

Leave of Absence

Friday, September 09, 2016

HOUSE OF REPRESENTATIVES

Friday, September 09, 2016

The House met at 1.30 p.m.

PRAYERS

[MADAM SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Madam Speaker: Hon. Members, I have received communication from the following Members; the Hon. Maj. Gen. (Ret) Edmund Dillon MP, Member for Point Fortin has requested leave of absence from today's sitting of the House and the Hon. Faris Al-Rawi MP, Member for San Fernando West has requested leave of absence from the sittings of the House during the period September 6th to 13th, 2016. The leave which the Members seek is granted.

**JOINT SELECT COMMITTEES
(CHANGE OF MEMBERSHIP)**

Madam Speaker: Hon. Members, I have also received correspondence from the President of the Senate. This correspondence is dated September 2016 and reads as follows:

“Dear Honourable Speaker,

Change of Membership - Joint Select Committees

I wish to inform you that a sitting held on Tuesday 21st June, 2016, the Senate agreed to the following resolution:

“Resolved:

That the Mr. Rohan Sinanan be approved to serve on the Joint Select Committee on Land and Physical Infrastructure; and the Joint Select Committee on Social Services and Public Administration in lieu of Mr. Hafeez Ali.”

Accordingly, I respectfully request that you cause this matter to be brought to the attention of the House of Representatives at the earliest convenience.

Yours respectfully,

Christine Kangaloo

President of the Senate”

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the San Juan/Laventille Regional Corporation for the year ended September 30, 2006. [*The Minister of Finance (Hon. Colm Imbert)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the San Juan/Laventille Regional Corporation for the year ended September 30, 2007. [*Hon. C. Imbert*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Chaguaramas Development Authority for the year ended September 30, 2010. [*Hon. C. Imbert*]
4. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Mayaro Civic Centre for the year ended September 30, 2008. [*Hon. C. Imbert*]
5. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Mayaro Civic Centre for the year ended September 30, 2009. [*Hon. C. Imbert*]
6. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Mayaro Civic Centre for the year ended September 30, 2010. [*Hon. C. Imbert*]
7. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the National Institute of Higher Education (Research, Science and Technology) for the year ended December 31, 2008. [*Hon. C. Imbert*]
8. Second Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Mayaro-Rio Claro Regional Corporation Chairman's Fund for the year ended September 30, 2007. [*Hon. C. Imbert*]
9. Second Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Mayaro-Rio Claro Regional Corporation Chairman's Fund for the year ended September 30, 2008. [*Hon. C. Imbert*]

Papers Laid

Friday, September 09, 2016

10. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Mayaro-Rio Claro Regional Corporation Chairman's Fund for the year ended September 30, 2009. [*Hon. C. Imbert*]
11. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Mayaro-Rio Claro Regional Corporation Chairman's Fund for the year ended September 30, 2010. [*Hon. C. Imbert*]
12. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Mayaro-Rio Claro Regional Corporation Chairman's Fund for the year ended September 30, 2011. [*Hon. C. Imbert*]
13. Annual Report and the Audited Financial Statements of the Heritage and Stabilisation Fund of Trinidad and Tobago for the year ended September 30, 2015. [*Hon. C. Imbert*]

Papers 1 to 13 to be referred to the Public Accounts Committee.

14. Annual Audited Financial Statements of National Helicopter Services Limited for the financial year ended September 30, 2014. [*Hon. C. Imbert*]
15. Annual Audited Financial Statements of National Information and Communication Technology Company Limited for the financial year ended September 30, 2015. [*Hon. C. Imbert*]
16. Annual Audited Financial Statements of Palo Seco Agricultural Enterprises Limited for the financial year ended September 30, 2015. [*Hon. C. Imbert*]
17. Annual Audited Financial Statements of National Flour Mills Limited for the financial year ended December 31, 2015. [*Hon. C. Imbert*]
18. Audited Financial Statements of Telecommunications Services of Trinidad and Tobago Limited for the financial year ended March 31, 2016. [*Hon. C. Imbert*]
19. Consolidated Financial Statements of the Trinidad and Tobago Unit Trust Corporation for the year ended December 31, 2015. [*Hon. C. Imbert*]
20. Annual Audited Financial Statements of the National Maintenance Training and Security Company Limited for the year ended December 31, 2015. [*Hon. C. Imbert*]

Papers 14 to 20 to be referred to the Public Accounts (Enterprises) Committee.

Papers Laid

Friday, September 09, 2016

21. Annual Administrative Report of the Tourism Development Company Limited for fiscal year 2014. [*The Minister of Tourism (Hon. Shamfa Cudjoe)*]
22. Annual Administrative Report of the Mayaro-Rio Claro Regional Corporation for the period October 2013 to September 30, 2014. [*The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat)*]
23. Report of the Elections and Boundaries Commission on the Parliamentary Elections held on Monday, September 07, 2015. [*The Deputy Speaker (Mr. Esmond Forde)*]
24. Delegation Report of the Sixth Westminster Workshop on Parliamentary Financial Oversight of Aid Effectiveness held in London, United Kingdom from July 4 to 7, 2016. (*Dr. Lackram Bodo*)
25. Delegation Report of the Eight Annual Gathering on Gender Equality Organised by the Group of Women Parliamentarians of ParlAmericas held in Quito, Ecuador, from June 1 to 3, 2016. [*(The Minister of State in the Office of the Prime Minister (Hon. Ayanna Webster-Roy)*)]
26. Delegation Report on the International Parliamentary Conference on Sustainability, Energy and Development held in Westminster, London from March 14 to 17, 2016. [*The Minister of Energy and Energy Industries (Hon. Nicole Olivierre)*]
27. Report of the Commission of Enquiry appointed to enquire into the entire process which led to the construction of the Las Alturas Housing Towers at Lady Young Gardens, Morvant. [*The Prime Minister (Hon. Dr. Keith Rowley)*]

**Commission of Enquiry Report
(Construction of Las Alturas Housing Towers)**

The Prime Minister (Hon. Dr. Keith Rowley): Madam Speaker, I received at the Office of the Prime Minister on many occasions, requests for an extension of the life of the Commission of Enquiry which was empanelled towards the end of 2014, and the Cabinet on every occasion immediately granted approval for the enquiry to be extended.

The report was handed to His Excellency the President this week and having been so notified that he had received it, he transmitted to the Office of the Prime

Minister the following day, the report, which was on Wednesday last, and today the report is being laid in the Parliament for public perusal. I simply want to use the two minutes available to me on this occasion, Madam Speaker, to mention some relevant dates as to how this project came into being.

In 2002, UDeCOTT operating as part of the National Housing Construction Programme purchased some acreage of land at Morvant for the purpose of house building.

By 2003, geotechnical work was done on that site as is customary when construction is about to commence on any site, large or small, in this kind of operation.

By June 2004, UDeCOTT had entered into contractual arrangements with a contractor, China Jiangsu, to build a number of housing blocks on the site. That project proceeded to be executed, so between 2004 when the contract was awarded and 2007, this project was under way.

By 2007, and I quote here from the report.

A wide longitudinal continuous crack along the top of the slope was observed, 2007. This crack heralded the appearance and movement, mass movement on a part of the site which proceeded to affect two of the many buildings that were built on the site.

Subsequent to the crack being observed on the slope, the buildings which were on that slope started to respond to the movement in the foundation and, as is expected engineeringly, cracks begun to appear in those two buildings.

By that time, UDeCOTT had been replaced by HDC as the executing agency on this project. I dare say, Madam Speaker, that that action of HDC replacing UDeCOTT was the result of a Note taken to the Cabinet by me as housing Minister sometime in the intervening period when UDeCOTT was removed from the housing construction programme and all its projects were undertaken by the HDC.

The contractor at the time with the knowledge and consent and involvement, as far they were able to, of the client, HDC, attempted to rectify the situation and significant efforts were made to deal with the damage to the buildings.

However, the movement of the slope being mass movement from a deep sliding plane could not or was not successfully concluded maybe beyond the ability of the engineers, but the sliding of the slope continued and the cracking of the buildings continued, and eventually sometime subsequent to 2007, after

Commission of Enquiry Report
[HON. DR. K. ROWLEY]

Friday, September 09, 2016

efforts to save the buildings failed, the buildings had become so damaged by the movement and the cracking that they became useless and a decision was taken to demolish the buildings.

At that time, Madam Speaker, no attempt was made by the HDC and all involved to hold the contractor responsible because the contract was a contract of design/build, where the contractor had the responsibility to design and to execute and to build to satisfaction.

Clearly, two of the buildings were not satisfactory, had to be demolished and there were liabilities from the contractor to the client, HDC.

1.45 p.m.

In 2014, September, the Prime Minister of Trinidad and Tobago came to this House and sought to implicate, in all of this, political persons who occupied places in this House and the other place, and the *Hansard* is there with the record of statements made by the Prime Minister. A commission of enquiry was instituted in September 2014 and the report is today on the Table and would this evening, I expect, be on the Parliament website. Madam Speaker, I thank you.

JOINT SELECT COMMITTEE REPORTS

**Human Rights, Equality and Diversity
(Presentation)**

The Minister of Community Development, Culture and the Arts (Hon. Dr. Nyan Gadsby-Dolly): Thank you, Madam Speaker. Madam Speaker, I wish to present the following reports:

Support Programmes and Services for Children

First Report of the Joint Select Committee on Human Rights, Equality and Diversity (First Session, Eleventh Parliament) on the Support Programmes and Services for Children Whose Parent or Guardian Was the Perpetrator or Victim of a Violent Offence.

Challenges Faced by Persons with Disabilities

Second Report of the Joint Select Committee on Human Rights, Equality and Diversity (First Session, Eleventh Parliament) on the Challenges Faced by Persons with Disabilities with Specific Focus on Access to Services and Employment.

Whistleblower Protection Bill, 2015

The Minister in the Office of the Attorney General and Legal Affairs (Hon. Stuart Young): Madam Speaker, I wish to present the following report:

Fifth Interim Report of the Joint Select Committee appointed to consider and report on the Whistleblower Protection Bill, 2015.

PUBLIC ACCOUNTS (ENTERPRISES) COMMITTEE
Audited Financial Statements of State Enterprises
(Presentation)

Dr. Tim Gopeesingh (Caroni East): Madam Speaker, I wish to present the following report:

First Report of the Public Accounts (Enterprises) Committee (First Session, Eleventh Parliament) on the Examination of the Audited Financial Statements of State Enterprises (National Schools Dietary Services Limited, Evolving Technologies and Enterprise Development Company Limited, National Flour Mills Limited, National Quarries Company Limited, Government Human Resource Services Company Limited, National Infrastructure Development Company Limited and Trinidad and Tobago Mortgage Finance Company Limited).

URGENT QUESTIONS

Princes Town Presbyterian No. 1 and No. 2 Primary Schools
(Short-term Measures)

Mr. Barry Padarath (Princes Town): In light of the relocation of students and recent protest action by parents of the Princes Town Presbyterian No. 1 Primary School and the current shift system at the shared Princes Town Presbyterian No. 2 Primary School, could the hon. Minister of Education indicate what are the short-term measures to resolve this issue?

The Minister of Education (Hon. Anthony Garcia): Thank you very much, Madam Speaker. The Princes Town Presbyterian No. 1 and the Princes Town Presbyterian No. 2, those two schools are owned by the Presbyterian Board. As a result, any work that has to be done must be done after we get the concurrence and the agreement of the board.

We met last term with the chairman of the board and the chairman indicated to us that it is the view of the board that Princes Town Presbyterian No. 1 could be repaired. There seems to be some difference of opinion between the board and the PTA.

However, since this Government and our Ministry were able to gain a lot of traction with respect to the reopening of schools, and in particular, the construction of the New Grant Anglican School, both the chairman of the Presbyterian Board and members of the PTA, we were told, visited the New Grant Anglican School to see what work was done in such a short space of time. It is now being recommended that what was used to facilitate the construction of New Grant Anglican School should be the same process that we should enter into. Only today we had a meeting and we have decided that that is the way we are going to go. Thank you very much. [*Desk thumping*]

Mr. Padarath: Hon. Minister, would you be able to be in a position at this time to indicate what sort of timeline we are looking at, seeing that the New Grant Anglican School was constructed with containers and so forth in the space of two weeks?

Hon. Member: No containers.

Hon. A. Garcia: I would like to correct the Member for Princes Town. No containers were used. However—[*Interruption*]

Hon. Member: Efficiency.

Hon. A. Garcia: Yes, it was the efficient work by the contractor. We have not yet had discussions with the contractor and therefore I am not in a position to state a timeline, but I can assure you that everything will be done so that the matter will be done expeditiously. Thank you very much. [*Desk thumping*]

Mr. Padarath: Hon. Minister, thank you for that explanation. I myself have passed by that school and it seems to be a temporary measure because—[*Interruption*]

Madam Speaker: Member, question please.

Mr. Padarath: Minister, could you indicate to us whether or not—I have written on several occasions, I know the PTA and the board have written on several occasions to meet with your good self. I have had no response at all—[*Interruption*]

Madam Speaker: Member, question—

Mr. Padarath: Would you be in a position to commit to meeting with the PTA and myself as the Member for Princes Town to resolve this matter? [*Desk thumping*]

Hon. A. Garcia: Madam Speaker, this Ministry, Dr. Lovell Francis and myself are committed to meet with any board, any PTA, any principal as long as it is in the interest of the children and we will do so as soon as we get the invitation. Thank you very much. [*Desk thumping*]

**Cases of Zika
(Details of)**

Dr. Lackram Bodoë (Fyzabad): Can the Minister indicate what steps his Ministry has taken to ensure that suspected cases of Zika in pregnant women are confirmed in a timely and accurate manner, and that those pregnant women confirmed with Zika are receiving timely and appropriate care?

The Minister of Health (Hon. Terrence Deyalsingh): Thank you, Madam Speaker, and I thank the Member for Fyzabad for the question. Cases are confirmed either by clinical examination, clinical history or by a blood sample tested by CARPHA. And I want to alert the population to:

A Joint Communique on Mosquito-Borne Viruses in Trinidad and Tobago put out by CARPHA, the Ministry of Health and PAHO.

And it states as far as testing is concerned and confirmation:

We cannot guarantee validity of tests done outside.

We cannot. Only pregnant women should only be tested by a blood sample analyzed by CARPHA. This is a full-page joint communique put out stating exactly that.

Once they are confirmed, they are managed following protocols set up in April 2016, protocols developed by collaboration between the University of the West Indies, PAHO and the Ministry of Health where we have set up a central registry at the Mount Hope Women's Hospital.

Following confirmation, the information is sent to the National Surveillance Unit, the County Medical Officer of Health for the particular county and the Chief Medical Officer. Counselling is then offered. To date we have distributed 13,537 bed nets to all pregnant women. All pregnant women who are tested positive are then counselled again, referred to the Mount Hope Women's Hospital where a series of ultrasounds are done, serial ultrasounds, based on the protocols set up. They are then referred to the Foetal Medicine Services Unit at Mount Hope under the guidance of Dr. Karen Sohan. And those ultrasound results are also sent to PAHO and CDC for peer review and antenatal monitoring and screening.

Madam Speaker, I would like to alert the country to other steps being taken. To date we have treated 26,287 homes. We have looked at 46,431 water containers. We have dyna-fogged 97,221 houses, ULF spraying, 164,131.

Madam Speaker: Hon. Member, your time has spent.

Hon. T. Deyalsingh: Thank you. [*Desk thumping*]

Dr. Bodoë: Thank you, Madam Speaker. The hon. Minister would be aware that the CDC has recommended that for asymptomatic pregnant women residing in an area with local Zika virus transmission that IgM testing should be made available to all pregnant women. In view of the fact that there is now an epidemic of Zika virus in Trinidad and Tobago being such a small country, would the Minister agree that all pregnant women should be tested for the Zika virus?

Hon. T. Deyalsingh: The policy as enunciated in collaboration with CARPHA and PAHO, we are testing all pregnant women in the public system and we are sending all those samples to CARPHA for testing. Any variation could be done and we will welcome your comments.

Dr. Bodoë: Thank you, Madam Speaker. Is the Minister then confirming that all pregnant women including asymptomatic pregnant women are being routinely tested now in the public health system?

Hon. T. Deyalsingh: The protocols for testing are as follows: all pregnant women, all elderly in hospitals and all children under five in our hospital system. We are testing all of those at CARPHA via blood testing. [*Crosstalk*]

Madam Speaker: These are urgent questions. Only two supplementals are allowed.

Fishermen and Stakeholders in the South-west Peninsula (Assistance to)

Dr. Lackram Bodoë (Fyzabad): Could the hon. Minister indicate when the fishermen and other stakeholders in the South-west peninsula who were affected by the recent “fish-kill” will receive the assistance promised by the Government?

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam Speaker, following the announcement by the Prime Minister of the provision of a \$1 million fund to provide urgent financial assistance to fisher folk in the south-west region who required such assistance, the Ministry of Agriculture, Land and Fisheries conducted registration exercises in La Brea and Otaheite. And on the basis of those registration exercises conducted a

verification process on the persons seeking assistance and the Ministry is in the process of effecting payment to those who have qualified for the assistance. Thank you.

Dr. Bodoë: Madam Speaker, I thank the Minister for his response, but the question was when—I wonder if the Minister could give some sort of time frame for the benefit of the constituents of Fyzabad.

Sen. The Hon. C. Rambharat: Madam Speaker, for those persons who have already been accepted for the payment, the payments will begin this weekend. And for those persons who have not already registered for the assistance, once they have registered the Government is committed to make the payment of the assistance as promised.

Dr. Bodoë: Thank you, Madam Speaker. Can I ask the hon. Minister whether he can indicate in which area those persons have been accepted for payments?

Sen. The Hon. C. Rambharat: Madam Speaker, those persons are persons who are operating in the area from Otaheite to La Brea. On the basis of the first two registration exercises, there were 412 applicants, more than half of those have been approved for payment and many of those are in the constituency of Fyzabad. Thank you.

Locust Infestation (Measures Taken)

Dr. Lackram Bodoë (Fyzabad): Again to the Minister of Agriculture, Land and Fisheries: Given the devastating effects from the locust infestation to the farms and livelihoods of the residents of Strikers Village, Point Fortin, can the Minister indicate what urgent measures are being taken to assist these citizens?

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam Speaker, the issue of locust infestation is not unusual in the counties of Victoria and St. Patrick. On that basis the Ministry is always prepared to respond as we have responded to an infestation in Chatham in 2014 and as we have responded to an infestation in Moruga.

In relation to this particular infestation, as we speak the officers of the Ministry are on the ground. I have been in touch with the Mayor of Point Fortin. He has reported satisfaction with the work that has been done and the Ministry is committed to deal with the issue of locusts, in particular as it affects our farmers in south-west. Thank you. [*Desk thumping*]

**Immigration Detention Centre
(Measures to secure Facility)**

Mrs. Vidia Gayadeen-Gopeesingh (*Oropouche West*): Thank you, Madam Speaker. To the Minister of National Security: Given the recent attempted break-in and shooting at the Immigration Detention Centre, what immediate measures will be taken to secure the facility?

2.00 p.m.

Madam Speaker: The Minister of National Security. Leader of the House?

Hon. Member: Where is he?

The Minister of Planning and Development (Hon. Camille Regis): The Acting Minister is here. [*Desk thumping*]

The Minister of Foreign and Caricom Affairs and Acting Minister of National Security (Sen. The Hon. Dennis Moses): Thank you very much, Madam Speaker. In light of the incident, a combination of increased and heightened security measures will be undertaken with immediate effect by the Trinidad and Tobago Police Service, the office of Law Enforcement Policy, the Immigration Detention Centre security officials, to ensure that the detainees and the facilities are properly secured. Given the nature, scope and gravity of what has occurred, this matter is being given extremely high priority. [*Desk thumping*]

Madam Speaker: Member for Naparima.

**Iere Village Government School
(Steps taken for Students)**

Mr. Rodney Charles (*Naparima*): Thank you, Madam Speaker, to the Minister of Education: Could the Minister state what immediate steps are being taken to rectify the situation where 260 students of the Iere Village Government Primary School have not been able to return to classes for the new term? [*Desk thumping*]

The Minister of Education (Hon. Anthony Garcia): Madam Speaker, let me first correct, once again, the statement made by the representative for Naparima. It is not true that 270 students have been denied access to an education. [*Desk thumping*] That is totally false. School reopened on Monday as planned. On Sunday evening the School Supervisor II of the Victoria district informed the Ministry of Education that every school in the Victoria district would be opened.

This new development was brought to our attention only yesterday. I want to repeat. This development was brought to the attention of the Ministry of Education only yesterday and what has happened, first of all, it was thought that it was a problem caused by WASA and WASA came in, and WASA determined that the problem was an internal one because there was a line that led to the water tank that was burst. So when students arrived at school yesterday there was no water in the water tanks. *[Interruption]* I am telling you—

Madam Speaker: Members.

Hon. A. Garcia:—there was no water in the water tanks. However, as a responsible Ministry and as a responsible Government, we have at present a contractor on site *[Desk thumping]* who is taking steps to rectify the problem and I can assure you that by Monday the problem will be no more. Thank you very much. *[Desk thumping]*

Madam Speaker: Member for Naparima.

Mr. Charles: Is the Minister saying that classes were held in the school on Monday, Tuesday, Wednesday and today?

Hon. Member: He “doh” even know what going on—

Madam Speaker: Minister of Education.

Hon. A. Garcia: I am saying that—*[Interruption]*

Madam Speaker: One minute, please, Minister. A question has been asked. I would like to hear the answer. Minister of Education.

Hon. A. Garcia: Thank you very much. I am saying, most definitely, classes were held on Monday; classes were held on Tuesday; classes were held on Wednesday. *[Desk thumping]* I am saying that, most definitely. Perhaps classes were dismissed early, but that is a totally different matter. *[Desk thumping]*

Madam Speaker: Member for Naparima.

Mr. Charles: Would the Minister agree that if no classes were held in the school, that the students were not able to attend classes? It is a fact. I was there. *[Crosstalk]*

Madam Speaker: Members, I know we just resumed from recess, all right. But I think we have had sufficient time now to settle down. Minister of Education.

Hon. A. Garcia: Madam Speaker, I am appalled at the lack of understanding from the Representative for Naparima, simply because we spent one year together at Teachers' College and I thought—

Hon. Member: Nah! Nah! Nah!

Hon. A. Garcia: I thought during that period he would have grown. It seems as though—*[Interruption]*

Hon. Member: “Ah Masters in spin de wheel.”

Mr. Charles: “You not” answering the question.

Hon. A. Garcia: Yes. I am saying that you are totally wrong and you continue to attempt to mislead this House. Thank you. *[Desk thumping]*

ANSWERS TO QUESTIONS

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Madam Speaker, may I indicate that we are ready to answer both questions for oral answer. With regard to the questions for written answer, we will provide the answers for eight of the nine questions that have been asked, and the answer to question 158 is not yet ready and we are asking for two weeks to provide that answer, please.

Madam Speaker: Chief Whip.

Mr. Ganga Singh (Chaguanas West): Madam Speaker, I hear what the Leader of Government Business, what she has indicated. However, I would like to remind the hon. Leader that on Monday, July 04, there were several answers which she had undertaken to provide and those answers have not yet been provided to Members. *[Desk thumping]* So I would just merely remind that there has been some effluxion of time over the recess period but Members would like to get those answers in order to—

Madam Speaker: Leader of the House.

Hon. C. Robinson-Regis: Thank you very much, Madam Speaker. Madam Speaker, may I indicate that the answers were, in fact, delivered to the House and I think we indicated that we would be ready with the answers within one week and we did deliver those answers to the House within one week. However, there were, I think, four questions that were not ready at the time and those four are ready today and have been delivered to the House. Thank you very much, Madam Speaker.

ORAL ANSWERS TO QUESTIONS

**Challenges Faced by Downstream Steel Companies
(Measures Taken to Address)**

168. Dr. Bhoendradatt Tewarie (*Caroni Central*) asked the hon. Minister of Trade and Industry:

Could the Minister provide the measures taken to address the challenges faced by the downstream steel companies in light of the closure of ArcelorMittal?

The Minister of Trade and Industry (Hon. Paula Gopee-Scoon): Thank you, Madam Speaker. Since the closure of the ArcelorMittal operations, the Ministry of Trade and Industry has met with a number of downstream steel companies. One such large business concern was able to survive the global industries volatility, but overall there are two challenges: one, to obtain a ready supply of raw materials to input into their production and two, maintain levels of employment in the face of reduced production activities. Given that these companies operate in a free market environment, the Government cannot intervene directly. But however, through the EXIMBANK the Government continues to ensure that appropriate financing arrangements are available to firms to facilitate the acquisition of raw materials to be used in their production.

In respect of the labour issue, the Government of Trinidad and Tobago, through the Ministry of Labour, Small and Enterprise Development, has adopted a plan intended to mitigate any adverse impacts experienced by companies. The Ministry of Trade and Industry continues to monitor this industry closely.

Dr. Tewarie: A follow-up question, Madam Speaker, with your permission. There is an issue of steel as a retail product and steel as an input into the manufacturing process. Has the Ministry engaged any issues related to differentiation between these two types of products?

Hon. P. Gopee-Scoon: The Ministry continues to meet with all members of the steel industry. Just only today I would have met with two of them as well. We are understanding the issues and, where possible, we are giving assistance to all of these business houses.

**Teenaged Girls & Abortions at Hospitals
(Details of)**

180. Dr. Surujrattan Rambachan (*Tabaquite*) asked the hon. Minister of Health:

Could the Minister provide the number of teenaged girls who had abortions at the nation's hospitals from January 2007 to December 2015 and January 2016 to present?

The Minister of Health (Hon. Terrence Deyalsingh): Thank you very much, Madam Speaker, and the answer is as follows.

At the Port of Spain General Hospital between the period 2007 to 2015, 1,170; year to date, January to the present, 70. San Fernando General Hospital, 2007—2015, 889; 2016 to present, four. Mount Hope Women's Hospital, 2007—2015, 387; year to date, 2016, 13. Sangre Grande District Hospital, 2007 to 2015, 150; year to date, 10. Scarborough General Hospital, 2007—2015, 149; year to date, eight. Area Hospital, Point Fortin, 2007 to 2015, 63; year to date, five.

**DEFINITE URGENT MATTERS
(LEAVE)**

**Zika Virus
(Spiralling Incidents of)**

Dr. Tim Gopeesingh (*Caroni East*): Thank you, Madam Speaker. Madam Speaker, I hereby seek leave to move the adjournment of the House today under Standing Order 17 for the purpose of discussing a definite matter of urgent public importance, that is the failure of Government to reduce the spiralling incidents of pregnant women being infected with the Zika virus and the absence of any definite and well-informed medical evaluation and medical management for these patients.

The matter is definite because it pertains to the present failure of the Ministry of Health and the Government to curb the unacceptable increasing incidents of pregnant patients being infected with the Zika virus with serious well-documented consequences of microcephaly to their foetus.

The matter is urgent because this failure is resulting in widespread confusion, fear and uncertainty of scores of infected pregnant patients being unable to seek the appropriate care and management during their present antenatal period. This is evident from increasing numbers of patients across the country seeking advice,

counselling and medical management in the midst of lack of medical personnel, ultrasonographic equipment and no documented protocols across the nation's health centres and hospitals.

The matter is of public importance because this increasing number of pregnant patients infected with the Zika virus is engendering widespread alarm, fear and concern in our present near 14,000 pregnant patients at the moment and their families about the disastrous consequences of microcephaly to their foetus in utero.

Madam Speaker: Hon. Members, I am not satisfied that this matter qualifies under this Standing Order. I advise that the Member pursue this matter under Standing Order 16.

Fish Kill Incident

Mr. Rushton Paray (*Mayaro*): Thank you very much, Madam Speaker. [*Desk thumping*] In accordance with Standing Order 17(3), I hereby seek the leave of this House to move the adjournment of this House for the purpose of discussing a definite matter of urgent public importance, the need for an immediate and determinate resolution by the Government to the recent fish kill incident in South Trinidad.

The matter is definite because it refers to an incident that occurred beginning sometime around July 19, 2016 of a reported fish kill involving thousands of fish of various species which continued for several days after and which has escalated into an issue yet unresolved, affecting an entire national industry.

The matter is urgent since it is now more than one month after the event had occurred and whereby in the absence of any conclusive determination by the authorities, has seriously affected hundreds of persons involved in the fishing industry in the south-western peninsula through loss of income and livelihood.

The matter is of public importance because despite the intervention of several state agencies along the way, the ongoing obscurity of cause has resulted in widespread local distrust of fish consumption and fear of an inherent public health risk which has become a national adversity in dire need of swift resolution. [*Desk thumping*]

Madam Speaker: Hon. Members, I am not satisfied that this matter qualifies under this Standing Order. I advise that the Member pursue this matter under Standing Order 16.

2.15 p.m.

TAX INFORMATION EXCHANGE AGREEMENTS BILL, 2016

Bill to repeal the Tax Information Exchange Agreements Act and replace it with a new Tax Information Exchange Agreements Act which would make provision for the implementation of agreements between Trinidad and Tobago and other States providing for the exchange of information for the purposes of taxation, to validate the sharing of personal information held by the Board of Inland Revenue or financial institutions and for related purposes [*The Minister of Finance*]; read the first time.

Motion made: That the next stage be taken later in the proceedings. [*Hon. C. Imbert*]

Question put and agreed to.

JOINT SELECT COMMITTEE
Whistleblower Protection Bill, 2015
(Extension of Time)

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Madam Speaker, having regard to the Fifth Interim Report of Joint Select Committee appointed to consider and report on the Whistleblower Protection Bill, 2015, I beg to move that the Committee be allowed an extension of four weeks in order to complete its work and submit a final report by the 9th of October, 2016.

Question put and agreed to.

TAX INFORMATION EXCHANGE AGREEMENTS BILL, 2016

The Minister of Finance (Hon. Colm Imbert): Madam Speaker, I beg to move:

That a Bill to repeal the Tax Information Exchange Agreements Act and replace it with a new Tax Information Exchange Agreements Act which would make provision for the implementation of agreements between Trinidad and Tobago and other States providing for the exchange of information for the purposes of taxation, to validate the sharing of personal information held by the Board of Inland Revenue or financial institutions and for related purposes, be now read a second time.

Madam Speaker, the Bill before the House may appear at first glance to be voluminous, but it essentially involves 30 clauses and an agreement. The 30

clauses make up the first 24 pages of the Bill and the next 100 pages are the agreement between the Government of the Republic of Trinidad and Tobago and the Government of the United States of America for the exchange of information with respect to taxes. So let me just reiterate. Although the document that has been circulated to hon. Members may appear to be voluminous, there are 30 clauses of legislation in 24 pages and there is an agreement with respect to the sharing of information which is 100 pages.

Madam Speaker, I am happy to report to this House that on the 19th of August, 2016, I had the pleasure and the honour on behalf of the Government and people of Trinidad and Tobago to sign this agreement, what is also known as the FATCA Agreement, the foreign tax cooperation agreement, and let me just read again the full title of the agreement.

“Agreement between the Government of the Republic of Trinidad and Tobago and”—the Government of—“the United States of America for the exchange of information with respect to taxes.”

And at this time, Madam Speaker, I would like to thank the Government of the United States of America and His Excellency John Estrada, the United States Ambassador, for facilitating Trinidad and Tobago with an early date for the signing of this agreement. [*Desk thumping*]

Let me just quote from something that is on the website at the American Embassy. The embassy has quoted His Excellency as stating that the signing of this agreement is:

“...a huge step in the right direction”—and that the United States—“appreciate the partnership and cooperation from the Trinidad and Tobago government on moving forward on this very important issue.”

Now what exactly is the issue, Madam Speaker?

Madam Speaker, over the last six to seven years there has been a global movement towards information sharing, transparency, sharing of taxpayer information, moves to stem money laundering in terms of measures for anti-money laundering, financial action leading to the imposition of some sanctions on Trinidad and Tobago about five years ago, where Trinidad was put on a grey list in terms of countries that are not compliant with the requirements of the Financial Action Task Force (FATF).

In fact, Madam Speaker, at that time when FAFT put us on the grey list because we were not compliant—this was sometime around 2011 if my memory

Tax Agreements Bill, 2016
[HON. C. IMBERT]

Friday, September 09, 2016

serves me correctly—a number of financial institutions in the United States made the decision to stop doing business with nationals of Trinidad and Tobago, in particular, online brokerage sites like Ameritrade and so on. They took the decision—because Trinidad and Tobago was not compliant with FATF at that time—to stop doing business with nationals of Trinidad and Tobago and, in fact, nationals received letters telling them that their account would be closed within a couple days.

FATF has then developed into a full-fledged global task force. In fact, the substantive Attorney General and the substantive Minister of National Security are currently at a FATF meeting, the regional body—[*Interruption*]

Hon. Member: CFATF.

Hon. C. Imbert: CFATF—the Caribbean Financial Action Task Force to deal with matters of compliance in terms of anti-money laundering and transparency, and provision of information and cracking down on suspicious transactions and so on in the banking sector.

So the regime has evolved over the last six to seven years or so, and countries such as Trinidad and Tobago have been forced to subject themselves to the requirements of these international agencies. Coming out of the FATF movement and the anti-money laundering movement came a piece of legislation in the United States, and this legislation, the Foreign Account Tax Compliance Act, or FATCA, became law in the United States in March 2010. FATCA targets noncompliance by US taxpayers with foreign accounts. It focuses on reporting and US taxpayers need to report about foreign financial accounts, offshore assets; and foreign financial institutions need to report about financial accounts held by US taxpayers, or foreign entities in which US taxpayers hold substantial ownership interest overseas.

So to fast-forward as to what we are doing today, Madam Speaker, and I will explain how important it is, but I needed to give the history. It started with the introduction of the FIU in the 2009/2010 period under our administration at the time, and then in 2011 and 2012 and so on the then new Government, under the Member for Siparia, brought amendments to the FIU legislation all in the interest of compliance and all in the interest of getting us off that grey list, and then it continued as I said with a full-fledged global and regional regime in terms of foreign compliance with financial action.

But if we fast-forward to today, we were given a deadline one year ago, in September of 2015, to be complaint with another agency, or another entity, the

Global Forum on Transparency and Exchange of Information for Tax Purposes. So we in Trinidad and Tobago are now subjected to scrutiny and they are being compelled to do whatever is necessary to share information on taxation, not only from the United States with respect to the FATCA legislation, but also from the Global Forum on Transparency and Exchange of Information for Tax Purposes.

One of the first things I had to do when I was appointed Minister of Finance and I took up office around the 12th or the 13th of September last year was to write a letter to the Global Forum seeking a one-year extension to a deadline that had been given to Trinidad and Tobago to be compliant with the Global Forum. I indicated, of course, the Government had changed, a new Government had come in, we needed time to familiarize ourselves with what was happening, and we received that one-year extension to September 2016.

At the same time, Madam Speaker, we had a deadline with respect to compliance with the Foreign Account Tax Compliance Act of the United States, and to give you an idea of how terrible it will be if we do not comply, I want to read—and I just want to reiterate the point this is an evolving thing. It has passed through our administration, it has passed through the former administration. They are fully aware of the problems that we had. As I said, I met a deadline of September 2015 which mercifully was extended to September 2016. So this is not anything new. Let me just read for you from an article, Madam Speaker, that is in Reuters; it is called “Caribbean countries caught in crossfire of U.S. crackdown on illicit money flow” and it is dated July 12, 2016. So it is very current. This is a story about Belize and let me just quote from it:

“...Burdened by chronic back pain, Belize Prime Minister Dean Barrow avoids traveling abroad... But in January, he flew to Washington and visited one government agency after another on a singular mission: reconnecting his country to the U.S. financial system.

...Barrow made his case before agencies with chief oversight of American banks, including the Federal Deposit Insurance Corporation and the U.S. Treasury’s Office of the Comptroller of the Currency.

His Belizean delegation described how their”—bank—“had been shunned over the last year by large, reputable American banks, a trend that threatens its tiny economy.”

And the article goes on to say that:

“De-risking threatens the fragile economy of Belize...”

Tax Agreements Bill, 2016
[HON. C. IMBERT]

Friday, September 09, 2016

Every day, Belizeans struggle to surmount trade barriers.

In south Belize City—a citizen—“visited a Western Union agent...with her two granddaughters.

She tried to send \$700 from the United States to Belize about three months ago for construction on her home, but the transaction was delayed...she couldn't pay her workers.

The last couple times I tried to send, Western Union said they couldn't send it...”

It is estimated that Belize has lost 80 per cent, 80 per cent, of its corresponding banking arrangements with banks in United States because Belize is simply not compliant with the Foreign Account Tax Compliance Act and with the Global Forum requirements for transparency.

2.30 p.m.

What is going to happen to us in Trinidad and Tobago, if we do not deal with this? Let me try and put this in the starkest of terms. Madam Speaker, if we do not pass this legislation time will run out on us. The current deadline that we have is 30th September, 2016. The steps that we are required to do were to sign the inter-governmental agreement on sharing of tax information with the United States. Madam Speaker, could you ask Members on that side to just quieten down a little bit?

Madam Speaker: Please proceed. I am sure they have heard and they will comply. Please proceed.

Hon. C. Imbert: I do not know what their problem is, you know. Nobody is trying to fight with anybody today, you know.

Madam Speaker: Please Member, your time, your time.

Hon. C. Imbert: Thank you Madam Speaker, but I am making a point. I do not know what their problem is. We are not fighting anybody today. We have come here to ask for your co-operation and to ask for your support [*Desk thumping*] to pass this legislation, which, if it is not passed, will destroy the banking system in Trinidad and Tobago.

We are not playing politics here today. This is an evolution of something that has been in progress in Trinidad and Tobago for over seven years. One

government to another government to another government. These are things we have to do.

When Prime Minister Barrow from Belize went to Washington to beg the US Treasury and the other authorities in the United States—and he did that in this year, 2016—when he went to beg them to allow the banks in his country to reconnect with banks like Bank of America and Wells Fargo and all of the other large banks in the United States so that his citizens, his manufacturers, can send money from Belize to the United States to engage in trade and also receive money from the United States, in terms of remittances, the legislators in Washington had no time for him. They sent him back and the quote from the article is, they sent him back with some tea and some sympathy but they did not reconnect. What Belize has failed to do is to put in place the relevant legislation and to deal with the agreements.

What we have done, as the US Ambassador has said, we have made the very important step of signing the agreement on the sharing of tax information with the United States. [*Desk thumping*] We have done that very important step. We are coming now to the Parliament to see if we can get the necessary support—because this is a three-fifths majority Bill—from the Opposition to ensure that Trinidad and Tobago does not become a pariah state, in terms of the global financial community, as is the fate of Belize.

Can you imagine a situation in Trinidad and Tobago where you cannot transfer funds, you cannot wire transfer funds to buy basic goods, to buy inputs for manufacturing, to engage in trade, to buy pharmaceuticals, to buy medicine for cancer patients? Can you imagine a situation where Trinidad and Tobago would not be able to do that, because we would not be compliant with these new global requirements and we would lose, all of our local banks would lose their correspondent banking relationships with their banks in the United States and the simple transfer of funds will become impossible, Madam Speaker? I hope every person in this House understands what we are about here today. We have to do this. If we do not do this, the banking system in Trinidad and Tobago will crash, the economy of Trinidad and Tobago will crash.

This is why I am saying, Madam Speaker, I am very well aware that Members opposite received this legislation at short notice. However, they having been in Government for five years and three months and the foreign tax legislation in the United States—let me go back to the date—it was passed in the United States in March of 2010. So it was passed just a few months before the hon. Members opposite assumed Government in this country. So they were familiar with this

Tax Agreements Bill, 2016
[HON. C. IMBERT]

Friday, September 09, 2016

matter for five years and three months. And now they are familiar with it for six years and three months because we are now unto six years and three months of the election of May 2010.

So, as I make the point, this is nothing new. So, even though I accept and I completely understand that Members may have received this legislation only a few days ago, I expect that in the interest of the country and all citizens of Trinidad and Tobago, whether they be UNC—[*Interruption and crosstalk*]

Madam Speaker: Members, everybody will have an opportunity to make their contribution in accordance with the Standing Orders. Minister of Finance, please continue.

Hon. C. Imbert: Thank you, Madam Speaker. I expect on behalf of all Members of all political parties and those who do not belong to political parties and those who are outside of the political system, all 1.3 million of our citizens, that every Member of this House will understand how important this legislation is and this is not a time for politicking. It is not. There is no politics in this and I want to say right here at the outset that we on this side are prepared to suspend this debate today to hold discussions with the Opposition today, today. If there are any concerns that Members have on the opposite side, Madam Speaker, we are prepared to suspend this debate—I will do it now, if necessary—to meet with the other side and discuss any concerns that they have. But I will await a signal from hon. Members opposite, and let me move on to what this Bill is all about, Madam Speaker.

Madam Speaker, the sharing of tax information is a breach of the person's right to his family and private life, which is guaranteed by section 4 of our Constitution.

In addition, section 5 provides that “no law may abrogate, abridge or infringe or authorise the abrogation, abridgement or infringement of any of the rights” contained in section 4 of the Constitution. So this Bill, which requires sharing of information by the Board of Inland Revenue on US corporations, persons with interests in the United States, and so on, is an infringement of section 4 of the Constitution.

But, Madam Speaker, section 13 of the Constitution requires that any Act, which seeks to abrogate, abridge or infringe or authorize the abrogation, abridgement or infringement may have effect even though inconsistent with the

Constitution. And this is why, when you look at the preamble to this Bill, Madam Speaker, one sees that this Act is inconsistent with the Constitution. And this is why we require a three-fifths majority. This is why we require 26 votes. We on this side only have 23 at this point in time. Who knows what the future will bring. But as of today we have 23 votes and, therefore, we require the support of the Opposition.

The Leader of Government Business communicated with her counterpart in the Opposition, the Opposition Chief Whip and sent him a copy of the proposed legislation and indicated that—

Hon. Member: When?

Hon. C. Imbert: This is on Monday. Yes, on Monday the Leader of Government Business sent a copy of this Bill to her counterpart in the Opposition on Monday and indicated that it is necessary to go right through with this Bill and it is important that we pass this Bill. And as I said, Madam Speaker, we on this side are prepared to suspend the sitting now to hold discussions with the Opposition. That shows how important it is to get the support of everyone in this House to deal with this legislation.

Let me go into the Bill itself. Part I of the Bill is the preliminary section of the Bill. It has four clauses. Part II of the Bill deals with tax information agreements, exchange agreements. Part III and Part IV of the Bill provide that the 1989 Tax Information Agreement between Trinidad and Tobago and the United States be repealed and indicates the requirements for the 2016 information sharing agreement, Madam Speaker.

Clause 1 is the short title. There is also a commencement provision, which will be coming in an amendment to be circulated, because this Bill cannot take effect until certain regulations are in place. So we have a simple proclamation clause, which will be the subject of an amendment.

Clause 2 indicates the Act is inconsistent with the Constitution. Clause 3—it is coming. It is just an amendment to say that the Bill takes effect when it is proclaimed, a one-liner. Clause 3 of the Bill deals with the interpretation of certain words and phrases in the Bill.

Madam Speaker, I draw your attention specifically to the definition of the term “tax information exchange agreement”. This definition has been revised to expand the mode of exchange of information between Trinidad and Tobago and other states. The previous tax information—it is going to be circulated shortly—

Tax Agreements Bill, 2016
[HON. C. IMBERT]

Friday, September 09, 2016

agreement only allowed for the exchange of information upon request by other states.

Mrs. Persad-Bissessar SC: Hon. Minister, you indicated that you are bringing an amendment to insert a clause to have a proclamation date at some point in the future, because you do not now have the regulations. How will that impact on what you are saying your deadline is, of September 30? Could you please share with us?

Hon. C. Imbert: Certainly. I will deal with that in a short while. So, let me just deal with the substance of the Bill and we will come to that.

Madam Speaker, clause 3 of the Bill deals with the interpretation and words and phrases in the Bill and under this legislation the Board of Inland Revenue will now be able to share information simultaneously and automatically with other countries.

Clause 4 empowers the Minister to authorize any person to act as the competent authority for the purpose of an agreement.

Clause 5 empowers the President to declare by Order a Tax Information Exchange Agreement to be a declared agreement.

Clause 6 provides that the Minister—and this will be the Minister of Finance or any person authorized by him—can give effect to a declared agreement. The clause also provides that the Minister may give directions to any person authorized by him, in respect of functions under the Act.

Clause 7 sets out the powers that the Minister, with respect to giving effect to declare agreements. Fundamentally, the section allows the Board of Inland Revenue to provide any information obtained and requested or received by it under the 2016 Tax Agreement.

Clause 8 of the Bill dismantles the secrecy provision under section 4 of the Income Tax Act. I think this is an important point for us to stop.

Right now, if the IRS requests tax information on a US citizen or a US corporation that is doing business in Trinidad and Tobago, or it has a bank account in Trinidad and Tobago, it is up to the discretion of the Board of Inland Revenue whether they would provide the information or not. And this is one of the big problems that we have with this new regime of compliance with transparency and sharing of information. Right now it is discretionary. What this Bill seeks to do is that when the IRS of the United States requests information on a

US taxpayer, the Board of Inland Revenue would be required to provide the information. They would no longer have discretionary powers. And this is one of the reasons why we have been placed on a list that if we are not compliant we would lose our corresponding banking arrangements.

Now, there is an intermediate stage in the loss of correspondent banking arrangements. What we are told, what the American banks will do is that as a first step they will deduct tax from any money transfer coming out of Trinidad and Tobago going in the United States, because they will not be able to distinguish whether it is a payment for goods and services or whether it is a remittance of profits or dividends or income from activities in Trinidad and Tobago. So the United States banks will now automatically deduct 30 per cent from every transaction, every wire transfer coming out of Trinidad and Tobago, going to the United States, because that is the tax rate in the United States. So they will assume that whatever is coming out of Trinidad and Tobago is income profits subject to taxation. So they will take it out and remit it to the IRS. That is if we do not pass this legislation today.

So that is stage one. You know when you have a disease you have stage one, stage two, stage three, stage four? So stage one, if we do not pass this Bill, stage one is they will deduct 30 per cent from every money transfer coming out of Trinidad and Tobago going into the United States.

2.45 p.m.

Stage two—[*Interruption*—yes, it is—will be, they will disconnect us from banks. They will shut down the credit card system in Trinidad and Tobago, and they will shut down commerce in Trinidad and Tobago. That is stage two. So let me move on.

I am afraid there is very little we can do. We are part of this global system. We need to—our banks here need to have relationships with banks in the United States, otherwise they cannot do global business. “How else you go do it?” So you have to have a bank, Bank of America, as I said, Wells Fargo or somebody with whom you do transactions. Under FATCA those banks will be compelled to cease doing business with Trinidadian banks, if we do not comply in terms of all of the requirements of the global forum and the requirements of FATCA.

So let us move on to clause 9. Clauses 9, 10 and 11 deal with articles in the old 1989 Tax Information Exchange Agreements, and in particular clause 11(7) provides that the Board of Inland Revenue is not required to:

Tax Agreements Bill, 2016
[HON. C. IMBERT]

Friday, September 09, 2016

“carry out administrative measures, which conflict with the laws and administrative practices of Trinidad and Tobago;

supply particular items of information which are not obtainable under the laws...of Trinidad and Tobago; or

supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process.”

—in the exchange of information. So that is the existing law.

Under our existing law, our Board of Inland Revenue is not required to carry out administrative measures which conflict with the laws and practices of Trinidad and Tobago, and this is where their discretion comes into play. So that under our existing law, once the IRS asks for information, if the Board of Inland Revenue is of the view that sharing the information would breach the individual's right to privacy, the Board of Inland Revenue under our existing law is not required to pass on the information. This is going to change all of that. Now, once it comes from a proper authority in the United States, as I said the Internal Revenue Service or some such US Treasury, or some competent authority over there, it comes to our Board of Inland Revenue, they will be required to hand over the information.

So moving on to other clauses in the Bill, and Leader of the Opposition, I have not forgotten you. Clause 12 of the Bill is lengthy, and details provisions under the 2016 Agreement which are contained at Schedule 2 of the Bill. It is quite voluminous, so I do not think we should go through it in detail at this stage, but I want to highlight that the sharing of information under FATCA through the agreement, covers not only local banks, but will also include accounts held by US persons with insurance companies.

Clause 13 provides that notwithstanding section 6 dealing with general privacy principles, and section 30 dealing with personal information of the Data Protection Act, a financial institution may process sensitive personal information.

Clause 14 provides that the Board shall receive sensitive personal information on a United States person from a financial institution, in respect of the US reportable accounts.

Clause 15 provides that the Board shall disclose sensitive personal information to the Secretary of the United States Treasury Department, and such

disclosure shall be done annually on an automatic basis. So it changes the paradigm. No longer the Board of Inland Revenue, if they are asked about a US taxpayer, would be able to say, “Well, we do not think we should give it to you”. Now, they must report annually on an automatic basis.

Clause 16 provides that:

“Notwithstanding sections 6, 41 and 69 of the Data Protection Act a financial institution may forward to the”—Board—“sensitive personal information...without the consent of the account holder.”

I want to stress we are dealing with US citizens here, not Trinidad and Tobago citizens. Madam Speaker, this clause is fundamental to the effective working of the tax sharing agreement and FATCA, for the exchange of information on an automatic basis.

Clause 17 provides that a reporting financial institution is required to determine the amount and characterization of payments, with respect to United States reportable accounts. In line with clause 17, clause 18 provides that sensitive personal information must identify the currency of each relevant foreign payment.

Clause 19 provides that a reporting financial institution is not required—that notwithstanding section 15, a reporting financial institution is not required to obtain and exchange the US federal taxpayer identifying number of an account holder, if the information is not in their records. So if you do not have it, if you are a local bank and you do not have the US federal taxpayer number, you do not have to go and obtain it or provide it. However, the financial institution is required to provide the date of birth of the United States account holder, if that information is available.

Clause 20 sets the timeline requirement for the submission of sensitive personal information by the competent authority, which in this case will be the Board of Inland Revenue to the Secretary of the US Treasury.

Clause 21 provides for the Board of Inland Revenue and the Secretary of the United States Treasury to enter into a memorandum of understanding.

Clause 22 provides for the competent authority to notify the United States Treasury where it believes that minor errors may have occurred.

Clause 23 requires the competent authority to notify the US Treasury, where there is significant non-compliance, and this is a very important clause. Clause 23 requires the competent authority to notify the United States Treasury, where there is significant non-compliance by a United States reporting financial institution.

Tax Agreements Bill, 2016
[HON. C. IMBERT]

Friday, September 09, 2016

Clause 24 provides that Article 5 of the older Tax Information Exchange Agreements would apply to this part, subject to any memorandum of understanding. Article 5 of that old agreement provides for the application of ordinary and extraordinary costs incurred in providing assistance. The state from which the information is requested bears the cost, and the extraordinary cost are borne by the applicant state.

Clause 25 is an administration section which empowers the Minister to amend the Schedule in terms of the list of institutions by Order.

Clause 26 makes consequential amendments to the Financial Institutions Act and empowers the Central Bank to make guidelines in respect of declared agreements.

Clause 27 provides for consequential amendments to the Securities Act, to empower the Securities and Exchange Commission to make guidelines for compliance.

Clause 28 provides for amendments to the Insurance Act, to empower the Central Bank again, to make guidelines in respect of declared agreements for insurance companies.

Clauses 29 and 30 of the Bill, and 30 is the last clause, provide for the validation of the actions of the Board of Inland Revenue, taken under the old Tax Information Exchange Agreements Act, and they also provide for the repeal of the old Tax Information Exchange Agreements Act.

Madam Speaker, I wish to say a few things about bringing the tax agreement into force and its enforcement. In relation to the agreement itself, and this is the agreement attached to the Bill, having signed the agreement, Trinidad and Tobago must put it in place, put it in force, by putting necessary internal procedures in place. One of our obligations under the agreement is to pass legislation of this type.

The involvement not only of the Board of Inland Revenue, but the relevant regulators and enforcement is also critical as it pertains to the financial action tax compliance requirements, Madam Speaker. The reason I am saying all of this and I am going back to where I began, is the real danger of what is called de-risking. De-risking is real. It is potentially dangerous if this agreement is not brought into force by domestic legislation. De-risking involves the severing of corresponding banking relationships as I have said. In the Caribbean region, countries like Belize, Jamaica, Barbados and the Bahamas have been affected. As I indicated,

Belize has been so affected that it has lost more than 50 per cent of its banking assets. There has been 50 per cent capital flight from Belize. Could you imagine that happening in Trinidad and Tobago? [*Interruption*] Fifty per cent of the deposits in the banking sector in Trinidad and Tobago flying away to some other jurisdiction? [*Crosstalk*]

Madam Speaker, we in Trinidad and Tobago have not suffered yet as Belize has, as Jamaica has, as Barbados has, as the Bahamas has. We have not suffered yet. We have some issues with money remittance, the Member for Barataria/San Juan might know a little bit about this, remittance of money, and some of our private members' clubs, which is another name for casinos, have felt the impact of the global forum and the FATF and FATCA requirements, in terms of the reluctance of banks to open bank accounts for some of the private members' clubs. You may not know this, but a significant proportion of private members' clubs, banks simply will not deal with them and will not open a bank account for them, for fear of being deregistered or being listed as a suspicious institution.

These are some of the effects: the number of money transfer businesses and foreign exchange traders will decline. We will lose new business in the sector, the banking sector, due to correspondent banks unwillingness to do business with our local banks. Financial institutions would be caused to increase their fees and charges, in terms of the level of due diligence that will be required. It will be too risky for many people, many persons, many companies to do business in Trinidad and Tobago. Retail and corresponding banking will become unprofitable. There will be no access to the services of international banks, either directly or through the correspondent relationship of local banks.

You know what the people in Belize have to do? They have to go all around the world sending money from one country to another country to another country to another country, in order to get anything done in Belize, Madam Speaker. Can you imagine? [*Interruption*] And you are getting charged and you are getting slowed down on each occasion. Can you imagine that happening to us here in Trinidad and Tobago, Madam Speaker?

So let me now deal with the question asked by the hon. Member for Siparia. We have to be compliant with the global forum and transparency and sharing of information; I know. We also have to be compliant with the foreign account taxpayer arrangements of the United States. All of these institutions have told us that once we demonstrate good faith, because some of these things are very difficult.

Tax Agreements Bill, 2016
[HON. C. IMBERT]

Friday, September 09, 2016

For example, in terms of the global forum, I am told that we have to sign agreements similar to the agreement that I signed with the United States. Well, the figure I was given was 15. I am hearing the Member, the Leader of the Opposition saying 27. I do not doubt—17, the figure I heard was—I do not doubt the Leader of the Opposition for one minute. So the agreement that Trinidad and Tobago has signed with the United States, with respect to the sharing of taxpayer information, only keeps us in the good graces of the United States. We have to sign 17 of these agreements with other countries in the world, otherwise although we may be able to continue to do business with the United States, we will not be able to do business with Europe, with Asia and with all the other commercial centres of the world.

So that the global forum on its own is quite a challenge. To sign 15 or 17 agreements with other sovereign states, with respect to the sharing of tax information, I think is going to take Trinidad and Tobago quite some time, but what the global forum has told us and what the US Treasury has told us, we sign the agreement; that was the first major step. We signed the agreement that is attached to this legislation as an appendix. I am hopeful that with dialogue with the Opposition, and I said we are willing to adjourn and talk to them, if they have any concerns, I am very amenable to any proposals coming from the other side, [Interruption] that are reasonable. Any proposals that come from the other side that are reasonable with respect to amending this legislation. I am very amenable to it, Madam Speaker, because we need the assistance of the Opposition to pass this Bill. [Interruption]—Oh, sure. Yes.

3.00 p.m.

Mrs. Persad-Bissessar SC: Hon. Madam Speaker, I asked the question with respect to proclamation and regulations—[Interruption]

Hon. C. Imbert: Yeah, I am coming to that.

Mrs. Persad-Bissessar SC: Well, okay. Okay.

Hon. C. Imbert: I was going to answer that. I was going to answer that. I am looking at the clock, you know, I am going to answer that.

So, Madam Speaker, the point is we are reasonably confident having signed—let me just read the long title of this agreement—having signed the “Agreement between the Government of the Republic of Trinidad and Tobago and the”—Government of the—“United States of America for the Exchange of Information

with respect to Taxes”, which, as I said, was signed on August 19th, having signed that and now we are in this Parliament in terms of incorporating this agreement into our domestic law, and, the hon. Member for Siparia is an experienced Member, you will know when you sign treaties and you sign bilateral agreements, quite often you have to incorporate them into domestic law.

So one of the conditions—[*Interruption*] Not all, some of them you just ratify them, but it does not matter, we would not argue about that. One of the conditions of this particular agreement is that it must be incorporated into our domestic law. So we have been told and we are reasonably confident that once we pass this legislation, having signed the agreement, that we will get, in local parlance, what is called a “blich”. We will get a “blich”, but if we do not pass this legislation then we would be like Belize where the Prime Minister of Belize went to Washington and all he got was a cup of tea and sympathy. They refused to resume banking relationships between Belize and the United States. So that is why it is so important, and that is why I ask hon. Members opposite, as I said, we are not into politics here, I am asking you to put country first. Put country first today, and, as I said, we are quite prepared to sit with you if you want to adjourn now as I complete my introduction, or at any time, we are quite prepared to sit with you today, this is so important, and talk—[*Interruption*]

Dr. Moonilal: “UnImbert-like”. [*Laughter*]

Hon. C. Imbert: Yes. We are prepared to— In fact, Madam Speaker, we wish to meet with the Opposition today. [*Desk thumping*] We wish to meet with the Opposition today, today, today, to try and resolve any issues or clarify anything. And let me explain why it is so important. The Parliament has to prorogue on the 22nd of September. We must keep our eye on the clock—[*Interruption*]

Thank you. And as I said, the Parliament prorogues in September—[*Interruption*]

Madam Speaker: Hon. Member, your speaking time has expired.

Hon. C. Imbert:—so we must pass this thing before the session ends. I thank you, Madam Speaker. [*Desk thumping*]

Madam Speaker: I beg to move?

Hon. C. Imbert: I beg to move.

Madam Speaker: Thank you.

Question proposed.

Madam Speaker: Hon. Member for Siparia. [*Desk thumping*]

Mrs. Kamla Persad-Bissessar SC (Siparia): Thank you very much. Thank you very much, Madam Speaker. I never thought we would see the day when the hon. Member for Diego Martin North/East is almost on his knees. You know, I had images in my mind as to when he probably proposed, [*Laughter*] down on his knees, you know. I think we are all very amazed, but, hon. Minister, we totally understand the importance of the Bill. We fully understand that and we know the agreement was negotiated, and you did not have the good grace to say it, but in November 2014, the then Government with Minister Howai's initial agreement, and that I think is the very agreement which was signed. If there were changes please tell us, but that is my information.

So it is, you are right, the agreement is an agreement negotiated with the United States by a previous Government and now it is carrying through for implementation by another Government. That is what governance is about from one Government to the next and there is a peaceful transition. And so we understand the agreement but I think what we need to make very clear is that there is an agreement, which we fully appreciate and understand that we have to meet our commitments for, under and with, but there is also a Bill and that is what is for debate today. It annexes the agreement—that is true—in Schedule 2, I think it is. It annexes the agreement and other documents, there are four schedules, but I think it is very important that we understand what is being done here today and being debated is what is in effect the transferal or transfer of the agreement provisions into a Bill, and having looked at the Bill we are of the view that this Bill is overreaching.

It is overreaching [*Desk thumping*] the agreement, and I have looked at in the short time from Monday evening till today, I have been able to thank God for online and Internet, and so on, to get the Jamaican legislation, the legislation from Barbados, the legislation from the Bahamas, but basically, they follow the same Model 1 that we adopted in our IGA. It is the same kind of model, but they do not have some of these overreaching provisions as we are finding in the Trinidad and Tobago Bill. So I really want us to fully understand that when we stand to speak today, it is not that we are against the agreement, it is not that we are against Trinidad and Tobago. A Minister is saying we must do this for the country, in the interest of the country, then what I want to say today, and others will say, is in the

interests of the country. That is what we want to say. [*Desk thumping*] All to translate the provisions in the agreement, in the IGA, into a Bill that becomes the domestic law of Trinidad and Tobago.

Hon. Minister, I think the young man will be kind enough to tell you that [*Interruption*] where you pass a treaty—any young law student, yes—that where you sign a treaty, for it to become enforceable in law it has to become part of our domestic law. [*Desk thumping*] When we look at what has happened when we come to reciprocal arrangements, I think we should just note, en passant, that it is the same for the United States. Whilst we may boast about reciprocal agreements that they will give us information about Trinidadians there and their bank accounts and their properties, and all these things, and, therefore, hon. Minister, this is not just about US citizens. The hon. Minister was saying it is about which citizen and which citizen, it will impact on Trinidad and Tobago citizens because of that reciprocal clause that the US now—hon. Minister, like you, like me, I have no property and no bank account in the United States, but there are Trinidad and Tobago citizens who do have properties and bank accounts and annuities, and insurance policies, all of that information will come back.

The MP for Caroni East is not far wrong, and that is the overreaching I am speaking about which I will come to in the Bill. So, first, I want us to clearly understand the agreement. We totally agree with the agreement, we were part of the negotiations. What we do not agree with is the transference and the provisions into the Bill that is before this House today. [*Desk thumping*]

The second point the Minister has made is to say, well, you know, this thing looks voluminous—well, this is it, yes, all 121 pages of it, very voluminous, but you know what, do not worry, do not worry about these 121 pages, but guess what, guess what? Because there are only 30 clauses and then it is the agreement, and there is the Schedule 1 and 2, and the 3.

Madam Speaker, what we have here is a 121-page Bill, an agreement that would not have been made known to stakeholders or to others. Some may know, they may go up and look at the Model 1 on the online and so on, people who are so keen and interested. So you have a 30-clause Bill, you have four schedules, you have 121 pages. Yes? And then in this Bill there is the attempt to tinker and tamper with seven existing statutes, namely seeking to repeal one, which is the Tax Information Exchange Act of 1989, Chap. 76:51. It seeks to amend another three vital pieces of legislation, the Financial Institutions Act, Chap. 79:09; the

Tax Agreements Bill, 2016
[MRS. PERSAD-BISSESSAR SC]

Friday, September 09, 2016

Securities Act, Chap. 83:02; the Insurance Act, Chap. 84:01, and then it references another two statutes, the Income Tax Act, Chap. 75:01, and the Data Protection Act, Chap. 22:04. It also references the Central Bank, here giving powers to the Central Bank in this piece of law without identifying the Central Bank Act itself, and then another one which we would come back to. The Minister mentioned the word about wiping out secrecy provisions, we would come back to that.

So all these pieces of legislation, so 121 pages, four schedules, and very complex schedules I may say. I do not think a majority of people reading those schedules even in three days will understand what is happening. You know, at one point I was not sure if the Minister himself was sure of what he was saying with respect to what was taking place. I will come back to it. You talked about things happening under the 1989 law, and so on, which was not happening when you talked about discretion in the BIR, and they had a discretion to refuse and not to refuse. We will come back to that. Then what here is very important, clause 8 of this Bill provides that nothing, nothing in the Data Protection Act, clause 8—
[*Interruption*] [*Cell phone rings*]

Madam Speaker: Would the Member whose device has gone off please leave the Chamber. Thank you. Member for Siparia, please continue.

Mrs. K. Persad-Bissessar SC: Thank you, Madam Speaker. Clause 8 of the Bill says:

“Nothing in—
section 4 of the Income Tax Act;”

—and that is the secrecy provisions and the confidentiality provisions in the Income Tax Act.

“Nothing in—
sections 6, 41, 42 and 46 of the Data Protection Act;”

That one also deals with the secrecy and confidentiality and that is fine but then it says:

“Nothing in—
any other law...”

There is a complete override of all secrecy provisions in any statute and none of those are being named, so we had three days and I tried to see where we might find others. The Unit Trust Corporation which will be caught in this legislation, they have a secrecy provision in section 40 of the Unit Trust Corporation Act.

There are others that will have secrecy clauses, the SSA Act that we dealt with here recently. You will have things under the FIU. You will have public servants in terms of oaths of confidentiality, and so on, but there is this *carte blanche* total removal of all secrecy and confidentiality provisions in any other law in Trinidad and Tobago. Would the Minister be kind enough to tell us, identify which are these other pieces of law in this country that we do not know about that are not being mentioned where the secrecy provisions are being overridden, thrown out? [*Desk thumping*] It is a very serious thing, and so to say that the Bill, well, it is only bulky, it is not really bulky, it is just the agreements, the schedules, and so on, it is all of this.

I am reading section 8 of the 2016 TIEA Bill, which is before this Parliament, section 8, nothing in any other law prevents disclosure. I mentioned the UTC as one. You know, when I was reading this I thought, well, the AG could not possibly have drafted this Bill because in his preamble as the hon. Minister spoke, it talks about privacy rights [*Desk thumping*] not in one place but in two places. It could not be the Attorney General drafting this Bill. I mean it acknowledges these privacy rights throughout in the Bill.

Then now we come to, has this Bill, has there been any consultation on the Bill? Hon, Minister, has there been any consultation on the Bill? Hon. Minister, has there been any consultation on the Bill?—I am not speaking on the agreement because it is what we are doing, you are transferring agreement into Bill, which is what the Parliament has to pass. With the BIR, because the BIR is integral to the Bill and an important role to play—[*Interruption*] You know that is not true, so, please.

Mr. Imbert: Come on, do not say that.

Mrs. K. Persad-Bissessar SC: Well, you will come and tell us. You will tell us. Can I have some protection from who is saying and not saying there?

Madam Speaker: Member—[*Interruption*]

Mr. Imbert: You are saying what I am saying not true?

Mrs. K. Persad-Bissessar SC: So what, it is not true?

Madam Speaker: Member for Siparia.

Mrs. K. Persad-Bissessar SC: Yes, Ma'am.

Madam Speaker: I think you should proceed. There is no need for protection, “you pelt the first stone”, so let us go on. [*Interruption*]

Mrs. K. Persad-Bissessar SC: Well, I will keep—

Madam Speaker: Minister of Finance, please. Continue, Member for Siparia.

3.15 p.m.

Mrs. K. Persad-Bissessar SC: Thank you, Madam, thank you. I see all the niceness is now seeping away. It is going away very rapidly. It could not last.

So, well tell us consultation with the BIR, consultation with various financial institutions, with the Central Bank, with the Unit Trust Corporation, insurance companies, [*Desk thumping*] all the organizations are going to be affected. And when we look at it, I think this is like another example of reckless and irresponsible brinkmanship that this Government—[*Desk thumping*] You remember the Bail (Amdt.) Bills what happened? We came here, that was it. We asked to have discussion. No. No. No. It is okay. [*Crosstalk*]

But you know what? This is going to expire, on August 15th it will expire, and you know what? There will be a big event in Trinidad and Tobago. All the prisoners getting bail and they are walking free. Big event in Trinidad and Tobago. You all remember that? We have a deadline. The deadline is the 15th of August and how many thousands of people. There will be this big event after the 15th of August because everybody out on bail, criminals let loose. And the Minister of National Security is giving the assurance, he has systems in place to ensure all these thousands coming out on bail that you will be safe and secure. Madam Speaker, you know that is like an oxymoron in a sense because it is not the fellas who are coming out from the jail then. It is all the criminals right now where crime here now—[*Desk thumping*] Do not get distracted with that. So we saw with those Bail Bills.

We saw similar a thing with the SSA. You all remember that? When Members on the other side, the Attorney General, the Minister of National Security, again, “so you know we have a deadline”. We have a deadline. We must pass this. You know, Madam Speaker, that deadline came and went and guess what? It has not been proclaimed. [*Desk thumping*] It has not been proclaimed. [*Desk thumping*]

The Family and Children Division Bill—the same thing. We have a deadline. We must get this done. We have to pass it. We have to pass it. We gave our support just as we did with the SSA. We gave our support to the procurement, sorry, procurement legislation. Same thing. Procurement legislation not proclaimed. [*Desk thumping*] The SSA legislation, deadlines and so on, not proclaimed.

When now, almost a year, and when we come here today I am exceedingly sceptical when I am being told we have a deadline. And I asked the question, well you are saying that you are now going to put an amendment to the Bill, to put a date for proclamation. What that means is that it is some future date. And I am trying to get and understand from the Minister, you have this deadline, well what is the future date for proclamation? Then, Minister said the regulations—Madam Speaker, the SSA Act originally was passed in 1995 about 21 years ago. That is the calculation, 21 years ago. That Act said regulations will be made. Twenty one years later no regulations have been made. None. [*Desk thumping*] And when we were doing the amendment to the SSA, we said okay, they will bring regulations. Still not proclaimed, no regulations.

So, I take no comfort from the Minister's words when he says, we will bring the regulations and then we will proclaim. How does that tie in, I ask again, with your deadline and are we to believe your deadline? But then the main purpose here and from the words of the Minister, is to tell us, well look, you know if we do not pass this, the country, the worst things will happen to this country. We will end up like Belize, like Prime Minister Barrow. What you said? He could not walk properly because of back pain, but he flew off to Washington and he got tea and sympathy. Well, Madam Speaker, there is no tea or sympathy from me for the hon. Minister today. [*Desk thumping*] And I say it because the Minister knew, and the Government knew that there were timelines within this and when to bring it and should bring it.

If he goes to their own words on this Bill, the Minister said he will bring the draft legislation and discuss it with us. Today, he comes to the Parliament and say I will stop now, I will suspend now, I will talk to you now. What happened Monday when you put it in the Parliament? Could you not say, "Monday can we talk?" But no, it is the brinkmanship and coming to the Parliament at the last moment—yes, a gun to your head—and say look we have to pass it. Because you know why?—if we do not pass it all kinds of plagues will descend upon the country. All kinds of plagues will descend upon the country.

And I am reminded of the Book of Exodus, you know, the Book of Exodus which tells us about the 10 plagues, the 10 biblical plagues and there is one of them here, I am reading in Point Fortin. Where the honourable MP for Point Fortin? He is away. Number eight of the plagues, locust invasion in Point Fortin. So we do not have to wait for all these horrendous things to happening. It is already happening. [*Desk thumping*] It is already happening. We are seeing the other plagues—talking about biting insects. What is—Zika? I think my colleague

Tax Agreements Bill, 2016
[MRS. PERSAD-BISSESSAR SC]

Friday, September 09, 2016

probably now has to test for Zika, the Member for Couva North: biting insects, animals, fish kills. So if we do not pass this every kind of nightmare, every kind of plague will descend upon the country.

But the Minister has himself to blame. The Government has itself to blame because you warned us long ago that you knew that you had to bring this Bill. You know, Minister Stuart Young after post Cabinet he said, we already drafted the Bill. And then you are saying, no, we will share the Bill [*Crosstalk*] No, no, no, please? You do not want to bring in the recess, fine, but you said you would share the Bill with us so we would not end up with 121 pages, four schedules, about eight or nine pieces of legislation to have to cross check to see what is happening, all the amendments that you are doing, the others that you are cross-referencing and so on, in three days, man. Are you for real? Are you for real? [*Desk thumping*] And then you expect us to say, yes, go ahead. It is okay because you know why?—you will get blacklist and you cannot use your credit card, x, y, p, q, and then you say it is okay, I am not going to proclaim it now. I am going to put a clause now to defer and put some future proclamation day.

Madam Speaker, this Bill in its present form I have said overreaches and I will go further to say why. The deadlines, I do not believe the deadlines given your three other pieces where you scream deadlines otherwise the worst things would happen. Let us look at the overreaching—the role of the Minister in this piece of legislation. Let us understand, hon. Speaker, that we are talking about constitutional breaches or breaches of constitutional rights, privacy rights. That is why the three-fifths is required and then we look at what is the Minister being inserted into this whole thing. Why? You look at the Bajan legislation, you look at the Jamaica legislation, you look at the Bahamas legislation and you do not have the Minister popping up every part of the Bill. Why? Why? [*Desk thumping*] Why is the Minister— such extensive powers being given to this Minister?

Let us look, for example, the definition of “Competent Authority” which is in clause 9, “Competent Authority” and then it is repeated again in another clause later down when they are dealing with 2016. It is on page 15; that is clause 12. Yes? So clause 9 and clause 12. The “Competent Authority” is defined to mean “the Board of Inland Revenue” and therefore, the receiving of all this private information from the financial institutions and so on, is to be received by the Board of Inland Revenue as the “Competent Authority”. And it is the “Competent Authority” will take it and forward it on to the Treasury Department, the US Treasury Secretary which is the IRS, but the US Treasury Secretary is to be forwarded upon.

But look at this, first of all clause 6:

“(1) The Minister or any person authorized by him shall ensure that effect is given to every declared agreement.

(2) Where the Minister authorizes any person under subsection (1) he may give general directions to such person as to the performance of his functions under this Act...”

It goes on, clause 7.

“(1) The Minister or a person authorized by him has, for the purpose of giving effect to the declared agreement, all the powers that he would have if he was acting generally for the purpose of, or for any particular purpose specified in, any Act that confers power on the person.”

Why is the Minister inserting himself into this? And we have the precedent, we have the 1989 law, Chap. 76:51 where we signed that agreement in 1989, that was another Tax Information Exchange Agreement, and when we signed it we looked at what happened in here. It was not the Minister, it was the Board of Inland Revenue. What has now happened? Everywhere the Board of Inland Revenue appeared, you have now deleted it, Minister. And look what the Minister is getting to do:

“Any power under subsection (1) is exercisable...”

That is the power now that the Minister has.

“notwithstanding...”—listen to this very carefully—“notwithstanding that the circumstances, if any, necessary under that Act for the exercise of the power may not have arisen...”

So the conditions are not there to exercise the power, but hey, notwithstanding that, Minister has the power.

Now this takes away all recourse that an aggrieved person may have for judicial review of the ministerial action. [*Desk thumping*] Because judicial review of administrative and/or ministerial action is predicated upon the conditions laid out in a statute. So if the Minister acts *ultra vires* the statute, outside of the statute, he is acting outside his powers and therefore, judicial review and his act is struck down as legal. But when you say that the Minister can now act, notwithstanding that the conditions which give rise to the power do not arise, then there is no way that you are going to be able to get recourse or a remedy. I mean, the only thing you may then have to do is resort to acts of violence because you will have no—

Tax Agreements Bill, 2016
[MRS. PERSAD-BISSESSAR SC]

Friday, September 09, 2016

we always say, you know, you say it is a civilized war. You go to the court, the court is the supreme court to solve these issues. So you are taking that out completely, the judicial oversight of administrative action or ministerial action.

Then it goes on now 7(3):

“The Minister or a person authorized by him may, in accordance with the declared agreement—

(a) provide any information obtained by him under this or any other Act;”

Listen what:

“The Minister or the person authorized by him...

(b) request and receive any information required by him...”—request and receive.

The Minister—why is the Minister—[*Desk thumping*] What is he going to request? My information, my personal information? Yours, Madam Speaker? I do not wish to bring you into the debate. How can we give this power to the Minister? And again, when a politician and the rule for political interference and manipulation is exceedingly dangerous. [*Desk thumping*]

Again, again, the 1989 law gives the power to the Board of Inland Revenue. Why have we deviated from this? Why have we given the Minister all this power? And then it is conflicting. So you have the Minister with all of this and it continues, of course, and the Act, the Bill, sorry, defines the “Competent Authority”. So you are having the Minister being, doing the power, having the power and doing the thing that the BIR is to do. What does it mean? Who will “bounce who mouth”? Why have you defined the “Competent Authority” as the BIR, but yet you come back and you say the Minister will do all these things? No. [*Crosstalk*] It is not always, Sir, and if you do not have the 1981—

And, Madam Speaker, look at the Bajan legislation, look at the Jamaican legislation, look at the Bahamas. I did not get the chance to download the others, but the Minister does not have this kind of power, [*Desk thumping*] it is the “Competent Authority”, the BIR. So all these powers being given to the Minister.

Now, I could say it is not this person “the Minister”. We could all say that, but law is not made for today. The law is made for all the permutations. [*Desk thumping*] So tomorrow morning or next week or after the budget when the Prime Minister reshuffles the Cabinet, it might be a different person—[*Desk thumping*] And I do not know if I may have that kind of, you know, confidence in

whomever that person may be. And we could carry it on, governments change, persons change, Ministers change, and so on.

So we cannot support, I want to make it very clear, this legislation with these extensive powers being given to, being provided for in the hands of the Minister. And there is more we could say on that on the role of the Minister, but that is an exceedingly great area for concern especially where it is concerning people's private, personal information that needs a breach of the Constitution to be remedied, of course, through the section 13 and so on—one moment—to be remedied through the section 13. And that is how it goes. So we will not support the legislation as is, with the Minister being given these extensive powers. [*Desk thumping*]

3.30 p.m.

Mr. Imbert: I thank the hon. Member for giving way. Can we now adjourn for discussions?

Mrs. K. Persad-Bissessar SC: No, listen. You see you have come here—with due respect when I say you, the Government, the hon. Minister being the, having been hand-picked, chosen to be the “piloter”, I thought it was the AG and then I heard it was you and so on, but, that is okay, that is your job, any Minister can present. And you came here and you really, you lit a fire and you really put the fear, I will not say it is the fear of God, because that is not God, that is not God at all.

Hon. Member: The fear of the devil.

Mrs. K. Persad-Bissessar SC: Put the fear of the devil, yes—

Madam Speaker: Let us just watch that kind of language—

Mrs. K. Persad-Bissessar SC: Sure.

Madam Speaker: And I just want to caution, Member for Naparima. The Member for Siparia is a seasoned Member, I do not think she needs any coaching. Continue please, Member for Siparia.

Mrs. K. Persad-Bissessar SC: Put the greatest fear and nightmares in the minds of the citizenry by telling us about Belize, about your credit cards and you know Trinidadians like their credit cards, we know that, because the last time the Minister tried to interfere with these credit card transactions we did not see the light of day, but we will see with the new budget what happens.

Tax Agreements Bill, 2016
[MRS. PERSAD-BISSESSAR SC]

Friday, September 09, 2016

So, great fear, and therefore I think it is very important that we understand that it is not the agreement, but it is the way you have translated that agreement into the Bill which is highly objectionable and which we cannot support. [*Desk thumping*]

Then we talk about parliamentary oversight. And then we come to—you know when we want to talk, you all do not want to talk, so one day we will meet. The hon. Prime Minister accepted our request to meet and we have spoken with him. The hon. Minister had sufficient time to place this Bill, send it to us even in the vacation and not put us through this stress to come here and then talk for his hour and then tell me, shut down, stop, come let us go talk behind the Speaker's Chair. It is not going to work that way today, Madam Speaker. [*Desk thumping*] I am not going on any guilt trip that I will cripple the country and crash the country because I am not supporting this Bill in its present form. [*Desk thumping*]

I am not taking that guilt trip. And if the stakeholders knew what was in this Bill, because they never saw it, they never saw the Bill, that is why I am reading in the newspaper and they are saying we have to support it. The Minister say, go and talk to the Opposition. Opposition has no Bill. What are you coming to talk to me about? All I can do is pass the Bill or not pass the Bill, vote or not to vote—go talk to the Opposition. All this time there was no Bill and given this mamaguy to the bankers and to others, you know what, we need the Opposition vote so you better go and talk to them. Go and talk to them. And therefore, again, the guilt trip, the blame game, that if this does not get pass, it is us here on this Opposition Bench who have in some way betrayed the country and that is not going to happen. Today we need to make it very clear why we cannot support the Bill in its present form.

Now, the Government, Madam Speaker, as we well know, could stand up now and adjourn the Parliament. Shut me up, sit me down, at any moment they can do so and if they wish to proceed in that manner it is totally in their hands. But whilst I am on my legs I wanted to talk about parliamentary oversight.

Parliamentary oversight—this is my original time or—parliamentary oversight. Again, the Bill takes away parliamentary oversight and places actions, legislatively, for the—[*Interruption*]

Madam Speaker: Hon. Member for Siparia, your original 30 minutes are now spent. You are entitled to 15 more minutes to your contribution if you wish to avail yourself of it.

Mrs. K. Persad-Bissessar SC: Certainly, Madam Speaker. I thank you very much. I will take that opportunity. [*Desk thumping*] The parliamentary oversight.

There are several provisions in this Bill that takes away parliamentary oversight. So, for example, the Minister can amend the schedules which is the agreement and so on, by Order. Again, I cannot support that, I do not think my colleagues will support it. We will have to have any such orders subject to the affirmative resolution of the Parliament [*Desk thumping*] so this Parliament will see what it is that we are agreeing to. So the law, three or four occasions, as time will not permit me to give every one but wherever it is that the Minister is being given the power to make orders, to amend the schedule, to add new declared agreements and so on, it is not happening; they have to come through the affirmative resolution of the Parliament in terms of parliamentary oversight.

Then we come to the state of readiness of the BIR. The burden that is going to be cast on the BIR is a great one and I would like the Minister to tell us, what is the state of readiness of the BIR? [*Desk thumping*] We are coming back to budget and I remember in the last budget statement the Minister made some very grandiose statements when he told us he is going to bring an army of tax collectors—you remember that? An army of tax collectors. He is going to revamp the BIR and they are going to bring in the revenue because the tremendous leakage and so on. So my understanding nothing has happened with the BIR, in strengthening the decisions, in strengthening and so on, the BIR. If the Minister knows he can let us know.

But, the BIR now under the 1989 law would only have to comply with requests sent from the United States. Under this new law, it is now an automatic compliance that has to take place. It means that every single one of those transactions and persons caught under the law, they will have to receive from the financial institutions and send it out to the US Treasury Secretary. So whereas you might got a few requests, now it is every single one, just the bulk of it is going to increase. It is going to be lot. It is all that has to go.

That is the first point when you look at the BIR capacity. And this law will require the BIR to establish procedures for automatic exchange of tax information in the manner requested, to establish rules and procedures for collaboration and compliance and enforcement, to depose witnesses, to authenticate copies of original documents and determine if the information requested were disclosed and the trade, business, industrial, commercial, professional secret. It means that there must be a dedicated unit with properly trained and qualified persons in order to carry out—the staff. Has that unit been set up?

The IT unit where the transferal will take place. I understand a dummy test was done, US/Trinidad on the IT system. I understand a dummy test was done, but it was supposed to be done, it has not been done, but that is just for the IT movement. But what about the people, the warm bodies? Already we have a serious shortage in the BIR in terms of warm bodies, personnel. So you need a really dedicated unit if you are to carry out this job. Then we may be good citizens here, pass this law and then the BIR slumps and fails because they do not have the capacity, and what happens, citizens get blocked and blacklisted and the 30 per cent withholding moneys from the US, they withhold the people moneys, 30 per cent of their US money and so on. So we have to be sure when we do this, and people have to comply, that the BIR has the capacity and the personnel to do it.

Similarly, when it comes to the financial institutions, what is the state of readiness of the financial institutions? The banks, the insurance companies, this is going down to UTC, credit unions, pension funds. I mean, there is a whole host of transactions that will be caught, and bank account information. Are they ready? What is the state of readiness of the financial institutions? They now have to gather it. They have to do due diligence. You know what that means? Every person going to the bank they have to do a due diligence on that person coming to open an account, to determine whether they are a US person as defined in the law or not. Every person.

The system is going to become so overloaded and I would like the hon. Minister to tell us what state of readiness we are in. How soon these things can be done? Because from my information, we are nowhere near to doing that. [*Desk thumping*] And that might be the real reason for saying we will proclaim it at a later date, eh, to give the time. But if that is the case tell us. Do not be a stranger to the truth in that regard. Tell us if it is, we will proclaim, it will give us a comfort zone, sorry, we will pass, we will have a date for proclaiming, we will get a comfort zone, then we will bring regulations. Give us a date, we want a date, and if you want us to pass it, you will put a date in this Bill. [*Desk thumping*]

We are not buying, as they used to say, “cat in bag” any more. You will put a date in the Bill so that we can pass it and then we know that it will happen and our citizens will not end up like the people in Belize. We will know that you have time frames, deadlines, dates, in the law, not just in undertakings; and we will not take an undertaking, you know, from the hon. Minister. Because the last time we debated the finance Bill in this House and we talked about the discriminatory effect of the changes at the NIB, the Minister undertook that once, but more than

once on the floor and at the committee stage, undertook to look at that discriminatory matter and to come back to us. Lo and behold, Monday, that was it, the law took effect and there has been no coming back to the Opposition. So we cannot trust undertakings, we will have to put it in the law. [*Desk thumping*]

And again finally, you know, the Minister spent a lot of time talking about what happened under the 1989 Act and did not tell us something that is so important. The long title of this Bill tells us very clearly what it is for. The long title says and the Minister read the long title, he said he will read it—you all remember that?

“An Act to repeal the Tax Information Exchange Agreements Act”—and that is the 1989 Act—“replace it with a new Tax Information Exchange Agreements”—to—“make provision”—and so on, and—“to validate the sharing of personal information held by the Board of Inland Revenue or financial institutions...”

To validate. Do you know what we are validating, Madam Speaker?

When we read this properly, when the 1989 Act was passed, it required a special majority because we were dealing with special privacy rights. It was never passed at that time with the requisite majority, but the BIR gave away the information, collect the person’s information without the sanction of the law. Today, Parliament is being called upon to validate unconstitutional acts done 26—it was passed in 1989—27 years later. [*Desk thumping*] I do not know what we are validating. I do not know how many we are being asked to validate. We have been given no indication and the Minister did not even deal with that aspect of the Bill. A large part of it has to do with the validation of unconstitutional acts done by the BIR in the past 27 years.

So read it, do not look surprised. It was passed in 1989, took effect in 1990. So 27 years of unconstitutional action, we are now being asked to validate. How many? How many such transactions took place? We do not know. We are talking about the 27 years. If we did not talk for 27 years we are not talking now. [*Crosstalk*] Do not worry about it. These are some of the areas, Madam Speaker—and you know it is a big joke, it is a big joke on that side.

You know, I am coming up today, I opened these newspapers, look at these people, blood, being wiped out, but that is a joke. You know, I see women, what is happening to women in this country, but it is a joke. You know we talked about crime that is a joke, do not talk about it. We talked about validating illegal acts, do not talk about it. That is what we are being asked to do. Twenty-seven years of

Tax Agreements Bill, 2016
[MRS. PERSAD-BISSESSAR SC]

Friday, September 09, 2016

unconstitutionality that we are being asked to validate in this Bill and the Minister did not even mention it when he was piloting it. If we did not take the time to read it, I do not know if we would have even seen it in there.

And so, in three clear working days that we had—Madam Speaker, we cannot support it. As I say there are many other provisions, time will not permit. If I picked it up, it is like a cut and paste job, that they took the 1989, cut pieces and then they are referring to clause 4 as doing something. Well listen, the clause 4 in this new Bill to be Act, is absolutely not relevant. I have found 15 to 20 just typos, sloppy drafting. It is like a slapstick, just throw it on a piece of paper. Reminds me, I saw a list of achievements, it was like a slapstick too. Just throw things on a piece of paper. And we cannot support it in its present form.

The hon. Minister says, let us talk, let us talk. Now is not the time for that. I propose as follows, given the numerous concerns we have, that this Bill be sent to a Joint Select Committee. [*Desk thumping*] We agree to work day and night with the Government in that Committee and to come back in one week's time. So we have the benefit of the Senate, when you go up to the Senate, if we do that you will not have any delay, because once we agree, joint select, Senate, House, we give you one week and we will work with you to improve this Bill. Madam Speaker, I thank you very much. [*Desk thumping*]

3.45 p.m.

Madam Speaker: Member for Port of Spain North/St. Ann's West. [*Desk thumping*]

The Minister in the Office of the Attorney General and Legal Affairs and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam Speaker, and Members of the House. I would like to start off by welcoming us all back after the recess. I was hoping that during the recess period things would have cooled down and persons would have come back to do what is right for Trinidad and Tobago.

Hon. Member: “Yuh start again, boy?”

Hon. S. Young: In fact, it was last week Friday when we met, it had been indicated to the hon. Leader of the Opposition at the time by the substantive Attorney General, that as soon as the Bill—this Bill that we are here today to deal with—was ready, we would send it, and it was on Monday, September 05th, as soon as the ink had dried on the Bill that it was sent to the Opposition. So I would like to place that on the record.

So, first of all, this is a Bill—I would like to start by saying this is a Bill to repeal, as the hon. Minister of Finance and the Economy has said—to repeal the Tax Information Exchange Agreements Act, which as we all know now, after the contribution of the Member for Siparia, is an Act that is in place since 1989, and the sharing of the information between our Board of Inland Revenue and the United States IRS and Treasury, is not something that is new. There is no magic in the sharing of information. And this is now a Bill before us to give life to international obligations, and international obligations that the rest of the world, since 2010, has been dealing with and we are no different to the rest of the world.

In fact, any jurisdiction that wants to have financial arrangements and corresponding arrangements with any American-based bank and the American-based financial system, is obliged—obliged—to sign an IGA which was done on August 19, 2016 by the hon. Minister of Finance and the Economy, and it is a choice of what model IGA you would sign.

And quite interestingly, Madam Speaker, I would like to put on record here today that it is a little surprising to see what is taking place, because I have with me a Cabinet Minute from May 23, 2013 which would have been when the hon. Leader of the Opposition would have held a different position, and that position would have been as the Prime Minister. And the Cabinet, on May 23, 2013, noted as follows: that the United States Foreign Account Tax Compliance Act—which we have been discussing here this afternoon, FATCA—which was designed to combat offshore tax evasion by US persons and to recoup federal tax revenues, became law on the 18th of March 2010.

So what we have here is a record that in May 2013, the then Government led by the then Member for Siparia, was aware of the obligations and the international obligations that had to be fulfilled by Trinidad and Tobago. And, interestingly, the then Cabinet, in May 2013, gave consideration and asked that it be noted what the implications for the failure to subscribe to this legislation, and to execute the agreement that was only executed a few weeks ago, in August, by this administration since 2013. So all the way from May 2013 to when they demitted office in 2015, it appears that nothing was done. But this Cabinet Minute states that they understood clearly as a Cabinet, on May 23, 2013, the implications for both the FFIs which are our financial institutions in Trinidad and Tobago who have corresponding banking arrangements with the international banks in the United States, and the jurisdiction, meaning Trinidad and Tobago, in the event of non-compliance with the requirements of FATCA include.

Tax Agreements Bill, 2016
[HON. S. YOUNG]

Friday, September 09, 2016

And the then Cabinet considered and noted and understood that the failure to pass this legislation, what it would mean for our financial institutions in Trinidad and Tobago as well as our citizens of Trinidad and Tobago, and they noted:

The perception by the US Government as a non-cooperative country, aiding US persons to evade taxes in the United States.

They also noted:

The potential loss of capital and business, for example, all business conducted by multinational corporations, could be constrained.

So what that means—because, of course, we are a hydrocarbon economy where we have a number of multinational corporations, for example, Shell, bp, BG and others, if this legislation is not passed, all of their transactions will now be subject, as that Cabinet noted in 2013, to a 30 per cent withholding tax in the United States.

So that Cabinet, in May 2013, led by the hon. Member for Siparia, also noted:

A possible loss of correspondent relationships with US and other foreign banks with whom local FFIs customarily conduct business.

They also noted:

Subject to the FFIs—which are our local banks—will be subject to a withholding tax of 30 per cent of their US investments, exclusion from the list of compliant institutions that will be published by the IRS. [*Interruption*]

Madam Speaker: Members, I would like to hear the contribution by the hon. Member. Please proceed.

Hon. S. Young: So in 2013, on May 23, 2013, a Cabinet led by the hon. Member for Siparia, one, was aware of their international obligations and, two, went further to discuss a note amongst themselves, what non-compliance would mean. They then, interestingly, after going through quite a substantial amount of discussion about what non-compliance would mean not only for Trinidad and Tobago, but also, interestingly, for the multinationals who have operations in Trinidad and Tobago, agreed and instructed that Trinidad and Tobago adopt Model 1 option of intergovernmental agreement with the United States.

So it appears that in May 2013, as a Government, there are certain types—and if I may be permitted, Madam Speaker, to understand this and to put it in context. This is coming out of obligations and coming out of domestic law in the United

States, and what it is really aiming to do is it focuses on the reporting of United States citizens who may live and who may have assets in other jurisdictions around the world.

So it focuses on reporting by US taxpayers about certain foreign financial accounts and offshore assets, and by foreign financial institutions, for example, banks, multinational corporations like bp, Shell and others—by US taxpayers about certain foreign financial accounts and offshore assets, but also by foreign financial institutions about financial accounts held by US taxpayers or foreign entities in which US taxpayers hold a substantial ownership interest. And the objective of FATCA legislation is the reporting of these foreign financial assets and the penalty for not doing it is withholding tax.

This legislation was derived by the IRS and the US Treasury to deal with non-compliance with tax obligations. Of course, non-compliance with tax obligations takes place in three ways: One, non-filing; two is under-payment of your tax; and three is under-reporting of the amount that your tax is calculated on. And what the IRS felt is that non-filing was the easiest to deal with, because you would know when persons did not file, but to deal with under-payments and under-reporting, and now, with the globe being a smaller place, it is easy to have offshore assets where the IRS would have no jurisdiction and know nothing about it.

So they developed in 2010 this legislation to reach out—and it is important to note, despite what is being proffered by the other side, that the FATCA legislation is really to deal with US citizens and persons who have the obligation to pay tax in the United States. So it does not affect Trinidadian citizens and citizens of Trinidad and Tobago who do not pay tax in the United States. The reciprocity of the agreement to which they referred has nothing to do with this Bill. So to get to the agreement that was signed that they recognized in 2013 needed to be signed—and the point I was making, Madam Speaker, is the Americans put out certain model agreements, and you as a country have a choice as to what agreement it is that you would adopt.

So there are two types of agreements—the Model 1 and another Model—that a country takes a decision whether to sign. And on this occasion, that administration, in 2013, took the decision to adopt Model 1 option of the intergovernmental agreement with the United States. And when a short while ago the hon. Member for Siparia was referring to hundreds of pages, again, I would like the population to know that from page 25 all the way to page 125—so 100 pages—is the agreement. This is the Model 1A agreement which they agreed to sign to in 2013, and you cannot amend the agreement. [*Crosstalk*] There is no

Tax Agreements Bill, 2016
[HON. S. YOUNG]

Friday, September 09, 2016

change to the model agreement and they had it since 2013 as the Cabinet Minute where they participated as the government, committed Trinidad and Tobago to utilizing Model 1. [*Desk thumping*]

Mr. Imbert: It is the same agreement.

Hon. S. Young: So, it is a little less than honest to suggest that they are now having 125 pages thrust upon them for the first time. The question is: why did they put Trinidad and Tobago in the position, forcing us down to the last hour and the eleventh hour, to be scrambling?

Mrs. Persad-Bissessar SC: You did that.

Hon. S. Young: No, we did not. You took a decision on May 23, 2013 to do it. And then they instructed their then Attorney General, as per this Cabinet Minute—and here it is—that:

The Minister of Finance and the Economy sign the intergovernmental agreement...

So this is the agreement of Cabinet in May 2013. They agreed that:

The Minister of Finance and the Economy sign the intergovernmental agreement subject to positive vetting thereof by the Attorney General and its endorsement at the upcoming Caricom Heads of Government meeting to be held in Port of Spain in July 2013.

So it seemed as though they wanted to make an announcement in July 2013 to the other Caricom heads, that they had taken such a decision.

And furthermore—and let the country note through you, Madam Speaker—that the Cabinet, under the Member for Siparia, on May 23, 2013, agreed that:

The intergovernmental agreement be signed on or before December 31, 2013.

Mr. Imbert: “And they ain’t sign it.”

Hon. S. Young: Had that been done we would not have been in the position that we are in today. [*Desk thumping*]

They also agreed in May 2013 that:

The Board of Inland Revenue, the Ministry of Finance and the Economy, be assigned the role of local competent authority under the agreement.

[*Desk thumping*] So, Madam Speaker, Trinidad and Tobago, the impetus, the decision, the genesis, the source of why the Minister is the competent authority lies on their shoulders as a decision that they took in May 2013.

Mr. Imbert: Read it again.

Hon. S. Young: In May 2013, that administration took a decision, amongst others, to have:

The Board of Inland Revenue and the Ministry of Finance and the Economy be assigned the role of local competent authority under the said agreement.

When one goes to the Model Agreement of the Americans, of the United States, the first question they ask is: who shall be your competent authority? In May 2013, those who sit on the other side—some of them were not there—took the decision, it should be the Minister of Finance and the Economy. They then instructed the Attorney General, in May 2013, understanding the intergovernmental agreement should be signed before December 31, 2013:

The Attorney General caused to be prepared the necessary amendments to existing legislation which conflict with the requirements of FATCA.

The last decision they took is that:

A public awareness campaign regarding the FATCA be developed and executed by the Central Bank of Trinidad and Tobago in collaboration with the Ministry of Finance and the Economy.

Mr. Imbert: Never done.

Hon. S. Young: Never done. But one wonders—and we should go back and check now—whether anyone—advertising company or other—was given the contract to do it and paid to do it.

4.00 p.m.

So, Madam Speaker, with the greatest of respect, what we have here today is a Bill, and it is a Bill that is required, based on the model agreement that was finally signed in August 2016. And by the use of the language of model agreement, what I would like the Members in the House to understand and by implication, the wider Trinidad and Tobago, you have to adopt one of the agreements proposed by the United States and you sign it in whole. There is no conversation, no negotiation, et cetera, because, of course, what they have are standard terms and conditions that are adopted by all sovereigns who have adopted and given themselves to these obligations. Again, these are obligations that apply to United States citizens.

So, yes, as was pointed out—and actually allow me to point out that at Article 7 of the first part of that agreement it states, and this is our obligation.

Tax Agreements Bill, 2016
[HON. S. YOUNG]

Friday, September 09, 2016

“A Contracting State”—i.e. Trinidad and Tobago—“shall enact such legislation as may be necessary to effectuate this Agreement.”

So the obligation is there in black and white, highlighted that we have to enact legislation. And as has been suggested there is a reciprocity part of the arrangement, where the Americans have agreed to provide information to Trinidad and Tobago, but it is not carte blanche any information. It is a certain and specific type of information that is to be provided to the Board of Inland Revenue, which is the authority that is given the power per this Bill to both be the pipeline of information to the United States Treasury Department and IRS, but also the receiver of information if our Board of Inland Revenue wants to receive information of any Trinidad and Tobago national away.

For example, one of the occasions where the Board of Inland Revenue—and it is the Board of Inland Revenue of Trinidad and Tobago and not the Government, not the Minister—who may believe that there is any citizen of Trinidad and Tobago that has assets outside of the jurisdiction and is hiding assets, hiding bank accounts in other jurisdictions, that they have not paid the tax that they should have in Trinidad and Tobago, our Board of Inland Revenue may now reach out to the US Treasury Department or the US IRS and request of them that information be provided, and that is something that seems to be resisted now by those on the other side.

Hon. Member: Nobody resisting.

Dr. Rowley: “Eh heh”!

Hon. S. Young: Now we are hearing that there is no resistance.

Madam Speaker, with the greatest of respect to those on the other side, this is not about scare mongering, this is not about implicating fear. You all, like us, have been approached by the insurance industry through ATTIC; you all, like us, have been approached by the Bankers Association of Trinidad and Tobago. You were first approached by the Bankers Association in 2013. So now you are saying you have not been approached by them.

Mrs. Persad-Bissessar SC: On this Bill.

Hon. S. Young: On this Bill. This legislation is essential to Trinidad and Tobago. Should Trinidad and Tobago, Madam Speaker, not pass this legislation it will have very far-reaching and potentially disastrous effects for the banking and insurance industry of Trinidad and Tobago, and what is a little bit surprising and a little disingenuous is that was recognized by the Government in May 2013. The

Government in May 2013 recognized that this legislation—or legislation—had to be passed to give life to the model agreement; and the failure if Trinidad and Tobago fails to meet the September 30, 2016 deadline that is imposed by the United States via the passage of legislation, what it will mean is a delisting. What it will also mean is that our non-compliant financial institutions will no longer be recognized as first-class by those institutions in the United States. Every single transaction that takes place—if it is allowed to take place to do with any of the American banking system would result in an immediate automatic 30 per cent withholding.

So for every \$100 of a transaction by any Trinidad and Tobago citizen with the United States—and that will include credit card transactions, it will include shopping on the Internet, it will include any transaction, you are wire-transferring money to your children in school, it will include the purchase of any goods out of the United States—will immediately result, for every \$100 you attempt to spend, you will only be able to spend 70 because 30 per cent will be withheld by the United States via their Treasury Department or their IRS if we do not pass this legislation before September 30, 2016.

So, Madam Speaker, what we have before us now is a Bill, a Bill that has been prepared to give life and for us to fulfil our obligations. The Bill is only 24 pages, but out of the 24 pages—*[Interruption]*

Mrs. Persad-Bissessar SC: Schedule.

Hon. S. Young: Well the schedules as we have just said are really the agreements. And when one goes to the pages you start off and the first two and a half pages are the recitals, setting out the history, the Preamble as to why we have to pass this legislation.

The hon. Member for Siparia is right and it is recognized. It is recognized that this requires a special majority because it is recognized that this legislation, Madam Speaker, affects the fundamental rights protected by the Constitution at sections 4 and 5 of the Constitution. But, of course, as the hon. Member for Siparia knows, section 13 of our Constitution provides for laws that may be inconsistent with the fundamental rights, provision of sections 4 and 5, to have effect once the laws are “reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual”. And, of course, Madam Speaker, we suggest and we submit that the Bill that is before us is reasonably justifiable because it is a Bill that is giving effect to an obligation and it is really affecting the rights of US citizens.

Tax Agreements Bill, 2016
[HON. S. YOUNG]

Friday, September 09, 2016

There is nothing in this Bill that affects the rights of Trinidad and Tobago citizens who are just Trinidad and Tobago citizens unless they are residents in the United States and unless they have an obligation importantly to pay tax in the United States. This Bill only affects persons who have a liability and obligation to pay tax in the United States. So it does not affect those who have no such liability. Yes, it does define the competent authority as being the Minister with responsibility for finance, but that has been passed over to the Board of Inland Revenue.

Madam Speaker, in going through the Bill what it does is, it starts off at Part III by making certain amendments. Well, it repeals the 1989 Act but it retains there, parts that are necessary to give effect to obligations to the United States, and it very clearly identifies the occasions upon which this Bill will be applicable. At clause 10. It says:

“The following taxes imposed by, or on behalf of the United States of America, that apply to this Part”—are

- “(a) Federal Income taxes;
- (b) Federal taxes on self-employment income;
- (c) Federal taxes on transfers to avoid income tax; and
- (d) Federal estate and gift taxes;
- (e) Federal excise taxes.”

So it is identifying again very clearly in the legislation that this is really to give life in Trinidad and Tobago for the provision of information on persons who may have assets in Trinidad and Tobago but have the liability to the IRS and the Treasury Department in the United States. And it says that:

“The Board shall exchange information to administer and enforce any law concerning the taxes...”—to which I have just referred.

Importantly, Madam Speaker, it identifies at clause 11(2) that:

“The Board”—meaning the Board of Inland Revenue and not the Minister of Finance—“shall, on receipt of a request for information from the Secretary of the Treasury or the delegate of the United States Treasury Department...provide the information so requested to the Treasury Department.”

So it is identifying, Madam Speaker, very clearly, for the purposes of United States taxes and the federal taxes that we have identified, that that information is to be provided, after request by the United States Treasury, to the United States Treasury, and it is not to any and every body but a very, very specific conduit. It also says that:

“(4) Where the Board believes that information requested under this section is in the possession of a financial institution, it may require the financial institution to provide the Board with that information, and the financial institution shall so provide.”

So the instances that the hon. Member for Siparia was referring to, which are the provisions under the FIA legislation, Unit Trust Act and et cetera that provide for secrecy, that is being dealt with here, and we respectfully say in a proportionate and constitutional manner because it is the information being provided after request by the US Treasury to the Board of Inland Revenue of Trinidad, it will be provided by the Board of Inland Revenue of Trinidad requesting the information from the bank and then sending it straight to the Treasury. So it is not being sent any and everywhere.

There is a very, very specific conduit, Madam Speaker, that we say is proportionate in order to fulfil our international obligations on this occasion. It then deals with the 2016 IGA that was signed and, of course, in this day and age in order to avoid money laundering, there are hosts of other and new technologies that need to be implemented and it deals with that.

Then, Madam Speaker, the legislation goes on to deal with the proposed Bill—or, the Bill and the proposed legislation—goes on to deal with the Data Protection Act, and the sections of the Data Protection Act that are identified are the sections that require institutions such as the banks, the insurance companies and other institutions like that to retain information. It is giving them a waiver of the break of secrecy, but again in a very specific circumstance where the American US Treasury Department requests information through our Board of Inland Revenue who then passes that request for information on to the financial institution. And I would like to take this opportunity to point out that type of legislation already exists in Trinidad and Tobago under the FIU, because the FIU can make requests of the banking institutions in Trinidad and Tobago for specific information of persons who have bank accounts and that information is fed back to the FIU.

Tax Agreements Bill, 2016
[HON. S. YOUNG]

Friday, September 09, 2016

So all we are doing is acting as a conduit between our local banks and the banks that operate in Trinidad and Tobago, and the US Treasury Department. The information is fed through that pipeline directly to the US Treasury Department. So what clauses 13 and 14 do is it allows financial institutions to provide the Board of Inland Revenue with this information so that Trinidad and Tobago would fulfil its legal obligations.

It also deals and that is dealing with the disclosures of sensitive personal information under this section and that it shall be done annually on an automatic basis. Of course, this is all subject to regulations, and regulations that will be developed by the various authorities, the SEC and the Central Bank—the Central bank having the regulatory authority over insurance companies, as well as financial institutions and the SEC.

So, Madam Speaker, respectfully, this Government is holding out to those on the other side that legislation needs to be enacted, it needs to be passed. It needs to be approved by the Parliament before our cut-off date of the September 30, 2016, otherwise it is going to have serious wide-ranging and deleterious effects on Trinidad and Tobago. We are prepared to have conversation as has been held out. We are open to have discussion. You all recognized the importance of these obligations in 2013, and it is everyone who will suffer every time they have to have a transaction with a corresponding bank in the United States by having, at minimum, 30 per cent of their transaction being withheld.

4.15 p.m.

This has been long in coming. These obligations exist. There is no hiding from these obligations. Many sovereign states in the rest of the world have already signed on. We are one of the last. We have heard from the hon. Minister of Finance what happened to Belize when they did not comply. Fortunately, we were able to get one extension of time.

Madam Speaker: Hon. Member, your original 30 minutes have expired. You are entitled to 15 more minutes. Do you intend to avail yourself of it?

Hon. S. Young: Thank you very much, Madam Speaker.

Madam Speaker: You may proceed.

Hon. S. Young: Thank you very much, Madam Speaker. The hon. Member for Siparia had focused on the secrecy provisions. She talked about consultation. We heard that the Minister of Finance said that there was a level of consultation taking place. The banking industry, the insurance industry through ATTIC and the

Banking Association of Trinidad and Tobago are anxious and have been writing to us and asking for legislation to be passed. As I said, the Schedules are part of the model agreement and it is only really the Bill that we need to debate and discuss.

I do not agree with the suggestion that clause 7(2) is providing an out from judicial review. As the Member for Siparia would know, an ouster clause provision has to be—*[Interruption]*

Mrs. Persad-Bissessar SC: I did not say ouster.

Hon. S. Young: You said it would prevent someone from judicially reviewing any decision of the Minister, which is akin to an ouster. The only way—*[Interruption]*

Mrs. Persad-Bissessar SC: I am sorry, I did not refer to an ouster clause. I said what it does is that you would end up not being able to succeed on a judicial review because you will not be bound by the four corners of the statute.

Hon. S. Young: Of course, that, with the greatest of respect, Madam Speaker, through you, is not the law of judicial review. Judicial review has a whole number of parameters. Respectfully, the only way you can prevent a judicial review is with a clear ouster clause, ouster provision and that does not exist in 7(2). But as I say, Madam Speaker, through you, we hold ourselves available and we invite discussions and conversations, with respect to the Bill that is before us.

But I take the opportunity to emphasize, and I do not think it needs to be emphasized because we have heard that since 2013, the then Cabinet was aware of the implications of failure of non-compliance.

So, Madam Speaker, through you, what we would like to call upon the Opposition to do is to meet with us, let us have conversation and discussion and come up with legislation. If they have matters that are reasonable and can be met with amendment, I am certain we on this side would listen to it and we would deal with the amendments, once they are reasonable. But this legislation or legislation needs to be passed by 30th September, 2016, otherwise it is going to have dire circumstances and consequences for our citizens.

I would like to just end by saying, to alleviate the fears and the concerns raised by those on the other side, that this legislation only affects persons who have an obligation to pay tax to the United States of America, not the citizens of Trinidad and Tobago.

Tax Agreements Bill, 2016
[HON. S. YOUNG]

Friday, September 09, 2016

Thank you, Madam Speaker. With those few words, I would like to say that we should meet and settle on an appropriate Bill. Thank you.

ADJOURNMENT

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Thank you very much, Madam Speaker. Madam Speaker, given the fact that we would like to meet with the Opposition on this matter, I would like to request that this House do now adjourn to Wednesday 14th September, at 1.30 p.m. and in the interim we would like to meet with the Opposition on Monday afternoon to discuss the concerns that they may have.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 4.20 p.m.