

SENATE

Tuesday, September 14, 2021

The Senate met at 10.00 a.m.

PRAYERS

[MADAM PRESIDENT *in the Chair*]

PAPERS LAID

1. Annual Administrative Report of the Trinidad and Tobago Civil Aviation Authority for the period 2017/2018. [*The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Office of Procurement Regulation for the year ended September 30, 2020. [*The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat)*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Mayaro-Rio Claro Regional Corporation Chairman's Fund for the year ended September 30, 2017. [*Sen. The Hon. C. Rambharat*]
4. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Mayaro-Rio Claro Regional Corporation Chairman's Fund for the year ended September 30, 2018. [*Sen. The Hon. C. Rambharat*]
5. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Mayaro-Rio Claro Regional Corporation Chairman's Fund for the year ended September 30, 2019. [*Sen. The Hon. C. Rambharat*]

6. Annual Audited Financial Statements of the Sports Company of Trinidad and Tobago Limited for the financial year ended September 30, 2020. [*Sen. The Hon. C. Rambharat*]
7. Annual Audited Financial Statements of the University of Trinidad and Tobago for the financial year ended September 30, 2016. [*Sen. The Hon. C. Rambharat*]
8. Annual Administrative Report of the National Investment Fund Holding Company Limited for the year ended December 31, 2020. [*Sen. The Hon. C. Rambharat*]
9. Annual Administrative Report of Trinidad and Tobago Tourism Business Development Limited for the year ended December 31, 2018. [*Sen. The Hon. C. Rambharat*]
10. Second Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Couva/Tabaquite/Talparo Regional Corporation for the year ended September 30, 2006. [*Sen. The Hon. C. Rambharat*]
11. Annual Administrative Report of the National Enterprises Limited for the financial year ended March 31, 2020. [*Sen. The Hon. C. Rambharat*]
12. Annual Report of the Equal Opportunity Commission for the year 2016. [*Sen. The Hon. C. Rambharat*]
13. Annual Report of the Equal Opportunity Commission for the year 2017. [*Sen. The Hon. C. Rambharat*]
14. Annual Report of the Equal Opportunity Commission for the year 2018. [*Sen. The Hon. C. Rambharat*]
15. Firearms (Use of Pepper Spray) Order, 2021. [*Sen. The Hon. C. Rambharat*]

16. Annual Administrative Report of the Trinidad and Tobago National Schools Dietary Services Limited for the period 2010/2011. [*Sen. The Hon. C. Rambharat*]
17. Annual Administrative Report of the Trinidad and Tobago National Schools Dietary Services Limited for the period 2011/2012. [*Sen. The Hon. C. Rambharat*]
18. Annual Administrative Report of the Trinidad and Tobago National Schools Dietary Services Limited for the period 2012/2013. [*Sen. The Hon. C. Rambharat*]
19. Annual Administrative Report of the Trinidad and Tobago National Schools Dietary Services Limited for the period 2013/2014. [*Sen. The Hon. C. Rambharat*]
20. Annual Administrative Report of the Trinidad and Tobago National Schools Dietary Services Limited for the period 2014/2015. [*Sen. The Hon. C. Rambharat*]
21. Annual Administrative Report of the Trinidad and Tobago National Schools Dietary Services Limited for the period 2015/2016. [*Sen. The Hon. C. Rambharat*]
22. Annual Administrative Report of the Accreditation Council of Trinidad and Tobago for the period 2017/2018. [*Sen. The Hon. C. Rambharat*]
23. Annual Administrative Report of the University of the West Indies, St. Augustine Campus for the period 2017/2018. [*Sen. The Hon. C. Rambharat*]

URGENT QUESTION

Madam President: Sen. Mark, can you proceed to the booth, please.

WASA Purchase of Chemicals (Disciplinary Action)

UNREVISED

Sen. Wade Mark: To the Minister of Public Utilities: Given reports of the questionable purchase of \$7.7 million worth of chemicals no longer utilized by WASA, can the Minister indicate whether any disciplinary action will be taken against the persons involved?

Madam President: Leader of Government Business.

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Thank you, Madam President. In dealing with this matter, a process has to be followed. So, the matter was brought to the attention of the Audit Committee of WASA and thereafter to the board of WASA. Given the contents of the report, the board of WASA ordered that a thorough investigation be carried out, and that is the stage WASA is at in relation to this matter. WASA is at the investigation stage of the matter. Thank you.

Madam President: Sen. Mark.

Sen. Mark: Given the seriousness of this matter, can the hon. Minister indicate whether the management of WASA has taken steps to have these two managers suspended?

Sen. The Hon. C. Rambharat: Madam President, the matter is at the investigation stage, of the investigation commissioned by the board of WASA. The investigation commenced in July, and I assume that at the appropriate stage the WASA board will take what action it needs to take, if it needs to take.

Sen. Mark: Can the Minister indicate whether the board of directors, as well as the management of WASA had given approval to this expenditure of \$7.7 million worth of chemicals?

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

PERSONAL EXPLANATION

Madam President: Sen. Roberts, I will ask that you go to the booth.

Committee of Privileges Report (Sen. Anil Roberts Apology)

Sen. Anil Roberts: Thank you, Madam President. I thank you for granting me

leave in accordance with Standing Order 22 to provide a personal explanation. I wish to refer to the report of the Committee of Privileges of the Senate, First Session 2020/2021, Twelfth Parliament, on the matter of contempt of Parliament.

By resolution agreed on Wednesday July 7, 2021, the Senate adopted said report and its recommendations. Therefore, pursuant to the recommendations therein, I wish to extend an unreserved apology to the President of the Senate, and to the Senate as a whole, for the statement deemed to have brought this House and its Presiding Officer into ridicule and odium. I wish to reaffirm my commitment to the people of Trinidad and Tobago and to the Parliament of this Republic.

I thank you for your consideration in this matter.

COMPOSITION OF COMMITTEES

Madam President: Leader of Government Business.

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, we had proposed to move Motions in relation to the composition of some of the committees, and I understand that my colleague Sen. Mark would like an opportunity to revisit the composition. So, we can either stand it down and defer it to the next sitting.

Madam President: Let us defer it to another sitting.

Sen. The Hon. C. Rambharat: Thank you. I so move.

Madam President: There is no need to move it, we still have to deal with Motion No. 2.

JOINT SELECT COMMITTEE (APPOINTMENT TO)

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): I beg to move the following Motion:

Be it resolved that the Senate agree that Dr. Muhammad Yunus Ibrahim be appointed to serve on the Joint Select Committee on Land and Physical

Infrastructure in lieu of the late Mr. Franklin Khan.

Question put and agreed to.

**STANDING ORDER 43(1) SPEAKING TIME
(SUSPENSION OF)**

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, I seek your leave in accordance with Standing Order 112(1) to move a Motion for the suspension of the Standing Order 43(1), given the fact that we are still in the midst of a pandemic. Thank you.

Madam President: Senators, leave is granted.

Sen. The Hon. C. Rambharat: Madam President, I beg to move that during the period of the COVID-19 pandemic, that this Senate suspends Standing Order 43(1) in order for the time limit of speeches in debates to be adjusted as follows: A maximum of 45 minutes for the mover; a maximum of 40 minutes for the first responders on the Benches opposite; a maximum of 30 minutes for all other speakers, and a maximum of 30 minutes for the Member wrapping up. I thank you.

Question put and agreed to.

TRINIDAD AND TOBAGO REVENUE AUTHORITY

Order for second reading read.

The Minister of Finance (Hon. Colm Imbert): Thank you, Madam President.

Madam President: Minister, you have 45 minutes.

Hon. C. Imbert: Thank you, Madam President. I beg to move:

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

Madam President as I proceed to pilot the Trinidad and Tobago Revenue Authority Bill, 2021, permit me an opportunity to summarize the long and winding road that has lead us as a country to this point. The first attempt to establish a

revenue authority commenced over a decade ago when the then government introduced the Trinidad and Tobago Revenue Authority Bill, 2010, before the Parliament in January 2010. That Bill lapsed in April of 2010. A second Bill, the Trinidad and Tobago Revenue Authority Bill, 2018, was introduced in Parliament on May the 25th, 2018, and referred to a Joint Select Committee of Parliament on the same date.

The JSC established to consider and report on the Bill was chaired by the Minister of Finance, and held 13 meetings over the course of the Third and Fourth Sessions of the Eleventh Parliament. During these meetings, the JSC issued invitations to a wide cross section of stakeholders, and received quite a few submissions from the following: The Inland Revenue Division, the Customs and Excise Division, the Central Bank, the Financial Intelligence Unit, the Customs Clerks and Customs Brokers Association, the Institute of Chartered Accountants, the National Union of Government and Federated Workers, the Service Commissions Department, the American Chamber of Commerce, the Couva/Point Lisas Chamber of Commerce, the Energy Chamber of Trinidad and Tobago, the Tobago House of Assembly, the University of the West Indies through the Faculty of Social Sciences, and the Joint Trade Union Movement.

The report of that Joint Select Committee was laid in the House on May the 13th, 2019, and in the Senate on May the 15th, 2019. There was also a minority report by Members of the Opposition, which disagreed with the views of the majority of the committee, and that majority comprised Members of the Government and Members of the Independent Bench of this Chamber. The Opposition did not support the Trinidad and Tobago Revenue Authority Bill, 2018, which resulted in the Bill being withdrawn on September 27, 2019, after the Motion to adopt the committee's report was made before the House.

A third Bill, the Trinidad and Tobago Revenue Authority Bill, 2019, was introduced in the Senate on November the 26th, 2019, and approved on May the 1st, 2019, with amendments. That Bill lapsed on July the 3rd, 2020.

Madam President, each of those Bills required the support of a special majority of three-fifths of the Members of each House of Parliament to be successfully passed. Essentially, these Bills could not have been passed without the support of the Opposition. So even though the third Bill was approved by the Senate with the support of Independent Members, it could not be passed in the House because of the lack of support of the Opposition.

It is obvious from the 11-year history of this legislation, that despite the well-established benefits that will redound through the establishment of a revenue authority, the Opposition has been it crystal clear that they will not support a revenue authority in this country.

Madam President, in order to avoid any further wastage of time—we have been at this for 11 years—the Government proposes a solution to end this deadlock that is seamless and in keeping with the rule of law. I will address that aspect of the Bill at a later stage.

With respect to the inefficiencies of the current system, despite the numerous debates heretofore that have happened on this subject, the critical question as to why this country needs a revenue authority can be answered with ease. The benefits include vastly improved deficiencies of business for all, greater revenue collection and prudent management of the State's main revenue collecting agency. The inefficiencies of the current system, especially with respect to the Inland Revenue Division, are well documented, and addressed in Parliament ad infinitum on many previous occasions. I would therefore simply refer to some data that has already been introduced into the Parliament, just for reference.

In 2017, the Inland Revenue Division was assessed by the IMF using the Tax Administration Diagnostic Tool, also known as TADAT. This tool allowed us to obtain an independent assessment which utilized a scientific approach on the performance of the current tax administration system. The TADAT report highlighted that out of 28 high level indicators, Trinidad and Tobago received the following ratings: Two A ratings, the highest rating; one B rating; seven C ratings; and 18 D ratings, the lowest and worst rating. The report also indicated a number of strengths to build on and several weaknesses.

In 2019, the IMF conducted a post TADAT strategic review, whereby the IMF Mission, working with the management and staff of the Inland Revenue Division, reviewed progress in addressing the weaknesses, 13 in all, identified key priority areas, which if improved can achieve maximum impact on revenues and brainstorm solutions for the prioritized areas. Implementation of the agreed upon solutions is ongoing, but continues to be humbugged and constrained by a lack of human resources, which is a matter for the independent constitutionally protected Public Service Commission. There are hundreds of vacancies in these divisions caused by the inaction of the Public Service Commission.

In 2019, the IMF also conducted a value added tax, VAT gap study. The results indicated that there is a VAT gap of around 5 per cent of GDP in Trinidad and Tobago, which has two components, a compliance gap and a policy gap. The policy gap would flow from decisions of successive governments with respect to tax exemptions, zero-rating, tax waivers, et cetera, in various areas of activity.

The compliance gap is the problem because we have control over the policy gap; we can adjust the policy with respect to tax waivers, zero rating, et cetera, but in terms of compliance, the compliance gap, the difference between the potential value added tax to be collected, the VAT that could have been collected if all

taxpayers complied, and the net VAT accrued, appeared to be well above average for an emerging market economy. In fact, the estimate of the compliance gap is somewhere between 2 to 3 per cent, which is of the order of 3 to \$5 billion. So that is what the experts determined, that the compliance gap in Trinidad and Tobago, just on value added tax alone, could be as much as \$5 billion per annum.

More recently, in an article entitled:

“New Tax Authority in Trinidad and Tobago to boost compliance”—appearing in the report, Trinidad and Tobago 2020 by the Oxford Business Group, the following was stated, and it is quite instructive:

“The current system has been characterised by weaknesses in laws, regulations and human resource management. The Caribbean Regional Technical Assistance Centre”—or CARTAC, that is the arm of the IMF that has assisted us with evaluating the Inland Revenue Division—“has referred to T&T’s current system as ‘highly inefficient’, and the country ranked 160 out of 190 in”—terms of—“paying taxes...”—by the World Bank—“scoring 53.5 out of a possible 100, below the average in Latin America and the Caribbean...and counterparts like Dominica...”—which is at 83 out of 190 countries—“Jamaica (124)”—out of 190 countries—“Grenada (143), and Antigua and Barbuda, (145).”

We are 160th. There are only 30 countries in the world that are worse than us:

“The report noted that T&T’s total tax contribution rate as a percent of commercial profits was...”—40 per cent—“below the regional average of 47%...”

According to the World Bank, the average time necessary to file three major taxes...”—in Trinidad and Tobago—”is around 210 hours...”

If you work that into days, Madam President, you would get that it would take a

month to file three major taxes in Trinidad and Tobago.

“the score for the post-filing index, which takes into account the time needed for value added tax (VAT) refunds...was 19.5 out of 100. As such, the overarching aim of the TTRA is to make the tax regime more efficient and enhance taxpayer compliance.”

It is as simple as that. That is why a TTRA is required, because we have a tax gap that could be anywhere between \$5 billion and more per annum, and we are highly inefficient in terms of dealing with the taxpayer.

It is estimated that with the establishment of the Revenue Authority and other tax efficiency gains, increased collections over the medium-term would be as follows: In 2022, 1 per cent of GDP, approximately one and a half billion; 2023, 1.5 per cent of GDP, approximately 2.4 billion, and 2024, 2 per cent of GDP, \$3.2 billion. In short, the Revenue Authority is intended to ensure that revenue collection in this country is approached as a world-class business, rather than as a corollary subject to the strictures of the public service.

The Trinidad and Tobago Revenue Authority Bill, 2021, incorporates the amendments as recommended in the report of the Joint Select Committee of Parliament and, therefore, except for one policy change, it is virtually identical to the previous Trinidad and Tobago Revenue Authority Bill, 2019, which found favour with the majority in this Senate. Let me repeat: Except for one policy change, the Bill before you is virtually identical to the Trinidad and Tobago Revenue Authority Bill, 2019, and therefore, those Members who participated before should be familiar with the Bill that was passed by the Senate in 2019.

Let me make it crystal clear, lest I be misconstrued. The previous Bill was the full, complete approach for Revenue Authority, passed with a special majority, completely hiving off the Revenue Authority from the jurisdiction of the Public

Service Commission. That was the previous Bill that was passed by this Senate, with the support of the Independent Bench.

This Bill, because the Opposition had made it crystal clear that we could pass whatever we want in this place, in this House, with the support of the Independents, but when it gets to the House they will use their numbers to ensure that such legislation is torpedoed, we have decided that we will now make an adjustment which allows us to pass the legislation with a simple majority, by establishing an enforcement division of the proposed Trinidad and Tobago Revenue Authority. The purpose of this Enforcement Division is to exercise those enforcement powers excepting the enforcement of revenue laws by way of civil proceedings, found under the revenue laws by a cadre of public officers appointed by the Public Service Commission.

I will now look at the relevant clauses that implement the Enforcement Division, the proposed Enforcement Division. Clause 13(1) of the Bill establishes the position of the Deputy Director General of Enforcement who is the head of the Enforcement Division and a public officer appointed by the Public Service Commission, not by the Minister or any other politician, or by the Cabinet.

Clause 13(4) excludes the Deputy Director General – Enforcement from the limitation of holding office for more than five years at any time. In other words, once he or she is appointed, that person is there until retirement, and is subject to the control of the Public Service Commission and not any Minister.

Given the importance of the office of the Deputy Director General – Enforcement, other than by way of civil proceedings of the customs laws, Excise Act and other revenue laws, clause 13(5) of the Bill proposes to establish the office under the purview of the Salaries Review Commission for the purpose of determining relevant salary and allowances.

Clause 14(1)(b) of the Bill reaffirms the role of the Director General with respect to enforcement of revenue laws by means of civil proceedings. So that the Director General, who is not appointed by the Public Service Commission, can only enforce revenue laws by way of the court. This is an important point to highlight as it is meant to delineate the roles of the traditional revenue collection, reserved for the Director General, with the more intrusive functions, especially those currently being exercised by Customs and Excise, and found under the various revenue laws, being reserved for the Deputy Director General – Enforcement, who I repeat will be a public officer.

This is further highlighted in clauses 40(1)(a)(i) and 40(1)(b)(ii) of the Bill, and underscored in the definition of “enforcement” in clause 3 of the Bill, which states that:

“‘enforcement’, in relation to the Customs laws, the Excise Act and other revenues laws, means the exercise of the powers, authorities and privileges conferred by those revenue laws;”

It is necessary to emphasize that the inclusion of these words, “powers, authorities and privileges”, which is a phrase found under the Customs and Excise Act from the General Provisions Act, is meant to ensure there is only the exercise of existing powers. Let me repeat that: The use of these words is meant to ensure that there is only the exercise of existing powers and not the creation of any new powers.

Clause 3 of the Bill now incorporates by reference the definition of “Customs law”. This is meant to ensure that reference to enforcement, the framework of establishing the relevant legislation is covered.

The definition of “revenue laws” has been unchanged since the Trinidad and Tobago Revenue Authority Bill, 2019. However, the schedule of laws has been expanded to include a reference to all laws that either the Customs and Excise

Division or Inland Revenue Division have the power to act under. This ensures a seamless transition to the Trinidad and Tobago Revenue Authority which will now carry out those functions in due course, when the Authority is established and when the Enforcement Division is populated by the Public Service Commission.

How much more time do I have, Madam President?

Madam President: Twenty-eight minutes.

10.30 a.m.

Hon. C. Imbert: Thank you. Let me now turn to a particular explanation of the approach that we are adopting with the enforcement division, Madam President. I want to reiterate that the plan is that all of the officers in the proposed enforcement division will be public officers. In addition, if one looks at legislation that we have had in our Parliament from time to time, such as the Trinidad and Tobago postal authority, allow me now to read a brief explanation as to exactly what we intend to do.

Each of the former Bills require the support of a special majority. They require that majority because they sought to confer the powers of authorities and privileges of members of the police service currently exercised by custom officers and other officers on persons who were to be appointed by the proposed Trinidad and Tobago Revenue Authority, and not on public officers appointed by a service commission, and I want to repeat that. The previous versions of this Bill, which were introduced with a requirement for a special majority, required a special majority because they sought to confer the powers, authorities and privileges of members of the police service on persons who were to be appointed by the proposed Trinidad and Tobago Revenue Authority, and not on public officers.

The Trinidad and Tobago Revenue Authority Bill, 2021, is very different in that sole respect because what we are doing is conferring those powers, of which I

just spoke, on public officers appointed by the Public Service Commission and that avoids the need for a special majority, and this is the advice that we have received from eminent counsel. By clause 14 of the Bill, the Enforcement Division of the Authority would comprise the Deputy Director General – Enforcement and other public officers appointed by the Public Service Commission, as well as employees performing administrative functions appointed by the authority itself. The deputy director general, a public officer-enforcement would be authorized to exercise the powers, authorities and privileges conferred by the customs laws, the Excise Act and other revenue laws for the purposes of the enforcement of those revenue laws. The Public Service Commission would have the authority to remove, transfer and exercise disciplinary control and promote over the Deputy Director General–Enforcement, and other public officers of the Enforcement Division. The board would have authority over the employees of that division that perform administrative functions and have no enforcement powers.

Section 35 of the Municipal Corporations Act—this is in fact the Act that I was referring to rather than the Act dealing with the postal authority. Section 35 of the Municipal Corporations Act provides a precedent for the appointment of public officers to positions in a statutory corporation, in as much as it requires the Public Service Commission to appoint, remove, transfer and exercise disciplinary control over the officers of the municipal corporations mentioned in its Second Schedule of that Act, thus to the extent that the powers, authorities and privileges conferred by the customs laws, the Excise Act or other revenue laws would continue to be exercised by public officers for the purposes of the enforcement of those laws. This Bill does not infringe the Constitution and does not require a special majority. I am referring particularly to the municipal police force which does not take orders from politicians within statutory corporations, but takes its direction from persons

appointed by independent authority.

Just to wrap up, the term “Customs laws” is defined as having the meaning assigned to it in section 2 of the Customs Act. And by section 2 of the Customs Act:

“Customs laws include...”—that—“Act and any other written law relating to the Customs;”

Section 3 of the Customs Act—this is very important—provides:

“For the purpose of carrying out the provisions of the Customs laws, all Officers shall have the same powers, authorities and privileges as are given to members of the Police Service...”—by law.

So within the municipal corporation framework, you have municipal police officers who have the same powers, authorities and privileges as, let us call them regular police officers, but they do not take instructions from politicians running the corporations because they are subordinate to another authority.

The Excise Act is defined as having a meaning assigned to it in section 3 of the Excise (General Provisions) Act, and that means the Brewery Act, the Spirits and Spirit Compounds Act, the Liquor Licences Act, and any other Act, regulation, order, resolution. Section 5 of the Excise (General Provisions) Act provides that:

“For the purpose of carrying out the provisions of any Excise Act all Officers shall have the same powers, authorities and privileges as are given by law to constables and all members of the Police Service shall have the same powers, authorities and privileges as are given by laws to Officers...”—and so on.

So again, within those laws, Excise Act and customs laws, the enforcement officers have the powers and privileges of police officers, but they are appointed by independent authority; by the Public Service Commission in this case. Where the

Bill refers to the enforcement of customs laws, the Excise Act and other laws, by the Deputy General–Enforcement or the Enforcement Division, the words, “other revenue laws” should not be interpreted in the broadest sense but should simply be interpreted in keeping with the *ejusdem generis* rule, be construed as embracing those revenue laws which are similar in nature to the customs laws and the Excise Act.

Clause 13 provides for the introduction of the post of the Deputy Director General – Enforcement, who would be a public officer, head of the Enforcement Division. And as I indicated previously, the terms and conditions of employment of that person would be determined by the Salaries Review Commission, which is an independent body. The review of the terms and conditions of service by the SRC of the Deputy Director General–Enforcement supports his or her independence in a manner that is similar to that given to the chairman of the Board of Inland Revenue or the Comptroller of Customs and Excise.

Clause 14(1)(b), as I said before, expressly confers on the Director General who would not be a public officer, responsible only for enforcement of the revenue laws by way of civil proceedings. They will have to approach the court. The Director General would not have the same or even similar enforcement powers as the Deputy Director General – Enforcement.

Clause 14(2), (5)(c) and (d) set out the responsibilities of the Deputy Director General–Enforcement responsible for:

“the daily management and direction...of the Enforcement Division...”—of the proposed revenue authority.

And:

“...the enforcement of the Customs laws, the Excise Act and other revenue laws;”

The Deputy Director General–Enforcement will also be responsible for:

“advising the Director General on...”—matters—“that could affect public policy or public finances...”—and so on.

The options available to public officers by way of clause 18(2)(c) of the Bill will be as follows. To exercise the option to:

“be appointed on transfer by the Public Service Commission to a suitable public office in the Enforcement Division...”

In the case of—and the well-known case of *Perch*—and I believe that is Martha Perch—*v the Attorney General 2003, 62WIR461*—for the lawyers among us—the judicial committee of the Privy Council considered the Trinidad and Tobago Postal Corporation Act, 1999, and held that the options similar to those provided in section 18(2)(a), (b) and (d) of the Bill, were not unconstitutional, even for those who chose to remain in the public service, but for whom no other office in the public service was available. At paragraph 15 of that judgment the Privy Council stated that:

“Retirement, whether voluntarily or compulsory, is a mode of leaving the public service recognised by section 12 of the Civil Service Act. So is the abolition of an office...”

And:

“It is established that a legislature...may abolish a public office in the interests of good administration.”

The option in clause 18(2)(c) of the Bill is similar to the option in clause 18(2)(d) in that there are essentially options to remain in the public service and to be transferred by and in the discretion of the Public Service Commission to a suitable office in the public service. Clause 18(2) of the Bill is therefore consistent with our Constitution and does not require a special majority.

Clause 23(4) of the Bill provides that:

“The salaries and allowances payable to the...public officers in the Enforcement Division shall be a charge on the Consolidated Fund.”

This is similar to judges, Madam President, who are paid first. I do not know if you are aware of that. There are several offices that are a charge on the Consolidated Fund which are a first call on any money available to the Government. This is consistent with the obligations of the State to pay the salaries and allowances of public officers.

By clause 40(1)(a) of the Bill, provision is made for:

“...reference in...”—the existing—“written law to”

the Chairman of the Board of Inland Revenue or the Comptroller of Custom and Excise...

to be construed as a reference to the deputy director general—enforcement...”

This is very important. The references in the existing written laws to the Chairman of the Board of Inland Revenue or the Comptroller of Customs will now be construed to be references to the Deputy Director General—Enforcement, who will be a public officer. The transfer of the said enforcement powers from one public officer to another public officer without expanding or otherwise altering those powers, and without derogating from any fundamental right guaranteed by section 4 or 5 of the Constitution in a manner in which or to an extent to which the existing law does not currently derogate from that right.

So, the simple point is, Madam President, that we have found a solution. We believe that the solution that we have found is workable, and we believe that we can now press on and get on with this most important task of establishing a revenue authority. And we believe that there will be tremendous improvements in

efficiency. Taxpayers would not have to wait in long lines to pay their taxes, will not be subject to frustration in terms of getting information and clarification and getting feedback, and so on. And the country will benefit in terms of compliance and number of persons who are currently avoiding tax, not paying tax, outside the tax net but enjoying the service of Trinidad and Tobago by way of parliamentary appropriations would be captured. And it would assist us, especially in this guava season where our revenues are significantly damaged by the global pandemic.

If I can now move along, Madam President, I have gone through clause 14 of the Bill and I am of the view that the creation of the Enforcement Division will create no departure from what currently obtains. And we believe this provides the necessary balance that maintains the rule of law. I expect my colleague will address this in greater detail when he makes his contribution.

We also need to look very carefully at the role of the Minister and the powers and functions of the Minister. All the Minister can do is communicate general directions and policy directions. He cannot tell anyone in the proposed revenue authority, as is the case with the current Inland Revenue Division, who to target or who to tax from an individual perspective. That will continue with the new Revenue Authority. The Authority and the Enforcement Division, in particular, are insulated from any errant Minister that might come after me. So, if I move on now, I think I have dealt in great detail with the improvement we have made to the legislation and how we have got around the obstructionism of the Opposition.

The other clauses in the Bill are virtually identical to what we have debated in this place twice already, and that is the establishment of the board, which would be comprised of nine members: a chairman, a vice-chairman, the PS of the Ministry of Finance, someone nominated by the THA, an attorney at law, an

accountant and so on. The responsibilities of the board would include:

“formulating, approving and ensuring the implementation of management policies...”—with respect to performance of the authority, finances of the authority, human resources matters, internal audit, collective bargaining, and so on.

But I want to repeat, the board will not be responsible for the enforcement of revenue laws and will now be the responsibility of the new Enforcement Division.

Clause 8(2) of the Bill also prohibits the board from providing specific instructions to the director general or any other officer of the Authority as it relates to the function of the Authority. The board is also not permitted access to information—and this is very important. The board of the authority will not be permitted access to information, resident with the Authority that relates to any individual or person, as well as any documentation that relates to actions against the Authority. And as I indicated just now, clause 8(3) empowers the Minister to give general policy directions.

Clause 9 deals with disclosure of interest, conflict of interest. Clause 10 deals with the tenure of the members of the board, and the director—sorry, the chairman and vice-chairman will be there for five years and all other members for three years. Clause 11, a standard clause, provides for the resignation and removal of board members. Clause 12 prescribes the board shall meet at least once per month to establish the quorum.

As we move on to Part IV, this deals primarily with the “Staff of the Authority”. I have already spoken about the Enforcement Division, and the clauses generally give information on how the Director General would be appointed and how the other deputy director general, not responsible for enforcement, would be appointed, and it would be done by notification subject to affirmative resolution of

Parliament. So that if there is anybody in the Parliament who knows something about persons who are recommended or nominated for appointment to these offices—Director General and Deputy Director General—then that can be well-ventilated when these matters come to Parliament.

Clause 14 deals with the functions of the Director General, all very similar to what we had before. Clause 15, resignation, removal of the Director General and the other Deputy Director General, not the enforcement one. Clause 16 authorizes the board to employ the staff:

“...on such terms and conditions as it may determine...”

Clause 17 permits the board to enter into contracts. Clause 18 provides the various options available to public officers, which I spoke about before, in the case of *Martha Perch v the Attorney General of Trinidad and Tobago*, concerning postal workers. I simply dealt with one option just now, let me deal with all. The options available to public officers will be to, one:

“voluntarily retire...”

Two:

“transfer to the Authority...”

Three:

“be appointed on transfer by the Public Service Commission to a suitable office in the Enforcement Division...or;”

Four:

“remain in the Public Service...”

Clauses 19 through 22 deal with superannuation benefits. Clauses 20, 21 deal with the payment of superannuation benefits—pension benefits that is—to employees in various categories who retire after becoming members of the pension fund plan or passed away. It requires the Authority to establish its own pension

plan and so on.

Part V is “Financial Provisions” and sets out three categories of funding for the revenue authority, one:

“moneys...appropriated by Parliament...”

Two:

“...moneys paid to the Authority by way of fees, fines, grants...”—et cetera.

Three:

“moneys borrowed by the Authority...”

Clause 23(2) of the Bill mandates that:

“The funds of the”—Trinidad and Tobago Revenue—“Authority shall be kept in such financial institutions as the Minister may approve.”

Clause 23 sets out quite an extensive lists of expenditure that the funds of the Authority may be used for. Clause 24 empowers the Authority to borrow with the approval of the Minister. Clause 25 empowers:

“The Authority...”—to—“invest moneys not immediately required...”—with the approval of the Minister.

Clause 26 makes provision for:

“All public moneys collected by the...”—authority to—“be paid into the Exchequer Account...”—as directed by the Minister.

Clause 27 sets out that the Exchequer and Audit Act shall apply to the Authority, and that the Director General will be a receiver of revenue.

Clause 28 provides for the authority to be exempt from the provision of the Central Tenders Board Act. Of course, it would come under the soon to be fully proclaimed Public Procurement Act. Clause 29 deals with the assets of the authority to be exempt from tax. Cause 30 requires the board to prepare strategic and operational plans for submission to the Minister who will submit same to the

Parliament. Clause 31 requires the board to submit to the Minister, three months before the commencement of the financial year, estimates of the Authority's expected income and expenditure. Clause 32 requires the board to keep proper accounts. Clause 33 makes provision for the Auditor General to audit the accounts of the Authority.

Clause 34 requires:

“The Director General...”—to—“submit to the Board and to the Minister monthly report...in respect of all revenue collected.”

And that is just global figures not individual collections.

Clause 35 requires the board to submit an annual report which will be laid in Parliament. Clause 36 requires members of the board to take the usual oath and affirmation of secrecy. Clause 37 deals with the vesting of property. And clause 38 is designed to instil a culture of professionalism, honesty and efficiency in the authority; places upon both members of the board and other employees a fiduciary duty to:

“act honestly and in good faith, with a view to the best interest of the Authority...”

This duty of care is well-established and borrows from section 99(1) of the Companies Act. Clause 39 legally preserves the rights during the transition from divisions of the public service to the Authority.

“Any power, duty or function...vested in the Chairman of the Board of Inland Revenue or Comptroller of Customs...”—shall—“be transferred to the Authority.”

But in the particular case of enforcement, to the Deputy Director General – Enforcement of public officers. Clause 40 is just a housekeeping measure, and causes a reference in any written law to be made to the Director General where the

Chairman of the Board of Inland Revenue—

Madam President: Minister, you have five more minutes.

Hon. C. Imbert: Thank you—or the Comptroller of Customs exists except in respect of enforcement matters where that reference to the Chairman of the Board of Inland Revenue or the Comptroller of Customs and Excise will mean the Deputy Director General–Enforcement, a public officer. Clause 40(2) of the Bill abolishes the Board of Inland Revenue. And clause 41, typical clause, gives the Minister of Finance the power to make regulations subject—and I am sure Sen. Mark will be happy to hear this—the affirmative resolution of Parliament. Clause 42 of the Bill permits Minister to assign any relevant piece of legislation as part of the revenue laws through an amendment to the schedule which is subject to negative resolution of Parliament.

So, Madam President, we have had a long journey with this legislation. It has taken us 11 years, four different attempts in the Parliament, and we hope and pray that this Bill will find favour with the majority of Members in this Senate as it has in the past. This is really needed at this point in time, with our very difficult revenue situation and the call on the Treasury for unprecedented expenditure on the health sector in terms of dealing with the COVID-19 pandemic and other calls on the Treasury in terms of providing financial assistance to those affected, and so on. I do not think we can continue in the current situation. I think that is well-recognized by the majority of rational people that we cannot continue with our current highly and grossly inefficient system which lends itself to interference, and lends itself to a culture of tax avoidance, and punishes those members of the Trinidad and Tobago population who are conscientious, who pay their taxes and who comply with the customs laws. In the circumstances, Madam President, I beg to move. [*Desk thumping*]

Question proposed.

Sen. Wade Mark: Thank you, Madam President. Madam President—

Madam President: Sen. Mark, I remind you, you have 40 minutes.

Sen. W. Mark: Thank you very much. Madam President, thank you once again. I want to disappoint from the very outset, the sentiments, remarks made by the hon. Minister of Finance in his contribution earlier. We want to say from the outset, as the alternative government, that when we examine the contents of this Bill it does not, unlike the Minister will want us to believe, uphold the rule of law but essentially undermines and subverts the very rule of law and thereby undermined the structure of our Constitution and the entrenched fundamental human rights and fundamental freedoms of the citizens of our nation.

Madam President, it is said that man is a wolf to man, and that a nation of sheep will soon find themselves being governed by a government of wolves. This top-down authoritarian approach to governance must be flatly rejected and completely repudiated by every single democratic and freedom-loving citizen of our country. Madam President, may I say from the outset, it is highly disrespectful, almost bordering on contempt and contumely for the Government that is in command of the majority to give this Parliament and this Senate a mere day, one single day, 24 hours to debate a Bill that has far-reaching consequences for every citizen of our country.

11.00 a.m.

This Bill was parachuted, tabled in the Parliament on Friday in accordance with our Standing Orders, Saturday and Sunday is not included, as well as the day it was tabled. So Monday, which was yesterday, Madam President, in accordance with our Standing Orders we had been given by this Government that talks about the rule of law, that talks about the value of democracy, that talks about

accountability, they gave to the Opposition, they gave to the Independent Bench and they gave to the citizens of this country 24 hours to discuss a Bill of such sweeping significance and constitutional importance.

Madam President, no interest group has been consulted on this Bill, no stakeholder has been consulted on this new Bill that is before us today. Like a thief in the night we were ambushed by this Government and we are being asked to give this Government and to this Minister what I call, Madam President, overwhelming power of control over the wealth of our nation.

Madam President, how can we agree to give the Minister of Finance the entire Treasury to control? How can we agree to that? Where does that exist in the world today? And, Madam President, I will show you in my contribution the kind of maneuvering, the kind of surreptitious and deceptive arrangements that the Minister sought to advance in order to mamaguy and to fool and to mislead, Madam President, or I should say, misinform the population as to the real contents of the legislation that is before us today. This Bill we have dubbed the “Imbert revenue authority” or the “Imbertian revenue authority”. It will eventually, Madam President, if ever passed, create in this country a new financial czar who will have an overwhelming presence as it relates to our revenues in Trinidad and Tobago.

Madam President, may I remind you very early in my contribution that 95 per cent of this country’s revenues are collected by the Board of Inland Revenue and VAT administration, as well as the Customs and Excise Division of that Ministry of Finance; 95 per cent of our taxes are collected by those agencies. And this Government comes to this Parliament today after being unsuccessful in persuading the country and the Opposition of the correctness of its proposal to establish a Trinidad and Tobago Revenue Authority. They have come today, Madam President, gutted and removed the special constitutional majority and the

Government has decided that that is the way of getting rid of what they call the obstruction by the Opposition to their rule or their attempt at seeking to control the revenue stream of our country.

Madam President, I would like to look at the following areas in this Bill during my contribution. Madam President, the Minister has indicated that he is innocent, he has literally limited power in this particular Bill that is before us today, but I will show otherwise as I proceed. The Constitution of our country states that if any government wishes to alter section 121, 120 I should say, of our Constitution you have to refer to section 54. And section 54 says, Madam President, that if you want to alter 120, which is the Public Service Commission, the Government does not require three-fifths majority, it requires two-thirds majority. But this Government in its brazen and egregious assault on what I would clearly say, Madam President, on our Constitution has not only removed the three-fifths majority but they have now brought into being legislation with very intrusive powers being given to the new players under this piece of legislation to be able, Madam President, to deal with what has been dealt with in the past and currently by the Board of Inland Revenue and the Customs and Excise Department or Division.

Madam President, it is trite constitutional principle that the public service should be insulated from political influence. And, Madam President, I want to refer to clauses 15, 16—or let me get the particular clauses so you can follow exactly where I am coming from. Madam President, I refer you to clause 15, clauses 16, 17 and 18, but more particularly 16, 17 and 18 of the Bill before us.

Madam President, this is where the Government is seeking artificially and superficially to attempt to give us a hybrid situation of the public service and public officers under the rubric of a Deputy Director General in charge of

enforcement being a public officer with some public officers working with him and he had sought to separate that particular office or the holder from the rest of the entire piece of legislation. But, Madam President, the drafters and fathers of our Constitution recognized that the public service should be insulated from political influence. This is famously known as the Endell Thomas protection. Both the text of the Constitution as well as super constitutional principles which surround the text act in unison to guard, Madam President, against executive overreach within the functions of the public service.

Madam President, may I remind this honourable House that in the famous case of *Endell Thomas vs the Attorney General of Trinidad and Tobago*, while commenting on the operations of the police service, it was Lord Diplock who opined generally on the importance of insulating the public service, particularly, in a party, in a political party system and I want to quote, Madam President, a statement emanating from Lord Diplock judgment in this *Endell Thomas vs the Attorney General*. Madam President, and I quote for you and for our colleagues. Lord Diplock said:

“Under a party system of government such as exists in Trinidad and Tobago”—this was a 1982 judgment—“and was expected to exist after independence in other Commonwealth countries whose constitutions followed the Westminster model, dismissal at pleasure would make it possible to operate what in the United States at one time became known as the ‘spoils’ system upon a change of government, and would even enable a Government, composed of the leaders of the political party that happened to be in power, to dismiss all members of the public service who were not members of the ruling party and prepared to treat the proper performance of their public duties as subordinate to the furtherance of that party’s political

aims. In the case of an armed police force with the potentiality for harassment that such a force possesses, the power of summary dismissal opens up the prospect of converting it into...in effect...”—Madam President, the—“function”—of—“a private army of the political party that had obtained”—the—“majority of...seats...at the last election.””

And he goes on to say, Madam President, that:

“The whole purpose of”—this particular section—“of”—our—“Constitution which bears the rubric ‘The Public Service’...””

And it says that:

“‘The Public Service’ 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.””

Madam President, why is this important to this piece of legislation? The answer is simple, Madam President. The legislation before us today, unambiguously, gives to the Minister the power to appoint key positions of the revenue collection agency. The Minister, Madam President, appoints the Director General using the cloak of Parliament with their inbuilt majority to install a person who will be on contract in that so-called TTRA. So the Minister appoints that person, Madam President, and the Minister comes back to the Parliament to disappoint that person by that person’s removal. So that is the first point I want to make about the Ministerial overreach into this TTRA.

And, Madam President, you have to look at the powers of the Director General in the legislation to understand the importance of this office holder. Then the Minister is not satisfied with controlling this office holder. He is now responsible for appointing a nine member board including putting his Permanent Secretary onto that board who is a public officer. But all of them are appointed by

the Minister, Madam President. The Minister, Madam President, is that power house in this respect, so I want us to take note of the power of the Minister in this regard.

Madam President, while in the Endell Thomas matter Lord Diplock was warning of the dangers of a police service acting at the behest of the particular political directorate, it is equally dangerous, Madam President, for a revenue authority to become subservient to the dictates of any government. Madam President, if I may let you know that a revenue officer has awesome power and in many respects has even more power than a police officer.

Madam President, a revenue officer can access all of your financial records, they can demand information, they can impose assessments upon you that could cripple your financial and commercial interest and those persons are going to be influenced by the Minister of Finance. And I want to make it very clear, Madam President, the Minister of Finance did not tell this Parliament the powers that he has over the Board. He appoints the Board, he directs the Board and he gives the Board directions that they must carry out through the Director General. So he is all over this TTRA, the financial czar is all over the TTRA.

But, Madam President, not only that, and I want to just bring this point immediately to your attention. This so-called public officer who is in charge of what is called the enforcement division of the TTRA, yes, it is a public officer, of course you are allowing that person to be appointed by the PSC, Public Service Commission, yes, you are allowing the SRC, the Salaries Review Commission to determine that person's terms and conditions of employment including salary. But you know what, Madam President, hear where the sting lies in the tail, and the Minister for some strange reason did not tell you and did not tell the Parliament and the country about this hidden power which is very clear and open.

Madam President, I refer you to clause 14(5) and we deal with the following.

Madam President, I read for the record:

“In the performance of his functions under-

- (a) subsection (1)(a), the Director General is subject to the general directions of the Board;”

The Board who is appointed by the Minister of Finance is now directing the Director General who is appointed by the Minister. So the Minister is in charge, he is large and about, Madam President.

In subsection (b) it says:

“...the Director General is subject to the general policy directions of the Minister;”

So, Madam President, not only is this Director General a puppet of the Board that is appointed by the Minister, but the Minister now comes in and gives to the director directions and instructions to carry out responsibilities of the Minister. It goes on in:

“subsection (2)(a)”—in (c) to say, Madam President, and this one is where I want to take note:

“the Deputy Director General-”—of—“Enforcement...”

—this public servant that is supposed to be independent and supposed to be directed by the Public Service Commission and appointed by the Public Service Commission, hear what goes on here in (c), this independent holder:

“is”—now—“subject to the general directions of the Board which”—will—
“be communicated to him through the Director General...”

Madam President, so the independent public officer is now being directed by political appointees on a board, that is directed by the Minister of Finance, that is appointed by the Minister of Finance, that is paid by the Minister of Finance and

you are telling this country that there is independence in the office of the deputy director in charge of enforcement. Who is the Minister fooling?

Madam President, this is a recipe for large scale corruption, nepotism in our nation and we cannot support this. Madam President, not only that, it becomes “curiouser”, it is like Alice in Wonderland. When you go to (d), Madam President, it says:

“...the Deputy Director General-Enforcement is subject to the general policy directions of the Minister which shall be communicated to him through the Director General.”

So the Minister is using the Board to control this independent office holder who is a Director General with responsibility for enforcement that is supposed to be insulated and protected from political influences coming from the political directorate and the Minister is now giving directions to that person to carry out certain policies.

Madam President, this Bill is unconstitutional. It is illegal, it is unlawful, it is going to put the private, confidential and sensitive details of your information that you submit to the Board of Inland Revenue, to the VAT office, to the Customs and Excise Division, it is going to put all that information into the hands of the political directorate of this country. And then they will now be able to, if I may use the word “maco”, Madam President, the files of every single individual and company in Trinidad and Tobago. We do not live in a totalitarian state. This is not a fascist state. We live in a democratic country.

Madam President, I looked at Jamaica Revenue Authority, I looked at the Mauritius Revenue Authority, I looked at the Singaporean Revenue Authority, and Madam President, the President, the Governor General is involved in the appointment of the CEO, which we had in the first Bill, which is now called the

Director General. The Director General is appointed by the Public Service Commission in Singapore. The Minister has no role in that, but in Trinidad and Tobago the financial czar wants to have control over the Director General. How can we support this serious incursion into people's private business?

Madam President, we do not live in a gestapo type country. We call on the Government to withdraw this Bill. I want to give—not like Abu Bakr any warning or I am not making any threats today, but I am simply advising the Government that the day this Bill is passed in this House and in the other House, the next day it will be taken to the courts of Trinidad and Tobago and it will go right up to the Privy Council [*Desk thumping*] for determination. This is unconstitutional. We will not support this Bill and this Bill is putting too much power into the hands of a political directorate.

Madam President, may I go on and share with you that in clause 7 of the Bill it gives to the Minister the power, as I said earlier, to point a board of management. That board will be a purely political board. Madam President, the question that we must ask, are we prepared to have a political board in charge of the policy which governs the collection of taxes and revenues in our country? Madam President, do you know that if our annual collection of revenues amount to \$40 billion you know 35 billion of those dollars are collected by the VAT office, the Board of Inland Revenue and the Customs and Excise Department? Do you know that those moneys are protected and safeguarded because of the independence of those office holders because they are insulated from political influences from the political directorate?

Madam President, what will happen to our \$35 billion when you put it into the hands of a private contracted officer known as a Director General? He is not a public officer, he is a contract worker and he is under the appointment of a

Minister of Government, what will happen, Madam President? What do you think will happen? And then as I said the Minister tries to pacify the Endell Thomas principles by confining the information which a board can receive and other incidental issues. This, of course, offers little comfort. A board of management can use the power ascribed to it to abuse its position and influence the entire revenue authority. Madam President, for instance, the board is given management powers to treat with the human resources of the Authority. That board places the entire authority subservient to the Board. And while we may say, Madam President, that a statute limits the information going to the Board, when one of these political appointees demands certain information from an employee whose career and employment may be dependent upon the policies of the board of management then the risk of compromise becomes clear and flagrant.

Madam President, the appointment of the Director General by the Minister subject to affirmative resolution is a complete decimation of the constitutional protection against executive overreach. It is an abrasive assault on the insulation of the public service and a usurpation of power which is unprecedented. Madam President, the Government seems to have no regard to constitutional norms and values. Tax assessment and collection are core public service functions. The Executive is meant to decide taxation policy and law. Enforcement and assessment should be left to an independent public commission through its public officers. How can you say that the board of management or the Director General is independent when in fact that office holder is beholden to a Minister for his appointment? Why not let the Public Service Commission appoint these officers in question like the Director General.

Madam President, I remain on this item of 18, I go back to 18 of this Bill and, Madam President, what do we see in 18 or let us go to, yes, clause 18. Madam

President, we have employed in the Board of Inland Revenue, the VAT office and the Customs and Excise Division some 2,175 workers. What is to happen to those workers? I will tell you what is to happen. They are going to be retrenched, they are going to be dismissed, they are going to be fired. Their families are going to be on the breadline and this Government intends to recruit their own party faithfuls to take charge of the Revenue Authority of Trinidad and Tobago.

11.30 a.m.

This will become a PNM party group, Madam President, because of the fact that the workers who have been employed by the Authority have no tenure of security or security of tenure as the public officer. All of them will be on contract, fixed contracts for maybe two years, Madam President, or maybe three years. And if you do not jump to the drumbeat of the Minister, Madam President, what you think will happen? Out the door you go. There will be no continuity in terms of institutional building because the Director General he is there for at least five years or less, the rest of them on the Board for three years, and then it keep rolling and rotating or getting rid of those people, Madam President.

So what will happen at the end of the day? He who pays the piper calls the tune. So they are going to decimate. The hatred for the trade union movement is clearly manifested in this Bill. There is no provision for successorship. Imagine the PSA, the Public Services Association, since Independence, has been representing civil servants, public officers—

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

Sen. W. Mark:—in the Board of Inland Revenue, in the Customs and Excise Department, later on in the VAT office, and this shameless, evil, wicked PNM Government, Madam President—

Madam President: All right. Sen. Mark—

Sen. W. Mark: Madam.

Madam President:—I allowed you to make your contribution without interruption, but your hyperbole is just—you need to watch it.

Sen. W. Mark: All right. Thank you, Madam President. Madam President, this Government intends to decimate the Public Services Association, the National Union of Government and Federated Workers. Madam President, there is sufficient precedent if this Government was interested in the trade union movement and they had any respect for the workers represented by the trade union movement to ensure that there would have been successorship.

Madam President, successorship was obtained when the NHA was converted to the HDC. You could go in the legislation and see where the PSA and the NUGFW continue to represent their members. When you go to the Civil Aviation Authority it is the same process, continuity and successorship. When you go to the postal services of Trinidad and Tobago, there is continuity and successorship. When you go to the RHAs, there is continuity and successorship. But when it comes to the Revenue Authority of Trinidad and Tobago, it is almost castration, Madam President. It is almost excision. It is almost slaughter. They have cut off completely and removed the Public Services Association and the NUGFW from representing those workers that they have been representing since 1962. What kind of government would want to do that, Madam President? That is hatred for the working class. It is hatred for the workers and the trade union movement, and you want to tell me that this Bill that you have brought here is legitimate, is constitutional?

Madam President, this Bill that is before us is Machiavellian in form and any fashion you can think about. It essentially represent the privatization through outsourcing of the wealth of this nation to a bunch of politically inspired and

appointed kleptocrats and modern day carpetbaggers. That is what this Bill is about, and we cannot, Madam President, support this Bill. We have been consistent. This is the fourth incarnation of this Bill and we have been consistent from 2010 opposing the privatization through outsourcing of the revenues of this country to any statutory corporation or body. We have not been in support of that. We will never be in support of that and we call on the Government to withdraw this Bill.

We warn them. If they pursue this Bill in its current form I am telling this country and the Government of this country that this Bill when it becomes an Act will be taken to the High Court up to the Privy Council because we are convinced it is unconstitutional; it is illegal; it is unlawful; it is null and void. And therefore we call on the Government to withdraw this Bill today, Madam President. Madam President, how many seconds I have again?

Madam President: One minute.

Sen. W. Mark: One more minute. Madam President, in closing, I want to make it very clear that we do not support this Bill. It is flawed legislation. This is what they call flawed legislation and the Attorney General in March of 2020 issued a statement via his office, literally recognizing the need for the three-fifths majority, so we want to ask the Attorney General what has changed? You recognized the importance of the three-fifths on March the 9th, 2020, through a release. What has changed? Nothing, Madam President. Nothing has changed. If anything, the current Bill is more draconian than the last one. This is nothing more, Madam President, in closing—

Madam President: Sen. Mark? Sen. Mark, your time has expired. [*Desk thumping*]

Sen. W. Mark: Thank you very much, Madam President. [*Desk thumping*]

Madam President: Sen. Seepersad. Sen. Seepersad, you too have 40 minutes.

Sen. Charrise Seepersad: Thank you, Madam President. Madam President, thank you for the opportunity to contribute to the debate on the Bill, an Act to establish the Trinidad and Tobago Revenue Authority and related matters, 2021.

The Bill before us seeks to merge the Board of Inland Revenue and the Customs and Excise Division into one organization or business entity called the Trinidad and Tobago Revenue Authority. The Revenue Authority has morphed over time and has come to Parliament on several occasions since 2003 and failed. In April 2009, the then Minister of Finance stated it was critical that this new and more efficient Authority be established. The sitting Minister of Finance explained in the 2017 mid-year budget review that the Government now seeks to focus on revenue collection and boost efforts to improve tax administration and compliance. He said this will be done with the help of a revenue authority.

Successful passage of the Revenue Authority Bill in the past was dependent on a special majority approval in the Parliament. The Government is indicating that this Bill does not now require a special majority but will achieve the same objectives and results as initially envisaged. Madam President, this is perplexing. In the distributed revenue systems as now exists decision making is convoluted and can take years for resolution. The centralization of management of the various revenue collection entities invariable means decision making will filter from the field to management, and delays in the processes will not significantly improve the implementation of taxation initiatives nor positively impact the revenue collection process without appropriate systems and personnel. Nevertheless, Madam President, it is critical that we improve tax collection in Trinidad and Tobago by widening the tax net and ensuring improved tax collection and compliance by all citizens.

While the Government is ultimately responsible for tax compliance, every citizen is impacted when businesses, professionals, employees or any other group evades taxes. The definition of taxation includes corporate and personal taxes, duties and import taxes on all imports and local production. Businesses and individuals who evade legitimate taxes due operate with an unfair and illegal advantage to those who are tax compliant. The strong enforcement of the collection of the appropriate taxes and duties is a critical component in Trinidad and Tobago's tax collection infrastructure. However, can a revenue authority where existing personnel is deployed or redeployed produce the desired result? Clearly the work ethics in these organizations cannot continue in its present form. Training and retraining of vital skills in technology and customer service are essential if any gains are to be realized.

Tax evasion, as already mentioned, is a major problem, and the statistics obtained from a study by Prof. Karl Theodore and colleagues in 2015 and 2016 estimated tax evasion to be between 12 billion and 15 billion per year broken down as follows:

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

In the second quarter of 2019, IMF tax experts estimated that the VAT compliance gap was about 5 per cent of GDP or \$8 billion annually. This is because of inadequate assessment of taxpayers who are obligated to pay VAT. In December 2019 during the demonization of the old hundred dollar paper bill to the new polymer bank note, two commercial banks reported in two days customers converted \$270 million of the old one hundred dollar paper bills. This shows that beyond the proceeds of crime, there is a significant amount of cash circulating

outside the formal sectors and is an indication of the extent to which the tax burden is not shared equitably.

Madam President, the bane of taxation and revenue collection is the inadequacy of assessment and the mechanism of collection. Government must improve the collection mechanism of all taxes. The tax burden must be borne by all and the tax net must seek to encompass at least 80 per cent of the taxable population. If the revenue collecting agencies can collect 50 per cent more of what is not now collected in corporation tax, personal income tax, VAT, petroleum profit tax and customs duties, Government revenue can increase by as much as \$3 billion to \$5 billion annually.

Clauses 5 and 6. The objection of the Revenue Authority is to modernize the outdated revenue collection system to achieve a quantum leap in the performance of revenue collection by the respective agencies. Tax leakage and tax avoidance are widespread, as I said before resulting in the loss of billions of dollars to the Treasury. The general shortfall in revenue collection is believed to be due to a major problem which continues to be the longstanding weaknesses of our tax administration in both Customs and Excise Division and the Board of Inland Revenue. The project objectives attributed to the BIR in this process includes:

1. The establishment of a risk management function to facilitate the identification analysis, evaluation, and treatment of all types of risk that is a threat to the achievement of the BIR's mission.
2. Establishment of a process management function to establish a system to manage processes and procedures within the division; the provision of e-Services to implement an electronic system to facilitate the electronic filing of tax returns, the electronic payments, online taxpayer registration, and the provision of general information.

3. The establishment of an inspection Internal Affairs Unit to strengthen the division's investigative capacity.
4. Establishment of a communications unit to improve the communication between the Board of Inland Revenue and its internal and external stakeholders.
5. Establishment of a performance management system for all operations of the BIR to measure the achievements of its operations against established performance standards; the development and implementation of a database for the storage and processing of land and building taxes data; the computerization of this land and building taxes; improve the records management systems for tax returns—to implement a records management system for taxes returns for all types of taxes with improved security features, retrieval and filing facilities.
6. Establishment of the system review function to determine whether the processes and the products of the integrated tax processing system satisfy the requirements of the BIR and to verify the accuracy of the rules and configuration of the system.
7. Establishment of an operational policy function to implement, disseminate, and manage a database of tax and non-tax related policies within the BIR.

Madam President, the over-the-counter quality of service provided to the public is not highlighted in these initiatives. It is no secret that customer service training and possibly retraining is needed. Civil servants interacting and interfacing with citizens seeking over-the-counter services is inexplicably demoralizing. The practice of service by most public personnel is at best poor to mediocre. It seems

that the terms of engagement and training have not prepared them to have superior customer service and, therefore, proper guidance and leadership is crucial.

The Caribbean Regional Technical Assistance Centre (CARTAC), described Trinidad and Tobago's tax collection system as inefficient and recommended the creation of a revenue authority. One of the biggest problems identified was the inability to recruit, train, and compensate staff causing numerous vacancies. Currently at the Board of Inland Revenue 50 per cent of positions are vacant. The ugly menace of alleged corruption continues in the Board of Inland Revenue and Customs and Excise Division. Will the organizational centralization of these entities curb the scourge?

The Public Service Commission is the recruiting body and the Chief Personnel Officer is responsible for setting the terms and conditions of employment in the public service. Persons apply for jobs in the public service and do not even get an acknowledgement, interview, or any indication that their application is receiving attention. This system needs significant work. In contrast, the TTRA will be able to recruit, train and adequately compensate staff as outlined in Part IV of the Bill. This provision is one of the most important aspects of the Bill because without the right personnel nothing gets done. There are also several laws such as explain your wealth, civil asset forfeiture, non-profit organizations, transparency and beneficial ownership which will also assist in discovery of and penalizing persons with unexplained income.

At the end of the day the ultimate objective of creating an efficient and effective tax revenue collection system is to optimize tax revenue so that all Trinidad and Tobago citizens can enjoy efficient and functioning social services and public utilities and a reasonable quality of living including safety, health, education, water, power, and roads to name a few. Therefore, if a central revenue

authority can help in this objective in a meaningful and significant way then it is imperative that the methods of recruitment and the employment terms and conditions of affected personnel be amended accordingly. Further, since the Authority is essentially a financial organization dealing with numerous transactions and financial resources, adequate checks and balances must be implemented to safeguard the revenues collected from and on behalf of the citizens of Trinidad and Tobago. This can only be achieved by recruiting an appointed key ethical personnel with strong business and financial training and experience.

Clauses 7 to 14. Madam President, the Board of Management, Director General and all Deputy Directors General except the Deputy Director General - Enforcement of the Trinidad and Tobago Revenue Authority are to be appointed by the Minister. This means that the Government exercises significant control over the new entity. In effect, the Revenue Authority would be an arm of the Ministry of Finance. It must be noted that there is a worldwide trend towards the divestment by governments of functions previously carried on by them either directly or indirectly and lending themselves to commercial non-governmental operation in the interest of efficiency, economy, and transparency. This trend apparently is not applicable in this case. Also, the Government through the corporation sole continues to be involved in several businesses.

I strongly believe that the management board, the management and staff, must be independent and free from Government control and influence. This must be reflected in the governance structure of the TTRA. I suggest the following:

1. The Board of Management should be appointed by the President of the Republic of Trinidad and Tobago.
2. Two independent ethical persons from the business sector should be selected to sit on the Board—clause 7(2)(g).

3. The director general and all Deputy Directors General should be appointed by the Board of Management. The Director General will report to the management board who would be responsible for evaluating the incumbent's performance. The performance of the Deputy Directors General would be evaluated jointly by the management board and the Director General.

Clause 18. In 2009 the Finance Minister said in part that the intention is not to put 2,175 persons on the breadline, but to find mechanisms to filter across and to allow the best people to be employed in a new dispensation to fit the new jobs which are being built in this new situation. My understanding of the Bill before us is that this sentiment is still policy. All persons in the Board of Inland Revenue and Customs and Excise Department can within three months of the date of assent of this Bill exercise the option to either voluntarily retire from the public service, transfer to the TTRA with the approval of the Public Service Commission or remain in the public service. Persons who transfer to the TTRA will have their superannuation benefits preserved.

Madam President, I am familiar with the organizational restructuring and the work required to achieve a seamless transition especially with the natural resistance to change by affected personnel. In such an undertaking, a changed agent or agents with requisite skills and track record is essential to ensure that agreed objectives are measurable, achievable, and realistic. Most failures in organizational transformation are due to the inadequate communication of objectives and the engagement of all players in the stream of performance and delivery.

Other issues:

1. Customs and Excise processes: Many of the processes in Customs and

Excise tax collection are done at the discretion of the officer on duty at the time. This remains a challenge. Information technology systems must be implemented to remove discretion.

2. Taxpayer's bill of rights: A strong taxpayer's bill of rights is required to protect citizens and businesses and ensure that the Government complies with the law. We do not want to have the current situation of overdue VAT refunds continue. Tax compliant VAT registered organizations are placed at a significant disadvantage to those who are not compliant. Compliant organizations have provided the Government with interest free loans for years. Non-compliant organizations on the other hand had access to the unpaid VAT to build their businesses.
3. VAT returns issue: The total VAT collected must not be co-mingled with other taxation income. This is what caused the current issue of long outstanding VAT refunds since the Government used these funds to finance its expenditure. A certain percentage of VAT collected must be refunded. A transparent process to evaluate how much VAT collected must be refunded should be developed so that it is known how much of the VAT collected can be retained by the Government.

Madam President, a new or restructured organizational structure alone is not enough to cause any significant dent in the problem of tax evasion and collection. Well-conceived intelligence gathering, field auditing, and adequate and competent personnel with modern digital systems are also critically important. Yet, as the IRS in the United States has discovered, there will always be a subset of citizens manipulating and beating the system. The Minister should provide the Senate with measurable objectives, targets and guidelines so that efficiency and performance

are transparent.

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

Madam President: Minister of Public Administration. Minister, may I remind you and all other speakers after you that you have 30 minutes.

The Minister of Public Administration (Sen. The Hon. Allyson West): Thank you, Madam President, for giving me the opportunity to contribute to this very important debate. Madam President, I think we can all agree that nobody wants to pay taxes. However, at the same time we all would like and many of us loudly demand a range of services and better and improved services from the Government of Trinidad and Tobago including public education, public health, national security, public utilities, transportation, drainage, a strong social security network, public assistance when adversity strikes, Carnival, sporting facilities, support for our sportsmen, support for our artistes and so on. There is a wide range of demand placed on the Government of Trinidad and Tobago.

The advent of the COVID-19 pandemic has emphasized again the responsibility of Government to provide for its citizens especially those who are vulnerable and disadvantaged, and to be able to prepare for emergencies and crises. We are all aware of the demands of the Government to do more and more as a result of the dislocations caused by COVID-19. So we place a plethora of demands at the feet of the Government, but yet some of us challenge the Government at every turn when it seeks to fund this myriad of expenses.

What are the sources of funding available to the Government? Taxes, loans, the Heritage and Stabilisation Fund which indicates that Trinidad and Tobago is a fillip that most countries do not have, but we have the advantage of having this additional access to funding. But loans have a cost in the form of interest and the more we borrow is the more the cost of that interest digs into our ongoing

expenses.

We need to try to preserve as much of the HSF as we can to allow it to fulfil the H aspect of its *raison d'être* which means the Heritage aspect which will allow for the protection of future generations.

12.00 noon

In light of that, it is absolutely imperative for us to collect taxes to keep Trinidad and Tobago running and to turn it into the kind of place where we are all happy to live. No one can dispute: one, that our tax collection and enforcement system needs significant improvement, both on the income and consumption side, which falls under the current Board of Inland Revenue, and on the Customs Duty side which falls under Customs and Excise. Similarly, no one can dispute that governments need funds to finance its activities, and that more taxes are required than are currently being collected.

So what, are the options available to the Government? It can impose more taxes on persons by increasing the tax rate, for example. But what that is likely to result in is a greater impact and burden being placed on people who are already compliant. The other option is to collect the right amount of tax from everybody from whom taxes are due.

Studies done on the basis of our current tax system have identified, and Sen. Seepersad referred to some of these, that significant gaps exist between the taxes that are due to the Government and what is currently being collected. While some persons may discount the accuracy of the study undertaken by a team at the University of the West Indies, which identified that the tax gap on the income side was in the double-digit million dollar range, it is more difficult to dismiss the IMF report of 2017 that the VAT gap, based on inadequate administration of that tax, is approximately \$2 billion per year. So if the gap on a tax which is designed to be

self-policing, which the VAT system is, is that significant, it actually lends credence to the local report on the income tax gap. Also lending credence to that report is a report prepared by foreign consultants hired by the GORTT in the previous term that reveals a significant gap in terms of energy taxes.

So if there is that much tax left on the table, the issue of whether we should be increasing taxes currently due or becoming more efficient in tax collection, so that everyone contributes, is really a no-brainer. Hence, the TTRA. So what are we trying to do? We are trying to fix the tax system based on three principles, what I call the three E's: effectiveness, that is making sure that the country receives the right amount of revenue, that is provided. We are required to provide the best quality of life and standard of living to its citizens. Equity: that is making sure that every person, including companies, the self-employed, the professionals, pay his/her or its fair share of taxes. And three, efficiency: making sure that the payment of taxes is made as easy as possible. The purpose of the Trinidad and Tobago Revenue Authority is to help find the right balance among those three factors.

So, why a revenue authority? People have asked from time to time. At last count, according to the OECD, there are more than 60 revenue authorities throughout the world, three of them within Caricom. The efforts of successful governments, one, the NAR; two, UNC; and at least three PNM Governments have not yielded fruit in terms of increased transparent collection of taxes, despite decades of trying to fix what we currently have. So we have tried for three decades to fix what we have. It has not worked for any extended period. We have tinkered around the edges and have seen some improvement in some places, but these improvements have more often than not been short-lived. There has not been the systemic improvements that are necessary as more demands are made on the

Government.

Some of you may be aware that I started my career in the Inland Revenue Division and was part of the team that was set up to establish the VAT system. Madam President, the work was exciting, innovative and creative. We set up a good system. For some years VAT existed almost parallel to the IRD and it functioned well. It was when the VAT Administration was fully integrated into the weak tax administration system that rather than that serving as a centre of excellence, which encouraged change in the IRD, the culture of the IRD infiltrated the VAT Administration and now we see the result.

The new institution will lay the foundation for greater accountability, transparency, discipline and compliance. So, Madam President, what are some of the issues that have been raised against the establishment of a TTRA? Questions are being placed on whether or not we are giving the Minister of Finance too much power in terms of appointment of the board and appointment of the Director General. One needs to understand the powers of the board to be able to satisfy oneself that the board is not going to be this entity that will get involved in the financial affairs of individuals and seek to create mayhem and according to Sen. Mark, “maco” the information that people submit to the Board of Inland Revenue.

Clause 8 of the Bill clearly outlines the powers and responsibilities of the board. The board is responsible for formulating, approving and ensuring implementation of management policies, in relation to several matters. That is it. They monitor management policies. They will monitor the performance, finance, HR, strategic plan, budgets annual report and internal audit operations. This management of these extraneous but important areas by the board leaves the CEO of the organization to focus on the technical aspects of collecting taxes and raising assessments and doing audits and conducting objections.

At the moment, the Chairman of the Board of Inland Revenue and the Comptroller of Customs are charged with the responsibility of ensuring the operations of these two organizations. So they have to involve themselves in how things function, whether the air condition unit is working, whether they have enough staff, whether they are receiving releases so that they can finance various things. When we move those issues away from them and place it in the hands of the board, then the CEO of the organization remains free to focus on his sole duty which is the efficient administration of the tax system.

The Bill clearly indicates that the board has no power to give specific directions to the Director General or the employees. They have no access to information on individual taxpayers and they have no access to information on documents on legal matters. So they are clearly divorced from the tax administration operation and it remains the sole purview, that remains the sole purview of the technical officers. So that there is no attempt by the Minister of Finance or the Government of Trinidad and Tobago to get access to people's personal financial information. The Bill makes that very clear. So under the provisions of the legislation we have limitation of access to information. We have protection of the taxpayer. We have protection of the Director General and we have protection of the employees. The legislation provides all these things.

Another complaint that we have heard is that the Act, the system of appointment of the Director General by the Minister of Finance is something that can compromise the integrity of the collection agency. But I will remind this House, Madam President, that this appointment of the Director General is subject to affirmative resolution and, therefore, the Government will have to come before the Parliament and explain and justify its choice. This creates transparency and provides protection.

Another huge issue that keeps coming up, despite the fact that we have put guarantees in black and white in the legislation is the fact that workers are at risk, there is no job security, everyone will lose their jobs, they will have to reapply, only PNM people will get positions in the Authority, there will be short-term contracts and people will be sent home at will, thousands of people are on the breadline. There is nothing that is further from the truth, Madam President.

Clause 18 of the Bill clearly sets out the protection that is there for the employees. It places in the hands of each employee the decision of whether he chooses to stay with the revenue collection activity and therefore become an employee of the TTRA or to remain in the public service, in which case a position will be found for him that is commensurate with his qualifications and terms. So the employee is protected by the legislation. He will not be fired. The legislation makes that clear.

What we propose to do, under the TTRA, which will work for the benefit of the employee on the other hand is to create things that do not currently exist. We are creating work rules. We have actually drafted work rules already in the process of preparing for the implementation of the TTRA legislation. So proper work rules, which are transparent, which the employee can rely on for protection from an unreasonable supervisor or some such. We will train the employees, in terms of public service and customer service and training in general. One of the things that distressed me when I started looking at the operations of Inland Revenue more closely is that the training unit of the Board of Inland Revenue which used to be second to none in the Caribbean, and people used to come from all over the Caribbean to take part in the training provided by the Board of Inland Revenue, that training unit was closed down, decimated and therefore the training that individuals need to continue to grow and develop and deal with challenges by

well-educated, well-trained taxpayers and their agents was taken away. That, we are proposing to address. Remuneration, we are proposing to address as well because we have to ensure that if we want to retain these people with specialist skills that we remunerate them properly.

Issues of promotion on the basis of seniority will also have to be addressed. People need to feel that if I work hard I will be rewarded and I will not have to wait years because there is somebody ahead of me who may not be operating in the same professional manner that I operate but is entitled to move ahead of me because he or she was there longer. That is something that we hope to change. But those things are for the benefit of the individuals and the organization. The individuals, as I say, their jobs are protected. It is written in black and white in the law and their jobs are secure. It is up to them to decide whether they stay or whether they go.

Madam President, the Inland Revenue prepares annual reports and in those annual reports it indicates what its performance has been, what is left to be done, where the shortfalls are. In the last two annual reports that I saw, the Inland Revenue declared arrears of income, that is, taxes due but not collected, in the amount of \$11 billion. So that clearly demonstrates that there are inefficiencies which have to be addressed. Trinidad and Tobago cannot keep borrowing money and incurring millions of dollars in interest when there are taxes that are there to be collected from people who are earning incomes and benefiting from all the services that the Government provides. We need to close that gap, reduce the level of cost that we bear in interest, which, at the moment if memory serves, is 20 per cent of our expenditure, so that we can use that additional tax income and the money that is freed up from lower interest cost, to serve more of the needs of the citizens of Trinidad and Tobago. Improvement in the tax collection is critical.

Something that demonstrated that Trinidad and Tobago needs to make itself more liquid is this whole COVID pandemic which we have been dealing with for the last year and a half. The strain that that has put on our budget is astronomical. It was unplanned. It was uncatered for and it demonstrated to us that we need to be more self-sufficient in terms of how we secure financing so that we can step in if and when, heaven forbid, things like this happen in the future.

One of the things we did in designing the TTRA and determining that yes, this is the best option for Trinidad and Tobago, was looked at the performance of other TTRAs, especially in the region because people often challenge our approach in comparing ourselves with other countries that are very different from us. So I will restrict my review of the comparison of Trinidad and Tobago with that of other tax jurisdictions within the region. When we look at the tax collected in Trinidad and Tobago as a percentage of GDP, and compare that with what occurred in neighboring jurisdictions, the statistics are appalling. We compared our situation with what we call the more developed countries in the region. That would be Guyana, Barbados and Jamaica, and we are at the bottom of the list when it comes to our collection of tax as a percentage of GDP. In Barbados, and I will mention, this is important to note, that all of these more developed countries, with the exception of Trinidad and Tobago only, have introduced revenue authorities. Jamaica has had one for a lot longer than we have but they all have revenue authorities. Tax collection as a percentage of GDP in Barbados, in 2017, was 31.8 per cent; in Jamaica, 27.3 per cent; in Guyana in 2017, it was 26.2 per cent; in Trinidad and Tobago, it was a disappointing 22.2 per cent. And I will mention that the Guyana statistic is probably a lot higher, because since the introduction of their Revenue Authority and the appointment of a very vibrant Director General, their revenue collection has significantly increased. So the statistics that I got from the

Guyana Revenue Authority for the last four years are as follows: tax collection in 2016 was \$151 billion. It jumped by \$20 billion in 2017, to 171 billion. In 2018, it jumped again from 171 to \$198 billion and in 2019 it jumped yet again to \$225 billion.

And, Madam President, when I spoke to the then Director General, what he indicated to me was that these jumps were not as a result of the heightening of economic activity in Guyana. It was largely as a result of the efforts of the Revenue Authority and the increasing efficiency in the administration of taxes. So that, if we can have anywhere close to this kind of success in Trinidad and Tobago on the introduction of a revenue authority, Trinidad and Tobago will be well served.

So, Madam President, I do not see a basis for us, any of us, genuinely concluding that a revenue authority is not needed and that it does not provide us with an opportunity to significantly improve the performance of tax collection, customs activity and border control. What we are trying to do is create an organization that is agile and responsive, that is well trained, that is well staffed by staff that are properly motivated and remunerated so that they can serve the interest of Trinidad and Tobago.

Madam President, this, in my view is the only viable option for us to move forward as a stronger society being able to finance independently the many expenses placed on the Government of Trinidad and Tobago. In the circumstances, Madam President, I really urge my colleagues in this place to support this legislation. Madam President, I thank you.

Sen. Jayanti Lutchmedial: Thank you, Madam President. Thank you for the opportunity to participate in this very important debate today, Madam President. I think it is very disappointing that we must begin this new session of the Twelfth

Parliament with such unpleasant business where the Government has once again come here to show disrespect and I think almost contempt for the Constitution, the supreme law of our land, and that they are abusing parliamentary process by removing special majority clauses which are featured in three different iterations of this same Bill. Prior incarnations of this Bill all had the special majority clause and I have not heard a single reasonable justification or scrap of logic emanating from the Government Bench that could justify this most appalling and atrocious assault on our democracy here today. [*Desk thumping*]

This fallacy of an insulated division within this political party group that the Government is proposing through this Bill, takes this argument no further. Neither does the reference to some legal opinion from eminent counsel. This reminds me of, you know, sometimes “you liming on de beach” and somebody is trying to convince you of something and they tell you, “Well, I have ah pardner who is ah lawyer dat say so”. That is what we are being told here today. Somebody, some lawyer has told them that this will fly; that this creation of a public servant in the form of a Deputy Director General who is still under the control, to some extent, of the Director General and a board that is politically-appointed, somehow makes it okay to remove the special majority from this legislation.

Madam President, if the Minister was serious about bringing a constitutionally-proper Bill, all of the legal opinions would have been made public, including the legal opinions and advice from the CPC and others as far back as 2010, which addressed the need to have a special majority in the three previous incarnations of this Bill. But we have not seen that. We are told now that there is a legal opinion that says the creation of this post of Deputy Director General enforcement makes it okay to ram this Bill down the throat of the population without any support from the Opposition. This is a Bill which interferes with

citizens' right to the enjoyment of property. It authorizes and empowers persons to exercise the important function of revenue collection and vest in individuals' power and authority to access personal information, to examine the books and records of every business that operates in this country legally, and so on.

Well, to add insult to injury, we have also been given the Bill on a Friday and asked to debate it on Tuesday morning. As I said again, proud the Government seems that they have come here without any regard whatsoever to the views of the Opposition or Independent Bench. They have come here to pass this today and they do not care what anyone thinks. They are unleashing one instalment of tax, tax and more tax on the population; the only plan that they have come up with in the past six years.

Madam President, this Bill will decimate an entire portion of our public service. The men and women appointed to positions established under the Civil Service Regulations are being effectively removed from positions where they are shielded from political pressure and the treacherous intentions which we know politicians can possess. This Bill will no longer allow our civil servants to carry out the important function of revenue collection on behalf of the State in a manner that is free and fair and free from fear of political backlash or interference. Civil servants in this country, including those employed at BIR and Customs and Excise Division, are the buffers between the ordinary citizens of this country and the political directorate who may have nefarious intentions. What this Bill does is remove that layer of protection between the politician and the taxpayer.

Madam President, I read with some amusement the contribution of the hon. Minister of Finance on the 10th of March, 2020, when the 2019 incarnation of this Bill was being debated in this said honourable House. And in speaking about the number of vacancies, which I know was raised again today in the debate, which

were existing in both BIR and Customs, the Minister says:

“...the way our Constitution is structured, that the Service Commission is an independent body and we cannot tell it what to do. We could only ask, we could only urge, we could only cajole, we could only beg. but we ‘cyar’...”—

And it is on the *Hansard*, C-Y-A-R.

“...we ‘cyar’ tell them what to do.”

And he went on:

“Every year...”—we put aside an—“...annual appropriation for the filling of vacancies in these...critical revenue departments. We ‘cyar’ fill them, because it is not up to us.”

But Madam President, through you, I want to tell the hon. Minister, the fact that he “cyar” fill those positions with who he wants or remove from that position who he wants if they do not do as they are instructed, is exactly why we ought to maintain the current structure of [*Desk thumping*] and the protections created by our Constitution, via the Service Commissions, so that the fairness and equity and the absence of political colouring will be maintained throughout the process of revenue collection.

Madam President, I know my colleague Sen. Mark had spent some time on Lord Diplock’s judgment in *Endell Thomas*, where he explained the importance of Service Commissions in ensuring that we do not operate the spoils system where, upon a change of government there will be a change to many persons who operate within the public service and are carrying out public functions. This is exactly what the proliferation of contract employment has caused in Trinidad and Tobago. From top to bottom, what you end up with, when you create contract positions, are persons carrying out public functions who must either dance to the beat of the

drum played by the political party in power or risk, as we say in the local parlance, risk “gehing yuh throat buss”. Lord Diplock warned us about the Executive being able to exercise powers of summary dismissal over police officers and the creation of the private army. Well, removing employees of BIR and Customs from under the purview of the Public Service Commission, this Government is creating a private tax army. This is not the TTRA, Madam President. This is the PPTA, “PNM Private Tax Army”. That is what this Bill is about. Because the PNM has declared war on citizens of this country and their battle cry, published yesterday in the newspaper: The Time to Tax is now. So they want to run everybody down in this country for taxes. And they want to enforce those taxes, and they want to ensure that they have so much control over the rolling out of all these taxes, including this new, well, not new, but including this property tax that they intend to implement now and they want to have so much control over that process that they must bring this TTRA into effect where there is so much opportunity for political interference and control.

Now, when people have lost considerable income due to the pandemic, the Government is moving full speed ahead to tax your assets. When you expect to hear plans about stimulating economic growth or diversifying economy, rescuing what is left of our energy sector or dealing with unemployment, we are only hearing about tax, tax and more tax, and that is why this Bill is brought here today.

12.30 p.m.

So the Bill is about two things: facilitating the Government’s ability to get its hands deeper into the pockets of the taxpayer, and to ensure that it can do so selectively, arbitrarily and unfairly by controlling a board of this private tax army and the Director General appointed by the Minister.

In this proposed structure, the politically appointed board of management

controls the hiring of staff, it is right there in clause 16. This would include persons who would conduct audits, monitor the books and records of every taxpayer to check for compliance. The staff who the politically appointed board would hire would deal with the objections raised by the taxpayer. And you have the Director General who would essentially be a super power of sorts, a combination of what we now have as the Comptroller of Customs and Excise and the Chairman of BIR rolled into one. That person is also going to be appointed by the Minister.

And yes, we hear about, you know, there will be notification and affirmative resolution which the Government will, of course, pass with their majority. That changes nothing, except the Opposition will get a chance to talk about it for how much ever time they give us to talk because that is where we have reached now, where the Opposition's opportunity to even speak on matters when it comes to the Parliament is controlled by the Government.

So, Madam President, it is important for us to understand in this regime the types of powers exercised by BIR and customs which would now be vested in the private tax army. When you look at this simple little Bill and this mere 42 clauses, it looks so benign and non-threatening but it impacts on a host of other laws including the proceeds of crime and FIU where the Director General will now be the law enforcement agency who will receive intelligence reports and has the power to order that they be investigated or not. The Director General appointed by the Minister will, for example, get a report from the FIU in his hand that says, "We have detected suspicious transactions related to the movement of funds that could be linked to tax evasion by Mr. X." And Mr. X could be someone who is diametrically opposed to the ruling political party or he could be financier of that political party. And that Director General, appointed on contract by the Minister, approaching the time where he may be eligible for reappointment must decide

whether he should pass this on for investigation or dump it in a bin. This is the power that the political directorate will be allowed to wield under this piece of legislation.

I want draw specific attention to clause 14(5)(b) where as it relates to the enforcement of revenue laws by way of civil proceedings:

“...the Director General is subject to the general policy directions of the Minister;”

So the Minister will have you believe that all the coercive powers that are currently enjoyed by customs and BIR are now going to be vested in this public servant in the form of the Deputy Director General of enforcement.

But civil proceedings, Madam President, if you decide at the direction of the Minister, this TTRA; PNM private tax army, PPTA, decides to commence civil proceedings against an individual, they will suffer just as much as if they are currently subject to some sort of criminal proceedings. Civil proceedings of this nature and magnitude, depending on how complex it is, can take years to move through the court. You could have a multitude of different types of orders made against you. You can, you know—interim orders and so on that can affect the taxpayer. And all of these powers would be exercised by persons who are susceptible to political influence.

So, Madam President, it is there in black and white that the Minister will set policy direction, guide the work of this private tax army in terms of commencing litigation against taxpayers. Now, this creature that they have created called the “Deputy Director General of enforcement”, Madam President, this is the epitome, the actual personification of window dressing. The Government will have us believe that they have transferred all these powers into this person, this independent creature, who will head the Enforcement Division which would be

staffed by public officers, and that may be true to an extent. But also—and it is there again in black and white, they slipped it in:

“such other employees...as the Board thinks fit;”

So the Board, the politically appointed Board, could have a public officer as a figure head of a division and staff that division almost entirely or disproportionately with persons who like them or their employment, their continued employment is dependent upon and their very existence there at this TTRA is dependent upon a politician. These are the persons who would have to investigate and make decisions, for example, under section 246 of the Customs Act, whether or not to prosecute a customs offence.

This is like saying you have a Commissioner of Police who is appointed and has security of tenure because he is appointed by the independent service commission, but you have an entire CID and Court and Process Branch that is completely staffed by political appointees. That is what they are doing here. That is what this legislation will allow them to do.

And I heard someone mention it—I cannot recall which one of the hon. Ministers, but they said the intention is to have it staffed completely by public officers. Why did you not put that in the legislation? Why did you slip in this clause that says that the board can put other people to work in this Enforcement Division? What access to information, what type of decisions, what types of powers are these other persons, these contract officers selected by the politically appointed board and under the control of the Director General to some extent, what and how are their functions going to differ from the public officers that you anticipate you are going to put into this division? That is the question that I want to know. Because, Madam President, everybody at some point in time in this TTRA will be singing for their supper and we cannot expect independence, fairness and

fearless investigations in a case like that. I do not know who they think they are fooling by inserting this supposed independent—imagine you are having a political body basically set up, totally politically appointed, but you insert a division within that body and say, “Well, no, that is okay, they are independent.”

I mean, do they have their own access to resources? Do they get their own line in the budget? Are they financed separately from the rest of the TTRA? Is that enforcement division going to enjoy any sort of power that really—or financial independence that can really give us the comfort of knowing that that Deputy Director General, apart from the fact that only the Public Service Commission could hire him or fire him and discipline him? What other comfort is there for us to understand or to know that that division will operate truly independently and not subject to direction or control from anyone else, including the Director General who is essentially the boss of the Deputy Director General?

Madam President, the Minister made reference to the Perch case and yes, the Privy Council held that the options available in that case to postal workers did not violate their rights and so on. But I do not know if he skimmed over the words of Lord Bingham in that case which I think we should read very carefully. In referring to Service Commissions, he said:

“All three commissions are so composed, structured and regulated as to ensure that they are independent and immune from political pressure, the object being to ensure that civil servants, police officers and teachers are similarly independent and immune.”

We have heard here today about long lines and poor customer service. Are we prepared to sacrifice the independence and immunity from political influence of our public servants to basically solve management issues? Because that is what you have. You have poor management and you have management problems within

the public service. You have a management problem that results in long lines not just outside of BIR and customs. So what we are going to do? Dismantle the entire public service and make everybody a political appointee so that nobody will have to line up outside of a government building? I mean, is that where we are going to take this argument next? Because this is where we are going, the complete privatization and politicization of the public service. And we sacrifice it on the altar of what? Because you do not want to stand in lines and you do not want to have to wait for your VAT refund because somebody is not doing their job, because the Service Commissions are slow to fill vacancies?

Has anyone come here today—I remember we debated a Motion in the last Session about Service Commissions brought by my colleague Sen. Vieira, I think, and up to today I have not heard in none of the contributions from the Government Bench and none of the contributions today so far, I have not heard anyone identify the root cause of the issues affecting the performance of the Service Commissions and why they cannot fill vacancies in departments such as BIR and customs which would perhaps solve a multitude of problems.

Madam President, and in the case before us, unlike the Martha Perch case, we are not talking about postal workers, people sorting and delivering mail. Martha Perch was the postmistress from Gasparillo. We are dealing here with serious function of revenue collection. We are dealing here with persons who can assess your tax liability and determine your objections.

Now, Madam President, apart from the political interference point, we must also look at fairness. I am reliably informed—up to last night, in fact, I spoke to some of my colleagues at the BIR Legal Department and to date, the employees of BIR do not know how many positions there are available to them within the existing public service that they may exercise the option to transfer to.

I am reliably informed that up to today most of the staff of the BIR are unaware of the job descriptions. I do not know if they even exist, job descriptions that would be to applicable to this new TTRA and where they could possibly fit in to that organization. So you come here to boast that the Perch case from the Privy Council was upheld and all these options that are put into the law are available and so on, but do the workers even know or understand those options and the ramifications of those options? Do you even care that people do not know where they may be working three months after you proclaim this Bill? That is the question that the population needs to hear from you about. Not how much money you spend on COVID and that is why you need to tax them to death.

Madam President, when you dismantle the public service, if you have to dismantle the public service to prevent long lines and to improve customer service, then you might as well throw in the towel and give up and call an election. Because instead, what you are doing is taking an enormous amount of power and responsibility and vesting it in the hands of political appointees to give you control. The inefficiencies of the current system come about as a result of poor planning, poor resourcing.

I heard about an IMF assessment called "TADA" or "TADAR" or something like that and we had so many things ranked as "C" and "D". I would like to know, what areas within the BIR in that IMF assessment ranked as C and D? What were the measures recommended to improve the BIR's efficiency in those areas where they ranked as "C" and "D" and almost got failing grades? And since that IMF assessment to now, what has been done? These are the things the public want to know if you want them to accept that this is the only option, that dismantling the public service and all of the protections that go along with having civil servants carry out this function and responsibility. You must tell the

population what have you done. Because you see, Madam President, it is not enough to run everything into the ground and then say, “It bad and we have to destroy it.” And that is the modus operandi that we have seen over and over and over from this Government.

Has anyone, as I said before, stopped to examine the root cause of the problem and come up with a proposal to address the inefficiencies with the Service Commissions and the Personnel Department? And this is not a problem unique to BIR, so why are we stopping at BIR and customs? Why have we targeted BIR and customs? To get your hands on 95 per cent of the revenue collected in this country and to be able to control it? That could be the only logical explanation.

The Minister said in his contribution that we want to operate as a business not subject to the strictures of public services. Well, these strictures, Madam President, as he calls them, are the buffers which preserve the independence of these offices. They allow the citizens who are not supporters of the political party in power to feel some sense of security and that they would not be targeted. Madam President, I want to raise as well, very quickly—can you just tell me how much more time I have?

Madam President: You have 10 more minutes.

Sen. J. Lutchmedial: Ten more minutes. I want to raise very quickly some of what I saw in this Bill as well under Part V of the “Financial Provisions” and it makes me question again, why are we doing things so differently with the revenue authority than we have done with other agencies of a similar nature? Sen. Mark raised the issue of preserving the unions when the HDC took over the role and function of the NHA, that has been left out.

But under this provision of “Financial Provisions”, these provisions here from clause 23 onward, I have noted that unlike, for example, the EMA, there is no

fund established here that would be—comprise the funds of the authority with trustees. That is contained in the EMA Act where the parliamentary appropriation together with fees and so on that are collect are vested in a fund and the board that is appointed, they are the trustees of that fund. And the use and purpose of the fund is very clearly spelt out in that legislation.

Here in clause 23(3), there are some examples of how the funds could be used of the Authority. But there is this catch-all phrase:

“any other expenditure authorised by the Board in the discharge of the Authority’s functions...”

Madam President, again, this board, this politically appointed board is being given very wide powers to spend moneys that will be appropriated to them. You are talking about you want to “mash up” BIR and customs so that you would have greater accountability and transparency in the collection of taxes, but you are creating a board that lacks transparency and accountability in how they are going to be spending their money—our money.

When it comes to the power to invest as well, Madam President, this proposed Bill and this proposed TTRA must invest in securities approved by the Minister, not even the board. Although it says in this Bill that the board is responsible for the finances of the authority, the Minister must approve. In the EMA Act, for example, it says that the moneys comprising the fund:

“...which do not have to be used immediately to defray expenses...”—and so on—“shall be invested in such a manner as the Trustees consider fit...”—which is really the Board—“which is designed to preserve the principal and achieve a reasonable rate of return and such investments shall be approved either generally or specifically by the Board.”

Why can we not have—this is direct out of our law, our existing laws on the books.

Why do we not have a similar provision for this TTRA? Is it that TTRA and the politically appointed board of the TTRA must take instructions from the Minister how to invest our moneys? Unlike the BIR and the customs, which currently now when they get an appropriation from Parliament at the end of the financial year must return to the Treasury what is not spent, the TTRA will be allowed to keep our money, and they will be allowed to invest it, and they will be allowed at the—of course, the instruction and approval of the Minister is required—and they will invest it, and they might make profits on it. And you know what—I do not know if it is called irony, I do not know if it really irony or what it is, but they are exempt from paying taxes on those profits and so on. And I understand the logic why state authorities such as this one and the EMA would not pay taxes, it is like paying himself onto himself. But the fact of the matter is they are being allowed to invest money, they are given very wide powers to do so, to pay expenses and to expend moneys.

So when you bring a Bill to Parliament that is all about preserving and collecting revenue and chasing down people that you believe should be paying more taxes, you are creating an authority here that the Minister will tell them how to invest their money. So if the Minister tells them, “Go to the bank on Maraval Road”, recently rebranded Merchant Bank or whatever it is, an authorized dealer in securities, they must invest the money there? That is what this is about? Picking and choosing the bank that the moneys would be invested in, and what types of securities, and who will be the broker dealer, the registered dealer?

So, Madam President, again, this Bill is just rife. It is rife with so many different opportunities for—

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

Sen. J. Lutchmedial: Thank you, Madam President— rife with so many

opportunities for the politicization and for even I would say going beyond that even corruption in the way that things could be managed.

We could sit here from now till thy kingdom come and decry and demonize and, you know, “bad talk” the public service and public servants and the Service Commissions how much we want, but at the end of the day, the checks and balances that are there in the public service, as inefficient as they may cause things to be at times, they are there to ensure that you do not have politically appointed boards wasting public funds and then requesting immunity for it. They are there to ensure that politically appointed boards do not decide to pay expenses that are not proper and legitimate, and are not in the public interest.

Madam President, at the end of the day this is why the UNC has resisted for 11 years. I am glad somebody said it, for 11 long years the UNC has resisted and we will continue to resist this move to dismantle the public service, to install political puppets to control the process of revenue collection. The destruction, manipulation and control of what should be independent institutions in this country is all part of a bigger plot to achieve political domination which every right-thinking citizen in this country must condemn in the strongest terms. And that is what we come here to do today, Madam President, and I thank you. [*Desk thumping*]

Madam President: Minister of Trade and Industry.

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon): Thank you, Madam President, and here we are once again the UNC—the Opposition sorry, is very backward thinking and is not giving any way to progress. But what we have before us is really a very simple and uncomplicated Bill and all it does, it seeks to establish this body corporate known as the Trinidad and Tobago Revenue Authority which will be responsibility for tax and customs and excise

administration, border control measures and the facilitation of legitimate trade. So you would understand why as Minister of Trade and Industry I would have a direct interest in this Bill, this very forward-thinking Bill which is before us today.

I think we know very much about the construct of the Bill, and I would not want to repeat too much but that it is a nine-member board. We know what the board details and it is that these persons who will be chosen for the board are based—will be based on their ability to oversee and manage a very large and diverse organization. Persons who would be very qualified and would have particular experience in relevant fields pertinent to the body corporate that we are establishing here. And this, Madam President, is a good point of reference, it is a good starting point as we talk about performance because largely what we want to achieve is a better performing institution, certainly better than what we have at this time.

So this board which we are seeking to put in place will play a very critical role in the establishment of the Revenue Authority and will have oversight for formulating, for approving and ensuring the implementation of management policies, the very issues that we have been hearing about today, management policies related to finances, human resources, service standards, performance targets, strategic plans. And this is where the autonomy and performance really begins. You are talking about budgets, annual reports, internal audits, a very well-oiled machine, and that is what we are seeking to put in place today. This is not the end of the setting up and the running of the Authority but this is where we start this body corporate.

And I hasten to add again, and we have heard so much of the politicization from the Opposition, that is not so at all. This board will not be allowed to meddle in the operations of the Authority as it executes its mandate nor can it give specific

directives to the director general or to any employees of the authority or have access to any information concerning an individual or company or so obtained by the Authority. There is no access to any legal information with regard to—any information or documentation regarding legal actions and so on, the board cannot access anything like that.

And so, the provisions that are in this Bill would readily insulate the authority from any interference from the board and from the Minister as the Opposition is trying to insinuate. The authority will be properly clothed and insulated from any kind of political interference from the board and Minister. The Minister just is going to give direction but the Minister is not involved in the day-to-day activities. And in addition to that, the Bill makes the provisions for the appointment of the director general and the Deputy Director Generals by the Minister. Again—and this adds further scrutiny to the process subject to affirmative resolution by the Parliament.

And I would recall before—because this is not the first time this Bill has come here as we have all said. It was here before and we know what has happened. There was concern about the Minister's involvement in choosing persons for these posts and I could not understand it because as it stands, the Chairman of the Board of Inland Revenue is appointed by the Cabinet. And again, this Bill adds an additional layer of parliamentary scrutiny when hiring the director general and his deputies, and therefore, this should be welcomed. And again, this too should foster greater confidence in the management of the Authority. So there is nothing top-down or authoritarian as the Opposition would like the population to believe.

I think rather I can say to you that many of us would know who the Commissioner of Police is because his name comes to this Parliament, he undergoes parliamentary scrutiny. Well, I am telling you now, if I ask the

population out there who is the Chairman of the Board of Inland Revenue, they do not know. But now it will become crystal clear who is in charge of this Revenue Authority. As I said, the public will know, it will be plastered in the press, it would come before the Parliament.

And yes, Madam President, I have heard a lot about the Deputy Director General of enforcement a public officer, and I can find nothing wrong with this person being appointed by the Service Commissions to head the Enforcement Division of the Authority which will be responsible for the daily management and direction of the enforcement of customs laws and the Excise Act other revenue laws, and so on.

And of course, the Enforcement Division of the Authority along with the Director General—sorry, the Deputy Director General, there would be public officers appointed by the Service Commissions. So there would be a mixture of—in this division there would will be a mixture of Authority employees and public officers. So it is not only controlled by public officers. There would be both Authority employees and also public officers as well.

And I want make the point with regard to the HR matters. It is very important to note that all HR matters relating to employees under the Authority will be under the remit of the board, so the rest of the employees that is.

So, if I were to summarize where we are going with this Bill, it provides that the board is responsible for oversight of the management policies of the Authority, while the Director General and his deputies are responsible for the day-to-day management of the authority and overall administration. So there is a clear, clear, clear demarcation.

And there seems to be concern, again, by the Opposition as to what is going to happen to those persons who are now employed in the customs and also in the

Board of Inland Revenue and is very, very clear in the Bill. There are options that are available so that employees can seek to immediately retire, or they can have the opportunity to transfer with the approval of the Service Commissions into the new organization, or they can be appointed to the Enforcement Division of the authority by the Service Commissions, or they could remain employed by the public service. And of course, any transfer at all, at any time would not be with any less favourable terms and conditions. And that is very clearly outlined in clause 18.

And of course, the Bill also seeks to preserve and ensure that there is the continued accrual of their superannuation benefits, all of their pension benefits are secure, for all of those persons who would choose to be transferred into the authority and so on. So it is clear as day, so all of the machinations raised by the Opposition and their other appointed persons, I think there is no worry for those who are employed within those organizations currently. The options are clearly laid out in the Bill, so it is legislation, and I think the way forward is very clear.

Looking at the current tax and customs administration, and many persons before me on the Independent—and my colleagues as well spoke about the tax gap. But both institutions, the Inland Revenue and Customs and Excise Division are very critical components to the revenue and the administration of this country. So that Inland Revenue we know deals with the taxes, the tax administration and tax collection, and so on. The customs and excise will deal with the import and export of goods, and all of the application of duties.

And I can tell you, Madam President, that there is no secret that many citizens and many businesses—I hear it all the time that I regularly interact with any of those institutions. And I hear particularly about customs and excise, they really have some very colourful language to express their experiences and for various reasons. So I hear it all the time, so whether it is poor customer service,

inefficiency, lack of transparency, the fact is these institutions are not operating in the way that it was envisioned and I cannot understand why the Opposition will want the status quo to remain with—how could you like long lines, poor customer service? How could you be prepared to condone that kind of activity?

1.00 p.m.

That is not the way we are going, we are going the way of efficiency, introduction of technology. We now have a Ministry established to deal with all of the digitization and digitalization measures for effectiveness and so on. This policy is about modernization, right, not keeping the old public service syndrome. We want to move away from that, while at the same time we fix the issues that are within the public service.

So, but we are well aware that many of those divisions—and we heard some of the numbers today—they are understaffed. I can tell you with regard to Customs, the operating hours are standard and what we want are more flexible and extended operating hours as well. And I will go to the point of comparing to our service delivery standards in compared to internationally recognized standards. Because we have to face the facts of where we are, and why we must get out of where we are at this time and into the modern world, right. But as I say all of that, I want to always make the point that, yes, there is bureaucracy in these organizations and yes, I have raised the point about inefficiencies. But I want to say this is less about the individuals because they are very much so individual employees, customs officers, and professionals within the Inland Revenue so, who are really doing—who are personally committed to the success of the jobs that they do. But of course, there are all other factors that impinge upon the successful outcomes that the public would wish to see.

So I can tell you that this Government understands the inefficiencies and has sought ways in the last six years to improve the service delivery and the public service through the use of technology. And I can tell you that from the point of view of the single electronic window, if I go back to 2009, which was started under the previous PNM Government. And since then we have a number of e-services that are available, but it is not quite where we want to go and we are not moving as fast enough as we ought to. So showing up in Inland Revenue you have—this Government implemented the eTax, so that persons can go on and register to file their personal income tax. But of course it does not deal with corporation tax to the best of my knowledge. So we want to make sure that we dramatically improve these services and this dealing with the complexities of customs and the complexities of Inland Revenue, this is the way we have to go. And I will tell you globally, what is happening as well.

So, in my research, I looked at—and there was several articles referred to today, one in particular attracted my attention, which will be in the IDB report of March 21st, this year called “Winds of Change, an Opportunity to Reform Tax Administration in the Caribbean”. And of course, even Trinidad and Tobago’s tax administration was discussed, noting that it was within the Ministry of Finance, where it lacked budgetary autonomy, control over staffing and access to train staff. And they looked at the entire—all of the systems throughout the region and again, it spoke to the fact that if we stay the way we are now, we would be really hindering our capacity to close that revenue gap and to become more efficient and to acquire more technological systems and to implement reforms and operational policies. So, this is the way we have to go.

As all of the other MDC countries have, Jamaica, Barbados, Guyana, have all gone the way, we are the only MDC that has not gone the way of reform. Sure

enough, over time, we have all done the VAT reforms and so on. But none of us have gone the way that they have gone with their semi-autonomous regimes. And therefore, this is, I think what we have before us—and I will support the Minister of Finance wholly on this one, is the best chance of truly implementing revenue collection reform, to rationalize the revenue earnings of this country and modernize and improve tax and customs administration. And concurrent with the establishment of this new institution, is the expectation of the delivery of further policy and technology interventions. We would continue to do all of that, to ensure the improvement in collection of revenues and service deliveries and so on.

Again, Sen. Mark was right, in one regard. He knew that several countries have registered revenue authorities, and he spoke about Jamaica. And I said, yes, they are one of the MDCs that have a Revenue Authority in place. But he spoke about Singapore and so on, indeed, many countries across the globe have revenue authorities, he was right on that. And again, in another looking at the global perspective, a World Bank article entitled “Increasing Tax Revenue in Developing Countries” dated February 01, 2021, there is constant research on this topic, was noted that tax revenue collection as a share of GDP is only 15 to 20 per cent in lower and middle income countries, but over 30 per cent in upper income countries. And why should we not move to close that gap? The gap is substantial and what it implies obviously, is that there is less tax revenue available to us to spend and Minister West said it, the Member who is responsible for Public Administration said it well. Revenues to spend on public necessities, infrastructure, good governance, et cetera, right.

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

So, we know that—and apart from that, we know that there is a problem in Trinidad and Tobago, where businesses are not paying taxes. I am talking, small,

medium, micro, large, they are not paying, their—not all, but there are a substantial number of them that are not paying their fair taxes. Many of them are operating in this informal regime, so-called regime and then there are many of those who are also misreporting. And that cannot be, it is a prevalent problem and it has to be fixed. And I will tell you, this informal system, which pervades, again, is quite disadvantageous to the country and of course—it really, as I said, hinders growth and access to a lot of incentives, a lot of facilities that are available to them that they cannot access simply because they are not compliant.

I can tell you for instance, in the Ministry of Trade and Industry, we have had—there are two facilities, a Grant Fund facility and also there is through exporTT, there is the Research and Development Fund. And you will find that many of the businesses that apply for those funds are not able to access it because they are not registered. They simply are not registered. They are not paying VAT, they are not paying taxes. They are not—some of them are not deducting NIS for their employees. And it is just a very unfair, and unacceptable situation. And when I think about those persons who let us say at the entry level in the public service, anybody making over \$7,000 a month, \$84,000 a year has to pay their taxes year in, year out, and they are paying their PAYE and they are paying their health surcharge and they are paying their NIS, it is so unfair, that for through their working life that those persons will contribute to the tax system fairly and there are these businesses that are not. So it has to be dealt with. And the current configuration of the Inland Revenue certainly insufficient, you do not have enough staff to do the kind of enforcement that is necessary. And this is the move, this is a move forward, this is the way forward and this is the way that we must go.

So here is a deal, we must become an efficient organization in terms of collection of taxes, through Customs, and through Board of Inland Revenue, so

that all of the legal frameworks that are required and so on would be put in place. And again, we talk about fostering efficiency, professionalism, even improving the morale of staff because everybody wants to work within an organization that engenders professionalism, so improves morale and integrity. Of course, you will have economies of scale with regard to administrative services, because you have these two large entities and of course, all of the services would be provided centrally. So, you “gonna”—and then of course, there will be all financial management, training, staff development, ICTs more than ever. So, we see again, we expect to see the full force of digitization and digitalization and the work of the new Ministry, as well.

So, let us talk a little bit about international trade because of the link with Customs and Excise. They facilitate, they provide a full service, Customs and Excise, and facilitate the entry and exit of goods and I can tell you again, many of the operators want efficiency and it is not there. And we have to and I mean, I am saying it, I mean the Government and I am saying it, the reality is that when I look at the trading across borders, which is within one of the facets of the World Bank's 2020 Doing Business Report, where we are 105 currently out of 190, not good at all. And we are doing a lot to improve all of the areas of the life of a business under this Doing Business Report. But in trading across borders, let us face facts, where are we, 134 out of 190 countries. And that is a concern to us because this speaks to the time and costs associated with the logistical process of exporting and importing goods. Not good at all. And when we look at our ranking, at our score, we have a score of 62.60 while the average score for Latin America and the Caribbean is 69.1, so we are below average, cannot be good, at all. When I look—I will tell you what it takes going to the services through the Customs and Excise

Division. And I am comparing ourselves to Denmark who is number one in that particular category and I will tell you.

So, with regard to time to export border compliance, in Denmark, it takes no time to do it at all. Of course there must be very proficient in terms of technology and so on. And in terms of time to export border compliance, it takes 60 hours on average. In Denmark, cost to export costs, we talked about time in terms of cost, border compliance, it is zero. Trinidad and Tobago, \$499 US dollars.

We talk about documentary compliance Denmark one, in terms of hours, one hour. In Trinidad and Tobago, 32 hours. These are the realities. Cost to export, documentary compliance, zero dollars; in Trinidad and Tobago, US \$250. Time to import in terms of hours, zero, Denmark; in terms of Trinidad and Tobago 78 hours. When you look at cost to import, again, zero dollars and in Trinidad and Tobago \$635. Time to import for Trinidad and Tobago again, 44 hours, cost to import \$250. So, these are the realities and it is not that we are not doing anything about it currently, I will tell you what we are doing but the fact is we have to move away because—away from that—you know what this does, this erodes our competitiveness. So we could talk all we want about manufacturing and exports, and earning exports, et cetera, this erodes our competitiveness. And this is why we must move to a more efficient organization and I will wholeheartedly welcome this move.

So, we did an exercise, a business process reengineering, I will just speak briefly because I spoke in this Parliament about it before. Hired an international consultant, took a while on the ground to do all the work that was required, because what we wanted to know is, how do we simplify? How do we modernize? How do we harmonize? All of the regulatory processes for import export transit and business facilitation services in Trinidad and Tobago. And we came up with

this master plan of 61 recommendations, I am not going to go into them. But 45, we are moving ahead; nine, we are currently implementing and we are working on these as we speak, in terms of implementing online payments for all TTBizLink, e-services, fees and customs and excise duties and taxes to allow various non-cash methods of payment.

So, it is not like we are doing nothing, but all of the work will continue and filtering and harmonize with this new organization. So, the work continues with the collaboration within the Ministry of Trade and Industry, with the current organizations and into the new, right. As it is, all border agencies are making appropriate arrangements to designate duty officers, to allow processing of e-goods declarations outside of the regular hours of work. And looking—I think the Ministry of Finance might be even considering a shift system for Customs and Excise, I cannot confirm that. But this is the length and breadth that we have to go to ensure efficiency and to improve our competitiveness. I know Customs and Excise has conducted an audit of scanning operations to ensure maximum efficiency in tandem with the various risk management systems that are available. This is the work that is going on, we are continuing to implement the support community system, to allow for the intelligent and secure exchange of information between public and private stakeholders, and so on, including the digitization of release orders, exit notes, and so on.

So the work continues to perform the processing of electronic data instead of paper records and I could go on. Customs, I know has put in their new ASYCUDA 4 and they are working to adopt the full functionality of ASYCUDA as to allow for electronic processing, and so on. So it is a lot of work that is going on by customs, is progressive by MTI and by the Ministry of—even the Ministry of Agriculture,

Land and Fisheries and so on. But again, it is not enough. There is so much that needs to be done, especially as we talk about the ease of doing business.

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

Sen. The Hon. P. Gopee-Scoon: Yes, thank you. So again, so it falls upon all of us and again, we are taking this whole of Government approach to creating an enabling environment to foster business growth and development and so on and thus this has always been an objective of this Government. But we are going to continue and in so far as we have got together, and we have worked on the roadmap to recovery of this country, all of these facets, digitization and automation, all of these increase auto approvals by border agencies, EPA months and so on. We are all working towards efficiency of enhancement of the TTBizLink application software. Trinidad Tobago National Trade Facilitation Committee is doing its work. So this very strong, cohesive relationship will continue into the new organization. But again, the revenue—I make the point as I end that this Revenue Authority that is before us today, will be completely void of political interference and suasion, all right. And the Authority that has been set up will be given autonomy to manage their budget, to do organizational planning, to create high performance standards, to recruit, develop and to properly remunerate professionals and persons who are qualified for the positions within this organization.

ICT will be a strong feature in terms of—they will have their own in house IT systems or where possible they would outsource the sub-services to private contractors. There would be proper tax law interpretation by the Authority and of course proper enforcement exercising without having to refer to another body, and so on, exercising their enforcement powers associated with the law. As said before, a well-functioning—well-oiled machine, but a functioning, a functioning team and

organization. That is where we are going with tax compliance and of course, this being extremely important to businesses, how they operate, what their expectations are, what they ought to do, we are heading in the right direction with this Revenue Authority. Greater efficiency; public revenue enhancement; employment of competent, disciplined staff; de-politicization of tax administration; reduced corruption; no corruption and so on; improved taxpayer services; better work ethic and so on; comprehensive accounting for all tax revenues and so on, and integration of tax and taxpayer related databases and so on.

I am really very heartened by the work that has been brought here today. There is much more to do, but it is an excellent model and I am at the Ministry of Trade and Industry, on behalf of them and on behalf of the Government, we are in full support of this Revenue Authority, which has been brought here today by the Minister of Finance. Thank you very much. [*Desk thumping*]

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

Sen. Anil Roberts: Thank you, thank you, Mr. Vice-President. Only the PNM with a Leader of Government business who never pitch marbles would rush a debate on an oppressive piece of legislation while TKR playing a semi-final in the CPL. It shows a lack of care but I should understand that the PNM does not care about sport as we saw our warriors go to Tokyo unprepared. We see our hockey teams being sent to be devastated in World Cup qualifying. And—or maybe it is simply that the PNM is very politically savvy and they know that the population will be focused on TKR and not listening to this debacle of a debate put forward by the PNM Government. But *c'est la vie*, we have to debate. The honorable Minister of Trade and Industry use the term PNM and forward-thinking in the same sentence. Unfortunately, that is a clear oxymoron.

She stated that Guyana, Barbados, other countries, they have Revenue Authorities, that is true, but they do not have the PNM. I feel I entered the matrix when I am hearing Government Ministers and Senators speak here today in this debate, because I am not sure what they are debating. We are not debating the theory of our Revenue Authority or the efficacy of an efficient tax collection system. We are debating this Bill here that has the PNM in total control, the Minister in control, the Minister appointing the board, the Minister—the PNM Minister appointing the Director General, this is what we are debating. This Bill that shows a total desire on the part of the Government to control every aspect of tax collection and expenditure enforcement across the board. Let us be clear, this is not a debate on the efficacy. This is a debate about the PNM's interpretation of a PNM appointed, PNM controlled, PNM guided, PNM monitored, politically controlled gestapo unit disguised as a Revenue Authority.

The hon. Minister of Finance, said there were inefficiencies in the BIR and the public service. Yet, for the last 11 years he has tried and the PNM have tried to bring this Revenue Authority. But for six of those years, the PNM has been in charge, and you have made no improvements to the efficiency of the BIR. So the PNM's position is leave a problem and then come in with a Bill to put PNM in total control and that is how we fix it. The UNC says that is not the way to go. Please show us as you state that the IMF says that the efficiency or the tax collection of Trinidad and Tobago is the lowest. Yes, but show us how you can fix it without total political control.

They attack the Public Service Commission here today in the Senate, suggesting, replacing it by the “douen” service chair. The Minister of Finance attacks the entire public service while praising his most inefficient, incompetent, ineffective Cabinet and Government in our history.

The Minister of Finance said we believe, meaning the PNM, that we have found the solution to avoid the constitutional majority. Well, we in the UNC know that you have not found that. Me thinks you need to go back to the drawing board. We believe in the UNC the Minister of Finance is confused, misguided and misinformed. We believe the Minister of Finance has not read his own Bill. The PNM's obsession with controlling taxation, citizens' property and financial information has its genesis in the actual formation of the balisier cult in January 1956. From its symbolism, its mantra, its constitution and its debilitating indoctrination. A member of the PNM is a PNM till ah dead. Its ongoing mission, as espoused today by PNM Senators is to ensnare the entire population in this warped, selfish, myopic, segregational belief that this is PNM country. Well the UNC is here to say this is not PNM country, this is our country, this is Trinidad and Tobago.

You bring a Bill here in 2021 and just remove the need for special majority, no consultation. It was not even viewed by the joint select committee. A joint select committee that met for three years, consultation, discussion. A report was laid in Parliament and now ignored. It shows gross disrespect to all those who contributed, a waste of countless intellectual hours. This dictatorial PNM removed the three-fifths requirement like a Petrotrin refinery in the night. This PNM Government has removed the constitutional three-fifths majority and replaced it arbitrarily by a simple majority. There is absolutely nothing simple about this Bill. This Bill is sinister.

Sen. Seepersad, the Independent Senator, made some brilliant points about Revenue Authority, tax collection, management, intelligence, independence, ethical human beings. Can all these improvements be made hon. Senator without the total control of the political directorate? If so, please propose all the necessary

amendments to this Bill at the Committee stage and watch carefully as all your independent, intelligent, well-intended suggestions will be resoundingly rejected by this PNM, bent on attaining absolute control, influence and total power over the citizenry.

It is quite peculiar and indeed characteristic of this callous, uncaring Government that the very first Bill being brought to the Second Session of the Twelfth Parliament is wholly concerned with the Government's ability—

Mr. Vice-President: One second, Sen. Roberts.

Hon. Al-Rawi: Mr. Vice-President. May I respectfully rise on 11 please?

Mr. Vice-President: 40?

Hon. Al-Rawi: 42(11) please.

Mr. Vice-President: Hon. Senator, in relation to the way we present our speeches here in the Chamber, we tend to try not to read it verbatim, but present it. So what I will invite you to do is to do just that, in relation to putting forward your debate, present it you do not have to read it verbatim.

Sen. A. Roberts: I am not—thank you, Sir. I am guided. [*Laughs*] It is quite peculiar, and indeed characteristic of this callous—I hope I get my minute back, please. That this very Bill being brought to the Second Session of the Twelfth Parliament is wholly and solely concerned with taxing people, getting into their pockets as they suffer in a pandemic, under the worst most mismanaged pandemic in the history of the entire globe. We are not number one in the world, we are number last and we have been suffering, our people are suffering without jobs, have not received their grants, no support for small and micro enterprises. But this Government, the first thing they do is come to dig deeper in the pockets of the citizens. This Government and its overarching theory cannot sustain the infraction or the investigation that goes before it. It defies established principles, sound,

corporate governance, vest extraordinary powers and access to private information in the hands of politicians and remove citizens from under the provisions, safety and security the public service and now places them firmly in the hands of the politically appointed officers. The Government's prioritization, not just taxing—

Mr. Vice-President: One second, Sen. Roberts.

Hon. Al-Rawi: I respectfully rise on Standing Order 53(1)(b).

Mr. Vice-President: Okay, so hon. Senator, a lot of the arguments being put forward now, in relation to the Bill that is before us have been said before, I will allow you to continue with what you are saying but be mindful as you are making your contribution that we want to interject new arguments as well. We have heard quite a bit in terms of all the speakers Government, Opposition and Independent that have come before in terms of certain key points. So as you move forward, be mindful, interject new points as well.

Sen. A. Roberts:—brand new points, thank you, I am guided, Mr. Vice-President. The Government prioritization of not just taxing a suffering population, but ensuring draconian punitive measures to anyone found in breach of the regulations remains in stark contrast, to effective and concerned Governments all over the world. Leaders, politicians and economists worldwide have supported the view that tax credits—

Hon. Al-Rawi: I respectfully—

Sen. Roberts:—deductions, tax holidays, incentives and grants—

Mr. Vice-President: Sen. Roberts, one second. Attorney General, yes.

Hon. Al-Rawi: Much obliged. I respectfully rise on 42(10), evidenced by the fact that the Member cannot even see when I stand. 42(11).

Mr. Vice-President: 42(11)?

Hon. Al-Rawi: Yes, Sir.

Mr. Vice-President: Okay. So, Senator, again, we are talking about actually reading the speech versus presenting the speech. Again, I will allow you to continue but just keep in mind that you want to present.

1.30 p.m.

Sen. A. Roberts: Thank you, Sir. I hope that I am getting my time, because the time has already been curtailed and I am being interrupted. But never mind. But across the globe, governments have taken the approach to present benefits and assistance to their citizens, their businesses, but here in the PNM country, run by a PNM with a slim majority that they squeezed out with an EBC that seems to be following instructions of the Government—

Mr. Vice-President: Senator, that particular line—sorry again to interrupt—but that particular line is not relevant to what is before us in relation to the EBC, so just be careful.

Sen. A. Roberts: Yes, Sir. Thank you. According to the recently published report by Deloitte, credit and incentive economic stimulus—

Mr. Vice-President: Attorney General.

Hon. Al-Rawi: I rise on Standing Order 46(6), Mr. Vice-President, in relation to that comment on the EBC.

Mr. Vice-President: Okay. So I have already ruled on that. Continue Sen. Roberts.

Sen. A. Roberts: When the Coronavirus pandemic began to spread in early 2020, government-led incentives were strong in France, US, across Canada, China and Australia, but in Trinidad and Tobago, they have been punitive and now this Government comes to increase or to change the Revenue Authority to put its fingers into the pockets of the citizens.

As we move forward, there are homes in Trinidad and Tobago that the entire

population is now scrambling to fill out forms, to do the work of the Valuation Department, because this callous Government is trying to implement a property tax in a pandemic. Citizens cannot fill out the forms. They are now saying that they are gathering their \$5,000 to pay a fee and a fine for not filing these documents on time as stipulated by this heartless Government. The enforcement fines, of course—

Hon. Al-Rawi: I rise on Standing Order 56(1), please. I have yet to even hear a clause in the Bill.

Mr. Vice-President: Right. So, Senator, that particular line that you are on in relation to property tax is thinly relevant to what we are doing. I would ask you to just tie it in a lil tighter, if you can, or else move forward.

Sen. A. Roberts: Thank you, Mr. Vice-President. Since the hon. Attorney General like to hear the clauses, let us go to the clauses of this Bill that include clauses that simply, we have to pause to digest, because this hon. Attorney General has put in this Bill, along with the Minister of Finance, clauses that include ministerial power—clauses 5, 6, 7, 8, 11, 13, 14, 15, 16, 24, 25, 30, 41 and 42. All include powers put to the PNM Minister to control. [*Desk thumping*] The PNM Minister, for example, if you would like the UNC to support this Bill—

Hon. Al-Rawi: Mr. Vice-President, I therefore rise on Standing Order 53(1)(b) properly.

Mr. Vice-President: Attorney General, at this juncture, the Member is calling out the clauses and he is moving now towards actually making his argument in relation to that. Senator, yes that argument has been made but, like I said, be mindful that you want to interject new points in relation to what has gone before. So, I would allow you to continue at this juncture, but I am listening for the new points as opposed to what have been gone before. Continue.

Sen. A. Roberts: Brand new points. Once again, Mr. Vice-President, as Minister West said—and I rebut what she has said—more and more demands are being made on the shrinking coffers and, therefore, we need this Revenue Authority governed by the PNM Minister of Finance. Well, let me be clear, the coffers are shrinking because of the poor governance of the PNM, the incompetence, the inability to diversify the economy as well as the demands on the Treasury being made by \$500 million wasted on NGC, large rentals to Cabinet Ministers and outfitting of Attorney General's offices.

Hon. Al-Rawi: I rise on Standing Order 46(1), Mr. Vice-President.

Mr. Vice-President: Okay. So, no. I will allow that particular line of argument as it is a response to an—

Sen. A. Roberts:—brand new.

Mr. Vice-President:—argument that has been put forward before coming from the opposite side. Continue Sen. Roberts. [*Desk thumping*]

Sen. A. Roberts: Thank you. Thank you, Mr. Vice-President. The Treasury is empty because of the profligate spending of the PNM Cabinet on rentals, on recusal twins of conflict of interest on borrowing from small companies on the Avenue, of investing in questionable companies that we could call barrister, overpriced poorly procured ferries, hundred million dollars—

Sen. Gopee-Scoon: 46(1). [*Crosstalk*]

Mr. Vice-President: Sen. Mark, Sen. Mark, let me hear the point of order.

Sen. Gopee-Scoon: 46(1).

Mr. Vice-President: Okay. So, Sen. Roberts, please tie it in to what we are doing here. I am giving you the leeway to make the point, just tie it in.

Sen. A. Roberts: Mr. Vice-President, the Minister of Public Administration said that the reason that we are here today is that the Treasury is empty, the coffers are

empty and that they require filling up. So they are empty because, Madam Minister of Trade and Industry, \$100 million wasted on a President's House to go and tour a plantation built, 20 million on a Prime Minister's residence, 200 million on two stadia that are locked up, 400 million on two cutlass vessels not requested by the coast guard, 64 million on report to not close Petrotrin, but Petrotrin is closed.

Mr. Vice-President: Okay. So, we are continuing to raise point of orders and I am ruling on them as they come and I have no problem doing so. Senator, so you have made the point that you are making in relation to why the Treasury is empty, in response to an argument that has been put forward earlier in the debate. So, I would ask you now to move on from that because you have made that point.

Sen. A. Roberts: Yes, Mr. Vice-President, but we must—I am giving you the real depth of the emptiness of the Treasury because of the PNM incompetence and profligate spending. I am only halfway done.

Mr. Vice-President: Right. And what I am saying is that you are not going to spend five minutes going into the depth of that in relation to the response of an argument, because then you will be in breach of Standing Order 42(1) in relation to relevance. So, what I am saying is that you have made that point, and I am asking you now, if you wish to move forward to other points.

Sen. A. Roberts: I will move forward, Sir. No problem. Let me move on to the Constitution and the supreme law of Trinidad and Tobago. The Constitution is also what the honourable courts have referred to as a lens of interpretation, meaning, that every law—whether we are considering here in Parliament or whether a judge considering in a judicial sense—must be interpreted in the light of the constitutional law, values, principals and protections.

Hon. Al-Rawi: I rise, most respectfully, on Standing Order 42(11).

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

Sen. A. Roberts: Thank you, Mr. Vice-President, and I please request injury time please Sir, humbly, because they are utilizing it. I have a different angle, Mr. Vice-President, because my colleagues have already spoken about the Endell Thomas protection. I have a different angle to the same problem. While Endell Thomas point is very important, it is my view that the legislation also offends certain fundamental rights and freedoms enshrined in the Constitution. I have in mind, and I quote, section 4(a) and section 4(b) of the Constitution. Section 4(a) of the Constitution states:

“(a) the right of the individual to life, liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by due process of law;”

While section 4(b) states:

“(b) the right of the individual to equality before the law and the protection of the law;”

Taxation has always raised serious legal issues. “No taxation without representation” was the cry of the American Revolution. The Magna Carta would set out the constitutional framework for the English common law, which was a document extracted from the King when his barons revolted against deprivation of property and excessive taxation. Here, today, in Trinidad and Tobago, we are debating a Revenue Authority Bill, not about a Revenue Authority or efficient taxation collection, but about an Authority and a Bill put forward by a Government that wants to control, through every clause in the Bill, giving the Minister of Finance, the PNM Minister of Finance, the control so to do to appoint the board, to appoint the Director General.

They allowed the Public Service and the Public Service Commission to appoint the Deputy Director General – Enforcement, but then say that this public servant must

take guidance and instructions from a public—politically appointed Director General and the board, who take their control and their instructions from the Minister. Why all of this political interference in something as critical as taxation, which has led historically to upheaval, anarchy and revolt?

One would know that the procedural fairness has two limbs. We also hear of the right to be heard, but procedural fairness also comprises a rule against bias, and this Bill is fraught with the opportunity not to be heard and to show bias on the part of those who may not be politically affiliated to those in control. This ensures impartiality when there is insulation. Laws, in particular constitutional principles, are meant to strike a balance between individual and the State. So, on the one hand, you have a political creature in a Minister of Finance saying, give me all the taxes that you can and if a person fails to pay taxes, then enforce as strictly as possible. On the other hand, you have an individual saying, I did not earn this amount or for any other legal reason, the first assessor and body in charge of treating with the conflict is the BIR, now called the PNM Revenue Authority.

The law currently ensures that impartial public servants, whose employment is secure, whose pension is secure, who cannot be disciplined by a Minister makes the first assessment. This Bill here deems and seeks and wants to change that, and put that into the hands of politically appointed, politically influenced individuals.

Hon. Al-Rawi: I rise on Standing Order 52(1)(b)—if it is 52—the House and the Senate, tedious repetition.

Mr. Vice-President: Senator, continue.

Sen. A. Roberts: All board members here are appointed by the Minister. When we see actual occurrences of this in Trinidad and Tobago, we see that the Petrotrin Board is appointed by politicians. Yet, we see that senior counsel in Trinidad and Tobago has recommended over 55 days ago that a matter of critical public

importance be appealed, and yet no decision has been made.

Hon. Al-Rawi: Mr. Vice-President, I rise on Standing Order 46(1), and I honestly urge the hon. Member to drop the paper, 42(11). I would like to hear him.

Mr. Vice-President: 42(11) and one—

Hon. Al-Rawi:—and 46(1).

Mr. Vice-President: Right. So, hon. Member, the argument that he is making, is tying in to the functions of the board in relation to this particular Bill. It is, in my opinion, slightly different to what has come before and, therefore I am going to allow him to continue along those lines. [*Desk thumping*] Member—

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

Mr. Vice-President: Member, again, as I have always cautioned, always make it a new point and—[*Inaudible*] Continue.

Sen. A. Roberts: New points, one after the next Sir. And the new point here is that the hon. Prime Minister, the PNM Prime Minister, stated to the nation that the board is in charge of all matters at Petrotrin. However, the Minister of Energy and Energy Industries, approximately 12 days ago, after losing a case for the Lake Asphalt against a contractor, stated in the public domain that he has instructed the board to appeal. So, when you say here today that a Minister appointing a board will not instruct, and there is no political influence and the Minister of Trade and Industry stands there on the other and says there will be no political interference, this Bill throughout shows political interference, political control and a movement towards pure dictatorship. When we see that an NGC Board has applied to the very same Minister of Finance and he has admitted and reported and assisted and agreed with by the Prime Minister, has given board members indemnification for a decision that can only be seen from all the information to be irresponsible, so irresponsible that the directors were unable to get director liability insurance

because the decision was done in bad faith.

Hon. Al-Rawi: Mr. Vice-President, I rise on Standing Order 46(1). The particular details of an NGC Board have nothing to do with this debate, respectfully.

Mr. Vice-President: So, Senator, the point in relation to which I think is what you are making, which is interference by way of a Minister to a board using other boards—and that connection between a Minister and a board—as examples to show where this particular Bill would also have the same thing, so you have made that point by making several examples of which now you utilizing NGC, which I think you were talking about, to also bolster that example.

Sen. A. Roberts: Yes.

Mr. Vice-President: What I am saying to you is, you do not have to go overboard in making your examples. Make your examples and then you can move on to your next point—

Sen. A. Roberts: Thank you.

Mr. Vice-President:—because that is where you will run into the Standing Order on tedious repetition.

Sen. A. Roberts: Thank you, Mr. Vice-President. I am very sorry for using so many examples of incompetence, dictatorship and political victimization by this PNM Government with that Attorney General. I would not use another one.

Hon. Al-Rawi: I rise on Standing Order 46(6)—

Mr. Vice-President: Attorney General, one second. Senator, first and foremost, you have five more minutes in your contribution. You do not need to embellish upon what I have ruled by responding to me in the way you have just responded. I understand exactly what I have said, and I am absolutely certain that you have also understand what I have said. Attorney General, you were raising a point of order. If it is in relation to what I just said, then there is no need to do so because it is being

dealt with. Was it in relation to that or something else?

Hon. Al-Rawi: No.

Mr. Vice-President: Go ahead.

Hon. Al-Rawi: I am rising on improper motives squarely dictated and not dealt with by you under 46(6).

Mr. Vice-President: Okay, no problem. So, Senator, just be mindful of making improper or imputing improper motives in relation to Members of either Chamber. Continue, you have five more minutes.

Sen. A. Roberts: Mr. Vice-President, may I ask for injury time please, Sir?

Mr. Vice-President: Normally we do not do injury time, Sen. Roberts. That is in the normal cause of process by way of the debate. [*Laughter*] It takes place where Standing Orders are raised.

Sen. A. Roberts: Yes Sir, no problem, no problem.

Mr. Vice-President: Continue. I do not want to interrupt you again.

Sen. A. Roberts: I would stick a small pin right there, and move along to a different point. Let us go, in general, to this PNM. They go to section—this Bill is the Bill of an arrogant, narcissistic, self-serving, self-centred, heartless dictatorial regime on total control. [*Desk thumping*]

Mr. Vice-President: Sen. Roberts, Sen. Roberts, Sen. Roberts, I do not even have to wait for a Standing Order to be raised. I mean, it has not even been 15 seconds, and I think you know what I am about to say. Please, please, please, tone it down.

Sen. A. Roberts: Thank you, Mr. Vice-President. This Bill is dangerous, illustrated by the anti-democratic, anti-corporate governance, anti-transparency, anti-accountability, anti-separation of powers clauses of the Bill. Clauses 13, 14, 15—

Sen. Gopee-Scoon: Standing Order 46(6).

Mr. Vice-President: So, Sen. Roberts, again, I do not know how best to say it. Just tone it down a bit in terms of the language.

Sen. A. Roberts: Language?

Mr. Vice-President: Yes, the language. That is all I am asking. Tone it down a bit in terms of the language.

Sen. A. Roberts: Thank you, Mr. Vice-President. Moving right along. There is a very interesting corollary to this Bill. Once again, it shows the policy of the PNM to conduct a process of union busting as they have done in Petrotrin with the OWTU, Caribbean Airlines with TTALPA, the Port Authority workers with the Port—

Sen. Gopee-Scoon: Point of order; 46(1), 46(6).

Sen. Mark: What do you want him to do? What do you want him to do?

Mr. Vice-President: So, Sen. Mark, please. So, what it is and what is happening is that accusations are being made and it is skirting the line in relation to Standing Order 46(6), which is imputation of improper motives that is way I have been asking to tone the language a bit. There is a way to say things so that you do not breach that particular Standing Order. So what I would ask you to do is to just finesse what you have to say a little bit more without using that type of language, which would put you in breach of that Standing Order.

Sen. A. Roberts: All the workers of Petrotrin were told they were not being fired and Petrotrin was closed down and shut down and has not opened up. Those are unionized workers. Caribbean Airline, 450 workers, Port Authority, WASA workers now under threat and right here we are talking about PSA members and NUGFW members who are under threat of not only losing their jobs, but being told by the PNM that if you get into Balisier House, you may get a job at this new Revenue Authority.

Mr. Vice-President: No, no, no.

Sen. A. Roberts: This political strategy—

Mr. Vice-President: Senators? Minister, please. So, Sen. Roberts, that is exactly what I am talking about. That is not allowed. That statement is not allowed. There is no response to be had in relation to it. It is just not allowed. I will give you a few seconds more to wrap up, because of the number of times I have to get up to say that. You are obviously out of time now, but for the purpose of wrapping up, I would just give you a few seconds more to do so. Continue.

Sen. A. Roberts: Thank you, Mr. Vice-President. In this Bill, the PNM Government says that the PNM Minister will appoint a PNM board. The PNM board will then go through a HR outfitting of this Revenue Authority, meaning that the PNM board will conduct advertisements, conduct interviews and decide who gets their jobs in this Revenue Authority, and then it will be mixed with some appointments from the Public Service Commission to pretend that there is insulation for the population with one Deputy Director—Enforcement who has to then take instructions from the politically appointed Director General by the politically-appointed board, by the politically incensed Minister of the PNM. [*Desk thumping*] It is great illustration of the dictatorship of the PNM that my 30 minutes has become 18—

Sen. Lezama-Lee Sing: Mr. Vice-President—

Sen. A. Roberts:—because of an Attorney General who is insecure in his ability—

Sen. Lezama-Lee Sing: Mr. Vice-President—

Mr. Vice-President: No, so, Sen. Roberts—

Sen. A. Roberts:—and took too long in law school.

Sen. Lezama-Lee Sing: Mr. Vice-President—

Sen. A. Roberts: Thank you very much, Mr. Vice-President. [*Desk thumping*]

The Minister in the Office of the Attorney General and Legal Affairs (Sen. The Hon. Renuka Sagrarsingh-Sooklal): Mr. Vice-President, I thank you for the opportunity to contribute to this debate. Brothers and sisters of this honourable Chamber, every single one of us that sits here today, we can certainly be a part of history. We are here to debate, Mr. Vice-President, a debate that will fundamentally change and improve and weed out administrative defects and the lack of effective enforcement of revenue laws that have crippled our country for far too long. But, Mr. Vice-President, I respectfully submit to all Members of this Chamber, especially my friends opposite, please ensure that you are standing on the right side of history when you vote for this Bill. Mr. Vice-President, that right side being the side that supports this Revenue Authority Bill. And, Mr. Vice-President, more particularly, to all of those who are making a set of old noise—whether it is in this Chamber or out of this Chamber—instilling fear in our citizens, passing on misinformation and propaganda, for God’s sake just stop it, just stop it. [*Desk thumping*] Certainly, your love for country should outweigh your disgust or your disdain for this Government. Surely, your love for seeing the improvement of the taxation system in our country should certainly outweigh your disgust and disdain with the PNM Government. This is where we are called upon to be true patriots and to support a Bill that would fundamentally—I repeat, fundamentally improve the manner in which we do business, and the manner in which taxes are collected in Trinidad and Tobago.

Mr. Vice-President, the core argument or area that I will focus on in this Bill is really the enforcement unit that has been created, and I would look at the framework of that enforcement unit. But before I do that, Mr. Vice-President, there are certain points that were raised, of course, by Sen. Mark and Sen. Lutchmedial and other Opposition Senators that speaks to the issue of constitutionality. Now, I

am sure that the hon. Attorney General, in his contribution, he would get and he would delve deeper into those issues of constitutionality, but there are certain points that I still want to add and certain points that I want to make relative to this whole issue of this Bill, and the propaganda that is being spread that this Bill is for some reason unconstitutional.

Now, Sen. Wade Mark made reference that in this Bill there is no rule of law, it undermines and subverts the very rule of law and it undermines the structure of our Constitution. This was supported by the Senator, Sen. Lutchmedial, when she called this Bill an assault on our democracy. I have a very, very simple question for all those opposite who speak about the issue of constitutionality and the lack thereof in this Bill. My simple question is: Is the collection of taxes a core Government function which cannot be constitutionally divested by us divesting the ability to the TTRA to collect taxes? Show me where in our Constitution that you relied upon that says that as a Government, we are prevented constitutionally from divesting that authority? And the answer would be—we would not have an answer, because there is nowhere within the framework and perimeters of our Constitution that says that this power held by the Executive cannot be divested.

Mr. Vice-President, if I may respectfully put on the record a Court of Appeal Guyanese case. Is that case of *Clarence Chue and Patrick Hyman v the AG*, and some of the dicta coming out of that case, Mr. Vice-President, found that the Parliament of Guyana could have transferred a core governmental function from the executive authority of the Central Government, sorry, to the Revenue Authority of Guyana. Now, in that same case, the dicta goes on to say the Court reasoned that because the Executive Authority was vested in the President, under the Constitution of Guyana and the Constitution provided that nothing in that provision prevented Parliament from conferring functions on persons or authorities other

than the President, Parliament could transfer. I repeat, Parliament could transfer those functions as it relates to revenue assessment and collection from central government to the Revenue Authority.

Now, Mr. Vice-President, if we bring this position in this Guyanese case closer to home, because you see I am hearing constitutional, the lack of constitutionality and the lack of the rule of law. I want to take my colleagues, and especially to the members of the general public, who may have genuine concerns about the lack of constitutionality in this Bill, and coming from the Guyanese position that I just advanced, let us turn to section 74 of our Constitution. Section 74 of our Constitution, Mr. Vice-President, says that:

“(1) The executive authority of Trinidad and Tobago shall be vested in the President and”—such authority—“may be exercised by him either directly or through officers subordinate to him.”

But of special relevance is section 74(3) of our Constitution which states that Parliament is not prevented. Parliament is not prevented:

“...from conferring functions on persons or authorities other than the President.” [*Desk thumping*]

So, the first question I asked was: Show me where within the parameters of our Constitutions that says, we as the Executive cannot divest taxation powers? There is nowhere, nowhere written within the parameters of our Constitution that speaks to that.

[MADAM PRESIDENT *in the Chair*]

Secondly, if we refer to 74(3) of our Constitution, it is clearly stated that we have the power to also divest those responsibilities or confer functions on persons or authorities other than the President, for example, the Trinidad and Tobago Revenue Authority. So on that point of constitutionality, Madam President, I

believe it was necessary for me to jump in there.

Now, and as I said, I am sure my learned senior, he would delve greater into the issues of constitutionality. And as I made reference to him, I want to make reference to the case of Suratt that, you know, he often refers to that sometimes he gets a lil lashing from the next side for. But the dicta that I want to pull out from Suratt is—and this is what I want to remind the citizens of Trinidad and Tobago. The dicta from Suratt says, no legal system can stay set in stone as it has always been. It has to move and develop with the times. The complexity of the modern world has seen the emergence of new problems which we need new solutions. That dicta is absolutely relevant to the creation of Trinidad and Tobago Revenue Authority. Laws and problems are dynamic, they are not static. So as problems come up upon us, as a responsible Parliament, we are then called upon as responsible Government, as responsibility leaders, we are called upon to create legislation that can, therefore, cater to these changes.

Now, there is another point that was raised by the hon. Sen. Lutchmedial. In that particular point, if I can make out my handwriting, it says—I recall the hon. Senator said the enforcement authority—the hon. Senator said, yes, the proceeds of crime—and this was a point that she made relative to the proceeds of crime and the FIU, and she said, if I recall, where the Director General would, in this situation, based on this current law, the Director General would now be the law enforcement agency who would receive intelligence reports and would have the power in order to decide who is investigated.

The hon. Senator also said that the Director General appointed by the Minister would get a report by the FIU saying that we have suspect Mr. X, for example, and that the political directorate would have the power over that Director.

2.00 p.m.

Now, Madam President, whenever I explain the law, honestly, I like to simplify it, or even quote the law so as not to confuse the layman, or the man on the ground who is listening in, but I honestly do not believe in over simplification, that we must promote propaganda to this population, because that example is merely propaganda, and I will tell you why. Because this entire Bill—remember we have not repealed existing revenue laws. We have not repealed the Customs Act. We have not repealed the FIU Act, for example.

So based on the example that the hon. Senator gave, why I submit respectfully that it is propaganda, because if we turn to section 15 of the FIU Act, it states that the Director has the power, meaning the Director of the FIU, to launch an investigation into a law enforcement authority to determine whether any money laundering offence, or financing, or terrorism operations, et cetera, have been committed. The conduct of investigation, therefore, is the power and function of the enforcement authority.

Now, Madam President, the enforcement authority in the parameters of the FIU Act is explained at defining section 2 of the FIU Act which states and defines the law enforcement authority to include the Chairman of the BIR and the Comptroller of Customs. Certainly, as a responsible Government and responsible legislators, in our wisdom we would have contemplated this inconsistency, and the Bill which appears before us therefore carries a clause 40. That clause 40 in this Bill is what we call the “consequential amendment clause”. What that clause in the Bill speaks to is that—clause 40 of our “Consequential amendments” states that the BIR and Customs shall be construed, and it makes reference to the Director, the Deputy Director—Enforcement.

So those positions—so the Director General, in other words, Madam President, off of the Authority is who is considered or who is believed to be the

politically appointed position, that is not the person to whom the FIU would have to report to. That is not the person who would receive intelligence. It is the public servant, for want of a better word, who sits as the Deputy Director General – Enforcement, that is the person who would be held, and that is the person who would be the liaison with the FIU. So I respectfully submit, especially to those listening on, please let good sense prevail, and do not let the propaganda and misinformation, that is continually spread by those opposite, [*Desk thumping*] scar your view of what we are really trying to—obscure your view of what we are really trying to achieve today, as a responsible government.

With these areas being addressed, Madam President, as I indicated from the get-go of my contribution, I would want to focus on that enforcement unit that exists. Now, in looking at the enforcement unit, what I want to focus on, because it also touches on a point raised by the hon. Sen. Lutchmedial, I want to look at the composition of this enforcement unit. Now, the composition of the enforcement unit that is dealt with in Part IV, proposed section 14(3), and it does say that:

“The Enforcement Division of the Authority shall comprise—

(a) the Deputy Director General—of Enforcement...”—that is one, so that is one person who sits in this unit, two—“and such other public officers who may, for the purposes of the enforcement of the Customs laws, the Excise Act or other revenue laws, exercise the powers, authorities and privileges conferred by those revenue laws; and...”—this is the one the hon. Senator said “we slip in there—

“(b) such other employees of the Authority as the Board...”—may think fit.

Now, in looking at the composition of this particular unit, it is clear to say that we are going to have two categories of persons sitting there, yes? That category of persons who come from the public service, and then:

“such other employees of the Authority as the Board...”—may think fit.

I want to deal with “such other employees of the Authority as the Board may think fit”, because that was a point that the hon. Senator raised, to make it seem as if we just “slip in there, yuh know, because we feel people stupid, nah”. So we slip in there this particular clause, so that we could full the unit with all the people that we want. This is furthest from the truth, and I will tell you operationally why having the wiggle room, any—this Authority sorry, and this unit, having the ability to appoint such other employees of the Authority as the Board may feel fit, why this is absolutely necessary. So, let me go back to the composition of this particular unit.

In the composition I started off by saying we have those who come from the public service, and then we have those “such other employees of the Authority as the Board sees fit”. It means that those who have been appointed by the public service, they are the ones who would have been absorbed, of course, from Customs and Excise and the BIR. Why I respectfully submit that “such other employees of the Authority as the Board may seem fit” is critical to have, when you are looking at the composition of the unit is, for the mere purpose of investigative reasons as well. What do I mean by that?

What if this unit is investigating a complex taxation matter, and from within the parameters of the persons who are employed, or the core persons who are employed in that unit we do not have the skill set, or persons who do not have the acumen to be able to investigate these matters, complex matters? It will be necessary for that unit to go to their board and say, “Hey, listen, we are investigating”—and this is simply put—“We are investigating this matter, from amongst the persons who are employed in the public service that is working in this unit, we simply do not have the skills to investigate this matter”. So, therefore, we

would want to recommend so and so. And then the board could then take a decision, “such other employees of the Authority as the Board thinks fit”, because of course the unit can then put forward a case, as to why we require this skill set. I will give you an example, eh.

Now, sitting here as the Minister in the Office of the Attorney General and Legal Affairs, the Attorney General has recused himself from what we know as “Project Charlie”, which is the Clico investigation that is happening, that matter. I have conduct as the Minister sitting in the Ministry on that matter, because the Attorney General as I said before he has no part to play in this matter. I can say that this Clico matter is a very complex matter, very, very complex fraud matter, and when the DPP was called upon to create a team to investigate this matter, when he looked within the parameters of the police service we simply did not have the skill set amongst our existing police officers to investigate this matter. Imagine if that Office of the DPP did not have the ability to outsource, for want of a better word, persons with the appropriate skills to investigate this matter? You know what that would have meant? A matter as important as the Clico investigation would have fallen flat on its face.

The purpose of the Revenue Authority and this enforcement unit, I reiterate, its purpose is going to be to investigate serious and complex taxation matters. Whether it is tax evasion, whether it is tax avoidance, whether it is the breach of certain procedures as stated in the revenue laws, customs laws of Trinidad and Tobago. While yes, I have faith in our public service, because I am a public servant myself, while I have faith in the skill set of our public service, there may very well be situations where the complement of employees that we have in the public service do not possess the skills to conduct such investigations. So stop spreading this like a propaganda, that “oh, this Government trying to slip in this clause”.

[*Interruption*] [*Sen. Lutchmedial raises her hand*]

Madam President: Minister, it is up to you whether you would give way to Sen. Lutchmedial.

Sen. The Hon. R. Sagrarsingh-Sooklal: No, I will continue because I have a few things to make reference to.

Sen. Mark: Yeah, but— [*Inaudible*]

Sen. The Hon. R. Sagrarsingh-Sooklal: So, Madam President, as I have said, when we look from a practical perspective, because when we create laws we are not doing it by “vaps”. We have to think. The Attorney General speaks about it, but that is a mantra, “plant, machinery, people, processes, the law”. When we create the law we must now think about implementing said laws, and we must be able to contemplate. Just like a lawyer, you are going to court, you have to contemplate what are some of the scenarios that you may be faced with. So similarly when we created and when we contemplated what this enforcement unit was going to contain, or entail, it was necessary, absolutely necessary, based on the example that I have put forward with the Clico investigation, it was absolutely necessary to have this category of “such other employees of the Authority as the Board may think fit”.

Now, of course, a large complement of this particular unit is comprised of public officers. Madam President, the purpose of these enactments, as we know, is to allow for the collection in the enforcement of revenue laws by the creation of a corporate body. Now, this corporate body shall exercise the powers of the State, or in the layman terms, act on behalf of the State. Now, in keeping with the corner stones of constitutionality, this is why when we looked at, as a responsible government, at this enforcement unit, in keeping with the corner stones of constitutionality, this is why we ensured that the head of the Enforcement Division

is an officer to be appointed by the Public Service Commission.

Now, section 121 of the Constitution, it says that PSC has the power to appoint, transfer, discipline public officers by making this appointee a public officer. It shall strengthen control over the core functions of revenue collection and, most importantly, enforcement.

If I may respectfully take my colleagues of this Chamber to clause 14(1) of this Bill. Clause 14(1) goes on to say that the function of the Director General includes the enforcement of revenue laws by means of civil proceedings amongst other functions. Of course, the hon. Minister of Finance spent a great deal of detail and time in developing the enforcement unit, and that was an exceptional presentation. So, of course, to avoid tedious repetition I am not going to spend too much time there.

My focus however is that, again, in looking at the composition of this unit, let us be reminded that the head of that unit, the person who is charged with the fundamental responsibility of investigating taxation fraud matters and so on, this person is going to come from within the walls of the public service and, of course, this is because we recognize that it was important to have that post—to provide, sorry, a cloak of protection for the person who sits there, and insulate them from any sort of political interference, bearing in mind what their roles and responsibilities are.

Now, Madam President, on the point of providing this cloak of protection, if I may respectfully take my colleagues to the case, it is an eastern Supreme Court case. It is *Leon Nelson v the Attorney General of St. Kitts & Nevis*. This particular case, the dicta that came out of that case spoke about the cloak of protection that sometimes certain office holders, you want to provide them with. You want to provide them with that cloak of protection to avoid any sort of political

interference.

What stuck out to me in this case was the dicta that said:

“The preservation of the impartiality and neutrality of civil servants has long been recognised in democratic societies as of importance in the preservation of public confidence in the conduct of public affairs.”

So the preservation, let me repeat:

“The preservation of the impartiality and neutrality of civil servants has long been recognised in democratic societies as of importance in the preservation of public confidence in the conduct of public affairs.”

So, again, how is this related to the point I am making? By ensuring that the head, the Deputy Director General of Enforcement, by ensuring that he is a public officer, what we are doing is instilling that level, or trying to gain the public’s confidence and trust in the unit so that they understand that the person who is charged with the responsibility of enforcement is, of course, a public officer, and is not someone who has been politically appointed in any way at all.

Madam President, so that is my contribution as it relates to the composition of this unit and, of course, I would have tried to respectfully deal with why it was pertinent for us in that composition to have “such other employees of the Authority as the Board may think fit”.

If I may now respectfully and briefly look at the responsibilities of the Enforcement Division. Of course, we know the responsibilities of the Enforcement Division would be to deal with matters that involve tax evasion, tax avoidance, failure to adhere to procedures in established law, as it relates to taxation. These are very, very crucial matters, very critical, because for far too long it has resulted in a leakage of large amount of moneys for the State. For example, I recall in preparation for this debate, I read the FIUTT Annual Report 2020, and the FIU—

Madam President: Minister, you have five more minutes.

Sen. The Hon. R. Sagramsingh-Sooklal: Thank you, Madam President. In that report, the FIU stated for 2020 alone there were \$529 million lost to this country because of persons who committed tax evasion offences. So you can well imagine, once this Authority comes on stream and once we have an effectively managed and working and properly oiled enforcement unit, the assistance they can now lend to the FIU in being able to seriously curb tax evasion and, of course, be able to receive or retrieve moneys that are due and owing to the State.

What I want to put into the public record, Madam President, as it relates to this enforcement unit, we are completely as a jurisdiction completely aligned with regional comparators. This is—a similar and like unit exists in the Jamaican jurisdiction, a similar and like unit also exists in Barbados, and these are countries who are usually saluted for the manner in which—and regional islands that are saluted, for the manner in which they handle tax-related matters. So certainly we have not as a nation departed at all from what even our neighbours are known for doing. That in a nutshell is as it relates to the responsibilities.

Finally, which I have given—I know time is of the essence, I want to pay some attention to clause 40 of the Bill which appears before us. Clause 40 is called the “Consequential amendments”. So as a Schedule to this Bill there are several. I cannot recall how many, so I do not want to be erroneous on the *Hansard*, but there are several revenue laws that are quoted in that Schedule. What you would note is that we have not amended each of those laws, one by one. But what we did as responsible drafters in the drafting of this legislation, we introduced a clause 40.

Now, Madam President, the mischief we were faced with is that one, because there were so many laws that are related to taxation, there are so many revenue laws, the mischief that we were faced with was either we amend the

plethora of laws or we find a resourceful way to amend all of those laws, by having to go through each revenue law one by one and, of course, we took the resourceful approach. That is why we have in this law, in the law of drafting it is referred to as an “indirect express amendment”. That indirect express amendment is clearly stated when you look at clause 40 of the Bill.

In that particular clause 40, what we would have done, it said that—well, indirect express amendment is an option utilized by legislative drafters. I would have recalled looking at the Bennion on drafting, and it actually defines:

Indirect express amendment is where the Act expressly amends an enactment, but does not do so by textually amendment. It is said to do so by indirect amendment, this method produces the need to combine two texts and arrive at a common legal meaning.

So just to justify why this is the manner in which we—especially for the lawyers who would be looking on—of course, because there are so many laws that would have had to be amended, by adopting the indirect express amendment it certainly would have saved us time. It would have saved us resources, from having to go through the task of amending every single revenue law, that the Authority would now be responsible, and more so this Enforcement Division will now be responsible for enforcing.

So, Madam President, this more or less is the framework of enforcement as it exists in the law. I want to reiterate to Trinidad and Tobago, please let good sense prevail. Do not allow the propaganda that is continuously being spread by the Opposition to cloud your judgment. This TTRA Bill is critical to the development of our nation.

With this being said, Madam President, I thank you.

Madam President: Sen. de Freitas.

Sen. Nigel de Freitas: Thank you, Madam President, for the opportunity to contribute today to this piece of legislation that is currently engaging this august House. It has already been said repeatedly by Members that have gone before me that this particular piece of legislation is very important, in terms of correcting or finding a pathway out of the economic situation that we have found ourselves in, in relation to the global pandemic.

Madam President, I think at this juncture and at this point in the debate a lot has been said in relation to the merits of what is before us, and from the Opposition side the disadvantages that could befall us in relation to this Trinidad and Tobago Revenue Authority Bill.

What I would do, and the approach that I would take so as not to fall in breach of the Standing Order in relation to tedious repetition, is that I would just summarize exactly what we have been hearing so far throughout the day.

What we have been hearing from the Opposition side mainly is three points that they have been repeating over and over again. The first one is that there is no protection in the Bill whatsoever from political interference. The second point that they have made is that workers would be adversely affected when this new Revenue Authority is created and, finally, the last point that they make is that this particular piece of legislation is unconstitutional because it is now a simple majority instead of a special majority. So, Madam President, as I go through my contribution I will seek to answer those points put forward by Members opposite.

Before I do so, what I will do is just go through, as most have done before, the reasons for why we have this Trinidad and Tobago Revenue Authority Bill coming forward now and its importance. I think it has been said by many that the general reason for it is to ensure that we increase the efficiency as it relates to tax collection and everything centred around tax collection, by way of the Board of

Inland Revenue and Customs and Excise Division.

For anybody who wants to question that reasoning, I say to you, ask yourself, one of the things that we all know as citizenry of Trinidad and Tobago is that our model and mode of operation as it relates to tax collection is not where it should be. Time and time again, whether it be around budget time or, what I would say, in every fiscal year we hear of moratoriums being given in relation to tax collection. So much so that these moratoriums, which is a tool to really increase compliance, start to take on an air of a revenue generation tool, in the sense that at the end of the moratorium we always end up hearing that we have raised to the tune of \$1 billion or \$2 billion of taxes that would have gone uncollected had we not implemented the moratorium.

What I am saying is that if it is that we have to continue implementing moratoriums in order to get moneys or revenue into the Consolidated Fund that would not have come there before, strictly because individuals, corporations are not complying, then it tells me that the current model that we have is indeed and in fact ineffective and, therefore, something has to be done.

On several occasions during budget presentations, I have had cause to indicate, because Trinidad and Tobago for truth and in fact has gone through several economic shocks from as far back as 2009, and every time we do so we come up with ways to cushion those shocks. I have come to understand that if you are to truly analyze exactly what needs to be done in the predicament that we are in, you have to do so in this manner. You have to think of it in terms of what I call the “leaky bucket syndrome”. So you have water going into a bucket, which is tantamount to your money in your economy, and your revenues streams into that economy is your tap that is putting water into that bucket.

When the revenue streams are good, you have fast flowing water, and you

are not studying what is happening with the bucket, how many leaks they have because as far as you are concerned the level of the water does not really drop. There is enough water coming in to keep the water in the bucket at a level. Once that water source starts to dry up, what is the first thing you notice? The level of water in the bucket drops. Why? Because you have leaks in that bucket, and that is what we are experiencing here today. Whereas we do not have as much revenue coming into the economy as we should have, and one of the first things we need to do is to ensure we fix the leaks in that bucket, and in this particular case the ineffectiveness of tax collection.

The Minister of Finance in his contribution in moving and piloting this Bill today, indicated that annually \$5 billion is left out due to the compliance gap that we have—\$5 billion. Now, that may sound just like a number, but to truly understand what that means, go back to the budget of 2019 or even 2018. Do we remember what the budget deficit was at that point in time? After coming out of the downturn of 2014, trying to get back to a balanced budget, I remember the Minister of Finance indicating in that 2018, maybe even 2019 budget, that the deficit for that year was somewhere between I think \$4 billion to \$6 billion.

So you are telling me that because of the compliance gap, and because we have left \$5 billion out of the revenue, that in 2018, had we had 100 per cent effectiveness and efficiency in relation to tax collection—let me just say here, I understand that no country will have 100 per cent effectiveness and efficiency in relation to tax collection, but as close to 100 per cent as you get bodes well for you. What that means is that with that \$5 billion on the table, you could have balanced the budget in 2018 and 2019. That is why this TTRA Bill is so important today.

We know that what we have now is ineffective. We can quantify that by saying \$5 billion is left on the table. We can further quantify that by saying we are

continuing to issue moratoriums in the hopes of collecting some of that \$5 billion that is left off the table.

So standing here today, the biggest argument in favour of this TTRA Bill is those numbers which I just called out. The more of that we can collect, the better for us, once this pandemic is over and we move back to a sense of normalcy by way of budgeting and everything else, that we can hopefully get back to a balanced budget, because we cannot continue to try to fill the bucket of water when the water source is drying up, and there is a leak in the bucket. So, Madam President, that is the reason why this TTRA Bill is important.

Let me now move on to the arguments put forward by Members opposite. The first argument is that there is no protection from political interference. We have been hearing that repeated by every single speaker on the other side today. Here is why they are saying there is political interference: because the Minister appoints the board. Okay, so let us walk through that.

Part III of the Bill, the “Board of Management of the Authority”. There are nine board members. One board member is the Director General. I will deal with that when we get to that section. The other board member is a person nominated by the Tobago House of Assembly, so that has nothing to do with the Minister. Let me just commend the Minister, because I am very happy to see that in the setting up of this Bill and this law, that we did make provision, as it relates to the Board of Inland Revenue, Customs and Excise, consolidating that into a Revenue Authority, that we did put a position on the board for the Tobago House of Assembly to nominate individuals so that Tobago has a say in this process.

We move on to the Permanent Secretary, which again has nothing to do with the Minister. So you have three individuals out of nine that have absolutely nothing to do with the Minister. The Minister is really and truly only responsible for

appointing six members on this board, but that process in and of itself is not abnormal.

2.30 p.m.

Sen. Roberts in his contribution spoke to all kinds of other institutions, all of which would have Ministers appointed to boards. So the act of a Minister appointing individuals to boards is not abnormal. It is something that occurs throughout the length and breadth of the Executive arm in this country. But what is important is that the Bill goes on to state that the board in and of itself is limited to certain actions and it lays out the actions right here in the Bill. So we, as legislators, know fully well what the board is capable of and what they can do and what they cannot do. And I am not going to read them out because the Bill was read out before in the earlier contributions.

But what I would go on to say is that the Bill stipulates quite categorically that there can be no interference from the board whatsoever in relation to administrative or the acquisition of information in relation to executing arm of the Authority. The board, in a nutshell, is responsible for the management of policy. Again, nothing abnormal in that.

When we move on to filling out the upper management in relation to the Revenue Authority, we see where the Director General and the Deputy Director Generals, again, left open—and let me just stick a pin right here because I want to say, when looked at that I said to myself, we are dealing with the Board of Inland Revenue, Customs and Excise consolidated into the Revenue Authority. And as it relates to Tobago, you definitely want to have within the functions of the upper management the ability for Tobago to have a voice there. And at first read of the Bill, I thought to myself, well, why do we not put in the Bill a deputy director general for Tobago affairs, for example, because you are dealing with an island

that has a different cultural history, different modality of operation and therefore you would definitely want a voice at that level speaking on behalf of the people of Tobago and the citizenry of Tobago? But then I went the other way because when I read the Bill again I realized that it is the board of directors that is going to be responsible determining the number of Deputy Director Generals, and therefore, that board in executing that function can indeed and in fact create a deputy director general for Tobago affairs and that possibility is there, just to ensure that in terms of management of the roles and responsibilities of the Revenue Authority can be done in a way that Tobago is not left out. And so, I am very happy for that ability and I want ask and put on the *Hansard* record today that when the whole thing is being built out that hopefully, at least, please ensure that there is a deputy director general for Tobago affairs to manage the roles and responsibilities of the authority as it relates specifically to Tobago.

But I go onto say, Madam President, that in terms of this argument that there is no protection from political interference—we are at the point of the Director General and we are at the point of the Deputy Director Generals. Those positions, the terms and conditions are implemented by the board.

Now, Sen. Roberts tried to say, “Well, it is a politically appointed board and therefore the board being political in nature has too much control over appointing a director general and appointing a deputy director general.” The fact is, Madam President, that all the board is responsible for is setting the terms and conditions for those individuals. Those names will then be passed, as laid out in the Bill, to the Minister who then has to, by way of notification, put it in the Parliament for affirmative resolution.

Now, imagine my shock and awe today to listen to Sen. Mark in his contribution trying to “negativize” in a Bill the fact that an affirmative resolution

needs to be had, saying that it is for all intents and purposes a rubber stamp because the Government has the majority. Every single Member in this Chamber, like myself, sits here at every committee stage for every ministerial order, for every ministerial regulation whereby in that piece of legislation it says by negative resolution. What is the first words out of Sen. Mark's mouth? He wants affirmative resolution, bring it to the Parliament, let us debate it. Do you know why he says that? He will not tell you today because he has to come and oppose in some form or fashion this very Bill.

Let me tell you why he says that, because he knows it fully well. Because when you set in a law that a Minister has to do a notification for affirmative resolution, it adds a layer of credibility to the appointments because, one, the appointments are public. It is a debate. He knows that. And that is why I am saying, the level of political interference is not true. Not only are the specifications stipulated in relation to the appointment of these individuals, meaning that you cannot appoint any person, it has to be a person of a particular level in their fields of industry and having certain specifications. That is what the board has to find. The board then passes that onto the Minister, and all the Minister is doing, by way of this law, is notifying the Parliament and ensuring that the debate takes place in relation to those very appointments.

I go further, because when you say there is political interference, Madam President, what you are really talking about is the leverage you would have over those appointments due to the ability to fire those individuals. Let us go further in the Bill.

Clause 11, "Resignation and removal of members"—actually clause 15 as it speaks to the director general and deputy director generals. The Minister of Finance nor can the board of directors "ups" one morning and fire any Director

General or Deputy Director General of this Revenue Authority. Why? Because in this Bill it also says, that if you intend to remove any of those individuals, you need to have a notification done by way of the Minister for affirmative resolution of the Parliament once again.

So, once again, when you hire these individuals, it has to be affirmed through the Parliament. Everybody is going to see it, public domain and all of the legislators in the Parliament. To remove those said individuals, same process has to take place. Now tell me, if there is political interference to remove somebody from that office, do you not think it is going to be seen on the floor of this Parliament when that debate takes place?

Secondary to that, as an added protection measure, it goes on to list one, two, three, four, five, six, seven, eight conditions in this piece of legislation for removal. So you cannot get up in the morning and decide, "I do not like the Director General and therefore I am going to fire them." That is not possible. So the political interference that the Opposition is talking about, there are protective measures in here to ensure that if you even attempt to interfere politically, the public is going to be made aware, the legislators are going to be made aware. And secondary to that, you have to fall into one of these criteria here listed in this legislation in relation to removal of those people in those offices.

So, I wholly and solely reject the argument put forward by the Opposition to say that there is no protection from political interference. Arguments have been made all day today in terms of the deputy director general— enforcement. I do not have to repeat it. That post is not beholden to the Deputy Director General appointed by the board. It is not beholden to the Director General appointed by the board. The terms and conditions, their salaries, their allowances has nothing to do with the board, and that is the individual responsible for the enforcement of the

laws. So we know there can be no political interference there. So, once again, Madam President, I fully, wholly and solely reject that argument. To say differently is to engage in fearmongering and to try and create some level of doubt in the minds of the citizenry in relation to what is needed and what is very important in relation to our return to normalcy, economically, in Trinidad and Tobago.

The second major point put forward by the Opposition is that workers would be adversely affected when the new Revenue Authority is created. Madam President, once again, nothing is further could be furthest from the truth. It has been stated repeatedly today by Members on the Government side and by the Minister of Finance that there are four avenues created to allow for the proper transition of workers from the Board of Inland Revenue and the Customs and Excise Division once this Revenue Authority is created. The first is voluntary retirement. And I expect individuals who are probably within a year or maybe months or days from retirement, as it relates to the public service, may choose to utilize that option.

The second is that the Public Service Commission being involved, there can be a request made to be transferred to the Revenue Authority. What is wrong with that? If they do not want to utilize that option, there is a third option. Another request can be made, again utilizing the Public Service Commission, to be transferred to the enforcement arm of the Revenue Authority. And if none of those work well for the employees, then there is the final option: remain in the public service in a position equal to the one that you are in now. For as long as I have been in this Chamber, for as long as I have been on joint select committees for the Parliament of Trinidad and Tobago, I understood fully well that when dealing with employees of the public service, if they are moving from one area to another, there

must no reduction at all in terms of terms and conditions of their contract of employment. If you are moving from Permanent Secretary of one Ministry, you cannot be made director in another Ministry unless that is part of some disciplinary action, but I myself have never seen that. If you are moving as a Permanent Secretary from one Ministry, you are moving to a Permanent Secretary position in another Ministry.

So why is the argument being put forward today in relation to employees of the Board of Inland Revenue and the Customs and Excise Division that all of a sudden when this Revenue Authority is created, they are going to lose their jobs or they are going to get less money or that their terms and conditions is going to be different; incorrect. That is not the case. You have four options. You get to choose. Retire; work with the Revenue Authority, equal terms and conditions; work with the enforcement arm if you were not working there before, equal terms and conditions, or remain in the public service, equal terms and conditions.

So this ideology that because you are creating the Revenue Authority, you are trying to get rid of people in the public service or people who are working, it is wrong. Sen. Lutchmedial made an argument and I was confused saying that the board is going to be responsible for hiring people on contract. That is something that is normal. It is normal because if you have ever been on a joint select committee where you have interviewed Ministries or institutions, the biggest argument made time and time again, no matter who is in Government, no matter which Parliament you happen to be part of, is that there are not enough workers to fill certain positions. And the reason for that is that they are waiting on positions to be filled by the Public Service—

Madam President: Senator, you have five more minutes.

Sen. N. de Freitas: Thank you, Madam President—by the Public Service

Commission. And Sen. Sagrainsingh-Sooklal, Minister in the Ministry of the Attorney General, hit the nail on the head in her contribution. This is an agency that is extremely important in relation to tax collection. Are you telling me, Sen. Lutchmedial, that we will sit here and wait for the Public Service Commission to fill all of those positions and hamstring the board because you are saying that there is some sort of political interference by the board having the ability to hire individuals? You would need to do so. It is the balance of hiring people on contract and having your public servants that bodes well for the efficiency of these institutions. Because if you were to wait on the Public Service Commission, then you are going to be hamstrung in relation to human resources.

So, Madam President, with my last five minutes let me respond to the last major point put forward by the Opposition and that is that this is unconstitutional because it is now a simple majority instead of a special majority. That is an argument that for some odd reason every single time we bring a special majority Bill, and every single time I hear the Attorney General say that we are going to try to work with the Opposition, the Opposition turns around and they deny the piece of legislation by withholding their vote. This is a TTRA Bill. The Minister of Finance made it absolutely clear, 11 years in the making, four attempts.

There was a joint select committee at the start of the Eleventh Parliament, years they spent. You know what a joint select committee is. Every single person on that committee is nonpartisan because you are working towards putting forward the best piece of legislation that you can. And you are coming here today to say that we are wrong for bringing a simple majority Bill, when after a joint select committee process that is nonpartisan, that puts a Bill that everybody is supposed to agree on or, at least, if you have a minority report you can try and work it out. But when you deny this country the ability to collect the taxes that it needs to

collect to the benefit of all the citizens because we are in a precarious position, because we have running pandemic that has an economic impact, you sit there and you deny the citizens of this country \$5 billion annually, to then come here today when the Attorney General does what he has to do and the Minister of Finance does what he has to do to ensure that this country can return to economic stability, your argument is, bring it back as a special majority. So what? That you can deny it again? But we are not going to do that. We are always going to do what is best for this country. And if it is that we have to bring it as a simple majority, [*Desk thumping*] that is what we are going to do, because of the Opposition does not work well with anybody and that is the highest level of hypocrisy, vote down the Bill as a special majority and when we bring it as a simple majority, argue that it is unconstitutional.

So, Madam President, so let me just say this. We will move ahead doing what is best for this country. The Minister of Finance has a job to do. He is doing that job. He is going to ensure that we bolster our economy the best way we can in light of extenuating circumstances that the entire world is dealing with. And what I would say is that in doing so, Minister of Finance, move with god speed. Thank you, Madam President. [*Desk thumping*]

Madam President: Leader of Government Business.

ADJOURNMENT

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, I beg to move that this House do now adjourn to Friday 17 September at 10.00 a.m. On that day we propose to continue this debate and take the Bill through all the remaining stages. Thank you.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 2.49 p.m.