public disposal legislation in place. [*Desk thumping*]

**Madam President:** Sen. Mark—

**Sen. W. Mark:** Yes, Madam—

**Madam President:** You have five more minutes, can you use it—[*Interruption*]  
No, no, Sen. Mark—Sen. Mark, with respect to your five minutes, could you focus more on the matter at hand, please?

**Sen. W. Mark:** Madam President, that is what I have been doing. I have spent all my time focusing on this matter. This is a very serious matter. We are talking about this—we are talking about service commissions, and that is what I take—you almost had me fainting here. I spent my last 25 minutes focusing on this matter of service commission—

**Madam President:** Sen. Mark—

**Sen. W. Mark:** Yes.

**Madam President:** I would ask you, please, just take my guidance and finish off your contribution.

**Sen. W. Mark:** Madam President, so I just want to make it very clear that the problem with our service commissions is not what it is being made out to be, that they are slow and they do not respond. Hear what is the problem, Madam

President, I want to quote from the late Kenneth Lalla, decent individual; a man of integrity who Patrick Manning tried to fire on three occasions, and you know why? Kenneth Lalla refused to bend to the wishes of the Prime Minister at that time. He stood up for the Constitution. He defended the Constitution—because he went to Lalla and he told Lalla, “I want you to fire ah fella call Jules Bernard”. And when Lalla asked him, “Yes, no problem, where are the particulars”? “What grounds are you going to fire Jules Bernard on?” No particulars but you want the man to fire Jules Bernard, and the whole thing was rejected. And since then, Madam President, he went after Lalla on three occasions, including trying to abolish the Police Service Commission.

**4.00 p.m.**

**Sen. W. Mark:** They brought it here in 1994, I was here, and the Senators, Independent Senators and Opposition Senators, tossed it into the waste paper basket, in the dustbin, [*Desk thumping*] because they realized what they were about. Madam President, the PNM is about political domination and control. That is what they are about.

Madam President, let me quote from the late, great, distinguished citizen and son of the soil, Kenneth Lalla, may his soul rest in piece. He said in chapter 22, page 379:

Among the dominant factors contributing to a failed and inefficient public service were the lack of a comprehensive understanding of the rationale and philosophy of the principles of fairness and impartiality inherent in and underlying the establishment of Service Commissions and the absence of adequate training and competence of managers as well as the domineering disposition of politicians in subjecting the respective services to political influence, patronage, cronyism and posturings.

This is what Lalla said, the reason why you have problems in the service commissions.

Madam President, if the Government and if this Motion is to be taken in the way that it has been presented, seriously that is, I would ask the hon. Sen. Vieira to look at 85(1) of our Constitution, and he would see under 85(1), and I quote:

“Where any Minister has been assigned responsibility for any department of government, he shall exercise general direction and control over that department; and, subject to such direction and control, the department shall be under the supervision”—not the management—“the supervision of a Permanent Secretary...”

Therefore, Madam President, if we want to bring about changes in our system we have to look at the management aspect of our public service. We have to overhaul 85(1).

**Madam President:** Sen. Mark, your time has expired.

**Sen. W. Mark:** Thank you very much, Madam President.

**Madam President:** Sen. Thompson-Ahye.

**Sen. Hazel Thompson-Ahye:** Madam President, thank you for granting me the opportunity to make a contribution on this important Motion brought by my Independent senatorial colleague, Sen. Vieira.

If we forget the past, we are condemned to repeat it, the mistakes that were made then. In 1982, I was a final-year law student doing in-service training and I was given an assignment, the full purport of which I did not then appreciate. It entailed my visiting the offices of several, very eminent counsels and having them affix their signatures to a document. One of these counsels had a nickname identical to the title of the head of my church. When I entered his office, he asked me for my employer, Oswald Wilson. I explained he had left for England that day,

and he said, “And left you in charge, a law student?” He asked me when I would be called and when I told him he said, “That would make all the difference, you see.” He then shared with me that law school had asked him to take a student for in-service training and expected him to pay a stipend. “And we had to pay for pupillage.” I was tempted to say, “We are not amused.” But thanking the Lord he was not a real Pope speaking *ex cathedra*, I held my tongue, thanked him for affixing his signature and went on to the next senior counsel, the one with the kindly smile, Allan Alexander.

The document in my charge that day was a notice of discontinuance. In a case brought by Eugenio Moore against the chairman and other members of the Public Service Commission and others. Mr. Moore was economic adviser to the Prime Minister and had been placed on 16 charges arising out of a report of the Auditor General. And the commission had interdicted him from the performance of his duties on three quarters of his salary. A disciplinary tribunal had been set up to hear the charges and Mr. Moore challenged the constitutionality of the tribunal, and his objections having been overruled, filed an action seeking injunctive relief to stop the hearing of his interdiction from office, the convening of the tribunal, its hearing in private and claiming the disciplinary charges were inter alia contrary to public service regulations, constituted deprivation of his right to a fair trial and was unconstitutional, ultra vires, null and void.

While the matter was pending, the Prime Minister was making disparaging remarks in the public domain about Mr. Moore, Mr. Doddridge Alleyne, his Permanent Secretary and Frank Rampersad, Permanent Secretary in the Ministry of Finance, with whom he had fallen out. He was on a roll.

Professor emeritus, Bridget Brereton, on the occasion of the University of the West Indies’ conferral of degree of Doctor of Laws *honoris causa* on

Doddridge Alleyne posthumously, just before his death—so at least he knew he was getting it—in 2010, stated that working with Williams was never easy, and Alleyne was perhaps the most distinguished member of that coterie of senior public servants who surrounded him to fall victim to his often inexplicable bouts of anger and vindictiveness.

This eminent and manifestly honourable man, head of the public service, was accused in '75/'76 of serious infractions of public service rules, interdicted by the Public Service Commission, like his colleague put on three-quarters salary, and told to prepare for a formal hearing by a special tribunal.

In preparing for this debate, I reached out to several people. A former senior public servant shared with me an article by Raoul Pantin written in February 1976, in *Tapia* newspaper and headlined:

“PSA Backs Head Of...”— public service.

The article revealed that Doddridge Alleyne, head of the public service and Permanent Secretary to the Prime Minister, had been asked to go on leave and was facing dismissal. The PSA issued a statement saying the procedure was wrong and retained eminent senior Queen’s Counsel Mr. Algernon Wharton, Allan Alexander and Mr. Oswald Wilson to fight Mr. Alleyne’s case. And that is where I came in.

A longstanding *Tapia* member referred me to another article, in fact a book by Selwyn Ryan, *Eric Williams: The Myth and the Man* published in 2009, and it paints a fascinating picture of that period of our history.

Over the years many actions have been brought against the various service commissions: Public Service Commission, Police Service Commission, Teaching Service Commission, Judicial and Legal Service Commission. We are aware, we have read them in the newspapers. It is ironical, I think, that provisions in the Constitution, the highest law of this land, designed to provide protection of the

rights of members of the civil, now public service—though not always so civil—to appointments, promotion, transfer, freedom from favouritism, unfair disciplinary practices, does not always automatically insulate public servants from interference with those rights.

The courts too frequently—too frequently—have to be prayed in aid to vindicate rights and correct actions done contrary to the tenets of the Constitution.

We heard today that Lord Diplock in the Thomas case, *Thomas v Attorney General*, stated that the purpose of these provisions were:

“...to insulate members of the civil Service, the teaching service and the police service in Trinidad and Tobago from political influence exercised directly upon them by the Government of the day. The means adopted for doing this was to vest in autonomous commissions, to the exclusion of any other person or authority, power to make appointments to the relevant service, promotion and transfers within the service and power to remove and exercise disciplinary control over members of the service.”

Now, Lord Diplock explained the commission's power, as is now section 127, to delegate its powers with the approval of the Prime Minister, but made it clear that any power so delegated was exercised under control of the commission and made on its own behalf and not any other body.

It is ironical, I think, that these commissions which were conceived with the hope in the ability to achieve their laudable objectives have, over the years of their operation, birthed much despair. Many cases have been brought in the courts, as I have said before, against these commissions, and there is an ouster clause which says that:

“Any action which by virtue of any provision of this Constitution may not be enquired into by any Court.”

Now, Justice Noor Hassanali who became our Chief Justice, examined the meaning of this ouster clause and pointed out that any act which by or under the Constitution the commission was empowered to perform in the execution of its jurisdiction to remove and exercise disciplinary control over the plaintiff was a function within the provision of the legislation. Many of the complaints regarding the service commission is about the inordinate delay in their decision-making process. Some people are in limbo for years waiting for their matters to be heard. Now while that may be purgatory for some, it may be heaven for others who, while on suspension with full pay and awaiting decision, they may be busy at other jobs, earning an income in the informal sector of the economy, occupying another contracted position. They may be overseas on an extended vacation, especially when they are suspended on three-quarters or full pay at the expense of hard-working taxpayers.

Some matters such as those involving charges of sexual assault of a child by a member of a teaching staff, and between 2014 and 2019, these numbered 33, should be given the utmost priority. I was absolutely appalled when I sat on the Joint Select Committee on Human Rights, Equality and Diversity, and we were looking at sexual harassment in the education sector, to learn that charges against teachers who are on suspension for, as we euphemistically say, “interfering with children”, have been pending for years before the Teaching Service Commission. But then, I did not understand the constraints under which commissions operate, and the stumbling blocks that impede their progress.

What I learned or what was brought to my attention is that when judicial review of criminal charges were pending, the work of the commission is on hold until these proceedings are determined. So some matters may go through all the stages from the High Court, Appeal Court, even the Privy Council. There might

also be information that is pending under the Freedom of Information Act, and all of these things delay proceedings. So we are to ask ourselves: Is there anything we can do to move away these stumbling blocks? People must have their rights under the law, but to what extent? When we weigh the pros and cons, what can we do?

Courts sometimes also have to consider whether delay causes prejudice and to what extent. There is so much that is involved here, that I would recommend that the Law Association that has embarked on continuing education perhaps should mount a seminar, so that part of their continuing legal education they should educate, not only lawyers but also the general public about the work of the work of the service commissions.

My investigations revealed members of service commissions perform public service on a part-time basis, for which they are, in the main, inadequately compensated. They are severely short-staffed. They are underfunded in their operations with no financial autonomy. Not even a petty cash vote, one commissioner complained to me. The litany of woes was almost endless, nearly devoid of an amen. The commission could not hire their own support staff to work along with them, and they said that consequently they have some square pegs in round holes, and that results in staff having divided loyalties. They were not hired by the commission but they favoured those who paid the piper.

I heard complains that the department of the Director of Personnel Administration had a stronghold on some operations and seemed to be leading from behind. There were cries of funds being allocated for a particular purpose and being otherwise deployed. One commission spoke about lack of access to certain records to perform the work effectively and efficiently in the legislative structure, and they felt they were generally handicapped by a lack of specifics in the legislative structure. A former commissioner felt disrespected by lack of

consultation in certain areas by the relevant Minister and by the Service Commissions Department.

Now, are the service commissions in need of reform? Where do the problems lie? Are the service commissions sufficiently isolated from political interference which impede their work? One of my interviewees suggested that the commissions would benefit from having proper legal advisers and another suggested it may be useful if the commissions all included persons with a background in human resource management, because a lot of their work involve decisions and they should be aware of what should guide them in making these decisions.

There was also a suggestion that an opportunity should be given for the outgoing commission members to meet with the new members to give guidance and share experiences. When we were appointed to the Senate, I particularly found it useful when the former Senators, who were outgoing, met with us shortly after our appointment in an orientation exercise. We were able to sit with them, ask them questions. They shared a number of things with us, what we must do, what we must not do. I am not saying that we have obeyed all of them but we took note of what they said. How you must dress, how you must comport yourself as a Senator. So, if there is any fault in us, it is not because we were not advised, Madam President.

If there need for legislation to specify criteria for appointment to commissions? Section 202(2) of the 2013 Constitution of Zimbabwe spells out criteria for the Civil Service Commission thus:

“Members of the Civil Service Commission must be chosen for their knowledge of or experience in administration, management or the provision of public services.”

Section 222(2) of the Constitution, their Constitution, that is Zimbabwe, provides:

“Members of the Police Service Commission must be chosen for their knowledge of or experience in the maintenance of law and order, administration, or their professional qualifications or their general suitability for appointment, and—

- (a) at least half of them must be persons who are not and have not been members of the Police Service;

And interestingly:

- (b) at least one of them must have held a senior rank in the Police Service for one or more periods amounting to at least five years.

So, should our Constitution be amended to include criteria for the appointment of commissioners to align their talents to the specific work of the particular commission? It seems to me that even without criteria being set, a cursory examination of appointment reveals that appropriate criteria were borne in mind in making these appointments.

**Madam President:** Sen. Thompson-Ahye, you have five more minutes.

**Sen. H. Thompson-Ahye:** Thank you. Even if that were not so, can the setting of specific criteria work in our country? Do we have the requisite pool from which we can choose members for the various commissions? One senior counsel spoke of the agony of a former President, desperately trying to find suitable persons with relevant experience and qualifications willing to serve their country.

Trinbagonians cannot be described as a grateful people. Persons in public life are too often ridiculed, criticized unfairly, and villified while giving their lifeblood for their country. It is no exaggeration to say they are too frequently sacrificial lambs on the altar of malevolent public opinion from social and

mainstream media.

Is there a tension between the politician's agenda and the work of the commissioners of the various commissions? Are the commissions and public servants on divergent paths? Is it the courts that are creating the problem? Is there lack of understanding of Government's responsibility and the need for Ministers to account to Cabinet, Parliament and ultimately, to the electorate for their stewardship?

When a court is asked to promote someone because he feels he has been passed over, is there consideration of the question as to whether there are vacancies for the position sought? Is there a thought given to whether there is vote to pay increased salaries, and does there exist space in the establishment? If more staff is approved for an office, such as DPP, the building cannot accommodate them, are we not "spinning top in mud", or what Fazeer would call "making a pappy show".

The service commissions jealously guard their independence and autonomy, and uphold the Constitution as a shield against interference with that autonomy by any legislative amendment. Thus, it was that the court had to decide whether the power given to the Minister of National Security to initiate the selection process for a commissioner and deputy commissioner, infringed the independence, jurisdiction, power and role of the Police Service Commission and was unconstitutional.

In *Harridath Maharaj v The Attorney General and the Police Service Commission* useful advice was given how the line should be drawn between the function of the commission and the function of the executive. There has been a lot of confusion in some Ministries, the Ministry of Finance, over the meaning of job description as against specification for appointment to the job, and courts have been at pain to differentiate between the terms.

In *Teaching Service Commission v Robert Ramsahai*, although he was qualified at the time of the interview, he was not qualified at the time he applied. So, Justice Archie, Chief Justice, was at pains to refute the respondent's assertion that the term specifications in the teaching service regulations simply meant job specification or job description. He differentiated between requirement for appointment to the job or office and the requirements of the job. It would be useful if members of the commission familiarized themselves with the judgment before embarking on promotions.

For the service commissions to work, there must be support of the other organs in the system. Commissioners cannot expect to promote or separate someone from a Ministry or department, when there are no appraisals of the performance of that officer and a negative report is not communicated to him. How can we operate when managers do not manage or allowed to manage? We can amend the Constitution, yes. We can change the regulations, we can add or subtract what we have legislated, but until we change our mind and hearts, until we become a disciplined people, faithful of doing our duty to God and the Republic of Trinidad and Tobago, for the benefit of all who are in this together, rich and poor, sick and healthy, saint and sinner, we will continue to lament the failure of our institutions.

Do I have even a minute left, Madam President?

**Madam President:** One minute.

**Sen. H. Thompson-Ahye:** If we are to improve as a proper functioning State, it must be brought home to the Government service that leaders must lead. Persons in responsible positions must act responsibly, without fear or favour, malice or ill will. So we expect that persons occupying high office will behave responsibly, and we trust the trust and respect between the Minister who in fact sets policy, and the

members of the commissions, and those who must implement the policy, will be one of mutual respect. Each one being about the same goal, a better Trinidad and Tobago. Thank you, Madam President.

**Madam President:** Minister of Energy and Energy Industries.

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Thank you very much, Madam President. It is an honour, as usual, to join this debate on such a relevant, fundamental and measured Motion that was presented here today by Sen. Vieira.

The Government spokesperson before myself is the Minister of Public Administration and Digital Transformation. While she does not have responsibility *sensu stricto* for the service commissions, her portfolio handles most of the matters therein. And if she says that she is unequivocal in her support, as Leader of the Government Business, for the first time, I have to follow what I been advised.

I want to go on record to say that it is a Motion that is supportable and it is a Motion that the Government will support when it comes to the vote. But let me deal with my good friend, Sen. Mark.

I just want Sen. Mark to know one thing, this is not a PNM Motion, you know. The way he spoke is that we brought the Motion to the House—[*Desk thumping*]*—except Sen. Vieira is on the PNM payroll. The Motion was put forward in this House in a very balanced and matured way by an Independent Senator. We analyzed the Motion and we took the decision that it is supportable. We may not believe or may support it in its entirety, but it is supportable.*

But Sen. Mark never fails to impress me sometimes, and this is one time he did impress me. He said it is Dr. Williams who was supportive of service commissions, and I quote now—I hope I have the quote right—“and those of us who inherited his great party, look what they have done”. But the key words there

are, “those who have inherited his great party”. For the first time Sen. Mark has recognized and admitted that the People’s National Movement is a great party. [*Desk thumping*] Thank you, Sen. Mark for that endorsement.

Madam President, to a large extent, this country is trapped in inertia; you see it almost pervasive in this society. Inertia is a phrase that actually had its origin in physics, for those who are the scientists here, I know they are few and far between. But inertia, if I remember my A’ level physics, is a body in a state of rest or uniform motion in a straight line, and let me explain that. A body is a state of rest is experiencing inertia because it does not move. It does not see change, it does not do anything, it is in a state of rest. A body in uniform motion in a straight line is de facto in a state of rest, you know, because it is in a straight line, it is not deviating, and it is uniform motion, so it is not accelerating or decelerating, and it is not deviating on any angle. So effectively, a body in a state of rest in physics, or uniform motion in a straight line is one and the same thing.

In common parlance, or in more descriptive English terms, inertia is defined as the tendency to do nothing or to remain unchanged. You recognize the level of inertia in this society when you jump out of your crease and you try to implement change, especially fundamental change, and you see the level of resistance you get from certain sectors of society, largely protecting vested interest. Once a society continues to protect vested interest, we will go nowhere. We may not do everything correctly but there is a need to change, because societies evolve.

The world has changed because of COVID, you know. We were forced to change and societies that develop, implement change on its own behalf. Companies that retool themselves and rebrand themselves, they change for betterment, because the world is not static, the universe is not static. And that is the principle we have to adopt as a country.

**4.30 p.m.**

Now, Sen. Mark spoke about colonialism. The British did many things wrong, the British did many things right. Today the Commonwealth of Nations is one of the most fundamental global groups in the world. They have left us with a judicial and a governance system that I will say is second to none. They have left with us with a system of government that is the Legislature, the Executive and an independent Judiciary, and those countries that have adopted that system and used it and adapt through time are those that are succeeding. I will go through that. I am sorry, I mean, even the mover of the Motion who abridged the time, if I had more time I would have gone through some of this.

But take India, for example. India had service commissions and India has taken the British system lock, stock and barrel in terms of their public service, in terms of their Judiciary, in terms of their Parliament—the Lok Sabha and all these things. But they have matured and grown with time. Today India is a powerhouse economically, socially, culturally. After China, India is probably the largest economy outside of the so-called developed world.

The origin of the service commissions came out of the Marlborough House negotiation. A lot has been said about what transpired in Marlborough House. One of the shortcomings of the society also is that nobody writes. If this was in the United States of America you would have eight biographies or 10 autobiographies on what transpired during those Marlborough House discussions. Dr. Capildeo was there, Dr. Williams was there, Ashford Sinanan was there, a whole series of DLP senior politicians and PNM senior politicians.

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

What I am about to say or have said is hearsay. Nobody has documented for the sake of posterity. What happened is a talk that the DLP wanted the service

commission to protect from PNM influence in the public service. But at the end of the day what I was told is that Dr. Williams conceded and said, this is the way we should go. And let me quote from the Secretary of State Aubrey Collins.

The independent conference was held at Marlborough House in London on Monday 28 of May, 1962 under the chairmanship of the Secretary of State for the Colonies, The Right Honourable Reginald Maudling, MP, the colonial MP. The colonial secretary—as he was—counselled the party that the last visages of external control for better or for worse were to be removed and therefore a heavy responsibility lay on those attending to ensure that the new Constitution will be one under which the population can emerge and govern themselves as one nation.

That is the white man telling us that, you know—sorry for the language, Mr. Vice-President. That is the colonial master, the so-called colonial master, telling you the path you must take, and nobody has denied the fundamental initial purpose and the noble purpose in which the service commissions were set. There is no question about that.

What is the issue is what has happened since then. Since independence the public service has quadrupled in size. Its work processes have now become very complexed. It is managed by an archaic and antiquated system. Over the years there have been a lot of committees and pioneers in people who had tried and genuinely tried to enact public service reform.

The 1964 reform programme focused on terms and conditions for public servants and the 1970 reform focused on the improvement of institutional architecture and the restructuring of the public service practices and procedure.

In 1980 and the 1990s critical aspects of reform initiatives. Sen. Mark mentioned the Dumas report of 1989, and more importantly the Draper report of

1992. Mr. Vice-President, if one day God smiles on this country and we achieve public service reform, we must be eternally grateful to Gordon Draper. He was a voice in the wilderness. He became so frustrated of Trinidad that he left and I think he was working somewhere in Africa because of the inertia in this country. The reason why people fail to see a new horizon, they want the status quo to remain; and that is underdevelopment, you know, that is fundamental to underdevelopment, and that is the challenge we face as a country. Making the public service work and to work efficiently is like making an elephant tap dance under this current system. I challenge you to get an elephant to tap dance.

So you need fundamental structural change. The form it will take I do not know, I am not a human resource expert, I was not trained in that, I am a scientist. I am a geologist, I am the Minister of Energy and Energy Industries. I am a politician, I have served as chairman of the PNM for many years but I am not a human resource expert. But what I do know is that it needs a fundamental overhaul. The form or fashion it will take or it should take is for the experts to decide. Just as in my job, I rely on expert advice. We have professional consultants in the gas-value chain in all aspects of the industry. I guess by the same token you can get expert advice on matters like these. It may call for revamping, disbanding, I say that guardedly, it may call for several initiatives. But, you see, I want to say something. Independence is not a justification for inefficiency and Sen. Mark continues to cry political interference, even went so far today as saying, the Government appoints the President and subtly implying that the President is politically tainted, you know. That is the level in which he takes his argument. But at the end of the day we have a country to run, we have institutions to build, we have to take the bull by the horns.

In the United Kingdom they have adjusted their service commission to suit

modern time. I spoke about India a while ago. Australia the same thing has happened. I have a list on and on here. Let me spend two minutes on Jamaica. You know, we always have to be taking the cue from Jamaica, you know, because for some strange reason Jamaica's legislative architecture seems to be superior to ours, you know.

In Jamaica in keeping with the public sector reform agenda, Ministries, departments and agencies under the public service commission have been granted delegated authority for their appointment, separation, discipline and training of staff. This ongoing delegation is expected to facilitate increased accountability of senior executive, human resource management—

**Mr. Vice-President:** Minister, you have five more minutes. You have five more minutes.

**Sen. The Hon. F. Khan:** Okay. Thanks, Sir—and ultimately improve public service delivery. The service commission, for those who do not know, is not a full-time job—the commission itself. A lot has been said about that they are underpaid and overworked, 44,000 or how much of them, I am not sure what are the exact figures, public servants, they have to deal with so many—you know they meet once a week. On an emergency case they may meet twice a week. For God's sake, how can an institution like that effectively manage the public service? It does not take any genius to say otherwise, you know, and that is why I welcome Sen. Vieira's Motion. But I have a pet peeve, you know.

In the Ministry of Energy and Energy Industries 28 per cent of the staff, the establishment is vacant. When I went to that Ministry in 2017, Cabinet approved a new structure for the Ministry of Energy and Energy Industries. I mean, I do not want to sound boastful but we do a lot of important work there for the country. We have been working with the Public Service Commission to recruit entry-level staff.

They had delegated the authority to the PS. Watson Duke took us to court, a delegated authority for the PS, you know. He took us to court. It took a year in the court. He lost the case. And even when we have now started it back, it is like pouring molasses, it is just going slow. Today we have vacancies for chemical engineers, geologists, geophysicists, petroleum engineers, reservoirs engineers, petroleum inspectors. Most of them now we employ on three-month contract because that is the only contract we can offer.

And I have to close now, Mr. Vice-President. I want to go on record as saying that some of the brightest young minds in this country, you see it every day, and they struggle with three-month contracts, they do not have security of tenure. I speak to them every day and I said, your learning curve is so steep. What you know at your age took me 10 years to do, and I was a successful technocrat and professional in my field. The learning curve of these young professionals, these young graduates who we give scholarships to from UWI, from UTT, some of the best universities, Colorado School of Mines, the Texas A&M University, Imperial College in London. They are brilliant, they work hard and they deserve better.

So in closing, I do not know what form or fashion the ultimate Motion will be approved but I want to pledge the Government's support for this initiative, and the Government will continue to work with the Ministry of Public Administration and Digital Transformation to make something happen with the service commission. As to what that is, we are yet to be decided but something has to happen, and something will happen. I thank you, Mr. Vice-President. [*Desk thumping*]

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

**Sen. Anil Roberts:** [*Desk thumping*] Thank you, Mr. Vice-President. My hon. colleague, I would like to follow the hon. Minister Sen. Khan. And he said that the

colonials left us with some good stuff. Yes. They left us with good systems, good governance, good legislature, they left us with good structures. But the problem is, they left us with the PNM, and that overcame all the good [*Desk thumping*] that they left us with. He said that the service commissions were created for noble purpose. That is so correct. It speaks of independence, it speaks of work without pressure, it speaks of education, meritocracy, these were good things. He spoke of Gordon Draper, that Gordon Draper was frustrated, he wanted service commission reform, he wanted reform and he got so frustrated that he had to leave the country and go somewhere in Africa, said my colleague. He forgot to tell us that Gordon Draper was a PNM MP for Port of Spain South and St. Ann's. He got frustrated with the PNM that is why he ran to Africa to get away from the PNM.

And finally, my honourable colleague Minister of Energy and Energy Industries Sen. Khan said that Jamaica is always ahead of us, not only in athletics and netball, but it appears that they are ahead of us in the legislative agenda; once again, because Jamaica has no PNM. We have had PNM for 48 long years. So as I join this debate I want to agree with my colleague on pieces of the Motion that he has put here. That the Motion speaks of independence, it speaks of non-political interference, it speaks of efficiency, it speaks of constitutional reform. But unfortunately my learned independent colleague, because he is not a politician, because he lives in such a nice bubble of great morality and integrity, and he does not exist in the political sphere, he does not understand as the former Prime Minister Basdeo Panday once said, politics has a morality of its own. Why did Basdeo Panday say that? Because he had decades of experience dealing with the PNM. He had decades of experience seeing and reading a constitution and then seeing the PNM put systems in place to subvert the Constitution.

As we celebrate the victory of light over darkness, as we celebrate Divali

and we continue to do so, this Motion suggests that we continue the trend of PNM political influence over our independent institutions. In this instance our constitutional service commissions, this is akin to the promotion of darkness, subjective political bias over the divine light of objective independence. This Motion may be interpreted by some as a precursor to the enhancement and consummation of the dark forces which appear to have extinguished the light emanating from the once eternal flame at Petrotrin, clearing the way for an all-encompassing enveloping life-choking cloud of perpetual political darkness, encircling every single individual ray of independent light which has managed to survive the 48 stifling years of PNM undemocratic rule. And the last five years and two months of unfettered, unparalleled darkness covering the light and soul of this nation with a thick immovable suffocating mucus, squeezing the oxygen out of our patriotic-independent institutions thus by extension stifling the very essence of our people and our beloved nation. Ventilation is needed and can only come from greater autonomy, independence and resourcing of our constitutionally created and sanctioned service commissions. [*Desk thumping*] The framers knew of the importance of independence. Yet in writing the Constitution, political interference was written into it. So the concept was noble, Sen. Khan, yes it was, but only need to take you the integrity—to the commission—the Republican Constitution page 95 section 120(2):

“The members of the Public Service Commission shall be appointed by the President, after consultation with the Prime Minister and the Leader of the Opposition.”

Therein lies the beginning of our problems. It was noble, the concept was noble. Independence is noble. Freedom to do your job is noble. But even there politicians' dark desires are written in. Why the need for discussion with the political leader

and the Leader of the Opposition?—absolutely none, except that influence started at the beginning. Furthermore in section 3:

“Before the Public Service Commission makes any appointment...”

Now it gives the public service, public officers total control for selection, hiring, promotions and so on but in (3) it says:

“Before the Public Service Commission makes any appointment to an office to which this subsection applies, it shall consult the Prime Minister.”

You see, politicians have a sort of whether it is an overt, an innate or an inherent need for power and control, and therein lies our problem. So our problems do not begin with our people, with our public servants, with our workers, with our attitude, with our culture. The problems begin with the politicians who have led us and led us down a dark path of political interference and lack of independence.

Political interference is as old as Adam and Eve. Had Adam been an independent service commission, uninfluenced by the lure of Eve’s political gifts, he would not have eaten the fruit. This independence was intended, yet has not been achieved. We must go back, Sen. Vieira, back to basics. My senatorial colleague Jearlean John told me yesterday in preparation, she told me about the tagline of the Washington Post and I think it is most apt, “Democracy Dies in Darkness”.

In Trinidad and Tobago under this PNM democracy dead, dead, dead. [*Desk thumping*] Dark clouds have been gathering for decades under this PNM. The perfect storm is upon us, and even my honest colleague Minister of Energy and Energy Industries Sen. Khan agreed, Gordon Draper had to run from the darkness of the PNM; they would not listen to him. For example, as we talk independence it goes further from our Constitution to our service commissions to every independent organization. Let us get some examples because I believe in this

House, Independent Senators Ahye—I do not expect my colleagues on the other side to agree with one thing I say. I am not excited about that. But I am excited to have a debate and possibly share some instances with a learned colleague like Sen. Vieira whose life experience has not included much interaction with PNM. When you interact with the PNM, different years, different decades, different groups, you would tend to understand a little bit more.

For example, before the Republican Constitution, a Minister, a big Minister went in a police station and “take out he son”. That was, oh my goodness, the country came down and they were upset, they were angry, there were calypsos written about it. Government came under the most pressure ever before because of that but yet we went backwards.

When Patrick Manning, a former Prime Minister, went to just enquire about his driver, rightfully so the country was up in arms. What is a Prime Minister—he did not do anything untoward, he just wanted to know about “he driver because he like he driver”. He did not go to influence, he did not go to change anything but the country was up in arms. But now we have in the Joint Select Committee of this Parliament a national security Minister siting down and telling you on seven occasions that the police reporting to him and telling him what Sen. John is doing, and what UNC MPs downstairs are doing and what they are monitoring. And everybody sits down and says, “Aye, that sounding nice”. We have gone backwards. We have an active situation, riots breaking out. In Trinidad and Tobago our young afro-Trinbagonians youths see something on toward happen on video and they rightfully respond, they get upset that people’s lives were taken without clearly what the video said, due process. We have a Minister of National Security who has said, these young black boys are not intelligent enough to protest for themselves. That is me, Anil and the UNC who paid them—

**Sen. Mitchell:** Mr. Vice-President, on a point of order, please, 46(1).

**Mr. Vice-President:** Sen. Roberts, just please move on and make sure you keep in line with what is in front of us in terms of the Motion—

**Sen. A. Roberts:** Thank you, Sir.

**Mr. Vice-President:**—in relation to service commissions.

**Sen. A. Roberts:** What is in front of us—thank you, Sen. Mitchell. What is in front of us is independence, the Constitution, commissions, political interference and staying away. There is a Police Service Commission in this. I do not know if the hon. Senator read the Motion but we are talking about the Police Service Commission but yet we are seeing a politician appointed, actively involved in police work while police are actually carrying out an operation. That is not separation of powers which this Motion speaks to. That is not interference and it is not on. A Minister of National Security should be nowhere near the independent police Commissioner and police officers carrying out their duty. [*Desk thumping*] So I am not sure that my colleague has read the Motion but I will talk to you, Sen. Vieira.

So when we see that a Prime Minister sits and the Leader of Opposition brings revelations about possible impropriety brought about and surfaced by a Member of the Government, a former Minister of Energy and Energy Industries who brought about, who caused a report, an investigation to be done into fake oil, it was a PNM Minister who did that, and that PNM Minister is no longer around. That PNM Minister has been demoted, she is not an MP. Where is she? But she did the right thing. But she is gone and others are here. In Trinidad and Tobago we have to be real. When people do the right thing, they get demoted and thrown away but when they do the wrong thing, they get promoted and uplifted. The Prime Minister calls his friend and say, “Yes”, tells the country, “I call my friend and I

asked him if things all right”? What is going on there?

**Sen. Mitchell:** Mr. Vice-President—

**Sen. A. Roberts:** And he says that is okay.

**Sen. Mitchell:** Mr. Vice-President, 46(1) please.

**Mr. Vice-President:** Yes, Sen. Roberts. Again, again the line that you are going down is veering away from what we are dealing with in relation to the Motion. The Motion speaks specifically to service commissions and reform of those commissions. You are starting to veer outside of the line of that. Continue but make sure it is relevant.

**Sen. A. Roberts:** Thank you, Mr. Vice-President. I would not veer even though it is Sen. Vieira’s Motion but what I am talking about is the independence of the police. The police should be controlled by the Police Service Commission and no politician should be calling an accused. No politician should be determining who is investigating, what they are investigating, who is bringing police from Barbados or from England and making them SRPs. [*Desk thumping*] The Police Service Commission must be funded, must be staffed and must be left alone to handle their job, or else we would not see a Commissioner of Police come out, have an argument with a politician, then come back, cannot go on holiday, sit down and apologize, never apologize to any human being in his life before but he apologized this one, and then all of a sudden he could go on holiday. This does not look well, it does not augur for independent confidence of the population in the Police Service Commission [*Desk thumping*] and the police in general. This is what the Motion is about. I do not want to believe that I come here to debate a Motion and people on that side have not read the Motion. So moving right along. We have seen that we are clearly moving backwards.

In 1985 the great Leroy Calliste, Black Stalin, Sen. Vieira, he wrote a kaiso

called “Wait Dorothy Wait”. And in that calypso he said in 1995:

But as a take up meh pen and meh piece a paper, as I write out the first verse, this is what I remember.

Oil money come and oil money go, poor people remain on the pavement and ghetto.

Now when Mr. Divider start to divide the bread equally, ah going and finish the whole dam calypso bout Dorothy.

In 2020 as we speak with this PNM, Dorothy still has to wait. We need to give service commissions, and I agree with this Motion, if we change it and we add on to it, for full constitutional reform, for full resourcing of the service commissions, to turn back the clock, to turn back the reverse runnings or turnings of the PNM, to go back where the service commissions can—

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

**Sen. A. Roberts:** Already, Sir? “Oh goud!” Well let me just skip ahead of all of this, yes. For example, we saw yesterday that the entire public service was eliminated. The Government came to announce in a spotlight great development for Port of Spain but we did not see public servants from the Ministry of Planning and Development, Town and Country Planning and officials. We heard the hon. Prime Minister saying, tomorrow, that yesterday that to develop Port of Spain they have certain steps that he going to take. Dr. Rowley, the Prime Minister, said, UDeCOTT will be appointed—is to be appointed. UDeCOTT, a special purpose company, not public servants, this is called all contract, all appointed, all board related, all political interference, is now in charge of the entire revitalization of Port of Spain. He said, UDeCOTT is to be appointed. UDeCOTT will act a clearing house to liaise between private sector and the Government. UDeCOTT will enter into public/private partnerships, development, of preservation for public

consultation. But are these steps to be taken? Or are these steps that have been taken, Mr. Vice-President?

**5.00 p.m.**

I hold in my hand here a document dated 23 March, 2018 from the HDC, to a company ACQ and Associates, and this is the letter of acceptance for the provision of acquisition services for lands located at Piccadilly Street, Port of Spain, Regeneration Project since March 2018. The work has been done. The details have been paid, 1.4 million paid, and yesterday we hear that the Government is coming to consult independently with the population, when Piccadilly “done gone”. It is a fait accompli. They have already worked out in this document, as we can see Mr. Brent Lyons, Managing Director of the Trinidad and Tobago Housing Development Corporation, 03 May, 2017.

**Mr. Vice-President:** Senator, so again, let me just indicate. As much as you are reading out documents and whatnot, I am at pains right now to understand how it connects to the service commissions—

**Sen. A. Roberts:** Yes. Thank you, Mr. Vice-President.

**Mr. Vice-President:** It is completely out of relevance of the Bill— of the Motion that is in front of us right now.

**Sen. A. Roberts:** Correct.

**Mr. Vice-President:** So I am going to ask you to either tie it in or move on completely. You not have much time.

**Sen. A. Roberts:** Thank you, Sir. And I am tying it in by saying that the idea of the service commissions, over the years by the PNM Government, the power of the public service has been seeded to special purpose companies like UDeCOTT. So in a properly endorsed and resourced service commissions or public service, this document— these documents, this decision would have been handled

independently by public servants so that any question of impropriety and political interference would not exist.

But here it is, the politicians are telling us they are coming to consult about Piccadilly, and I have a document here from the political arm of a special purpose company, that Piccadilly in Laventille has just been sold out. And on top of that, the document says that the people who are living there, 100 people, very detailed, some businesses, some apartments, some houses, that they will not receive fair value to move out and go anywhere else. So once the Government acquires Laventille, starting at Piccadilly, we move to the calypso written by D Diamond, their “Eyes on the Hill”. And I say today Laventille— as Donna Cox, the Senator attacked and told me that I have no right to speak on behalf of Laventille because Laventille is PNM. Well, Laventille, PNM is coming for your land and it has gone. They have already signed the contract, [*Desk thumping*] and “dey comin’” to take it and purchase it and acquire your land, and D Diamond said:

Down in Westmoorings the people know their mansion sinking, so they have their eyes on the hill.

So while you planning to shoot and kill, they have their eyes on the hill. Why you think drugs and guns flourish still, because they have their eyes on the hill. Every time they lock you up is your grandparents deed and will, because they have their eyes on the hill.

On that hill, that beautiful hill, Laventille...

When they plan to relocate, did dey fit the bill? They have their eyes on the hill.

And I ask the Government, if the public service and the Public Service Commission was in charge there would have been fair value. Why was this not consulted upon? Why are they going to acquire people’s land, put them out,

knowing full well that they could never return? Because the price of the private sector [*Inaudible*]—

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

**Sen. A. Roberts:**—will never bring them back, and the people of Laventille will lose their property and cannot [*Inaudible*]—

**Mr. Vice-President:** Your time is up, Sen. Roberts. [*Desk thumping*]

**Sen. A. Roberts:** It has been a great pleasure. Thank you very much, Mr. Vice-President.

**Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat):** Thank you very much, Mr. Vice-President, for the opportunity to join this debate on what I consider to be a historic Motion. The timing for me, Mr. Vice-President, is perfect, simply because I now have the context of five years as a Minister, five years in a Cabinet, and five years in the Parliament, and I think I am as positioned as anybody else to make a contribution on this issue of the service commissions.

But, Mr. Vice-President, I was preceded by several speakers, including the one that just left, and I heard the references to video, guns, drugs, I wondered if my colleague—at one point I wondered if my colleague was reflecting on his own term in government. [*Desk thumping*] Because, Mr. Vice-President, on the matter of LifeSport, I was at the time a lot of things but I was a columnist for the *Express*, and I remember writing on quite a few occasions on LifeSport. But this is how I described LifeSport. I see my colleagues are reaching for their Standing Orders, so I appreciate the assistance. I called LifeSport the platinum standard—

**Sen. Lutchmedial:** 46(1) please, Mr. Vice-President. I do not see the relevance of this to service commissions.

**Mr. Vice-President:** Minister, again, you have just started.

**Sen. The Hon. C. Rambharat:** Yes, Mr. Vice-President.

**Mr. Vice-President:** I would like to hear exactly where you are heading with this. As I guided Sen. Roberts, please, connect it to the Motion that is in front of us.

**Sen. The Hon. C. Rambharat:** Absolutely, Mr. Vice-President. Because I am sure I heard my colleague talk about video and due process, guns and drugs. I am sure I heard that. I am merely responding to say, I had the opportunity to comment on LifeSport and I described it as the platinum standard of corruption in this country. Simply because it involved a state enterprise with numerous gatekeepers. It involved a Ministry with a Permanent Secretary to whom the responsibility of gatekeeper is entrusted. It involved in one particular matter, involving Adolphus Daniel, an external law firm. And the fourth area, it involved Ministers charged with significant public responsibility.

And I made the point that if the gatekeepers in the state company, the gatekeeper in the Ministry, the gatekeeper in the Cabinet, if they all fail, and we find ourselves in a morass like LifeSport, then the entire system has failed, and no resources to service commissions could save us. And I thought that—I know my friend is unaware of all of this. I know he is unaware. But I thought LifeSport would have been brilliant context for what Sen. Vieira is raising, and that is the failure of a system long constructed and outdated somewhere along the line. And I thought Sen. Mark was perfectly positioned to talk about this, because he was a Minister of Public Administration and he understands fully. Sen. Mark would have seen what we call personnel— Personnel Division, and the files upon files, persons going off on vacation, and persons coming in to act in a position and receiving letters long, long after, and persons going off on retirement, and somebody having to traipse—there is an officer who worked with me in our Ministry and yesterday, long after he retired, he was still going from office to office around Port of Spain,

trying to accumulate the record of his service for the purposes of calculating—calculating his terminal benefits. And that represents a failure, like LifeSport, a failure in several places that lends, you know, creates a nonsense of an argument of independence and insulation.

Because if in the creation of the service commissions, we were insulating from the politicians and we were trying to create independence, well, it has not worked. And as a Minister of Government now in my second term, coming on the heels of a former Lower House MP and a former Minister, who did not complete a full-term, unfortunately, I think I have a responsibility to tell this country in support of this Motion that this system of the service commissions has long outlived its usefulness. And I say it for these reasons, Mr. Vice-President. When we look at the purpose, the design, the system of management and the system of accountability of the public service, in the 1960s we were dealing with something completely different. It was, Mr. Vice-President, never contemplated that a Ministry of Education, for example, will manage on an annual basis a \$10 billion budget. It was never contemplated that a Ministry of National Security will procure in the billions and manage thousands and thousands of persons. The complexity with which public servants and the public service and the service commissions, the complexity in which they engage was not catered for in the original design. So if then we were focusing on independence and insulation, in 2020 we should be focusing on accountability, management of resources, and the delivery of goods and services to the people who pay all of us here.

So there is a design issue that Sen. Vieira points to. There is a management issue that we all acknowledge. No one who has spent a day on the public's payroll can say anything other than the fact that this system does not work. I never thought, Mr. Vice-President, for example, that I will still be— as a Minister I still

deal, having worked in energy and working in banking— Sen. John is there, I have other colleagues in this House who have worked in the private sector and have been exposed to the public sector. I never thought that a Permanent Secretary, for example, will go off on vacation leave without leaving a record of things that are in train and things that are to be anticipated, I never thought that an acting Permanent Secretary would waltz in many days after, without a clue as to what has been left by the outgoing— and this is simply a short vacation. And compared to banking, you cannot leave your desk on a Friday in banking without leaving a record, a handover, without being properly accounted for. That is why if you pass by the commercial banks you see employees working late on a Friday, accounting, putting things away for the weekend to restart on Monday. In the energy sector, you cannot leave a job, you cannot leave a shift without a proper handover, without being able to inform the person who is coming in, what they are going in a piece of plant or in an office to meet, and that— something as simple as that, and something as fundamental to managing an organization is lacking.

The next area, Mr. Vice-President, is this issue of the decline of the public service. Well, if everybody is being paid, whether they perform or they do not perform, then we will end up in the situation we are in now. The public service does not, and the service commission and the employer and the union, they do not distinguish between poor performers and high performers. We do not reward excellence. There is no system of rewarding excellence. And what you do— Sen. Khan pointed to all those brilliant people he has met, and I have met, and I have worked with, brilliant technical people in the Ministry. I worked with brilliant people, young and not so young. I worked with dedicated and devoted people. But a lot of times they found themselves working alongside people who are not committed to do the job, and a lot of good people get demotivated and exit the

public service, because there is no system of rewarding excellence in performance. And at the core of rewarding excellence is this system of promoting based on seniority. There have been court matters and we, in our Ministry, are on the verge of dealing with two, where persons have contested promotional opportunities and acting opportunities, because one joined the service yesterday and one joined today. On the basis of a day, a decision to promote or to give the opportunity to act arises without reference to track record, performance appraisal, performance and achievements. So at the core of the performance problem is the reward problem, and at the core of the reward problem is the fact that achievers and non-achievers work in a system where trade unions, employers, service commissions recognize one thing and one alone, and that is the day in which you join the service. That is the most important thing.

The fourth point I want to make is something that from time to time we talk about but we do not want to deal with it frontally, and I consider myself to be part of the problem. I take responsibility for being part of the problem. You see, I was lecturing at the university in the early 2000s when the idea came of developing the HR stream in the public service, and we went off at the university and we created degrees: public service, public sector management, industrial relations, HR management, and other things. And we created degree problems— degree programmes, problems too, and we found that the public servants came in droves to the university, attracted to that because also in the country, the police service and elsewhere, the degree was being used as a measure for compensation and as a measure for promotion.

But nobody saw that in the public service, the HR positions that were to be filled were pitched very high up in the pecking order, so that when these degreed HR persons returned to the public sector, they returned at a very high level. And I

mean no offence to anybody who is currently holding a position or who held a position, there exists in the public service an HR bias at the leadership level. There exists a bias. And for the last five or seven years many Ministers would have found themselves routinely working with HR people at the top of the public service, and what we do not find is a balance between—at the leadership level in the public service, we are not seeing IT people coming through. We are not seeing engineers in senior public service positions. We are not seeing project managers. So, so many Ministries with billion-dollar spends, without project managers in senior positions, and without persons specially trained, without Permanent Secretaries with accounting and finance, not just qualifications, but experience to be able to manage multibillion-dollar budgets.

And I want nobody to take offence to it, and I take responsibility for it. Because while we were creating and building this HR stream in the public service, we were not driving similar streams in project management, in engineering, in IT, and pitching those positions. And that is a matter for the employer. That is a matter for the trade unions. And most importantly, that is a matter for the service commissions, and many of us as Ministers encounter outdated job descriptions. We are trying to take a biotechnologist from UWI and bring that person into the Ministry, and we have had for more than two years to battle with this job description issue.

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

**Sen. The Hon. C. Rambharat:** Thank you very much. The next area I want to talk about, Mr. Vice-President, is the performance appraisals. I very recently had to deal with an issue where persons in the Ministry are applying for a promotion position in another Ministry and are required, as part of the application process, to provide evidence of their performance appraisal. And those persons are finding out

that performance appraisals have not been done for more than six years. And where performance appraisals—I read a memo circulating in our Ministry today where the Permanent Secretary is making the point to senior public service managers that the performance appraisal is not the place to address misconduct.

And I am seeing in the memo that where you have misconduct in a Ministry, the person has to be spoken to on at least three occasions, and the person has to be written to on at least two occasions. And I am comparing it to the private sector where managers and leaders have the opportunity to address misconduct and performance issues frontally. In the energy sector you do not get a bonus and you do not close off your year without completing a performance appraisal process, and it is similar in most companies. And we cannot continue to function with a private sector and a public sector in Trinidad and Tobago in which we have different ways of measuring our employees and rewarding our employees.

The sixth point I want to make, Mr. Vice-President, as I close, is this. This system of managing the public service and staffing the public service is manifestly unworkable, and we are fooling ourselves. We are fooling ourselves. It requires a system redesign. It requires a focus on being able to reward our top performers. It requires a focus on being able to deal with misconduct. And most importantly, it requires a system in which the taxpayers of this country, through the annual budgeting process, pay most of what they pay out in the budgeting process to the workers who work in the public sector. And in exchange for that, there must be a system of accountability for time, for performance, and for delivery for those things for which all of us are paid. I thank you very much, Mr. Vice-President.  
*[Desk thumping]*

**Sen. Paul Richards:** Thank you, Mr. Vice-President, for recognizing me. I did not plan to make a contribution but given what I have heard, I decided that I will make

a short intervention.

Let me start with, and the name of the calypsonian evades me but it came to mind when I heard the many contributions earlier today. “Who is going to guard the guards?” It is an old calypso classic, a line from an old calypso classic, “Who is going to guard the guards?” It seems the guards in Trinidad and Tobago have been “guardless” for decades, and that is why I commend my colleague Sen. Vieira for bringing this Motion, focusing on organs of state in Trinidad and Tobago that we all know, collectively, have been failing and dysfunctional for decades. I know many Members in this honourable Chamber who are Ministers on both sides have heard this statement before from PS’s, “Yuh cyar move me yuh know. Yuh here five years if yuh lucky. I see all yuh come and go. I see plenty of all yuh come and go.” I see many Members shaking their heads and they seem impotent to deal with dysfunctional individuals and non-functioning state officials.

So, that is why I ask who will guard the guards? Because this Motion is at the root of many of the issues facing us in Trinidad and Tobago, regarding one of the most critical and important organelles of State, service commissions: the Public Service Commission, the Police Service Commission, the Teaching Service Commission and the Judicial and Legal Service Commission, as has been stated before, charged with the responsibilities of appointments, promotions, transfers and discipline within the public service. So we all complain about the, in Minister Khan’s words, “the inertia” in the public service. We like to look down on the so-called “lower ranks” and we do not look at the upper ranks, or the oversight functions or the oversight mechanisms.

And it actually disappointed me. I was going to use a stronger word but I do not think it is going to be parliamentary. I do not think “disgusted” is an unparliamentary term—that such a Motion like this could descend in what to me,

or I interpret, as a political maelstrom, when we all agree that service commissions has been dysfunctional and failing for decades at the detriment of the people of Trinidad and Tobago. [*Desk thumping*] But again, everything turns into a political football and “ah ole mas” in this country. And you know, while we are focusing on the service commissions in this notable Motion, that to me is really at the root of one of our biggest challenges in this country, that things we fundamentally agree on can be so divisive and turn into this kind of political maelstrom. That we know in our hearts and in our minds that any construct or organs of the State that has been formed, designed and constructed decades ago could not possibly function in today’s construct or today’s environment, but we fight it.

My interpretation of Sen. Vieira’s Motion is not that the service commissions should be disbanded but for a system to be put in place to look at it, to examine it objectively, dispassionately. See what is working, what is not working, why it is working, what can work better in the interest of delivering a better service to the people of Trinidad and Tobago. Because if we do not, we will be complaining about this 20 years from now. Is that what we want? I do not think so. At the root of it, when you look at the responsibilities, the core responsibilities: appointment, promotion, transfer and discipline within the public service, it is a fundamental HR function and oversight, which are critical. Critical in four indispensable elements: public service— public service in all its incarnations. Police Service Commission, our very security is at risk if this is not functioning effectively. Teaching Service, education in the country falling apart in many ways not for the lack of people giving their all or fighting on a daily basis to do what they are paid to do, but because the systems and the foundations and the framework is off now. Promotions and assessments not done on a regular basis. Transfers and disciplinary procedures cannot be executed because of one, an

inadequate system that is not in keeping with what the requirements of today are, and certainly people who can hide in the shadows, which is what has been happening because they understand the construct.

They have been in it for decades. As the old saying goes, “geh a government wuk and yuh good, yuh easy. Yuh there for decades.” But it is not working for the country, and that is not to say that there are elements in the public service that have not performed miracles. We have seen it during this COVID-19 pandemic, where against the odds, some arms of the public service have performed incredibly. But imagine how much more effectively they could have performed if this system was working properly.

And, of course, Judicial and Legal Service Communication. Every central and critical sector in the country is governed by these four service commissions, yet we bicker and we squabble, not about the common understanding that is not working, you know. But, of course, we use it to score cheap political points, and I will make no apologies for saying that. And we have to get past that. To me, that is the biggest problem facing this country, because we all agree on the issues that are challenging and facing us. We might disagree on how to fix them but certainly if we are not willing to even come together and have a conversation, a dispassionate, objective conversation about putting a mechanism in place to examine these structures, we are going to continuously find ourselves in these positions.

**5.30 p.m.**

When you look at the other mandate of the service commissions, to insulate the public service from political interference, has that worked?

[MADAM PRESIDENT *in the Chair*]

Has that worked effectively? Is it working? We have all heard the stories about attempts at political interference, et cetera. So we constantly complain about

productivity in the public service and wastage and lack of accountability. Well, is it not the mandate of these commissions to ensure that the systems are working? And if they are not working, why we should not be looking at them dispassionately and objectively with a view to fixing what is wrong or replacing if it comes to that. And I am not saying by any means it has to come to that, but certainly reconstructing them for their dictates and their demands of present day living, especially in the era of pandemic where we see resources are becoming less and less that have to be quickly shunted to intervention services.

So, one of the thing—the words that keeps coming back to my mind when I think of many of these service commissions, is dysfunction, dysfunction at the highest level and a lack of accountability. I did say I am not going to be long and I am not going to be long. One of our national credos is “Together We Aspire, Together We Achieve” and more and more it seems that this is just cute words or lip service and if we do not make good on these kinds of principles we are not going to move forward as a country. Any country, any chain, any state, is only as good as its weakest link. Service commissions are an important link in the governance and accountability structure of Trinidad and Tobago and we have to admit they are presently weak links that need to be examined and repaired and reconstituted. Let us get down to the work of the people in Trinidad and Tobago. Madam President, I thank you. [*Desk thumping*]

**The Minister in the Office of the Attorney General and Ministry of Legal Affairs (Sen. The Hon. Renuka Sagramsingh-Sooklal):** [*Desk thumping*]

Madam President, chamber mates of the Senate, Trinidad and Tobago a pleasant good afternoon. Madam President, I am grateful for the opportunity to contribute to this debate before this most honourable Chamber. I want to firstly congratulate Sen. Vieira for moving this said Motion in the interest of all the people of Trinidad

and Tobago.

Madam President, Sen. Vieira and my colleagues on the Government Bench have all spoken in great and pertinent details on the roles, functions, deficiencies of service commissions, the enshrined rights of said commissions and the need for constitutional reform. So to avoid unnecessary repetition I will adopt the submissions of my colleagues on the Government Bench and see how best I can add to what has already been effectively narrated by my colleagues.

Madam President, I firstly want to address a comment that was made by Sen. Mark during his contribution. Sen. Mark spoke of the fact that the PNM wanted control over the hiring and firing of people. He spoke of—he also made reference to a report that was done by Mr. Dumas. What I have here that I want to place in the public domain, Madam President, is an article that was dated Thursday May 23<sup>rd</sup>, 2013, and it was also an article that was done by Mr. Dumas. And in this article he attempted to critique the performance of the public service and service commissions in particular. In this particular article what Mr. Dumas focused on was the structural and technical “in deficiencies” that existed within the service commissions. What Mr. Dumas—and I will quote from the article:

“Another drawback, Dumas added, was the absence of a computerised system recording data on public servants in the public service.”

Now why I make reference—this is an article by Mr. Dumas in 2013, where he recognized that in the public service there was an integral deficiency as it related to record keeping and a computerized system. If we, for example, in 2020, Madam President, look at PNM policies and our Government’s policies relative to transforming our society and transforming the way in which—and the ease of doing business in this country, we would see that digitization is crucial; digitization is a crucial part of our government policies and this is very important for us to

recognize, that the PNM Government is bent on improving the structures and is bent on improving the system of doing business within our public service.

Now, in this particular article by Mr. Dumas he also spoke of:

“On the Teaching Service Commission, Dumas asked how often principals sent reports of wrongdoings to the Ministry of Education.

How often, and with what rapidity, does the permanent secretary send his or her report to the Teaching Service Commission?”

And as I said this is a 2013 report, *Guardian* newspaper report. And in this report again what it speaks to is structural deficiencies that exist. It is not a PNM problem. In the public service they are just simply structural deficiencies that of course need to be addressed.

Madam President, the four Public Service Commissions created by Chap. 7, Part III and Chap. 9, Part I of the Constitution of the Republic of Trinidad and Tobago as we are aware and most of my colleagues, all of my colleagues have alluded to, are the Public Service Commission, the Police Service Commission, the Teaching Service Commission, and the Judicial and Legal Service Commission.

Madam President, the Judicial Committee in a Privy Council case of *Thomas v Attorney General* as alluded to by Sen. Hazel Thompson-Ahye, of course spoke and tried to explain what the purpose of these commissions was. The ratio decidendi of this case, Madam President, indicated the whole purpose of the public services:

“...is to insulate members of the civil service, the teaching service and the police service in Trinidad and Tobago from political influence exercised directly upon them by the government of the day.”

Now, Madam President, in the Motion before us, Sen. Vieira has called on the Government to review the Constitution of Trinidad and Tobago and the

enshrined service commissions and to table to this Parliament within a reasonable time a clear plan for the update of the Constitution and reform of the said commissions. To answer the hon. Senator's Motion the place to start will be to examine, of course, the deficiencies that exist within these commissions. When I did my examination of these service commissions it was clear to me that there were two significant categories of deficiencies that existed within the public service. And because these two categories of deficiencies are very, very, different, Madam President, I submit that the deficiencies plaguing the public service could not, and these service commissions, could not be cured by simple constitutional reform alone.

As previously alluded to the deficiencies plaguing the commissions falls square in two categories. What are these categories? The first category in my interpretation of the problems plaguing the service commissions, Madam President, it is squarely a structural issue and it relates to the human resource management which can only be cured by plan policies and initiatives within the commission, of course; within the commission itself and of course with the assistance of any government of the day to bring institutional strengthening and internal reforms within the said constitution. Madam President, policies to improve and in some instances changed the culture within the commissions are crucial.

The second category of deficiencies that, in my analysis of these service commissions are those categories, that simply comes from the challenges which arise from the enshrined provisions in our Constitution as it relates to service commissions. And of course this second category of deficiencies can only be cured by constitutional reform.

Madam President, what I will attempt to do now is to separately examine the non-constitutional deficiencies and the constitutional deficiencies that these service

commissions face and then attempt to bring to this Chamber what the Government has done and intends to do to bring reformation that Sen. Vieira and many of my colleagues and many of my chamber mates recognize as crucial for the benefit of Trinidad and Tobago.

I want to use the example of the Public Service Commission. For example, in the Public Service Commission—well we understand that section 120 of the Constitution of the Republic of Trinidad and Tobago speaks to the creation of the public service. Now in 2006 there was a further delegation of the powers of the commission to Permanent Secretaries, heads of departments, via the Public Service Commission (Delegation of Powers) (Amdt.) Order, 2006, which was published in the Legal Notice No. 105 of 2006. Madam President, as a result of the constitutional provisions the Parliament appointed, at that time, members to form a Joint Select Committee on Local Authorities, Service Commissions and Statutory Authorities (including the THA).

Now during the Third Session, 2017 to 2018 of the Eleventh Parliament, this said JSC published its Seventh Report, an “Inquiry into the Efficiency and Effectiveness of the Public Service Commission”, where they highlighted many problems facing the public service. Now the problems that were identified, particularly in this report, spoke to structural problems that can only be cured by strengthening institutional and internal strengthening. Now subsequent to this report the question is and the question that Trinidad and Tobago would want answered is upon the receipt of this report what exactly did Trinidad, did the Government of the day, do.

Now the Ministry of Public Administration, the Office of the Prime Minister did prior to this JSC engaged and participated in conversation with the public service and the Joint Select Committee. There were many recommendations by the JSC

which came out of this conversation. For example, many of the recommendations—and these recommendations, Madam President, of course, again and I reiterate, recommended that to improve the public service and to improve these service commissions internal strengthening was required.

Now one of the deficiencies that the JSC alluded to in this said report was something as simple as poor information technology systems that existed in the public service. Now we can report as a Government that to rectify the antiquated IET system subsequent to that report, iGovTT began working with the Public Service Commission to retain suitable consultants, vendors for the provision and design and implementation of an electronic document management base system.

So the point that I am making, that I am placing in the public domain, is that our Government simply does not sit by when recommendations are made. Clearly, and I think I have mentioned this in my maiden speech, we do not have a magic wand and certainly we cannot solve all of the problems, but certainly when problems are brought to us as a Government with the resources and the expertise we do have, we do make a concerted attempt to bring some sort of remedy. And this point that I have made relative to some of the recommendations that came out of this said JSC where the Government took the steps to work and try to better and improve the IT solutions, but one example of many things that our Government has been and continues to do. And then of course my colleague, Minister Sen. Allyson West would have spoken about digitization. Digitization, it is crucial to our Government's plan. This too, of course, we look at as a system of internal strengthening our public service.

Now, Madam President, another recommendation that came out of that said JSC to cure the deficiencies in the public service was an issue relative to drafting of policy. It was stated that:

“the”—Public Service Commission—“should ensure that rigorous research data and data analysis is conducted prior to the implementation of”—any—  
“new policy frameworks.”

So the JSC also suggested and in their conversation with the Government and in their conversation with the public service, recommended that before we are to apply any policy to revamp or to renew our public service that that policy of course must be based on data, it must be based on sound research, sound methodology.

It was suggested that:

“The Commission should partner with academic and research institutions which can result in increased networking and expert guidance for policies.”

The question now based on this recommendation, what did the Government of Trinidad and Tobago do? As a result, what did we do? I would like to place in the public domain, since the 7<sup>th</sup> of January, 2016, by Cabinet Minute No. 26 the Government appointed a task force to support the implementation of a National Statistics Institution of Trinidad and Tobago in recognition of the necessity to have an independent body charged with the responsibility of the collation of data, recognizing that this data is crucial to the formation of national policies. This Government has always recognized the need to create an autonomous agency:

“...to facilitate informed decision-making, through the timely provision of a quality, relevant, user-oriented and dynamic statistical service, coordinating statistical activities and promoting the adherence of statistical standards.”

The Government, Madam President, spoke to these policies and the need for a statistical agency in Trinidad and Tobago. The public sector reform agenda also forms part of our Government’s Vision 2030. It was also found in the PNM’s 2015 manifesto, and even in our 2020 manifesto the PNM Government would have spoken to a great extent about strengthening, internal strengthening of our public

service sector. Now, what I can report, Madam President, allow me the opportunity now—so that was relative to the Public Service Commission.

I want to also turn to another service commission, which is the Judicial and Legal Service Commission, and look at what were some of the deficiencies that existed in this particular commission, and of course attempt to explain and put into the public domain what the Government of Trinidad and Tobago has since done. This commission is an executive body established under section 110 of the Constitution of the Republic of Trinidad and Tobago; this is the JLSC I speak about. The JLSC had agreed to the establishment of selection panels to assist in their recruitment. So the JLSC I am pleased to say, at least based on my research, they have taken prudent steps to improve internally and strengthen the operations internally as per how their commission operates. Now, however, in 2017 in an annual report of the JLSC it was stated that there was an inordinate delay in classifying offices and or providing job specifications for some offices and positions that existed.

Now, what the JLSC said—

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

**Sen. The Hon. R. Sagramsingh-Sooklal:** Now what the JLSC identified is that sometimes it is difficult for them to fill vacancies, sometimes it is difficult for them to advertise positions if data does not come to them, for example, from heads of departments or from Permanent Secretaries. So the JLSC clearly would have identified that, okay we have taken steps to do some sort of introspection, we have taken steps to do some internal strengthening, but the problems that we face as a commission is sometimes is over and beyond us. And what we will certainly need is the assistance of the public servants and them being on board and willing to take that level of social responsibility for how the public service as whole is able to

operate.

Madam President, in the interest of—I understand time is of the essence so I would quickly look at the constitutional deficiencies that exist and that will require, of course, probably a constitutional amendment. Madam President, I wish to draw—I wish to put into the public space section 54 of the Constitution. This particular section, Madam President, it speaks particularly to majorities required when certain constitutional amendments are to be had. Now section 54 (1), in particular, it states—it gives the government and a Parliament the opportunity to be able to bring constitutional reform. But section 54(1), subsection (2), speaks to sections of the Constitution that will require a two-third majority.

Madam President, if we look at section 120, 121, section 122, 22(a), 23 and the list goes on, all of these sections of the Constitution speak to particularly to service commissions and three-quarters if not most of these—to bring forward most of these amendments will require a two-thirds majority if we consider the point of proportionality. Now why I am stating this is because while, yes, in principle we all understand the necessity to bring at times, to bring forward severe constitutional reform, this will require the cooperation of this entire Parliament, both in the Lower House and in the Upper House. So we can speak of constitutional reform, we can speak of the need to bring amendments to certain parts of our Constitution as it relates to service commissions and improving the functions of service commissions. But if we go to section 54 on that point of proportionality it is clear to us that we can only do that if as a Parliament we all, despite our political differences, we recognize that there comes a time that we must work as one body in order, of course, to bring forward necessary constitutional changes that can only benefit all of the people of Trinidad and Tobago.

Madam President, thank you very much for the opportunity. [*Desk*

*thumping]*

### ADJOURNMENT

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Thank you, Madam President. Madam President, I now beg to move that this Senate do now adjourn to a date to be fixed. But just to indicate to hon. Senators, that this Friday the 20<sup>th</sup> of November the House will be debating the anti-gang legislation and once it is passed we plan to meet next Tuesday, but obviously I cannot adjourn to that time.

**Madam President:** Hon. Senators two matters have been approved. Leave has been granted for two matters to be raised. Sen. Mark.

### Upstream Gas Producers (Update on Royalties)

**Sen. Wade Mark:** Thank you, Madam President. Madam President, the first matter deals with the need for the Government to update this honourable Senate on the implementation of the 12.5 per cent royalty on all upstream gas producers and the revenue realized thus far. Madam President, the Minister of Finance in his budget statement of 2018 recognized the need for Trinidad and Tobago to get a fair share of its carbon—hydrocarbon resources. On page 10 of that budget statement the Minister stated and I quote:

“The initial assessment is that the”—new—“low weighted netback prices for LNG in Trinidad and Tobago under existing commercial arrangements were completely inconsistent with the high prices of LNG then prevailing in global markets; by some estimates, Madam Speaker the country lost billions of US dollars annually in the 2011 - 2014 period from such irregular transfer pricing practices.”

Madam President, the Minister of Finance went on, on page 35 to indicate

that, and I quote:

“...I propose to rationalize the royalty regime applicable to the extraction of oil and gas. Accordingly a 12.5 percent royalty rate would now be applicable across the board on the extraction of all gas, condensate and oil. Further, to avoid revenue leakage and to avoid cheating, the fair market values for our oil and gas for the computation of royalty will be fixed by the Petroleum Pricing Committee a feature of statute.”

Now, Madam President, the Government recognized in that time or at that time we were not been given fair value for our hydrocarbon resources. So the Government took a decision in budget 2018 to impose a 12.5 per cent royalty rate.

Madam President, we have brought this matter to your attention and through you, this honourable Senate's attention to extract clarification from the hon. Minister of Energy and Energy Industries who himself had stated in this Senate that the Government had imposed a 12.5 per cent royalty rate on all upstream gas producers and this would increase the revenue base of the country. All well and good. What however happened is interesting and we would like the Minister to clear the air on this matter.

It appears, Madam President, even though the Government took a decision to impose a 12.5 per cent royalty rate across the board on all upstream gas producers, what happened was this: The contracts NGC, which is the National Gas Company, had with the upstream companies allowed this 12.5 per cent royalty increase to be passed on to the NGC. So even though the Government imposed the 12.5 per cent on the gas producer's upstreamers they passed on that 12.5 per cent increase to the NGC. Madam President, what that meant essentially is that the NGC was then supposed to pass on that royalty rate of 12.5 per cent to the downstream sector if they are to remain profitability as an organization, as a state

entity. What we understand happened is this and this is why we have asked the hon. Minister of Energy and Energy Industries to clear the air for us, Madam President.

We understand that Minister of Energy and Energy Industries instructed the National Gas Company not to pass on this cost and this involved, Madam President, hundreds of millions of dollars to the downstream companies at Point Lisas which resulted, Madam President, in the NGC having to absorb these costs themselves. So what effectively happened, Madam President, is that the Minister of Energy and Energy Industries charged an extra 12.5 per cent through the Minister of Finance, but this was supposed to be paid by the upstream companies to the Government, but what happened is that NGC ended up actually having to absorb this 12.5 increase.

Madam President, this resulted in a cash flow problem for the National Gas Company and the only party who suffered in this charade was the NGC. So today, Madam President, a “cash cow” that used to bring in five and six and seven billion dollars a year before profits is now reporting, Madam President, in the first six months of 2020 a loss of \$314.5 million. At the end of the financial year it may go to maybe a billion dollars. So the question here is, who is running Trinidad and Tobago? Is it Shell, BP and these upstream gas giants or is it the Government of the Republic of Trinidad and Tobago?

**6.00 p.m.**

Madam President, we are calling on the Minister of Energy and Energy Industries, through you, to clear the air on the refusal of these upstream gas producers to honour the Government’s and the Parliament’s imposition of a 12.5 per cent royalty rate. They are not paying it according to our information. It is being absorbed by NGC. NGC has been instructed by the Government to absorb

the cost, and therefore, NGC has now become a loss-making state entity. Madam President, Curtis Williams stated in a *Guardian* article that this is what forced the rushed renegotiations announced by Minister Young, but it had limited success because it resulted in lower volumes being secured from some of the upstream suppliers for a marginally better price.

So, Madam President, whilst the pandemic has caused further pressures on commodity pricing, the real problem started when the gas market in Trinidad was allowed to be put in a state of imbalance by the intervention of politicians in setting upstream prices. And that is why, Madam President, we are now experiencing, as a country, major losses because of the refusal by these up-streamers to honour the 12.5 per cent imposition that the Parliament of the Republic of Trinidad and Tobago agreed to. So I have brought this matter to this Senate's attention so that the Minister of Energy and Energy Industries could level with the population on this matter that is of grave importance. Madam President, I thank you. [*Desk thumping*]

**Madam President:** Minister of Energy and Energy Industries.

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Thank you, Madam President. Madam President, the Motion states the need for the Government to update this Senate on the implementation of the 12 and half per cent royalty on all upstream gas producers and the revenue realized thus far. Madam President, the royalty system—

[*Device goes off*]

**Madam President:** Will the Senator whose device that is, will you please leave the Chamber.

**Sen. The Hon. F. Khan:** Yes, Madam President. Madam President, a royalty system is fundamental to the taxation of a non-renewable asset or what is called a

mineral asset, whether it is oil, whether it is gas, whether it is copper, whether it is iron ore, whether it is zinc, whether it is any form of mineral. The royalty system is a taxation based on volume. It is not based on profit.

You cannot have a non-renewable source and tax it on profit, because you have so many write-offs against your capital expenditure you could be in a position where you—in fact, BP was in a position where they were producing virtually one trillion cubic feet of gas per annum and did not have a tax liability. So they are taking one trillion cubic feet of gas from this country and not paying a cent. The royalty system, the historical reason for that is that gas was considered a by-product of oil. So there was always a 12 and a half per cent royalty on oil, but gas was vented off the east coast and then that was the formation of the NGC, and the rest is history with Point Lisas and what have you. We took the position that we will impose a 12 and a half per cent royalty—it already existed on oil, we imposed it on gas.

Since it was imposed on gas and oil, from April 2018 to the end of fiscal year 2020, the Government has collected \$7.753 billion in just over three years and that was money we would not have had. Okay? So it is a valid taxation mechanism and it has worked well for this country. It baffles me to know why successive regimes over the years had never contemplated imposing a royalty on natural gas, and the reason for that, because the aggregation business of the NGC was very large. Those were the days of cheap gas. You buy gas at X and you sell at X plus three. So once your margin remains there, X plus N let me say, where N could be from one to how much. So once you are profitable, nobody looks at the fundamental construct of the taxation regime. It started to hurt when the volumes dropped and the price dropped. So we have put the royalty on gas.

Sen. Mark is right in one point. Our stream of natural gas from this country

bifurcates about 60 to 65 per cent goes in to LNG, through Atlantic LNG, and about 35 to 40 per cent goes through the NGC as the aggregator. The NGC provides gas to T&TEC, to small light industries in Trinidad and in particular the Point Lisas companies. During the days when there was no royalty on gas, the oil companies were always one step ahead of the game, you know. So in their gas contract of sale with the NGC there was a clause which says, "In the event that the Government imposes a royalty charge on the gas that will be passed through, that equivalent amount of money for MMBtu will be passed through to the NGC".

The NGC felt comfortable because their gas sales contract with Point Lisas companies also had that clause and say that if a royalty is imposed on the upstreamer that is passed through to us, we will pass through to you also. Once the chain is strong we could survive that. We are in a position now where the chain has gotten weak. So if we imposed a 12 and a half per cent royalty on natural gas, the stream that goes to Atlantic is no problem. All that money comes to the Government. The stream that goes through the NGC, the NGC has two choices: impose the additional charges on the down-streamers and collapse the whole of Point Lisas; or find a mechanism to work it through.

I am pleased to announce today that this Government met with the major gas producers and imposed on them that the royalty taxation system is a taxation system designed for upstream producers. Royalty means you extract and you are subject to taxation on royalty and that in principle cannot be passed through, but we had airtight contracts. So what do you do? And it is because of prudent negotiation by your government, the Government of Trinidad and Tobago and the People's National Movement, we have been able to get the oil company to absolve NGC from paying that additional moneys. So Sen. Mark you only have half of the story. Your informants are not telling you the whole truth.

Today I can proudly say that based on our negotiation with the companies, that quantum of additional charges is no longer passed through for the NGC, and that is the fundamental issue. Because the pass-through clause was negotiated under UNC, you know. You all—the Poten Report with the \$6 billion per annum lost through transfer prices, you know what the time frame of that report was? 2011—2014, you know. But you coming here now like white knights trying to indicate that we have done so wrong. We have corrected all the miscalculations—I would not even say wrong—the miscalculations that were done under your administration because you did not seek the expert advice that a specialized industry like this demands, and that is what differentiates the PNM from you all, you know.

We take a professional approach. We seek professional advice, we seek expert advice, because this is an international playing field. We are dealing with the best companies in the world, you know. They are well-resourced. They are always ahead of the game. If you see their contract—I mean, I am not a lawyer but I have worked closely with some of the contracts. We have a company now working for us called White & Case, the best energy lawyers in the world, headquarters in New York and London. And when those guys go through a contract—and you know I always had something against lawyers but I take off my hat to them because at the end of the day your lawyers protect you. Always have a good lawyer, and a good doctor, and a good accountant. That is my advice to everybody, all and sundry.

So, Madam President, the People's National Movement Government has imposed a 12 and a half per cent royalty on natural gas. It already existed in oil. To date, at the end of fiscal 2020, we have received TT \$7.7 billion despite low production and low prices. I thank you. [*Desk thumping*]

**Government Negotiating Team and Up-streamer Gas Producers**  
**(Natural Gas Prices)**

**Madam President:** Sen. Mark.

**Sen. Wade Mark:** Madam President, my second matter is calling on the Government to explain the natural gas prices arrived at between the Government negotiating team and the up-streamer gas producers and the impact of same on the operations of NGC. Madam President, I would have thought that government is a continuum, and when a government is out of office and the next one assumes office it must act in the interest of the people of T&T.

Madam President, I would like the hon. Minister to explain the 2011—2015 period in which those companies called Shell and BP, respectively, through cargo diversions and transfer pricing, owed this country close to US \$15 billion, which is over \$100 billion. I would like in this particular matter that I am raising, to ask the hon. Minister: Why did the Government give in since you are so prudent in your negotiating skills, why did you forego \$102 billion owed to the people of Trinidad and Tobago through transfer pricing, tax avoidance, cheating, and cargo diversions by Shell and BP, respectively? [*Desk thumping*] You must explain that to this Parliament today.

Madam President, the Minister of Energy and Energy Industries was very adamant with the Poten & Partners Report during the spotlight event at Hyatt when it was made very clear by the Poten & Partners Report that these companies owed us US \$15 billion, and yet still the Government went to these countries, the companies' capital, whether it is Houston, Texas, the United Kingdom or Europe. And, Madam President, I do not even believe the hon. Minister of Energy and Energy Industries was on that trip that involved the Prime Minister and the Minister of National Security when they sat and negotiated new gas prices which

we understand was 20 per cent higher than the price down-streamer plants paid or can in fact pay for gas.

Madam President, this 20 per cent increase in higher gas prices that the Government agreed to, that is, Prime Minister and the Minister of National Security when they negotiated in Houston, Texas, in the UK as well as in the Europe capital, I think Holland, that, Madam President, resulted in the National Gas Company losing \$1.5 billion in revenue per year as a result of those negotiations. It eroded the gas margin business of the NGC. Madam President, the up-streamers we understand—and the Minister must come clean and tell us because we have done our research on this matter. We understand, Madam President, that the up-streamers were asking for a price of \$3.25 per MMBtu. Before, they were getting \$3.10 per MMBtu; they wanted \$3.25.

Madam President, NGC was ready to sign at \$3.10 per MMBtu, however, the up-streamers were asking for \$3.25. So, Madam President, NGC \$3.10, the up-streamers \$3.25. Madam President, the Minister must tell us; he must come clean this evening and tell us. We have been reliably informed—we have the facts on this matter—that the Prime Minister and the Minister of National Security settled for a price of \$3.50 per MMBtu. Madam President, that torpedoed the National Gas Company. Today the National Gas Company is a loss-making body and the reason for this is because of the imprudence by the Government, led by the hon. Prime Minister and his Minister of National Security.

As I said, I do not believe that the hon. Minister of Energy and Energy Industries was a participant in this exercise that saw these negotiations in that place called Huston, in Holland, in Europe, as well as in the UK involving BP.

So, Madam President, listen to what has happened to our country. Today, scholarships cut from 400 to 100. You know what, Madam President? We were

supposed to collect US \$15 billion from these two companies. Madam President, that represents \$102 billion. The Government instead got a billion dollars, a golden handshake and we today are under severe economic pressure, and today BP announced 40 workers have gone home and they have another 60 to send home.

So they owe us, along with Shell, \$102 billion because of cargo diversions, because of transfer pricing and because of tax avoiders and cheating, and we, Madam President, are being asked to hold the raw end of the stick. This is why, Madam President, it is important for the Government to come clean with the people of Trinidad and Tobago. Forget this commercial secrecy. We have the facts on this matter, and we want the Minister to deny that the new price that they have agreed upon for natural gas is \$3.50 and not the \$3.25 that the up-streamers were asking for, and the consequences of that for the National Gas Company.

Madam President, in closing, I noticed that the *Express* has taken up the narrative of the Chairman of the NGC by saying T&TEC owes them money. Of course T&TEC is owing them money, Madam President. T&TEC has been owing them money for a little while, but the Government of Trinidad and Tobago is owing T&TEC a billion dollars in outstanding electricity rates for Ministries, statutory bodies and state enterprises. So the Government is owing T&TEC a billion dollars, Madam President, but here we have the NGC chairman blaming T&TEC for the mess that NGC is in. It is not T&TEC to be blamed. It is the Government of Trinidad and Tobago that has collapsed the National Gas Company and not T&TEC.

So we are calling on the Government to come clean this evening, talk the truth and tell the population what is the real story with the gas prices that the Government agreed upon in Huston, Texas, in Holland, and in the United Kingdom. I thank you very much, Madam President. [*Desk thumping*]

**Madam President:** Minister of Energy and Energy Industries.

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Thank you very much, Madam President. You know, Madam President, Sen. Mark has been beating this dead horse for the last three years, but let me just for the records clear up some misconception. As Minister of Energy and Energy Industries I have accompanied the Prime Minister on all his trips to London, to The Hague, and to Houston. A specific trip Mr. Mark—I mean Sen. Mark, is speaking about is that so-called meeting they referred to continuously and continually. That meeting, Madam President, I was recovering from my surgery so I could not attend it with them.

Now, first and foremost if the UNC wants to breach confidentiality agreements, if they want to breach non-disclosure agreements, they are free to do so because we cannot take them to court for that, but we as a responsible government cannot do it. I said when I responded recently that when we had the press conference on Patriotic I said this is an international business. Trinidad's claim to fame in the international petroleum and hydrocarbon arena in the energy sector, it is that—two things: we honour the sanctity of the contract; and we honour non-disclosure agreements especially with key sensitive commercial issues and confidentiality clauses. I will not comment—

**Madam President:** Sen. Roberts. Sen. Roberts, please, I am trying to hear the Minister so could you desist on your line of commentary? Continue, Minister.

**Sen. The Hon. F. Khan:** I will not comment on Sen. Mark's prices. What I can tell you, I can show you the chronology of how this industry evolved. This industry evolved, and I keep saying it over and over again, it evolved where gas was a waste product. As a young man and a young boy in high school and primary school I remember in Mayaro—that is my home. I grew up on the beach—you are seeing

those big flares out there. Amoco at the time was just flaring gas. That is what they are doing in Guyana right now, Exxon. Because of the innovation of the PNM administration at the time, they said we will take that gas, we will build compressor platforms, we will give the gas free to T&TEC and then we build that gas portfolio into a marketable entity. Gas was a by-product in the production of oil.

Trinidad and Tobago is one of the pioneers in what was called the monetization of our gas resources. We were the first set of countries to go into major petrochemical complex, so much so, that we were the world's largest exporter of both methanol and ammonia. When Train 4 was constructed it was the largest single LNG train in the world. We were one of the first three to get into LNG after Qatar, and I think Russia. We had good times. When we went into the LNG business, understand what happened. The market was in the United States. No company will invest billions of dollars to build a plant without long-term contracts. So we had a long-term contract that was pegged to Henry Hub. In the days when we were selling all our gas to Boston, at one point in time Trinidad and Tobago supplied 85 per cent of the United States' natural gas requirements. We made money. Then the industry changed.

There was a seismic change in the industry where the United States started to produce gas. So the demand for gas dropped because they were taking their domestic production first, and that caused a drop in Henry Hub prices. That is the US based price. However, China was booming, Asia was booming, Japan, South Korea. So the Asian market was offering prices twice, three times, sometimes four times higher than Henry Hub, however, we were locked to Henry Hub under the gas contracts. So, what Poten calculated that if our gas was not encumbered by being posted to a Henry Hub price, that is the value that the country lost. It is not

actual money that we lost. However, there has been evidence that there was switching of cargoes and what have you, what have you, but the contract was based on a reference price of Henry Hub for what you call Point Fortin FOB, freight on board out of Point Fortin. So, if Point Fortin FOB is based on Henry Hub, plus a margin, when that shipment leaves Point Fortin it could go anywhere in the world, and that was the leakage we spoke about, and that is when we called in—all that happened from 2011—2014, you know. They did nothing about it, you know. It is when we came into office in 2015, we called in Shell and BP and the energy companies and said, “Hey guys, that cannot continue”.

I am saying this for the first time. You know what the head of one particular company said? He said, “we are willing to talk because we realize Trinidad has not gotten its fair share of this commodity”. But I want to make one thing clear, we broke no law and we breached no contract. Understand that statement: we broke no law and we breached no contract, but we still went around the table with them, mano a mano, and said we have shareholders, you have shareholders, and we negotiated what is now called the Train 1 reference price which is a basket of prices that is based on Europe, Asia and Brent Crude. So it is a balance like a basket of currencies so to speak if we invested in the foreign exchange market.

We have recovered significant amounts of money from these negotiations. Obviously, we would not recover all because we were not legally entitled to it and that is now my growing love for lawyers because you have to have good lawyers to protect you and to institute clauses where things like fundamental change—  
[*Interruption*] Okay? And that is—

**Sen. Mark:** You broke the law.

**Madam President:** Sen. Mark, you were allowed to make your contribution in silence. Continue, Minister.

**Sen. The Hon. F. Khan:** So that is the issue. So the issue now, the NGC has to pay higher prices for its gas because it is more expensive to develop gas now. The days of the large fields are gone. We have smaller fields so the unit cost per MMBtu of gas is higher.

For the chain to survive you need upstream. Upstream is saying I cannot survive on a price less than this, downstream is saying I cannot survive on a price higher than this, and the NGC is in the middle being squeezed out as the aggregator. That is the complex situation we are currently involved in, and that is why we have our experts and we are analysing what we call the gas value chain. These are not just words you know. These have significant economic consequences for the country, and this bravado and loose way of coming and calling \$3.25, \$3.10, \$3.50, you could catapult the whole negotiation, you know. Just as how you almost catapulted the Patriotic negotiations, you know, because of the irresponsibility.

I mean am getting fed up of it now. That level of recklessness is astonishing, Madam President, and this—I am experienced enough to know I have to start to live with it. Okay? It is a consequence of the political climate of Trinidad and Tobago. But I want to conclude by saying this PNM administration will continue to act responsibly in the interest of all the people of Trinidad and Tobago. Thank you, Madam President. [*Desk thumping*]

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 6.30 p.m.*