

*Leave of Absence*

*Monday, December 12, 2016*

**HOUSE OF REPRESENTATIVES**

*Monday, December 12, 2016*

The House met at 1.30 p.m.

**PRAYERS**

[MR. DEPUTY SPEAKER *in the Chair*]

**LEAVE OF ABSENCE**

**Mr. Deputy Speaker:** Hon. Members, Mrs. Christine Newallo-Hosein, Member for Cumuto/Manzanilla, and Dr. Fuad Khan, Member for Barataria/San Juan, have requested leave of absence from today's sitting of the House. The leave which the Members seek is so granted.

**PAPER LAID**

Ministerial Response to the Second Report of the Joint Select Committee on Human Rights, Equality and Diversity on the Challenges faced by Persons with Disabilities with Specific Focus on Access to Services and Employment. [*The Minister of Health (Hon. Terrence Deyalsingh)*]

**URGENT QUESTIONS**

**The Minister of Planning and Development (Hon. Camille Robinson-Regis):** Thank you very much, Mr. Deputy Speaker. Mr. Deputy Speaker, there were five urgent questions filed in accordance with Standing Order 27, but there is no one here to ask the questions despite the fact that we have all the answers ready, [*Desk thumping*] but there is nobody here to ask the questions.

**Mr. Deputy Speaker:** Hon. Members, as identified by the Leader of Government Business, before the House there are five urgent questions that were submitted to the Speaker's Chamber this morning for approval, five were granted but I have noted that no Members of the Opposition are here so we will kindly move on at this occasion. [*Desk thumping*]

**Mr. Hinds:** Shame.

**TAX INFORMATION EXCHANGE AGREEMENTS BILL, 2016**

[Third Day]

*Order read for resuming adjourned debate on question* [September 23, 2016]:

That the Bill be now read a second time.

*Question again proposed.*

**Mr. Deputy Speaker:** I will now call on the Member for Diego Martin North/East, or the Minister of Finance, who has 13 minutes of his original speaking time. Hon. Member, proceed.

**Hon. C. Imbert:** [*Desk thumping*] Thank you very much, Mr. Deputy Speaker. We find ourselves in a very strange situation today where all of the seats opposite are empty. This would now be the fourth or fifth time—[*Interruption*]

**Mr. Al-Rawi:** This is the fifth debate.

**Hon. C. Imbert:** Yeah, this would be the fourth or fifth time, Mr. Deputy Speaker, that the Government has come to the Parliament prepared to debate, accommodate whatever reasonable amendments proposed by the Opposition and pass the foreign account tax compliance Bill; and this is now the—well I am told this is the fifth time we have come in to this Parliament and we have not received any proposed amendments from the Opposition.

However, Mr. Deputy Speaker, this matter is too important to allow it to be undermined by those opposite. I noticed a number of statements in the newspapers over the weekend, Mr. Deputy Speaker, and I see statements attributed to the new Opposition Whip saying that the Opposition has amendments. This would be the fifth or sixth time the Opposition has told us they have amendments to this Bill.

I see another comment attributed to the former Opposition Whip asking for a waiver of the Standing Orders to allow Opposition MPs to contribute to the debate. But even if that happened, they are not here. So even if, Mr. Deputy Speaker, we took the unprecedented step, I have never heard of such a thing where when the person who has introduced a Bill has begun their winding-up, a Motion has been put to the floor to waive the Standing Orders to allow those who did not choose to speak, to speak again. And even if we were amenable to such a novel proposition, they are not here to speak.

So, one wonders what the Opposition is about and I wish to put on record, Mr. Deputy Speaker, that today the Government came prepared to deal with a number of amendments to the legislation, which have been circulated to the Opposition and I think it is incumbent on me to go through these amendments.

Now, if I look at the complaints of the Opposition which we have had to obtain in a very unorthodox way—by way of a vague and ambiguous newspaper advertisement—if I look at what the Opposition is asking for, we have drafted a number of amendments which we intend to move at the committee stage to deal

with the points made by the Opposition. I think the most important amendment that we have chosen to make is that there was a complaint that the Bill as originally drafted would allow the Government to declare, by Order, other tax sharing and tax information agreements which the Government might enter into with other countries. This was one of the main objections of the Opposition that the way the Bill was drafted and that would have been in the original clause 4 of the Bill, where it was provided that the Government, through the Minister, could declare another tax sharing or tax information agreement signed with another country, such as the one that Trinidad and Tobago signed with the United States of America in August, that the Bill would have allowed the Minister by order to declare such agreements part of our domestic law. And we have had a second look at this and we have decided that we would make this foreign account tax Bill specific to the actual agreement with the United States of America.

So what we have done is we have taken out the provisions that would allow the Government, through the Minister, to declare other similar agreements to the intergovernmental agreement between the United States and Trinidad and Tobago with respect to tax information exchange—taken out that provision which would have allowed the Minister by Order to declare those future agreements part of our domestic law—and we have decided on each occasion we will come to the Parliament as and when required or use some other mechanism, some other appropriate mechanism, to allow parliamentary oversight of agreements entered into between the Government of Trinidad and Tobago and any other sovereign country with respect to the sharing of information on foreign accounts and foreign tax information.

So that would cause amendments to clause 4, it would cause amendments to clause 5; and clause 5, for example, reads as follows in its present form:

“The President may, by Order, declare a tax information exchange agreement specified in the Order to be a declared agreement for the purposes of this Act.”

And this was intended to deal with future agreements similar to the one we signed with the Americans and we are proposing that be deleted.

And we are also proposing that clause 6 be deleted to remove the power of the Minister or any person authorized by him to give effect to every declared agreement.

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We are also removing clause 7 which takes out the power of:

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

So, taking into account the concerns expressed, we are deleting clause 5, clause 6, clause 7, clause 8, renumbering the clauses and now making it very specific to this particular agreement between the United States of America and Trinidad and Tobago.

So all references, with one exception, to the Minister have been removed from the legislation and the only reference to the Minister of Finance now is with respect to the approval of the guidelines which would be drafted by and prepared by the Central Bank of Trinidad and Tobago. So the Minister’s only involvement now in the sharing of tax information and foreign account information with respect to United States citizens, would be after the Central Bank has prepared guidelines for the implementation of this agreement through the financial institutions, through the banks and so on—this would simply be subject to the Minister’s approval.

We have also designated—rather than leaving in the legislation that the Minister would be able to designate a competent authority—we have, by virtue of the amendments that we propose, designated the Board of Inland Revenue as the competent authority. So that is the mechanism we have used. So, no longer would it be the Minister designating a competent authority of his choosing. We have now, again, listening to the concerns expressed, we have designated the Board of Inland Revenue as the competent authority with respect to the sharing of information with the United States Treasury.

Mr. Deputy Speaker, I might also make the point, I saw the Leader of the Opposition making a statement in a press conference that this legislation is not important. I find that absurd for the Leader of the Opposition to make that statement and promote that point of view that the foreign account tax information sharing agreement, the incorporation of that into our domestic law, is not important and I think the Leader of the Opposition made a further point that it is only designed to deal with big business. Both of those statements from the Leader of the Opposition that this is not important and that this is only designed to deal with big business are inaccurate and misleading.

Let me repeat, Mr. Deputy Speaker, the problem that will occur if Trinidad and Tobago does not deal with this legislation in a proactive manner—and let me repeat the timelines for those who may have forgotten them. When we observed back in September that the Opposition was unwilling to incorporate the agreement with the United States with respect to foreign accounts into our domestic laws, I on behalf of the Government of Trinidad and Tobago, in my capacity as Minister of Finance, caused to be written a letter to the United States Treasury—who is our counterpart with respect to this matter, the sharing of foreign account information—and in that letter we told the United States Treasury that it was our intention to make every possible effort to pass the legislation in both Houses of Parliament by February 2017 and to be compliant in terms of reporting by the new deadline of September 30, 2017. And it will take some time after the legislation is passed, it will take some time for the Central Bank to prepare the guidelines; they would be looking at it as we speak, but it will take some time in consultation with the commercial banks and so on.

We need to enact this legislation first, thereby empowering the Central Bank to hold appropriate consultations with banks and so on in order to prepare the guidelines and then implement the guidelines and cause the financial institutions to provide the necessary information to the Board of Inland Revenue so that the Board of Inland Revenue could provide the necessary information on foreign accounts to the United States Treasury.

**Mr. Deputy Speaker:** Hon. Member, your initial 30 minutes have now expired. Do you care to avail yourself of the additional 15?

**Hon. C. Imbert:** Yes.

**Mr. Deputy Speaker:** Kindly proceed.

**Hon. C. Imbert:** Thank you very much. [*Desk thumping*] Now, as I said on the previous occasion, Mr. Deputy Speaker, we are of the firm view that we dodged a bullet twice when we came in in September 2015, and I discovered that there was a deadline of the 30<sup>th</sup> of September, 2015 for the compliance with the requirements of the foreign account tax information Act of the United States. I sought and obtained a one-year extension from the United States Government with respect to Trinidad and Tobago's compliance [*Desk thumping*] with reporting and as the second deadline approached, the 30<sup>th</sup> of September, 2016, and it became obvious that hon. Members opposite—the Opposition—notwithstanding the fact that the former Minister of Finance, my predecessor, had signed an intention to enter into the identical tax information—[*Interruption*]

**Mr. Hinds:** Who was he?

**Hon. C. Imbert:** Mr. Howai—had signed an intention to enter the identical agreement that we have entered into, I sought and obtained a further extension to September 2017, because it had become obvious that notwithstanding that fact, they had no intention of supporting this legislation.

**Mr. Al-Rawi:** They are upstairs watching it on television right now.

**Hon. C. Imbert:** I am told that rather than be here dealing with the people's business they are upstairs, somewhere, watching this entire presentation on television. This is what I am told. Mr. Deputy Speaker, I honestly as a citizen of Trinidad and Tobago, I really do not understand what the Opposition is up to, as a citizen of Trinidad and Tobago. If they have a point to make they could have come here and—

**Mr. Al-Rawi:** Ask for the Standing Orders to be waived.

**Hon. C. Imbert:** They did not come and ask for the Standing Orders to be waived. They have not drafted the amendments, they have sent us nothing. They could have come in the committee stage and made their points as we went through every single clause; we have 30 clauses. So they would have had 30 by 18, each one of them could make a point on each one of the clauses. So you are talking about 400 plus opportunities of the hon. Members opposite to make whatever point they want to make. I just find this all very, very odd as a citizen.

However, let me go back to the substantive issue. In September, recognizing that the Opposition had no intention of honouring the commitment that they made to the United States of America Government, when my predecessor, Sen. Howai, signed the intention to enter into the intergovernmental agreement with respect to the sharing of foreign account information and tax information, when it became obvious I sought and obtained a further extension to September 2017. But the fact of the matter is that is two chances we have been given by the United States. I do not think we will get a third one and therefore I am sure the hon. Members opposite are aware of that as well. So I really do not understand what they are about. I really do not understand.

Parliament is for speech, it comes from the French word *parler*. They should be here talking. Where are they? What is going on? [*Desk thumping*] This is not democracy, Mr. Deputy Speaker. They walked out last week, now they walked out again. This is what you call the tyranny of the minority. This is what this is all about? But we are a serious and responsible Government. [*Desk thumping*]

We will do everything in our power to ensure the passage of this legislation, everything in our power. As we have said from day one—and what bothers me, Mr. Deputy Speaker, is the commentators in this country.

There are 23 Government votes and every single one of those 23 Members have pledged from day one to vote for this legislation. [*Desk thumping*] And really it bothers me that the commentators cannot see that. Every single one of the 23 PNM Members on this side are going to vote for this legislation. We need three UNC and why are the commentators not targeting the UNC with respect to this legislation. I just do not understand. What kind of country is this? They are telling the Government that we must demonstrate maturity. What are you talking about? This is the fifth time we have come to debate this Bill. This is the fifth time we have asked the Opposition to submit proposed amendments and I heard a comment from the Leader of the Opposition on the last occasion that they have no resources. That is nonsense.

When we were in opposition we drafted amendments to legislation, we submitted amendments. We did not complain about we have no resources. Sometimes we will be ambushed with legislation and same day Members of this side, Members of the PNM, would be drafting amendments. This is absurd. The Leader of the Opposition as Senior Counsel have all sorts of lawyers available to them who are willing to go to court at the drop of a hat to argue frivolous matters and spend millions of dollars, and all of a sudden they are now saying they have no resources, they cannot draft amendments. It is ridiculous. It is unacceptable. It is absolutely ridiculous, it is unacceptable. It is a shame and a disgrace that some people in this country cannot see what is going on. Every time this FATCA debate, this foreign account debate, has come to this the commentators call on the Government to do something. We have 23 votes, all 23 voting for this Bill. [*Desk thumping*]

I mean, I am absolutely fed up, Mr. Deputy Speaker, I am absolutely fed up. But, we are serious, we are responsible, we have a very mature party, we are 60 years old. We have maturity coming out of our ears. So, Mr. Deputy Speaker, it is a tragedy, it is a travesty, it makes you wonder if there is more in the mortar than in the pestle.

I heard my hon. colleagues, the Minister of Public Utilities, the Minister in the Office of the Prime Minister, the Attorney General, make some speculative remarks with respect to Members opposite that perhaps really they have something to hide. What is going on? Every PNM on this side “doh” mind if

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they share our tax information with the United States. What is their problem? [*Desk thumping*] And you know, you get the impression they would like to plunge this country into chaos, because it suits them. So they withhold their votes, they cause crisis in the banking sector, they cause correspondent banking relations—and I am coming back to my original point, where the Leader of the Opposition said that this legislation is not important and it deals only with big business. That is nonsense, Mr. Deputy Speaker.

If this legislation is not passed, not big business, little business, little people will suffer. The small man will suffer, the middle class will suffer, everybody will suffer, because we will be in a situation where we can no longer do transactions with the outside world. So the little man who wants to send a few hundred dollars to his family abroad will no longer be able to do so. The manufacturer who wants to acquire inputs for manufacturing raw materials will no longer be able to do so. People who are studying abroad, if their parents want to send tuition fees by wire transfer, cannot be done. People who need medical attention, if this legislation is not passed they will not be able to transfer money abroad. And it is incredible that someone with the experience of the Member for Siparia could pretend that this Bill is only about big business.

This Bill affects all 1.3 million souls in Trinidad and Tobago. [*Desk thumping*] Every man, woman and child will be affected by this. And the people who are going to hurt the most would be the small people because they would have no opportunity to find other ways of doing transactions. You know, big people, big people could always find a way to get something done but the little people are going to be crushed by this action on the part of the Opposition, Mr. Deputy Speaker. And I appeal to them again as I appealed in the past, I appeal to the Members opposite again, come downstairs, come inside! [*Laughter and desk thumping*] Come inside! Why are you outside? No, I am telling them come inside, this is the people's house, this is the people's Parliament, come and do the people's business. Do not be cowards. What are you hiding for? Come inside.

**Hon. Member:** Nice one [*Laughter*]

**Hon. C. Imbert:** No, "I dead serious". Mr. Deputy Speaker, I am ashamed to be a parliamentarian today. I am ashamed. It is embarrassing. What do you think the outside world thinks when they hear about this incident? Empty chairs. What is the point they are trying to make? Empty chairs.

So, Mr. Deputy Speaker, I beg to move.

**2.00 p.m.**

*Question put and agreed to.*

*Bill accordingly read a second time.*

**Mrs. Robinson-Regis:** Mr. Deputy Speaker, may I indicate that the Government side has some amendments to the Bill and we are in the process now of circulating them. They are already on the Opposition Benches but they are not on our Benches, so we just want a few minutes to circulate them and for the Attorney General to consolidate them. Thank you very kindly. Ten minutes should be enough, Mr. Deputy Speaker. Thank you so much.

**Mr. Deputy Speaker:** Hon. Members, at this time I would like to suspend the House for a period of 15 minutes. We will return at 2.18 p.m.

**2.04 p.m.:** *House suspended.*

**2.30 p.m.:** *House resumed.*

*Bill committed to a committee of the whole House.*

*House in committee.*

**Mr. Chairman:** Hon. Members, each Member should have a list of amendments before them and we will proceed to go through each, clause by clause.

*Clause 1.*

*Question proposed:* That clause 1 stand part of the Bill.

**Mr. Imbert:** Shall we do the Title first or last?

**Mrs. Sampson-Meiguel:** Last.

**Mr. Imbert:** And the Preamble as well. Mr. Chairman, we have an amendment to clause 1:

Long title     Delete the words “other States” and replace with the words “United States of America”.

Preamble     A.     In paragraph 1 delete the words “other States” and replace with the words “United States of America”;

                  B.     Delete the fourteenth and fifteenth paragraphs.

Short title     Insert after the word “Agreements” the words “(United States of America)”.

The purpose of the amendment to clause 1 is to make it crystal clear that this legislation is confined only to a tax information exchange agreement with the United States of America and no other country. I will ask the AG now to elucidate.

**Mr. Al-Rawi:** Thank you, Mr. Chairman. For the benefit of the House, the original architecture of this Bill proposed that the tax information exchange Act allow for every tax information agreement that came forward to be incorporated by way of an Order. It meant that this Act, before it was amended, could have been used not only for the United States of America but every other country. As a result of some of the observations presented by a number of contributors: Bankers Association; Central Bank; Board of Inland Revenue; and the Opposition, in their statement of Friday 23<sup>rd</sup> September, 2016, we had to reorganize the structure of the Bill so that each Bill that concerned tax information exchanges would stand as a separate Bill of Parliament. For that reason, the amendment to the long title, which would find itself in all of the clauses proposed for amendment this afternoon, specifically requires that we only use this particular piece of legislation for the two United States of America agreements—[*Interruption*]—yeah, the short title. The first one would be for the 1989 IGA, which was under the tax information exchange 1989 legislation, and the second one, specifically, for the 2016 IGA. Any other tax information exchange agreement, be it with the global forum or any other country, would have to come by an individual piece of law, each one standing on its own, and that is the rationale for this particular short title amendment.

*Question put and agreed to.*

*Clause 1, as amended, ordered to stand part of the Bill.*

**Mr. Chairman:** Hon. Members, there is a proposed new clause 2. This new clause will be taken at the end. However, I will allow an explanation. Proceed, Minister of Finance.

**Mr. Imbert:** Certainly. This clause provides for the Act to come into operation at a date fixed by proclamation, the reason being that there is a lot of preparatory work necessary after the Bill is passed. The Central Bank will have to prepare the guidelines in consultation with various institutions and the Board of Inland Revenue will have to put its house in order, in order to allow the automatic exchange of information with the US Treasury. And, therefore, after the Bill is passed, we have put this new clause in to allow a proclamation date which will be at some point in time after the passage of the Bill, but well before the 30<sup>th</sup> of

September, 2017 which is the deadline. I do not know if the AG wants to add anything.

**Mr. Al-Rawi:** Yes, please, Mr. Chairman. Thank you. Mr. Chairman, just to remind that the observations of the United States of America set down two milestones, as the Minister of Finance has clarified for us today, or repeated. The first one was in the month of February 2017 and the second one in the month of September 2017. This law requires a two-stage process. One is for the technical compliance, meaning that you actually have a law to do the tax exchange of information—exchange of tax information—on foreign accounts, and the second side of it is that you physically engage in operationalizing that law. For that purpose, therefore, the proclamation clause is explicit in its design to allow for the separation of the two functions: the compliance of the law which must be done before February; and the operationalization of the law to be effected before September.

*Clauses 2 and 3.*

*Question proposed:* That clauses 2 and 3 be renumbered as clauses 3 and 4.

*Question put and agreed to.*

*Clauses 2 and 3 renumbered as clauses 3 and 4.*

*Clause 3.*

*Question proposed:* That clause 3, as renumbered, stand part of the Bill.

**Mr. Imbert:** We have an amendment to clause 3, as renumbered:

Insert after the words “Act” the words “shall have effect even though it”.

This is just a simple, stylistic, linguistic, correction to make it clear that the Act has effect even though it is inconsistent with sections 4 and 5 of the Constitution. I do not think that needs any further—it is just an English correction, but I want to stress that that is a very important point, that this Act will require a special majority.

*Question put and agreed to.*

*Clause 3, as renumbered, as amended, ordered to stand part of the Bill.*

*Clause 4.*

*Question proposed:* That clause 4, as renumbered, stand part of the Bill.

- A. Renumber 4(1) as 4.
- (i) Delete definition of “competent authority” and “Contracting State”;
  - (ii) Delete the definition of “declared agreement” and replace with the following new definition: “‘declared agreement’ means the 1989 TIEA as defined in section 5 and the IGA as defined in section 9;”;
  - (iii) In the definition of “former Act” –
    - (aa) insert after the word “Tax” the word “Information”;
    - (ab) delete the words “76:61” and replace with the words “76:51”; and
  - (iv) In the definition of “Minister”, delete the words “member of Parliament” and replace with the word “Minister”; and
  - (v) Delete the definition of “tax information exchange agreement”.
- B. Delete sub clause (2).

**Mr. Imbert:** Now, this is a very important amendment and this goes to the core of many of the objections of the absent Opposition. This deletes the “Minister” as the competent authority with respect to tax information exchange agreement and also deletes the concept of multiple states from the agreement. So the effect of this amendment will be—to repeat—to delete the “Minister” as the competent authority and also to delete the concept of contracting states, and to make some other changes to make it clear that the only declared agreements that we will be dealing with, with respect to this legislation, are the original 1989 tax information sharing agreement and the new 2016 intergovernmental agreement signed between the United States of America and the Republic of Trinidad and Tobago. And it goes on to delete any reference whatsoever to other agreements and the concept of multiple agreements and so on, which is something that the other side had complained about bitterly. So we have taken that all out. So the Minister is no longer the competent authority. We have also removed the power of the Minister to authorize persons to act as the competent authority because we are designating the Board of Inland Revenue as the competent authority, through this legislation. So that, as I said, goes to the core of many of the objections of the absent Opposition. I will ask the AG to elaborate.

**Mr. Al-Rawi:** Mr. Chairman, I adopt everything that the Minister of Finance has said and wish to just elaborate as follows: In the present architecture, because we are now confining this Bill solely to the United States of America—that is the 1989 law and the 2016 intergovernmental agreement—we have removed the definitions appearing in old clause 3 and they now find themselves in the body of clauses 5 and 9. Clause 5 appears in Part II of the Bill and deals specifically with the 1989 agreement, that is the 1989 TIEA under Part II. And clause 9 deals specifically with the 2016 intergovernmental agreement.

Now, Mr. Chairman, it is important to put on the record that the language originally proposed in this Bill, which stated that the competent authority was the Board of Inland Revenue or such entity appointed by the Minister of Finance, was the exact language of the IGA, both in 1989 and in 2016. Notwithstanding the fact that that was signed as an obligation by Minister Howai under the UNC Government and that this Minister of Finance was bound by law to treat with it as he met it—because a state cannot reverse its position once a treaty has been signed—notwithstanding the fact that the last Government bound this Minister of Finance to do that, in view of their insistence that we should reverse the position we have found the easiest way to do it in law, and that is to refer back to the original definitions in the 1989 and the 2016 IGA and tax information agreement, and therefore to remove, out of an abundance of caution, the references to “Minister”. It is an inconsistent position for the absent Opposition.

I want to remind that in their publication of Friday 23<sup>rd</sup> September, 2016, which is the only contribution we have had from them on specific observations on this Bill, the exchanges in relation to clauses 5, 6, 7, 8 had specifically to do with the referencing to the word “Minister”. In an attempt to meet those concerns expressed by them—and on none of the occasions any concerns expressed in the five times we have debated this Bill—we made these amendments.

*Question put and agreed to.*

*Clause 4, as renumbered, as amended, ordered to stand part of the Bill.*

*Original Clause 4.*

*Question proposed:* That the original clause 4 be deleted as circulated.

**Mr. Imbert:** That is an amendment that we are proposing and that, again, is to remove references to multiple agreements, making it again crystal clear that the only agreements we are dealing with are the 1989 and the 2016 foreign tax account agreements with the United States of America.

**Mr. Al-Rawi:** Mr. Chairman, insofar as the original clause 4 specifically said: “The Minister may authorize any person to act as the competent authority for Trinidad and Tobago and for the purpose of any tax information exchange agreement.”

I just wish to add, again, it is the absent Opposition’s insistence that the Minister’s reference be removed, and that has been achieved. This has been signalled now three occasions prior to this, that these amendments would have been put forward. Again, we regret that the Opposition is not here. Even though we have said this on the Parliament floor it is now pellucidly clear, this amendment to this particular strike-out to clause 4 was circulated to the Opposition, in hand, since the 23<sup>rd</sup> of September 2016, and in those circumstances it is now proposed to deal with it that way.

**Mr. Imbert:** Let me come back again, Mr. Chairman. The original clause 4 reads as follows:

“The Minister may authorize any person to act as the competent authority for Trinidad and Tobago for the purpose of any tax information exchange agreement.”

The Opposition objected violently to that and we have deleted that clause. So the Minister can no longer authorize any person to act as the competent authority and we are authorizing—one of the concerns they raised—we are going to authorize the Board of Inland Revenue and no one else to be the competent authority. So that is the effect of this amendment: take out the Minister’s power to do that.

*Question put and agreed to.*

*Original clause 4 deleted.*

*Part II.*

*Question proposed:* That Part II be deleted.

**Mr. Imbert:** I think I “kinda jumped the gun” in speaking earlier. We are deleting the heading so that it takes away the concept of multiple agreements and makes it clear we are just dealing with agreements with the United States of America. Okay? All of Part II is being deleted, and if I can go into clauses 5, 6, 7 and 8, which is all of Part II—I am going to go through this slowly. The original clause 5 gave the President, which in this case would have been the Cabinet—the Government—the power, by Order, to declare a tax information exchange agreement to be a declared agreement for the purposes of this Act. Again, this

was a concern raised by those opposite and other commentators that the Cabinet should not have the power to declare agreements that it entered into with other countries without coming to Parliament. So we have taken that out.

Clause 6:

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

That is 6(1). And 6(2):

“Where the Minister authorizes any person under subsection (1) he may give general directions to such person as to the performance of its functions under this Act, and such person shall comply with any directions given.”

Again, that was abhorrent to Members opposite, the very idea that a Minister could ensure that a declared agreement is given effect and that a Minister could authorize persons and give them general directions with respect to giving effect to an agreement. So we have taken that out. So the Minister no longer has the power to authorize persons and give general directions.

With respect to clause 7, it reads as follows:

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

And then it went on to say at (2):

“Any power under subsection (1) is exercisable notwithstanding that the circumstances, if any, necessary under that Act for the exercise of the power may not have arisen and, subject to subsection (1), the provisions of that Act shall apply to, and in relation to, the exercise of that power for the purpose of giving effect to a declared agreement as if the power was exercised for the purpose of that Act.”

Again, this was abhorrent to the Members opposite, that the Minister would have the power to act specifically and generally and exercise powers with respect to giving effect to a foreign account agreement. So we have deleted the Minister’s powers with respect to that and everything will now reside in the Board of Inland Revenue.

And clause 8, the final clause in Part II, which is now deleted in toto, it says— clause 8 is coming out of here and going into another section and clause 8 dealt

with the Income Tax Act, the Data Protection Act and so on. And since we are taking out Part II—and this is important—we are putting it back elsewhere.

**Mr. Al-Rawi:** Thank you, Mr. Chairman. Mr. Chairman, I want to refer again—because there is no Opposition present—to the publication of Friday 23<sup>rd</sup> September, 2016. The Opposition specifically indicated objection to clauses 5, 6 and 7 of the Bill before us. These clauses 5, 6 and 7 are being entirely deleted from this Bill. We said this to the Opposition on the floor of the Parliament three occasions ago when we stood. We are now on the fifth occasion. This has been communicated in the public domain as well. I think it important—because they are not here—to put it on the record. These amendments were also circulated to the Opposition as well. I remind that this particular statement by the Leader of the Opposition, 23<sup>rd</sup> September, had only six clauses: 5, 6, 7; three of them have come straight off the table.

Mr. Chairman, I wish to put further that the removal of these particular clauses, as is now proposed by amendments, is managed because the position of putting the Order in is no longer going to be a problem for future Bills—future other agreements—because they will each come, each one on its own. The 1989 provision allowed you to have declarations of this type. You could have come forward. You could have brought in other agreements. We have now said we will take it the long and very difficult route and we will instead do each and every tax exchange information request by separate legislation.

The country had an alternative which has stood in the law since 1989. The Member for Caroni Central was a part of the Government that passed that law then. The Opposition, as last Government, presided over this existing law for five years and had nothing to say about it. Notwithstanding that fact, this is a special majority Bill. We have taken these clauses entirely out and clause 8 itself, which is now going to come back as a new clause 12, has been amended so that we can take into inclusion more than just sections 6, 41, 42 and 46 of the Data Protection Act. Instead, Mr. Chairman, we now have the opportunity to include sections 6, 30, 31, 38, 40, 41, 46 and 69 of the Data Protection Act, and this allows us, therefore, to do a further and better cross-check.

Thank you, Mr. Chairman.

*Question put and agreed to.*

*Part II deleted.*

**Mr. Chairman:** Hon. Members, clauses 9 to 11 are, as a consequence, renumbered as clauses 5 to 7.

*Part III.***Mr. Chairman:** Part III:

Delete heading title “Part III” and replace with the following new title heading “Part II”.

*Clause 5.*

*Question proposed:* That clause 5, as renumbered, stand part of the Bill.

- A. In the marginal note delete the word “III” and replace with the word “II”;
- B. Delete the definition of “Competent Authority” and replace with the following:  
“competent authority” means “the Board of Inland Revenue”;
- C. Delete the definition of “national”;
- D. In the definition of “tax” delete the word “10” and replace with the word “6”.

**Mr. Imbert:** Yes. We have an amendment, a very important amendment because, again, this goes to the core of the objections from the Opposition where they saw the Minister as some sinister entity doing all kinds of strange things.

**2.55 p.m.**

So in order to avoid that argument and that old talk, if I could use that language, we are now making it crystal clear that the competent authority who will be sharing foreign account information with the United States Treasury will be the Board of Inland Revenue, which in itself is bound by privacy considerations and we are also deleting the definition of “national”. The original definition was “national” means:

- “(a) any individual possessing the nationality in Trinidad and Tobago;  
or
- (b) any legal person, partnership or association deriving its status as such from the laws in force in Trinidad and Tobago; ...”

And I will hand this over to the Attorney General.

**Mr. Al-Rawi:** Thank you, Mr. Chairman. Mr. Chairman, specifically, the Opposition did not object to clause 9 even though there was the reference to

Minister. But the Minister of Finance, in being crystal clear to take on board their objection, even though they did not specifically raise clause 9, has deleted the definition, proposes the deletion of the definition of the words including “as the authorized representative of the Minister”. It is incumbent, however, to remind that this definition of “competent authority” is the very definition in the 1989 law that has stood on the books of Trinidad and Tobago until today’s date.

Secondly, it is the same definition contained in the Inter Governmental Agreement and the 1989 positions. However, in a move to have consistency, we have sought and we now propose to delete the references to the words “Minister”. Mr. Chairman, the deletion of the concept of “national” was to take account of the fact that this definition exists in the IGA itself, and in those circumstances we propose not to include it in this Bill.

*Question put and agreed to.*

*Clause 5, as renumbered, as amended, ordered to stand part of the Bill.*

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

*Clause 7.*

*Question proposed:* That clause 7, as renumbered, stand part of the Bill.

**Mr. Imbert:** Mr. Chairman, we have an amendment as circulated:

- A. In subclause (1) delete the word “10” and replace with the word “6”;
- B. In subclause (2)—
  - (i) delete the words “the delegate” and replace with the words “his delegate”;
  - (ii) delete the words “Treasury Department” in the second and third place they occur and replace with the words “Secretary to the Treasury”;
- C. In subclause (3)—
  - (i) delete the words “(1)” and replace with the words “(2)”;
  - (ii) delete the words “Treasury Department” and replace with the words “Secretary to the Treasury”;
- D. Delete subclause (5) and replace with the following clause:

“(5) Where a request is made for information under this section, the Board shall provide the information in the same form and manner as the Secretary to the Treasury would have required the information to be provided.”.

- E. In subclause (6) delete the word “taxation”;
- F. In subclause (7) delete paragraph (b) and replace with the following paragraph:

“(b) supply particular information which is not obtainable under the laws of Trinidad and Tobago;”

It is correcting some of the language. We are identifying the person in the persona of the Secretary to the Treasury, to make it specific, as to who is the person on the other side, the responsible person to receive information. We are changing it from the Treasury Department, which is kind of nebulous, to the Secretary of the Treasury who is a named individual. There is also a consequential or typographical change to the first section where we changed “10” to “6” because of changes we made before. On the other side in the next part of the clause, we are amending subsection—well 3 would be again bringing in the person of the Secretary to the Treasury, and subclause (5), we are deleting that and replacing it—subclause (5) read as follows:

“Where a request is made for information under this section, the Board shall provide the information in the same form and manner as it would have required it to have been provided had”—the request been made with—“respect of taxes under the laws of Trinidad and Tobago.”

Well that really did not deal with the issue because we are providing information to the United States, so we are changing this to make it more relevant, to the following:

“Where a request is made for information under this section, the Board shall provide the information in the same form and manner as the Secretary to the Treasury would have required the information to be provided.”

We are trying to cut out some bureaucracy there. And then very importantly, in subclause (7), further subclause (b)—so that is subclause (7)(b)—we are now making it crystal clear that the Board of Inland Revenue, who is now the competent authority, is not required to provide, supply information to the US Treasury that is not obtainable under the laws of Trinidad and Tobago.

So the Board of Inland Revenue is not getting any additional powers to go and seek out secret information that persons may have somewhere. What this now makes very clear is that only the information that the Board of Inland Revenue can obtain in the normal process, under the existing laws of Trinidad and Tobago, is what will be transmitted to the US Treasury as and when required. Attorney General?

**Mr. Al-Rawi:** Just two additions. Firstly, in respect of the subclause (5). It really is to make sure that it is clearer that the information must be that of the type requested by the Secretary of the Treasury as opposed to the reference to the word “it” contained previously. So it makes it clearer for application. And very importantly, in subclause (7)(b), it is to remove the words “or in the normal course of the administration of Trinidad and Tobago” such that we limit therefore the specific power of the Board of Inland Revenue to supply only information which it could, by law, supply.

The removal of the words “or in the normal course of the administration of Trinidad and Tobago” could have invited for an expansion of disclosure and we wish to circumscribe that disclosure. I should add, Mr. Chairman, that the observation contained in the statement by the Opposition Leader, Friday, September 23, 2016, simply confined itself to the Minister’s exercise of power and it did not go to the circumscription of the extent of information which the Board of Inland Revenue itself could have. So we have reached beyond their observations and tightened the law, notwithstanding the fact that they have not made that observation. We have taken the opportunity to tighten it ourselves. Thank you, Mr. Chairman.

*Question put and agreed.*

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

**Mr. Chairman:** Hon. Members, there is a proposal for a new clause 8. This new clause will be taken at the end, however, I will allow an explanation at this time.

**Mr. Imbert:** Thank you, Mr. Chairman. The 1989 Tax Information Exchange Agreements which has been in effect now for 27 years is to be preserved, so that the 2016 Inter-Governmental Agreement does not supersede the 1989 Tax Information Exchange Agreements. It simply enhances it and includes new provisions that have come up in the last 27 years. So we want to make it clear that certain laws that would have been passed between 1989 and 2016 would not affect the operation of the original 1989 Tax Information Exchange Agreements. So that is why we have the words:

“Nothing in—

- (a) section 4 of the Income Tax Act;
- (b) sections 6, 30, 31, 38, 40, 41, 46 and 69 of the Data Protection Act;  
or
- (c) any other law...prevents the disclosure of information, where that disclosure is in accordance with...1989”—Tax Information Agreement.

It goes on to add an offence that:

“Where information has been obtained or received under this Act or a declared agreement, a person who uses or discloses the information other than for the purposes”—again going to the core of the objections of Members opposite—“for which it was obtained or received commits an offence and is liable on summary conviction to a fine of thirty thousand dollars and to imprisonment for two years.”

So that addresses the issue raised by the Opposition that the information that is going to be obtained could be misused and abused for other purposes. Attorney General?

**Mr. Al-Rawi:** Mr. Chairman, I would just add for clarity, the original clause 8 now shifted into this domain had exceptions only by way of reference to sections 6, 41, 42 and 46 of the Data Protection Act. What we sought to do was to add in, specifically, to that number, sections 30, 31, 38, 40—section 42 was mistakenly referred to so we took that out—and we added in section 69 of the Data Protection Act. That allowed specific reference to the concept of sharing, disclosing, processing, sharing across borders and collecting of information and the general data privacy protection principles. So that we wanted to make it tighter and clearer that this was the position specifically with respect to the Data Protection Act. Thank you.

**Mr. Chairman:** Hon. Members, as a consequence, clauses 12 to 25 are renumbered as clauses 9 to 22.

*Clause 9.*

*Question proposed:* That clause 9, as renumbered, stand part of the Bill.

A. In the Marginal Note delete the word “IV” and substitute the word “III”;

## B. In subsection (1)—

- (a) in the definition “Cash Value Insurance Contract” delete the word “that” in the second place it occurs and replace with the word “than”;
- (b) delete the definition of “Competent Authority” and replace with the following definition:  
     “competent authority” means the Board of Inland Revenue;
- (c) in the definition of “controlling person” in paragraph (b) by inserting after the word “equivalent” the word “or”;
- (d) in the definition of “financial account” delete the words “Schedule 3” and replace with the words “Schedule 2”;
- (e) in the definition of “Non-participating Financial Institution” delete the words “Schedule 3” and replace with the words “Schedule 2”;
- (f) in the definition of “Non-reporting Financial Institution” delete the words “Schedule 3” and replace with the words “Schedule 2”;

## C. In subsection (4)(b) delete the word “(e)” and replace with the word “(f)”

**Mr. Imbert:** Mr. Chairman, we have an amendment. We have amendments to clause 9, most of which are correcting typographical errors in the original draft, but there is a very important amendment and that is the amendment to clause 9(1)(e) where we have taken out this form of words that caused so much grief to the Opposition, the words “the authorized representative of the Minister” and we are making it crystal clear now that the “competent authority”, the competent authority that would be sharing foreign account information with the US Treasury will be the Board of Inland Revenue and the Board of Inland Revenue only.

So instead of:

“‘Competent Authority’ means the Board of Inland Revenue as the authorized representative of the Minister;”

—it is now very strict:

“‘competent authority’ means the Board of Inland Revenue;”—full stop.

And the other changes are typographical in nature. Attorney General.

**Mr. Al-Rawi:** Mr. Chairman, I would just add. The definition of “competent authority” which is being proposed for amendment as it appeared in the Bill, was directly out of the Inter-Governmental Agreement signed by the UNC as

Government, and therefore, notwithstanding the inconsistency of approving it in October 2013, approving it on four occasions—in fact, the last Cabinet under the Member for Siparia, notwithstanding the fact that those exact words were approved by them, we have amended it because they have said they wanted it to be amended now and that inconsistency and all, inexplicable as it is, inoffensive as it is, is the rationale behind that. Secondly, the cross reference changes as a result of amendments have caused us to shift from Schedule 2 to Schedule 3, et cetera. So apart from typographical, there is also cross referencing amendments proposed as circulated.

*Question put and agreed to.*

*Clause 9, as renumbered, as amended, ordered to stand part of the Bill.*

*Clause 12.*

*Question proposed:* That clause 12, as renumbered, stand part of the Bill.

**Mr. Al-Rawi:** 10 and 11.

**Mr. Imbert:** Did you go through 10 and 11?

*Clauses 10 and 11, as renumbered, ordered to stand part of the Bill.*

*Clause 12.*

*Question proposed:* That clause 12, as renumbered, stand part of the Bill.

- A. Renumber clause 12 as clause 12(1);
- B. Insert after subclause 12(1) and renumber the following new subclause:  
“(2) The disclosure of sensitive personal information under this section shall be done annually on an automatic basis.”.

**Mr. Imbert:** We have an amendment to clause 12 and it is a very important form of words. In clause 12 we are adding in the following words:

“The disclosure of sensitive personal information under this section shall be done annually on an automatic basis.”

This is exactly what is in the agreement, but this is, I would say, the fundamental issue that we are facing with the United States. At this point in time, the Board of Inland Revenue responds to requests from the US Treasury and has a discretion in terms of providing information. So it is not automatic. In all of these tax agreements and foreign account agreements with other countries, it is necessary to have a protocol and a machinery so that information is automatically transmitted, and that is one of our areas of most serious non-compliance, that we

have no system where there is automatic disclosure of information to an entity such as the US Treasury. So this deals with that very, very important issue. AG?

**Mr. Al-Rawi:** Thank you, Mr. Chairman. I wish to point out we have just gone through clauses 13 which became 9, 14 which became 10, 15 which became 11, and without dealing with 16 which becomes 12. I want to point out that the Opposition has not raised any objections to these clauses. Their contribution, the sole and only contribution as to clauses in the Bill is again contained in their written publication, paid for by the Parliament, labelled statement by the Leader of the Opposition, Friday, September 23, 2016. However, insofar as we had to reach in to find what on earth was meant, we took the opportunity to tighten the provisions in clause 12 as it is now numbered, and specifically I want to point out the fact that the definition of “sensitive personal information” is contained in the section itself, in section 9, because that definition comes directly out of the Inter-Governmental Agreement for 2016 and is the core obligation which we must obey unless we have jeopardy to our banking and financial system and we have stayed within the four corners of the Inter-Governmental Agreement. Thank you, Sir.

*Question put and agreed to.*

*Clause 12, as renumbered, as amended, ordered to stand part of the Bill.*

*Clauses 13 to 15.*

*Question proposed:* That clauses 13 to 15, as renumbered, stand part of the Bill.

**Mr. Al-Rawi:** Mr. Chairman, could I just put onto the record that all that is appearing inside of here would be the renumbering, and there was no objection raised by the Opposition at all in respect of any of these clauses.

**Mr. Imbert:** And I would also say I think we need to include 17 in that as well.

**Mr. Al-Rawi:** 17 as the cross reference to 12.

*Question put and agreed to.*

*Clauses 13 to 15, as renumbered, ordered to stand part of the Bill.*

*Clauses 16 to 19.*

*Question proposed:* That clauses, 16 to 19, as renumbered, stand part of the Bill.

Delete the word “15” wherever it occurs and replace with the word “12”.

**Mr. Imbert:** We have some amendments. Because we have made changes to the clauses and deleted the clauses that gave the Minister powers; we now have to change the cross referencing. So, for example, in clause 16 instead of “notwithstanding section 15”, it would not be “notwithstanding section 12” and that occurs all the way through down to 19, wherever “15” is mentioned it is now “12” because three clauses have come out. And in clause 18, instead of “a Memorandum of Understanding” we are changing that to “an Agreement”. Those are the changes. AG, do you want to say anything?

**Mr. Al-Rawi:** Mr. Chairman, just to add one small comment on the new clause 18 which was old clause 22. The reason for going to an agreement as opposed to an MOU is because of the removal of the concept of a Minister. The Minister would have had the opportunity to deal with memoranda of understanding, but the Board of Inland Revenue itself would have to be confined to an agreement and I wish to say just simply that.

*Question put and agreed to.*

*Clauses 16 to 19, as renumbered, as amended, ordered to stand part of the Bill.*

*Clause 20, as renumbered, ordered to stand part of the Bill.*

*Clause 21.*

*Question proposed:* That clause 21, as renumbered, stand part of the Bill.

**Mr. Al-Rawi:** Delete the word “21” and replace with the word “18”.

**Mr. Imbert:** Again, Mr. Chairman, because we have deleted all these clauses that gave powers to the Minister and replaced the Minister with the Board of Inland Revenue, we have to change the numberings. So instead of “section 21” it is now “section 18”.

**Mr. Al-Rawi:** Mr. Chairman, may I for the benefit of the record and because the Opposition has refused to enter into this debate or this committee of the whole of the Parliament, put on record that in the Leader of the Opposition’s statement, Friday, September 23, 2016, they had raised a position in respect of clause 21. Clause 21 is now renumbered as clause 17, and if you look at it, it probably was a reference, because one must try to make sense of it, to clause 22—and that is the old 22. The Opposition’s position was that an MOU should be subject to affirmative resolution of Parliament to allow disclosure, debate, et cetera.

For the record, this was the one clause that we had to distinguish, because of the six clauses raised by the Opposition, we agreed to five of them. The one

clause left was this clause 21, and I have been advised by the Chief Parliamentary Counsel and by Senior Counsel otherwise, that clause 21 is attended to not only because we have moved from the concept of a memorandum of agreement and now to an agreement itself, not only because the Minister is no longer entering into memorandum of agreements or agreements at all, it is confined to the Board of Inland Revenue, but because an agreement or an MOU, the MOU itself being the original objection with respect to the MOU that is not a legally binding agreement, and section 75 of the Constitution is clear that it could not be considered a statutory instrument or any degree of subsidiary legislation. But in any event it is a matter of policy that the Government holds that the Board of Inland Revenue should not be stymied by parliamentary procedure, and in any event we have taken care of that.

I have just taken the opportunity, with your permission and leave, to raise that concern because the Opposition is not here to advance its own statement and this came in the public domain, so we wish simply to put it unto the record as having been attended to, not only by the amendments proposed today, but by virtue of the application of the law and by way of the policy and procedure which has been the position in umpteen Governments since our independence. Thank you.

*Question put and agreed to.*

*Clause 21, as renumbered, as amended, ordered to stand part of the Bill.*

*Clause 22.*

*Question proposed: That clause 22, as renumbered, stand part of the Bill.*

**Mr. Imbert:** We have an amendment. The Income Tax Act has a reference to the 1989 Tax Information Exchange Agreements and we felt it necessary to correct a little typo in that Act and also introduce the 2016 Tax Information Exchange Agreements into the Income Tax Act. So that is the purpose of the amendment to clause 22. *[Interruption]* Oh, I am so sorry. I have a different thing here. We are dealing with 21 or 22?

**Mr. Chairman:** 22.

**Mr. Imbert:** The original 22. We are deleting it because we are moving it to another section of the Bill.

**Mr. Chairman:** Any addition, Members?

*Question put and agreed to.*

*Clause 22, as renumbered, be deleted.*

**Mr. Chairman:** There is now a proposal for a new clause 22. This new clause will be taken at the end, however, I will allow an explanation at this time.

**Mr. Imbert:** Yes, Mr. Chairman, this is what I was talking about just now. We are now introducing into the Income Tax Act a reference to the 2016 foreign account agreement. AG?

**Mr. Al-Rawi:** Mr. Chairman, at this particular part of the Bill, which is Part IV of the Bill, we have taken the opportunity to specifically do the consequential amendments, or necessary amendments, to several pieces of law.

1. The Income Tax Act;
2. The Securities Act;
3. The Financial Institutions Act;
4. The Central Bank Act.

These are the main pieces of law that are touching and concerning and that is specifically because the Board of Inland Revenue is the competent authority and, therefore, has to have the power under the IGA, as we see in the new clause 22, to in fact not only treat with as it did for 27 years, the 1989 agreement, but also to treat with the 2016 agreement. This clause 22, the new clause 22, also allows for the position to be clear with respect to the domestic treatment and the extra jurisdictional treatment of taxpayers.

Further, Mr. Chairman, the position as it comes a little bit later, just to flag it now, it is going to be that we ground certain powers, but I will come to that under the second section.

**3.25 p.m.**

I want to observe the Opposition has made no comment in relation to this clause and there is no objection contained in the public utterances or publications by the Opposition.

*Clause 23.*

**Mr. Chairman:** Hon. Members, there is a proposal for a new clause, clause 23. This new clause will be taken at the end, however I will now allow an explanation.

**Mr. Imbert:** Thank you very much, Mr. Chairman. This is a very important clause. It deals with any issues that any person may raise as to whether the Central Bank has the power to draft guidelines and generally get involved in the implementation of these tax information exchange agreements. To my mind, the most important thing would be the amendment to section 36(c) where we are adding a new paragraph (dd) after (cc) where the Central Bank will now have the power to supervise financial institutions and insurance companies on the implementation of declared agreements.

Now, somebody has to do this, Mr. Chairman, and we felt since the Central Bank is the entity that deals with financial institutions, that it was the most appropriate fit to give the Central Bank this power and also to remove any argument that the Central Bank does not have the power to do this. AG?

**Mr. Al-Rawi:** Mr. Chairman, just to add further, technically the Central Bank has at law the responsibility for the stability of the financial system in Trinidad and Tobago. In those circumstances, it could very well be read into the law that the Central Bank has the supervisory power once it is given the inter-articulation with the banking sector. As the hon. Minister of Finance has put onto the record, this is to make it pellucidly clear that the Central Bank has the authority, and it is tied in as well, Mr. Chair, to the fact that the Central Bank will be issuing guidelines under the respective laws that it manages, including the Financial Institutions Act.

So this is to tie together the Board of Inland Revenue operating as the competent authority, dealing with the banking sector which has the ability to be regulated by the Central Bank because the question is going to be how does impose a sanction and therefore, rules and regulations and guidelines have to be issued by the competent authority for banking system, which is the Central Bank. Thank you.

**Mr. Imbert:** And there is something I would like to reiterate, that we are also making it clear in the Central Bank Act that the only agreements that the Central Bank will have to be involved with are the 1989 Tax Information Exchange Agreements and the 2016 Inter-Governmental Agreement on foreign accounts.

**Mr. Chairman:** Clauses 26 to 28 are renumbered clauses 24 to 26.

*Clause 24.*

*Question proposed:* That clause 24, as renumbered, stand part of the Bill.

**Mr. Imbert:** We have an amendment:

24 as renumbered

A. In paragraph (a) delete the definition of “declared agreement” and replace with the following definition:

“ “declared agreement” means the 1989 TIEA as defined in section 5 of the Tax Information Exchange Agreements Act, 2016 and the IGA as defined in section 9 of the Tax Information Exchange Agreements Act, 2016;”;

B. In paragraph (b):

(i) by renumbering subparagraphs (i), (ii) and (iii) as (A), (B) and (C);

(ii) by immediately inserting after the chapeau new subparagraphs (i) and (ii) as follows:

“(i) renumbering section 10 as section 10(1);

(i) in subsection (1) as renumbered by-”;

(ii) by inserting after subparagraph (ii) the following new subparagraph:

“(iii) by inserting after subsection (1) as renumbered the following new subsection:

“(2) Guidelines made under subsection (1)(e) shall be subject to the approval of the Minister.”; and”.

Yes, again, we want to make it very clear that the only agreements that we are seeking to enshrine into domestic law—well, 1989 TIEA is already there—is the tax information agreements with the United States of America, specifically the 1989 agreement and the 2016 foreign account agreement. And there are some other consequential amendments and then most importantly, we cannot have the Central Bank just making guidelines willy-nilly, that would not be good procedure, and therefore guidelines made by the Central Bank shall be subject to the approval of the Minister.

**Mr. Al-Rawi:** Mr. Chairman, it is important to observe that because of the Opposition’s position on this law and again, for the record, because they are not here, the Government is compelled, in a special majority circumstance like this, to

treat every single tax exchange on its own. I am just flagging that every single tax exchange agreement that we enter into, we are going to have to make amendments to the same pieces of law that we are doing now on a case by case basis. That is for declared agreements under the Central Bank Act, Financial Institutions Act and also the Securities Act. I think that is it.

*Question put and agreed to.*

*Clause 24, as renumbered, as amended, ordered to stand part of the Bill.*

*Clause 25.*

*Question proposed:* That clause 25, as renumbered, stand part of the Bill.

**Mr. Imbert:** We have some amendments:

- 25 as renumbered
- A. In paragraph (a) delete the definition of “declared agreement” and replace with the following definition:
    - “ “declared agreement” means the 1989 TEIA as defined in section 5 of the Tax Information Exchange Agreements Act, 2016 and the IGA as defined in section 9 of the Tax Information Exchange Agreements Act, 2016;”;
  - B. In paragraph (b) delete the word “.” and replace with the word “;”; and
  - C. Insert after paragraph (b) the following new paragraphs:
    - “(c) section 14(2)-
      - (i) subparagraph (b) (iii), by inserting after the words “Intelligence Unit”, the words “the Competent Authority in respect of a declared agreement,”;
      - (ii) by deleting the words “or similar legislation of a foreign jurisdiction” and substituting the words “similar legislation of a foreign jurisdiction or a declared agreement”;

- (d) in section 19(1), by inserting after the words “Unit,” the words “the competent authority in respect of a declared agreement”;
- (e) section 89(1)(a), by inserting after the words “this Act,” the words “a declared agreement,”;
- (f) in section 90(1)-
  - (i) in paragraph (c), by deleting the words “;and” and substituting the word “;”;
  - (ii) in paragraph (d), by deleting the word “;” and substituting the words “; and”;
  - (iii) by inserting after paragraph (d) the following new paragraph:
    - “(e) has breached any requirement or failed to comply with guidelines related to a declared agreement,”;
    - and
- (g) section 146-
  - (i) in subsection (1), by inserting after the words “compliance with”, the words “a declared agreement”; and
  - (ii) by inserting after subsection (2) the following new subsection:
    - “(2A) Guidelines issued in respect of declared agreements shall be subject to the approval of the Minister.”.

And again, because we want to make it clear that we are dealing only with the agreements with the United States and nothing else, because of concerns expressed by persons opposite who are not opposite at this time. We are dealing with the 1989 Tax Information Exchange Agreements and the 2016 Tax Information Exchange Agreements and we now have to do a number of amendments to the Securities Act to give effect to the two TIEAs and again, we are putting in a section that the guidelines that are issued shall be subject to the approval of the Minister.

*Question put and agreed to.*

*Clause 25, as renumbered, as amended, ordered to stand part of the Bill.*

*Clause 26.*

*Question proposed:* That clause 26, as renumbered, stand part of the Bill.

**Mr. Imbert:** Mr. Chairman, again, we are amending the Insurance Act.

26 as renumbered                      Delete paragraph (b) and insert the following new paragraph:

“by inserting after section 214 the following new section:

“Central bank 215.

- (1) The Central Bank may issue guidelines on any matter it considers necessary to give effect to a declared agreement.
- (2) Where guidelines are issued under subsection (1), a declared agreement shall have the meaning assigned to it under section 3 of the Tax Information Exchange Agreements Act, 2016.
- (3) Where a person has failed to comply with guidelines issued by the Central Bank under subsection (1), the Central Bank shall direct that person to-
  - (a) cease and or refrain from committing the act, pursuing the course of conduct, or committing a violation; or
  - (b) perform such acts as in the opinion of the Central Bank are necessary to remedy the situation; and
  - (c) perform such acts as are required to give effect to a declared agreement.
- (4) Guidelines made under this section shall be subject to the approval of the Minister.”.

So we have amended the Income Tax Act, the Securities Act and this one now deals with the Insurance Act because we want to make it crystal clear we are just

dealing with these particular agreements with the United States. Basically that is the purpose of clause 26.

**Mr. Al-Rawi:** Again, Mr. Chairman, just to point out, the Opposition has indicated no objection to these provisions but because we have narrowed it to only the United States 1989 agreement and the 2016 Inter-Governmental Agreement, these are consequential amendments as a result of that.

*Question put and agreed to.*

*Clause 26, as renumbered, as amended, ordered to stand part of the Bill.*

*Clause 27.*

**Mr. Chairman:** Hon. Members, there is a proposal for new clause 27. This new clause will be taken at the end, however I will allow an explanation.

**Mr. Imbert:** Yes. Since law is not static and agreements between sovereign nations are not static, from time to time, the US may wish to get our agreement to modify the agreement on foreign accounts and this gives the Minister the power to amend the agreement, not the law itself per se.

**Mr. Al-Rawi:** Mr. Chairman, this would be exactly in keeping with how Larry Howai, as Minister of Finance, went to the Cabinet of Mrs. Kamla Persad-Bissessar, the Member for Siparia, and on four occasions, including the confirmation, approved the Inter-Governmental Agreement between the United States and Trinidad and Tobago. So it is exactly the same position as how we now have the IGAs before us. Even though there is a reference to amendment, we just want to put it clear that this is a repetition of exactly the process by which this is done right now.

*Clause 28.*

**Mr. Chairman:** There is a proposal for new clause 28. This new clause 28 will be taken at the end, however I will allow an explanation at this time.

**Mr. Imbert:** Yes, this is really a good faith clause. It does not say so but this is what it means, that if the Board of Inland Revenue discloses information and they do so in good faith, they would not be subject to any penalty or committed any offence. So that it reads as follows:

“The competent authority or any person acting under its authority or direction who discloses confidential information in compliance with this Act...”

Therefore it is good faith.

“...shall not be taken as having committed an offence under the provisions of any written law relating to confidentiality by reason only of disclosure.”

They would have to have mens rea in doing this.

**Mr. Al-Rawi:** Mr. Chairman, this is a very, very important clause in light of the Opposition’s statements. Just want to put it this way. This is a standard immunity clause equivalent to section 44D of the Central Bank Act. The Opposition, in the six years—five and a half years while it stood as the Government, specifically operated the exchange of information which occurred under the Board of Inland Revenue. They complained that there was a breach of the law and that they did not want to validate the exchange of information which they allowed the Board of Inland Revenue under the Minister of Finance, under the Member for Siparia, to do.

It would, therefore, be *infra dig* for the Government to not protect people who were required to disclose information under the 1989 agreement and the Central Bank of Trinidad and Tobago has asked for the insertion of this clause and there has been no objection from any of the other contributors, in particular the Board of Inland Revenue, et cetera. Thank you.

**Mr. Imbert:** Mr. Chairman, in accordance with Standing Order 70(14), I beg to move that progress be reported to the House.

*Question put and agreed to:* That progress on the Bill be reported to the House.

*House resumed.*

**Hon. Imbert:** Thank you, Mr. Deputy Speaker. I was awaiting your direction. In accordance with Standing Order 70(14), I wish to report progress that clauses 1 to 28 of a Bill entitled an Act 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 were considered in the committee of the whole. I seek leave for the House to sit again on Friday, January 06, 2017 for the resumption of the proceedings.

In making this report, I wish to state that amendments were made to clauses 2,

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3, 4, 5, 6, 7, 8, 9, 10, 11, 5 as renumbered, 7 as renumbered, new clause 8, 12 to 25 as renumbered, 9 as renumbered, 12 as renumbered, 16, 17, 18 as renumbered, 21 as renumbered, 26 to 28 including clauses 24, 25 and 26, an insertion of new clauses 27 and 28 and that in these amendments, we have dealt with the concerns expressed by the Opposition in its advertisement dated Friday, September 23, 2016, comprehensively and into.

*Progress reported.*

**FATCA LEGISLATION  
(OPPOSITION'S ABSENCE FROM CHAMBER)**

**The Minister of Planning and Development (Hon. Camille Robinson-Regis):** Thank you very much, Mr. Deputy Speaker. Before requesting the adjournment of the House, I would crave your indulgence as I had indicated to you previously to make a very brief intervention at this point of the proceedings. Our Standing Orders are very clear in this Parliament. It defines the Leader of the House as the person primarily responsible to the Prime Minister for the arrangement of Government Business in the House. Similarly, it defines the Whip as a Member of a party in the House who is responsible for organizing Members of his party to take part in debates and votes. For the second time in this particular debate, the Opposition has—in fact, for the third time in this particular debate—the Opposition has chosen to absent itself from this very important piece of legislation, the debate on the Tax Information Exchange Agreements Act.

Mr. Deputy Speaker, our Parliament is here to ensure the conduct of law and order, regulations for the proper organization of our country. [*Desk thumping*]

The Parliament consists of those who form the Government: those of us on this side of the House and those who are opposed to the Government. It is indeed passing strange that on three occasions, I repeat, those in opposition to us have determined that they should not participate in this debate. On the last occasion that they absented themselves, they indicated that they were doing so in solidarity with their leader, the Leader of the Opposition and the Member for Naparima, who were ejected from the House by the Speaker for gross disorder and misconduct at the time. We ask the question today: what is their reason for not being here today?

It is very interesting that they are choosing not to participate in a debate which would authorize the Board of Inland Revenue to exchange tax information and validate the sharing of personal information and foreign account information held by the Board of Inland Revenue or other financial institutions. We ask the question, Mr. Deputy Speaker, why are they consistently absenting themselves from such an important debate which, if this Bill is not passed and made law, can lead to the entire collapse of the banking system in Trinidad and Tobago.

In addition to that, even if they were absenting themselves from speaking to us in the Parliament, why are they not speaking to the Bankers Association? They have been absenting themselves even from those requests by the Bankers Association. This is one of the ways that we can deal with white-collar crime in Trinidad and Tobago and take the profit out of crime. And we ask the question why are they absent. Mr. Deputy Speaker, I do not want to prolong the House on this but I think as Leader of Government Business, it is imperative that I speak to the people of Trinidad and Tobago [*Desk thumping*] and let them know that as a Government, we are sitting here in their interest to ensure that this legislation is passed.

I make the point which we have made on more than one occasion, not only in this debate but in other debates, that even when those who are opposed to us now sat on this side, once there was legislation in the interest of the people of Trinidad and Tobago, we of the People's National Movement supported that legislation. [*Desk thumping*]

Mr. Deputy Speaker, as I draw to a close in my discourse, I ask the question. They have said that they will only give their vote if we agree to a joint select committee. A joint select committee, as defined by the Standing Orders, indicates that it is a committee of Members of the House, Members of the Senate. That is why it is a joint select committee. The maximum number is 12 Members. So that if we were to set up a joint select committee of 12 Members, it would be: two Members from the Opposition in the House, four Members from Government side in the House; in the Senate, it would be three Members from the Government side, one Member from the Opposition and one Member from the Independent. At all times, the Government will continue to have the majority. What is it that they want to say behind closed doors that they cannot say to the public of Trinidad and Tobago [*Desk thumping*] in the committee of the whole? This exercise allows all Members, whether on the Government side or on the Opposition side, to say clause by clause what concerns they have for the Bill.

*FATCA Legislation  
(Opposition's Absence from Chamber)*

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Mr. Deputy Speaker, what we did today in the committee of the whole was allow for any Member of this Chamber to say what concerns they—even Government Members who may have concerns. All 41 Members can contribute. Why would they only want six from this House and six from the Senate behind closed doors? And we leave the public of Trinidad and Tobago to answer that question.

As I end my contribution, I have to indicate that they have treated this Parliament with contempt, with scant courtesy, with gross disrespect. And let me make the point, as the Member for Diego Martin North/East indicated, that they sat at Level 6 of this building whilst all these proceedings were taking place, looking at it on television and inviting the media to take their photograph and publish it on social media. Mr. Deputy Speaker, contempt of the highest level for the Parliament of Trinidad and Tobago and for the people, not only the people that they represent but all the people of Trinidad and Tobago. [*Desk thumping*]

Mr. Deputy Speaker, we, on this side, say that they have treated us in Trinidad and Tobago with total and gross disrespect, and as Leader of the House and on behalf of this side of the House, we will not accept that for the people of Trinidad and Tobago. Thank you very much. [*Desk thumping*]

#### **CHRISTMAS GREETINGS**

**Mr. Deputy Speaker:** Hon. Members, before I ask for the adjournment of this House, I would like to call on—well, the Opposition is not here so I cannot call on the Chief Whip for Christmas greetings. So I would like to call on the Member for Diego Martin Central to bring Christmas greetings on behalf of the Government.

**The Minister of Sport and Youth Affairs (Hon. Darryl Smith):** Thank you, Mr. Deputy Speaker. You know today we heard the Leader of the House speak of our next day back at Parliament, next year, 2017 and although I am here to bring Christmas greetings, it is a sad way to end off our calendar year in the Parliament with the Opposition not being here to work with us to pass this very important Bill. And the message that we have been sending to the people of Trinidad and Tobago since September 7<sup>th</sup> last year was let us do this together, let us work together. A simple Bill like this which benefits all, they are not here to share and move together.

But nevertheless, we are here to discuss and to celebrate the season that we are in. It is Christmas time. We are going into the new year 2017 and on behalf

of the Government of Trinidad and Tobago, Members of Parliament on this side, we want to wish the people of Trinidad and Tobago, the staff at the Parliament, all of our staff who work with us every day and night at the various Ministries and state agencies, in our constituencies, we want to wish them all a very, very merry Christmas and a happy 2017 and we wish to work with the people of Trinidad and Tobago, inclusive of the Opposition and anybody who is willing to work with the Government to make Trinidad and Tobago a better place to live in 2017. So to the media, to the Deputy Speaker and all, have a very safe Christmas and a prosperous 2017.

And just remember it is the birth of the Lord God, Jesus Christ, and remember that in your giving, to give some quiet time to reflect on that as Christians. As you know, it is one of the more popular holidays that is ventilated through many different religions across the world, to make sure that we celebrate the birth of Christ which is the most important part of this. So merry Christmas to all of Trinidad and Tobago. God bless you. [*Desk thumping*]

**Mr. Deputy Speaker:** Hon. Members, I join this House in conveying greetings to the national community of Trinidad and Tobago and to all the hon. Members on this occasion of this holy season of Christmas. I do this on behalf of the Speaker who is abroad on Government business at this time, and also on behalf of myself as the Deputy Speaker of this House. So I wish to extend, at this time, a merry Christmas to all the citizens of Trinidad and Tobago and a bright and prosperous 2017, and to remind our national public that to continue to be safe on the road and do have a holy season. I thank you. [*Desk thumping*]

#### ADJOURNMENT

**Mr. Deputy Speaker:** Hon. Members, the question is that this House do now adjourn to Friday, January 06, 2017. The Leader of Government Business did not give a time but standard time. Members?

**Hon. Members:** Standard time.

**Mr. Deputy Speaker:** 1.30 p.m. Hon. Members, the question is that this House do now adjourn to Friday, January 06, 2017 at 1.30 p.m.

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 3.55 p.m.*