

SENATE

Friday, September 17, 2021

The Senate met at 10.00 a.m.

PRAYERS



[MADAM PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Madam President: Hon. Senators, I have granted leave of absence to Sen. The Hon. Dr. Amery Browne who is out of the country.

SENATOR'S APPOINTMENT

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

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ Paula-Mae Weekes

President.

TO: MR. NDALE YOUNG

WHEREAS Senator Dr. Amery Browne is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

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

Tobago, acting in accordance with the advice of the Prime Minister do hereby appoint you, NDALE YOUNG, to be a member of the Senate temporarily, with effect from 17th September, 2021 and continuing during the absence of Sen. The Hon. Dr. Amery Browne from Trinidad and Tobago.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 17th day of September, 2021"

AFFIRMATION OF ALLEGIANCE

Senator Ndale Young took and subscribed the Affirmation of Allegiance as required by law.

PAPERS LAID

1. Ministerial Response of the Ministry of Rural Development and Local Government to the First Report of the Joint Select Committee on Land and Physical Infrastructure on a Continuation Inquiry into Measures for Ensuring Water Security in Trinidad and Tobago with reference to the Eleventh Report on an inquiry into the Measures for Ensuring Water Security in Trinidad and Tobago. [*The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat)*]
2. Ministerial Response of the Ministry of Rural Development and Local Government to the Second Report of the Public Accounts (Enterprises) Committee on the Examination of Audited Financial Statements of the Vehicle Management Corporation of Trinidad and Tobago for the financial years 2013 and 2014. [*Sen. The Hon. C. Rambharat*]

3. Ministerial Response of the Ministry of Works and Transport to the First Report of the Joint Select Committee on Finance and Legal Affairs on an inquiry into the Ease of Doing Business in Trinidad and Tobago. [*The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan)*]
4. Ministerial Response of the Ministry of Works and Transport to the First Report of the Joint Select Committee on Land and Physical Infrastructure on a Continuation Inquiry into Measures for Ensuring Water Security in Trinidad and Tobago with reference to the Eleventh Report on an inquiry into the Measures for Ensuring Water Security in Trinidad and Tobago. [*Sen. The Hon. R. Sinanan*]
5. Ministerial Response of the Ministry of Trade and Industry to the First Report of the Joint Select Committee on Finance and Legal Affairs on an inquiry into the Ease of Doing Business in Trinidad and Tobago. [*The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon)*]
6. Ministerial Response of the Ministry of Planning and Development to the First Report of the Joint Select Committee on Finance and Legal Affairs on an inquiry into the Ease of Doing Business in Trinidad and Tobago. [*Sen. The Hon. C. Rambharat*]
7. Ministerial Response of the Ministry of Planning and Development to the First Report of the Joint Select Committee on Land and Physical Infrastructure on a Continuation Inquiry into Measures for Ensuring Water Security in Trinidad and Tobago with reference to the Eleventh Report on an inquiry into the Measures for Ensuring Water Security in Trinidad and Tobago. [*Sen. The Hon. C. Rambharat*]
8. Ministerial Response of the Ministry of Public Utilities to the First Report of the Joint Select Committee on Land and Physical Infrastructure on a

- Continuation Inquiry into Measures for Ensuring Water Security in Trinidad and Tobago with reference to the Eleventh Report on an inquiry into the Measures for Ensuring Water Security in Trinidad and Tobago. [*Sen. The Hon. C. Rambharat*]
9. Ministerial Response of the Ministry of Public Utilities to the Third Report of the Public Accounts (Enterprises) Committee on the Examination of Audited Financial Statements of the National Gas Company Trinidad and Tobago Limited for the financial years 2016 to 2018. [*Sen. The Hon. C. Rambharat*]
 10. Ministerial Response of the Ministry of National Security to the First Report of the Joint Select Committee on Local Authorities, Service Commissions and Statutory Authorities (including the THA) on an inquiry into the Health and Safety Practices and Arrangements of the Airports Authority of Trinidad and Tobago (AATT) in light of COVID-19 Restrictions. [*Sen. The Hon. C. Rambharat*]
 11. Ministerial Response of the Ministry of National Security to the Thirty-Third Report of the Public Accounts Committee on the Follow-up on the Status of the Implementation of the Recommendations of Information and Communication Technology Governance and General Controls as stated in the Reports of the Auditor General on 2017, 2018 and 2019 Public Accounts. [*Sen. The Hon. C. Rambharat*]
 12. Ministerial Response of the Ministry of Finance to the Twenty-Third Report of the Public Accounts (Enterprises) Committee on the Examination of Audited Financial Statements of the InvesTT Limited for the years 2014 to 2017. [*Sen. The Hon. C. Rambharat*]

URGENT QUESTIONS**Unsolicited Teacher Applications Acceptance****(Rationale for Cessation)**

Sen. Wade Mark: Thank you, Madam President. To the Minister of Education: Can the Minister inform the Senate as to the rationale for the decision by the Teaching Service Commission to cease accepting unsolicited teacher applications effective September 30, 2021?

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Thank you very much. Madam President, as my colleague Sen. Mark knows, the Teaching Service Commission is a constitutionally independent body charged with responsibilities under section 125 of the Constitution. And section 125 says and I quote:

“Subject to the provisions of this Constitution, power to appoint persons to hold or act in public offices in the Teaching Service established under the Education Act, including power to make appointments on promotion and transfer and to confirm appointments, and to remove and exercise...control over persons holding or acting in such offices and to enforce standards of conduct on such officers...”

As such, Madam President, decisions and questions relating to teacher recruitment should properly be directed to the Teaching Service Commission under whose remit this matter falls. The Ministry of Education is not in a position to presume what the response is. Thank you.

Madam President: Sen. Mark.

Sen. Mark: Yes. Thank you, Madam President. Can I ask through you, Madam President, if the hon. Minister, given what he has just outlined to this Parliament, can he explain to this Parliament why did the Teaching Service Commission as an

independent commission make the announcement instead of the hon. Minister?
Can the Minister shed light on this development, Madam President?

Madam President: Minister.

Sen. The Hon. C. Rambharat: Madam, the response is not implicit but very obvious from my response, the announcement will not be made by the Ministry of Education because the issue falls within the powers, the constitutional powers of the Teaching Service Commission. So it is the Teaching Service Commission to deal with that matter as it relates to recruitment.

Sen. Mark: Madam President, is the Minister aware that the Minister of Education made a public announcement which was in today's newspapers telling the population that they cannot submit any applications for teaching jobs from September the 30th and not the Teaching Service Commission? Is the Minister aware of that pronouncement by the hon. Minister of Education?

Madam President: Minister.

Sen. The Hon. C. Rambharat: Madam President, as I said before, the issue of the decision and dealing with the decision falls within the remit of the Teaching Service Commission. The Minister of Education having been given information or provided with information or having found information that is in the public domain is entirely appropriate for the Minister to reflect a decision of the Teaching Service Commission. It is proper for the Minister to do that. But the process, the decision making, the decision is in the remit of the Teaching Service Commission.

Quarrying Activities/Destruction of Homes

(Investigation into)

Sen. Wade Mark: Yes, thank you, Madam President. To the Minister of Agriculture, Land and Fisheries: Given the destruction of homes allegedly as a result of quarrying activities being conducted under the supervision of the EMBD,

can the Minister indicate whether an investigation has been launched into this situation?

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Thank you very much, Madam President. Madam President, it is the events described in the question are very unfortunate and the Government, of course, I was contacted by MP David Lee, Member of Parliament for the area, was contacted about the matter and I was also contacted with a request to engage my colleague Sen. Donna Cox to assist the people in the community who were affected. And I have responded to the MP and I have also spoken to my colleague and I know that she is acting on it.

But in relation to this matter, Madam President, it is best if I read into the record this letter from the Chairman of EMBD to the Minister who is responsible for quarries, the Minister of Energy and Energy Industries, my colleague the hon. Stuart Young. The letter is dated 15 September, 2021, and addressed to the hon. Minister Stuart Young in reference to the preliminary report of the landslip in the vicinity of the Coco Road Quarry. And I read as follows:

Reference is made to the mining licence SQ0001-18 between the Government of the Republic of Trinidad and Tobago, the Ministry of Energy and Energy Industries and the Estate Management and Business Development Company for the Coco Road block dated 24 September, 2018. That is the date of the mining licence.

We wish to report that this morning on 15 September, 2021, a few members of the fence-line community blocked the bridge leading to the Coco Road Quarry alleging that around 3.00 a.m. today there was significant damage to their houses allegedly caused by the quarry operations at the Coco Road Quarry.

These houses are located approximately 200 ft outside the eastern boundary of the Coco Road Quarry. We have not had any reports of damage other than property damage. EMBD personnel visited the area of the affected houses and reported that one house had collapsed and another house appears to be moving. An internal investigating team was immediately assigned to investigate the complaints—

Madam President: Minister, I am sorry but your time has expired.

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

Madam President: Sen. Mark.

Sen. Mark: Can the Minister indicate whether he has launched a formal enquiry into the matter?

Madam President: Minister.

Sen. The Hon. C. Rambharat: Madam President, and I will continue to read, Madam President, from that letter of 15 September, 2021, to the hon. Minister Young from the chairman of the EMBD. I will continue in relation to the supplemental question.

An internal investigating team was immediately assigned to investigate the complaints comprising the EMBD quantity surveyor, project manager, security manager and land surveyor, as well as a representative from the quarry contractor and operator.

Given the matter involves land slippage, the EMBD has also asked Mr. Charles Allen a geotechnical expert to conduct a site visit with EMBD personnel today with a view of assisting in the investigations in particular in advising technically on the potential or actual collapse or cause of the landslip.

As of 15 September, 2021, EMBD has halted all quarrying operations as a

precautionary measure pending these investigations. This is a preliminary report and we shall revert with you with a more complete report as the investigations into this matter proceed.

Ronnie Mohammed

Chairman of the EMBD.

Madam President: Sen. Mark.

Sen. Mark: Madam President, can the hon. Minister—can I ask another supplemental, Ma'am?

Madam President: Yes.

Sen. Mark: Yeah. Can the hon. Minister indicate whether he can share with this Parliament what is the status of the intervention being made by both to the Ministry of Social Development and Family Service and another Ministry he had mentioned? Can he advise this honourable Senate where this situation stands at this time given the crisis faced by several families?

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

EMA

(Enquiry into Disposal of Toxic Waste)

Sen. Wade Mark: To the Minister of Planning and Development: Given the alleged disposal of toxic waste by a chemical plant in the Barrackpore community and the effect of said waste on residents, can the Minister advise as to whether the EMA has launched an investigation into this matter?

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Thank you, Madam President. Madam President, I can confirm that the EMA received the complaint and a site visit was conducted on September 10, 2021. The EMA was accompanied by the representatives from the office of the County Medical Officer of Health and that is for the county Victoria.

The EMA intends to include in the investigations the Town and Country Planning Division of the Ministry of Planning and Development and it is expected that the process will be completed in a month's time. Thank you.

Sen. Mark: Madam President, can I ask the hon. Minister through you whether the Government intends to take any interim steps to address this health hazard and crisis that is affecting over 60 residents in the said community?

Madam President: Sen. Mark, the time for Urgent Questions has expired but I will just allow the Minister to answer that. Okay?

Sen. The Hon. C. Rambharat: Yes, Madam President, the steps have been taken. The matter falls squarely within the remit of the EMA and it is also a health issue for which reason the County Medical Officer of Health was represented and it is also a municipal corporation issue. So the various agencies have been engaged and all with their individual powers to do, to act in the matter and, of course, the Government would like the matter to be dealt with through these agencies who are equipped under the law to do that. Thank you.

JOINT SELECT COMMITTEE

(APPOINTMENT OF)

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, having regard to the decision of the Senate to establish a Joint Select Committees to consider and report on the Fisheries Management (No. 2) Bill, 2020 and the Shipping Bill, 2020, I beg to move that the following six Members be appointed to serve with an equal number from the House of Representatives as follows:

On the Joint Select Committee on the Fisheries Management (No 2) Bill, 2020:

Mr. Clarence Rambharat

Ms. Yokymma Bethelmy

Dr. Muhammad Yunus Ibrahim

Mr. Anil Roberts

Dr. Varma Deyalsingh

Dr. Maria Dillon-Remy

On the Joint Select Committee on the Shipping Bill, 2020:

Mr. Randall Mitchell

Mrs. Paula Gopee-Scoon

Mr. Rohan Sinanan

Ms. Jearlean John

Mr. Deeroop Teemal

Ms. Charrise Seepersad

I thank you.

Question put and agreed to.

TRINIDAD AND TOBAGO REVENUE AUTHORITY BILL, 2021

Order read for resuming adjourned debate on question [September 14, 2021]:

That Bill be now read a second time.

Question again proposed.

Madam President: Nine persons have already contributed to the debate including the mover of the Motion, the Minister of Finance. Sen. Thompson-Ahye.

Sen. Hazel Thompson-Ahye: Thank you, Madam President, for this opportunity to contribute to the debate on the Trinidad and Tobago Revenue Authority Bill, 2021. This Bill is an important piece of legislation. It is revolutionary, essential and has suffered long delays. It is about culture change and seeks to deal with many factors which threaten the economic health of our country.

Some Bills have been brought to Parliament with very long titles. I have complained at times as I thought it was akin to the petticoat being longer than the dress. In this case however I consider the Bill's long title:

“An Act to establish the Trinidad and Tobago Revenue Authority and for related matters”

—as being too short.

We could have emulated Guyana's equivalent law its Revenue Authority Act and adopt its long title:

“An Act to establish and define the functions of a Revenue Authority: to define the Governing Board of the Authority: to transfer from the Government to the Authority the functions and powers of the Inland Revenue Department and the Customs Department: to transfer from the Government to the Authority the assets used in the said Departments and the liabilities for which they were subject: and provide for matters connected therewith or incidental thereto.”

Long, yes, but we know what we are in for. It states from the outset the intention of the Legislature.

Clause 5 of this Bill establishes the Revenue Authority as a body corporate. Clause 6 lists the function of the authority namely:

- “(a) the assessment and collection of taxes under revenue laws;
- (b) the administration of the revenue laws;
- (c) the enforcement of the revenue laws;
- (d) the enforcement of border control measures subject to any other written law;
- (e) and subject to subsection (2), the provision of revenue collection services to any statutory or other body to collect public monies; and

(f) the facilitation of legitimate trade.”

Now, the question may legitimately be asked, why do we need a Revenue Authority when we have in place bodies such as Inland Revenue and Customs which are carrying out those functions? The fact of the matter is that these bodies are not functioning as efficiently and effectively as they should. There is widespread institutionalized corruption and the country is suffering from these two inconvenient truths which leave a bitter taste in the mouth and should be expelled.

The Towers of Strength community which meets every Monday at the Cathedral of the Immaculate Conception was conceived in a laboratory of the Ministry of Finance. And many staff members of the Inland Revenue Department have joined the community. Their aim is to develop a spiritual vaccine to fight the infection of the corruption virus which they saw as a pandemic in those departments.

Madam President, employees were tired of the kickbacks. The tardiness in dealing with objections resulting in the taxpayer automatically being favoured in the assessment, once the time has passed. Documents to support the correctness of the assessment going missing and insufficient numbers of staff to conduct audits, double-dipping field auditors being paid to collect taxes while also being compensated to avoid taxes. Who is to guard the guards?

Honest employees are frustrated; they feel helpless and hopeless; one acting in a senior position for 11 years with no Oscar or Emmy award. In the Customs department there is a talk of big businessmen having personal senior Customs Officers always on duty when their goods are to be cleared. Evidence of a large quantity of unmanifested cargo, counterfeit goods under-invoiced, incorrect description of goods, illicit and prohibited goods entering the country without the required licences or permits. Scanners put in place were not fully functional. So

there was random scanning and sniffer dogs trained to detect guns and drugs. But the dogs have to serve other transit sheds and are not always available when needed. Customs Officers thought there should be greater accountability and especially with regard to senior staff, they thought the promotion should not be so reliant on seniority but should take into consideration technical expertise and further education and remuneration should be commensurate with duties.

Now, employees thought the Public Service Commission was missing in action and wondered if PSC meant “permanently sleeping commission” and hoped this new law would be an answer to their prayers.

Now when we look at clause 7 of the Bill for the establishment and constitution of the board of the authority, it states that:

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

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

Now, I am particularly pleased with clause 7(3)(a) of the Bill. It lists among the required criteria for board members an important skill set which members must have and which is not normally written into the law. I speak here and I quote:

“(b)...demonstrated capacity to oversee, and have considerable experience in overseeing, the management of a large and diverse organization;”

10.30 a.m.

Normally the listed criteria are as appeared in clause 7(3)(b), which is:

“...qualifications and experience in the area of tax or customs administration, corporate management or areas such as accounting, economics, law, business or other relevant fields.”

Now, clause 7(3)(a) is extremely important because what is desperately needed in these departments is oversight. If there is close monitoring and proper systems in place a number of the shady practices which occur on a daily basis would be eradicated. We have heard about the billions of dollars being lost through widespread tax evasion, the tax gap, about weaknesses in the law, poor IMF ratings and that our revenue collection rate is among, or might very well be, the lowest in the Caribbean. The logical question is, does this legislation in any way facilitate the efficient processes which we as a society crave and which all right-thinking members of staff long for and which would happen?

Clause 8 to my mind of the Bill seems to offer some hope. The marginal note which is written as “Functions and powers of the Board” lists as follows:

“8. (1) Subject to subsection (2), the Board shall be responsible for formulating, approving and ensuring the implementation of management policies in relation to-

(a) the approval and review of the policy of the Authority;”

So the first thing you have to do is to review what is in place at present.

“(b) the monitoring of the performance of the Authority in the carrying out of its functions;

(c) the finances, real property and other assets and resources of the Authority, the securing of contracts the procurement of goods and services and other administrative activities;

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

(e) service standards and performance targets;”

Very, very important. At the end of the day, you set out certain things to do. Who is to say whether you have received the target and what happens if you do not? Those are important things. And:

“(f) a code of conduct for the employees of the Authority;”

Very important, this code of conduct.

“(g) the strategic plan, budget and annual report of the Authority;”

And especially the strategic plan. Where are we going? How do we get there? A lot of organizations are putting in place strategic plans for a particular period of time and then reviewing it.

Then we have:

“(h) the mandate for collective bargaining and approving collective agreements in relation to the terms and conditions of employment of persons employed by the Authority;

(i) probity in the use and allocation of resources;

(j) the principles of good corporate governance procedures and practice; and

(k) the internal audit of the Authority.”

All these are extremely important and all that we ask is that you stick to the mandate that is given and act in accordance with that.

So, Madam President, I see these provisions as giving the Authority a fresh

start, an opportunity to start anew, to see what the Authority can do, what we as a society can do to fix things. It was never a question of not knowing what to do or how to do it, but the political will was lacking. The courage was absent and the old practices were embedded so deeply that it seemed that to envisage change was like we were dreaming the impossible dream, the impossible dream to right the “unrightable” wrong, to try when your arms are too weary to reach the unreachable star.

But, Madam President, we have in the employ of the Government good and righteous people who are trained, who are competent, and want to make a difference. These people readily admit that the Inland Revenue Division has been unsuccessful in collecting the correct taxes due to Trinidad and Tobago and are seeing a decline in its ability to eradicate corruption that continually erode the limited taxes that are assessed and are collectable.

There has been a steady decline in the required staffing and attention to training and promotion. Staff morale has become low and this continually affects efficiency and effectiveness of work produced. Their view is that the Revenue Authority seeks to provide more latitude for improvement in efficiency and effectiveness of the tax collection process by eliminating the prolonged and slow process of appointments and promotions. It has been very painful for some people waiting for promotion to come. Efficient selection process of appropriate and sufficient staff to ensure adequate work is performed effectively. Increasing the tax net by making this a priority. Continuous training for improvement in staff performance in line with the exchange of information gathered at international technical conferences such as CIAT, that is, the Center for Inter-American Tax Administration, and OECD, the Organization for Economic Cooperation and Development.

So time after time we are sending off employees of the departments to go and learn how to do things, what to do, and they come back, there is hardly opportunity for them to put into practice what they have learnt and there may even be obstacles to trying the new things which would improve the efficiency of the department. Increase in audits where the correct assessment of taxes can be done. Having a board that is able to maintain confidentiality and yet allowing the head, the Director General, to be under the control of the Minister who can give direction. The deputy of compliance to be under the control of public service and providing opportunities for improvement in collections through enforcement efficiency. So this is what they felt.

Madam President, the composition of the Board is not a bone of contention nor the functions and duties of the Board. What is of some concern and we have heard it expressed here is clause 7(2) which states:

“The Board shall be appointed by the Minister...”

When we look further at clause 11(3) to (6) we see that the Minister is also responsible for temporary and substitute appointment of board members. In circumstances where a member resigns, is removed from or vacates his office, is temporarily outside of Trinidad and Tobago, or for any reason unable to perform the duties of his office, the Minister can appoint somebody in his stead. Notwithstanding certain provisions, which I see has been included to assuage the fears of political interference, there remains a degree of concern about the appointment authority of the Minister. It is useful to examine what happens elsewhere.

The appointment of the Board—Barbados sorry, Revenue Authority Board is to be found in the Second Schedule of the Act, which states:

“1 (1) The Board shall comprise 9 directors as follows:

- (a) 6 persons appointed by the Minister by instrument in writing in accordance with sub-paragraph (2); and
 - (b) *ex officio*
 - (i) the Commissioner;
 - (ii) the Director of Finance and Economic Affairs; and
 - (iii) the Chief Technical Officer in the Ministry of Transport and Works or his nominee.
- (2) The Minister shall appoint as directors
- (a) 5 persons who appear to the Minister to be qualified and experienced in economics, accounts, finance, tax, law, public administration or business or such other area as, in the opinion of the Minister, is required for the discharge of the functions of the Board; and
 - (b) a person nominated by the most representative organisation of employees from among its members.”

Jamaica’s Revenue Administration Act provides for the appointment of thereby the Governor General. And here we have heard arguments that it is our President who should be appointing the Board.

Guyana’s Revenue Authority Act provides in section 11 for six members. The Minister to appoint the Chairman:

- “(e) two other persons with knowledge and experience in taxation, finance, commerce, economics, law or administration...”

And include other members, such as:

- “(b) the Commissioner-General;
- (c) the Governor of the Bank of Guyana or...”—some other members of the bank—“nominated by the Minister;”—and

“(d) the Director of the Office of Budget, Ministry of Finance, or in his absence, such other representative from the Ministry of Finance as may be nominated by the Minister.”

So to a large extent therefore, save for those who are ex officio, the Board is appointed by the Minister.

Now, the stance that we take about the ability and the authority given to the Minister to appoint the Authority is really based on our trust in our institutions and officials. We do not have a culture of trust in our Members of Parliament, in our officials, and therefore we are always looking for something sinister where there might be none.

So, there are safeguards in the Bill which attempts again to assuage some of the fears. So we have the Director General, the Deputy Director General and so on, appointing, and you have the use of the affirmative resolution which is something that is very rare. I have called for affirmative resolution because I see so many negative resolutions that had been the norm in this Parliament. But in this case there is provision for affirmative resolution. So we come and argue that, yes, you know if this person is acceptable or this person is not acceptable. So there is that opportunity given.

We have also that the Board is not responsible for the functioning of the Authority, that there is no access to people's individual information, that documents and so regard to court matters and so on, do not come to the Authority. So these are things that are actually built in to try to alleviate some of the fears. But whatever route that is taken, one has to realize that a person who is in fact convinced against his will is of the same opinion still. So in this Parliament what we ought to do is to try to reach a common ground to see, is it possible that we could have some people be appointed by the Minister, some by the President or do

we want to continue with the route that we are going?

So as I said, there are within this Bill various things that are very good. There are some things that are of some concern and the question of the terms and conditions of the people, they are not going to be prejudice in any way and the same terms and conditions will apply so that all of the things that we need may not be there and we may need further discussion. But the fact is there is an attempt to bring a better Trinidad and Tobago revenue collection authority.

We in Trinidad and Tobago are not at all happy generally about paying taxes—generally. We love the amnesty, but generally we have a lot of problems with bills. We see the reaction to the question of land tax, which is different from—my research on Barbados and Jamaica and Guyana and all the other jurisdictions that I have called. But we need to change the culture so that Trinidad and Tobago will do what is right for the good of the entire country. So thank you, Madam President. [*Desk thumping*]

Sen. Amrita Deonarine: Thank you, Madam President, for the opportunity to contribute to the debate on this Bill, the Trinidad and Tobago Revenue Authority Bill, 2021. Now, I have listened attentively to the different perspectives from both sides and even the Independent Bench since the start of this debate on Tuesday and I really do not intend to repeat any of the points but I want to add some general concerns that I have about the Bill and put forward some recommendations to address these concerns.

Madam President, at the end of today my intention is if this Bill is to be passed, whether with my support or without my support, I really want to seek to the best of my ability to ensure that a revenue authority structure that is passed is one that is conducive to performance and not controls, rather than one that takes one government or state-centric institution and creating another state-centric

institution or else in a couple years' time we would be confronted with a problem where the same inefficiencies and in-effectiveness reoccur. I want to say though, even though this Bill has been brought to the Parliament several times, regardless of whether some of these clauses are direct copy and paste clauses from previous versions, each time it was brought economic circumstances varied and so each time I think it needs careful examination and even this time as well.

So, Madam President, revenue authorities around the world they tend to be semi-autonomous in nature. So that it has to have a separate legal status which is what we are trying to establish with this legislation. It has a board which runs the management of the Authority and usually the personnel systems or the human resource function comes outside of the purview of the civil service, and, of course, they are self-financing mechanisms. This is the general structure of semi-autonomous revenue authorities. And the objective of a revenue authority is to turn tax administration into a more effective apparatus. The achievement of this objective is of course highly dependent on how the Revenue Authority is designed. It is important to note that within the Commonwealth and even closer to home, in the Caribbean, countries have established semi-autonomous revenue authorities and have done so in response to many challenges, several times being the constraints of the civil service. So generally it is recognized that public service reform, not only here in Trinidad and Tobago, is something difficult to interfere with and reform or change because it is all enshrined in the Constitutions of most Commonwealth countries.

Now, what this Bill presents us with is a hybrid structure, one that is similar to Estonia. Approximately 6 per cent of revenue authorities around the world adopt such a structure of revenue authorities; 46 per cent of revenue authorities are semi-autonomous; 48 per cent still continues to run as a division under the

Ministry of Finance.

The Enforcement Division is introduced in this Bill and the post of Deputy Director General of enforcement is introduced, which basically lumps together the functions of the Comptroller of Customs and the Chairman of the Board of Inland Revenue. That is outlined in clauses 13, 14 and well clause 40. The Division will be staffed by the Public Service Commission who would be vested with enforcement powers with the exception of those hired by the board which I understand will serve administrative functions only. However, the law does not clearly state that.

Now, I have been hearing all kinds of justifications, all kinds of arguments against this policy decision put forward by the Government, but with respect to the continued inclusion of the Public Service Commission. The Bill may very well pass here today via a simple majority and if it does, my concern is how effectively this structure would work. How many of the problems would you be able to eliminate to improve efficiency tax administration? Because you will still be subjected to the limitations of the Public Service Commission.

Madam President, I looked at the Committee report that looked at the feasibility of establishing the Revenue Authority. This was a report that was done all the way back in 2002 when that then Cabinet was looking at the establishment of a revenue authority for the first time. And it gave some insights into the kind of challenges that the Customs and Excise Division and the Inland Revenue faced with the Public Service Commission. Some of those highlighted were long standing promotions not completed by the Public Service Commission resulting in a high number of vacancies and these high number of vacancies came to light in the TADAT Report, the IMF TADAT Report, that is, the Tax Administration Diagnostic Assessment Tool Report that was done in 2017. It also takes three years

sometimes to fill vacant positions.

There is a general demotivated staff with low compensation and they tend to be very susceptible to bribery. There are extraordinary delays in disciplinary action; there is also lack of career path development; there is lack of managerial training; there is an inability to recruit and retrain quality staff; there is abuse of sick leave. Madam President, the list goes on and on.

So my question is, how are we going to avoid these problems from being transferred from the Inland Revenue and Customs and Excise into the Enforcement Division of the Revenue Authority when it is established? Because this is the division that will be responsible for fighting tax evasion, fighting tax leakages, tackling the informality that exists in Trinidad and Tobago. And these persons would continue to be appointed, disciplined, et cetera, by the Public Service Commission. How much avenue are we going to have to develop an agile working environment subjected to performance based targets? Because that is what we are trying to achieve with this, right? How are you even going to ensure that you have the full complement of staff to fulfil the functions of the division?

Also, I know the Minister of Finance—while he was piloting the Bill he gave us some forecasts in terms of how much he expects the tax revenue to GDP ratio to increase in the next couple of years. I believe the forecast were 1 per cent increase by 2023, 1 per cent of GDP increase by 2023; 1.5 per cent increase in 2024 from the establishment of this Revenue Authority. Now, I do not think that is possible. Revenue authorities around the world take at least one to two years after the passage of legislation to become fully operational.

In Jamaica, for example, they implemented their revenue authority in 15 months and their model does not even merge customs and excise with the Inland Revenue, their equivalent of Inland Revenue. And what we are doing with this

Bill, the institution that we are trying to establish basically lumps both functions into one. Nothing is wrong with that, but what I am saying is that I think we are forgetting a fundamental micro issue that could have tremendous consequences for both Customs and Inland Revenue. I have not heard about how exactly we are going to deal with this complex marriage between Customs and Inland Revenue.

It is always difficult to integrate both functions. Customs are meant to facilitate trade, Inland Revenue on the other hand is meant to fight tax evasion. We not only have to help those—and right now when we establish this Revenue Authority we not only have to help these two properly fulfil their functions but we also have to get them to coordinate, another deficiency that currently exists. But apart from that, a merger of information systems would be required. Both divisions use different system. Customs and excise use ASYCUDA although I do not think they fully use all features of the ASYCUDA system right now; Ministry of Finance uses GenTax. We need to integrate both of them. All of these things need to be streamlined. And so you know, Madam President, I think we should look again at how we determine these forecasts, because implementing this Revenue Authority would take time and as much as we need the additional revenue at this point in time is not something that you rush. You really want to try to get it right.

So I would actually encourage that—I do not know if it is possible at this stage, but if some time frames that adopt a phased approach could be included in the legislation. Some countries like Canada when they created their revenue authority and they passed their law they included in their law a phased approach over a four to five year period. But this will be dependent on how much work was already done on the Government side so that you could hit the ground running when this Bill is passed and I do not think that that is the case. It does not seem to be the case. I have not heard, perhaps, I stand corrected, more information might

probably come out during the debate. But my point is, Madam President, we cannot see this Bill, the passage of this Bill, as the be-all and end-all to the deficiencies in the tax administration system. All of a sudden, you know, you are going to increase revenue collection. No, it is a process and it will take some time.

With that being said, as much as we say—I spoke about the deficiencies with respect to using—the continued use of the Public Service Commission and what not. But the Public Service Commission, let us put those challenges aside. They are not entirely responsible. Usually—so after you have—when I looked at the TADAT Report, the 2017 TADAT Report, that is the Tax Administration Diagnostic Assessment Tool which was done in 2017, I believe the Minister mentioned that he did a progress report which updated their status on how much of the challenges were addressed. We were not privy to this report so I would cite some of the challenges that were highlighted in this report. And they are not entirely only related to the poor human resource management.

You have things like inaccuracy of taxpayer registration database; lack of a compliance improvement plan; no formal compliance risk mitigation plan; no monitoring of the extent of inaccurate reporting; GenTax is not even fully interfaced with the Ministry of Finance; categorizing of VAT claimants via risk is not being done.

So, Madam President, what I am trying to say is that there is a lot of reengineering of systems and processes and procedures that needs to be done before we can comfortably say that we are truly accruing the benefits of improved tax administration from passing this law.

Now, Madam President, I want to move a little bit towards the governance framework of the structure that is put forward in the Bill. The role of the Minister to appoint the Board, the Chair, and the Director General is something common

across most revenue authorities. The Revenue Authority relationship to the Government is normally through the Minister of Finance who is accountable to Parliament on the Revenue Authority's performance. If we do not have the Minister of Finance involved, who then is accountable to the Parliament?

Most revenue authority laws assigned the Minister of Finance at least general supervision and oversight of the Revenue Authority. We have to remember that we are dealing with the revenue function of the country for which the Executive has responsibility. With that being said, while the Minister appoints the Board in this Bill I think consideration needs to be given in legislating for private sector involvement on the Board. Now, the Bill right now it does not specify private sector involvement, it is left open, so it could very well mean both public and private sector, but I strongly believe that we should include private sector involvement.

In the case of Jamaica, for example, it is a quite unique case and it is quite interesting because even though the Minister of Finance appoints the Board, I think together with the Governor, their equivalent of the President, but he does so after consultation of an advisory committee made up of the private sector and the Governor of their Central Bank. So, right now the contention with the Minister of Finance appointing the board is a lack of clarity as to where the pool of individuals, the appointments are being made comes from. Perhaps we should include some sort of clarity in the legislation so that we can ease the minds of the persons. And remember we are trying to create a semi-autonomous revenue authority which is empowered in such a way so that it could operate independently in some way with the other.

11.00 a.m.

Also, I think that we should specify that two other members—well, I said

this already, so the two other members should come from the private sector. I looked at the commonwealth region, nine countries in the commonwealth region, and those countries have private sector representatives on them, inclusive of Jamaica. And I also think that we need to expand the areas of expertise of the board members to include human resource management and industrial relations because we would be dealing with a lot of people issues and trying to transform an organization that previously had a lot of people issues. I do not think that you will achieve your goal to adopt a business-like model if you do not include persons from the private sector who are well-versed in areas of human resource management, industrial relations and financial management of large entities.

Now, I have some issues with clause 11, the removal of a board member. I think it is not properly captured in the law or in the Bill how we go about removing the board member, and I have proposed an amendment to it. I would circulate it later on today.

Also, Madam President, under no circumstances I think the Minister of Finance should have to approve the rules that govern the affairs of the board. I do not know why, probably it is something that I do not understand, something that I probably forgot while I sat during the committee. But I would like to hear from the Minister his justification for this. Because remember, we are trying to empower the board to make some of their own decisions. And also I think that we should include a provision to allow the board to establish committees as it thinks fit.

Now, in terms of the role of the Minister in giving general policy directive to the board and the Director General and to the Deputy Director General of enforcement through the Director General, I see how this could be misconstrued. However, in my mind when I read the Bill, when I read the clause in the Bill, in my mind I see this general policy directive would mean directing particular actions

to be done in relation to the fiscal policy position that the Government takes, because it is the Government who decides on fiscal policy, not the Revenue Authority. The Revenue Authority executes the fiscal policy that the Government decides on, but to some extent.

I think that we should probably look at it again, and just for the sake of allowing maximum transparency, perhaps we could allow for any such directive to be done through the publication of official *Gazette*. Now, I know this may sound pushing it a little too far, but I looked at the IMF toolkit on implementing revenue authorities around the world and it is actually something that they recommend in their report, I believe, on page 20 of this report. They recommended that you deal with uncertainty of the role of the Minister giving general policy directive in such a way.

So, Madam President, I move on. So, while all this effort is going into improving tax administration, we have to remember that our tax system is based on voluntary compliance. So, as we put full weight behind efforts to improve tax administration, equal amounts of effort need to go into, one, rooting out corruption; and two, improving the efficiency of public expenditure if you expect voluntary compliance to increase. Remember, you have a wide and increasing informal sector which accounts for about 30 per cent of our GDP on an annual basis. Let us look to South Korea for a little bit. South Korea for example, one of the most successful cases of revenue authorities around the world. The same time they were rolling out their Revenue Authority they had an anti-corruption campaign running simultaneously, and that anti-corruption campaign lasted for three years. There was strong supervision of tax officials, an audit department—not a financial audit department—was established to monitor tax officials and investigate cases of misconduct. Is this something that we would be implementing in our Revenue

Authority? Because things like this these are needed. Right now what we have is an external mechanism to investigate suspected cases of wrongdoing and mal administration. It is limited to the country's Ombudsman. The Ombudsman routinely investigates complaints from taxpayers, not internally, but does not identify systematic problems and recommend remedial actions to the Inland Revenue Department. An anti-corruption agency also exists and investigates cases of alleged corruption. However, it does not oversee the anti-corruption policies of the Inland Revenue Department. Madam President, these are not sufficient, and we need to account for these things.

The last thing I want to look at, Madam President, is the budget and funding flexibility of the Revenue Authority. Now, the board usually has the authority to formulate specific annual budgets bounded by the agreement with the Minister of Finance, which is what the Bill captures. Because remember, you are semi-autonomous so you have to have things like this approved by the Minister of Finance. Currently there is no legislated formula to determine the annual budget for the Inland Revenue and Customs and Excise. It depends entirely on the budget cycle. And what this Bill says is that we are going to continue to depend on this budget cycle. However, it made provisions—if I recall correctly, Madam President, I do not have the Bill in front of me. It made reference to the Minister of Finance, with his approval, having the board be accrued rents and fees and so on, but it is with his permission. But the problem is that the authority will still be subjected to the constraints of the budget cycle, and subjected to the problem of waiting for release of funds, and the problem of being under-resourced may very well continue to happen. When we looked at Mexico, for example, they adopted the two-tier system, where they allow for a percentage of the collections to be retained by the board, and perhaps this is something that we could do, because in Mexico—

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

Sen. A. Deonarine: Thank you, Madam President. In Mexico what they did with the percentage of revenue collected, that is kept by the board, they used that to invest that into the modernization of the Revenue Authority. So, it is basically a fund that is established that goes towards the modernization and technological investment and advancement of the Revenue Authority. This is something that we could do.

Because you see, Madam President, once we continue to leave the Revenue Authority dependent on the budget cycle, what we end up doing is limiting the autonomy of the Revenue Authority, and things like this would make it seem as if you are just creating another division under the Ministry of Finance. Remember, I said in the beginning that how we are trying to avoid creating a one state-centric—trying to avoid leaving one state-centric institution and creating and a whole other state-centric institution. Another issue that I have, it is not pertaining to the Bill but it is something that I think should be brought in the discussion during the course of the debate, is how much is this initial cost of this Revenue Authority? How much is it going to cost to transform the Inland Revenue and Customs and Excise and establish this Revenue Authority? Because right after this Bill is passed that is what we have to do. We have to set up the operational and implementation plan to get these things going. Where is the money going to come from? Because we are well aware of what the financial situation, the fiscal situation and public finances, what is the situation with it right now in the country.

So then, does that mean that we are going to go and seek technical assistance and donor funding? If that is the case, how much is it going to cost? Because initially, you would need a lot of financing because these things are not cheap. You will need a lot of financing for capital expenditure in information technology, you

will need capital expenditure for structural and service improvements. If it is you have the Inland Revenue and Customs and Excise has been grossly understaffed before, I may very well—this may very well mean that you would have to spend a lot of money on investing in additional human resources. So, I put that on the floor to receive some answers.

So in summary, Madam President, what I looked at today was really—the things that I tried to address are, would this structure work with the continuation of the Public Service Commission being the key part of the Revenue Authority? The second thing I looked at is the governance framework, and I believe that some of it needs tightening, which is what I would circulate via amendments. The budget flexibility of the Revenue Authority is lacking. And finally, we cannot fight tax administration deficiencies without fighting corruption at the same time, and the efficiency of public expenditure. I thank you, Madam President. [*Desk thumping*]

The Minister of Tourism, Culture and the Arts (Sen. The Hon. Randall Mitchell): Thank you very much, Madam President. Thank you very much for giving me this opportunity to make a few comments on this very landmark piece of legislation. And following on from Sen. Deonarine and her last comments, I understand completely Sen. Deonarine's fears, whether this Revenue Authority, this new Revenue Authority, could actually perform in the way that we expect it to perform in improving the tax administration in our country. Because we have been saddled for so long, Madam President, on the Inland Revenue Division and the Customs and Excise Division and their own ineffectiveness and inefficiencies, those fears are simply natural.

Madam President, I want to thank Government Members who have spoken before and supported this Bill. I also want to thank the Independent Senators who have spoken in support of this Bill, and of course actually debating the merits, the

demerits and asking certain questions on this very landmark Bill. Because, Madam President, that is exactly what parliamentary debate is all about. We get up here and we are advocates and we engage in advocacy in some form or the other. We seek to persuade, we seek to give fact, we seek to give opinion, and we seek to ask questions in debating the policy legislation of the Government of the day. And, of course, we expect to do that in a logical and coherent manner. And we debate, some debates are—and some arguments are subject to fallacies, some need correcting, but in the end we expect some form of synthesis, and we expect better legislation that serves the people of Trinidad and Tobago.

But in getting up here today, Madam President, I ask myself, how does one debate policy aimed at improving the standard of living for the citizens of Trinidad and Tobago who we have all taken an oath to serve with an Opposition that simply stands and engages in tactics of misleading, misrepresenting, and bold-facedly just spewing propaganda? How does one actually do that? Last night I took the opportunity to read a book that I have in my possession, it was written by Christopher Wiley, and I sought in that book strategies to combat base propaganda, and I could not come up with any. How does one actually do that? How does one, Madam President, when we have the Bill before us, that intends to create a statutory authority to engage in tax revenue administration reform, how does one get up when we have that before us, to counter arguments that “the PNM looking to go into people pocket”? How does one really counter that? How does one counter the argument that you have to line up by Balisier House to get a job in the new Revenue Authority? And it is somewhat predictable, we know Sen. Mark will get up and he will talk about Stalin, he will talk about Hitler, he will talk about totalitarianism, and if he is really, really is into it, according to his instructions, he may raise the very ugly spectre of slavery and try to tie it in to whatever legislation

we are debating before us. And when you listen to Sen. Roberts, well, you are taken down a road, I do not want to say, “towards depravity” because that may be unparliamentary, but you are taken down a road and you really have to hold on to your seat because you do not want to go down to that road at all because your mind cannot conceive the depths that that road would take you down into.

But, Madam President, this is not an extension of *douglAR Politics*. We are debating real legislation here today. And to answer Sen. Deonarine, I agree. Where you have such a tectonic shift in change where you are taking two divisions that formerly worked under a particular management structure subject to its rules, and you take out those divisions and you attempt to merge it, of course the fears of change management will occur, and those could be very disruptive. How do we actually treat with those fears and eliminate those fears? Through organizational design, through management policies, through management structures, and creating a separate statutory authority, semi-autonomous as it is, will give you the flexibility, the agility to attend to those inefficiencies more easily.

Madam President, enforcement. Sen. Deonarine spoke about enforcement and what guarantees do we have, because the enforcement function will still be subject to the inefficient Public Service Regulations and drawbacks and shortcomings. Of course. But in modern revenue administrations you would notice that the focus is heavily on voluntary compliance. And the focus is heavily on the ease of doing business, that is the ease of paying your taxes instead of having to take a taxi or hire someone to go down to Ciperio Street in all that traffic to line up in front of the Board of Inland Revenue on Ciperio Street where there are only four parking spaces, park somewhere in some side street, risk your car being wrecked, walk into the Inland Revenue Division, be confronted by a tout who is selling to

you that he could get through faster if you give him a little “ting”, line up to pay your taxes. That is the inefficiency that we are looking for, ease of doing business. And communication on what are these tax laws, what are these tax policies, and what are your responsibilities as a citizen with respect to taxes. That is what it is focused on.

I totally agree with Sen. Deonarine. She is absolutely right on the point of accountability, someone must be accountable, and that person here before us is the Minister of Finance. And who better to be accountable than someone who is accountable to the Parliament of the Republic of Trinidad and Tobago, and to the people of Trinidad and Tobago. Sen. Deonarine is absolutely correct. In terms of the expansion of qualifications and experience, I agree that persons with HR and industrial relations, especially in this first board, there must be people with that experience placed on the board because there is a very serious potential issue of change management and those adverse effects that come out of change management that may plague the board. So I agree with that. But in the Bill itself if you look at clause 7(3) which treats with the Board of Management, under (b) it states that:

“The members shall be selected...—have qualifications and experience in the area of tax or customs administration, corporate management or areas such as accounting, economics, law, business or other relevant fields.”

And those fields are fields that are related to business, so that is actually covered here.

So, Madam President, I also want to take the opportunity to say from the outset, because the detractors of this measure, the detractors of this Bill, they heavily engage in fearmongering. And I want to say at the outset that the vast majority of taxpayers in this country have absolutely nothing to fear, because they

are employed, they are subject to the PAYE system, the pay as you earn system, and their taxes are taken from source and remitted by the employer. So to the thousands or the tens of thousands of persons engaged in the public service and in the private sector, persons who are employed, they have nothing to fear. And in fact nobody has anything to fear because this Revenue Authority and the efficiencies that this Revenue Authority brings have actually positive effects on business. But they have nothing to fear. Most taxpayers also pay a tax, a consumption tax call the VAT, and they are paid at source. So the majority of persons in Trinidad and Tobago have absolutely nothing to fear and can look forward to these measures going into legislation, because they are just benefits to accrue from the efficiencies and effectiveness that a Revenue Authority can bring.

So, Madam President, that is what we are all about here, you know, creating this Revenue Authority. All it is, very, very simply, is you are taking the Inland Revenue Division, that is a division within the Ministry of Finance, under the Minister of Finance, and you are taking the Customs and Excise Division that is in the Ministry of Finance, under the Minister of Finance, you are taking those two divisions out and their functions and you are placing it into a statutory authority separate from the public service and the public service regulations that have proven to be inefficient and ineffective, especially where the recruitment of staff is concerned. That is all it is. We are avoiding the bureaucracy and seeking to achieve efficiencies and effectiveness in revenue administration in Trinidad and Tobago.

So we have heard talk that the divisions are 50 per cent staffed, and of course we blame that on the service commissions. But it is really the Service Commissions Department, the secretariat for the Service Commissions that is charged with the recruitment and the promotion and the transfer and the discipline and all these matters within the public service. But we had a debate right here,

Madam President. Sen. Vieira brought an extremely important Motion, and it came out in that debate. The Service Commissions Department is charged with the responsibility of assisting the Service Commissions in the recruitment of staff. But the Service Commissions Department itself is understaffed by probably approximately about 50 per cent. So how are they supposed to respond to a public service organization, division, the Inland Revenue Division and the Customs and Excise Division, how are they supposed to respond to the HR requirements so that people, the right people can be in the right jobs to actually do the work on behalf of the people of Trinidad and Tobago?

And for that reason alone, if only for that reason alone, Madam President, we should put into effect this Bill, the Revenue Authority. So that is what we are doing. And, Madam President, it is not with the Revenue Authority alone that we are seeking to do that in this Twelfth Parliament. The Revenue Authority is not alone, it is not novel. We are also seeking to create a separate statutory authority of the CSO. Because the CSO as a division, or rather as a unit of the Ministry of Planning and Development, is also understaffed and inefficient and ineffective. And we as a country, the private sector, the economy, suffers as a result of not being able to capture and make decisions upon real-time data and information. So we are doing that with the CSO as well. It is called the National Statistical Institute. The Maritime Division through the Shipping Bill, Madam President, that is in committee in this Parliament, we are seeking to create in the Maritime Division a separate maritime authority.

Madam President, even in my Ministry we are seeking to create statutory authorities to manage the National Academy for the Performing Arts and the Southern Academy for the Performing Arts. Because those two very important institutions, performance halls, are managed within units of the culture division,

and naturally there are inefficiencies that arise. So just like Queen's Hall and just like the Naparima Bowl, we are creating separate statutory authorities, semi-autonomous, that have the power to manage these institutions. The Civil Aviation Authority, the Minister of Finance gave that as an example, and he also gave as an example the many efficiencies, the ability to raise revenue under the Civil Aviation laws, that we have achieved from moving the Civil Aviation Division out of the Ministry of Works and Transport into a Civil Aviation Authority. So, Madam President, that is what we are doing, and the commonality between all those examples that I just gave is that these functions are simply too important to us as a country to simply leave it to the inefficiency and the ineffectiveness of the public service and its regulations and the rules by which it is governed.

So that is what we do. So, Madam President, why bother with tax revenue administration reform? Why bother with that? And the question is, there is the need for adequate Government funding. There is the need for adequate Government funding. You need Government funding for the delivery of services to the citizens of Trinidad and Tobago.

11.30 a.m.

You need adequate levels of funding for that. And very, very simply, Madam President, and I like to speak in simple terms, how does Government raise revenue? The simplest way to explain it to the common man, the layperson, how does Government raise revenue? You tax something or you sell something. The Minister of Finance on previous budgets would have spoken about one-off sales and that is not before us today, but you tax something. There are several taxes that we are all subject to: personal income tax, a consumption tax called value added tax, corporation tax, and excise duties on the importation of goods into Trinidad and Tobago. So the efficient delivery of goods and services, Madam President, is

dependent on how efficient and effective your tax revenue administration is, and I think we can all agree in here that our tax revenue administration is not efficient and not effective in achieving its mandate.

Madam President, when there are weaknesses in revenue administration, there will be inadequate amount of taxes collected, and what does that really mean in reality? During the budgeting process in the Appropriation Bill, the Minister of Finance will read a statement, and he will give an estimate of revenues, and he will give an estimate of expenditure, and more times than not, you are more or less committed to the estimates of expenditure that you have, more likely than not. So where there is an adequate tax revenue collection system, the Minister of Finance, either during the mid-year or sometime during the course of that financial year, will announce that there will be some sort of deficit and we are going to have to support that deficit by borrowings, and, Madam President, the Minister has had to support the budget deficits by borrowings.

Had we had a proper and efficient revenue tax administration system in Trinidad and Tobago perhaps there would be no deficits; perhaps there would be no deficits. And do you know, Madam President, the loudest voices against the debt position, and the borrowings, and the Minister of Finance are the members of the Opposition? And today they refuse to support these measures that will improve the tax administration system in Trinidad and Tobago. How can the Minister of Finance rely that his estimates are going to be correct, even though they are conservative, where you have a 50 per cent vacancy rate in these divisions? How can you rely on that?

Madam President, one of the other matters within the realm of why bother with tax revenue reform—one of the other reasons for tax revenue reform would be the quality of revenue administration. The quality of revenue administration

influences the business environment, the competitiveness, the vibrancy of the business environment, the ability to encourage foreign direct investment. Because, Madam President, all firms are placed on a level playing field and the weaknesses in enforcement of the revenue administration puts law-abiding tax compliant citizens at a disadvantage to those who are tax evaders places them at a disadvantage, and by way of example, Madam President, I will give you a story.

Recently I had a discussion with persons within the Ministry and the question was, Madam President: How do some security firms that appear to operate on the same playing field, that appear to have some of the same fixed expenses, how do some security firms when responding to a tender be able to bid so low, way below the average? And I had to explain, I said, this is why. Because some security firms hire foreigners or they hire locals, and they do not pay taxes on their behalf, they do not pay health surcharge on their behalf, they do not pay their NIS contributions. They pay them in cash. And the firm that does that is at an advantage over the tax compliant, the statutory complaint firm that pays all these statutory deductions on behalf of the workers and, therefore, the non-compliant firm has an advantage over the other firms.

In the tourism industry, Madam President, I will give you an example. There is a situation right now where legitimate owners of hotels have brought to the attention of the Ministry that they are at a disadvantage over persons who are offering hotel accommodation and not paying the requisite taxes. You see, Madam President, there is something called “hotel accommodation tax”. It is a tax that is charged to the customer.

Madam President: Minister, you have five more minutes.

Sen. The Hon. R. Mitchell: Thank you very much, Madam President. It is a charge that is charged to the person to whom room is let, and the tax is:

“...A tax to be called an hotel accommodation tax...”

I am speaking from section 52 of the Miscellaneous Taxes, Chap. 77.01. At section 52:

- “(1) A tax to be called an hotel accommodation tax shall be—
- (a) charged on the proceeds of the letting of hotel accommodation by an hotel operator at the rate of ten per cent...and
- (2) The Tax Authority shall be the Board of Inland Revenue which, in respect of the collection and recovery of the tax, shall have all the powers...”—et cetera.

And when you look at the definitions a:

“‘hotel’ means a building or group of buildings occupied together comprising not less than six bedrooms”—not less than six bedrooms—“for the purpose of providing hotel accommodation for reward;”

And when you look at “hotel accommodations” it means:

“...sleeping accommodation and services and facilities ancillary thereto provided in an hotel for its guests...”

So, Madam President, hotels, accommodation providers within the same category, they are arguing that they are at a disadvantage at competing when their hotel rooms are higher because the guests have to pay the hotel tax, and you have persons putting up all over the country Airbnb accommodation of more than six rooms, seven rooms. In fact, some of them converting dwelling houses into such accommodation and guest houses, et cetera. You have those persons simply advertising their rooms, not having to remit hotel tax—their rooms are cheaper—and then you have the tax because it is based on voluntary compliance.

Nobody from the Inland Revenue Division actually knows that that building there without a sign is actually providing accommodation for persons and are

subject to the hotel accommodation tax. Needless to say it is almost impossible for the Inland Revenue Division—because I am advised, I asked a question, I may not be correct, but in all of the country, Madam President, there are about 10 auditors in the Inland Revenue Division; 10 auditors, four senior ones and about six junior ones, and what they do is they focus on the larger companies, the larger multinationals. So that is what the Revenue Authority would do. It would bring equity and a level playing field and a more vibrant business community. And then there is corruption, Madam President. I had a story in there, but I do not have time to give that story of corruption.

So there are lots of benefits to a revenue authority. It is more flexible, it is more agile, and in clause 14, Madam President, 14(1), there is a provision for the Director General to give the Minister advice so that the Minister can make decisions or can advise the Cabinet in making decisions in real time as it concerns the economy, so that we as a country, in terms of our tax expenditure, in terms of our expenditure, in terms of services and goods, we can make better decisions because we have it in real time, because we will have more modern ICT infrastructure, more modern ICT platforms. We will have both divisions talking to each other, not working in silos.

And, Madam President, I commend this to the people of Trinidad and Tobago, I commend this to my colleagues here in the Parliament and, Madam President, as a tax complaint citizen, I look forward to the coming of the Revenue Authority. Madam President, I thank you. [*Desk thumping*]

Madam President: Sen. Lyder.

Sen. Damian Lyder: Thank you, Madam President. Madam President, we are called here to Parliament today to consider a Bill to make into law the consolidating of the Customs and Excise Division and the Inland Revenue Division

of Trinidad and Tobago. Madam President, there have been several contributors on the Opposition side, starting on Tuesday, would have spoken at length going through various clauses and looking at the legislation in detail, so as such I would take my opportunity here to circumscribe myself to the concerns of the recognized business Chambers and other private sector and civil society groups, groups that have had concerns about this Bill, Madam President, and a number of clauses in this Bill.

You see, there are some fundamental issues that the private sector organizations, and not the UNC, have with this Bill. You see, the Government in their usual fashion will blame the UNC, blame the UNC, but not taking into account the cries of the private sector and the civil society groups. And what is concerning to me, Madam President, is despite all of these issues that had been raised by the private sector, this Bill was brought to Parliament without addressing some of the critical issues. You see, Madam President, there was a joint select committee. We heard some reference from the Government on it where issues were raised by the private sector, but the Government comes to lay this Bill now in Parliament and brings this debate, having three of my colleagues only having a mere 24 hours to research this Bill and now us, a few more days. And when we come now to this Parliament, we are see no sign of any matters being addressed from this Joint Select Committee, Madam President.

So what I am seeing is that the Trinidad and Tobago Revenue Authority is shaping up to be a vehicle for this Government to almost bully the private sector instead of working in partnership with them. You see, there are major clauses where the advice was given in this Bill from the private sector and it was ignored. I mean, one only has to look today in the *Guardian* newspaper online and we see

where the CEO of the Trinidad and Tobago Chamber of Commerce, Mr. Gabriel Faria—and the headline states:

“Government just does not listen...”

This is coming from the CEO of the Chamber of Commerce, not the UNC, and he is making distinct reference to the fact that this Government has failed in a timely basis to pay VAT refunds to businesses, and he laments that the Chambers are crying out to the Minister of Finance to pay these VAT refunds but they are simply not listening. Yet the Government comes here in the still of the night and looks to railroad this piece of legislation through the Parliament; railroad it to bring what they say will be an efficient Revenue Authority, which we have no evidence of that as yet, but yet does not taken into account the current issues in something such as paying VAT back.

Pay the VAT back so that the businesses can now come and pay their taxes. It is almost as though there is a—we hear the Government speak about the potential of those evading taxes. Well, it seems to me that the Government is evading paying back VAT. But, Madam President, the submissions in this Bill are central to the everyday operations of the key business sectors in this economy and you know what? I will tell you, I agree, an effective revenue collection agency is essential to the success of any economy. However, this Government is coming here and asking us to dismantle the Board of Inland Revenue, dismantle Customs and Excise and switch to this TTRA without any evidence here today that efficiencies will be attained.

I mean, I will ask some basic questions. Let me ask the Government: what are the tax leakages presently and how was this figure arrived to? Was it pulled out of the sky? What are the collectable taxes currently on the Board of Inland Revenue system? And when you can answer that question efficiently, explain to

me how will this Trinidad and Tobago Revenue Authority fix the leakages? And why can the current system, if fixed properly, not do the same thing? You see, Madam President, instead of dismantling the BIR and Customs and Excise, fix it. [*Desk thumping*] The IMF is on record stating that if you could not pass this Trinidad and Tobago Revenue Authority Bill here, then they agree that the current system could be fixed and they outlined in the Joint Select Committee a number of shortfalls that could be fixed by the Government in this current system.

The Minister of Finance was on record, he spoke in this debate about energy tax leakages and I have it from good authority that tax leakages between 75 per cent to 80 per cent is coming from multinationals. So the question I ask: Why has this Government failed to bring transfer pricing legislation to Parliament after six years in Government and bringing this up in various budget debates, blaming the UNC that we did not do it? Okay. If the UNC did not do it, then why has this Government not done so after six years? Instead of dismantling the Board of Inland Revenue, why does the Government not look at fixing it by staffing the BIR properly?

You see, Madam President, the functions of the Trinidad and Tobago Revenue Authority that this Bill proposes are wide and ranging. They will impact every aspect of commercial operations including the collection of taxes, revenue law enforcement, and trade, that thing that seems to be declining, Madam Speaker. It is by no means a small scope, and as a result, we must take into account the potential pitfalls. We must look at the risks attached to such a draconian Bill. So let us look at where these possible risks are.

So to me it is clear in reading this Bill that the hand of the sitting Minister of Finance at all times will be within touching distance of the Director General through the board appointees. These board appointees who are appointed by the

Minister of Finance, a politician, Madam President, a politician. The hand of the Minister will also be felt on the contracted staff that when they are hired they would have no security of tenure. So understand that these members of staff are on contract. If they are asked to do certain things, they may have to consider their contract. You see, Madam President, there are key issues that would have arisen from the recommendations of stakeholders in this Joint Select Committee that we see no sign of today. These issues are not represented properly in the Bill and I am going to attempt to treat with a few of them, time permitting.

Madam President, when we look at clause 6, the Customs Clerks and Customs Brokers Association, they raised a very pertinent issue regarding the powers of the Trinidad and Tobago Revenue Authority. Their issue was that:

“The power to administer and enforce the provisions of all Revenue Laws will remove the ability of the fraternity to have any input into the regulation of...”—their—“field.”

This is not the UNC saying this, eh. Madam President, this is important because at present they maintain that this is a:

“mandate...held by the Customs Brokers Board...instituted by Ch. 78:03...”—of the laws of Trinidad and Tobago.

And the customs clerks have ultimately requested that:

“Ch. 78:03...be removed from the schedule of the Bill.”

And, of course, that recommendation was not taken in account by this Government because it is still there.

Madam President, it is the Institute of Chartered Accountants of Trinidad and Tobago, ICATT, had a very curious issue as well to with clause 6 of the Bill. Madam President, so interesting was this query that they had that the Joint Select Committee had as a matter to seek clarification after, and the query of concern, it

concerns the function of the Authority in clause 6 as well as clause 8(1). They concluded that the functions in clause 6 should not involve the board, this politically appointed board, but should be delegated in full to the Director General. So I would simply like to ask, through you, Madam President, from the Chief Parliamentary Counsel, if this query rests kindly with their office, if they could make it clear that the board would not be involved in any function outlined in clause 6?

Madam President, when we look at clause 8, both the American Chamber of Commerce of Trinidad and Tobago as well as ICATT—

Sen. Mitchell: Madam President—

Sen. D. Lyder: —had issues with the separation of—

Sen. Mitchell: Madam President, on a point of order, please, or a point of clarification. This is an entirely new Bill—46(1)—so it is irrelevant to speak about the Joint Select Committees of past Bills that have nothing to do with this Bill. This is a brand new Bill.

Madam President: Sen. Lyder, I will allow you to continue a little bit, but for the rest of your contribution, it cannot be solely on what had arisen in the Joint Select Committee. You need to move on a little bit.

Sen. D. Lyder: Thank you, Madam President. And, Madam President, what I will do is I will take your advice and I will leave out the word “joint select committee”. I am simply going to talk about all those private sector and civil society groups that have problems with this Bill. So let me scratch off JSC from my speech. Thank you for your advice, Madam President. So I am saying this because I want to make it clear. When I listened to the Government say that it is the UNC that is opposing, I am making it clear there are other entities opposing as well. So if they do not want to hear about it through the JSC, no problem. I will say it from the private

sector organization themselves.

Madam President, these private sector organizations, the AMCHAM of Trinidad and Tobago, before I was rudely interrupted, and ICATT, had issues with the separation of roles between the board and the Director General. AMCHAM, Madam President, is of the view that the board:

“...should not be responsible for the employment and termination of any employee below the Deputy Director General...level.”

Madam President, it is the Inland Revenue Division, what we know as the Board of Inland Revenue, that had expressed great concerns about clause 8(3) where they have stated and I quote:

“...the clause interfered with the independence of the administration of taxes and allow the Minister to influence the operations of the...”— Trinidad and Tobago Revenue Authority.

The Board of Inland Revenue made some suggestions in a particular committee for a similar provision as section 15(2) in the Bahamian Value Added Tax Act to be used in this Bill. So when we look now at the Bahamas VAT Act, we see the following under section 15 regarding the policy directions of the Minister, and I am using this to reference what we have here. So it states under 15(2):

“The Minister may not...”

And I repeat:

“...may not—

- (a) intervene in matters relating to the day-to-day administration and collection of VAT revenues or implementation of VAT policy;
- (b) participate in making of, or influence, any decision by the Comptroller concerning the —

- (i) affairs of a particular taxable person;
- (ii) enforcement of this Act in relation to the particular taxable person; or
- (c) access, except by written request made to the Comptroller, Department information regarding the income, business or affairs of a particular taxable person.”

Madam President, we now do not see these restrictions placed here in this Bill today, restrictions that would act as boundaries on the Minister of Finance who would dare not cross to ensure that no one runs afoul, and I am not making—casting any aspersions on this Minister of Finance. I am not. Because when we make this Bill, Madam President, this Bill is for the future. This Bill is for next year, next three years when this Government demits office and UNC returns. It is for every Minister of Finance in the future to ensure that there are boundaries, but the Government moves forward regardless.

Madam President, when we look at clause 10, the American Chamber of Commerce is of the view that:

“The terms and conditions of the board should be”—first—“defined and approved...”—in—“Parliament...”

We are not seeing that.

Clause 14, here is AMCHAM again stating that:

“...the separation between the Minister and...”—Director General— “needs to be further clarified.”

The fact that AMCHAM felt it necessary to discuss this in a particular place is worrying to me, Madam President, because this is not the United National Congress saying this. This the American Chamber of Commerce of Trinidad and Tobago who is a well-respected major private sector body with hundreds of

members, Madam President, who are not politically affiliated. This is not a political arm of the UNC, and it validates the fears of the Opposition that once this Bill is passed, it becomes law and it exposes the Trinidad and Tobago Revenue Authority to political interference never seen before in the history of our country. [*Desk thumping*] Never seen before.

Madam President, let us look at clause 24:

“(1) The Authority may, with the approval of the Minister, borrow sums required for meeting any of its obligations under this Act.”

Madam President, it is the Central Bank of Trinidad and Tobago, not the UNC, that had an issue and warned that any debt, any debt incurred by this TTRA may lead to an increase in the central government’s contingent debt and potentially to the Government’s total debt.

Sen. Mitchell: Madam President, excuse. On a point of clarification again—

Sen. D. Lyder: “Oh, Lord fada”.

Sen. Mitchell:—can he cite the authorities for all these comments and positions by these several bodies?

Madam President: There is no need for me to intervene, Sen. Lyder. The Minister has just asked for clarification on your part.

Sen. D. Lyder: Well, Madam President, I read it in a particular committee. I cannot remember the name of the committee but it forms part of my debate today and, of course, you can dispute it. You can research it yourself and dispute it. Have one of your colleagues answer after. But, Madam—sorry, through you, I should have said, Madam President, I should not have spoken directly to someone who I would not even rebuttal today.

But, Madam President, the Central Bank created this warning and when we see the situation with our debt to GDP ratio bolting to 90 per cent and in full flight

to reaching 100 per cent, we must be concerned about this. And we see that in many other Bills, Madam President, brought to this Senate and in another place, we see them empowering all these different agencies to borrow, Tobago House of Assembly, WASA, T&TEC. “Everybody borrowing, borrowing, borrowing” and here we come now to see yet another agency who will have freedom to borrow under the guidance of the Minister of Finance.

So this Central Bank, in their wisdom, urge that:

“Limits on the borrowing of power of the TTRA should be clearly stated...”—together with—“procedural safeguards...”—by requiring—“parliamentary approval...”—to contract debt.

I am going to have to skip by now because, Madam President, when you look at the caution from the Central Bank, why is this? Why would they caution? Because when we look as of May 2021, central government debt was in total in outstanding of \$105.8 billion.

Madam President, just moving on to clause 25 again. The Central Bank went further again, and I go further on this, with concerns regarding the powers of the TTRA to invest money. They were of the view that again:

“...procedural safeguards”—should—“be provided against excessive risks exposure.”

They advocated for:

“...an investment policy...to guide the composition of the...”—Trinidad and Tobago Revenue—“portfolio.”

12.00 noon

Madam President, when I listened to my colleague, Sen. Mark, on Tuesday tell this august Chamber that it is estimated that these authorities, the BIR, Customs and Excise, represent more than 95 per cent of our total revenue in this

country, this obviously will raise concerns, that this Revenue Authority can invest a significant sum of our revenue in this country. And, Madam President, the reason why I am concerned about this is because I only have to look at what has been transpiring in the National Gas Company, where we see a same—just like with this Revenue Authority, a board appointment by the Minister of Finance. We see a politically-appointed board in the NGC that has appeared to have lost close to \$500 billion in poor investments and it seems like everyday whistle blowers are showing us something else. So we wait to see with what else comes out that. But that strikes fear in me. Because those board members looking for indemnity. I am wondering if this board, under this new agency, will be asking for indemnity as well. Left to be seen.

Madam President, we look at clause 28. It exempts the Authority from the provisions of the Central Tenders Board Act, Chap. 71:91. Yet we know, Madam President, that the Government has gutted the procurement regulations, circumventing the independence of the Public Procurement Regulator, giving powers to the Minister of Finance and his Cabinet to procure without the oversight of the independent regulator. And, Madam President, when you look at that, the Minister will be at the centre of all dealings with the TTRA. Here we see that. So is that proper? Does that foster transparency? Madam President, in an environment, when we see what is going on, we need more transparency. Yet we are getting less.

And let me tell you something, Madam President. Inside of a certain committee the Public Procurement and Disposal of Public Property Act, when it is fully proclaimed it will apply here, Madam President. So, Madam President, the Minister of Finance will now have supreme reign over the procurement process of the TTRA indefinitely.

Madam President, let me tell you where this query came from, not the UNC

you know, not the UNC, from the Inland Revenue Division. So the existing staff in the Board of Inland Revenue is displaying a lack of confidence in the intended procurement process for the TTRA. And, Madam President, this is alarming, because what is worse is when you look at the resource report from the IMF on implementing revenue authorities in the Caribbean, it makes it clear that procurement must be specified in the law; not the UNC saying this. The IMF is saying that procurement procedures must be set in law in creating this revenue authority, Madam President.

When we look, Madam President, at clause 6, trade facilitation, how is that going to be affected in the interim? There must be a road map for the rollout of this Trinidad and Tobago Revenue Authority. We are not seeing it here. What are the objectives? Where are these plans? I have heard my colleague Sen. Deonarine ask similar questions like that. I do not want to go into—I do not want to repeat what she says, but I too would like to know: where are these plans?

The Government is seeking to outsource the work to a statutory corporation; work that is currently being done by BIR and Customs and Excise Division. So how is it going to work? Where is the evidence that we are going to get greater efficiencies? Up to now we hear it, that it is going to document. But how? It is not the what, you know, Madam President. It is the how. At a time when businesses are going through difficulties with dealing with the port, paying excessive rent and demurrage that is not being refunded when it is the Government's fault that it is being delayed, we have time to now study what are the implications to trade, when this Bill is brought to us Friday of last week, and now being railroaded to be passed by a simple majority in an unconstitutional manner?

Madam President, they gutted the Constitution by removing the protections contained in sections 4 and 5. The secrecy provisions are sacrosanct and require a

three-fifths majority, Madam President. The Government is giving powers into the hands of contract workers. So when you look at a certain submission, Madam President—I will now come back one more reference to the joint select committee, if you do not mind. When I consider submission two of the joint select committee, from an anonymous responder, listen to what he stated, and I quote:

I prefer to remain anonymous for fear of victimization. There is a potential for a political financier to be placed as a member of the board. The board shall be appointed by the Minister of Finance. It would be a disaster if a member of the board consider the finances of the country to be his cash cow, and an easy way for financing political payback.

Again, I am casting no aspersions on this Minister of Finance, but we must put safety measures in place that protect the secrecy of persons.

And it gets worse, Madam President, because when we look at section 3 in the Customs Act, which gives some of these officers in the port, police powers. I mean, my colleague, Sen. Lutchmedial spoke at length about it, so I would not get into the details of it, except to say that as a businessman, Madam President, I am concerned. Because, Madam President, the scenario exists right now, where Customs—

Madam President: Sen. Lyder, you have five more minutes, and may I ask you to, in the five minutes, try not to go into tedious repetition. Okay?

Sen. D. Lyder: Thank you, Madam President, and absolutely not, no tedious repetition here. I am giving you my personal concerns, when we look at the scenario of the customs officers today having security of tenure and their superiors having security of tenure. When we now migrate to this new system that puts them on contract with no security of tenure, they could be at risk of a superior person connected to some financier, connected to some Government official, to act on a

particular person, victimization on display, and they will be hard-pressed, hard-pressed, not to carry through with some of these commands, when they think that when their contract comes to an end they could be replaced. They think about their mortgage. They think about their children's school payments. They think about their retirement package. So they may be pressured into doing things that they should not. There are potential threats posed by this law, and let me be more specific, Madam President. A competitor who is close to the Government, any government, can exert influence on the Director General or the officers in charge of enforcement to harass his competition.

Madam President, they can cause, these officers can cause their containers to be held in the port, can share private taxpayers' information. They can cripple competition in the business area. We must remove the political aspect of this Bill, which has not been done, Madam President.

So, Madam President, as I come to a close, let me state that in very much the same way that the public procurement legislation was gutted, so too is this legislation being gutted. In much the same way that the powers of the independent procurement regulator has been eroded, so too now the same powers of the Board of Inland Revenue and Customs and Excise are being eroded and given full control to a Minister of Finance and his Cabinet who are political in nature, Madam President. This is dangerous and in much the same way, Madam President, that the various Chambers of Commerce, private sector and civil society groups spoke up against the gutting of the procurement legislation, so too have they spoken up about the risk of this Bill, the dangers in this Bill. There will have to be a lot of amendments made in committee stages to remove this political influence over this Bill, Madam President. And we hope that the same mistake is not made by passing—when we pass that procurement legislation, the same mistake is not made

in passing this Bill by leaving the powers in the hands of politicians, Madam President.

So, Madam President, I want each Member on this side to consider, because I know the Government will fall in line, but I want them to consider, use their conscience here today, my honourable colleagues, and consider that a vote for this Bill is a vote against the concerns of the American Chamber of Commerce of Trinidad and Tobago about the fetters of the Minister. A vote for this Bill is a vote against the Central Bank on the need for guiding policy and borrowing and investment, Madam President. A vote for this Bill is a vote against the customs clerks and their request to be excised from this Bill, Madam President. A vote for this Bill is a vote against the concerns from the staff of the Customs and Excise Division and the Board of Inland Revenue regarding the potential to political interference. Madam President, this Bill infringes on the citizens' rights of Trinidad and Tobago. The citizens' rights to secrecy, the citizens' rights of property ownership and it opens up the door to serious political influence.

And, Madam President, as a result of that we must not allow this Bill to pass. This Bill must be rejected and the hon. political leader of our party, the United National Congress, already signalled that if this Bill passes today, we get God out of our thoughts and pass this Bill today, that we will see them in a courthouse. I thank you, Madam President.

Sen. Dr. Maria Dillion-Remy: Madam President, I am humbled to speak on such an important legislative and economic matter engaging the Senate's attention today. We have before us once again the Trinidad and Tobago Revenue Authority Bill, the 2021 version. This Bill seeks to provide for the establishment of the Trinidad and Tobago Revenue Authority to replace the Board of Inland Revenue and the Customs and Excise Division. Madam President, we were here before

under different conditions laid out in the Bill of 2018. I refer specifically to the requirement for three-fifths majority ruling and this has been spoken about ad lib.

Madam President, I must agree with Sen. Deonarine that those Bills were debated in March of 2020. This Bill, as it stands now, had to be examined in detail as the new additions had to be examined for their effectiveness. The Bill now requires a simple majority and my main concern can be summed up in two questions: Are we sacrificing getting it done right for just getting it done? And if so, at what cost?

Madam President, this Senate would be aware of the position I took, as it relates to establishment of the Revenue Authority in Trinidad and Tobago. It was clearly stated in a debate in this House on March 10, 2020, and I thought where I said that the move to establish the Trinidad and Tobago Revenue Authority was a good one. However, I re-emphasize the caveat I presented back then, and I quote from the *Hansard* of March 10, page 113 that says, the institution should be set up with good foundations, with well-established outcomes and well-established rules and guidelines to ensure good management of the revenue.

Madam President, we are also very well aware of the opposition to this Bill throughout the years. So I think I understand why the Government felt it necessary to remove the three-fifths majority requirement. But we ought to be cautious about undermining a fundamental constitutional principle if the goal is to get a win. This Bill interferes with property and privacy rights protected under sections 4 and 5 of the Constitution and the rule is that such a law must be passed with three-fifths majority.

Madam President, I start to think about whether this could be considered contemptuous, flouting of the law for gain, for a politically-motivated standpoint. That sentiment is being promoted on the social media. And I have heard some of it

mentioned by other Members in this Chamber. But quickly, my thoughts strayed to the thousands of persons who jump through the hoops to evade paying taxes or show scant courtesy to the processes, because they are aware of the deficiencies in enforcement. Suddenly it became an exercise of balancing the scales and I ask myself whether this Bill is of such grave importance and benefit to society that utilizing the simple majority was in fact necessary to ensure that the Revenue Authority sees the light of day.

Madam President, especially at such a time as this where the country is experiencing a decrease in revenues and we are in what Trinidad and Tobago vernacular calls the “guava season”, the Financial Intelligence Unit in their report of 2020 on page 60 reported that suspected tax evasion ranked the highest amongst the five most common reasons for reporting entities submitting suspicious transactions report, or suspicious activity reports of the FIU. The report went on to say on that same page that the FIU received 539 suspicious transaction reports or suspicious activity reports or unsuspected tax evasion compared to 186 in the previous reporting period, an increase of 190 per cent.

Page 61 of that same report revealed some alarming statistics of increase in total monetary value of suspicious transaction reports or suspicious activity reports relating to suspected tax evasion from TT \$77,674,000 in 2016, to 528,832,225 in 2020. When I heard of this hefty amount that was being stolen from the Republic of Trinidad and Tobago from its own citizens and the development of such funds that could be used in a time like this, it caused me to think again about the necessity for teaching to hold people accountable. So I get that point.

Therefore, the initiative on clause 14 of the Bill to establish this enforcement agency, the Enforcement Division within authority, that will be staffed by public

servants is a good move. However, my concern as already expressed by Sen. Deonarine and also Sen. Hazel Thompson-Ahye, what will happen to this hybrid startup to the Authority?

Madam President, I have been, and I have mentioned in this Chamber already, I have worked with a regional health authority where the startup had a mixture of public servants and regional health authority staff, and it was a nightmare for several years as we sought to get things right. My concern of having such an important sector of the Revenue Authority staffed by public servants, managed by the Public Service Commission with all the issues that have been mentioned already, I would not go into them again, how would this fit as a startup? Are we setting up this Authority for success? This is the question I will ask the Minister and also the Attorney General. Are we setting up the society for success, or are we starting something that is likely to run into problems and we will, in not too long a time, find that we are in the same situation where the kinds of issues we are facing now are also dealt with then?

I think it was Sen. Seepersad, when she did her contribution, she talked about the systems that have to be put in place for this Authority. Sen. Deonarine also spoke about them. And if these systems are going to be put in place, as they must, in order for things to be very different, are we going to run into problems with the kinds of mixture that we have here?

Madam President, I am concerned about that. The joint select committee, there was a lot of research done and mentioned in a report that talked about the revenue authorities that they had learnt from, and they had guidance from the revenue authorities established in Botswana, Uganda, South Africa, Canada, Guyana and Singapore, to name a few in their consideration.

Madam President, it was in a report from Ernst & Young Services Limited,

they commented in a document entitled *Focus in Trinidad and Tobago Budget 2021*, where they said:

“we should always bear in mind that despite the hopes of the Government, a Revenue Authority is no ‘quick-fix’ or panacea to the country's tax administration problems. It is not a solution but simply a tool to enable the Government to better decrease specific problems.”

These problems have been identified apparently in many reports that have been stated, both by the Minister of Finance and also the Minister of Public Administration and in previous contributions to this Senate. These concerns have already been expressed. Again I ask: The solution we are putting into place, will it work?

Madam President, I endorse the statement completely made by Ernst & Young and as responsible persons within the lawmaking process, it is our duty to this country to make sure that we use every tool available for good governance in our nation and also that there should not be delay. I do not want my words to be misconstrued and interpreted as encouragement for a rushed or haphazard approach, because I do not know that this is a rushed or haphazard approach. I do think, and I agree with Sen. Mark, when he talked about the fact that we did get from Friday when the Bill was laid until Tuesday to start the debate and the understanding at that point in time was there were only two areas that were new to the Bill that we had before. But as I said earlier, what we have here is an entirely different Bill and the implications for putting this type of structure was very different from what we debated earlier. And as I said, I would have endorsed as a Member of this Senate.

We know that this Bill, for the Revenue Authority, they have been trying to see. The discussions have been going on for more than a decade and there have

been lots of discussions in the public forum, et cetera. Madam President, I know that this is not rushed however, I am saying that this particular version of it, as to how it could be construed, as to how it could be rolled out, is of concern to me.

The other clause I would like to mention, Madam President, because, specifically as it relates to issues that have been identified already in other contributions and well-known issues about corruption, et cetera, and mentioned by Sen. Deonarine in her contribution, that it is one of the things that the Authority— it is said that one of the things that the Authority will be making sure that they deal with issues relating to corruption.

Madam President, if the Authority does not have the ability to discipline, does not have the ability to ensure that the members of the staff that is working within the Authority, how would those thing be dealt with? Will we have the same things like lack of oversight, late performance reviews, lack of disciplinary action, et cetera, as we have talked about before?

Clause 38 of the Bill mentions that:

- “(1) A member or employee of the Authority shall—
- (a) act honestly and in good faith with a view to the best interest of the Authority.
 - (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.”

Madam President, I note this clause in the Bill. I cannot say that any of the Bills that I have had to view before within the Senate has put issues here like honesty and in good faith. In other words, the issue of integrity is going to be key with this Authority. And I must say it says here, and I am happy that it is here, but it says here:

“A member or employee of the Authority shall—”

I would like to put it on record that it is not just a member of the Authority, it has to come from the board of directors. It has to go down to the Director General and the Deputy Director Generals, because if we do not get this right with the quality of the people that are put to staff this authority, we are going to move from one state of disarray to another state of disarray. It was one of the previous presenters who talked about, I think it was Sen. Thompson-Ahye and again Sen. Lyder just now, we do have a crisis of trust in our leaders and I think this is one of the big things that is happening here in this debate that is going on right now, people do not trust the leaders in authority now. And, therefore, question marks are being put at every level. Anything that we try to do or tries to be instituted, there are question marks.

So you have a situation where the Revenue Authority is something that has been said to be required and a three-fifths majority is required and it is put to the Senate and to the House. The Bill is put there, and it is not agreed to. Then you go back and start to put it to make other recommendations and here you are going to have a question again. When are we going to get it right, Madam President? Something has to be done, and I am saying and I am suggesting, one of the big issues we have is an issue of the values we have in our people. Are we going to be happy with persons who are staffing this authority, who, again, are going to be questionable? As Sen. Lyder just put it; already people have said that there is somebody waiting to go into the position of the board. These are things that we as a people in Trinidad and Tobago must say to our leaders we cannot accept these.

So if we are putting authority in place and I am saying that I agree with authority, that we should have an authority, a revenue authority, it has to be set up on good footing. It has to be staffed by people. The values of the authority must be values that are going to take us further, rather than taking us back.

And, Madam President, I am saying it is not going to be an easy process and I am just suggesting that the Minister makes sure that what is put as a foundation is put solidly so that we, at the end of the day, are going to see something that is much better.

Madam President, I will say again, I have said it here before, I have seen members of the public service work very well when they are under good leadership. And they are—I quote again the situation that we have here within this Chamber, within the Parliament. We see people working here with a work ethic that is exemplary, work anywhere in the world and will work well. Why is it therefore that we cannot get it right in other places? It because of lack of leadership. And I am suggesting that if this is going to work as an authority, as we are saying that we must put a reasonable framework in place, and it must be staffed by people who have the integrity and who put the value systems in place so that we are going to get something that is different. It should not be same old, same old. Madam President, I thank you.

12.30 p.m.

Sen. Dr. Varma Deyalsingh: Madam President, thank you for allowing me to partake in this discussion today. Madam President, I had supported this Bill when it came to the Senate a few months ago because I see the need really for the Government to have the finances to, you know, achieve its mandate. And more so now, we are in a more critical time in terms of the fact that our economic crisis has continued due to the COVID. And also, the fact remains that there are more unemployed persons, there are more social needs to be met in society. So moreover, we have now a critical need for Government to be able to get resources.

Members the other side, on the Government side, had mentioned, I think it was Sen. West, that you know, we have three options to get money. We can tax

poor, we can keep dipping into the Heritage and Stabilisation Fund, or we could take loans. Taking loans to me, Madam, would put further generations into a great distress. We may not be here, but our children, our grandchildren, would have to pay. Not only loans, but I am looking at the fact you may have—the Heritage and Stabilisation Fund, thank God we are a country which we have that and that should be maintained as much as possible.

So the importance of getting revenue is something I agree with. The importance of having some sort of improvement in the way things are managed is something that I think we have no choice but to see if we can get it managed. You see, Madam President, I am a person—I love Trinidad and Tobago, and if you find that there are other countries who would have better protocols, better things in place to receive taxes, I am one who would say we have to reach that benchmark also. And I heard that our ease of doing business, we have a lot of answers for that. And I heard even the fact that when our tax gap comparing to other countries, we have that problem where we are not getting the full benefits to the nation.

I have heard the talk also about some persons may be—some businesses may be, you know—you know, they will have that level of burden where if you are paying taxes you are under that burden and non-taxpayers would actually get away. So all those are inequalities we have to try and get at.

So, Madam, on the broad sense I am thinking that, you know, raising revenue is important. But I may say, Madam, on my way here I saw about 18 potholes from my home to my position here. We have heard persons talk about the poor services that they may be getting in certain institutions. So while raising taxes is important, we have to appreciate that we may need the service aspect of it to actually be on board. So property—we have taxes that coming on board, probably property tax may be here soon in this debate here. We have health surcharge, road

tax, grade tax and persons are saying they are not getting that full value.

So yes, I support the venture to get the taxes but we have now to put a little burden on the Government to say, “Listen, it is a social contract. I pay my taxes, you serve me better in terms of health, crime, cost of living, all of these things.” So we need to get that service.

Now, we have, Madam, instances where, you know, in this debate I heard certain concerns coming out. One of the concerns I heard was the fact that could the Minister have overreaching control in some of the clauses we get there? I heard a concern also that the fact is besides a Minister’s overreach, the fact that the individuals who are in the present scheme of things in their respective customs department or in Board of Inland Revenue, they may be at a disadvantage when there is the movement to come to this new entity.

However, I must say, I too belong to the Ministry of Health, and when we moved over from Ministry of Health to the regional health authorities we had concerns. So, when we looked in the clauses here that actually give a lot of details where persons, when they are coming over, there are certain ways that they can come. They can go into another department, they can have, you know, equal status into this new authority. And so, there are in fact a lot of positions people can maneuver in. And moving from the Ministry of Health which we had actual security of tenure because we were there, we hardly would be able to be fired, coming over to the regional health authority, I did not see it really misused in the way that persons lost their jobs.

However, I must say, if the reason for moving from the present scheme of things to go to the Authority with the objection we are going to get better efficiency. This—we have to question this. Because, even when we moved from the Ministry of Health to the regional health authorities, if you ask patients now,

there is still a waiting list for prostate surgery, cataract surgery, cardiac surgery. So there are still a lot of deficiencies even though Minister Eckstein in his time thought this was solution to get us to a better running system.

So we have to see, are we going in to an authority where we are hoping to get better system? And I heard some of my colleagues here mention that we have to change the ethos, we have to change the culture, we have to change the practice. But even in the regional health authority they have the two-year contract, three-year contract. So I am comparing, would we really get that benefit?

Now, the other you know, I also heard people mentioning the fact that probably Government wants to decimate what is going on because they do not have control in terms of, you know, people now coming up in the service hired by the Public Service Commission. So, you know, you would want some sort of ministerial control whereby they now would want to put certain persons on the top levels to counter the Public Service Commission's, you know, sort of recommendations. Okay, so if that is so, would that be true? Is it that our Government wants to do that?

But you see I saw, Madam President, Guyana had an authority, Jamaica had the authority, other countries came on board with authority. So I am thinking it has to be something with the efficiency, the efficient running of the civil service, the efficient running of what existed in those countries, and they saw the need to go to an authority. And it is not to say that they would have any ulterior motives.

However, is it that, you know, that there is a need? So there is a need for efficiency. I have seen other countries do it. But the other problem, is there in this new Bill before us, is there any sort of way that the Government may exert his control? And this has been something that I have been hearing in the admin. So how could we somehow satisfy the persons who are making this claim? How could

we satisfy them that hey, you know, we could levy in something there, we could put something in there to somehow satisfy other persons that, you know, we would not have ministerial control.

Madam, when I looked at the suggestions that we had before, and you know, some of the suggestions were simply that we allow the President of the country, Her Excellency, to have a say in the hiring of the—probably the top positions, probably the Deputy General, and also the Chairman of the Board. I am thinking it is a good suggestion, because, you see, if we do not do this, if we do not make something different we will always have that pointing fingers to say, “Listen, the Minister got involved.”

So those are just two positions I am looking at, Madam President, that could be given to Her Excellency that could satisfy, because is really the satisfaction of other persons. You see, so when I look at Part III and the Board of Management of the Authority, clause 7(2), I am thinking the Chairman could possibly be hired by Her Excellency, and also the Deputy General. That would kind of allay some fears, that could probably prevent any sort of problems later on. And also, it was mentioned here when I went down on the list:

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

I heard one of my Members mention that the business community should also get

involved there. And it is a good suggestion to have somebody from the business community. I think Sen. Deonarine mentioned that as somebody to give some insight, because the business people would know how things are run, how we could get the running of a department properly. And this Board actually is really running the whole Authority.

But I also want to suggest, since I have heard the talk, the dialogue, that persons may be losing their rights when they are being transferred, and persons may come there and they would not have proper representation. Probably, we may have, you know, right now, members are in unions in their respective customs department or in the department of the Board of Inland Revenue. They would have representations for unions. So respectively, I am suggesting probably one of that person there, one of that person could be a union representative who would look after the runnings of that Board if people come across their rights, et cetera.

Another thing which may be farfetched is, why not have the Leader of the Opposition who represents a lot of persons, almost the same amount of persons in the last election as the Government got. The Leader of the Opposition may have a part, or could—we could change it in such a way that let her offer a name to come on board, so there would be less pointing fingers, there will be less chance for people to make allegations. Because you know, if you look at you are giving the Tobago House of Assembly a person nominated, but the Tobago House of Assembly, or Tobago on its whole, has less persons that are under the—what I am saying, who are probably loyal than the Leader of the Opposition.

So probably we may have to take some time in the future where putting that in would be good for two reasons. One, you would be satisfying the concerns of the Opposition. And two, if there is a change of Government you already have somebody there that may be knowing what is going on in the policy.

My problem is this also. You see, as persons on the Government side may say, if you have persons from the Opposition there they may be people who may somehow try to block your—you know, the proper running of things. You may have persons there who may try to you know use their positions there to the advantage of the Opposition. And that is true, but there is clear guidance here how we can, you know, somehow discipline persons if we think that persons in any sort of position chosen by the Leader of the Opposition may be stepping out or bounds and getting involved in politics, rather than getting involved in the running of the Board.

Madam President, when I looked at the fact that you know, we have the opportunity to bring changes, I am saying, is there a need? And there is a need. Because right now, Madam President, in the United States Congress, there is a problem there where the President of the United States, Mr. Biden, was trying to get increased funding for the IRS. And there is a fact being that, you know, they were looking at getting \$80 billion more. So even the IRS, which you know, we thought would have been such a well-oiled industry, run properly, and you found that their departments would have been good, Uncle Sam would be coming for you, we found there is presently a deficiency. So he actually tried to see if he can get the Congress to give him like \$80 billion. And it was really defeated by the Republican party in July where they were, probably tax lobbyists you know, anti-tax lobbyists were behind them, and he really did not get that through.

But again, there are communiqué with this piece of legislation in the Parliament in the United States, in the Congress, to try to see if somehow they can get the budgetary allowance for it. So the Congress Budget Office did recommend \$80 billion, and there is an article I wish to quote, Madam. It is on the 27th of April, 2021, *Wall Street Journal*, by Richard Rubin:

“Biden to Seek \$80 Billion to Bolster IRS, Tax Enforcement”

So we are having problems here, they are having problems there. And it is—according to this article if you put in \$80 billion they think they can get \$700 billion. So it is the same discussion we have been having here. It is being having there in the leading democracy in the world.

Madam President, the other issue I have is the fact that if you are now getting involved in this piece of legislation here, the issue I had really was not so much the need for it. I see the need for it. I see the need to reduce that—the tax gap we have, you know, to have that way where we can get moneys to run things. I see the need to make a more efficient system. I realize that, you know, that changes are needed, and changes are needed not here but other countries, other Caribbean countries they do that change. So I see nothing sinister in trying to get a change.

I see, Madam, that the concerns that we had with the ministerial overreach it could be addressed. I am looking at the fact that we have to be cautious though that if we are now getting a better enforcement system, that we do not really tax out the small business and medium sized business. This again would be the policy the Minister of Finance has and given to the Board, and he would be the one to address that concern, that policy to see if, you know, we would have to have some sort of buffer for persons who are there. Because people are already suffering under this COVID economy, and the fact that oil and gas, you know, is not as good as before, our economy from that. So therefore, I am looking at whatever directives he gives, he would have to be cognizant of that and I am sure he would be cognizant of that effect because the Minister of Social Development and Family Division would obviously be able to tell him the amount of persons in society who are seeking help. So therefore, that is one concern I have, that you would not have that level of taxation that certain businesses will continue folding.

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

There is a study done in the United States, Madam President, where it showed there is an alliance between certain politicians and big companies. And that study actually was an ongoing study and it mentioned that this causes a lot of discontent in that area. But remember it is a capitalistic country and they may have alliances there. So even though they have alliances here, we must look out for any sort of alliance that could occur here.

So insulating from public—insulating from interference, I think we have recommendations in place and I am hoping we can bring this on board. The fact is when I looked at certain aspects of the Bill, Mr. Vice-President, I looked at the—there is a section here where it allows the Authority to actually take part in its own sort of finances in terms of investments. And when I look at clause 9(5), you know, it mentions here:

“A contract between the Authority and one or more members or between the Authority and another person of which a member is a director or an officer...”—in the Authority.

It mentions here there are certain safeguards that you know if you are going to do that you will have to look at that contract, and you have to have—if a member has a direct or indirect interest, you know, we have to look at the relationship that has gone on, the contract. And I am suggesting that any sort of contracts like that, that the Authority is going into, should be something that the public should have a sort of an insight into, a sort of transparency.

And I am saying that we have to realize that if you are giving the Authority the power to look for its own finances, the powers of the Board to actually raise finances, we have to be careful. Because you see, part of it clause 8 speaks on:

“the finances, real property and other assets...”

That is clause 8(1)(c) and also:

“...the securing of contracts the procurement of goods and services and other administrative activities;”

So therefore, if you are going to have procurement of goods and services, I think we need a better oversight on that.

Madam, we had other boards sometime overspending—Mr. Vice-President, sorry, we had other boards overspending. We had other boards probably in the—coming into the news recently where, you know persons claim, “Hey, they may not have had good fiscal management.” So therefore, we have to be very cautious. We are now going to put another authority that may be somehow going into some sort of a venture, or might be in good faith, some sort of a venture, and by doing that if it runs afoul of some economic factor that we cannot foresee, they may be accused of somehow spending and wasting taxpayers’ money.

So I would like, you know, the fact that we had, you know I like the fact that we had the Auditor General having an oversight. And clause 33 did speak on that. And the oversight part in it is something that I welcome. But there is a part here where it has mentioned that you know they are not really subject to the Central Tenders Board, and I am looking at clause 28:

“Exemption from Central Tenders Board Act...”

Where 28(1) says:

“Subject to subsection (3), the Authority in pursuance of its functions, is exempt from the Central Tenders Board Act.”

We may have the procurement legislation there but what I am saying is that, you know, the greater oversight we have, you know, I am thinking all of those accusations about authorities over spending, buying things that they do not need, as they say the regional health authorities bought some machines in Tobago where

they do not have people to run it. So when you have questions like that, we need proper oversight once is taxpayers' money. So, I would like to see if somehow we can be satisfied that there would be some oversight in its spending.

Now, another concern I have is:

“The Board shall, subject to the Minister’s approval...”

That is 28(2):

“...make rules relating to the award of tenders and contracts and those rules shall govern the conduct of the award of tenders and related matters.”

I am again wondering why do we really need the Authority to try to raise its own funds? Why can it not really look at the functions that they have to do and any sort of fund raising, you know, let the moneys that they get go into the Exchequer, and let the Exchequer now take it, and if they need something they approach the Minister to say, “We need a building, we need something, we need some sort of a—” you know any other funding they may need, rather than them going in to the trying to get their own sort of what I would—business venture.

I am thinking having them in a business venture at this time we should possibly remove that from them. You know, do not give them that sort of authority to do that. Are they a business entity? If you look at the—you know, would they have people to know what is a good financial risk to take? I do not know, but I am thinking it is something I am a bit concerned about.

Another concern I have too is where in clause 29:

“The Authority... shall be exempt from all taxation of every kind and description, including customs duties, corporation tax, value added tax...”

Why? Why exempt them? They are the—let us say somebody there decides they want to buy some luxury car; would it be exempted? Let us say they wanted to buy any sort of luxury items that persons may question. Why are they bringing it?

Suppose they decide they want to bring in Mercedes Benz, SUVs for the Authority? No, let them pay their taxes as they are entitled to. So, I am also not in agreement with clause 29.

And I am also looking at the fact that clause 30 speaks on the strategic plan that they have to present every three years, and I think that is an excellent proposal because we really would need feedback. So clause 30(1) to (5) actually speaks on the plans of operation and how to get it run efficiently. So I think that is a problem we have, that we are creating an authority, but will they be running efficiently as the—you know, more efficient than what we have now? And this is something to keep that level of efficiency. We need oversight and we need this oversight there. And I am saying that not necessarily will it give us that level of comfort, because I remember when the VAT office came on board it ran beautifully. And then afterwards it started to decline. So new things, new staff may somehow have that drive, but after a while you may find that they may come back to the norm. So if you do not get a cultural change throughout Trinidad and Tobago, a work ethic to say this is how we have to do things, we may actually be going into a situation where next five years, next ten years, we will be coming back here again to see how could we—

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

Sen. Dr. V. Deyalsingh: Thank you, Sir. So, Sir, I think we really need cultural change. And in the workers at that person but you have to have a cultural change in the country.

I am thinking that we have to have the—one clause I was a bit concerned about is clause 14, the functions of the Director General Enforcement Division where, the fact is when I looked at clause 14, part (3)(b), the Authority now—the Director General should you know, you could hire other such employees:

“...of the Authority as the Board thinks fit.”

Now remember, we are hearing talk about political patronage. We are hearing talks about you know, they may fill it with only their supporters. So somehow we have to counter that some way. We have to have more transparency into the hiring practice, you know, so therefore, we would not have the same discourse, you know, coming in our landscape saying that it was— So that aspect there, any sort of hiring practices I think we the public would need to know how they go about it.

Another section, Sir, is clause 15 when it speaks on—15(4):

“If the Director General or Deputy Director General...resigns...”

—et cetera. You know, the Minister:

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

I would have rathered a timeline there, so whoever is in charge of posting those persons in would know we have a month, two months, to fill that position. Because if that is so, we would be running it the same way where it may be as the Public Service Commission, they may not be able to be you know, on top of things, of hiring persons. We may be falling into the same trap.

So when I went through this Bill also, I was also satisfied with the checks and balances that—some of the checks and balances that occurred for the firing of the individuals. I was satisfied with the fact that you have individuals there that may not work so you have to get them out of this scenario. So Sir, I would like to say that it is a pity that we have, you know, they be allowed, the Public Service Commission, not to actually have its full capacity to fill posts. I do not know why? We need to look at that.

There is a suggestion from some—a Senator there that they have to do a Bill

of Rights but some countries have—they have something called a “taxpayer union” which bring governments waste to the public notice. And also, you know citizens really should demand proper stewardship of government funds. And Sir, in a sense, I want the Government to raise the revenue. I have a hesitation how it came about this time, because you see, Sir, when you bring across this legislation and you basically take out the three-fifths majority, I think that goes against the spirit of our Constitution. Our Constitution is built in with checks and balances for all these— You know it is there. When Eric Williams and the other authors wrote it they realized there may be abuse of power and those things were in place.

So I, you know, look at this and I am disappointed that you know, instead of the Government and the Opposition sitting down and somehow coming to some sort of consensus that it had to go the Suratt way. And I think Suratt, you know, is probably a way Government may have to use to get things done, but I say Suratt has in my opinion brought an injustice to our Constitution, in the sense that the spirit of the Constitution somehow people could use that Suratt judgment to erode the spirit of our Constitution.

So, Sir, I may say if I vote against this or abstain from this is not so much of the revenue collection or the Authority, but it may be my objection to the Suratt judgment being used in cases like that which disseminates the Opposition, disseminates the Independent Senators’ opinion too. Thank you, Mr. Vice-President.

1.00 p.m.

Mr. Vice-President: Leader of Government Business. [*Desk thumping*]

The Minister of Agriculture, Lands and Fisheries (Sen. The Hon. Clarence Rambharat): Thank you very much, Mr. Vice-President, for the opportunity to speak on this Bill, the Trinidad and Tobago Revenue Authority Bill, 2021. Mr.

Vice-President, this Bill has 35 clauses and I intend to speak on maybe four or five clauses in particular. I listened to my colleagues on the Opposition Bench and a lot of attention was payed to the role of the Minister and some fallacies from my friends on the other side in relation to the role of the Minister, the Board and the composition of the Board and selection of the Board, the purpose and functions of the TTRA which is under clause 6 of the Bill, the staffing, in particular clause 13. And, Mr. Vice-President, it is very important that we understand some of what my friends have said in relation to the Bill.

I have said it before, that there is a trend amongst the Opposition to talk about this thing that Sen. Mark describes as creeping dictatorship, to talk about ministerial overreach and Ministers wanting to grab power, power grab. I have not heard my friend Sen. Nakhid as yet, I could imagine the fallacies and fantasies he is going to give us when his time comes. But I want to address this issue of ministerial power and my friends have very short memories. There is an expression we use in this country called “do so doh like so”. So I am going to take us down memory lane because Bob Marley also said if you do not know your past, you would not know much about where you are now and where you are going.

So on this issue of ministerial power, you see, the argument has been made that this TTRA Bill takes power away from somebody who has it now and puts it in the hands of a Minister in a way that is capricious. And I want to remind my friends of two examples where their argument is just a waste of time and a waste of parliamentary time. I want to go back to the then Minister Fuad Khan who brought a Bill to the Parliament called:

“An Act to Establish the National Health Services Accreditation Authority of Trinidad and Tobago”—and that was No. 7 of 2013.

And I want to make two points in relation to this Bill and I want you to pay more careful attention to my second point than to my first. But this Bill like so many others follows a template that has been used over and over in the creation of authorities in this country. And all these Bills have five things in particular. I am using this one just as an example, just to jog your memories. I do not know if you remember that Fuad Khan is a UNC. I know sometimes he does not behave like one but he was a UNC Minister when he brought this Bill. And the five areas that are traditional in these Bills are, the role of the Minister, the appointment of the Board, the power of the particular agency or authority, the regulatory power of that authority or agency and something that you seem to make a lot of weather of even today, and that is the regulatory-making power of the Minister.

In all these Bills, there is reserved onto the Minister, a regulatory-making power; that is nothing new. And in this Bill, take you very quickly, clause 3, the Minister is defined as the Minister of Health, as the Minister is defined in the TTRA Bill. In clause 6, the Board—the Board is a seven member board and of those seven members the Minister has a discretion in relation to three of the seven. Three are public officers and one is selected by the RHA—by the THA, sorry. That is similar to what we have now in the TTRA. In clause 6(2), you see the power and the power is to conduct and advise on the accreditation of health care facilities. You see in clause 7, that this authority is a regulatory authority and in particular one, at 7(c) of that Bill, one which confers accreditation status on health care facilities. And down at the end, section 29, you see the standard regulatory-making power:

“The Minister may make Regulations to give effect to the purpose of this Act.”

So, when you look at this, a UNC Bill, brought in 2013 with the same five characteristics of the TTRA that is before you now, you realize that the structure of our Bill, TTRA Bill is no different and what you have done is you have abused the parliamentary time by bringing these arguments that really could hold no water.

But I want to tell you about the second part of this Bill. You see, I listened to all of you on the Opposition Bench—you called it the “Imbert Revenue Authority”, you cast a lot of aspersions on my colleague about wanting to grab power and overreach and so on. But I will tell you where your attention should really have been because the second point I want to make in relation to that Bill brought by MP and Minister Khan, the National Health Services Accreditation Authority of Trinidad and Tobago Bill. The second point I want to make is this. This Bill was laid in the House and the second reading of the Bill was on April 19, 2013, April 19th, and I went through the *Hansard* and I want to tell you this, as you make these allegations against the Government as a whole, I want to tell you this: at no point in piloting that Bill, Minister Fuad Khan as he then was, declared a conflict of interest or a potential conflict of interest. You see it is a matter of public record that Fuad Khan has been a shareholder of the St. Augustine Private Hospital for a while, and I did not need to go far to confirm that, I know that, but if I wanted confirmation it came from Fuad Khan himself.

You see, in 2017, my colleague Terry Deyalsingh, the Minister of Health made a statement in the Parliament about someone who was not named and Mr. Khan, Fuad Khan felt the need to do a video and to put it out in public, saying that he was the shareholder of a health institution that Mr. Deyalsingh was referring to. And he made it clear in that video that he was a shareholder of St. Augustine Private Hospital. And I know I want to also refresh your memory. There was a time in Mr. Khan’s stint as Minister of Health, it was discovered that he was still in

private practice and the Prime Minister at the time, Mrs. Kamla Persad-Bissessar, made it known publicly that he needed to stop his private practice and around that time, Mr. Khan talked about putting his shares in a blind trust and so on. But whether he put it in a blind trust or what he did with his shares, the fact is that when Khan piloted that Bill in the House on the 19th of April, 2013, he had a vested interest in that Bill, he had a conflict of interest because he as a shareholder whether in blind trust or not, was piloting a Bill to confer accreditation on health facilities that were competing with his private interest. And none of you, nobody in this country to this day felt the need to point out that glaring conflict or potential conflict of interest.

And the UNC comes in the debate on this Bill with fallacies, not pointing to any real or potential conflict of interest of the Minister of Finance; not saying to anybody in the Government on this Bench or elsewhere, where this fear arises, and what you have put in the public mind that there is something, something that the PNM is up to. But I want to tell you something, what Minister Khan said later in piloting his Bill is very interesting because he credited the same Minister of Finance today, then Minister Fuad Khan, thanked the Member for Diego Martin North/East for laying the foundation for the Bill he was piloting that day. That is the standard of the PNM, that UNC, a UNC Minister, could thank one of us for giving life to the Bill he was piloting, and today you come with the most fallacious argument to strike fear in the people's heart to reject something that this country has needed for more than 30 years. [*Desk thumping*]

And I want to take you down memory lane again, on this argument about ministerial power. In 2014, on 13 June, 2014, then Minister of National Security Gary Griffith, the current Acting Commissioner of Police piloted a Bill called the Trinidad and Tobago Cyber Security Agency Bill, 2014. And the Bill had the exact

same structure of the one piloted by then Minister Fuad Khan and the one before you today, the same structure. A Minister being responsible, a board being appointed by the Minister, powers set out in the legislation, the same provision that appears in the TTRA that the Minister will give general directions, the power to make regulations in this case, in clause 26, of the Trinidad and Tobago Cyber Security Agency Bill, the same regulatory-making powers of the Minister in clause 26. But I also as I did with the Bill piloted by Minister Fuad Khan, I also want to point out something to you.

In this Bill, which was meant to establish a cyber security agency and rightfully so, there were two things: in this agency, the power of this agency was a power that was a national—this was national, this agency was getting involved in national security matters. This agency was going to be the contact point on national security matters, in particular, cyber security. And you, the UNC had no problem, had no problem. When you look at the Board, the Agency, clause 5 of that Bill:

“The Agency shall be managed by a Board appointed by the Minister...”
—and of the seven members of that board, the Minister had complete discretion in five. The only two were the ones drawn from the Ministry with responsibility for national security and the Ministry with responsibility for science and technology but five out of seven. So if a Minister, in that case the Minister of National Security, wanted to be involved on a day to day basis and wanted to control a significant part of the national security apparatus, why were you not alert as the UNC, as the Government then, that a Bill of this nature—why were you not afraid, why were you not striking fears into the minds of the population? Because you want it for yourself. When you are in government you want what is right for yourself, but when you are in Opposition you are so sour that you become destructive and destructive to even the things that are meaningful to the people of

Trinidad and Tobago. [*Desk thumping*] And I am here to dismiss you, and to dismiss the foolishness that you have spent your time peddling. Because you have done the same, because you understand the country that you live in and I will tell you the background to the TTRA using your own words.

But I want to tell you something most important about this Bill piloted at that time by Minister Griffith. At no point in piloting this Bill, this Cyber Security Agency Bill, did the Minister of National Security say to anybody, anything about the Cyber Unit which existed in the Trinidad and Tobago Police Service at the time. This is a Bill which was taking a section that belonged in the police service and putting it into an agency in respect of which the majority of the board members were appointed by the Minister and giving it an important piece of national security to control and specifying in the legislation that the agency will advise the Minister, as well as the Trinidad and Tobago Police Service. Why did you not have fear? If this Bill was before me today as a legislator for debate, I would have frowned on the—I would have had a problem with that, I would have been thinking, as a citizen of this country, that you are reaching into the Trinidad and Tobago Police Service, removing things that are to be managed by that police service, putting it in an agency in which the Minister has a direct control; I would have said that. And when I say that on this Bill, I would have backed it up by the evidence that is before me.

But you, you could put this forward, not even acknowledge the potential for conflict and the potential issues you are creating and the Executive crossing into the police powers. You could put that then and not have a problem with it but have a problem with an authority that is our best hope in this country, our second best hope I should tell you. Our best hope was the Bill that was passed with a special majority here, which you refused to support in the House, that was our best hope.

But this is our second best hope and you are prepared to contradict your own selves in defence of foolishness.

And what is the purpose of the TTRA Bill? What is the purpose of the Bill? Apparently you in the UNC do not know the purpose of it. So let me use your Minister of Finance to remind you. Because Larry Howai when he was Minister of Finance, there is no speech that he gave that is more comprehensive than the one he gave on 26 July, 2013, at an Employers Consultative Association breakfast meeting. And I did not have to go far or do anything, any hard work. I once chaired that organization and spent a long time on the board. And when Howai spoke at the breakfast meeting, I was very familiar with what Larry Howai said. And when I listened to you, I realized that you do not even listen to your own people, you do not listen to your own people. Because in that speech, Howai spoke the language that in this House the Government has spoken. The only difference is that Howai did not have the temerity to bring what had to be brought in the manner we have done on two occasions.

Howai spoke about critical reforms, the regulatory framework, the macroeconomic challenges, the plan going forward, and he talked about revenue reform, rationalization of the current expenditure pattern. You know what he meant by that and those big words? Cutting waste and corruption. He spoke of a policy direction, tackling the subsidies and transfers. He spoke about the work going on at a time by international tax consultants, the need for reforms in tax compliance. And he said the reform will focus on Inland Revenue and Customs. You want to know the justification, you want to know the purpose of the TTRA? The purpose of the TTRA is all those things in 2013, Larry Howai as your Minister of Finance completely acknowledged. Because when you go through this speech, Howai knew the state of the country's economy in 2013.

He spoke firstly about the demonstrated commitment of that Government to strengthening the domestic climate. He said, “my vision is the strengthening of the regulatory framework”. That is what we are trying to do today relating to the financial services sector. He spoke about the macroeconomic challenge; 2013, you know. When you are about to unravel or unfold or unleash the biggest set of spending and wastage in the country, you are about to do that, Howai was talking about the risk to the growth prospects in Trinidad and Tobago of the subdued growth outlook for the global economy. Howai saw it coming and did nothing about it, you did nothing about it.

On the issue of plans, he talked about revenue reforms, as I said. He talked about the directions, policy directions going forward. He says the Ministry is reviewing all transfers and subsidies available under the various social programmes, something we had to come and do. GATE, gas subsidy, everything we had to contract. Howai in 2013, was signalling the need to do that and you did the opposite. He spoke about the gradual alteration of the impact of subsidies and transfers and did not do it, except for one change on the fuel subsidy that everybody agreed at the time was not going to have the impact. He said the Government is reviewing the recommendations of an international team of consultants on tax policy measures.

Mr. Vice-President, 2013, UNC Government reviewing, and from 2015 to the overtime, three months they went into in 2015, absolutely nothing resembling reform on tax, BIR, Customs or anything relating to putting in controls, regulating, plugging the holes, stopping the wastage; absolutely none of that. Howai said specifically, in seeking to raise revenue to significant reforms and tax compliance and administration, what do you think the TTRA is about? You want to live under a rock? When we were dealing with the gambling it is the same thing I told you,

every child walking in a parlor or walking towards a parlor in this country, knows you can play Play Whe, “whe whe”, all over the place; bar, grocery, café, and you could not support gambling legislation. You could not support the reform of the sector as part of dealing with our revenue, dealing with the leakage, dealing with compliance, dealing with money laundering. This Bill before you is what Howai was telling you in 2013, significant reforms in tax compliance and administration. This is not the Minister of Finance in our administration, this is yours. And you had no strength of character or will, you spent the next two years giving away freely and trying to make yourself more popular. And when we do the contractions, when we deal with the CEPEP and when we deal with the things—imagine you were showing profitability in Petrotrin, solely on account of interfering with the books, shamelessly, shamelessly, and wage war on us when we were doing the only thing we could possibly do. Because I asked you over and over, in the numerous debates on Petrotrin I asked you the same question over and over: When that first bullet payment becomes due, bullet payment in the tune of billions, what was your plan? And you never answered me, you never answered me and towards the end of the speech, Howai says this, and I will quote it for you, I will read it for you. He says, I quote:

“Reforms will focus on bringing the staff of the Inland Revenue and Customs Division up to full strength and strengthening the coordination between the two agencies. To this end, a group of international consultants is currently examining the operations of both the BIR and Customs and Excise with a view to making recommendations for greater operational interaction between the two revenue agencies.”

And with full knowledge of that, you did absolutely nothing. Because you are afraid, just as you are afraid of FATCA, just as you are afraid of whistle-blower,

you are afraid of firearms legislation, you are afraid of the Bail Bill, you are afraid of witness anonymity, you “fraid” anti-gang, you “fraid” trial without jury. You are afraid of the same thing—

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

Sen. The Hon. C. Rambharat:—the same thing that you advocate in ballrooms, hall rooms, platforms, Parliament, you are afraid of the same thing that you tell this country you need, but we are not afraid. We are prepared under the leadership of Prime Minister Dr. Keith Rowley, we are prepared to do what we have to do and face the consequences. And we know what it is like and we know what it is like for the country to stand before us, with us, because we won an election in 2020, fair and square. And at the end of that speech, Howai said, “we acknowledge the problems with VAT”—and you never addressed the VAT. But what you addressed is saying all the wrong things when we were faced with the Bill of refunds for the VAT, just as we had to face because in his speech, Howai boasted about settling 66 collective agreements, but never said that he was leaving a billion-dollar debt that we had to fund out of revenues to the tune of \$5 billion when we came in, in 2015.

I would not, I do not have time to go through word by word, page by page. Howai was speaking at that time, before the 2013 budget, and in the 2013 budget when he delivered it, PricewaterhouseCoopers will issue its usual budget memorandum, 2013 memorandum where it pointed out the failure to address in the budget, the issues of VAT administration, subsidies, property tax, and finally, tax administration reform.

So I say this to you, the justification for this Bill is this. I went back to Anand Ramlogan when he was Attorney General, his maiden speech in the House, December 01, 2020, on the anti-gang legislation, and this was his justification for that anti-gang legislation and I quote:

“This legislation is designed to target the rude boys and...bad boys; the rude boys and...bad boys who are so caught up and consumed with the ‘bling’ culture that when you see ‘Christmas coming up’, and...you see a ‘concert coming up’...there is bound to be a spike in crime.”

And I want to say to you today, UNC, in the words of Anand Ramlogan, we are targeting the rude boys and the bad boys, the rude boys and the bad boys, the rude girls and the bad girls, who are involved in tax evasion, VAT corruption, Customs corruption and BIR corruption. Because it is not only concert—it is not only for concerts and Christmas crime is committed. Year round some of you and your friends commit crime, what we call white collar crime and you are afraid of anything that deals with that, anything, follow the money, FATCA, whistle-blower, anti-gang, firearms, gambling, bail; you are afraid of it.

And I will end by telling you this because you talk about capricious. Stealth and capriciousness did not bring us back to this Senate a second time. Your attitude, your fear and your consistency in never supporting anything that is in the interest of the people of Trinidad and Tobago is what brought us here with a simple majority Bill, for the sake of this country. Thank you very much. [*Desk thumping*]

1.30 p.m.

Sen. David Nakhid: “In the name of God, the Most Gracious, the Most Merciful”. Mr. Vice-President, thank you for the opportunity to address this august Chamber, and coming after a very impassioned and typically vacuous submission from the Minister of Agriculture, Land and Fisheries, I am not surprised. He reminds me of a boxer who has fought 40 times in a ring and lost all; shows potential, but can never deliver a knockout punch. So, he talked about fallacies and he talked about a health Bill by Fuad Khan, and a whole host of other issues, but never addressed the Bill as to why and how he could defend what is, essentially, the indefensible, and

that is the, as far as I have seen—and I am wrapping up for my colleagues—this is a Bill that, essentially, is about defending the indefensible.

And we have a saint from the Arabian Peninsula, Mr. Vice-President, called Imam Ali ibn Abi Talib. When he was asked, how do you defend the indefensible? And he said:

You have to look at most dichotomies, most disagreements, most dilemmas. Most of them can simply be put into the columns of right and wrong, except those of an esoteric nature.

And this Bill falls squarely into those—one of those columns, and this Bill is wrong. The legislation is wrong, the language is wrong and the intent is wrong. And let us go into that a lil bit.

My colleagues dealt with a lot of the clauses that give extraordinary power to the Minister of Finance; extraordinary power. They never addressed that, none of them. They skirted it. They talked about it was structured like the health Bill, as our colleague just submitted, but matters of finance and matters of health, we know are like apples and oranges. We know that. That is clear. So, obviously, he was being very duplicitous. You are talking about actual money; money that you have to deal with, account for, with a whole host of clauses. So, I would not dwell too much on the Minister of Agriculture, Land and Fisheries' submission, just to let him know that Bills, words, they are guidelines, but policy implementation is where the PNM has been an abysmal failure.

We have had 49 years of governance of the PNM, and all of this that they talk about right now—all of this they talk, they talk about the Board of Inland Revenue and Customs and Excise like if somehow the corruption, the incompetencies, the inefficiencies, the squandermania in those just appeared out of nowhere, and that is one of the greatest deceptions that the devil does.

My grandfather used to tell me, the Devil, that is his greatest deception. He will make you feel he does not exist, and that is the PNM. So, all of this squandermania and wastage, inefficiencies and incompetencies from BIR and Customs and Excise, that appeared magically, poof! “PNM eh ha nutten to do with that.” Who “allyuh” fooling? The people of Trinidad and Tobago, they have woken up from their self-induced spell. You all are primarily responsible for the squandermania and wastage that we see now in the BIR and the Customs and Excise. [*Desk thumping*] You all! [*Desk thumping*] Do not come here and play you are shouting. Minister of Agriculture, Land and Fisheries, that is not you. You yourself admitted here that you are not the best and brightest in one of your submissions. That should have been the end of your submission right there because you clearly show that every time you speak. So—

Sen. Lezama-Lee Sing: Mr. Vice-President, on a point of order. The Member is imputing improper motives against the Minister of Agriculture, Land and Fisheries. **Mr. Vice-President:** Okay. So, Member, just in terms of the language in relation to a Member, based on what you just said, just temper it a bit. Continue.

Sen. D. Nakhid: Mr. Vice-President, I imputed no improper motives at all. As a matter of fact, I have stated before, I have quite a lot of respect for him, but clearly not for his intelligence.

So, Mr. Vice-President, he also said that we referred to this Bill as the “Imbert Revenue Authority Bill”. But that is exactly what the clauses we have here: 7, 4, 9, 9(5), all of them that my colleagues went through and some on the Independent side, they went through those as well. If it gives the Minister of Finance these unchecked powers, we have to call it out, and then you have to tell us, because this is a debate, why this is not so. None of them have done that, none of them. All they have come and talk about is what happened in 2013 and what

they intend to do, and we should not make conspiracy theories. But we are pointing out to you, in clauses right before us, in your own language legislated by your own Attorney General, that these clauses give him unchecked powers. Tell us why it does that? We should believe so and you all say so? You have been saying so for 49 years; 49 years, and we have reached this point because of your inept governance.

So when we talk about—okay, we do not refer to it. We will call it, this Revenue Authority Bill, we will call it like the people on the street call it, Mr. Vice-President. You know what they say, the people on the street? This is a new DSS. Yeah. This is the Government DSS. You do not know how the money coming in and where it is going. You do not know what they will do with it. That is what the people on the streets saying, and they are saying the “D” stands for “douen”. So this is the “douen sousou”. And why? Because a “douen” is a folkloric creature that we have in our culture, Mr. Vice- President. You do not know that? He just comes in the night and takes whatever you work hard for, just takes it and goes with it. So, Mr. Vice-President, I dealt with the worst first, which was the submission of the Minister of Agriculture, Land and Fisheries, and we will take a look at the Minister of Trade and Industry, what she said. She said: “Doh worry about the workers.” She did not tell us how. She said the workers do not have nothing to worry about. She said, clearly no guarantees in this proposal what will happen. But then we have to remind them, if they want to go down memory lane, Minister of Agriculture, Land and Fisheries, we could take a look at Petrotrin. Mr. Vice-President, 11,000 workers approximately sent home on a lie. I am not making up something. This is documented. Mr. Vice-President, 11,000 workers sent home on a lie. You want the country to fall for another lie that we should trust you all? That is not how it works in the Parliament. You have to bring ironclad legislation

for us to agree with you and, hopefully, for the Independent to agree with you all as well. Do not think for one second that every citizen is Ancel Roget that they could kick around like a football, and tell him anything and promise him. No, we are not. You all have to account to us. We are the official Opposition of this country.

I mean, even our political leader in that other place, she had to give “allyuh” a “bouff”. She said if you do not know the law do not speak about the law. She had to tell “allyuh” that. I had to come back and do the same thing here. If “allyuh” do not know the thing, stop speaking about it. Do not come and tell us we should believe you, because you say so and we bring this before. That is not how legislation is passed. Let us know how this legislation provides checks on the Minister of Finance. Not one of you all have done that, not one.

Let me give you all a lil titbit of advice. You all here for 49 years, why you all intent on bringing in a whole new authority? Has there been a cost-benefit analysis done? I heard someone made mention on the Independent about it. I think it was Sen. Deonarine. She spoke about that. So when she spoke about that, I said, “What, that is something.” So I went quickly and did a lil research. You know what were the first touted figures? Because the Senator did not seem of have the figures. The first touted figures back in 2011 was then a man call Mariano Browne or Karen Tesheira—correct me if I am wrong, if you know—and the figure touted to establish a brand new authority was 350 million in 2011. What would that cost be now? Mr. Vice-President, 600 million, 700 million? Where are you all getting that money from? You all just squandered 500 million in NGC and a 200 million that just come out. That is 700 million already. Now, you all are looking to find maybe 500, 600, 700—and God knows how much with the PNM—to make a new authority and tell us, trust you and believe you? What world you all living in? You

all cannot even give—this Minister of Finance cannot even dispense proper social relief grants, salary relief grants. He cannot help the small and medium enterprises to get back on their feet. He cannot. And he want to go, what? And spend 500, 600 million on establishing a new authority. What is the matter with you all?

As our political leader of the Opposition said, “If you do not know the thing, stay away from it.” Why “allyuh” want to come and make an authority that has no accounting for—no checks and balances in place, giving a Minister of Finance who has not developed any income stream, who has a serious fiscal deficit in the energy sector and has not been able to do anything to create employment, and you all telling us now to trust you with the Revenue Authority? He could go and invest that how he wants. He can borrow what he wants. No limits on how much he can borrow. “Allyuh” mad! No. No. So, “allyuh” could come with all the impassioned speeches and talk about Fuad Khan and Larry Howai? Let us know in this Bill how you are going to account to the citizenry of Trinidad and Tobago. Do not come and tell us trust a Minister of Finance whose education in economics is purely 101. A complete failure.

Mr. Vice-President, so I looked through a lot of the clauses, as did my colleagues, and then I found one that no one addressed, and this is—I think it is, 7(4), 7(4). Yes, 7(4):

“A person, other than the Permanent Secretary and the Director General appointed under subsection (2), is disqualified from appointment as a member, if he-”

And they go on about what disqualifies that person. But the devil is in the details, Mr. Vice-President, because already the Permanent Secretary has gone through the scrutiny to be Permanent Secretary. So they have actually included that as a disguise to suggest, it is not only the Director General who will be excluded from

this disqualification, this criteria, a person other than the Permanent Secretary. No. Once there is a Permanent Secretary, they would have had that scrutiny. So, in reality, what they actually mean is a person who is Director General only. Meaning what? He is not subject to all of these disqualifications. He is not. In other words, he could be a bankrupt, a convicted fraudster, all of that, and he can still be appointed Director General on the whim and fancy of the Minister of Finance. Utter madness.

They like to quote Denmark. Show me one place, one clause, in Denmark's legislation when a convicted fraudster or a bankrupt from any of the Scandinavian countries that they quoted, that he could become a Director General of such an authority? Not one. So when you are quoting, be careful how you are quoting. Do not try and sneak in that here in that legislation. But given the legal luminaries we have on that side, no wonder.

I looked again, and I said, these conflicted interest—and I will show you where—in clause 9(5), it reeks of possible nepotism. If you want to be on the board then you have to make the sacrifice that you should not benefit and your business interest should not benefit. As we say in the Middle East, “kaza, kaza, kaza”, and they talk about that. It is laughable in the extreme.

It seem as though this Government, they want to rewrite the law as it relates to conflict of interest and recusal. It seems like the new norm, the new ethos of this Government is to almost legalize nepotism. So from One and Three Alexandra Place, to where? To what? Where you all want to go? Where you want to go? People struggling. Mr. Vice-President, 4,000 admittedly from this Minister of Finance, given grants out of 24,000. Has that situation improved? Where do you want to go and spend millions of dollars, hundreds of millions of dollars to establish that?

Why is this PNM Government obsessed with building things instead of fixing things? You know why? Not much possibility of malfeasance in fixing things. That requires work. That requires intellectual capacity. That requires a certain moral compass. But “allyuh” come by me with accusation of corruption. Come by me with that. I could talk to “allyuh” about that, all of you all on that side. Because when I look at the black communities up the East-West Corridor, what have you all done for them in 49 years? What have you all done for them in 49 years? Not one thing. Not one new initiative. All those communities are suffering until now under you all, and you all want to come here and pontificate? The Minister of Agriculture, Land and Fisheries, I am feeling sorry for him, pontificating about us. Communities under your direct representation for 49 years, in a pandemic, you have done nothing for them, but licks, upon licks, upon licks for them, and “allyuh” want to come and talk.

Mr. Vice-President, the sad thing, when you look at clause 9(5) is this eviscerating, specifically of the Central Tenders Board, coupled with the emasculation of the procurement legislation. This new paradigm is an anathema when done by others, similar to what the Minister of Agriculture, Land and Fisheries said, but perfectly moral when this Government does it. They see no problem with that. Emasculate the procurement legislation, eviscerate the Central Tenders Board. No problem. Makes me have to ask, you know, if this was attempted by the UNC, where is the Transparency International? Missing, gone missing, to pronounce on all of these conflict of interest that this Government brings to the fore. Shame. Shame.

So, Mr. Vice-President, I purposely did not go into too much repetition because I wanted to try and raise the awareness of our colleagues also on the Independent Bench that it is extremely important to exhibit some kind of, if not

moral fortitude, at least, some political courage, because to try and pass this with only a simple majority is political cowardice. Let us call it what it is. It is political cowardice. If they felt any justification, any courage of conviction, they would have kept it to a three-fifths, and they would have brought some robust legislation that we could debate and possibly find some redemptive quality about this Government. We have seen none of that.

So, I hope our pleas, our submissions will find some resonance with those people who have some measure or some moral compass that guides north and the potential for abuse by this Bill is absolutely, absolutely incredible. You cannot, as a country, who talks about transparency and wanting to improve the ease of doing business—I heard that is now extinct—but of doing business properly, of cutting corruption, put all this authority in the hand of a man who is politically guided. It is absolute nonsense, and they know that. So that is why all of their submissions have never really touched on the Bill and the reigning in of that.

So, again, I hope that the people who will vote on this Bill, will not allow this Government to create, through this Revenue Authority, a parallel fiscal economy—because that is what this will be—without checks and balances. And we know this is a Government who likes to talk about parallel and we saw how that went with the parallel health care system, abject failure; abject failure.

So my cries and my pleas—I am not naive in that respect. I am sure that no one on that side can be convinced of their own ineptitude. So my cries are for the Independents to not allow these kinds of economic powers to go unchecked, certainly not in the hands of a man who has demonstrated no aptitude for the job, in my opinion, and respectfully so.

So I would like just to put, finally, a quote by Walter Block. Walter Block wrote a book. It was translated into 10 different languages and it was called:

Defending the Undefendable. He did not say “indefensible”. He said “undefendable” and it was parts satire, but it was a very, very introspective, a very, very, nuance perspective on how do you defend the undefendable which is this Bill. And what he did? Finally, he said those who seek to defend what is basically undefendable or indefensible can be put in different categories and those categories were: pimps and prostitutes, scabs, slumlords, dictators, misers, price gougers. Those are the people you will find who would defend the indefensible. And I thank you, Mr. Vice-President. [*Desk thumping*]

Sen. Deeroop Teemal: I thank you, Mr. Vice-President, for the opportunity to contribute to the Bill that is before this Senate. What we have before us in this august Senate for consideration is the Trinidad and Tobago Revenue Authority Bill, 2021, which comes after the Trinidad and Tobago Revenue Authority Bill, 2019, which was passed in this Senate at the end of April by a three-fifths majority, but subsequently failed to get the required three-fifths majority in the House of Representatives due to the lack of support from the Opposition Members.

Mr. Vice-President, in piloting this Bill, the hon. Minister of Finance, was kind enough to outline the rather tortured route that the respective Bills regarding the establishment of a revenue authority have had over almost a 10-year period. However, an examination of this 2021 Bill reveals certain additional major changes or additions or amendments to the 2019 Bill, which I would like to briefly summarize, and at the end of which I will tie it in to the point that I would be making.

Under the interpretation chapeau, which starts on page 7, definitions for “Customs laws”, “Enforcement Division” and “Excise Act” have been added. Clause 13(1) has been changed to allow for the introduction of a Deputy Director General – Enforcement, who would be a public servant and would be head of the

Enforcement Division. Clause 13(4) places the Deputy Director General – Enforcement outside the terms of appointment of five years, whereas clause 13(5) allows for the salary, allowances and terms and conditions of the service of the Deputy Director General – Enforcement to be under the remit of the Salaries Review Commission. Clause 14(1), section (6) allows for enforcement of revenue laws by means of civil proceedings by the Director General. Clause 14(2) gives the responsibilities of the Deputy Director General – Enforcement. Clause 14(3) deals with how the Enforcement Division shall be constituted. Clause 14(4) places the appointment, transfer, removal and disciplinary control of the Deputy Director General – Enforcement and public servants in the Enforcement Division under the Public Service Commission.

Clause 14(5)(c) and (d) deals with the general and policy directions for the Deputy Director General – Enforcement and the lines of communication for such, whereas clause 18(2)(c) deals with the option to transfer public officers to the Enforcement Division by the Public Service Commission.

2.00 p.m.

We see clause 23(4) allowing for salaries and allowances of public officers in the Enforcement Division to be charged under the Consolidated Fund, and clause 40(1) allows for reference in any written law to the Commissioner of the Board of Inland Revenue or Comptroller of Customs and Excise to be considered as reference to the Deputy Director General of enforcement in the case of enforcement of customs laws, the Excise Act, or other revenue laws, and to the Director General, in the case of enforcement of revenue laws, by incurring civil proceedings.

The Schedule as compared to the 2019 Bill, allows for an extensive revision of the listing given in the 2019 Bill of the revenue laws which according to the

provisions could now come under the enforcement of the Director General through civil proceedings, as stated in clause 14(1)(vi).

Mr. Vice-President, I have gone to some length to summarize what appears to be the major changes to the 2019 Bill, and all other aspects of this 2021 Bill before us appear to remain the same as the previous 2019 Bill. In the Bill before us, the Preamble and clause 2 of the 2019 Bill, which addressed inconsistency with sections 4 and 5 of the Constitution, have been removed. As a result, we have been informed in this Senate during this debate by some of the hon. Government Senators, that a three-fifths majority is no longer required. I ask the question: In light of the changes that I took the trouble to summarize, what is there due to these changes that exonerates this 2021 Bill from requiring a three-fifths majority vote?

I would like to return to clauses 14(1) and 14(2)(b), which deal with the responsibilities of the Director General and the Deputy Director General of enforcement. It should be noted here that in clause 14(2)(b), also gives the Deputy Director General of enforcement with responsibilities with regard to the enforcement of customs laws, the Excise Act or other revenue laws. Whereas clause 14(1)(vi) also appears to give this responsibility for the enforcement of revenue laws to the Director General.

I ask the question, hopefully to be answered: Under this legislation, who would have the primary legislative responsibility for the enforcement of revenue laws, would it be the Director General or the Deputy Director General of enforcement? I would also like to return to clause 14(5). Clause 14(5)(c) states that:

“the Deputy Director General – Enforcement is subject to the general directions of the Board...”—as communicated to him by the Director General.

Clause 14(5)(d) states that:

“the Deputy Director General – Enforcement is subject to the general policy directions of the Minister which...”—is communicated to him via the Director General.

The question is asked: Would this not create a management conundrum, where directions are issued by one party to another, but the party in question is accountable to a separate entity, in this case the Public Service Commission?

Mr. Vice-President, this is exactly the management nightmare that stifles the efficient functioning of the public service. What measures are there if the Deputy Director General – Enforcement refuses to follow the directions of the board and the Minister, and the tedious and lengthy process to remove, transfer or discipline the incumbent must go through the Public Service Commission? Then we are back into the same situation that we are trying to avoid by the formation of this Authority.

Consider the impact this would have on the efficient functioning of the proposed Authority, for we seem to be transferring an inherent problem into a brand new authority. In other words, this is not change, but it appears to be exchange, particularly when the Enforcement Division within the Board of Inland Revenue is one of the areas of the Board of Inland Revenue that is probably the most corrupt, that we are trying to change with this new Authority.

Mr. Vice-President, these points signal my overall concern about the hybrid model for the intended Authority, and the inherent management challenges that this would entail. Why are we engaging in setting up a Revenue Authority on such a model in which there is an administrative separation between the Deputy Director General – Enforcement, the Enforcement Division and then the other operations of the proposed Authority? I ask: Is this necessary in order to

circumvent the need for the three-fifths majority vote, and is the resulting compromise worth it?

Mr. Vice-President, our nation is in a position of what I would refer to as legislative paralysis, or legislative gridlock, or legislative lockdown, when it comes to passing legislation that requires a three-fifths majority. The Opposition has adopted a position of not supporting such Bills, and, thus, the Government has resorted to withdrawing such Bills, and re-presenting them in modified incarnations that we are advised negates the need for the three-fifths majority. The Opposition has stated on many occasions that they intend to take up the constitutionality of this Bill and similar Bills in the court, in the courts of Trinidad and Tobago and, if necessary, all the way up to the Privy Council.

Mr. Vice-President, no disrespect to the learned Attorney General, but this Senate has not been provided with the benefit of any written legal opinion regarding the shift in this constitutional requirement. The Government has chosen not to present written opinions from constitutional experts or senior counsel to this Senate, or to actively seek the engagement of stakeholders, such as the Law Association and others, as far as I am aware. With such an approach, Mr. Vice-President, we run the risk of legislation that could possibly hamper the establishment and growth of the very institutions and bodies that we are seeking to establish, to re-purpose or to rehabilitate for the national good, as we see here in this instance with a hybrid model being proposed for the Revenue Authority.

It is understandable that the Government may think it is caught between a rock and a hard place, since there is no seemingly available other option to take, other than revising legislation such that it does not need a three-fifths majority. But at the same time, legislation requiring three-fifths majority has been deliberately enshrined in the Constitution for the specific reasons of ensuring certain citizens'

rights and to safeguard the spirit of democracy.

It may also be understandable that the Opposition may choose to defend their position through the judicial system, in what they see as their only option possibly in this impasse. It seems as though we have entered into an era of legislative gymnastics. With a predominantly two-party political system, with the two exceptions of the NAR Government of the period 1986 to 1991, and the PP Government from the period 2010 to 2015, historically we have seen governments change based on slim majorities. Thus a sobering reality is that this legislative gridlock could last for quite some time into the future, if there are no changes to the current position of both parties.

At the risk of sounding politically naive, if there is not a spirit of responsibility amongst all, to explore and identify workable mechanisms for the breaking of this legislative gridlock, then there is a definite probability that our nation would be saddled with this legislative lockdown for a long time to come. With a very troubled economy, the COVID-19 pandemic, a pandemic-driven future, the exponential growth of the ravages of climate change and the need to meet our sustainable development goals by 2030, Mr. Vice-President, it is inevitable that the need for far-reaching legislation which requires three-fifths majority would definitely arise in order for us to effectively deal with these challenges. Mr. Vice-President, we need to get ourselves out of this legislative gridlock. I thank you.

Mr. Vice-President: The Attorney General.

The Attorney General and Minister of Legal Affairs (Hon. Faris Al-Rawi): Thank you, Mr. Vice-President. May I just be reminded of the speaking time in the Senate please?

Mr. Vice-President: Thirty minutes.

Hon. F. Al-Rawi: Three zero? Much obliged. Thank you very much.

Mr. Vice-President, it gives me great pleasure to contribute to this Bill, and permit me to, first of all, express my deep gratitude to hon. Members for their contributions. Certainly I wish to address what I considered to be the crystallized issues standing before us.

Sen. Teemal delivered what I think just now was the crystallization of the situation that we stand in. Sen. Teemal properly reflected that Trinidad and Tobago, comprised of a largely two-party system, is in a situation where we have to pass laws, and that the Opposition has taken a particular view that they will not be supporting laws of a three-fifths kind. The statement was made which I wish to address, lest an impression runs away from us, that the Government has adopted— Sen. Teemal was very careful to say it correctly that the Government has adopted an approach where we would approach the Parliament with simple majority laws on such occasions where those laws can be passed with simple majority passage.

I would like to say, Mr. Vice-President, the record is replete with demonstration and examples of many Bills that we have brought to this Parliament, which are solely and completely and only three-fifths majority laws. Why? Because that is the only way that the law can be addressed. I would remind FATCA. I would remind the tax information exchange packages. I would remind the Anti-terrorism Act. All of these particular laws have been addressed because they require a three-fifths majority.

We have before us here, and I took up the note from Senators Deonarine and Deyalsingh, and lastly from Sen. Teemal. I have asked for the Clerk of the Senate to circulate to all Members of the Senate now, a marked-up version of this Bill which will demonstrate in red text what is new to this Bill, showing therefore what was brought from the Bill previously, the 2019 Bill, which was passed with full

Independent support in 2019. This law requires a simple majority for passage, and permit me to explain why.

First of all, the 42 clauses before us and the Schedule before us, deal with the creation of a revenue authority. Very importantly, in clause 5 we are establishing a body corporate as an authority to be known as the “Trinidad and Tobago Revenue Authority”. Hon. Members, please note by way of amendment, we are repealing section 3 of the Income Tax Act. The Board of Inland Revenue is comprised in section 3 of that particular law, where the commissioners are set up and the Board of Inland Revenue. Income Tax Act, Chap. 75:01, section 3 of that particular law is being repealed, and section 3, for the record:

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

So the body corporate, which is the Revenue Authority, is now going to receive the administrative and other functions of the Customs and Excise realm and the revenue realm.

We are not abolishing the Income Tax Act, the Customs and Excise Act. We are not abolishing any one of the 70 laws set out in the Schedule to this Bill. These laws are going to be plugged into a revenue authority. The Revenue Authority, its functions are set out in clause 6. The functions of the Authority are set out in letters (a) to (f) inclusive in subclause (1) of clause 6:

- “...assessment and collection of taxes...
- (b) ...administration of the revenue laws;
- (d) ... enforcement of the revenue laws;”

I underline at paragraph C.

“...enforcement of border control measures subject to any other written law;

“...provision of revenue collection services...”—and

“...facilitation of legitimate trade.”

It is because of the enforcement of revenue laws and enforcement of border control laws that we have to reflect upon what required a three-fifths majority in the last law. That is the law which we passed in 2019 in the Senate.

The relevant rights in the Constitution that are under consideration, are sections 4(a) and 4(c) of the Constitution. Mr. Vice-President, 4(a), the right to property and not to be deprived thereof, et cetera; 4(c), the right effectively to private life. This law creates, as Sen. Teemal very succinctly put it and correctly, an hybrid system. What is the hybrid?

The hybrid is that the Authority is to be managed by a Director General. The Director General is to be appointed by affirmative resolution in the Parliament, and we have examples of things like that. Look at the Public Procurement Regulator, look at the Commissioner of Police, those are two examples.

That Director General is assisted by a Deputy Director General – Enforcement. That officer is a public officer, coming from the Public Service Commission, to be disciplined, to be appointed by the Public Service Commission, meeting the constitutional requirements set out in the Hinds case, where the powers of enforcement in law—this now ties in to clause 6, enforcement of revenue law, administration of revenue law, standing different, enforcement of border control laws, the enforcement of laws, which in the 2019 law was being dealt with by people who were not public servants, protected by the Public Service Commission. The enforcement function of the revenue laws, and of the Customs and Excise Division are being conducted by public officers.

Those enforcement provisions are built upon the back that administrative provisions run alongside in a hybrid structure. The staff, other than public servants, will be not public servants. We have borrowed from the Privy Council approved

approach, in the Martha Perch case. The Privy Council approved that officers may be transferred out of the public service, transferred into the Revenue Authority—by way of example in this law. In that case it was the TTPost—and allowed for those officers so transferred to not be part of the public service, within the definition of public service in the Constitution of the Republic of Trinidad and Tobago, and the civil service legislation.

That has been upheld by the CCJ in the Chou case coming out of Guyana. That has been upheld by the Court of Appeal in Guyana in the Griffith case, and we are absolutely certain that examples of hybrid structures exist the world around. That has been set out in reports. I have in my hand, “Final Report of the Committee by Cabinet to examine the feasibility of establishing a Revenue Authority in Trinidad and Tobago, August 22nd, 2002”. We are nearly 10 years away from this report. We have had umpteenth joint select committees. We have had hundreds of stakeholders invited and contributed to Parliaments in this—in the previous Parliament, the Twelfth Republican Parliament. We have had decades of discussion. We know that Tanzania, we know that Kenya, we know that Guyana, we know Barbados, we know Jamaica, all have revenue authorities with hybrid structures.

Now, yes, in a best-case scenario we would leave to have the assistance of the Opposition to agree that a singular entity, properly clothe with authority, passed with a three-fifths majority, is an ideal situation. But where are we getting that with Sen. Wade Mark? From 2002, 2009, 2010, 2020, 2021, we are in analysis paralysis, no support. So what does a responsible government, engaged in an exercise of digitization, engage in an exercise of follow-the-money, engaged in an exercise of a desire to reduce the percentage of taxation that people are exposed to, by broadening the net? What do we do, wait for Sen. Wade Mark to say yes? Wait

for Mrs. Persad-Bissessar SC to say yes, or do we watch Trinidad and Tobago burn to ashes, when at this point in our history, revenue is critical so that we can relieve the burden upon those who pay?

You see, Mr. Vice-President, the people that support this country, apart from the oil and gas regime where taxation feeds us, are the people who have PAYE, “pay as you earn”. These are the hard-working citizens of our country, who never see that money hit their bank account because it goes directly to the Treasury. The simple philosophy behind this law is that everybody should pay their fair share, [*Desk thumping*] so that we can reduce the burden, lower the interest rate.

Let us deal with the constitutionality continued. So enforcement includes a number of functions. Enforcement includes the functionalities of forfeiture, penalties, duties, distress. It includes power of entry, it includes information gathering. Those are the section 4(a) and section 4(c) rights of the Constitution.

But, Mr. Vice-President, permit me to ask hon. Senators to listen to this point. The core concept of our Constitution is that the Minister of Finance has control over the revenue of the Republic of Trinidad and Tobago. Why do I say that? I want you to reflect, Mr. Vice-President, upon the provisions of the Constitution. The Constitution of the Republic of Trinidad and Tobago sets out how we are to treat with money. And, as we all aware, no Bill may be passed in the House of Representatives or the Senate or the Parliament unless section 63 of the Constitution, section 62 of the Constitution, section 64 of the Constitution is dealt with. Listen to this one, section 64 of the Constitution where a money Bill is dealt with. First of all, the Constitution sets out a money Bill shall not be introduced into the Senate.

Except on the recommendation or consent of the Cabinet, neither House shall proceed on any Bill, including any amendment which in the opinion of the

person presiding makes provision for any of the following purposes:

“...imposing or increasing any tax;

...imposing or increasing any charge on the revenues or other funds of Trinidad and Tobago...”—et cetera.

...compounding or remitting any debt due to Trinidad and Tobago;”—et cetera.

So the Constitution sets up, only the House of Representatives can deal with a money Bill, not the Senate, and then the Constitution sets up that the Senate does not even have to give its consent to a money Bill for it to pass. What is a money Bill? The budget.

Every year in the budget, and then when we get to the Finance Bill, taxes are imposed, they are varied, they are managed by simple majority, never by special majority. So the imposition of taxes is a simple majority aspect. Trinidad Island Cane Farmers set that out, where the imposition of cess was afoot. The courts have upheld that the imposition of a tax which, in effect, is a deprivation of property, because it is my money, going to pay my taxation. The laws of Trinidad and Tobago have long been upheld as allowing for taxation to be implemented on a simple majority basis. So it cannot be the imposition of tax or the management of tax that causes a problem. The Constitution says that the Senate's consent is not even necessary to pass a money Bill. Let us go into another law, Mr. Vice-President.

Let us go to the provisions of the Exchequer and Audit Act. Section 3:

“The Minister...”—this is the Minister of Finance—“shall, subject to the Constitution and this Act, have the management of the Consolidated Fund and the supervision, control and direction of all matters relating to the financial affairs of the State which are not by law assigned to any other

Minister.”

Section 4:

“Powers of Treasury

All persons concerned in the collection, receipt, custody and payment or issue of public moneys, stores, stamp, securities or other State property shall obey all such instructions as they may from time to time receive from the Treasury...”

2.30 p.m.

Who is the Treasury? The Treasury is the Minister of Finance. So the Constitution sets up, by simple majority, taxation, money, variation. It is the province of a government because the government cannot run its affairs if it is interrupted in its expenditure. Under the Constitution of the Republic of Trinidad and Tobago an appropriation Act that is passed—the Minister of Finance has the constitutional power to not spend the money and to vary it. That is in the Constitution.

The Exchequer and Audit Act sets out in plain English that all matters of control of finances are subject to the Minister of Finance’s direction. This Bill proposes that revenue be collected by the receivers of revenue. We have identified one receiver of revenue which is the Director General. There are multiple other receivers of revenue because in every one of the 70 laws in the Schedule there are receivers of revenue. They put that money into the Exchequer Account and from the Exchequer Account it goes to the Consolidated Fund. Why? Because the Exchequer and Audit Act, Chap. 69:01 says,:

“An account styled ‘the Exchequer Account’ shall be kept with...such banks as the Treasury shall...determine.”

Section 13 of that Act says:

“All revenue shall be paid, at such times...in such manner as the Treasury

may direct, into the Exchequer Account and..."—shall be the revenue.

So let me debunk this ridiculous argument of the Opposition that the Minister is involved and the Minister this and the Minister that. No. No. No. No. The Minister of Finance, under the Constitution, under the Exchequer and Audit Act, has and has always had in Westminster style functionality, the powers that I have just described.

So collection of taxes is simple majority. Variation of taxes is simple majority. Enforcement now—let us deal with enforcement and let us deal with information gathering. Information gathering. Sen. Lyder raised the issue about secrecy and protection and they are going to abuse people. Sen. Lyder raised up the strawman and then beat it down to say people will be worried about their contracts, not for once recognizing that the enforcement provisions, and all public officers that are going to deal with enforcement, are protected by the Public Service Commission, by section 121 of the Constitution specifically, that their salaries are charged on the Consolidated Fund specifically. No. No. No. Sen. Lyder did not reflect on that. Sen. Lyder said that these people will be subjected to abuse and take the will and fancy of the Minister of Finance. So, Sen. Lyder despite a generous amount of time could not read the provisions of the law, the Bill before us, which then set out the board of management of the Authority. And in looking at clause 8(2):

“In the exercise of its functions, the Board shall not be responsible for the functions of the Authority...”

There is an ouster and prohibition against the creatures of the Minister, the board, acting or involving themselves in the functions of the Authority. What are the functions of the Authority? They are set out in clause 6, enforcement, administration, collection.

Section 4 of the Income Tax Act, a most sacrosanct section, still exists. The oath of secrecy in the Income Tax Act which makes it a criminal offence for somebody to breach secrecy and reveal taxpayer information still exists, because the Income Tax Act is one of the laws that the Authority will be exercising and it is a criminal liability to disclose information.

There is a further oath of secrecy. There are declarations of conflicts of interest that are built into this Bill. The sharing of information from the Board of Inland Revenue, which now becomes the Revenue Authority by the board being deleted in section 3 of the Income Tax Act, the Inland Revenue jumps. What time do I end in full time?

Mr. Vice-President: You finish at 2.42, Attorney General.

Hon. F. Al-Rawi: Thank you. The sharing of information is dealt with by the Data Protection Act sections 42(a) and (b) where you may share information on the basis that a law provides for it. The sharing of information which is the section 4(c) of the Constitution, why we do not need a three-fifths majority. The section 4(c) sharing of information is because that information as gathered by an entity, in this case, the Board of Inland Revenue, was not created by the Constitution in any entrenched way. It was created by an ordinary Act of Parliament and therefore can be modified by an ordinary Act of Parliament. But we know from the Privy Council and we know from the CCJ and we know from the Court of Appeal of Guyana and Barbados and Jamaica that the sharing of information is perfectly permitted because there are safeguards. And the safeguards include oath of secrecy, et cetera, et cetera.

So property, 4(a), information privacy, 4(c), perfectly permitted to be operated. The Government is advised by the Attorney General. This is not a court of law. It is a Parliament. The reason why opinions are not circulated to vouch

where an attorney stands as Attorney General is quite simple. When and if matters are going to be traversed in the courts, we have to keep our ammunition dry. I stand as the legal advisor to the Cabinet. I stand under the Constitution as vouching the simple majority factors of this law and I have yet to meet the Opposition in a court of law trying to strike out any one of the laws that we have passed in the last six years. None of our laws in the past six years are under challenge in the courts by the Opposition in the manner that they have threatened today. It is not to say that others may not bring challenge to the law. But I want to assure you that there is a principle of severability of laws. And the severability means that if the court considers that a law as drafted is in need of amendment which the court is permitted to do by way of construction of the laws, that there is a severability of functions. But let me underwrite right now in five minutes?

Mr. Vice-President: Yes. You have five more minutes.

Hon. F. Al-Rawi: Let me underwrite right now, this law is intended to be followed by another package of laws. This law is to create the Revenue Authority. There is one function that we will be attending to which is how we treat with the separation of powers principle when we are dealing with certain aspects of enforcement of the law. What do I mean? The 70 laws that are listed in the Schedule contain certain functions that at the Ministry of Finance and at the Attorney General's Office we are currently scrubbing to introduce due process in a court of law.

So let me summarize. The Revenue Authority before us now, and you will see it in the marked-up version that I have circulated, we have added a definition of customs laws. We have defined Deputy Director General – Enforcement. We have defined Enforcement Division and Excise Act.

The next clause that is amended is clause 13 from the 2019 Bill where we introduce the Deputy Director General. We say that the salaries and allowances

shall be subject to the SRC. Section 14 we deal with enforcement by civil proceedings and we introduce the Deputy Director General. Section 15, we say it does not apply to the Deputy Director General. Section 18, which is the transfer options, we add in the Deputy Director General. Section 23, we add in the salaries payable to holders of public offices charged on the Consolidated Fund. Section 40 we add in the protection for the enforcement of customs laws, et cetera, the Director General, Deputy Director General. And the Schedule we have added in the other laws that were not included first. Nothing else is different from the 2019 Bill.

Relative to the need for a special majority, the rights that are to be considered, section 4(a) of the Constitution the right to property. Section 4(c) the right to private life. With respect to 4(a) the right to property is managed by the fact that the imposition of taxes, the variations of taxes, et cetera are all subject of simple majority consideration.

The deprivation of property where you are enforcing the revenue laws, that will be the subject of a different package of laws where we add the court in to consider functions. So, for instance, the consideration by the Comptroller of Customs, where you can plead guilty before the Comptroller of Customs, that will disappear and a court will be introduced. The right to private life, the transfer of information does not require a special majority because of the Data Protection Act and because of the maintenance of section 4.

But, Mr. Vice-President, as I wrap up this very important point, hon. Members of the Independent Bench please pay attention to section 6 of the Constitution. Section 6 of the Constitution is the savings law clause. And in the savings law clause it is important for us to remember that a law still stands scrutiny where we have the ability to rely upon the Constitution to say that pre-1962 laws

are still valid. And what the Constitution says in plain English is that we have the ability to rely upon the fact that our laws currently allow for functionalities to exist if we are amending a law or repealing and replacing an existing law or adjusting an existing law which was saved, a pre-1962 law like the Income Tax Act. If we are changing it in a way such that it remains consistent, then it can be saved. Now, that is an argument that will be addressed but we are not hanging our hat on the saved law provisions. It is part of the considerations, section 6 of the Constitution does allow us to save this law. But, Mr. Vice-President, I am absolutely certain that this law is constitutional, necessary, proportionate and does only require a simple majority passage. I thank you for this opportunity. [*Desk thumping*]

Mr. Vice-President: The Minister of Finance. [*Desk thumping*]

The Minister of Finance (Hon. Colm Imbert): Thank you very much, Mr. Vice-President. How much time do I have, Sir?

Mr. Vice-President: Thirty minutes.

Hon. C. Imbert: Thirty. Thank you. All right. I want to thank and congratulate all Members of the Government and Independent Benches who contributed on this Bill. I cannot say the same for the Opposition. This is the third time this Bill or a Bill of this nature has been presented in Parliament under this Government and it is the third time that the Opposition has come with puerile arguments, irrelevant arguments and outright untruths.

Let me start first with Sen. Mark who has a tendency to come into this place and put untruths on the record and I will take responsibility for my words because I am going to prove that he has uttered several untruths.

The one that I found most egregious was his entire thesis about the manner in which in other countries the boards of Revenue Authorities are appointed and the person who performs the functions of the Director General are appointed. And

according to him, the hon. Senator, the Public Service Commission appoints the Director General in Mauritius, Jamaica and Singapore. Poppycock. Not true. Typical, Sen. Mark. Let me go first to the Mauritius Revenue Authority Bill or Act section 10(2). The board which is appointed by the Minister shall appoint the “Director-General”. So that is not the Public Service Commission. That is the board appointed by the Minister of Finance in Mauritius who appointed the “Director-General”. So that deals with this Mauritius old talk.

Let us go now to the Jamaica situation. In Jamaica, the Commissioner General, because that is the equivalent, is appointed by the Governor General of Jamaica. But Sen. Mark is sufficiently experienced in the Parliament to know and understand that the Governor General in Jamaica is a figurehead. And if he had bothered to tell the truth, he would have informed the Senate that the Governor General appoints the Commissioner General of the Jamaica Revenue Authority on the advice of the Minister of Finance and has to take instructions from the Minister of Finance as to who should be the Commissioner General of the Barbados—of the Jamaica Revenue Authority.

If I look at the Barbados Revenue Authority, Mr. Vice-President, it is exactly the same thing, exactly the same thing. And one of the Independent Senators, more than one actually, Sen. Deonarine put it in the most succinct form. I want to thank Sen. Deonarine once again for a very good contribution. I particularly want to single out Sen. Ahye. That was a brilliant contribution. I do not know where she is but the hon. Senator, that was a brilliant contribution that covered the whole ambit of revenue authorities around the world. But, Sen. Deonarine also did usual work, research work and made a very succinct contribution and made the point that if you look all over the world you will see that revenue authorities are by and large appointed by the Minister of Finance of the

relevant country. And the hon. Sen. Deonarine explained why. Because the Minister of Finance is accountable to Parliament and therefore it has to be a ministerial function to appoint these boards. Otherwise there would be no accountability to the Parliament. That is the logic.

I also wish to thank the hon. Attorney General for an excellent contribution as well, explaining the locus standi of the Minister of Finance. The Minister of Finance is not an ordinary creature. Under the Exchequer and Audit Act there are serious responsibilities, authorities and powers given to a Minister of Finance.

And that brings me to a point that was made by Sen. Seepersad, where the hon. Senator indicated that she would prefer that the board be appointed by the President. But revenue collection—and the Attorney General went into great detail to explain why—is a core function of the Executive. Without revenue the country cannot be run. And a government is elected and given a mandate to manage the affairs of the country and therefore there is no country that I am aware of where a government has alienated itself from the collection of revenue. It does not make any sense. Because if, heaven forbid, hypothetically, one had an errant President, certainly not the current situation, but if hypothetically sometime in the future you had an errant President that appointed a dysfunctional board of a Revenue Authority, under our Constitution the President is not subject to any sort of action in a court of law and therefore there will be nothing the Government can do about it.

Suppose that board decided philosophically that it did not like the online tax or they do not like value added tax or they do not like property tax? They have a philosophical problem with that so they decide they are not collecting it. The Government would just have to stand up and watch and quarrel.

And therefore, as the hon. Attorney General has made the point that in the

case of money Bills, the responsibility is given to the House of Representatives to deal with money Bills, it is far too important a responsibility for a government to alienate itself from the collection of revenue. And that is why all over the world you see all of these authorities are appointed by the Minister. So I just wanted to make that point. Some of these things they sound good on paper and so on but it does not make any sense because the second stage would be worse than the first.

I have seen some amendments which I assume we will deal with at the committee stage from Sen. Deonarine. I want to signal right away that some of them are quite acceptable, others we will have to discuss. I want to thank the hon. Member for taking the time to print these proposed amendments and circulate them. Some of them will certainly improve the legislation. Some of them we may not necessarily agree with and I will explain why.

Some of the wild statements made by the Opposition must be dealt with. Sen. Lyder rehashed matters that we have debated in this Parliament years ago when we had a joint select committee which is—I made the point in my introduction that this legislation has had quite a tortuous passage and has been with us for years. I made the point that the first attempt to create a revenue authority was by legislation which came before the Parliament in January of 2010 and was not completed. We came again in 2018. We sent the Bill to a joint select committee of Parliament. We came again in 2019. But between 2018 and 2019 we had numerous encounters with stakeholders, discussions with the private sector, with agencies within the public sector, with the trade union movement, with all the professional organizations, with the Financial Intelligence Unit, chartered accountants, service commission, American Chamber of Commerce, Couva Point Lisas Chamber of Commerce, “côte ce cote la”.

And after hours and hours and hours of meetings and interviews and

discussions, the committee, having considered all of the representations made to it, made appropriate amendments to that Bill at that time and submitted a report to the Parliament which had the support of the Independent members of that Joint Select Committee. So all of those things that Sen. Lyder was carrying on about, that is ancient history. All of those points made by AMCHAM and ICAT, et cetera, were all dealt with and considered by the Joint Select Committee and appropriate amendments made. Therefore, they are irrelevant and I really take offence to Sen. Lyder coming and screaming in this Parliament about, oh AMCHAM has so many members and it is apolitical. Apolitical? The CEO of AMCHAM was the COP candidate for Chaguanas East in the 2007 general election. I really take offence when people say these things. They think we are all a bunch of fools and we have no memories. Ridiculous. But let me go back into the issues raised by hon. Members by the Independent Bench in particular.

Let me go specifically because I have my people taking notes. Let me go specifically to—let us start with Sen. Charrise Seepersad. And this point was made not just by Sen. Seepersad. Sen. Teemal made it as well. And what I would like to tell Sen. Teemal, yes. This is not a perfect piece of legislation. It is not. As the Attorney General said, we would have liked to go ahead with the Bill that we passed before. A full-fledged revenue authority, a complete functional revenue authority. But we could not because the Opposition has steadfastly resisted it, has said that they will not support it. For 10 years the Opposition has been screaming that they will not support a revenue authority, for 10 ten years. And therefore it is absurd for Sen. Nakhid to say that we should have the courage to a special majority Bill. For what? We did that three times already and on each occasion the Opposition torpedoed that legislation. We are not stupid. We “go bring” it a fourth time? When you have the Opposition screaming, running up and down all over the

place in their Monday Night Forum and screaming and shouting that they are not going to support it. And if we pass it, “they go go to court” and try and undermine it. So we must bring it a fourth time? No way.

Unfortunately, what is before the honourable Senate now is the best that we can do. And there are many benefits that will come out of this hybrid model, many, and I will give you an example. There is a tax amnesty which is scheduled to expire today. And there have been long lines outside the Board of Inland Revenue building whole week because Trinidad and Tobago is a last-minute society. So people wait even though the tax amnesty began on the 5th of July, people wait until the 12th or 13th of September to go and submit their returns and sort out their taxes. That is Trinidad and Tobago. We know that. So there have been long lines outside the Board of Inland Revenue building this whole week and today.

Someone sent me some photographs of a very long line a few days ago. The line went all the way back to the Radisson hotel. So I contacted the officials in the Inland Revenue Division. I showed them the photos and I said, what is going on? You know what happened? Four cashiers decide they are not coming not out. They just decide they are not coming out to work, four cashiers, four public servants just decide they are not coming to work. So that the officials had to go and scramble now and make alternative arrangements. And not any and everybody could be a cashier, eh. If you are handling money in the public service you have to have certain qualifications, you have to be screened and so on. You cannot pick up the messenger and put them to cash, you know? So that when the cashiers decided they are not coming to work, they knew exactly what they were doing.

If there is a Revenue Authority, because the collection of cash is not enforcement requirement. That on a matter of enforcement. That is a matter of administration. So if we had a Revenue Authority you would have a pool of

cashiers that the Director General could pick up the phone and immediately send four new cashiers to solve the problem and deal with it.

3.00 p.m.

One of the benefits that will come out of this new Revenue Authority is effective administration. The enforcement issue will still be with us. All of the hon. Senators on the Independent Benches have made the point that these people would come through the public service system, they will be subject to discipline, appointment and promotion by the Public Service Commission. We cannot do anything about that. That, we will have to keep trying to get the Public Service Commission to do its work. “We go try, but we can do anything about that”. But we are forced to include the Enforcement Division so that we do not breach the Constitution.

So by putting in the Enforcement Division as a division of public servants accountable to the Public Service Commission, that is how we get around the special majority. It is not a perfect solution, but at least in terms of some of the issues I see Sen. Deonarine has raised in her amendments, the data collection, statistics, strategic planning, proper management, all of that can now be handled by a semi-autonomous or autonomous professional Revenue Authority that would have the ability to hire people based on merit, based on skill, would have the resources available to it to have a fully functioning, fully digitized—that is a very important thing, a fully digitized Revenue Authority where people can pay their taxes online, they can file in their return, and without let or hindrance.

So that this hybrid, although it does not solve the problem of enforcement, per se, because it remains within the public service, all of the other functions of revenue are now going to be handled by a professional Revenue Authority that is not humbugged by the strictures of the public service. So we think it will be a

tremendous improvement. We believe so. We believe that by putting in a modern system of administration into the revenue collection exercise there will be a vast improvement. The area of weakness will of course be enforcement, but because the Opposition has refused for 10 years to support any kind of modernization in the collection of revenue, we have no choice but to do this. And all of these other issues like tax evasion and so on, a lot of it goes to the weaknesses in research capability, data collection, data analysis, interpretation, assessment, all of those are administrative matters. So, again, if we can staff this Revenue Authority with professionals, then certainly we expect an improvement in administration.

Sen. Deonarine may be right, maybe the targets we have set, we will have continuous increase in revenue. Maybe we will not meet our targets, but we are certainly going to make a good crack at it. We are certainly going to try, and we are certainly going to do whatever we can to improve the administration within the revenue collection system. In terms of training, that is another point that Sen. Seepersad brought up, that customer service training, re-training is needed. Of course it is. And let me go now to Sen. Lutchmedial. And Sen. Lutchmedial is suffering from newness. That hon. Senator wanted to know what was this TADAT report I was talking about where the Inland Revenue Division got an A, a B, a C, a D, whatever. That was laid in this Parliament years ago, and dealt with in this Parliament years ago. It is a document that is available in the Parliament Library. So if the hon. Senator wants to know what TADAT had to say about our Inland Revenue Division, well then, go and check it in the Parliament library, it is there. The hon. Senator, as I said, is suffering from newness, and also there is another person in another place who is the class clown, and I would advise Members of the Opposition, do not follow the clown in the other place in terms of sarcasm and puerile contributions.

But let me move back to the sensible contributions of the Independent Bench. Sen. Seepersad proposed that all persons in the Board of Inland Revenue and Customs and Excise Department can within three months or the date of assent of this Bill exercise the option to either voluntarily retire from the service, remain in the public service, et cetera. I do believe we do have something similar to that in the Bill but certainly that proposal is very agreeable. Sen. Seepersad also underscored the need for improvement in information technology; I could not agree with her more. We certainly need to improve the technology at the Inland Revenue Division, and we do believe that this can be achieved better through the establishment of a revenue authority. Sen. Seepersad also made the point that a new, a restructured organization is not enough to deal with the problem of tax evasion and collection. That is true. But, as I made the point just now, this is a step in the right direction. “We cah just throw up our hands in the air and say we cah do nothing” because we have a recalcitrant Opposition whose only duty is to oppose. “We cah” just sit down and do nothing. We have to try and do something, and these Bills that we have been bringing of late which require simple majorities are the culmination of years and years of trying to get the Opposition to understand that for the good of Trinidad and Tobago, for the progress of the country, they need to work with the Government to improve and modernize the public service, but they will have none of it.

So, this hybrid model is an effort on the part of the Government to start moving in the right direction. I will not even bother to go into the constitutional arguments of Sen. Lutchmedial, they were ridiculous. The Attorney General has made the point that we have taken away the requirement for a special majority because of the Enforcement Division which will be a division of the public service, and that settles that. And all those attorneys over there who love court feel free to

go and challenge the law whenever you are ready. Sen. Thompson-Ahye—how much more time do I have?

Mr. Vice-President: You finish at 13 past 3.00.

Hon. C. Imbert: So about eight minutes or so, seven minutes? Just one second, Mr. Vice-President. I have Sen. Thompson-Ahye's contribution here, as I said a brilliant contribution. Sen. Thompson-Ahye made the point, and it is important, but the hon. Senator also took the time to look at the issue in context. It is recognized that a degree of concern has been expressed by some with respect to the appointment authority given by the Minister in the legislation.

But Sen. Thompson-Ahye also said that having looked at revenue authorities in Barbados, Jamaica and Guyana, and there is a direct quote, the powers of the Minister regarding appointments are practically similar. And Sen. Thompson-Ahye went on to talk about the safeguards that are within the legislation that have been put in, for example, the Minister cannot interfere with anybody's personal business. The Minister cannot even know what is going on inside of there, and the board, the politically appointed board also cannot interfere with the collection or enforcement in particular of the revenue laws. That is a matter for the Enforcement Division, and those are the safeguards that are inside of there. Sen. Thompson-Ahye asked me to give information on terms and conditions of appointees to the board but those are quite standard.

We have a system in Trinidad which has been in existence for over 20 years. You have an A Class, B Class, C Class, D Class board; A Class board would be like Heritage Petroleum, you know, Telecommunications Authority, Regional Health Authority, those are boards that have significant responsibilities. That would be the highest level, and usually the chairman of a board of that type, the A Class, the stipend, let us call it, is \$10,000 or \$11,000 a month, they get a small

travelling allowance and so on, because these appointments are supposed to be public service, it is not a job. So you are not supposed to be looking out for \$50,000 a month as the chairman of the new Revenue Authority. This is public service. So, there is a stipend but it is fairly nominal to illustrate the fact that these positions are not salaried positions, per se. It is not a job, per se. It is service.

With respect to other points made by hon. Senators, what I would say, and Sen. Deonarine made an important point that even though a Bill that is even stronger than this, the original one that we passed before with the support of Independent Senators, was approved by this Senate, no one should quarrel or be concerned about Senators revisiting legislation because economic circumstances have changed. I could not agree with the Senator more. There is nothing wrong with that. I am not going to come here and make a set of noise and say, “Well, all yuh approve it before, why all yuh getting on so”? I would not do that. It is an important point that the economic situation in Trinidad is dynamic, it evolves, it is not static, and therefore there is no—and the society itself is dynamic and it evolves all the time. So there is no issue with any Senator who voted yes on the last occasion coming now to ask for amendments, or to ask for explanation, or to revisit a clause that was there before. That is their right. So that was a very important point that Sen. Deonarine made and I thought I should endorse that point.

So let me just say that I am very pleased at the contributions made by the Independent Bench. There is a lot of food for thought. A lot of support of issues. Let me just go to Sen. Teemal, he wondered whether we are wasting time. If I can summarize what the Senator said, are we wasting time? I “doh” think so. And this goes back to the point I made, that whereas we cannot get a full 100 per cent Revenue Authority because of the refusal of the Opposition to give us the special

majority in the other place, certainly this is a huge move forward in terms of modernization, digitalization, efficient administration and the proper population of an essential core function of the Government, and indeed the entire country. So I do not think that this is exchange. This is a significant advance forward.

We will consider all the amendments proposed by the hon. Senators in the committee stage. We will certainly accept those that we can live with, or the ones, as I said, some of Sen. Deonarine's proposals actually strengthen the Bill, I welcome them. Some of them we may not be able to accept. But I am hoping that as we go to committee stage we can have a proper discussion of the various clauses and that we can arrive at a proper resolution of this issue. And I do believe that if we pass this Bill, even in this hybrid form that we are making a significant advance in terms of the modernization of the system of governance in Trinidad and Tobago. And as I end, I, just on a personal note, I am becoming quite irritated at the snide remarks of the Opposition. You know, Mr. Vice-President, I have been a Member of Parliament now for 30 years. I have been in Cabinet Government for almost 20 years. Almost 20 years.

[Mr. Vice-President raises hand]

That is it? Time is up? And, you know, having been in public service for 30 years, Government for almost 20 years, having four university degrees, it is really irritating for persons to come and make these snide remarks. I know they are wasting their time. But it is quite irritating, so I thought I would put that on the record, and I beg to move. *[Desk thumping]*

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Mr. Chairman: Hon. Senators, before we begin the committee stage permit me to suspend the sitting for about 10 minutes.

3.16 p.m.: *Committee suspended.*

3.25 p.m.: *Committee resumed.*

[MADAM CHAIRMAN *in the Chair*]

Clauses 1 to 5 ordered to stand part of the Bill.

Clause 6.

Question proposed: That clause 6 stand part of the Bill. A. In subsection (1)

subparagraph (a) by inserting the words “, the collection of which is the responsibility of the Director General” after the word “laws”.

B. In subsection (1) by inserting the following new subparagraphs after existing subparagraph (f):

“(g) to advise the Government on matters relating to taxation; and

(h) to represent Trinidad and Tobago internationally in respect of matters relating to taxation.”

C. By renumbering the clauses accordingly.

Madam Chairman: Sen. Deonarine, there is an amendment circulated on your behalf, can you speak to it please?

Sen. Deonarine: Sure. Thank you, Madam Chairman, should I speak to the entire amendment on both parts or by each part?

Madam Chairman: No, you can deal with both.

Sen. Deonarine: Okay. All right. So, with respect to the functions under the board, I think under subclause (a) we should include:

“the collection of which is the responsibility of the Director General...”

—as the first function of the Authority. My main objective of including that is really primarily to re-enforce the difference between the role of the board and the

Director General. But I know the Attorney General started to give me an explanation about it off the record, so. And with respect to the other parts, I think it is important that we include that the role of the Authority is also very well:

“to advise the Government on matters relating to taxation.”

—because that is a big part and a big role of the Director General, and also:

“to represent Trinidad and Tobago internationally in respect of matters relating to taxation.”

And this is especially important in areas when we have to have international discussions, especially dealing with tax avoidance with multinational corporations for transfer pricing and so on, the expertise of the Director General, the Authority, would be required for discussions like that.

Mr. Imbert: Thank you very much. My instinctive view with respect to the proposed amendment to 6, A is that it may be redundant. I am not sure. I have had a discussion with the legal draftsman and I believe that is the view, that it is redundant. You know, you do not need to say that. The AG will come in in due course. I have no issue with the proposed (g), no problem, that the Authority, one of its functions is to advise the Government, that is fine. I cannot agree with (h) because that is the function of the Executive. Because taxation flows from the Audit and Exchequer Act, the Income Tax Act, and other revenue laws that are the sole responsibility of the Minister of Finance, we cannot have another body representing Trinidad and Tobago in respect to matters relating to taxation. That is a function of the Minister of Finance. But I can assure you that as Minister of Finance I would certainly want the Revenue Authority to work on our behalf with respect to interaction in these forums and so on. But I do not think you can put it into law, that they, they have no constitutional identity, they have no constitutional responsibility, they have no responsibility under the various revenue laws that we

should legislate that they are required to represent Trinidad and Tobago. And in fact they cannot. Only the Government of Trinidad and Tobago could represent Trinidad and Tobago, so I will now defer to the Attorney General.

Mr. Al-Rawi: Thank you, Madam Chair, I wish to agree with the Minister of Finance's position to put the following on the record as well. With respect to the amendment proposed in respect of clause 6, paragraph A as described in Sen. Deonarine's amendment:

“the collection of which is the responsibility of the Director General...”

I will just remind that the Schedule has 70 laws attached to it, and receivers of revenue are attached to each one of those laws. So the liquor licensing is a magistrate, theatre and dance hall, et cetera, and the Minister of Finance under the Exchequer and Audit Act identifies receivers of revenue, some laws prescribe it. So for example, the receiver of revenue in the court is the Executive Court Administrator and that is set out in the Electronic Payments into and out of Court Act, et cetera. So it would be inappropriate to put one person as the collector of revenue because that would collide with 70 other laws and the Exchequer and Audit Act and Constitution.

The second aspect is, I agree with the hon. Senator and I thank the hon. Minister for agreeing to paragraph (g) set out at B. In respect of (h), having represented Trinidad at the Financial Action Task Force, at the other events, et cetera, many, many, many other events, what is required is always high-level political commitment as a matter of treaty function. Private international law and public international law requires the Government of a republic to undertake representation, because the Constitution is set up such that executive function is defined in the Constitution, section 75 onward. So, a government and all issues of law are represented in our Constitution by an elected Government. So to put a

functionary, or be it a statutory functionary to represent the Government would collide with the Constitution. It would be ultra vires the Constitution. So they usually go along with the Minister, but cannot give constitutionally the representations. So for those reasons we could not agree, but I do understand the rationale, the thought process behind it, but we could not agree constitutionally to it.

Sen. Vieira: Thank you, Chair. I was wondering whether the investigation of possible infringements and gathering evidence is implied under administration of the revenue laws and enforcement, or whether it should be specifically spelt out.

Mr. Al-Rawi: So the rationale is that it is included within enforcement and administration, because the enforcement of revenue laws is so diverse across the 70 laws, going for writs of assistance, going for investigation, going for distraint, going for a number of other factors—

Mr. Imbert: Disclosure.

Mr. Al-Rawi: Disclosure, et cetera. We prefer to keep it within—the law is always speaking. The minute we went down to the particularization we are going to collide with the ejusdem generis rule and find ourselves debating as to what the functions are.

Sen. Deonarine: Thank you, Madam Chairman. Okay, so I understand the logic behind the proposed amendment for (a), and thanks for accepting the proposed amendment (g). But with respect to (h), I understand the logic, however is it possible to take into consideration legislating that this individual or the Authority would assist in such matters in terms of dealing with international matters relating to taxation?

3.35 p.m.

Mr. Imbert: Let me come in here. We have had a torrid time with the Financial

Action Task Force. I always—I do not like to use this word, but I will, I always praise the Attorney General for the work he did. I mean, that was no mean feat. But it was the Attorney General who did it. If it was anybody else, they would not have bothered with us at all. And the Global Forum and the EU is worse. They want personal commitments from the representative of the sovereign which is the Minister of Finance or the Attorney General. They do not want a technocrat, they do not want to hear them. They want a high-level political commitment that we will do X and we will do Y. And once we have done it, they then come and monitor that high-level commitment from the politician to see whether it is done. So I do not think you could legislate inside of there that a technocrat could represent the country. I do not think you can.

Sen. Deonarine: Okay. Thank you, Madam Chairman.

Madam Chairman: All right, Sen. Deonarine. So, Sen. Deonarine, before I put the proposed amendment, in light of the discussions, are you pursuing your amendment at 6, A?

Mr. Imbert: I think she said no.

Sen. Deonarine: I am not too sure how this would work but—

Madam Chairman: No, no. If you just tell me. There is A, B—A—

Sen. Deonarine: Okay. So A, no. I would not continue with A.

Madam Chairman: So you are withdrawing—correct—so let us just say you are withdrawing A. And at B, are you pursuing (h)?

Sen. Deonarine: No.

Madam Chairman: So you are withdrawing at (h)?

Sen. Deonarine: Yes.

Madam Chairman: So, hon. Senators, the question is that clause 6 be amended as circulated by Sen. Deonarine and further amended by the withdrawal of A and B

(h). Okay?

Question put and agreed to.

Clause 6, as amended, ordered to stand part of the Bill.

Clause 7.

Question proposed: That clause 7 stand part of the Bill.

- A. In subsection (2) subparagraph (c) by inserting the words “who shall be an ex officio member of the Board” after the word “Ministry”.
- B. In subsection (2) subparagraph (h) by inserting the words “from the private sector” after the word “persons”.
- C. In subsection (3) by deleting subparagraph (b) and substituting the following new subparagraph:
“(b) have qualifications and minimum of 5 years’ experience in the area of tax or customs administration, corporate management or areas such as accounting, economics, law, business, public administration, human resource management, industrial relations, project management or other relevant fields”.
- D. By inserting the following new subsections (5) and (6) after the existing subsection (4):
“(5) the Minister shall publish the appointments made in subsection 2 and every change in the appointment in the Gazette.
(6) the board may appoint from among its own members or other persons who are not members of the Board such number of committees as it thinks fit, for the purposes which, in the opinion of the board, would be better regulated and managed by means of such committees.”

Sen. Deonarine: Thank you, Madam President. Madam President, through you, I

would like to suggest that under subclause (2)(c) that the Permanent Secretary of the Ministry of Finance be an ex officio member as well, together with the Director General. And the reason why I am suggesting this is because the potential conflict of interest that may occur.

Now, the Permanent Secretary is also exposed to other policy directives from the Minister of Finance, and therefore, I see a conflict of interest potentially taking place at the board, and therefore, I do not think that the Permanent Secretary should have any voting rights on the board.

Mr. Imbert: Are you—you going to deal with the other points to?

Sen. Deonarine: Oh. And also in (g), I would suggest that we include—for the two other persons, we should specify and say that they should be from the private sector because we should definitely have private sector involvement—representation on the board, not only for the reason of the kind of transformation that we want with the organization, the private sector expertise would be expertise that would be critical in this transformation.

With respect to the qualifications, now, I have suggested that we include:

“...public administration, human resource management, industrial relations and project management...”

All others, with the exception of project management, are basically self-explanatory so I would explain project management. Now, based on the debate what I have been hearing is that the intention is to create an agile way of thinking—an organization with an agile way of thinking with high-performing teams and you are trying to transform the way in which work gets done. And so, it is basically a new leadership, a new mindset that you are trying to create and with that, you need to have project management skills captured as part of the board, because the board would be responsible for creating these policies that would

guide the Authority in how it is managed and functions.

Mr. Imbert: That is it?

Sen. Deonarine: And I believe there are two more. I suggested that we include:

“the Minister shall publish...”

—as a subclause:

“the Minister shall publish the appointments made in subsection 2 and every change in the appointment in the Gazette.”

This is for the sake of transparency and transparency alone.

And I also suggest the inclusion of subsection (6). Now, I do not know if I drafted this in the most correct way, but I also believe that the board should be empowered to have the luxury to appoint committees for any specific functions. So, for example—let us just say, for example, they take a loan or some sort of technical assistance and none of them have that area of expertise, and they therefore want to establish a committee with that area of expertise to help guide the implementation of that particular technical assistance that they are requiring from any particular donor agency. And I think that captures it.

Mr. Imbert: Okay. Let me start from the top.

Sen. Thompson-Ahye: I have a question, please.

Mr. Imbert: Oh, sure.

Madam Chairman: Sen. Thompson-Ahye.

Sen. Thompson-Ahye: In 3(b), instead of “tax or customs administration”, can we say, “in the area of tax, customs administration”? At least, I think, taxation is very, very, important. Somebody who has the experience in taxation would certainly have a wider oversight to somebody who is just in customs administration. So I do not think we should have somebody who—customs administration with no experience in tax and qualifications in tax, in nature of this Bill.

Mr. Imbert: Okay. Let me just start from the top. In—anybody else?

Madam Chairman: Minister, if I may suggest, if we could deal with what Sen. Deonarine has set out in her amendment. When you finish with that then we will deal with what Sen. Thompson-Ahye has proposed.

Mr. Imbert: Sure. It is common place to put a public servant on a board of an authority. The purpose of the public servant there is to represent the Minister and also to serve as a conduit for information going from the Minister to the board and from the board to the Minister. The public servant is also there to protect the Government's interest. I have never seen legislation where you put a public servant and then tell them they do not have voting rights.

In addition, under the Constitution, the Permanent Secretary is constitutionally protected from an errant Minister who may want to give some sort of oppressive instruction to a Permanent Secretary. A Permanent Secretary does not have to follow the instructions of a Minister. So that, I do not agree that the Permanent Secretary be subjected to the directives of the Minister. In a general sense, yes, but not in a specific sense in terms of anything inimical to the Authority.

So, I do not agree that the Permanent Secretary should be ex officio, because if the Permanent Secretary is going to be ex officio, they should not be there at all. The reason why the Director General is ex officio is that he is an employee of the Authority and you do not want an employee making policy about himself. So that is why you have these boards where quite often you will see the CEO or the Director General or the person in charge, the top employees there and they have no vote because you do not want them voting on themselves. You do not want to create a conflict of interest for them. But I see no conflict of interest with the Permanent Secretary of Ministry of Finance because of the Public Service

Commission and the Constitution protection that a Permanent Secretary has. But I will come back to that in a while.

On (h), my first thought was it is a conflict of interest to have somebody from the private sector on a tax authority where they may have an interest in their own taxation matters. I am just saying that is my first thought. But then, when I looked at it very carefully, that is the only area that the hon. Senator has asked that we make it clear that these people come from the private sector. So I am okay with this. I do not know what the AG would have to say, I see no problem in ensuring that at least two people on this board are from the private sector. I have no problem with that. Instinctively, I did not like it because of the fact that you may have somebody from a large corporation and may have a tax matter, and may want to influence it to the board, but I assume the conflict of interest provision will kick in with that person, so I am supporting the recommendation of Sen. Deonarine to add in from the private sector. No problem there.

The five years that every board member has to have five years, that is a little rough. You may not be able to get sufficient people with five years' experience in all of these areas. We have had that problem before. Some boards we just cannot fill them, you know. I mean, I have seen boards where a year will pass and you cannot find a person. In fact, I had that recently with one of the boards that reports to me, where it said the person has to have five years and we got a nominee who looked excellent but they had four years and 11 months. So we had to scrap the appointment and put someone.

So I am little—I “doh” mind putting in an amount, but maybe three years or something like that. So that is something we could talk about. I just want to go through my reaction, then the AG would come in and then you could always respond, Senator, to what I have said.

The next thing, I think, your proposed new (5) is already the practice. Is that not so, AG? I think these things are published as of course. I think you do not need to say it. They have to be published. So it is if—when you look at any copy of the *Gazette*, you will see appointments made to these things. So I do not think that—I think it is a bit redundant.

The only part of (6) I did not like—again, I am not sure that (6) is relevant. I think it may be redundant. I think this board already has that power. [*Confers with CPC*] Okay. I am being told that the law allows the board to fund committees that does not have a specific power to form committees. So that is fine. The only problem I had with this is that you cannot put people on these committees who are not members of the board because the Government will lose entire control of this matter. Who knows what the—if you give the board that kind of power—because you go on to say where it says:

“...for...purposes which, in the opinion of the board, would be better regulated and managed by...”—these—“committees.”

So you could have a situation where the board could make a whole set of committees of unknown persons, there is no oversight, there is no accountability and these persons then do things that are adverse. And it is very unusual—I have never seen that in law either that you would give a board power to appoint committees that would be able to regulate the functions of the board who are not members of the board. So I cannot agree with those words: “who are not members of the Board”.

So to recap, I am okay with (6) except for the words, “who are not members of the Board”. I think (5) is already in law and if it is, it is not necessary. I would say three years instead of five and private sector, okay. And I do not agree with the ex officio nature of the Permanent Secretary for the reasons stated. AG?

Mr. Al-Rawi: May I, Madam Chair?

Madam Chairman: Yes.

Mr. Al-Rawi: Yes. Okay. Thank you. I saw your hand moving so I was not sure. Thank you, Madam Chair. Thank you, hon. Minister. Madam Chair, I—on the point of *ex officio*, just to let you know, that at the Law Revision Committee, we had a lot of discussion on this particular point and it was the CPC himself that raised the point that the voice of a public servant, who is not from within that entity itself—the Director General—because the Director General is *ex officio* from that point, the caution is usually put that your *ex officio*—meaning you do not have a vote on the basis of your coming within. So the usual structures for making somebody *ex officio*, removing their ability sometimes to be automatically included or not, is usually accompanied by a prohibition against voting. You will note that we did not add that on this occasion. Right?

So we say that the Director General is *ex officio*, meaning that he will always be or she will always be a part of the board. The Permanent Secretary is a member of the board, and therefore, whomever the Permanent Secretary is, is always going to be there. So just to draw the distinction, when we say:

“the Director General who shall be an *ex officio* member of the Board;”

It is because the Director General comes from within the entity. Stating that the Permanent Secretary is there means that the Permanent Secretary needs to be there. So we did not use *ex officio* because the person is outside of the entity. We use *ex officio* because the person is within the entity. So we do not need to say “*ex officio* member of the Board”.

The private sector, again, I join in supporting that position. I think any modern revenue authority can do with a point of reference and I think it is a very commendable improvement to the law and I thank the hon. Senator for it. I too

support it. The 5 years' experience, I think that the areas of broadening practice are welcomed. In dealing with Sen. Deonarine saying, "tax or customs administration", which is what the Bill itself says and in distinguishing what Sen. Thompson-Ahye has recommended, the reason why I would keep "tax or customs administration" is because we are bringing in two separate divisions: the tax division, Board of Inland Revenue and the many laws associated with that, and then on the custom administration, customs and excise. So that it was intended that the administrative factors of that should have positions. So remember, subclause (3) is dealt with in two parts. It is (a) and (b), so that you are looking at a careful construct.

Now, in reference to the five years, if I would ask Sen. Deonarine to please look at it this way:

"The members shall be selected from persons who—

- (a) have demonstrated the capacity to oversee, and have considerable experience in overseeing, the management of a large and diverse organization; and"

So (a) takes you to your five-year consideration, because you may have somebody who is just so brilliant and has considerable expertise and has demonstrated themselves really well with two years. So the combination of (a) and (b), I think, achieves the mischief which you are seeking to address in proposing five years, because what would be required here is that when the President's Office is looking at these instruments of appointment—because Cabinet will appoint. When you say Minister, Minister means Cabinet. They go to the Office of the President, the President will look and scrub the CVs, and I would like to inform that it is the President's practice—every President—to reject if the President's opinion is that the CV does not demonstrate the level expertise required.

So I would respectfully suggest that the five-year experience is not necessary because of the combination between (a) and (b), (a) giving you the relief to the mischief that you have correctly addressed your mind to. But I just wanted to point it out in a slightly different way for your consideration. The fact is that all appointments are gazetted. So the *Gazette* happens the minute the instruments of appointment are done. The legal notice of who has the functioning power—if an HDC board is appointed, if this one is appointed, et cetera, all of that is gazetted. And the use of committees—I would just like to flag a cautionary point here. Remember that we are going to put oaths of secrecy, we are going to have positions where you have disclaimers, and recusals, and disclosures of interest which are very carefully managed in this law. A lot of the reflections here resemble the integrity in public life construct. There is a principle in law that says that the delegatee is subsidiary to the delegator and that you cannot go with the delegation outside the original guy.

So the guy you are appointing cannot be wider or broader or bigger and functioning larger ways than you, the person who is appointing him. And if you look at the language here, the board would be better regulated and managed by such a committee. So that lends itself to ultra vires, meaning outside with. Right? So my first caution in adopting committees is that we are going to dilute the confidentiality provisions, we are going to invite conflicts of interest, in terms of disclosures, et cetera. The language as set up is potentially ultra vires, the power to delegate, but I want to let you know a board, in the exercise of its fiduciary functions, has the ability to call for and receive advice, et cetera, and to have in effect delegated functions by way of advice. But we want the fiduciary obligation, the “you are liable”, because this law sets up liability as well. Later down in the Bill, you would see that there is liability if you have done it wrong. We do in the

want to exculpate the board from liability. So for those several reasons, I most respectfully suggest that we ought not to venture down the recommendation in (6).

Madam Chairman: Sen. Vieira?

Sen. Vieira: Thank you. AG, you kind of answered my question, but I would still put it on the record. I am looking at 3(b):

“...area of tax or customs administration...”

And I was wondering whether the word, “administration” might have been limiting or superfluous because if I say “law administration”, “business administration”, it connotes a totally different thing. So I was wondering whether in the area of revenue or customs but you did say that that was a carefully designed construct. So that was what my concern was.

Mr. Al-Rawi: Thank you.

Madam Chairman: Sen. Deonarine?

Sen. Deonarine: Thank you, Madam Chairman. With response to the responses, I am—with respect to the committees, I understand what both the hon. AG and the Minister of Finance is saying but I have a question though. When the board comes into effect and of course, right after the board comes into effect, they need to draft policies, they need to create the strategic plan which they submit to the Minister of Finance, and then they had to go ahead and create all these other different policies to practically set up the Authority. So you are basically going to have to have a project implementation plan and you may very well need to have something like a steering committee. In instances like that, how would the board go about forming a steering committee?

Mr. Imbert: What we can look at—I mean, I have no problem with putting in a—giving the board the ability to form committees, you know, it is just what these committees do and I think these committees should just assist the board, that is it.

Mr. Al-Rawi: I have the fear with the committees.

Mr. Imbert: And then the AG is telling me to be careful. And he is right, because this is a very sensitive area of public life, of national life. It is—tax matters are protected under the Income Tax Act in terms of secrecy. And you have a board that is held responsible, if you catch them—and you have in fact put in a clause later on talking about how to remove a member of the Board if they misbehave, how are you going to remove a member of committee? They are not part of the structure of the legislation. I am talking about the Minister. How is the Minister going to remove a member of a committee because the Minister is not appointing the committee? So I understand the caution that the AG is sounding there.

Madam Chairman: Sen. Seepersad?

Sen. Seepersad: If I could just add some clarification, Minister. In the normal course of a board, the board has subcommittees.

Mr. Imbert: Of course.

Sen. Seepersad: And it could be a mixture of members of the Board as well as members of management or whatever, and that committee reports to the board and it does not have to be—

Mr. Imbert: Right.

Sen. Seepersad: It does not have to be part of—

Mr. Imbert: Correct.

Sen. Seepersad: You know, that is just the way the board operates. It is a normal—in the normal course of operations, that is done.

Mr. Imbert: Let me just say something. You are leading me to a particular point. The board would appoint committees, it may have members of the management, members of the board, but the responsibility is that of the board. When you put it this way, you are talking about committees that could regulate and manage that—

you do not want that. Those committees you are talking about—a board could set up any number of committees and it can form these committees from members of management and members of the board. But those committees are not responsible. It is the board that is responsible. And therefore, I take the AG's caution that the board could do it anyway, it does not have to be in the law. They can establish any committee they want but it is the board that has the responsibility. I think we would not be able to agree to this (6).

Madam Chairman: Attorney General you wanted to say something?

Mr. Al-Rawi: I have no need. Sen. Seepersad and the Minister addressed what I would have wanted to. Thank you.

Madam Chairman: Sen. Deonarine?

Sen. Deonarine: Yeah. Thank you, Madam Chairman, I understand. Also, just for clarification, going back to the minimum years of experience. Now, I know the—through you, Madam Chairman, the Minister of Finance said he would have been okay with three years, but the Attorney General did not entirely agree. So is it that we are agreeing with three years or not?

Madam Chairman: Attorney General?

Mr. Al-Rawi: If I could respectfully suggest that we do not put a time frame because of the conjunctive operation of paragraphs (a) and (b). I respectfully believe they deal with the mischief that you were seeking to address in your proposal.

Mr. Imbert: Could I just make another point? I have had personal experience of a President, who shall not be named, who did not accept the Cabinet's appointment of a particular individual because in the view of that President, the person did not have, as we are seeing here, demonstrated the capacity to oversee and have considerable years of experience in overseeing the management of a large and

diverse organization. I actually spoke to that President about it and I was persuaded by that President that that President was right. I had to withdraw the appointment and bring a next person who had better qualifications.

So the AG is making an important point that there is a check and balance at the President's House that I do not think the general public is aware of. They look at the words in the law and they apply them to the nominees, and if they believe it is not so, the President will be advised by his or her legal advisor that this person does not meet the requirement. I do not think we need to put in the five years because if you have the capacity to oversee and have considerable experience in overseeing the management of a large—it is not just large—large and diverse organization, then you could have four years, you could have four years; four years, six months. So I would not want to put that in there.

Madam Chairman: So at this stage I just want to ask either the Minister of Finance or the Attorney General to responds to Sen. Thompson-Ahye.

Mr. Imbert: I honestly have no problem with Sen. Thompson-Ahye's proposal, but I saw the AG was saying and I think—I do not know if it is going to be redundant but we are looking for tax administration and customs administration. I do not know if we have to repeat the word “administration” when it causes a convoluted clause, so I would defer to the AG and the draftsman on this.

Madam Chairman: Attorney General?

Mr. Al-Rawi: Madam Chair, if it is comforting to hon. Members, the reason why I am careful to keep it as is, which is “tax or customs administration”, administration applying to both, also includes the fact that we brought this Bill forward after many years of consultation, including with the wide sector in the Joint Select Committee that we engaged in the 2017/2018/2019 period. And the BIR and other entities and positions came before us and this is now the second time we would be accepting

the same formula, but on the back of it having accepted after full consultation. So I have been very careful to read the umpteen reports. I actually have them here with me. So for those reasons I prefer that we stay close to the text as it is.

Madam Chairman: Sen. Deonarine?

Sen. Thompson-Ahye: If I may?

Madam Chairman: Sen. Thompson-Ahye?

Sen. Thompson-Ahye: Yes. You see, in these days, we have so many people who have multiple disciplines. So you may find someone with tax who is also—most of them—a lot of them are into accounting, economics, law, business or other relevant fields. So you might find somebody with tax administration, also somebody else with customs administration who have these other things and certainly because of the nature of this Bill, it would enhance what they bring to the table. So it is in those circumstances I did not want to have an either/or situation, tax or customs administration, when you might get out of those two persons, the rest of the qualifications you are looking for: accounting, economics, law, business. A lot of people have law degrees who are into accounting—

Mr. Al-Rawi: I understand what she is saying.

Sen. Thompson-Ahye:—and working in the tax sectors. So it is in those circumstances. The world is so different now, especially with the women who are studying and qualifying and over qualifying themselves.

Madam Chairman: Attorney General?

Mr. Al-Rawi: Thank you, Madam Chair. I do understand—thanks, Sen. Thompson-Ahye for explaining what the hon. Senator intended. I just want to assure the law as drafted means that you can hit anyone of the baskets, they are not conjunctive. So as drafted, it is designed to be that you can hit any one of the belts or all. And I would like to say that I am confident that young men are qualifying as

well as young women.

Mr. Imbert: That is what I was saying.

Mr. Al-Rawi: Because they work really hard too in a world where we cannot find our men in work place sometimes.

4.05 p.m.

Madam Chairman: Sen. Deonarine, and we are now wrapping up because we spent a considerable amount of time on this clause.

Sen. Deonarine: Yes. Just to comment on that same point on tax for customs administration, I am actually in agreement with the hon. Attorney General primarily because the tax and customs administration are too completely diverse fields and sometimes tax administration is so different from what someone qualified in the area of customs can do. So just to reinforce that point.

Madam Chairman: So Sen. Deonarine, may I ask you, at your amendment A, are you pursuing?

Sen. Deonarine: No.

Amendment A withdrawn.

Madam Chairman: C, are you pursuing?

Sen. Deonarine: I believe that the hon. AG and the Minister of Finance did accept part of it with respect to the qualifications, human resource management, industrial relations, and project management.

Mr. Imbert: Yes, it is just to take out the five.

Sen. Deonarine: So I would not proceed with putting in the minimum years of experience, but with respect to the other part I would proceed with it.

Madam Chairman: Attorney General, can you just guide me so that I can—

Mr. Al-Rawi: Yes please, Madam Chair. If the hon. Senator is agreeing to amend paragraph C, (b), as is quoted there, by deleting the words “and minimum of 5

years' experience", then it would read:

"...have qualifications and experience..."—

So we are deleting the words "minimum of 5 years". So it would read:

"...have qualifications and experience in the area of tax or customs..."—that is exactly as we have—"administration, corporate management..."—that is as in the Bill and repeated here—"or areas..."—that is as the Bill—"such as..."—that is in the Bill—"accounting..."—that is in the Bill—"economics..."—that is in the Bill—"law..."—that is in the Bill—"business, public administration, human resource management, industrial relations, project management..."

All of that would be new, and the Minister of Finance indicated that he was comfortable with that.

So if the hon. Senator is amending to simply delete the words "minimum of 5 years", then we will happily accept, subject to the Minister of Finance's objection, that amendment.

Madam Chairman: Sen. Deonarine?

Sen. Deonarine: Yes, I agree. I agree to the removal of the words "minimum of 5 years".

Madam Chairman: Okay, thank you. And D?

Sen. Deonarine: I will withdraw those. I am satisfied with the explanations provided.

Amendment D withdrawn.

Madam Chairman: Hon. Senators, the question is that clause 7, be amended as circulated by Sen. Deonarine in respect of B and C in the list of amendments as circulated by Sen. Deonarine.

Question, on amendment, put.

Madam Chairman: Let us go it over. Hon. Senators, the question is that clause 7, be amended as circulated by Sen. Deonarine at B and C of her list of amendments, and further amended at C, (b) by deleting the words “minimum of 5 years”.

Question, on amendment, again put and agreed to.

Question put and agreed to.

Clause 7, as amended, ordered to stand part of the Bill.

Clause 8.

Question proposed: That clause 8 stand part of the Bill.

- A. In subsection (1) by deleting subparagraph (c) and substituting the following new subparagraph:
- “(c) the financial requirements, asset management of real property and other assets and resources of the Authority, the procurement of goods and services and other administrative activities;”
- B. In subsection (1) subparagraph (e) by inserting the words “management system with” after the word “performance”.
- C. In subsection (1) by deleting subparagraph (g) and substituting the following new subparagraph:
- “(g) the strategic plan, annual budget, monitoring of operation plan and annual report of the Authority;”.
- D. In subsection (1) by inserting the following new subparagraph (l) after the existing subparagraph (k):
- “(l) Enterprise risk management (other than risks associated with tax compliance).”.
- E. In subsection (3) by inserting the words “, in the public interest” after the word “expedient”.

Madam Chairman: Sen. Deonarine.

Sen. Deonarine: Thank you, Madam Chairman. With respect to 8(1)(c), I found that the words “the finances” was a little bit like a catchall phrase and it spoke about real property and other assets when I think the intention is really to formulate, approve and ensure implementation of proper asset management. So I just was trying to kind of tighten up the language a little bit because to me it seems unclear as asset management being one of the functions—one of the responsibilities, sorry. I deleted the words “the securing of contracts” because right after that it says “the procurement of goods and services”, and “the procurement of goods and services” includes the securing of contracts whether it is a contract for a good or a service. So that to me seemed very redundant.

With respect to 8(1)(e), I included between the word “performance” and “targets” a performance “management system” with targets just to be clear on exactly what it is that the Board should be responsible for formulating, approving, and ensuring implementation. Again, it is a dynamic organization that we are trying to establish, one that we have a lot of transformation responsibilities for and we need to have an adequate and sufficient performance management system with targets.

With respect to (g), is it that the budget—and this is a matter of question here—the budget. Is it that the Authority would be submitting to the Minister of Finance or only annual budgets; or is it that they would also be preparing quarterly budgets as well? And I believe that it is not clear that they are also responsible for the monitoring of the operation plan. So I thought that we should include it. And the final thing that I thought that should be included was enterprise risk management. Now a big part of the tax administration diagnostic assessment tool that the IMF did was there was a lot of risk management issues highlighted in that

report in terms of the tax administration and the management of the internal controls of the organization and, therefore, I thought it was essential that we include “enterprise risk management”.

Madam Chairman: Attorney General? Okay. Minister?

Mr. Imbert: Okay. The amendment to 8C, “finances” has a meaning. It is a term of art, and it means not just the requirements it also means expenditure. So I have no problem with the financial requirements. I just was wondering if we will get a little too wordy if we just put “finances, financial requirements”, but I understand where you are coming from in terms of the cash needs of the organization. The word “asset” before “management” is redundant. Look at it very carefully, asset management of real property and other, so you are asset managing assets. So it is really management of real property and not asset right. So if you do not need to have the word “asset” before “management”. If the drafters have no problem I would—what is that?

Mr. Al-Rawi: That is not a problem.

Mr. Imbert: No, I am just saying, let me finish. If the drafters have no problems I would put “finances, financial requirements”, et cetera. I am a little lost as to what is intended by the amendment that adds in “management system with” because the targets are performance targets. The way it is worded you know you have this whole concept nowadays of KPIs (key performance indicators), these are KPIs really. This is the draftsman’s way of defining a KPI, performance targets.

When you add in the words “management system with”, I am not sure—it is not a system you are looking at. We are looking at indicators. So I am not sure about that, but let the drafters, the AG, advise. Yes, you usually ask these entities to give you an annual budget. It is done with the National Insurance Board as well, and what that is, is the cost of running the organization. It is not the money that

they collect. So it is the cost of salaries, wages, rent, whatever expenses they may have, that is their budget. So there is nothing wrong with them presenting it on an annual basis. Monitoring the operation plan, I have no objection to that in principle. Enterprise risk management, an excellent suggestion. So AG, over to you.

Mr. Al-Rawi: Madam Chairman, if I could just take the hon. Senator first of all to 8(1), the chapeau, before we break down into the numbers.

“Subject to subsection (2), the Board shall be responsible for formulating, approving and ensuring the implementation of management policies in relation to—...”

So the use of management in the subparagraph therefore becomes redundant. It is otiose which is what the Minister was referring to, but I just wanted to target it back to the chapeau which is why it did not make sense although I understood what you were saying with it. Right? So that is the first point.

The second point when we are looking at C is we purposefully went with general terms, “finances” which includes all aspect of finances. “Real property” which is all aspects of real property and “other assets”, because we want to deal with the intangibles and choses in action, intellectual property right, physical assets, bank accounts which are choses in action, fungible matters, et cetera. So these were very specifically designed this way because they are the largest categorization of description in law.

If we were to take too fine a tune on this we would lose the broader aspect. So that is the rule of statutory interpretation, and Bennion sets that out, et cetera, for those of us who have to go through the pains of learning legislative drafting from time to time. So respectfully, I think that the proposed amendment to 8(c), for those reasons I would invite the hon. Senator to reconsider. Senator? She wants to

say something?

Madam Chairman: Sen. Deonarine.

Sen. Deonarine: Yeah. I did not get a response to the removal of the words, “the securing of contracts”.

Mr. Al-Rawi: Yeah, I was coming—oh, I see. So procurement of goods, services, and you said that you had removed “securing of contracts”—

Sen. Deonarine: “Securing of contracts” because procurement is the securing of contracts.

Mr. Al-Rawi: So securing of contracts versus procurement of goods and services. So procurement of goods and services, procurement can be by expressed contract, or by implied contract, or by transactional contracts, meaning a series of contracts put together. So the securing of a contract is separate and apart from a procurement cycle. So a procurement can be done on an itinerant basis one by one, it can be done by offer and acceptance, it can be done by an invitation to treat. There are multiple ways of having contracts put in law. So there is a material distinction between “securing of contracts” and “procurement of goods and services”, particularly, when we now get down to e-procurement. When we are using the e-procurement and reverse auction systems that is a matter of a computer algorithm which defines the contract on an invitation to treat an acceptance basis. Sorry for being unduly thick in law but that is the only way to describe it.

So that is the rationale for distinguishing between “procurement of goods and services” and “securing of contracts” and why we would want to have “securing of contracts”. If I go to strat plan, annual budget, monitoring of operations plant, I would leave that up to the hon. Minister. I just want to say that (l) is a fantastic improvement. I think “enterprise risk management” in the manner that you have described it is totally different from tax compliance and I think that

that helps us to understand the risk that the institution will face, and I quite frankly love it. E, (3), by inserting the words “in the public interest” after the word “expedient”, my caution in accepting “in the public interest” is that you sometimes act in interests which are beyond the public interest. You may act in private interest; you may act out of fiduciary responsibility or obligation. So if I look at it in subclause (3):

“The Minister may give to the Board such general policy directives with respect to the carrying out of its functions under this Act as he considers necessary or expedient...”—and you are proposing “in the public interest”—“...and the Board shall give effect to such directives.”

The Minister has to act in multiple platforms and not only in the public interest. The public interest is one of the requirements that will be in the mind of a public entity, but it is not the only requirement that factors into obligations, et cetera. So I could not recommend “in the public interest” because it would exclude other interests which are equally important.

Sen. Deonarine: Madam Chairman, I just have one response to the comment the Attorney General had on “in the public interest”, but my question then is: In this case, in this scenario, the Minister would be giving the board general policy directions about the board and about the Authority, could the Attorney General give me an example in which the Minister of Finance would be conducting this function of giving general policy direction in private interest?

Mr. Al-Rawi: Sure. So if we were dealing with a fiduciary obligation of confidentiality that concern the safety of an individual that is not necessarily solely in the public interest. It crosses two realms.

Sen. Deonarine: Okay.

Mr. Al-Rawi: And surely confidentiality, security—somebody is going to be an

enforcement officer and we want to anonymize their records, that is not only in the public interest. That is in the interest of the individual and their protection to life, and limb, and liberty, et cetera; their confidentiality. So there are a few blurred lines. The problem with law, every word that we are going to put into law is going to be interpreted by the court and then they are going to say: “Well, what did Parliament in its wisdom mean by ‘in the public interest only’”? And then if a circumstance comes up that is outside of the public interest then they are going to say: “Well, the Minister acted ultra vires”. So because somebody else in the separation of powers, in this case the court, is going to construe and the classic description that they put out in their records is, what did Parliament in its wisdom mean by confining these words “only into the public interest” and that is my caution.

Sen. Deonarine: Okay.

Madam Chairman: So based on what I have just heard I think the Attorney General has indicated an acceptance of D. I have not heard anything in terms of a positive response to any of the others.

Sen. Deonarine: Madam Chairman, if I may? I believe that there was an acceptance of D, of C sorry, with respect to the annual budget and the monitoring of the operations.

Madam Chairman: I think that was for the Minister of Finance.

Mr. Imbert: No problem.

Madam Chairman: So C has been accepted as well. Okay? Sen. Deonarine with respect to A?

Sen. Deonarine: I would withdraw.

Amendment A withdrawn.

Madam Chairman: B?

Sen. Deonarine: I withdraw as well.

Amendment B withdrawn.

Madam Chairman: And E?

Sen. Deonarine: I would withdraw.

Amendment E withdrawn.

Madam Chairman: Hon. Senators, the question is that clause 8, be amended, as circulated, by Sen. Deonarine at C and D.

Question, on amendment, put and agreed to.

Question put and agreed to.

Clause 8, as amended, ordered to stand part of the Bill.

Clauses 9 and 10 ordered to stand part of the Bill.

Clause 11.

Question proposed: That clause 11 stand part of the Bill.

Madam Chairman: Sen. Deonarine.

Sen. Deonarine: Thank you, Madam Chairman. I sought to put forward two amendments in this clause. The first one is in clause 11(2) which gives some definition into the time frame when the notice of resignation is submitted to the Minister. And the second thing I sought to do was to provide some definition to a criteria to remove a member. I did not see it properly captured in the clause and, therefore, I put forward the suggestion to establish a criterion under which any member would be removed from the board.

Mr. Imbert: [*Inaudible*]*—insertion unless the AG disagrees. That is a very useful insertion—unless the AG disagrees.*

Madam Chairman: Minister, that is at B you are speaking about?

Mr. Imbert: Yeah.

Madam Chairman: Not A?

Mr. Imbert: No. I am coming to A. I do not think A is practical because this is a voluntary act. The person is resigning because they want to resign. The person may wish to resign right away. They may not be able to give notice and I will give you a very benign reason why a person might resign, illness. You know something it may come to them that they have a serious illness which they can no longer perform their functions, they cannot give 30 days' notice. They might have to give three days' notice. So if somebody is voluntarily resigning I do not think you should tie them down to having to give 30 days' notice. That is just my opinion. With respect to the other ones, I have no problem, AG, unless you have a problem.

Mr. Al-Rawi: Thank you, Madam Chair. I thank the hon. Minister of Finance. With respect to A, the giving of 30 days' notice is usual in a contract where you still have services to perform and, therefore, it is reasonable to give the employer notice that you intend to depart. In this case here there may be need for immediate action—*[Interruption]*

Mr. Imbert: The person may also have a problem and they want to go.

Sen. Deonarine: Okay, no problem. Apologies.

Mr. Al-Rawi: Not at all. So the immediacy of action is required. There could not be circumstances where a board member would be required to continue to perform beyond the manner in which he or she is capable of performing and, therefore, we ought not to fetter their ability to resign without notice because it is not an employer/employee relationship. It is a fiduciary relationship, and a fiduciary relationship is terminable at will provided you do not breach the fiduciary context that you are in. So that would be outside of the normal parameters of law.

In respect of (7), believe it or not, it is the Minister of Finance himself, who relies upon the Interpretation Act and the power to appoint and the power to disappoint which comes about in case law coming out of the TTPost structure dealt

with when Keith Sobion was Attorney General many years ago. So if you look at 11(3):

“If a member dies, resigns, is removed...”

That “is removed” is something that is associated with cause: dishonesty, incapability, other factors, et cetera. So whilst it is (a) is quite normal, in statutory you tend to find absence for certain number of statutory meetings where people are usually elected. So you will see it in the Tobago House of Assembly, you will see it in the Municipal Corporations Act, you will see it where they have an obligation to be there.

The Member has been found to be physical or mentally incapable of performing his or her duties efficiently and the member’s medical doctor has issued a certificate to that effect. This is removal. Sometimes it may be involuntarily accepted as opposed to the member submitting the medical certificate. So I was cautious about that because you are deemed to be medically unfit if the provisions of the medical board—you have to have a doctor certificate, it may be voluntary or involuntary. Somebody may board you. There may be a committee of the patient appointed for you where people go under the Mental Health Act and say John Brown is not well. They go and get psychological assessment and the court deems you to be unfit as opposed to you deeming yourself to be unfit.

So the voluntary demonstration of a medical certificate goes outside of the other ways by which you may deem to be medically unfit, or mentally unfit, or physically unfit. “The member contravenes the provisions of this Act”, that is extremely broad because you may have contravention that is without liability, they may be an innocent infringer. It has to carry with it what we call in law a turpitude, something that is wrong to the point where you deserved to be put out, and that

usually where you say somebody has committed an act of dishonesty, or they have been convicted of an indictable offence with a term of imprisonment beyond 12 years.

A person “is found guilty of unprofessional conduct by a body constituted for the purposes of adjudicating on...discipline”, again quite broad. So these parameters caused me concern because they step outside of the normal structure by which we remove board members, and the Interpretation Act applies in this instance. This is to be materially distinguished from the manner in which we deal with the removal of the Director General or the Deputy Director General for enforcement.

In the Deputy Director General for enforcement you are dealing with the public services rules, the Public Service Commission that has the sole authority to discipline and remove. In respect of the Director General because that person is so important a function, affirmed by the Parliament, et cetera, you want to have specificity with that officeholder. But the board members I would prepare to rely upon the law as it is currently operationalized where a member has the ability to be removed and then the law speaks to how that can happen in usual circumstances. So whilst I understand the intent for certainty, the problem with the draft as it is created is that there are some danger zones inside of the draft for the reasons I have just explained.

Sen. Deonarine: Thank you for that explanation, Attorney General. So then just to confirm, there is provision in there via the Interpretation Act by the use of the words “is removed from” in subclause (3) that allows for a criteria to be followed to remove a member of the board?

Mr. Imbert: Yes. He who appoints has the power to disappoint.

Sen. Deonarine: Okay. Thank you.

Madam Chairman: So, Sen. Deonarine—

Sen. Deonarine: Yes, I would withdraw the whole amendment.

Amendment [Sen. Deonarine] withdrawn.

Madam Chairman: So hon. Senators, the question is that clause 11 now stand part of the Bill.

Question put and agreed to.

Clause 11 ordered to stand part of the Bill.

Clause 12.

Question proposed: That clause 12 stand part of the Bill.

Madam Chairman: Sen. Deonarine.

Sen. Deonarine: I do not know if the Minister of Finance could explain to me why it is the board needs to submit to the Minister of Finance the rules that govern the conduct of the affairs of the board and why it shall be submitted for approval? And I would like to get some examples as well because to me I see this as being a little bit of too much involvement and, therefore, because the whole aim of this hybrid model and trying to create a semi-autonomous revenue authority is to give the board some flexibility but just not too much flexibility, but enough flexibility to empower the board so that they can conduct at least some affairs on their own.

Madam Chairman: Minister?

Mr. Imbert: Let us use the example of Parliament. Parliament regulates its own affairs but it does not do so in a vacuum. It does by way of a Motion subject to a vote. So there is some form of control over the rules that govern Parliament, the Standing Orders for example. If you allow a board just to make its own rules then they are a law unto themselves. So the whole purpose of this is to have some measure of control over where the board conducts itself. I understand what you are saying in terms of what appears to be the intrusive nature of the clause, but I do not

think you could allow a board to make its own rules without any oversight at all. So AG, I do not know if you could help?

Madam Chairman: Attorney General?

Mr. Al-Rawi: Thank you, Madam Chair. Madam Chair, I go back to the Constitution, section 64, I go to the Exchequer and Audit Act, the Minister of Finance being the repository of the moneys of the Republic of Trinidad and Tobago in the Constitution, in the Exchequer and Audit Act, it is critical that there is a degree and line of sight for the regulatory functions because ultimately the Minister is responsible for that and accountable to the country in respect of that. So whilst you have a parent Act which we are passing, hopefully or we are considering, whilst you have revenue laws, et cetera, which are going on, all laws that springs there from usually have a fact that subsidiary instruments, regulations, and rules have to go through an approval process for them to meet with the structures of law, otherwise they are unapproved.

This is different from a corporation. So we are creating a statutory body. We are not doing a limited liability company where the Minister is Corporation Sole. That would be different. What we are doing is we are creating a statutory authority and, therefore, there has to be transparency to know what is approved or what is not approved. This fits in with public procurement, it fits in with all of the routes for subsidiary because ultimately the obligation is going to come to the Minister of Finance under the Constitution and under the exchequer and audit provisions. So because we are dealing with a statutory authority you have to continue the line of supervision and approval.

Madam President: Sen. Seepersad?

4.35 p.m.

Sen. Seepersad: Can I just ask? So for all statutory authorities, the line Minister

approves the rules and regulations that the board operates under?

Mr. Al-Rawi: Yes, and in default of that, the law will speak. So for instance, you will in the HDC Act, for instance, you will see that the Central Tenders Committee rules had to be developed. The board has to approve tendering and procurement procedures to be approved by the Minister, and in default the Central Tenders Board will act. So there is sometimes default provisions that are put where it does not speak specifically.

Sen. Seepersad: Thank you.

Sen. Vieira: I just want to point out that this section pretty much mirrors the Interpretation Act about section 35 which talks about who will preside at meetings and then also about majorities making the decision would be at section 50. So it is consistent with the general law.

Mr. Al-Rawi: Thank you.

Mr. Imbert: May I also say regulations are usually made by a Minister. Most laws have that. In fact, I do not know any law establishing an authority that reports to a Minister that does not have a clause or section that says the Minister may make regulations. And those regulations would, quite naturally, deal with the way the board conducts itself. So I mean, in this very law there is a power of the Minister to make regulations. Okay? So I do not think there is any harm in it. That is the point I am trying to make.

Sen. Deonarine: Madam Chairman, I will withdraw.

Amendment withdrawn.

Question put and agreed to.

Clause 12 ordered to stand part of the Bill.

Clause 13.

Question proposed: That clause 13 stand part of the Bill.

- A. In subsection (3) by inserting the words "minimum of seven (7) years" after the word "have" and inserting the words ", public administration" after the word "business".

Sen. Deonarine: Thank you, Madam Chairman. This inclusion of the minimum years of experience is similar to the line of reasoning that I had for the board and I just see that the Director General and the Deputy Directors General as persons with significant core experience and expertise, and I feel that a timeline should be given. However, I would listen to whatever justification that both the Minister of Finance and the Attorney General has.

And I also would like to include public administration in the line of areas of skill and expertise. That is primarily because we are dealing with revenue and the role of the Director General in terms of the administration of the authority and sometimes public administration is one skill that a lot of persons who may have a lot of experience in the area of public administration, which includes public policy and public financial management, and so on, they tend to be very experienced in this area of revenue management and tax administration.

Mr. Imbert: Sen. Deonarine, you did not have to tell me that. Hello, you did not have to say all of that. All I would say is I completely agree but I would like to make it five years instead of seven.

Sen. Deonarine: Okay, no problem.

Mr. Imbert: Okay? And public administration, I totally agree. So we just change it to five.

Madam Chairman: So Minister, you are seeking to say five years.

Mr. Imbert: Five.

Madam Chairman: And what did you say about public administration?

Mr. Imbert: I accept everything else.

Madam Chairman: Everything else.

Mr. Imbert: Just change “seven” to “five”.

Madam Chairman: Sen. Deonarine, you are okay with that?

Sen. Deonarine: Yes I am, Madam Chairman.

Madam Chairman: Hon. Senators, the question is that clause 13 be amended as circulated by Sen. Deonarine and further amended to substitute "five years" instead of "seven years".

Question, on amendment, put and agreed to.

Question put and agreed to.

Clause 13, as amended, ordered to stand part of the Bill.

Clause 14.

Question proposed: That clause 14 stand part of the Bill.

A. In subsection (1) by deleting subparagraph (c) and substituting the following new subparagraph:

"(c) advising the Minister, on his own initiative or at the request of the Minister, on revenue implications, tax administration and aspects of policy changes relating to all taxes referred to in the Schedule, any matter that could affect public policy or public finances and any other matter that the Minister considers could improve the effectiveness or efficiency of the administration or enforcement of the revenue laws."

B. In subsection (1) by inserting the following new subparagraph (d) after the new subparagraph (c):

"(d) collect and process statistics needed to provide forecasts of tax receipts, study the revenue laws and propose to the Minister, such amendments as it considers appropriate thereto, so as to improve the administration of, and compliance with, such laws."

- C. In subsection (3) subparagraph (b) by inserting the words ", without an enforcement function," after the word "Authority".

Sen. Deonarine: Thank you, Madam Chairman. With respect to clause 14—so, in terms of the responsibility of the Director General, I found that we could have gone into a little more detail to explain his responsibilities. So I went ahead and expanded subclause (c) to include that even though he would be advising the Minister on his own initiative or at the request of the Minister, I think that we should include that he would be advising on issues of revenue implications, tax administration and aspects of policy changes relating to all taxes referred to in this Schedule. That is it is first amendment.

And I also think that, and this is something that was not captured and I believe it should be a significant role or function and responsibility of the Director General is the collection and processing of statistics needed to provide forecast and tax receipts, study revenue laws, and so on. Because a main part of the Director General is to conduct that analysis on revenue forecasting, and so on. I do not think it is the sole responsibility of the Budget Division in the Ministry of Finance. It is something that would have to be done hand in hand with the Ministry of Finance Budget Division and the Revenue Authority.

Mr. Imbert: Based on the advice of the Attorney General, I have no problem with this. AG, it is up to you.

Mr. Al-Rawi: So, Madam Chair, I really like B. It dovetails with the NSITT, the National Statistics Institute.

Sen. Deonarine: Yes, that is the primary reason, yeah.

Mr. Al-Rawi: It is a fight that the country is facing and I think it is a brilliant addition to it.

- (c), I just want to say this aloud to my own team member on the far left of

me. I am just wondering if we should—I am wondering about the impact of ejusdem generis:

“advising the Minister on his own initiative or at the request of the Minister on revenue implications, tax administration and aspects of policy changes relating to all taxes referred to in the Schedule, any matter that could affect policy or public finances and any other matter that the Minister considers could improve the effectiveness or efficiency...”

Okay, having read it aloud, Madam Chair, I think that we are good. I would warmly receive the recommendations at A and B. Has the hon. Member dealt with C?

Sen. Deonarine: Oh sorry, I forgot C. Where is C? Okay. Oh, right. So I addressed this during the debate. The law here says that the Enforcement Division will be staffed by the Public Service Commission. But then this clause here says:

“Such other employees of the Authority as the Board thinks fit”

But when the Minister of Finance was piloting the Bill he said that those persons that would be hired in the Enforcement Division would be an administrative function, would serve only an administrative function and not an enforcement function. But the law does not say so. So I just wanted to get clarification on that, please.

Mr. Imbert: If you look very carefully at 3(a), 3(a) makes it clear that the persons doing the enforcement are public officers. If you go down to the bottom of 3(a), it says:

“Other public officers who may, for the purposes of the enforcement of the laws, exercise the powers, authorities and privileges conferred by those laws.”

So in order to having an enforcement function and enforcement power, you have to

be a public officer. These people at the Authority will be appointing will not be public officers.

Sen. Deonarine: Okay. All right, I understand.

Sen. Vieira: When I saw the Deputy Director General – Enforcement I was wondering whether you were modelling this office after the UK Director of Revenue and Customs Prosecutions. Now, we are talking about enforcement. And so, in the UK that officer is responsible for criminal investigations and prosecutions, as well as bringing civil proceedings, for example, getting injunctions, and so on. But we do not speak about any of this specifically. And I was wondering whether there is a reason for that.

Mr. Imbert: I do not think we need to, because remember they are enforcing those 70 laws. So when you go into those 70 laws, you would see that “enforcement” means “prosecution” and all those things. But AG, I will hand it over to you.

Sen. Vieira: It is just I do not want us to be caught flat-footed and say ultra vires, you know, but if you check—

Mr. Imbert: I understand. I understand.

Mr. Al-Rawi: So, Madam Chair, I thank Sen. Vieira for raising this very important point. It goes towards one of the issues of constitutionality. And secondly, the Minister of Finance is perfectly correct. So, we looked at this extremely carefully.

To answer your question as to whether we modelled, we really modelled Kenya most of all because Kenya took a progressive step towards its Revenue Authority introduction for the same reasons that we face in Trinidad and Tobago right now, where there was not the kind of support from parliamentary positions as was required. So they took a progressive step.

For instance, the Criminal Investigations Unit at the Board of Inland Revenue will continue to function. They will be vested with all of those

prosecutorial functions, et cetera. Sen. Evans Welch is a longstanding prosecutor for that unit for the Republic of Trinidad and Tobago, with a blazing track record, for example. So they continue to function in the prosecutorial and other factions and the springboard for their authority is within those 70 laws. So we did look at that.

I want to just repeat for the record that in looking at the separation of powers issue, we are coming with amendments to many of these 70 laws as we scrub each and every one of them, so that we avoid arguments on saved law versus non-saved law.

Sen. Vieira: And that was also my concern; coinciding those.

Mr. Al-Rawi: Yes, yes. So the constitutional issues on the table, 4(a), property; 4(c), privacy; separation of powers. Those are the only constitutional issues. This has been discussed for 20 years. And bearing in mind where laws are going to at present, if I look at the Neverson judgment in the CCJ, if I look at the attack on saved law provisions that is now current in many jurisdictions, upfront preparation as Attorney General requires me to look at this issue carefully.

So I would just like to address for the record that it is not any one single piece of advice that the Government has received. There has been every 20 years of advice on different iterations, but the constitutional issues are really narrow. The use of the Public Service Commission in the enforcement aspects is the material aspect for treating with property (a)—4(a) rights and 4(c) rights; in addition to the civil functions and writs of assistance that are provided in the Customs law, for example, et cetera. So there is High Court scrutiny and then there is balance, because the most recent case of judicial review against the DPP, first of its kind, where the DPP has been judicially reviewed on the DPP's exercise of a section 90 power, now brings to life JR as a further tool and section 14 of the Constitution as

well. So I am just putting that on the record, so that when they are interpreted and they look to the *Pepper v Hart* principles that we are clear on the record.

Madam Chairman: Sen. Deonarine.

Sen. Deonarine: Thank you, Madam Chairman. Under this same clause 14, in subclause (5), I had a general question that I wanted clarification on, for which I did not propose an amendment. So if I may ask a question, Madam Chairman? It is with respect to the performance of the functions, not necessarily performance of the functions, but the Director General, it is not clear that the Director General and the Deputy Director General – Enforcement, whether they are on the same lines of authority or whether the Deputy Director General – Enforcement reports to the Director General.

Now it says in here that the Deputy Director General – Enforcement receives general policy directives from the Minister of Finance and the Board through the Director General. Does that indirectly mean that he reports to the Director General? Because it is not clear here. And why I want this to be clarified is because the Deputy Director General – Enforcement is a public officer who is appointed, subjected to disciplinary control, promotion and performance appraisals and everything by the Public Service Commission, whereas you have the Director General who, I do not know exactly where he is situated and, therefore, I do not want us creating something that the Director General cannot tell the Deputy Director General – Enforcement what to do.

Mr. Imbert: We have to be very careful. Look at clause 5(c) and (d) of 14, sorry subclause 5(c) and (d) of 14. Notice that it refers to subsection (2)(a) in subclause 5(c) and subsection (2)(b) in subclause 5(d). When you go back to subclause 2(a) and (b), it is just the management and direction of the administration. So that the policy directions that are coming from the Minister and coming from the board

only refer to daily management and direction of the administration. Okay?

Sen. Vieira: What does the word “advising” means?

Mr. Imbert: Advising? Where is that?

Sen. Vieira: (c) and (d).

Mr. Imbert: I must be, I am not sure I am looking at the right clause. Which (c) and (d) are you looking at?

Sen. Vieira: Advising the Director General.

Mr. Imbert: All right subclause (2). I mean, it is just giving the Deputy Director General – Enforcement the right to advise the Director, but the Director does not have to take it.

Sen. Vieira: No, but you see, this is what Sen. Deonarine is looking at, because when you read advising it sought of suggests that he is advising the Director and the Director General should follow the advice.

Mr. Imbert: Well, I do not think it goes that far that the Director General must follow his advice. I think it just gives him the ability to advice. But the Director General does not have to take his advice. And then the policy directions have to deal with administration and management. But go ahead AG.

Mr. Al-Rawi: So, Madam Chair, for the record, and I thank hon. Senators for putting it because this as an important point. Advice is just what it is, advice. It is not an instruction and it is not a direction. So it is capable of being ignored. So the plain and ordinary interpretation, the literal interpretation of statute is what bears here. And for the record, advice can be taken or not taken. It can be ignored. It is pretty much like consultation. I can consult with you. I may have an obligation to consult with you but I do not that have to do anything after that. We spoke.

In relation to 5(c) and (d) and your question, and you have asked the point about line of authority and to avoid confusion. So for the record we are legislating

the organogram here. You have a director general, and as the name implies in a literal interpretation, you have a Deputy Director General – Enforcement. If you look at (c) and (d) it says.

“which shall be communicated to him through the Director General; “

So the line of authority is Minister may make certain things, general; goes to Director General, which then goes to Deputy Director General.

Similarly, the flow back goes that way. When it comes to the enforcement provisions the Bill is clear. Only the Deputy Director General – Enforcement can act and to the exclusion of everyone else. So that is the only person clothed with the authority to do these things. So it is like having—Petrotrin has estate constables. Petrotrin has a board of directors. The only person that could arrest you is an estate constable, unless you are using a private citizen’s power of arrest. So that is an example of an enforcement function by an estate constable, versus the general parameters of a board, et cetera. So the line of authority is clear, (c) and (d) both provide:

“...which shall be communicated to him through the Director General”

I hope that that assists.

Sen. Deonarine: Madam Chairman, just to be clear, I am going to ask the simple question: Could the Direct General tell the Deputy Director General – Enforcement what to do, like how to manage his division? Or that is entirely dependent on the Deputy Director General and his mandate on how he wants to run his division?

Mr. Al-Rawi: So the person with locus, the person with the position in law to carry out enforcement is only the Deputy Director General and the public officers under him or her. To answer your question directly, the Director General can say to the enforcement position: I think you ought to do this or I recommend, or. But only the enforcement officer can act. And if he chooses not to act, that is entirely up to

him. If there is a complaint that goes on there, the complaint is made to the Public Service Commission and the Public Service Commission engages the matter.

Sen. Vieira: To be clear, the Director General cannot instruct the Deputy Director General in regard to (a) and (b).

Mr. Al-Rawi: Correct. But that is what I mean, because you said can he tell him, so I am using your word, right. So he could tell him whatever he wants. I could tell you the sky is pink.

Madam Chairman: So Sen. Deonarine, with respect to your proposed amendment at 14, C?

Sen. Deonarine: I will withdraw it, Madam Chairman. I will withdraw it. 14, C?

Amendment C withdrawn.

Madam Chairman: Yes.

Sen. Deonarine: I will withdraw.

Madam Chairman: Yes, yes.

Sen. Deonarine: I believe 14, A and B were accepted.

Madam Chairman: Yes. Thank you. So. Hon. Senators, the question is that that clause 14 be amended as circulated by Sen. Deonarine in respect of A and B.

Question, on amendment, put and agreed to.

Question put agreed to.

Clause 14, as amended, ordered to stand part of the Bill.

Clauses 15 to 29.

Question proposed: That clauses 15 to 29 stand part of the Bill.

Madam Chairman: Sen. Deonarine.

Sen. Deonarine: Madam Chairman, I indicated previously that I have some general questions on clauses 23, 24—

Madam Chairman: No, no. Hold on.

Sen. Deonarine: Okay.

Madam Chairman: Let us, just very quickly, raise the particular clause that you need an issue to be addressed.

Sen. Deonarine: Okay. Thank you, Madam Chairman. So, with clause 23, I had a general question in terms of part (b), subsection (b), 23(1)(b). It says.

“with the approval of the Minister, moneys paid to the Authority by ways of fees, fines, grants, rent...”

—and all these different things.

Now, my question is: In the future or at any point in time, or right now why consideration was not given to like a two-tiered system where you are allowed for a percentage of the revenues collected go into a particular fund that would probably, perhaps, could have come under (b) to act for the Revenue Authority to have funds accessible, have accessible funds, outside of the budget cycle? Because it is a critical feature of creating a Revenue Authority to kind of create that independence from the whole budget cycle and being subjected to the Ministry of Finance did not give releases, and so on?

Madam Chairman: Minister of Finance.

Mr. Imbert: That would be a double-edged sword, because you may want to give the Authority a percentage of revenue. When revenue is low that percentage will be low. And it is exactly when revenue is low that you may want to give the Revenue Authority more money to improve revenue collection. So it has its pluses and it has its minuses.

The other thing is that when you do it that way, you sometimes end up in a situation, and I have seen it with the—which is one this collects the cess, the Regulated Industries Commission?

Mr. Al-Rawi: Yes.

Mr. Imbert: I have seen it with the Regulated Industries Commission. Quite often they create a surplus, but there is a formula by which the Regulated Industries Commission collects its revenue and quite often they achieve a surplus and then they do all sorts of things with the surplus.

There was a former Chairman of that RIC who built up quite a surplus because he was getting a percentage of the revenue or a percentage of the billings of these various utility companies and started to buy land and wanted to put up a building and all sorts of things. So you do not want that. You want parliamentary scrutiny of expenditure. You want the Parliament to be able to look at the parliamentary appropriation for this Authority, and the Parliament to approve it. You do not want an authority to be able to just get money and do whatever it wants with it without proper oversight. So it is not something I could support. Maybe later on, five years from now, when this thing is running and it is—you know, everything looks good, then you could consider that they get a percentage. But I would not recommend it now at all.

Madam Chairman: Attorney General.

Mr. Al-Rawi: Thank you. Madam Chair, I catch Sen. Deonarine's excellent point, autonomy. Autonomy removes the need for a request, for budgetary cycles. It breathes for independence, nice and flexible. I got the point.

The current trending of governments around the world that have gone digital in particular, is to sweep up accounts, because you may not know this, but governments have to borrow when they do not have the money, quite simply put. Governments do not have money when billions of dollars are locked away in individual enterprises. So you might actually not be aware, as many of us are not, that there are billions of dollars of assets in the Republic of any country, Trinidad and Tobago included, in bank accounts, locked, investment positions. If you can

consolidate those Treasury issues into a consolidated fund you borrow less, your taxpayers pay less.

The ability to have requests for money, have them approved, Treasury performance factors, it really now goes down to the whole concept of where this country is going to go, whole of government accounting. So the more you actually look at how you manage money, like we do in the information technology world, it is called just in time delivery. No longer do people keep large warehouses of stock just in case. They go for just in time. It reduces your overhead. It manages the position. It applies to money as well.

So, one of the things that I am paying attention to in particular, as we do the law on digitization, et cetera, and some of the things that we are talking about include this concept of autonomy and financial autonomy and ability to hold on to your own autonomy. Because, by that method, I would like to just end by saying this, in running a country, we are not running a company. So there are Ministries like the Ministry of Social Development and Family Services, their sole job is to spend billions of dollars. They do not have to earn a cent. And then there are other ministries like the Ministry of Finance or the Ministry of Energy and Energy Industries that have to raise revenue.

So the ability to transfer, vire and manage now becomes a whole of government issue. So for that reason, I would just like to say I support the Minister of Finance's view that we look at this going forward, because it is not just this autonomy. We have judicial autonomy, parliamentary autonomy. There are lots of autonomies that we are looking at, but they are all underwritten by money.

Sen. Deonarine: Thank you, AG. I just asked about it because I see it as a potential or an opportunity to create a fund to allow the Revenue Authority to probably have access to moneys that would be dedicated towards modernization or

technological advancement, knowing very well that the Authority would have to clean up a lot of systems and implement a whole bit of technological advancement solutions in the—once this Bill is passed. Thanks, Madam Chairman.

Madam Chairman: Right. Can we move on to—you had a concern about clause 24, you said?

Sen. Deonarine: Yes. Right. With clause 24, now I have not raised this point about the whole debt issue. I mean, I know this is standard with all statutory authorities, but is there any avenue to consider putting a ceiling to this borrowing limit? And if no, why not? Why we do not put borrowing ceiling in laws such as these? Because the reality is that we do have a debt problem.

Madam Chairman: I think the Minister has gotten it. Minister of Finance, this is clause 24.

Mr. Imbert: As the Attorney General has said, that is in another law. You do not need to have it inside of here. Those statutory limits are in another law. You do not need to put them in here.

Madam Chairman: Okay. And then can we—next query, Sen. Deonarine.

Sen. Deonarine: Madam Chairman, on 28, one question. What is the role of the Office of the Procurement Regulator? Because that law is partially proclaimed. So how would this be affected when—what is role of the Office of Procurement Regulator in this?

Mr. Imbert: I would think it would be covered by that?

Mr. Al-Rawi: In the Public Procurement Act, when it becomes operational, the Public Procurement Act says wherever you see Central Tenders Board, repeal and replace and put public procurement. So that is already taken care of there.

Madam Chairman: Okay. That is it?

Question put and agreed to.

Clauses 15 to 29 ordered to stand part of the Bill.

5.05 p.m.

Clause 30.

Question proposed: That clause 30 stand part of the Bill.

Madam Chairman: Sen. Deonarine.

Sen. Deonarine: Thank you, Madam President. I believe I will withdraw this one primarily because I am seeing that it includes an operational plan, and an operational plan will include the budget as well. So I withdraw this one.

Amendment withdrawn.

Question put and agreed to.

Clause 30 ordered to stand part of the Bill.

Clauses 31 to 42.

Question proposed: That clauses 31 to 42 stand part of the Bill.

Madam Chairman: Sen. Deonarine, you had a question?

Sen. Deonarine: Thank you, Madam President. With respect to clause 33, I had a question with respect to subclause (3). My question here is that the secrecy provisions of section 4 of the Income Tax Act, would it apply here? Because that is a big problem that we have right now every time public sector entities come before any committees they “cah” access information. So I just wanted to make sure that the Auditor General will be able to access this information to conduct audits in the manner in which they should.

Mr. Imbert: What the Auditor General can do is audit information that is not of a personal and private nature. So they will audit the expenditure of the Authority. It is procurement and matters like that, but they cannot audit tax returns, Auditor General cannot do that.

Sen. Deonarine: So, question then, through you, Madam President, what happens

in an instance in a situation where they have—they conduct an audit, they find a particular problem in a particular area and request a batch of—they would not be able to?

Mr. Imbert: They cannot get into personal and private information.

Sen. Deonarine: Okay.

Mr. Al-Rawi: The Auditor General's function is to audit the books of an entity which is a public entity.

Sen. Deonarine: “Um hmm.”

Mr. Al-Rawi: They cannot and ought not in principle to step into the private affairs of citizens.

Sen. Deonarine: “Um hmm.”

Mr. Al-Rawi: So the only ouster that the Auditor General has received so far is in relation to anything that is on the private side and individual side, because that secrecy provision is, if you think about it the one area—knock on wood—so far that you have not had breaches for years, it is really the Inland Revenue on the personal income tax side. So the accounts of the entity itself are fully open to the Auditor General but they cannot step behind the iron curtain which protects the individual tax paying information.

Mr. Al-Rawi: Minister West.

Madam Chairman: Minister.

Sen. West: Yes, Madam Chair, thank you. I just wanted to add for Sen. Deonarine's comfort, there is contemplated in the design of the TTRA an internal audit unit, as well as a fraud investigation unit which should be able to address the issues that concern you.

Question put and agreed to.

Clauses 31 to 42 ordered to stand part of the Bill.

New clause 36

New clause 36 read the first time.

Question proposed: That the new clause 36 be read a second time.

Madam Chairman: Sen. Deonarine.

Sen. Deonarine: Thank you, Madam President. I thought that this should—even though the law has a lot of accountability mechanisms built into it and even though it has a strategic plan that I believe is done every three years, I still think that it should be put into the law that we have a mandatory parliamentary review on the performance of the Revenue Authority after five years, not necessarily five years but after a stipulated period of time.

Mr. Imbert: I think I understand what you are driving at here. The accounts of the Revenue Authority would be sent to the Public Accounts (Enterprises) Committee which is chaired by Sen. Mark for the time being and maybe for the next 20 years, because it is chaired by a Member of the Opposition. But I am not sure—so that there is a constant review of the Authority by the Public Accounts (Enterprises) Committee. I think what you are driving at is the Act itself.

Sen. Deonarine: Yeah.

Mr. Imbert: So what I would suggest is that the Minister review the Act and submit a report to Parliament every five years, okay?

Sen. Deonarine: Yes. That would work.

Mr. Imbert: So maybe we could use those words.

Sen. Deonarine: Yes, because—through you, Madam Chairman, the idea is to really see how the model has been working and we also have the TADAT Report against which we have established a baseline and could see how the Revenue Authority has been improving in terms of the level of efficiency of tax administration.

Mr. Imbert: So I would just—I will give you a form of words:

“The Act shall be subject to review by the Minister who shall submit a report to the Parliament every five years.”

Madam Chairman: Thank you, Minister, if you could just slow it down so I can take it please. Thank you.

Mr. Imbert: The Act—

“the provisions of the Act shall be subject to a review by the Minister who shall submit a report to Parliament every five years.”

And then Sen. Mark could have fun with that, if he is still around in five years.

Madam Chairman: So I will just reread it for you:

“The provisions of the Act shall be subject to review by the Minister who shall submit a report to Parliament every five years.”

Sen. Deonarine: Just one question, Madam Chairman, would that be laid in the Parliament?

Mr. Imbert: Yeah, well, they have to submit it to the Parliament.

Sen. Deonarine: So, it is no negative or affirmative resolution?

Mr. Imbert: No, no. It is laid and then it goes to the Public Accounts (Enterprises) Committee, right.

Sen. Deonarine: Okay. All right, good.

Mr. Imbert: Once you lay something, if it is from a statutory authority it automatically is referred to the Public Accounts (Enterprises) Committee.

Sen. Deonarine: Okay.

Mr. Al-Rawi: Why do we not put it as a 43 as opposed to 36 and—

Mr. Imbert: Yeah, you “doh” have to be a 36, it could be—

Mr. Al-Rawi: Madam Chair, I was just suggesting instead of renumbering all the clauses and to avoid cross referencing in proofing, if the hon. Member would

consider it being read as “New clause 43”, as opposed to 36?

Sen. Deonarine: Sure.

Mr. Imbert: Okay.

Madam Chairman: Sen. Deonarine, may I ask you then in light of the rewriting of the new clause and the fact that we are now going to put it in a different part of the Bill, if you would be minded to just withdraw your new clause 36?

Sen. Deonarine: Sure

Madam Chairman: And then I will put the other clause, yeah.

Sen. Deonarine: Sure.

New clause 36 withdrawn.

Madam Chairman: So just for the record new clause 36 as proposed by Sen. Deonarine has been withdrawn.

New clause 43.

The provisions of this Act shall be subject to review by the Minister who shall submit a report to the Parliament every five years.

New clause 43 read the first time.

Question proposed: That the new clause 43 be read a second time.

Question put and agreed to.

Question proposed: That the new clause be added to the Bill.

Question put and agreed to.

New clause 43 added to the Bill.

Schedule ordered to stand part of the Bill.

Question put and agreed to: That the Bill, as amended, be reported to the Senate.

Senate resumed.

Madam President: Minister of Finance.

Hon. C. Imbert: Thank you, Madam President. I wish to report that the Trinidad and Tobago Revenue Authority Bill, 2021, was considered in the committee of the whole and approved with amendments. I now beg to move that the Senate agree with the committee's report.

Question put.

Sen. Mark: No, division.

Madam President: I remind Members that three minutes will be allowed so that all Members can return to the Chamber. [*Pause*] So we will now begin the division.

The Senate divided: Ayes 21 Noes 7

AYES

Rambharat, Hon. C.

Gopee-Scoon, Hon. P.

Sinanan, Hon. R.

Hosein, Hon. K.

West, Hon. A.

Mitchell, Hon. R.

Cox, Hon. D.

de Freitas, N.

Singh, Hon. A.

Sagransingh-Sooklal, Hon. R.

Bacchus, Hon. H.

Lezama-Lee Sing, Mrs. L.

Bethelmy, Ms. Y.

Ibrahim, Dr. M.

Young, N.

Richards, P.

Vieira, A.

Deyalsingh, Dr. V.

Deonarine, Ms. A.

Seepersad, Ms. C.

Thompson Ahye, Mrs. H.

NOES

Mark, W.

John, Ms. J.

Lutchmedial, Ms. J.

Nakhid, D.

Lyder, D.

Roberts, A.

Teemal, D.

Mr. E. Welch abstained.

Question agreed to.

Bill reported, with amendment.

Question put: That the Bill be now read a third time.

Sen. Mark: No, division.

Madam President: Well, there is no need for the three-minute interruption because all Members are here.

The Senate divided: Ayes 21 Noes 7

AYES

Rambharat, Hon. C.

Gopee-Scoon, Hon. P.

Sinanan, Hon. R.

Hosein, Hon. K.

West, Hon. A.

Mitchell, Hon. R.

Cox, Hon. D.

de Freitas, N.

Singh, Hon. A.

Sagransingh-Sooklal, Hon. R.

Bacchus, Hon. H.

Lezama-Lee Sing, Mrs. L.

Bethelmy, Ms. Y.

Ibrahim, Dr. M.

Young, N.

Richards, P.

Vieira, A.

Deyalsingh, Dr. V.

Deonarine, Ms. A.

Seepersad, Ms. C.

Thompson Ahye, Mrs. H.

NOES

Mark, W.

John, Ms. J.

Lutchmedial, Ms. J.

Nakhid, D.

Lyder, D.

Roberts, A.

Teemal, D.

Mr. E. Welch abstained.

Question agreed to.

Bill accordingly read the third time and passed. [Desk thumping]

ADJOURNMENT

Madam President: Leader of Government Business.

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, I beg to move that this Senate do now adjourn to a date to be fixed. Thank you.

Madam President: Hon. Senators, before I put the question on the adjournment, leave has been granted for two matters to be raised. Sen. Vieira.

Use of Ivermectin for COVID Treatment

Sen. Anthony Vieira: Thank you, Madam President. Let me declare from the outset that I am not promoting ivermectin in lieu of or as a substitute for vaccination. I am not an anti-vaxxer. I accept that the most effective way of combating COVID is through vaccination. We must vaccinate as many people as possible as fast as possible, and every sector of the society must be engaged in this effort. But I am concerned, I am concerned that we may be disregarding a readily available, affordable, and effective treatment for COVID. And that a drug which can save lives and mitigate the negative consequences of long COVID is being ignored.

When ivermectin was discovered in the 1970s it was hailed as a wonder drug, one of three wonder drugs which has had the greatest beneficial impact on the health and well-being of mankind, the other two being aspirin and penicillin. Ivermectin proved ideal in combating some of the world's most devastating and disfiguring diseases, river blindness, elephantiasis, malaria, and as a therapy against parasitic infections, all without side effects. So much so, that the

discoverers of the drug were awarded a Nobel Prize for medicine. It is therefore ironic to hear people mamaguying the drug as fit only for horses, cattle and dogs. Yes, it is true ivermectin has had huge success in animal health, but that does not and should not take away from the fact that it has also been used successfully to overcome many human diseases, and new uses for it are continually being found.

Now, I appreciate ivermectin has not yet gotten the WHO's imprimatur as a treatment for COVID and no doubt that accounts for some hesitancy. But the drug has been around for over 40 years and has been used extensively. It is cheap, widely available, and generally recognized as one of the safest drugs in history.

A comprehensive review dated 3rd of March, 2021, conducted by Dr. Jacques Decotes, Professor Emeritus at the University of Lyon, concludes that:

Hundreds of millions of human subjects have been treated with ivermectin for curative or prophylactic purposes over the last three decades. And there is a large body of data available which allows for a detailed analysis of the drug's medical safety, and that ivermectin is among the safest and well-tolerated drugs on the market.

I have spoken with doctors here and in other Caribbean islands all of whom speak in glowing terms about ivermectin's effectiveness in treating COVID. Indeed, there is an ocean of data to the effect that ivermectin's safe, broad spectrum functionality inhibits attachment of COVID's viral spike to the human cell membrane and effectively blocks infection.

There is evidence that ivermectin has been successfully used to treat COVID in India, Africa, Australia, South America, and other countries. Begging the question as to why, why is information being distorted, suppressed and dismissed? How is this possible when ivermectin is on the WHO's list of essential medicines?

I do not want to speculate; I do not want to believe that crass commercial

considerations on the part of big pharma who have an interest in selling high priced vaccines might be informing resistance to the use of ivermectin for COVID patients. And I do not want to believe that our health officials blindly follow WHO recommendations unreservedly and without question, because that would be a fettering of discretion and a dereliction of the duty to exercise independent judgment. All I am asking is for the medical profession and our health authorities to critically and objectively assess the drug's potential and to do so with urgency and humility.

In an Israeli study, Professor Eli Schwartz confirms ivermectin breaks down the transmission chain and can change the course of the disease. He tells sceptics that it will not harm you and may help you. Ivermectin is being investigated in the United Kingdom as part of the platform randomized trial of possible COVID-19 treatments for recovery at home and in other non-hospital settings.

Oxford Professor Chris Butler, one of the chief investigators, he confirms that ivermectin is readily available globally, has been in wide use for many other infectious conditions, is a well-known medicine with a good safety profile, and is already being used to treat COVID in several countries.

In Jamaica, in an open letter this May, a group of doctors called on the Minister of Health for the use of ivermectin in that country's fight against COVID. And they wrote, and I quote:

“In...”—their—“...carefully considered opinion, the available data on Ivermectin is quite adequate.”

And:

“There is no need to await the outcome of further trials.”

There is evidence from Japanese researchers that in certain African countries where river blindness is endemic and ivermectin is distributed to the population to

cure infection, there is practically no COVID in those countries. Also noteworthy is that in malaria infested countries where the population has traditionally taken ivermectin to ward off infection, COVID cases are rare.

5.35 p.m.

Ivermectin is seen as a COVID preventative and a cure. Ivermectin is also credited for obliterating 97 per cent of cases in the provinces of Delhi, Uttar Pradesh and Goa; this after the WHO cautioned India that they were making a mistake by using ivermectin, that the drug could be dangerous and there was no evidence it worked. Delhi decided to use the drug nonetheless and their death rate fell dramatically. But, on the other hand, the state of Tamil Nadu, which opted not to use ivermectin, they were devastated by COVID. Interestingly, the Indian Bar Association has served legal notice on WHO's Chief Scientist asking the organization to justify its recommendation not to use ivermectin. The Association also issued a press notice questioning whether the WHO's directives against ivermectin were biased, irregular and flawed, and they rebuked the organization's attempt to deprive people of knowledge about ivermectin's effectiveness as really unfortunate.

Now, I am not against the WHO. I commend the organization for it has done but they are not infallible. Let us not forget the mistakes and the gaps they made at the outbreak of the pandemic. They took weeks before they declared COVID an international matter.

My concern is when patients are facing life-threatening or life-limiting conditions, when patients cannot get into the parallel healthcare system, when there may be insufficient beds, when ventilators and oxygen are not available, whether there is not an ethical duty to consider, even if just as a therapeutic measure of last resort, the use of what may be considered a safe, low-cost, readily available

treatment option. Would it not be shameful, a travesty, a great injustice if it turns out that people have died unnecessarily, when lives could have been saved if they had used ivermectin but we dropped the ball on them and on their loved ones?

If ivermectin can save lives, mitigate against long COVID and help reopen the economy, should we not, at the very least, be considering its use as a possibility? I am not talking about ivermectin sold in pet stores for animals, but ivermectin for humans, used under medical supervision and with informed consent. I thank you.

Madam President: Minister of Health.

The Minister of Health (Hon. Terrence Deyalsingh): Thank you very much, Madam President. [*Desk thumping*] And I thank Sen. Vieira for raising this very topical issue. There were some interesting positions put where the goodly Senator said ivermectin does not have side effects. Madam President, all drugs have side effects. We have to be careful, Senator, how we speak. Ivermectin has side effects. I implore you; I implore you not to make these types of statements. All drugs— aspirin—all drugs have side effects.

Madam President, ivermectin is an anti-parasitic. Its major use is in ungulates, that is hoofed animals, and there is some limited use in humans. In the in vitro setting, that is in the lab setting, the study shows that ivermectin may warrant further investigation. Many drugs in a laboratory setting show promise. Drugs for HIV, drugs for dementia, show promise, in vitro, in a lab. But the in vivo setting is a bit different, many drugs then fail. And what the goodly Senator is not considering is that who is going to bear the brunt of the liability issues if the Government, against science, uses ivermectin and people die or have side effects. It is easy for somebody outside of Government to make recommendations. But when you are in Government and you have the responsibility, you have to do what

we call “follow the science”, that is, you put the science in front and you be guided by it.

Recommendations from the International Guideline Development groups, GDC, a group containing experts, clinicians, patients, ethicists and methodologists, regarding COVID-19 patients, has not recommended ivermectin for treatment and prevention. The following Population, Intervention, Comparison, and Outcome, PICO, refers to this: one, effect of ivermectin on:

“Mortality”

“The effect of ivermectin on mortality is uncertain.”

Two:

“Mechanical ventilation”

“The effect of ivermectin on mechanical ventilation is uncertain.”

Three:

“Viral clearance”—after— “7 days”

“Ivermectin may increase or have no effect on viral clearance.”

“Hospital admission”—for—“(outpatients...)”

“The effect of ivermectin on hospital admission is uncertain.”

A Government cannot formulate policy based on uncertainty.

Severe—“adverse events”—and this is why I caution the Senator when he says ivermectin has no side effects.

“Ivermectin may increase the risk of serious adverse events leading to drug discontinuation”

“Time to clinical improvement”

“Ivermectin may have little or no difference on time to clinical improvement”

“Duration of hospitalization”

“The effect of ivermectin on hospital length of stay is uncertain.”

Note these words: “uncertain”.

“Time to viral clearance”

“We are uncertain whether ivermectin improves or worsen time to viral clearance.”

Madam President, at this point in time, Trinidad and Tobago’s position as a responsible Government, following the science, following evidence from around the world, clearly says that the drugs recommended by WHO for the treatment of COVID-19 at this time include: IL-6 receptor blocker and systemic corticosteroids. The drugs not recommended are: one, ivermectin, except in the context of clinical trials. And I was surprised to hear the Senator say, and I am here, no need to await the outcome of further trials. What if we had done that with vaccines? You have to go through all phases of clinical trials before you let a drug loose on a population. That is the science and that is how you avoid litigation, that is how you avoid deaths and severe outcomes.

So the drugs not recommended: ivermectin, except in the context of clinical trials. Two, hydroxychloroquine or chloroquine. If you would recall, there was a time when we said hydroxychloroquine was the wonder drug and that we should use it. We did not and the world was proven right. Remdesivir, all these drugs are not recommended at this time. So I urge the country to follow the science because the liability issues are not to be trivialized.

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

Mr. Vice-President, today we had eight deaths. We could prevent those eight deaths, not by being caught up on whether ivermectin should be used, but by encouraging vaccinations; encouraging vaccinations. There is no need for people to be dying of COVID-19 in these numbers because since May, when we started a

very robust, mass vaccination programme, it is shown locally and internationally that a vaccinated individual has a 99 per cent chance of not developing severe COVID, not getting into an ICU or HDU setting and not dying, that is the conversation that all of us should be having now.

To pollute the conversation with ivermectin, I think, most respectfully, is doing a disservice to the population at this time. Neither WHO, nor CARPHA, nor the FDA—and CARPHA does not carry the bag for Big Pharma. CARPHA is a Caribbean institute that reports to the Caricom Heads of Government. They are not on the payroll of Big Pharma. Neither WHO, nor CARPHA, nor the FDA, nor the European Medicines Agency, no responsible, stringent authority recognizes the use of ivermectin at this time. And we are always careful to say, “at this time” because things could change. But at this time, following the science putting the science in front, let the science lead, is the way we are going at this particular point in time.

The day that human trials, phase one, phase two, phase three shows that ivermectin is, in fact, the drug to use, then we will follow the science and use it. But for now, at this point in time, today at 5.45 p.m., ivermectin has not been recognized by any stringent, regulatory body anywhere in the world and by CARPHA. And on those grounds, the Government of Trinidad and Tobago is steadfast in following the science and we urge everyone to simply get vaccinated. I thank you, Sir.

Misconduct of Senior TTPS Members

(Investigation of Allegations)

Mr. Vice-President: Sen. Mark.

Sen. Wade Mark: Thank you, Mr. Vice-President. Mr. Vice-President, I raise today a Motion—a matter on a Motion for the adjournment to deal with the need for the Government to explain the legal basis for its decision to appoint a two-

member committee, comprising private citizens, to investigate allegations of misconduct against senior members of the Trinidad and Tobago Police Service.

Mr. Vice-President, sometime in December, I understand, of 2020, unknowing to the population, our so-called transparent Government, led by the Prime Minister, secretly, stealthily, surreptitiously, established a two person-committee of private citizens to conduct investigations into allegations of misconduct as it relates to the issuance of firearm user licences in our country. The question that has to be asked, Mr. Vice-President: Is it ignorance, is it incompetence, or is it sheer deliberate and malicious action by the Government aimed at systematically and calculatedly working towards the destruction of our democratic institutions?

We also have the asked the question: Is there a plot hatched at Balisier House to remove the Commissioner of Police of this country—

Mr. Vice-President: So, Sen. Mark, again, as much as this is a matter on the adjournment you have to be very careful about the line that you are going down, especially when it comes to the imputation of improper motives. So just be extremely careful. The line that you are going down right now will be in breach of that particular Standing Order.

Sen. W. Mark: Mr. Vice-President, may I continue, please? It is not only the Office of the Commissioner of Police that is at stake because of this secret private investigation launched by the Prime Minister, but it is the very TTPS, Mr. Vice-President. Is the Prime Minister rather not aware of his legal limitations? He is not a dictator, he is not an authoritarian, he is not a totalitarian, he does not have all the power. He is governed by the law. We have a democracy. It is subject to the rule of law. So the question that has to be asked—and I was amazed, as this plot thickens and unfolds, that we learnt today that the Minister of National Security instructed

the Commissioner of Police not to come to work. Who is the Minister of National Security in this country to tell the Commissioner of Police not to report for duty, continue your leave? If that is what the Minister of National Security told the Commissioner of Police today, Mr. Vice-President, I call on the Minister of National Security, to tender his resignation. That is a function of only the Police Service Commission in this country. No Minister [*Desk thumping*] can tell the Commissioner of Police not to report for duty, only the appointment, the person or the institution that appointed that person. That is reckless, that is irresponsible and that is an overreach on the part of the Executive arm of the State, Mr. Vice-President. And we in the United National Congress will not stand idly by and allow the PNM Government to overreach, and destroy, and undermine institutions in our country. We will not permit that.

So, Mr. Vice-President, I have brought this Motion today in the interest of our democracy. I have brought this Motion today so that the Prime Minister or his lackeys or—well, you would not say lackeys, but his Ministers rather—the Prime Minister to come here—I did not want the Minister of National Security to come here. I wanted the Prime Minister to be present here today to explain to this country through you, Mr. Vice-President, where did he derive his power from when he appointed two private citizens to investigate allegations of misconduct and the sale of firearms within the police service? Where did he get this power from?

Mr. Vice-President, this is dangerous what is taking place in our country. You bring two individuals, one is a Rear Admiral. He could only talk about he is a Rear Admiral, Pritchard, and another one called Barrington from the Special Branch, and then we are told by the Prime Minister in the Parliament that they did it for free.

Mr. Vice-President, “we” Senior Counsel Israel Khan had a letter in the *Express* and he made it very clear in that letter, Mr. Vice-President, that the Government, the Prime Minister, has no authority to appoint any private individuals to investigate the conduct or even the misuse of firearms in the police service or to investigate any police officer. He does not have that authority. So how could you invite people, private citizens to investigate the police? Mr. Vice-President, if you do not know, let me inform you. There are only two institutions in this country that can investigate the police. In fact, the Commissioner of Police is in complete charge under the Constitution of the police service. No Prime Minister could tell the Commissioner of Police—or the Prime Minister could just go over the head of the Commissioner Police.

So, Mr. Vice-President, we want to know—we would like to know, let the Government explain to this Parliament where the Government got this legal authority to appoint two private citizens. I am of the firm view, and based on research that we have done, there are two bodies as far as I am aware that can investigate the conduct of the police. It is the Police Complaints Authority. It is something called the Professional Standards Bureau within the police service. They have that Professional Standards Bureau within the Police Service, they can conduct an investigation. But no Prime Minister, because he is the Chairman of the National Security Council, can arrogate onto himself, Mr. Vice-President, that kind of power.

So therefore, what the country is saying right now—I am glad that the Minister is here too. So he must tell the country today, whether what Gary Griffith said in today’s *Newsday*—it is in tomorrow’s *Newsday* but it is printed today—that Minister Hinds ordered him not to resumed duties come Monday, the 21st of September. I would like the Minister to put on record today whether he told the

Commissioner of Police that and where he got the power to tell the Commissioner of Police that.

So, Mr. Vice-President, the Government of this country is treading dangerous grounds. We are at a very dangerous point in this country for a Government to be acting in the way that they are acting. And, Mr. Vice-President, in closing, there is a clear plot, it is being unfolded before your eyes every day by the PNM Government to find an excuse to discredit, to delegitimize and to ultimately fire the current Commissioner of Police. He must deny that, on behalf of his Government, that that is not their intention and they have also—and this is my final point.

Mr. Vice-President: Senator, your time is up.

Sen. W. Mark: All right. Thank you, Mr. Vice-President.

Mr. Vice-President: Minister of National Security. [*Desk thumping*]

The Minister of National Security (Hon. Fitzgerald Hinds): Thank you very much, Mr. Vice-President. Sen. Wade Mark must be a “seer-man”. I do not know how we can ascribe all those things to this Government about what this Government’s intention is. We have no communication, other than in this Parliament, with Sen. Mark and he is not privy to the Government’s planning or decisions in any form, Mr. Vice-President. As usual, he appeared to have missed the mark by a mile today, as he waded around in his simplicity and scandal mongering.

Let me address very briefly the question he raised about some article in the *Newsday* today. And to make it clear that this Government is not about any “bacchanal” and scandal and small talk. We are about providing the people of Trinidad and Tobago with good government, honest government, assuring them that their country is in safe and secure hands with the PNM that is what we are

about. [*Desk thumping*] With that behind me, let me say that the Commissioner of Police—the Acting Commissioner of Police, Mr. Gary Griffith, wrote a letter to me suggesting that he return to work approximately one week, or sometime before he was due to return from a period of leave. That leave was applied for. He applied to me, as Minister of National Security, in the normal course of things and the Police Service Commission was informed. The leave was approved. He returned the approximately one week before it was due to expire and enquired of me the following day, whether he should return to his desk, I told him I should revert because I needed to understand the implications of that for his approved leave.

Before I can return to him, I became aware that he wrote similarly to the Police Service Commission and the Police Service Commission responded to him, suggesting in the main that that is a matter for the Minister of National Security. And it is on the basis of those two bits of correspondence, which having called the Commissioner, he acknowledged dispatching to the Service Commissions and acknowledged the reply that I was aware that he had received. It was on the basis of that, that I told him, that he should remain on leave up until the expiration of same on the 20th of September, Mr. Vice-President.

It so happened, not with any premeditation, that the Permanent Secretary in the Ministry of National Security was present with me at the time and my phone, as usually is the case, was on loud speaker. So the Permanent Secretary of the Ministry of National Security overheard everything in the conversation, and I want to report to Sen. Mark and the country today in the spirit of truth and honesty, that I told the Commissioner, and repeated myself twice, making it pellucidly, abundantly, sufficiently clear for any child to understand, I am speaking about you staying at bay until the expiration of your leave. He acknowledged that and went off of the phone. So to suggest, as Sen. Mark did, that this Minister told him that he

should not return to his desk beyond the 20th is clearly missing the mark, as he always does in his scandalous, and if you would permit me a colloquialism, “bachannal-ish” tone, which we reject in the face of the seriousness of the governance of the affairs of Trinidad and Tobago and more specifically, the affairs of the Ministry of National Security. Let me come to the content of his Motion today because he waded around wildly with the matter that I have just addressed.

Mr. Vice-President, the National Security Council gets its legal authority in the Constitution of Trinidad and Tobago section 75, recognizes and establishes Cabinet Government and the National Security Council is a subcommittee of the Cabinet of Trinidad and Tobago. It became aware of public disquiet from elements of the media, members of the public, people who report directly to us, of some concerns about the mismanagement of the licensing regime inside of the police service as it relates to the issue of firearms and other matters pertinent to the firearms regime and industry. The information was disquieting and was growing louder.

The National Security Council could not ignore that, but not knowing the facts, asked two recently retired national security platform, experienced, patriotic operators in the person of Rear Admiral Pritchard (Ret.), who was the Chief of Defence Staff, and Senior Superintendent, who acted as Assistant Commissioner, Arthur Barrington who headed the Special Branch, as public-spirited people to conduct a fact-finding exercise, so as to permit the National Security Council to determine whether the public disquiet that we could not ignore was a real concern. And both men, patriotic, industrious, knowledgeable, experienced as they are, undertook to do that, using their time, their professionalism, and their love for Trinidad and Tobago, without a call for any fee, none was offered to them and not one cent was paid to those two public-spirited, experienced former national

security operators. And they went into the field, they interviewed who they had to interview, they spoke to persons on this fact-finding exercise purely to advise the National Security Council as to whether these were really matters for concern, something the Cabinet does all of the time.

We have agencies, we have people, we have companies coming to us to give advice to the Cabinet, so as to assist us in making sound, good government decisions, nothing new, and that was done. They produced a report, not calling a single name, identifying issues in the system, its strengths, its weaknesses, its potential for exploitation and criminality, and some other issues, not a name called, and with some strong and serious recommendations which too could not be ignored given the height from which they came. And Mr. Deputy—Mr. Vice-President, I am sorry—

6.05 p.m.

To suggest that we had two private citizens, who were investigating senior police officers is as round as an “O” [*Desk thumping*] and it is as foolish as you can have it. But I excuse Sen. Mark. He does not know better and he cannot help himself because that is the ethos of the UNC. It is simply wrong and scandalous. That was not their mandate. Theirs was a fact-finding exercise which was very useful to the National Security Council and, by extension, the Cabinet. And if in future any matters of criminality become relevant, it is the police service that will investigate and treat with those matters in the way that only they are mandated to. I thank you, Mr. Vice-President. [*Desk thumping*]

Greetings

(Republic Day)

Mr. Vice-President: Hon. Senators, before I put the question, I now invite Senators to bring brief greetings on the occasion of Republic Day to be observed

UNREVISED

on Friday, September 24, 2021. Sen. Young. [*Desk thumping*]

Sen. Ndale Young: Mr. Vice-President, I take this opportunity on behalf of the Government Bench to bring greetings on behalf of the Government of Trinidad and Tobago, on this occasion of the Republic Day or the celebration of our Republicanism, on the 24th of September, 2021. It is clear that now, in retrospect, although in those days when we set out to become a Republic, when our leader at the time, Dr. Eric Williams, set out to make us a Republic, there were many an argument to and fro as to whether we would be in a better or worse place if we were to govern and answer to ourselves. It is clear that that decision was a good one, and I stand here to raise a toast against him and all of those who stood on that day to decide that we would become a Republic. There are many nations who are now following suit in this day. Even our neighbours are seeking to become Republic this year, as we celebrate 45 years of our Republicanism.

On the 01st of August, 1973, we became a Republic nation which simply meant that we removed the Governor General as our titular head and we would have become a Republican Parliament. The first sitting of that Parliament would have been on the 24th of September in that year. What was significant about that, is that on that day the then Governor General became our first President, and from that day we have had Presidents that all were born and bred in Trinidad and Tobago.

It simply means that every decision that was made, every law that had to be assented to has been done so from that day, to this day, the Twelfth Republic Parliament, by a citizen of Trinidad and Tobago. And while in this time for many of our children and many of the people who are looking on, it seems to be something that is frivolous, in the time of colonialism and world rule and domination, it was not even fathomable then.

But, today, I stand as a proud product and I thank my ancestors, I thank God Almighty for giving us this opportunity, and as we look even in this sitting today and the passing of this legislation, we are given an opportunity to refine our laws that will be assented to right here in Trinidad. We can make our decision as to how we rule, how we move. And whether we are for or against, we are playing a part and making a difference in our own island. And, for that, I think it is worth us taking the time out to recognize and thanking all Senators, all, all of the participants—Upper and Lower House—that participate in this august House that we are privileged to stand here, and we give God thanks for the opportunity. [*Desk thumping*]

Sen. Wade Mark: Thank you, Mr. Vice-President. Mr. Vice-President, on behalf of the United National Congress, on behalf of our distinguished Leader of the Opposition, former Prime Minister, the hon. Kamla Persad-Bissessar and on behalf of my colleagues on the Opposition Bench, we would like on this occasion to bring greetings to the people of our Republic of Trinidad and Tobago, as we collectively prepare to celebrate our 45th anniversary celebration of the founding of our Republic, which was sometime on September the 24th, 1967.

Mr. Vice-President, you know vigilance is very crucial if you want to sustain and promote and defend freedom. Freedom is the foundation of all human rights and, therefore, it is important as we celebrate or prepare to celebrate our Republican status sometime next week, it is very important that we pay attention to protecting, safeguarding and promoting our democracy. We have to also defend the rule of law and we also have to protect the freedoms and liberties and rights of our citizens.

Mr. Vice-President, on the occasion of this Republican anniversary in 2021, Trinidad and Tobago finds itself literally on trial as it relates to our democratic

institutions, our norms and our values. They are coming and have come under merciless assault and continuous attack—whether it is our trade unions, whether it is in the police service, whether it is the Police Service Commission, whether it is the Teaching Service Commission, the Judiciary, our Parliament, the university—all the major democratic institutions in our nation continue to be under assault and attack by this present administration.

So what we would like to do, at this time, is to call on the people of our nation to be extremely vigilant, be very watchful and we have to do what is vitally important and absolutely necessary to ensure that our Republican status, which we were able to accomplish on the 24th of September, 1976, and today we have celebrating or we are about to celebrate another year of Republican status, that we would like the people of Trinidad and Tobago to continue to be vigilant, to continue to uphold freedom, to continue to agitate for the upholding of the rule of law and to protect our fledgling democracy which under this particular administration has assumed great fragility.

So, Mr. Vice-President, I know you did not want me to be too long. I do not want to take up much more time, but just to say on this occasion, as we celebrate Republican status, we would like to extend to you and your family happy Republic Day. We extend to the people of our great nation, happy Republic Day. We want them to be safe, we want them to be happy, we want them to be prosperous and we want to make sure, at the end of the day, we live in a democratic, free society, where every greed and race must find an equal place. I thank you, Mr. Vice-President. [*Desk thumping*]

Sen. Paul Richards: Thank you, Mr. Vice-President, for recognizing me and allowing me the honour to bring Republic greetings on behalf of the Members of the Independent Bench. On August 01, 1976, our new Constitution was

promulgated and the Republic of Trinidad and Tobago was born. We have been independent since 1962, but in 1976, we truly took the reins of our future and our destiny in our hands. What does that and what did that mean and what does it continue to mean? It means we are responsible for our future. It means we, in most cases, cannot look to the jolly old colonial masters for the answers and solutions to our challenges. In most cases, we have done that. But one has to ask ourselves, if on the almost eve of our 60th anniversary of Independence, and on this on the eve when we celebrate on the 24th of September, we truly are in control of our own destiny when we still are looking to the Privy Council as our final appellate court. These are issues that we really have to consider as we move forward and ask ourselves: Are we truly fully in charge of our own destiny?

We also have to ask ourselves, Mr. Vice-President, what do we want to leave for generations to come? We have accomplished much as a young nation, many huge feats. We have led the way in terms of Republicanism in the Caribbean. As my colleague said earlier on, there are many other Caribbean and Caricom States now looking to become Republics themselves, and we have accomplished much but we still have significant challenges ahead of us in this country. To me, the biggest or one of the most challenging issues we faced in this country, as a Republic, is disunity and it threatens to tear us apart as opposed to pushing us forward and forging a future for this country. We are a diverse country and it is to our credit that we have been able to forge a nation through that.

From what I am seeing in recent times, it is cause for pause and great concern if we cannot put away or put aside our differences, even on critical issues, and come together in the interest of the people of Trinidad and Tobago and in the interest for future generations. To me, that is one of the biggest, if not the biggest challenge facing Trinidad and Tobago, particularly, in a pandemic as we are facing

now, when we cannot even seem to put aside the differences and come to consensus on issues that are existential in nature—our very existence, the very lives of our citizens at stake.

We really have to find a way to grapple with these issues and form consensus. In the interest of our National Motto, we say proudly: “Together We Aspire, Together We Achieve.” But do we live it in the very fibre of our beings? And I think as we celebrate or we seek to celebrate and look to celebrate Republic Day 2021, particularly, in the midst of this pandemic, we, every citizen, in particular, every adult citizen, has to ask ourselves, if we are doing all we can do as a nation, in nation building in the interest of Trinidad and Tobago as a country, as nation and not fragmented groups tearing away at each other.

So, on behalf of the Members of the Independent Bench, as I said before, although we have much to celebrate as a county and much to be proud about, we have much to consider and contemplate into the future, and I hope we can do that on a united front. On behalf of the Members of the Independent Bench, it gives me great pleasure and honour to wish Trinidad and Tobago a happy Republic Day 2021. Thank you. [*Desk thumping*]

Mr. Vice-President: Hon. Senators, I too wish to join you in bringing greetings on the occasion of our Republic Day. Forty-five years ago, on August the 01st, 1976, Trinidad and Tobago embarked on another defining phase in its democratic evolution and became a Republic. The holiday is commemorated on September the 24th, since it was on that date that the First Parliament was convened under the new Republican Constitution. The attainment of Republican status, not only represents the relinquishing of monarchical ties, but also should evoke a collective sense of pride, perseverance and determination as a people.

As Members of Parliament, we have been called upon to perform an

essential role in continuing to advance and uphold the principles and practices of our democratic system of government. So, as we celebrate Republic Day, let us reflect on the progress we have made as a young Republican nation, and never take for granted the contributions we all must make to the peace and well-being of our democracy. I would like to wish you all and, by extension, the citizenry of this country, happy Republic Day. [*Desk thumping*] *Question put and agreed to.*

Senate adjourned accordingly.

Adjourned at 6.22 p.m.