

**THE
PARLIAMENTARY DEBATES
OFFICIAL REPORT
IN THE SECOND SESSION OF THE ELEVENTH PARLIAMENT OF THE
REPUBLIC OF TRINIDAD AND TOBAGO WHICH OPENED ON
SEPTEMBER 23, 2016**

SESSION 2016—2017

VOLUME 1

HOUSE OF REPRESENTATIVES

Friday, September 23, 2016

1.30 P.M.



The House of Representatives having assembled, and it being the first meeting of the Second Session of the Eleventh Parliament of the Republic of Trinidad and Tobago, the Clerk of the House read the following Proclamation:

REPUBLIC OF TRINIDAD AND TOBAGO

No. 6 of 2016.

[L.S.] By His Excellency ANTHONY THOMAS AQUINAS
 CARMONA, O.R.T.T., S.C., President and
 Commander-in-Chief of the Armed Forces of the
 Republic of Trinidad and Tobago

ANTHONY T. A. CARMONA

President

A PROCLAMATION

WHEREAS it is provided by subsection (1) of section 67 of the Constitution of the Republic of Trinidad and Tobago, that each session of

UNREVISED

Parliament shall be held at such place within Trinidad and Tobago and shall commence at such time as the President may by Proclamation appoint:

Now, therefore, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, do hereby appoint Tower D, International Waterfront Centre, 1A, Wrightson Road, Port-of-Spain, Trinidad, as the place at which the Second Session of the Eleventh Parliament of the Republic of Trinidad and Tobago shall be held and 1.30 p.m. on Friday the 23rd day of September, 2016, as the time at which the said Session shall commence.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 16th day of September, 2016.

PRAYERS

[MADAM SPEAKER *in the Chair*]

JOINT SELECT COMMITTEE (FIRST REPORT) (GOVERNMENT ASSURANCES)

Madam Speaker: Hon. Members, as you are aware, on Friday, June 10, 2016, the House adopted the First Report of the Joint Select Committee on Government Assurances. Standing Order 108(1) mandates that, and I quote:

“The Committee on Government Assurances shall scrutinize the assurances, promises and undertakings given by Ministers from time to time on the floor of the House and report on—

- (a) the extent to which such assurances, promises and undertakings have been implemented; and
- (b) when such assurances, promises and undertakings have been implemented and whether such implementation has taken place within

the minimum time necessary for the purpose.”

Accordingly, I wish to inform this House that with effect from the next sitting, that is, the second sitting of this Second Session, assurances made to the House by Ministers during question time, debates on Bills, ministerial statements and matters raised on the adjournment, will be recorded and monitored for implementation. A procedural bulletin to this effect will be circulated during today’s proceedings. Please be guided accordingly.

I thank you.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Trinidad and Tobago Racing Authority for the year ended July 31, 2007. [*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 Trinidad and Tobago Racing Authority for the year ended July 31, 2008. [*Hon. C. Imbert*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Penal/Debe Regional Corporation for the year ended September 30, 2006. [*Hon. C. Imbert*]
4. 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, 2011. [*Hon. C. Imbert*]
5. 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, 2012. [*Hon. C. Imbert*]

6. 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, 2013. [*Hon. C. Imbert*]
Papers 1 to 6 to be referred to the Public Accounts Committee.
7. Consolidated Financial Statements of Caribbean Airlines Limited for the financial year ended December 31, 2013. [*Hon. C. Imbert*]
8. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Agricultural Development Bank of Trinidad and Tobago for the year ended September 30, 2013. [*Hon. C. Imbert*]
9. Audited Financial Statements of Rural Development Company of Trinidad and Tobago Limited for the financial year ended September 30, 2013. [*Hon. C. Imbert*]
10. Annual Report and Audited Financial Statements of National Enterprise Limited for the financial year ended March 31, 2016. [*Hon. C. Imbert*]
Papers 7 to 10 to be referred to the Public Accounts (Enterprises) Committee.

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.

INSURANCE BILL, 2016

Bill to repeal and replace the Insurance Act, Chap. 84:01; to reform the law relating to insurance companies; to regulate insurance businesses and privately administered pension fund plans and for other related purposes [*The Minister of Finance*]; read the first time.

GAMBLING (GAMING AND BETTING) CONTROL BILL, 2016

Bill to provide for the regulation and control of gaming and betting and matters related thereto [*The Minister of Finance*]; read the first time.

TAX INFORMATION EXCHANGE AGREEMENTS BILL, 2016

The Minister of Finance (Hon. Colm Imbert): [*Desk thumping*] Thank you, Madam Speaker. 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, as you will know, and Members of this House will know, this is the first time we are utilizing Standing Order 79(3) with respect to the resumption of proceedings of a Bill that was before the House in the last session. And I am certain as we go along we will be able to fine-tune the procedure in the best interest of all concerned. However, I am advised, and I am very obedient, that I must reintroduce the Bill. This is the procedure that has been given to me at this point in time. I have absolutely no intention of re-hashing much of what was said

before. I would simply put some matters on the table.

Now, Madam Speaker, this Bill to repeal the Tax Information Exchange Agreements Act and replace it with a new Act, essentially modernizes our tax information agreement procedures. There was an older Act, a 1989 Tax Information Exchange Agreements Act, which has been superseded over the years by a number of different agreements, culminating in the agreement signed with the United States of America in August of this year by my good self and the Ambassador of the United States to Trinidad and Tobago, Mr. Estrada. So that this piece of legislation follows the signing of the 2016 Tax Information Exchange Agreement with the United States.

Now, there has been a lot of talk about this Agreement and this legislation which is required to incorporate into our domestic law the Agreement signed with the United States, and a lot of information in the system, a lot of which is just not accurate or it is incomplete—and I think, therefore, Madam Speaker—I think it is best to put into the record now, some information which should clarify some of the issues that have been in the public domain subject to misunderstanding, misinformation, misconstruction and so on.

And, Madam Speaker, the execution of the Tax Information Exchange Agreement with the United States in August followed a process that began in 2010. In 2010, the United States passed its Foreign Account Tax Compliance Act requiring countries that have US citizens, or US persons, companies, et cetera, doing business, holding accounts in these countries, to share information with the US Treasury with respect to payment or not, as the case may be, of taxes. And I think it is necessary to put into the record Cabinet Minute No 1470 of May 23, 2013, under the former administration and the Minute is entitled: “Implementation

strategy for compliance with the United States Foreign Account Tax Compliance Act.” This Minute would have been approved and agreed to by our honourable colleagues opposite. And in that Cabinet meeting which caused this decision to be made, the then Cabinet of Trinidad and Tobago, in May 2013, agreed that Trinidad and Tobago should adopt the Model 1 option of the Inter-Governmental Agreement with the United States which enables compliance with the requirements of the US Foreign Account Tax Compliance Act. And it went on to give some information on what is in the Act and the characteristics of which model are as indicated hereunder:

- the foreign financial institutions in Trinidad and Tobago will report the required information to the local competent authority, in the case of Trinidad and Tobago, the Board of Inland Revenue;
- the foreign financial institutions will not be required to withhold 30 per cent of payments they receive or on payments made to account holders, and the FATCA regulations will not apply;
- the regulations are very detailed and will be onerous to the foreign financial institutions;
- the Minister of Finance sign the Inter-Governmental Agreement and its endorsement at the upcoming Caricom Heads of Government meeting to be held in Port of Spain in July 2013;
- the Inter-Governmental Agreement to be signed on or before December 31, 2013;
- the Attorney General cause to be prepared the necessary amendments to the existing legislation and a public awareness campaign regarding FATCA be developed and executed by the Central Bank in

collaboration with the Ministry of Finance.

Now let us see what happened.

1.45 p.m.

The Minister of Finance did not sign the Inter-Governmental Agreement. It was not signed before December 31, 2013. The Attorney General did eventually cause to be prepared necessary amendments in 2015—that is the previous Attorney General—and there was no public awareness campaign.

Now let us move on to the second Cabinet Minute, which this information is not properly in the public domain, and it is necessary for it to be there. This is Cabinet Minute No. 3035 of October 31, 2013. Because after the previous Government agreed to sign the agreement and to prepare legislation to incorporate the agreement into our domestic law and to engage in a public awareness campaign, the former Government had a concern about the issue of reciprocity as to whether the Government of Trinidad and Tobago should sign a reciprocal agreement, or a nonreciprocal agreement to jurisdictions which have selected the Model 1 of the Inter-Governmental Agreement.

So this was an issue that came up under the previous Government. They considered it, whether they should sign a reciprocal. In other words, there would be full reciprocity—with every other country that has signed a similar agreement—or a nonreciprocal where it would be on a bilateral basis. In other words, on a case by case basis. And the Cabinet of the former Government, the People's Partnership Government, in October 31, 2013 agreed that the Minister of Finance would enter into a Model 1 Inter-Governmental Agreement reciprocal with the United States of America.

So those were two Cabinet decisions made by the former administration.

One, they will sign the Agreement; two, they will prepare legislation to incorporate it into our domestic law; three, they would engage in a public awareness campaign; and four, the agreement will be on a reciprocal basis. So we come now to present time and the Bill before the House, and what is in the Bill before the House. The Bill before the House faithfully complies with the Model 1 reciprocal agreement, the same agreement approved by the Cabinet of the former Government in May 2013 and in October 2013.

Madam Speaker, another bit of information that is in the public domain that needs to be dealt with, this Bill is 147 pages long but the legislation itself ends at page 31, and from page 31 to page 147 it is merely a copy of the Model 1 Inter-Governmental Agreement. So that the legislation itself is simply 31 pages long and it comprises 30 clauses. It is simply a Bill with an appendix, and the appendix is the same Model 1 Inter-Governmental Agreement agreed to by the former administration in May 2013 and October 2013. No difference.

Now, Madam Speaker, I have seen in the newspapers a statement by the Leader of the Opposition which outlines what is purported to be the Opposition's commitment to passage of the Bill and concerns. They had concerns with clause 5, clause 6, clause 7, clause 8, clause 21 and clause 25. The Opposition chose not to prepare amendments and send them to the Government—we are still waiting on them—but the Opposition instead decided to publish a full page ad and outlined its concerns with respect to the legislation. We have looked at it, Madam Speaker, although it is a very bizarre method of communication. Rather than sending a letter, an email, a text message or some other form of electronic communication or written communication, it is a very bizarre methodology to communicate with the Government by way of a newspaper advertisement. But be that as it may, I thank

the Opposition for finally communicating with us in whatever methodology you have used and it is unfortunate these are not amendments but they are issues. So let us take a look.

Clause 5. Clause 5 says that:

“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.”

The Opposition is of the view this is not required and give blanket approval for any future agreements signed by any Government to become law.

I have asked the technocrats to advise me on this, and I am advised that this is exactly what was in the 1989 Tax Information Exchange Agreements law which has subsisted in Trinidad and Tobago for—how many years is that?—27 years, and throughout—1989 to now is 27—the five-year and three months tenure of the former administration included in that 27 years and agreed to and approved by the hon. Member for Caroni Central in his previous incarnation as a MP of the NAR Government—I believe it was for the constituency of Caroni East and I believe at the time he held the various portfolios and one of them was industry and commerce or something like that. I cannot remember. I just know he was a Member of Parliament and he was a Minister in the Robinson government between 1986 and 1991, and I know he voted for the 1989 Tax Information Exchange Agreements Bill without any objection or reservation on his part. So that is our response to clause 5. This has been there for 27 years. All Governments have agreed with it including the Government of the Members opposite and we are advised that this is something that is necessary.

Clause 6. This is probably why the Member for Caroni Central voted for it way back in 1989. He knew it was necessary then. Clause 6.

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

What have we done with clause 6? I think we have taken it out? So we are proposing to delete clause 6. We are taking it out. [*Desk thumping*]

Dr. Gopeesingh: The Prime Minister must apologize as well.

Madam Speaker: Member! Member for Caroni East! Member for Caroni East, I would just like to remind you of the Standing Order for Members who are not speaking. Continue, Minister of Finance.

Hon. C. Imbert: Thank you, Madam Speaker. I do not know why the Member for Caroni East behaves like that. It is just because we have put back in this measure in other parts of the legislation and we take it out of clause 6. You do not like it there we take it out, and we are making sure it is now specific to the 2016 tax. You see, everything that we do must be relevant to the 2016 Inter-Governmental Agreement because we are no longer in 1990, or 1996, or 2015. We are in 2016 and Trinidad and Tobago has signed an Agreement with the United States of America to share tax information.

So whatever we do in order to avoid the calamity that is approaching we must be consistent with the 2016 Agreement, and that is why I want to repeat that the 2016 Agreement that I signed, on behalf of Trinidad and Tobago, authorized by Cabinet to do so, is exactly the same as the model agreement approved by the former Cabinet, headed by the Member for Siparia. So everything we do must be consistent with that. So we have taken out clause 6 because it does apply across the board, and we have made the amendments now specific to the 2016 Inter-

Government Agreement.

Let us go to clause 7 now.

“(1) The Minister or a person authorized by him has, for the purpose of giving effect to a declared agreement, all the powers”—et cetera, et cetera.

The Opposition said this is not required. Okay! We have sought advice and it is required for all agreements, and we are now replacing Minister with the Board.

[*Desk thumping*]

Mrs. Persad-Bissessar SC: Would the hon. Minister please give way?

Madam Speaker: Members! Members!

Mrs. Persad-Bissessar SC: You will not give way. Everywhere “Minister” is in that Bill remove it.

Hon. C. Imbert: Sit down. [*Desk thumping*]

Madam Speaker: Member!

Dr. Gopeesingh: This is a responsible Opposition.

Hon. C. Imbert: Madam Speaker, I do not know why Members opposite are getting on so. As I said—Madam Speaker, could you—

Madam Speaker: Members! Members, I would like to hear the presentation of the Minister of Finance. And Member for Couva South, I think your deep baritone voice has a way of finding its way up here, and therefore, we are in a different type of Chamber and I would ask you to respect the rules please. Thank you. Minister of Finance.

Hon. C. Imbert: Yes, Madam Speaker. I do not want to get into any “kankatang” today, but if the Opposition had done its work and had examined the Bill clause by clause and had prepared proposed amendments for us, then I suspect they would

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have understood exactly what we are doing. So I will move now on to clause 8. Madam Speaker, I have heard two days. They have had this legislation now—how long have they had it?

Hon. Member: Since 2013.

Hon. C. Imbert: The legislation, Madam Speaker—I need to make this point. As I said, in another place, it is time for the dishonesty to stop [*Desk thumping*] and the dishonesty I refer to is the dishonesty of the UNC.

Now, Madam Speaker, I have in my possession advice received from the State's attorneys, and in this advice this is a chronology, this is—[*Interruption*]

Dr. Gopeesingh: Is it Daly again?

Hon. C. Imbert: Madam Speaker, could you get them stop talking. This is serious business.

Madam Speaker: Member for Couva South and Member for Caroni East, I think this would be the last occasion that I will really be asking you all to respect the rules. Continue.

Hon. C. Imbert: Thank you, Madam Speaker. I have advice sent to me by the lawyers of the State—not private lawyers. People work for the Government of Trinidad and Tobago—and it gives me a complete chronology, starting with the Minute 1470 of May 23, 2013; then the Minute 3035 of October 31, 2013; then it speaks to negotiations between the Ministry of Finance and US Treasury that occurred in 2013 and 2014; it speaks to the then Attorney General, Anand Ramlogan, agreeing in September 2014 that the Minister of Finance signed the version of the IGA that would have been submitted to its office for vetting. It goes on: in September 2014 the Ministry of Finance advised the US Treasury that Trinidad and Tobago is prepared to enter into the Model 1A IGA. Let me repeat

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that date, September 23, 2014 the Ministry of Finance of the PP Government advised the US Treasury that Trinidad and Tobago is prepared to enter into the Model 1 IGA, and then 2015 came and nothing happened.

2.00 p.m.

Then we go on, November 19, 2014. [*Interruption and crosstalk*] Madam Speaker.

Madam Speaker: Member for Naparima.

Hon. C. Imbert: Madam Speaker, the problem is they do not want the public to know the truth. [*Desk thumping*] On November 19, 2014, the Treasury Department submitted to Trinidad and Tobago the IGA with amendments and comments. They asked for feedback. Trinidad and Tobago received a response from Trinidad and Tobago in November 2014. [*Interruption and crosstalk*]. Sorry, yes, US Treasury required a response from Trinidad and Tobago to the November 19, 2014, and they received a response by November 26th.

On December 2nd, the US Treasury advised Trinidad and Tobago both countries had reached an agreement on the terms of the agreement, and it goes on giving all of the details. So the Cabinet of the hon. Member for Siparia approved the signing of the agreement in 2013. They had discussions with the US Treasury and they reached agreement with the US Treasury on December 02, 2014. And between December 02, 2014 and September 07, 2015, they did nothing—except, they did one thing. They did one thing, the Chief Parliamentary Counsel, in the first quarter of 2015, prepared a draft Tax Information Agreement Bill, 2015. And I am saying without any fear of contradiction that the same Bill, prepared by the Chief Parliamentary Counsel in the first quarter of 2015 is the same Bill before the Parliament today, Madam Speaker. [*Desk thumping*]

So the fact of the matter is, on the instructions—[*Interruption*]—Madam.

Madam Speaker: Minister of Finance.

Hon. C. Imbert: Madam Speaker, they could shout all they want, I want the country to know that the Bill that is being debated today is identical to the Bill prepared by the People's Partnership Government. [*Desk thumping*] It is the same Bill, word for word.

Madam Speaker: Member for Naparima, this is not a boxing ring that people shout across the floor.

Hon. C. Imbert: Madam Speaker, it is the Chief Parliamentary Counsel, an officer of the State, on the instructions of the former Attorney General, under the stewardship of the former Prime Minister, prepared this Bill, Madam Speaker. [*Desk thumping*]

You know how long ago that is? That is 18 months ago. Eighteen months ago they had sight of this legislation, 18 months ago, and for reasons best known to themselves, best known to themselves, they did not sign the agreement even though the United States told them, since December 02, 2014, that agreement had been reached on the terms and conditions. They did not sign the agreement and they did not proceed and table the legislation to bring into effect the Intergovernmental Agreement. [*Crosstalk*]

Madam Speaker: Members, every Member who wishes to contribute to this debate will be afforded an opportunity in the manner that the Standing Orders provide. I would ask Members to please control themselves with the crosstalk. Minister of Finance.

Hon. C. Imbert: I do not know if that is why there was a change of Attorney General in 2015. Maybe the hon. Prime Minister of the time discovered that the

previous AG had hid this from them. I do not know what went on there. But the fact of the matter is, the records show that a Bill was prepared in early 2015, under their stewardship and that this is this Bill. The only thing we changed in this was the date—and considered by them. The only thing we changed in this was the date.

So anyway, Madam Speaker, let us move on. So we have made a change to clause 7. Let us go to clause 8. The Opposition has a problem with clause 8 that says:

- “(1) Nothing in—
- (a) section 4 of the Income Tax Act;
 - (b) sections 6, 41, 42 and 46 of the Data Protection Act; or
 - (c) any other law of like effect,
- prevents the disclosure of information...”

The Opposition is of the view that this strips our citizens of any protection that the law may give to them, et cetera.

I want to inform you, Madam Speaker, that is section 7 of the existing 1989 Tax Information Exchange Agreement Act, word for word, that was approved by the Member of Parliament for Caroni Central when he was an NAR MP and the Member for Tabaquite was a Member of the NAR at the time too. [*Crosstalk*] I do not have anything with you. You were a Member of the NAR. So, Madam Speaker, the same agreement passed by Members opposite, the same law, word for word, but they do not like it now. They voted for it when they were in Government but they do not want it now.

Now let us move to clause 21. So we have left it the same way. Clause 21:

“The Competent Authority shall enter into a Memorandum of Understanding

with the Secretary of the United States Treasury—”

They said:

The reach of the MOU can affect the manner in which the participants in the financial system operate.

Madam Speaker, can you believe the effect, if we agree to this? The MOU, the Parliament would be effectively telling the Board of Inland Revenue what to do. That is what they want. Members of Parliament who have tax issues would be coming into this Parliament and deciding what the Board of Inland Revenue could do or not do, with respect to taxation matters, Madam Speaker. That is interference. We will not agree to that. The Board of Inland Revenue must be allowed to do its work without let or hindrance unfettered by politicians.

Clause 25:

“The Minister may by Order, where the parties modify the IGA...amend the IGA or its annexes...”

Now, that is quite a bizarre recommendation. If we agree to that it means that the Government of Trinidad and Tobago, the Government of Trinidad and Tobago, would not be able to sign an agreement without the Opposition approval. What kind of country would that be, Madam Speaker? What kind of country would that be? So Trinidad and Tobago, the Government would not be able to sign. I signed a Customs agreement just a few days ago. [*Crosstalk*] Madam Speaker, this crosstalk is—no, you stop.

Madam Speaker: Members, Members! Member for Siparia, I am on my legs. Members, there is a specific Standing Order, that is Standing Order 47, that deals with interruptions. If any Member wishes to make an interruption, could they please comply with the Standing Order? I understand that there is a lot of

conversation about this particular Bill and we can stay here the whole night for every Member to make their valid contribution. Please continue, Minister of Finance.

Hon. C. Imbert: Thank you, Madam Speaker, and I really hope the Member for Siparia will listen to you. So the fact of the matter is that this Government is not going to tie the hands of itself or any other Government going forward. For example, on the instructions of Cabinet, as Minister of Finance, I signed a Customs agreement with the United States two days ago. And one wonders what were these agreements doing lingering in some drawer forgotten, gathering dust under the five years of the UNC.

You have the Tax Information Agreement, and these are things that cause us to be in breach of the FATF Regulations, of the CFATF obligations, causing this country to be grey-listed, causing this country to be put on a watch list. What was going on under the former administration when they chose not to sign the Tax Information Exchange Agreement and chose not to sign a Customs Information and Exchange Agreement for five years?

Madam Speaker, not only are these CFATF obligations. Do you know what? Because that agreement with the United States of America, with respect to Customs information, because what it allows now is that the United States of America can share intelligence with the law enforcement agencies in Trinidad and Tobago, with respect to Customs offences. So you are now dealing with drug trafficking, gunrunning, smuggling.

So now, for the first time, the Homeland Security agency, for the first time, the Homeland Security agency in the United States, if it has information about persons in Trinidad and Tobago engaged in gunrunning, drug trafficking,

smuggling and other Customs offences, Madam Speaker, the United States can now share intelligence leading to convictions of persons engaged in criminal behaviour in Trinidad and Tobago. [*Desk thumping*]

What on earth was going on in that former Government? They had that there for their entire five years and three months term; five years and three months. This administration has signed that agreement with the United States of America to share Customs intelligence [*Desk thumping*] so we can now prosecute persons who are engaged in gunrunning, drug trafficking and so on.

But they want, if I was to go along with this, if we on this side were to go along with this, I could not sign that Customs agreement without coming to Parliament and getting their approval. Draw your own conclusions, Madam Speaker. That is what they want? That is not going to happen. Look at what is going on with tax information; [*Desk thumping*] we have to come to them and beg them to agree to this legislation. You think we have to do that with everything, with Customs, with tax, double taxation treaties? That is the implication of this.

Madam Speaker, they are not fooling everybody you know. They may be fooling one or two people, but they are not fooling everybody. What was the Tax Information Agreement doing languishing on the desk of the former Attorneys General for the last five years? What was the Customs Information Sharing Agreement doing languishing on the desk of the former Minister of Finance for the last five years? Why? And now we must get approval from them? They did not sign them for five years. That is the best statement of intent you can figure out from their behaviour and now they are telling us that we must come and get approval from them if we want to sign a Customs agreement or a tax agreement with the United States. That is not going to happen and I am not going to fetter

any future government with that either. [*Desk thumping*]

So let us go now to the Bill. As we said, we amended clause 8. We removed “Minister” and we are putting “Board” and we are not fettering the Board. The Board would be able to exercise its functions without any hindrance coming from the Parliament. But, to make this legislation completely consistent with the 2016 Intergovernmental Agreement, we have gone through it with a fine-tooth comb, Madam Speaker, and one of the mistakes we are not going to make, because the Member for Caroni Central “feel he bad, feel he coulda threaten the United States. He have a big stick. We not stupid yuh know. He feel he could bad talk representatives of foreign countries, we ain doing that.” We know the realities of this world and we have gone through this agreement now and we are now making this law 100 per cent. Since they want “Minister” out from clause 7 we have taken it out. But it is coming back in under the definition of “Competent Authority” because the definition of “Competent Authority” will now follow, word for word, what is in Article 1 of the 2016 Tax Information Exchange Agreement.

I am going to read Article 1 of the Tax Information Exchange Agreement, which was approved by the Cabinet of the hon. Member for Siparia. Let us see what “Competent Authority” means. In this agreement the term “Competent Authority” means, in the case of the Republic of Trinidad and Tobago, the Minister to whom the responsibility for finance is assigned or his authorized representative. So that has come back in now to the definition. “Competent Authority” means the Minister to whom responsibility for finance is assigned or his authorized representative. And that is continued throughout the 2016 Intergovernmental Agreement, under Part IV of Intergovernmental Agreement. So we are amending the definition to make it exactly the same as in the Intergovernmental Agreement.

Madam Speaker, the Opposition also complained about stakeholder consultation. Well there has been copious stakeholder consultation, copious stakeholder consultation, and based on feedback coming back from stakeholders, Madam Speaker, from the Bankers Association, we have a letter dated September 13, 2016, and from the Bankers Association of Trinidad and Tobago to the hon. Minister of Finance, namely myself, Tax Information Exchange Bill, 2016.

The Bankers Association of Trinidad and Tobago is pleased to support the passage of the Tax Information Exchange Bill, 2016 which would enable Trinidad and Tobago to solidify its Intergovernmental Agreement with the United States by September 30, 2016. The Bankers Association members note it is intended that further regulations and guidelines are expected and we look forward to providing feedback on these at the relevant developmental stage.

The Bankers Association has shared these comments. That is why I wonder: why do they say the things that they say? The Bankers Association has simultaneously shared these comments with the Leader of the Opposition and the Chief Parliamentary Counsel of the Office of the Attorney General. So it is not just me they gave the feedback to. They gave the feedback to the Opposition, 10 days ago. Not one day ago, 10 days ago the Bankers Association say they support the Bill.
[Desk thumping]

Now let us go to the Securities Exchange Agreement. This is an email from the Securities Exchange Agreement (SEC), from the legal counsel of the SEC and they had:

A proposed list of amendments to the Bill is received with thanks. We have

reviewed same and wish to submit the following for further consideration.

And they go on to ask us to include a number of things such as the Competent Authority and some clean-ups and some typos. So, based on the feedback from the Securities and Exchange Commission and from the Bankers Association and I personally have already met with the Central Bank and we have also consulted with the Inland Revenue Department. We have some consequential amendments made to various clauses in the Bill, clause 26, clause 27, dealing with the Competent Authority, which, as I said, will be defined in accordance with Article I and we have made amendments to clause 28, which indicates that the Central Bank will issue guidelines for declared agreements.

2.15 p.m.

So, Madam Speaker, if you read the papers today, if you read the papers yesterday, you would see that all the stakeholders are calling upon the Opposition and the Government to deal with this. Well, Madam Speaker, the Government has 23 votes. This is a special majority Bill, every single PNM Member is ready to vote on this Bill. I want to make that point because I keep seeing this outside there that the Opposition and the Government must come together. We are voting. All 23 PNM Members are voting for the FATCA legislation. [*Desk thumping*]

I want persons who are asking for us and them to cooperate, we are already voting for the Bill, speak to them. We need three Opposition votes to pass this Bill. We are ready to go. [*Desk thumping*] The Bankers Association tell us vote for the Bill [*Desk thumping*] we are ready to vote for the Bill and, therefore, Madam Speaker, I am going to propose that we suspend the debate—[*Interruption*]

Hon. Member: No.

Hon. C. Imbert: Well, it is not for you—we suspend the debate on this Bill, at

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this time, for one hour so we can sit down with the Opposition and go through all of the required amendments to this Bill, and I am hopeful that over the next 60 minutes, as I said, Madam Speaker—[*Crosstalk*]

Madam Speaker: Members, Member for Siparia. Minister of Finance.

Hon. C. Imbert: Madam Speaker, I just want to make it clear, I am not finished with my contribution, I still have a few more minutes but, at this time, I am requesting—and I am sure the Leader of Government Business will move the appropriate Motion—that we suspend the debate on this Bill at this time. We are not rehashing what we did on the last occasion.

We have received a communication from the Opposition, however weird it was received, we got it from them. We have received communication from the Bankers Association. I am proposing we sit down for 60 minutes and we sort out the amendments to this Bill. [*Crosstalk*]

Madam Speaker: Members, Members. You go ahead.

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Madam Speaker, in accordance with Standing Order 50(3), I beg to move that debate—[*Interruption*]

Mrs. Persad-Bissessar SC: No.

Madam Speaker: Member for Siparia—[*Interruption*]

Mrs. Persad-Bissessar SC: Yes, Madam.

Madam Speaker:—anything that is moved will be put to a vote, and then Members will have an opportunity to register their vote. Please continue.

Hon. C. Robinson-Regis: Madam Speaker, as I was saying. In accordance with Standing Order 50(3), I beg to move that debate on the Tax Information Exchange Agreements Bill, 2016 be adjourned to 3.20 p.m. today and, Madam Speaker, I

crave your indulgence. I beg to move.

Madam Speaker: Members, the question is—[*Crosstalk*] I am on my legs, please Member for Naparima, and this is the last time I will issue that warning for the entire day.

The question is that the Tax Information Exchange Agreements Bill, 2016 be adjourned to 3.20 p.m. today. All in favour?

Mrs. Persad-Bissessar SC: Division.

Question put.

The House divided: Ayes 22 Noes 18

AYES Robinson-Regis, Hon. C.

Rowley, Hon. Dr. K.

Al-Rawi, Hon. F.

Imbert, Hon. C.

Young, Hon. S.

Deyalsingh, Hon. T.

Hinds, Hon. F.

Mitchell, Hon. R.

Cudjoe, Hon. C.

Antoine, Hon. Brig. Gen. A.

Crichlow-Cockburn, Hon. C.

Forde, E.

Dillon, Hon. Maj. Gen. E.

Webster-Roy, Hon. A.

Gadsby-Dolly, Hon. Dr. N.

Olivierre, Hon. N.

Cuffie, Hon. M.

Garcia, Hon. A.

Smith, Hon. D.

Leonce, A.

Jennings-Smith, Mrs. G.

Mc Donald, Miss M.

NOES

Singh, G.

Persad-Bissessar SC, Mrs. K.

Lee, D.

Ramadhar, P.

Karim, F.

Rambachan, Dr. S.

Tewarie, Dr. B.

Newallo-Hosein, Mrs. C.

Gopeesingh, Dr. T.

Gayadeen-Gopeesingh, Mrs. V.

Moonilal, Dr. R.

Dr. Moonilal: No. Standing Order 50(3), the Speaker can intervene.

Madam Speaker: Member, Member. Member for Oropouche East, I would ask you to just withdraw that statement. The Speaker has allowed the question, and it is just a question now of you registering your vote.

Dr. Moonilal: Madam Speaker, if you have allowed it, I withdraw.

Madam Speaker: Member, Member, I am sure you do not mean to be contemptuous. [*Interruption*] Member, I am sure you do not mean to be

contemptuous.

Dr. Moonilal: I am sure I do not mean to be contemptuous. I voted no already.

Madam Speaker: Member, I would ask you to leave the Chamber until we resume.

[Dr. Moonilal leaves the Chamber]

Indarsingh, R.

Khan, Dr. F.

Charles, R.

Padarath, B.

Bodoe, Dr. L.

Paray, R.

Ramdial, Miss R.

[Member for Barataria/San Juan on his feet]

Madam Speaker: Member, Member for Barataria/San Juan, I have not recognized you. Member, I have not recognized you. Member, can you kindly take your seat, please? *[Crosstalk]* Members, please. Member, thank you.

Hon. Members, with a division of 22 Members voting for and 18 Members voting against and no abstentions, the Motion for the House to suspend the debate is carried, for one hour.

Question agreed to.

Madam Speaker: So we shall resume at 3.25 p.m. *[Desk thumping]*

2.26 p.m.: *Sitting suspended.*

3.25 p.m.: *Sitting resumed.*

TAX INFORMATION EXCHANGE AGREEMENTS BILL, 2016

Madam Speaker: Before I call upon the Minister of Finance—you have four

more minutes left—I just want to remind Members of this Chamber of the provisions of Standing Order 55(4) which is under the caption “Gross disorder”, and gross disorder, according to that Standing Order, includes:

“...actual disorder;

acts in a manner that displays flagrant disobedience to rulings of the Chair;

or

acts in any other way”—that amounts—“to the serious detriment of the dignity or orderly procedure of the House.”

And under the Standing Order 55(5), which deals with the power of the Chair to deal with gross disorderly behaviour. I just want to remind Members that all Standing Orders are in effect. Minister of Finance. [*Desk thumping*]

Hon. C. Imbert: Thank you, Madam Speaker. Madam Speaker, during the one-hour suspension, the Government sent the Opposition a tracked version of the Bill, plus the amendments based on consultation with stakeholders, and based on the advertisement, which we only saw this morning in the newspapers, and having seen it at 5.00 a.m. this morning we started to work on it and prepared these amendments and this track-change Bill, because we are serious about protecting the interest of Trinidad and Tobago. [*Desk thumping*]

I want to point out, Madam Speaker, that I came to this Parliament on September 9th with this legislation, this is now September 23rd. The Opposition has had sight of this Bill for more than two weeks, and, therefore, it is unacceptable that after 14 days the Opposition cannot produce a single proposed amendment to this Bill. We sat in the committee room and they chose not to come and discuss with us proposed amendments to the Bill. Realizing that they were not coming— [*Interruption*]—realizing that they were not coming, Madam Speaker—

[Interruption]

Madam Speaker: Member for Caroni Central, this is the last warning that I will give for the entire sitting.

Hon. C. Imbert: Thank you, Madam Speaker. We are recognizing that they have no intention of dealing with the Bill or the legislation, and they were simply playing politics. We sent them a tracked copy of the Bill and the amendments.

Madam Speaker, I want to reiterate that the Government has 23 votes, all 23 votes are ready to vote on this Bill, even one of our Members who was ill and has come back, *[Desk thumping]*, the Member for Moruga/Tableland, even one of our Members who was absent because he was ill has come back to vote for this Bill. So I want to reiterate that all 23 PNM votes are here to vote for this Bill. It is not a complicated Bill. It is exactly the same Bill that they drafted. The Bankers Association has said there is nothing in here that will cause any concern, and, therefore, if the Opposition chooses not to vote on this Bill today then they know exactly what they are doing and why they are putting this country in such jeopardy. I thank you, Madam Speaker. *[Desk thumping]*

Madam Speaker: Minister of Finance, do you beg to move?

Hon. C. Imbert: I beg to move.

Question proposed.

Madam Speaker: Member for Chaguanas West. *[Desk thumping]*

Mr. Ganga Singh (Chaguanas West): Thank you, Madam Speaker. Madam Speaker, I listened attentively to the hon. Minister of Finance, the Member for Diego Martin North/East, and I wondered whether that was the same Minister of Finance who told this country that this Bill was going to a Joint Select Committee after discussions with the Opposition. *[Desk thumping]* Madam Speaker, and he

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had the gall to suspend the House for an hour in order to present the Opposition with track changes which we got at 2.58 p.m.

Madam Speaker, they are not serious about this legislation. I am always of the view, Madam Speaker, that politics is not a game and what we have had demonstrated on this piece of legislation is a series of gamesmanship. In my view politics is about how do you bring about consensus to deal with the large questions of the day, how do you create the common ground to bring about a resolution to this crisis, [*Desk thumping*] and I cannot fathom what is the endgame of the Government. It is clear that either they have an undertaking by the American Government, the Department of Treasury, for an extension of the period and that is why there is a change in the tone and the content of the Minister of Finance.

This is the same Minister of Finance, Madam Speaker, who in the *Guardian* newspaper of Tuesday, September 13th, had this to say, and I quote Richard Lord article, *Business Guardian*.

“T&T will seek extension from the United States Government”—on—“the September 30 deadline for implementation of...(FATCA).

Following talks at the Parliament Building...Finance Minister Colm Imbert told reporters: ‘What we are going to do...is speak to the US Treasury to see if we can get an extension of time to allow a proper Joint Select Committee (JSC) session to take place after the budget.’

He said he was confident the request will be granted...that Government had agreed ‘to facilitate the Opposition with a proper JSC, not a rush job and not a piecemeal job.’”

[*Desk thumping*] This is the Minister of Finance.

Madam Speaker, when in trying economic times you begin to question the

credibility of the Minister of Finance in an undertaking of this nature, come today in a piecemeal rushed fashion seeking to shove down the throats of the Opposition and the people of this nation, [*Desk thumping*] and he has indicated that the stakeholders would be given the opportunity. Now, the banking fraternity, Madam Speaker, has sent 13 proposed amendments, and it is dated September 13th. This debate, and I just want to for the purposes of the chronology, this debate started on—the Bill was circulated on September 5th, and you have the banking community on September 14th, in the newspaper of September 14th, the President of the Bankers Association indicated that they had seen the IGA but not the local draft legislation. [*Desk thumping*]

Madam Speaker, perhaps we ought to backtrack a bit because the Minister in his presentation attempted to really sort of create a pelau between the IGA and the Bill. [*Desk thumping*] Madam Speaker, in December 5th, 2014, the IGA was initialled by the Minister of Finance then, Larry Howai. On August 19th it was signed by the current Minister, 2016, by the current Minister of Finance; that is established. On September 5th the Government sought to crystallize the IGA into a Bill which they have laid in Parliament and for debate on the 9th. The Minister makes a big song and dance, the Minister of Finance, makes a big song and dance about the fact that the Chief Parliamentary Counsel had a draft Bill in place, and that that draft Bill is the Bill that was laid in Parliament on September 5th.

Madam Speaker, when the technocrats in the Legal Department of the Chief Parliamentary Counsel, they draft a Bill, it goes through a process. The process is that it goes with the line Minister and his Department, so from the Ministry, after the draft, and they will be participating in the draft, it goes to the Legislative Review Committee. The Legislative Review Committee will then look at that Bill,

and after it passes through that legislative, thoroughness of the Legislative Review Committee it will then go to Cabinet, and from Cabinet, Cabinet may indicate that we shall have the views of the various stakeholders. So this Bill that they talk about, this Tax Information Exchange Agreements Bill, 2016, did not go through that process with the stakeholders in this country. [*Desk thumping*]

The fact of the matter is if it was a draft in our time it remained our draft, it never engaged the Legislative Review Committee, [*Desk thumping*] never came to Cabinet, and never moved beyond that, so to say that is a level of dishonesty, Madam Speaker, a level of dishonesty, and I begin to question the credibility of the Minister of Finance. So when the debate started, Madam Speaker, and just for purposes of chronology, on September 9th, the hon. Leader of the Opposition, and a lot of what is carried in the ad in the newspaper today, she indicated that, raised the concerns in the debate on the September 9th, and indicated because of the lack of consultation at the time there ought to have been a Joint Select Committee. And then subsequently a meeting was convened on Monday 11th with the Opposition and the Government, and we said the first thing we have to establish really is the question of process; how do we deal with the question of process and then, subsequently, we deal with the substantive issues arising out of this Bill before us. The process we agreed upon was that there ought to be set up a Joint Select Committee that will be able to sit and to complete the exercise before and in time for the passage of the Bill on September 30th; that was the agreement. [*Interruption*]

Mrs. Persad-Bissessar SC: That was 14 days ago.

Mr. G. Singh: Madam Speaker, I am reminded that was 14 days ago. There was an undertaking, it was publicly announced, but what went into the mortar other

than the pestle? It was the arrival for the hon. Member for San Fernando West at the debate on September 13th.

At the debate on September 13th, Madam Speaker, in which his dark shadow was cast over Diego Martin West, the hon. Member for San Fernando West proceeded to regale this House with a series of utterances on the Bill that had no relation to the Bill before us but had all relevance to the IGA. [*Desk thumping*] He mentioned not one section, not one clause of the Tax Information Exchange Agreements Bill, 2016, but went on to talk about reciprocity and who have mall here, and who have whatever elsewhere. That is what—he went on a tirade.

3.40 p.m.

He probably did not have sight of the Bill at that time, because when I asked him about the Bill—

Mrs. Persad-Bissessar SC: He was out of the country. [*Interruption*]

Mr. G. Singh: He had just landed from a CFATF meeting in Jamaica I understand. He said, and I quote from page 55 of the *Hansard* unedited version:

The reciprocity that is a key factor. It is a key point to be remembered in this debate.

So what is it—reciprocity? This is what the hon. Member for Diego Martin North/East, the Minister of Finance, had to say about reciprocity, and I quote, Madam Speaker, from the *Daily Express* article by Ria Taitt of Wednesday, September 14, 2016:

“The agreement speaks about reciprocity...”

I am quoting the hon. Minister of Finance.

“The agreement speaks about reciprocity, the legislation we brought

does not speak of reciprocity.”

This is what the Minister of Finance is saying. So what the hon. Attorney General is saying is reciprocity, “dat people fraid”, and it was picked up by his leader at the public meeting in St. Joseph, and I will come to deal with that subsequently.

Hon. Member: “Yuh sure dat is de leader?”

Mr. G. Singh: I intend to quote again, Madam Speaker, from the same article:

“There is nothing in there to make Trinidad and Tobago citizens who have accounts in the United States declare that to the authorities here. It would be up to the US, when they deem it appropriate, to pass a law in Congress that would require the US Treasury to report to our Board of Inland Revenue.”

So they sit next to each other in this Parliament. They obviously did not sit in the LRC together, because one is saying reciprocity. The AG is saying reciprocity—granted that he makes mistakes with respect to privacy, and now he is making another mistake with respect to reciprocity—[*Desk thumping*] and the Minister of Finance who is piloting the legislation says no reciprocity. That is what is taking place.

Then on the basis of reciprocity, we have the hon. Prime Minister, with the shadow cast by the Member for San Fernando West, taking bait. He says at a meeting in the constituency of St. Joseph:

“PM: Is jail they ‘fraid’—and basically he said:

“The Opposition...(UNC) is ‘mortally afraid’ that the money it stole and

hid abroad would be discovered once the FATCA legislation is passed, hence its refusal to support the current bill.”

If there is no reciprocity, then what is the basis for your utterance? Absolutely none whatsoever. [*Desk thumping*] But I will come to that, you see, because he already gave the hon. Member for Arima a mandate to revise history. He went to revise history on the Marlborough accord in London on the basis of our independence. [*Desk thumping and crosstalk*] I want to tell you, hon. Prime Minister, I expected better than that from you, having regard to the demographics of this society. But I want to tell you that Suren Capildeo is not Rudranath Capildeo.

You see, Madam Speaker, the hon. Prime Minister was making the point that the Opposition is unwilling to support this Bill because it has a history of obstructionism, and he related that to the time of the Independence Accord. We are saying that we have legitimate concerns about this Bill, and that therefore those concerns are not concerns that you can just dismiss. [*Desk thumping*]

I want to refer him to the real father of the nation, Dr. Eric Williams, *History of the People of Trinidad and Tobago*. I know my friend, the hon. Member for Oropouche, Rudy Moonilal, says Eric Williams is the real father of the nation, but the current Prime Minister wants to father the nation. [*Laughter*]

Dr. Moonilal: I said that?

Mr. G. Singh: Hon. Madam Speaker, this is what Dr. Eric Williams had to say with respect to the utterance of where—because the hon. Member was saying that the Opposition, even at Independence was obstructing. This is what Dr.

Eric Williams from the *History of the People of Trinidad and Tobago* had to say:

The parliamentary Opposition led by Dr. Rudranath Capildeo called for greater safeguards in a number of fields with particular reference to the Judiciary, appointments to the Public Service, the control of elections, the protection of human rights and the provision for consultation with the Opposition.

The Independence conference opened in London in Marlborough House on 28 May, 1962 and ended on June 8, at great success for the two major parties and for the country as a whole. [*Desk thumping*]

Dr. Tewarie: They want to run the country by themselves.

Mr. G. Singh: So when the Prime Minister seeks to demonize the Opposition because we have legitimate concerns about the nature of this Bill, we must be able to say “take that with a pinch of salt”.

So we have moved from where the Minister of Finance was conciliatory, where he was embracing the capacity for change, where he was embracing the Opposition with a view to bringing about good legislation in the country. What has happened? There has been a change of tone. One of bellicosity and one of belligerence, and a kind of truculence emerging. [*Laughter and desk thumping*]
You see, Madam Speaker, and I go back to the basic point I was making, you cannot play games with the people. You cannot create the conditions in which people feel we are playing games. The society is in real trouble economically, and that is therefore why we take a very serious view of this piece of legislation.

But there seems to be a lack of direction, a level of uncertainty as to how the Government is proceeding with this piece of legislation. That is why I ask whether or not they have received from the Department of Treasury the undertaking to extend the time. They should tell the country that, even if they will not tell the Opposition. I quote from the *Express* once more, Thursday, September 22nd:

“Rowley said if when the Parliament meets tomorrow”—that is today—“it was possible for the Joint Select Committee to be established and to meet on the bill with the mandate to bring the bill back to the Parliament for debate and passage before the September 30 deadline, it would be done. ‘If that is feasible under the current Standing Orders it would be done—but it may not be. So as of now the (September 30) deadline may not be attainable and if that is so, then we are at the mercy of the United States, to do with us as they will,’”...

Is that the kind of approach you take? You do not give a certainty of direction. There is no clear policy direction. There is no engagement to build a consensus as to what you want.

The hon. Minister indicated that he read in the newspaper certain considerations, the advertisement placed by the Opposition and then he proceeded to dismiss a lot of those considerations of the newspaper. We have serious concerns we shall put into the record on clause 5, clause 6, clause 7, clause 8, clause 21 and clause 25, inter alia.

Madam Speaker, this is the Opposition position, Clause 5:

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

I know you read it. The Opposition position for purposes of the record:

This is not required by the Inter-Governmental Agreement with the United States. It gives blanket approval for any future agreement signed by any government to become law without disclosure, debate and parliamentary approval. These types of agreements breach privacy rights. Apart from the potential to affect privacy rights, these agreements can give to the government or a nominated entity or person the power to affect significantly the property rights of citizens.

It can give the Government, whether it be PNM or the UNC, or whatever configuration that may emerge, the power to freeze persons' bank account, to confiscate property or the proceeds of accounts or impose penalties on persons without any input of sanction of the Parliament.

This the Opposition says is a power no government should have without the approval or scrutiny of the Parliament. [*Desk thumping*] It is our view that the granting of such a power may well be a breach of the rule of law and the Constitution, if not made subject to parliamentary approval and liable to be struck down. It is therefore essential that they be made subject to an affirmative resolution of the Parliament before enactment into law. It is also noted by virtue of section 80 of the Constitution, President means the Cabinet.

The hon. Member for Diego Martin North/East, the Minister of Finance,

said that they do not want any affirmative resolution because they will take pressure from the Opposition. Look at “pressure dey getting right now”. An affirmative resolution means that the matter comes up for the scrutiny of the Parliament, and all you require is a simple majority. So why do you not want the scrutiny of this Parliament? A simple majority is required for an affirmative resolution. And when you come to the Parliament, you embrace the public. Part of the problem as we face the economic hard times because of the drop in oil prices and gas, is the failure to embrace the people. We cannot continue the alienation of the people from the governing process of this country.

We are saying, Madam Speaker, in order to embrace the people, give them the right, and their representatives, the right by way of affirmative resolution on clause 5. Clause 6:

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

Subsection (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, and such person shall comply with any directions given.”

It is mandatory. So we are saying that the Inter-Governmental Agreement with the US does not require this. [*Desk thumping*]

I heard the Minister talk about, “it there since 1989”—1989. Clause 29 of the current Bill seeks to validate all the actions done since 1989 to now—26

years of illegal activity—27 years. I want to read clause 29. [*Interruption*] All acts.

Madam Speaker: Excuse me, I would like to hear the Member for Chaguanas West.

3.55 p.m.

Mr. G. Singh: Clause 29 says:

“All acts or things purportedly done in good faith by the Board pursuant to the former Act prior to the coming into operation of this Act, shall be deemed to be lawfully and validly done, to the extent it would have been lawfully validly done if the Board had the power to do so under the former Act.”

This is a 26-year validation. This is a catch-all basket. What is the content of that basket that we are validating? What it is? [*Desk thumping*] And what it is you want to say because it was so in 1989 and this one voted for it or that one voted for it, it must be so now in 2016? Twenty seven years. So, Madam Speaker, that argument really runs counter to the reality of the society today.

So we are saying clause 6, Madam Speaker, is not required by the IGA. The effect of this clause is to open the door for political interference and victimization. [*Desk thumping*] This is a serious concern, more so having regard to the recent utterances, vitriolic utterances by the Prime Minister in St. Joseph. There is an absence of qualification for an appointed person and so this clause effectively allows for anyone to be appointed to be bestowed with this power. There are no criteria. It could be a politically appointed hatchet man—hatchet is right? Right?—put in this position to target political opponents.

Madam Speaker, we raised this concern with respect to the appointment of

the director of the SSA. What you are seeing is a pattern of behaviour by this administration where powers that should be vested in the independent persons and authorities are being transformed into political functionaries that could be used to carry out the political will of any administration. What you are creating is political cyphers. They do not have a mind of their own. It allows for the legitimizing of any arbitrary exercise of state power.

We in the Opposition say, Madam Speaker, firstly, there should be a minimum threshold requirement for the persons who these powers could be delegated to, and secondly, there should be safeguards in the legislation to ensure that the powers conferred are not exercised arbitrarily, capriciously or in a manner not in accordance with the law. [*Desk thumping*] We are of the view, Madam Speaker, that the Minister should not be given this power and should be replaced by the BIR as obtained previously. [*Desk thumping*]

Clause 7. Clause 7, Madam Speaker, and I quote:

“(1) 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 confers powers on the person.

(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 that power was exercised for the purpose of that Act.

(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; and
- (b) request and receive any information required by him for the purpose of any Act.”

Madam Speaker, this is unacceptable. It is not required by the Intergovernmental Agreement. Why is it finding itself, crystallized in our domestic law? [*Desk thumping*]. It gives wide and intrusive powers to the Minister or politician to operate outside the law in circumstances required by the law and therefore, Madam Speaker, this section allows for the Minister to defeat the legislative intent and purpose of the legislation.

I know of no other clause present in any legislation that gives such a power and there can be none because the nature of the power that is conferred is contrary to the rule of law. Madam Speaker, this clause allows the Minister to exercise powers where the preconditions for the exercise of the powers have not yet arisen.

For example, the purpose of this Act is to allow for the authorities to prevent tax evasion. The fundamental rule of law principles would dictate that before the Minister could make a request for information regarding any citizen, there must be prima facie evidence that satisfies some—[*Interruption*]

Madam Speaker: Hon. Member, your original 30 minutes have expired. You are entitled to an extension of 15 minutes. Do you intend to utilize that?

Mr. G. Singh: Thank you, Madam Speaker, I intend to utilize it.

Madam Speaker: You may proceed.

Mr. G. Singh: The fundamental rule of law, Madam Speaker, would dictate that before the Minister could make a request for information regarding any citizen,

there must be a prima facie evidence that satisfies some threshold criteria, no matter how low that person is involved in tax evasion. It is only then and only then that the Minister could seek to make a request for information from the US authorities. What this clause does is to allow for the Minister to exercise the powers to make a request notwithstanding the circumstances, if any, necessary under the Act and for the exercise of that power.

And, Madam Speaker, even a normal police officer has to get a search warrant before he goes into your home. This will allow the authorities to go into your accounts without any threshold whatsoever.

Madam Speaker, clause 8. When clause 8 is read with other provisions in the Bill, it allows the Minister to get around the privacy protections of any other law apart from those named. If the Government intends to legislate to breach privacy protection, they must state the specific laws that would be affected and should not use a blanket phrase of any other law. It is a fundamental principle that you cannot seek to breach fundamental rights by a side wind. Madam Speaker, this clause allows for all safeguards present to fall, to be bypassed without consequence.

Clause 21: this relates to establishing procedures for inter alia, automatic sharing of sensitive, personal information. These procedures should be disclosed, debated and approved by Parliament in order to ensure proper safeguards are provided for. The MOU should therefore be subject to affirmative resolution of Parliament. [*Desk thumping*] When you are dealing with matters of this nature, when you are dealing with matters that deal with other states, you have to stand for transparency and accountability as you seek to protect the rights of citizens.

Clause 25, Madam Speaker, provides for:

“The Minister may by Order, where the parties modify the IGA or its annexes in Schedule 2, amend the IGA or its annexes contained in Schedule 2.”

This gives the Minister blanket approval to make laws and any future changes to the IGA without disclosure, debate and approval of Parliament. The future changes could affect privacy and other rights. Any other order, it is our recommendation, should be subject to the affirmative resolution of the Parliament.
[*Desk thumping*]

Madam Speaker, these are some of the major concerns we had. And when we look—and we have also, Madam Speaker, the bankers have 13 amendments. We do not have sight of what the securities industry indicated, the TTSEC, but it is clear that there is need for a consultative approach and to work through this thing, the Bill, with the technical personnel.

But, Madam Speaker, it is not the intention of the Opposition to allow this Government to ride roughshod over the rights of citizens of this country. [*Desk thumping*] You have within the American system the financial data privacy within the United States. When there was a Supreme Court case which said that you did not have the privacy of financial data, the American Congress moved quickly to pass the Right to Financial Privacy Act.

So what you are seeking to do through a series of data protection amendments to the Financial Institutions Act, you are seeking to eliminate that and that therefore, you are not even taking into consideration that whereas the Americans—and this will affect Americans in Trinidad, that category of persons who have bank accounts and those who have equity interests, those who have insurance—that they have a right to privacy in the American system and you are

seeking to eliminate that right. You have no question of notification. How in this day and age you can send information and there is no right to be notified that your information is going to the United States when they, in the American system, they have the right to be notified. Madam Speaker, but it is available in our Income Tax Act.

Madam Speaker, the Minister made no point on this occasion about the whole question of de-risking, made no point. I mean, the hon. Attorney General, of course, in his contribution he will “Seukeranize”, but I want to say that our banking sector, our financial services sector is well prepared to deal with this legislation. They have all been registered with their global intermediary numbers, all the banks, some 81 institutions in this country. What they are seeking, they cannot convey the information because if they do so, they will breach the right to privacy.

But, Madam Speaker, it is our considered view that unless the Government takes into the embrace the concerns of the Opposition and treat with them in a manner that is appropriate, not in a dismissive manner as done by the Member for Diego Martin North/East in his presentation, because the role of FATCA is that we are seeking to link with the American system to avoid tax evaders in this local jurisdiction, this country. When I speak, I speak as a patriot. [*Desk thumping*]

Madam Speaker, we are seeking to avoid—we know in the American system tax evasion is a serious problem and that therefore, what we have here we have indicated to the Government our position on this matter. We recognize the need for the FATCA. We were willing to work throughout the whole period to meet the September 30th deadline and therefore, Madam Speaker, it is our hope that whether at the committee stage that the Government will embrace the opportunity of

working with the Opposition for the benefit of Trinidad and Tobago and in the public interest. I thank you, Madam Speaker. [*Desk thumping*]

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam Speaker. We are here on the second round, having used Standing Order 79(3) to preserve the business of the last session of Parliament into the Second Session to discuss this Bill. I will cut straight to the chase.

Madam Speaker, we on September 2nd, met with the Opposition to talk about crime and other issues and cooperation between Government and Opposition. We had that meeting three weeks ago and at that meeting specifically raised with the Leader of the Opposition and her team that the FATCA Bill, the FATCA issue was a burning issue. True to form we told her that during the course of the next week we would send information and so we did. We came to the Parliament on the 9th, we met on the Monday following the 9th. We met on the Wednesday following and we are back here again today.

4.10 p.m.

The Opposition has, in the entire delivery given by my learned colleague, the Member for Chaguanas West, put forward a position of reading into the record a statement by the Leader of the Opposition. And I want to ask a question today. I would like to know—I am prepared to give way to the Member for Chaguanas West, to ask, who paid for this statement by the Leader of the Opposition?

Hon. Members: “Ahhh.”

Hon. F. Al-Rawi: And if he is willing to answer, I will give way. And the reason why I ask that question—[*Interruption*]

Mrs. Persad-Bissessar SC: Thank you. I spoke with the Clerk of the House whether the vote of the Office of the Leader of the Opposition can pay to put out

the position of the Opposition with respect to the Bill.

Hon. F. Al-Rawi: Thank you.

Mrs. Persad-Bissessar SC: And—okay, okay.

Hon. F. Al-Rawi: We have just found out that taxpayers dollars were used to pay for a full page advertisement, coming out of the lips of the Leader of the Opposition. Let me tell you why I raised this. Because three weeks ago, every single day we have been talking FATCA in Trinidad and Tobago. The advertisement says at the top of it:

“The Opposition pledged and pledges to work around-the-clock to secure consensus on the Bill to ensure its timely passage.”

We had, one, two, three, four, five, six, seven clauses only identified, now read into the record for the second time. Clauses 5, 6, 7, 8, 21 and 25, third time now mentioned. This publication paid for by taxpaying dollars, identified issues. As Attorney General I spotted this publication, the CPC’s department went to work and we had to guess what the Opposition wanted, because we received no specifics on the line by line.

Now, we have heard in that publication that the stakeholders were not consulted and I would like to point this out. The stakeholders that have direct relevance are, the Central Bank of Trinidad and Tobago, the Board of Inland Revenue, the Trinidad and Tobago Securities Exchange Commission and the Bankers Association of Trinidad and Tobago; they are the major stakeholders. The fact is that the citizens of this country, being represented by their Members of Parliament, have their representations before us. The Minister of Finance has read into the record the written correspondence coming from the Bankers Association of Trinidad and Tobago, by way of their letter dated, September 13, 2016, and they

say and let me quote:

The Bankers Association of Trinidad and Tobago is pleased to support the passage of Tax Information Exchange Agreements Bill, 2016.

And they provide suggested amendments.

Hon. Members: “Ahhh.”

Hon. F. Al-Rawi: The Trinidad and Tobago Securities Exchange Commission also writes by way of email from their legal counsel, Astraea Douglas, and provide certain amendments. These are sent to the Opposition and to the Government.

Now, Madam Speaker, I say this because consultation happened with the Central Bank, with the Board of Inland Revenue, Bankers Association has put in. And I am hearing the Member for Siparia say, having learnt a lesson not to speak first, sends in the Member for Chaguanas West. I am glad that lessons are learnt here, you know, because when a leader does not lift the Whip, puts down a position and then is surprised that the debate is adjourned when the Whip is not lifted, so not a man could say no to what the leader has said, they have finally learned that lesson. The Member for Chaguanas West comes now and says, listen, this position requires consultation. But, Madam Speaker, up to now we have issue identification, not a drop of contribution by way of suggested amendments. But, Madam Speaker, what are the amendments?

Clause 5, clause, 6, clause 7, clause 8, clause 21, clause 25, six clauses which the Minister of Finance has now put onto the record, having spoken first in piloting as to exactly how we proposed to treat with them, three of them are now entirely off the table; one of them, because we accepted the removal of the term “Minister”. We are now down to three issues by the Opposition’s own reflection. But, Madam Speaker, what we did, and I continue to do this as Attorney General,

is we do not only provide schedule of amendments to go that do not make sense, we continue to provide marked-up track change documents so that they can be put into context. Their advertisement says that they are prepared to work around-the-clock, but there is a huge omission to that advertisement. We are not prepared to work for free in the Parliament Chamber, on a suspension for one hour, to sit down and talk about three remaining clauses—*[Interruption]*

Mrs. Persad-Bissessar SC: Madam Speaker, Standing Order, referring to imputing improper motives. Standing Order 48.

Dr. Gopeesingh: Standing Order 48(6). *[Crosstalk]*

Madam Speaker: Excuse me, please. I am on my legs and I would like all that crosstalk to stop. I do not agree with the objection. Please continue.

Hon. F. Al-Rawi: Yes, Madam Speaker, I will link what I mean by “for free”. Ten thousand dollars per full page ad is what it cost on average, to publish a full page ad. If you call it today for tomorrow it can go up to \$30,000, Madam Speaker. We have the ability, having suspended the debate for one hour, track-changed document, proposed amendments, three of the issues coming off the table clean. We have the ability to sit down as grown individuals to agree with the duty to talk about FATCA under your own obligation that you are prepared to do so and work around-the-clock, but that is false advertising. And that is false advertising, now called to be duty of patriot.

You know, Madam Speaker, being half Iraqi I might tell you I know a lot about patriots. Because there were a number of patriot missiles dropped on Iraq which caused a lot of destruction and the only kind of patriot that I could think about must be a missile that the hon. Member for Chaguanas West was talking about. Because, Madam Speaker, we find it quite interesting, you know, the

Opposition cannot come today to sit for one hour to talk about three issues.

Madam Speaker, let me remind the hon. Members present through you and the national community. We have the AMCHAM talking as an entity. In fact, the person who speaks for AMCHAM is the son of the Member for Caroni Central saying to Trinidad and Tobago, this is not complicated. Please sit down and discuss it, the deadline is upon us. The Bankers Association is saying the deadline is upon us; the SEC recognizes the deadline is upon us, the radio waves, the average businessman. Everybody in Trinidad and Tobago recognizes there is a deadline. Taxpayers have now paid for a written statement to say we are prepared to work around-the-clock, save for the hour in Parliament and here, and, Madam Speaker, we cannot get a drop of contribution for specific amendment.

Now, Madam Speaker, if there are three issues left on the table, the call by the Member for Chaguanas West is now, let us have process. There is a process to this. We need to go to a Joint Select Committee and we need to talk and we must agree upon process first before we talk about substance, and substance will come after we agree with process. Madam Speaker, Trinidad and Tobago has told the politicians, please sit down and do the work. We are paying you. All of us receive emoluments as Members of Parliament. The Opposition says, listen, we have not had a response from certain stakeholders, you now know that is not true. The Government says, we do not have a response from the United States of America, unless we hear otherwise the deadline of the 30th applies.

There is urgency in the economy. There is urgency in the international arrangements. They produced a publication using taxpaying dollars to identify issues as opposed to specifics. They refuse to come to the Government and talk with us and go through the line by line items. The Opposition and the Government

together have the majority, to pass special majority, both Houses of Parliament, the Senate and the House. There is no need for a Joint Select Committee to agree upon three remaining issues which we could have sat down over the last hour and had dealt with.

Mrs. Persad-Bissessar SC: No, no, no. [*Desk thumping*]

Hon. F. Al-Rawi: Instead, Madam Speaker, we hear the Member for Chaguanas West, now occupying the erstwhile seat of the Member for Oropouche East, and “two ah dem talking” about good friends. The Member for Oropouche East instead, just bawls out “Seukeranization”. I want to put on the record something, “Seukeranization” is a reference by the Opposition to my grandfather, maternal grandfather—

Hon. Members: It is PNM. It is PNM.

Hon. F. Al-Rawi: Lionel Seukeran. I noticed none of the hon. Members opposite could talk about their own grandparents.

Hon. Member: “Ha, ha.” [*Desk thumping*]

Hon. F. Al-Rawi: But instead they wish to reflect on my parentage. I am very proud to be the grandson of Lionel Frank Seukeran. [*Desk thumping*] And I am very proud to certify that when Dr. Rowley spoke about the Marlborough sabotage, that growing up in our family, my grandfather who attended the Marlborough Conference told me chapter and verse of how Capildeo, as the hon. Prime Minister referred to him on the platform, not calling a first name, the newspapers putting in Suren as opposed to Rudranath, that Capildeo nearly saw our country without Independence. That is a fact.

So, Madam Speaker, brass tacks are quite simple. [*Crosstalk*]

Madam Speaker: Members, Members.

Hon. F. Al-Rawi: The legislation requires the Opposition and the Government to cooperate to agree upon three remaining issues. One of them is whether we are going to have a validation of the 1989 to 2016 in clause 29 of the Bill, Acts of the Board of Inland Revenue in issuing spontaneous information to the United States of America. That is issue one.

Issue two is whether we have affirmative resolution in respect of other agreements which have to come through to the Parliament. The third one is a replication of issue number two, because it is raised twice in respect of the clauses. We have said that there would be an undue fetter to the Board of Inland Revenue to stymie their work by allowing politicians to interfere by way of objection. We say that that is in keeping with the normalcy of the law, and in those circumstances we are of the view that the President should have the authority to declare agreements.

Secondly, Madam Speaker, there is always the ability of any Member of Parliament to raise a Motion in relation to something which is standing in society. So it is not that Parliament does not have scrutiny. You can raise any form of enquiry, Private Members' Motion, you can raise Petitions, so, Madam Speaker, the fact is that is just not true.

Let us deal with the 1989 to 2016 validation. In 1989, Dr. Bhoendradatt Tewarie, Member of the National Alliance for Reconstruction, now hon. Member for Caroni Central; Dr. Surujrattan Rambachan, Member of the NAR, now the Member for Tabaquite; sat in an NAR Government and passed the legislation in 1989. They then passed through, together with the Member for Chaguanas West, with the Member for Siparia, with a number of other Members present now, [*Crosstalk*] the Member for Oropouche East, through the United National Congress

in the period 1995 to 2000, in 2000 to 2001 and then 2010 to 2015.

Mr. Singh: How would you know about that?

Hon. F. Al-Rawi: There was an NAR Government, a UNC Government, a PNM Government, a UNC Government, a PNM Government, and, Madam Speaker, [*Crosstalk*] the spontaneous issuance of information by the United States of America has stood as a fact in Trinidad and Tobago now for 26 years. All of a sudden the position is that there is something wrong with that. What is being hidden? [*Crosstalk*] This matter was considered by the Cabinet of the Member for Siparia—

Mrs. Persad-Bissessar SC: For real.

Mr. Singh: Never.

Mrs. Persad-Bissessar SC: What is the matter?

Hon. F. Al-Rawi:—on four occasions, because I am including not only the notes coming to Cabinet, but the Minute and confirmation in respect of the May and October 2013 Notes that came to the Kamla Persad-Bissessar Government—

Mrs. Persad-Bissessar SC [*Standing*]: I object. [*Crosstalk*]

Hon. F. Al-Rawi: Is there a Standing Order? [*Crosstalk*]

Madam Speaker: Member for Siparia! Member for Siparia!

Mrs. Persad-Bissessar SC [*Standing*]: You are speaking untruths. You are speaking untruths.

Madam Speaker: Member for Siparia! Member for Siparia!

Mrs. Persad-Bissessar SC [*Standing*]: You are not telling the truth in this Parliament!

Madam Speaker: Member for Siparia!

Mrs. Persad-Bissessar SC [*Standing*]: You are not speaking the truth in this

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Parliament! [*Desk thumping*] “You lie!” [*Desk thumping*]

Madam Speaker: Member for Siparia, I now rule that I constitute your conduct to amount to gross disorder in accordance with Standing Order 55(4) and I ask you to withdraw from the Chamber for the rest of the sitting.

Hon. Members: No!

Mr. Padarath: Absolute nonsense!

Madam Speaker: Member for Princes Town, I also ask you to withdraw from the Chamber for the rest of the sitting.

[Opposition Members exit the Chamber apart from Dr. Tewarie]

Hon. F. Al-Rawi: Madam Speaker, perhaps the Government ought to definitely put on the record now, because the cameras would be on the Speaker, that the Opposition is currently walking out of the Chamber, because you have ruled on unruly conduct by no less a person than a past Prime Minister, the current Leader of the Opposition, where there is no explanation whatsoever from the Opposition as to why they cannot sit down and do the people’s business today on three issues.

[Desk thumping]

4.25 p.m.

Madam Speaker, there can be no greater disrespect to Trinidad and Tobago than the Opposition’s walkout today—all of them—

Mr. Imbert: Because of misconduct.

Hon. F. Al-Rawi:—because of misconduct, a gross dereliction of duty—*[Desk thumping]*

Mr. Imbert: Gross disorder.

Hon. F. Al-Rawi:—a shame to Trinidad and Tobago, as we see now, as the Members walk out, unable to identify a single line of amendment, unable to

propose any form of solution, having spent taxpaying dollars, as they have right now, to publish issues.

You see, Madam Speaker, today we offered them the opportunity to continue a full debate to go right down to the wire on a decision which Trinidad and Tobago relies upon. They put a published advertisement to say that they are prepared to work around the clock—

Mr. Imbert: And they walk out.

Hon. F. Al-Rawi: I want to say now, Madam Speaker, I am convinced that the Opposition always intended to walk out of this Parliament. [*Desk thumping*] I am convinced that that is what they intended to do.

Mr. Imbert: Disgraceful!

Hon. F. Al-Rawi: I am convinced that that is the case. They did not expect us to come and start a debate, willing to take them at their word, their published, taxpaying, paid-for word, to do the business of the people of Trinidad and Tobago. And therefore, I submit, most humbly to you, Madam Speaker, that this is a tragedy to the taxpayers of Trinidad and Tobago; it is a disgrace to our country. The banking association will no doubt be taking note. The people of Trinidad and Tobago who will face the gun of not being able to transact business by a credit card via moneys; that this would be problematic for all of us, Madam Speaker. This is a shame on the Opposition and on the country.

ADJOURNMENT

The Minister of Planning and Development (Hon. Camille Robinson-Regis):
Thank you very much, Madam Speaker. Madam Speaker, I now beg to move that this House do now adjourn to Friday, September 30th at 1.30 p.m. when the Budget will be presented.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 4.28.p.m.