

SENATE

Monday, April 29, 2024

The Senate met at 1.30 p.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

**PAPERS LAID**

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Sugar Industry Labour Welfare Committee for the financial year ended September 30, 2004. [*The Minister of Foreign and CARICOM Affairs (Sen. The Hon. Dr. Amery Browne)*]
2. Ministerial Response of the Ministry of National Security to the First Report of the Joint Select Committee on National Security on an inquiry into the Criminal Justice System of Trinidad and Tobago to determine the strategies to achieve greater efficiency and effectiveness. [*Sen. The Hon. Dr. A. Browne*]

Mr. President: Minister of Finance.

STANDING ORDER 21(2)

Sen. Mark: Standing Order, Mr. President. Mr. President, on a point of order, Standing Order 21(2) states that:

“A Minister....presenting a Paper may make a short explanatory statement”—under the item of business papers.

At the very least, Mr. President, the Minister did stand when he was called upon by you and say that—

Sen. Dr. Browne: He is making up his own Standing Orders.

Sen. Mark: No, Mr. President, I am referring to Standing Order 21(2)—

Mr. President: Okay.

Sen. Mark: Where—

Mr. President: Have a seat, have a seat, have a seat. So is there—continue.

Sen. Mark: Mr. President, under Standing Order 21(2) of our Standing Orders, when a Minister has been called upon to lay a paper, that Standing Order says that the Minister may make a short explanatory statement under the item of business papers.

Mr. President, at the very least the Minister should stand when he is called upon by your good self and say that given the Motion we are about to debate today I will not be laying Papers 1 and 2 as listed on the Order Paper in my name. Mr. President, in my opinion, it is disrespectful to your authority as President—

Mr. President: Sen. Mark, Sen. Mark, thank you. So you have raised your point of order and you have made your brief explanatory statement in relation to why you are raising that Standing Order. As such I have called on the Minister of Finance and I have gotten no response so we will now move on to the next item on the Order Paper. Clerk.

URGENT QUESTION

Curepe Presbyterian Primary School

(Health and Safety Concerns over Leaking Toilets)

Sen. Wade Mark: Thank you, Mr. President. To the Minister of Education: Given the decision by parents to remove their children from classes at the Curepe Presbyterian Primary School due to health and safety concerns over leaking toilets, can the Minister indicate the steps taken to have these children returned to classes?

Mr. President: Minister of Education.

Hon. Senators: [*Desk thumping*]

The Minister of Education (Hon. Dr. Nyan Gadsby-Dolly): Thank you kindly, Mr. President. Mr. President, the Curepe Presbyterian Primary School is open for business and all parents are aware that the school is open and that they can carry their children safely to school. There is a sewer issue at the school that is being dealt with through the work of MTS along with the facilities department of the Ministry and the regional corporation. Mr. President, for context the Ministry has dealt with 38 such sewer issues from January 2024 to present and we continue to deal with them as they arise.

The regional corporation has agreed to pump down the sewer and that will keep the school operational while MTS does the scope and cost and we set about to do the repair that is required. However, at this time those interim measures have already been put in place. The school is open and ready for business.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Mark.

Sen. Mark: Yeah. Mr. President, having regard, and this is through you to the hon. Minister, having regard to the period of time that this leak has existed, almost a year, can the Minister indicate why it has taken so long for the Ministry of Education to take action to address the safety and health concerns of the children of this particular school?

Mr. President: Minister.

Hon. Dr. N. Gadsby-Dolly: Thank you, Mr. President. Mr. President, a leaking sewer is not allowed to happen in a school for a year. Every report of a sewage leak is dealt with expeditiously by the Ministry. The situation is that the sewer needs to be replaced at this time and so that is what we are

setting about to do. If there is a leak that arises in every case repair will be attempted first because it is the cheaper option and the less disruptive option before a total replacement is contemplated.

However, at this time it is believed that the sewer has reached the end of its natural life and therefore needs to be replaced. So those measures that are put in place now are to ensure that the school can operate and that students can go to school even as the work will be done.

Mr. President: Sen. Mark.

Sen. Mark: Yeah. Mr. President, to the hon. Minister. Hon. Minister through the hon. President, having regard to the real risks and dangers to health and safety posed by this leaking or these leaking toilets or sewer system at this particular location, can the Minister indicate, Mr. President, what immediate steps will be taken by the Ministry to speed up this process of repairing this sewer system that is springing leaks and that is causing real threats to the health and safety of our children?

Hon. Dr. N. Gadsby-Dolly: Thank you, Mr. President. Mr. President, I have answered this on two occasions and I will say it again, but I will speak more slowly so that the Member can understand—

Hon. Senators: [*Desk thumping*]

Hon. Dr. N. Gadsby-Dolly:—what I am saying. The school is open. The sewer needs to be repaired. The regional corporation has agreed to pump down the sewer as required so that there is no leak and no health and safety concern for the students. While they are doing that, in the interim so that the school can function, the MTS is working on the scope and cost for the repair of the sewer so that the problem will be alleviated. The interim measures are already in place. The school is open.

ANSWERS TO QUESTIONS

Mr. President: Leader of Government Business.

The Minister of Foreign and CARICOM Affairs (Sen. The Hon. Dr. Amery Browne): Mr. President, the Government is a position respond to Question No. 92, Question No. 96, Question No. 97, Question No. 98, Question No. 68, Question No. 69 and Question No. 70, which is 100 per cent of the questions for oral response on the Order Paper today.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Dr. Patasar.

ORAL ANSWERS TO QUESTIONS**CSO Data - United Nations SDGs****(Breakdown of)**

92. Sen. Dr. Sharda Patasar asked the hon. Minister of Planning and Development:

On May 20, 2022, the Government indicated that additional staff were recruited to assist the Central Statistical Office (CSO) to collect social statistics and other data pertaining to the United Nations SDGs, can the Minister provide a breakdown of this exercise including the following:

the status of said exercise;

the timeline for the completion of the exercise;

the SDGs targeted for the exercise; and

the social statistics collected as at February 2024; and

the data collected on the SDGs identified at (iii) as at February 2024?

The Minister of Planning and Development (Hon. Penelope Beckles):

Thank you very much, Mr. President. Just quickly.

Mr. President, subsequent to the Ministry of Planning and Development's response in May 2022, I am pleased to indicate that the following were accomplished in terms of social statistics and SDG data. Status of the exercise: The Continuous Sample Survey of the Population (CSSP), a total of 25 field enumerators were hired between the period December 2021 and March 2022, to assist with the data collection for the survey. Data collected from households to determine the total labour force by male and females included, total employed/unemployed persons, labour force participation rate and youth employment.

Multiple Indicator Cluster Survey (MICS). The MICS provides internationally comparable statistically rigorous data on the situation of children, adolescents, women and households in Trinidad and Tobago. A total of 9,000 households were selected from 4,450 clusters. The MICS data sets, which are currently available, include various indicators relating to mortality rates; reproductive and maternal health; child health nutrition and development; child education and learning; protection from violence and exploitation; safe and clean environment; water and sanitation and equity in women and children. The staffing utilized for the MICS included: one field coordinator, 10 field supervisors, 29 enumerators, 13 measurers and two secondary editors.

Further, this year, for the first time in Trinidad and Tobago the household budget survey was combined with the survey of living conditions, the HBS/LLC is designed to collect very detailed information regarding the household budget survey as the name implies. That is, expenditure and income data of the household.

1.45 p.m.

The LSC has also been utilized as the main source of robust quantitative data to generate key poverty, inequality and vulnerability indicators, and to evaluate living conditions at a point in time.

The CSO has completed the enumeration for 24 fortnightly periods for the HBS and SLC, the latest period being February 2024. Field enumerators are expected to be completed by June 2024, and the survey report is expected to be published in the first quarter of fiscal 2025. As it relates to the timeline, the CSSP is a continuous ongoing survey throughout Trinidad and Tobago. In terms of the MICS, data collection from August 01 to December 10, 2022 was cleaned, analyzed and disseminated in February 2023. The HBS/SLC is currently ongoing.

The SDGs targeted for the exercise. The targeted SDGs for Trinidad and Tobago include Goals 1 to 15:

“Goal 1, No Poverty; Goal 2, Zero Hunger; Goal 3, Good Health and Well-Being; Goal 4, Quality Education; Goal 5, Gender Equality; Goal 6, Clean Water and Sanitation; Goal 7, Affordable and Clean Energy; Goal 8, Decent Work and Economic Growth; Goal 9, Industry, Innovation and Infrastructure; Goal 10, Reduced Inequalities; Goal 11, Sustainable Cities and Communities; Goal 12, Responsible Consumption and Production;...Goal 14, Life Below Water; and Goal 15, Life on Land...”

As it relates to the social statistics collected, currently the CSO collects social statistics and other data including births, deaths, adults and infant mortality rates, marriages and divorces, crime statistics, murders, persons committed to prison. Number of—

Mr. President: Minister, the time for response has ended. Sen. Patasar.

Sen. Dr. Patasar: Are there challenges to the data collection exercise when it comes to, for instance, earnings?

Hon. P. Beckles: Sorry?

Sen. Dr. Patasar: Are there challenges to the data collection exercise, for example, when we speak about things like earnings?

Hon. P. Beckles: Oh, earnings? I would say there are times but not consistently.

Privately-owned Legal Firearms

(Number Lost/Stolen/Missing)

96. Sen. Dr. Paul Richards asked the hon. Minister of National Security: Can the Minister provide the number of privately-owned legal firearms reported lost/stolen/missing for each year during the period 2018—2023?

The Minister of National Security (Hon. Fitzgerald Hinds): Thank you very much. Yet again, Mr. President, according to information provided by the Commissioner of Police, 42 privately owned firearms were reported lost, stolen or missing during the period 2018—2023. The number of privately owned legal firearms reported as such for each year during the period 2018—2023 is as follows: 2018, three; 2019, seven; 2020, five; 2021, six; 2022, 11; 2023, nine; totalling 41. There is one more to be concluded upon in respect of the year in which it was reported as such from the Tunapuna Police Station. I thank you.

Sen. Dr. Richards: Thank you. Mr. President, can the Minister indicate in his opinion if the regulations endorsed related to the oversight of these privately owned firearms, given the numbers identified as 42 lost in the time

period identified, are satisfactory in monitoring in the interest of public safety?

Hon. F. Hinds: Mr. President, it is anticipated that he or she who is issued with a firearm will do all that is reasonably and lawfully anticipated to secure the firearm. When you have a firearm—and in this case in respect of this answer, 42 being lost, or stolen, or missing, or missing more generally, it suggests that there ought to be significant improvement in the activity of the holders to ensure that this does not arise.

Sen. Dr. Richards: Thank you. Thank you, Mr. President. Can the Minister indicate if the Commissioner of Police has the necessary resources to fully investigate these—because 41 missing firearms between 2018 and 2023 to me, is a lot of firearms missing given the kind of criminal activity that can be perpetrated using these firearms. Does the Commissioner of Police have the necessary resources to investigate these lost, missing or stolen firearms to ensure that they did not end up in the hands of the criminals in the country?

Hon. F. Hinds: Mr. President, I am confident that the Commissioner of Police has the necessary resources, and I am also confident that in each case thorough investigations would have been executed.

Sen. Dr. Richards: Thank you. Through you, Mr. President, can the Minister indicate if in the investigation of these missing 41 firearms, if it has been determined that any of these firearms have been used in criminal activity in the country?

Hon. F. Hinds: I am unable to say so at this point, but that can quite easily be ascertained and I can report to this Parliament accordingly.

**Firearms Assigned to National Security Officers
(Number Reported Lost/Stolen/Missing)**

97. Sen. Dr. Paul Richards asked the hon. Minister of National Security:

Can the Minister provide the number of firearms assigned to National Security officers reported lost/stolen/missing for each year during the period 2018—2023?

The Minister of National Security (Hon. Fitzgerald Hinds): Thank you again, Mr. President. According to information collated by and provided by the law enforcement agencies including the Trinidad and Tobago Police Service, the Trinidad and Tobago Defence Force, and the Trinidad and Tobago Prison Service, 14 firearms assigned to national security personnel were reported lost, stolen or missing during the period 2018—2023. The breakdown of the number of firearms assigned to such officers and so reported for each year during the period is as follows:

In respect of the TTPS: 2018, zero; 2019, zero; 2020, zero; 2021, one; 2022, one; 2023, two; totalling, of course, four;

In respect of the Trinidad and Tobago Defence Force: 2018, one; 2019, two; 2020, one; 2021, one; 2022, one; 2023, two; totalling eight; and

In respect of the Trinidad and Tobago Prison Service: 2018, zero; 2019, zero; 2020, zero; 2021, zero; 2022, zero; 2023, two. All together a total of two in this regard.

And all together as I indicated, Mr. President, 14 firearms during the period under review.

Sen. Dr. Richards: Thank you for the response, Minister. Can the Minister

indicate in particular related to the Trinidad and Tobago Defence Force, given that eight weapons have gone either missing or reported missing between 2018 and 2023, does the Minister think that there is a problem in the oversight mechanism within the TT Defence Force related to these eight weapons having been reported missing within the time period identified?

Hon. F. Hinds: I can say that based on information available I would not jump to that kind of conclusion in all cases, but in some cases, Mr. President, it may be the result of inadequate management of the items. But in some cases certainly it had to do with exercises that see and circumstances would have developed, and it cannot be said that it was a lack of oversight in those cases.

Sen. Dr. Richards: Thank you. Can the Minister indicate if any disciplinary measures had been instituted in the case of either the TTPS, the Trinidad and Tobago Defence Force and the Trinidad and Tobago Prison Service regarding the overall 14 weapons reported lost or missing?

Hon. F. Hinds: I am unable to answer that question with any more detail at this time, but very willing to make that available at the next opportunity it is availing itself.

Sen. Dr. Richards: Final question on this question, Minister. Through you, Mr. President, can the Minister indicate if there has been a determination—because my understanding is that the weapons assigned to the national security agencies are very well marked—that any criminal activity has been committed using these weapons coming out of investigations by the relevant agencies?

Hon. F. Hinds: Again, I did not, by virtue of the question posed, arm myself with that kind of detail, but quite willing to provide it at an

appropriate time.

**Firearm Dealer's Licences Approved
(2018—2023)**

98. Sen. Dr. Paul Richards asked the hon. Minister of National Security:

Can the Minister provide the number of firearms dealers licences approved during the period 2018—2023?

The Minister of National Security (Hon. Fitzgerald Hinds): Thank you again, Mr. President. According to information received from the Commissioner of Police, firearm dealer's licences were approved during the period 2018—2023 as follows:

In 2018, three new dealers were so licensed;

In 2019, two new dealers so licensed;

In 2020, six new dealers so licensed;

In 2021, no new dealer licensed;

In 2022, no dealer licensed;

In 2023, no dealer licensed.

Together, Mr. President, these respect an increase of 11 dealers between the period 2018—2020. Prior to this, there were 19 active firearm dealers providing that service across Trinidad and Tobago. Therefore, during the period 2018—2023 we saw an increase of 57.8 per cent. Thank you.

Sen. Dr. Richards: Thank you. Through you, Mr. President, can the Minister indicate if in the opinion of the Ministry that there is proper oversight regarding the administration of these dealers having the authority to sell firearms and the accompanying ammunition in the context of the levels of criminality in the country?

Hon. F. Hinds: We have evidence that adequate oversight had not been exerted in respect of firearms dealers. For an example—and it is now in the public domain—the police are supposed to check on the books, the records of these dealers to see what they bring in, what they sold and to whom, what quantities. And in one case that is now in the public domain, when the police pressed on one of the dealers who sued the police in relation to relevant matters or related matters, he indicated that his book or books were lost for about three years. When asked, “Did you report it”? The answer was, “No”. In that example alone it is quite clear that the implication of the Senator’s question is borne out. Sufficient oversight, professional and security considerations, absolutely no.

Sen. Dr. Richards: Mr. President, through you, can the Minister indicate then, if there is an investigation in terms of the overall potential danger that had been posed because of this inadequate oversight, given the fact that one errant dealer could potentially, if no books had been kept for three years, easily have dispensed thousands of rounds of ammunition and weapons unbeknown to the State of Trinidad and Tobago?

2.00 p.m.

Mr. President: Minister.

Hon. F. Hinds: Based on information available to me in the very matter, it may not be that the books were not available, it may be that they were not produced, and some kind of explanation of that along that line was given. Because what we saw in those years, in my view, the subject of three investigations by the State, one by the Police Service Commission and two others commissioned by the Government of Trinidad and Tobago, upon which a judge is on record as saying that it would have been a failure on the

part of the Prime Minister and the Government not to have acted in the face of the information that those investigations yielded, Mr. President, these matters continue to be under investigation. I give you that assurance. And in respect of breaches of the law, I am confident, I am hopeful even, that the answers will be provided, and the right conclusions and evolutions arrived at. Thank you very much.

Mr. President: Senator.

Sen. Dr. Richards: Thank you. Final question: Can the Minister confirm or refute if reports in the public domain, that because of the shortcomings and the oversight related to the dispensation of firearms through dealers has resulted in thousands of rounds of ammunition being in the public domain unaccounted for, posing significant risk to the public of Trinidad and Tobago and undermining public safety, can be confirmed or refuted?

Mr. President: Minister.

Hon. F. Hinds: In one case when the report that was commissioned by the Police Service Commission was issued by retired Justice of Appeal, Mr. Stanley John, he saw the wisdom in making sealed copies addressed to hon. Prime Minister as Chairman of the National Security Council. He made that available to the Police Service Commission suggesting that it be sent to the Prime Minister in that capacity because in his view—Mr. John's view, he felt that it raised very, very, very serious issues of national security.

I can tell you, from all of the information available, yes, very, very serious issues of national security have arisen. There seemed to have been a kind of madness and wildness and mayhem in respect of the importation, the grant, the issuance of new licences to new firearm dealers. In fact, it was Mr. John who described the thing as a well-oiled, white-collar criminal

enterprise conducted under the nose of the then Commissioner of Police.

Mr. President: Senator.

Sen. Dr. Richards: Thank you. Can the Minister indicate if given what he has described—to me, a frightening situation, in my opinion—given the levels of criminality we are seeing—and, of course, we know that most of the—well, the murders have been committed primarily through firearms and ammunition. Guns do not shoot themselves—that there is being considered some sort of revision of the laws related to the oversight and management of legally-issued firearms as a whole in the country for better oversight and management?

Mr. President: Minister.

Hon. F. Hinds: Certainly. The Office of the Attorney General and the Ministry of National Security has engaged this issue and we have devised a draft policy in this regard with new elements coming on board, as the investigations by the police continue and new things and new nuances are discovered. Mr. President, the Government recognizes that a lot went wrong. The matters are under investigation, as I said, and I am confident that the Government will take action to improving the state of affairs in respect of the management of firearms, to tighten up the looseness and the wanton state of affairs that subsisted during period under review, and it may very well yield recommendations for improvements in the law—the Firearms Act of Trinidad and Tobago.

Mr. President: Sen. Mark.

Ministry of Energy and Energy Industries
(Licences Issued)

UNREVISED

68. Sen. Wade Mark asked the hon. Minister of Energy and Energy Industries:

With regard to the licences issued by the Ministry to oil and gas producers, suppliers and contractors during the period 2018 to January 2024, can the Minister advise:

Whether a Public Register containing said licences, in accordance with the Petroleum Act, Chap. 62:01, is available for public viewing at the Ministry's offices; and does the Government intend to publish the issuance of said licences in the *Gazette*?

The Minister of Finance and Acting Ministry of Energy and Energy Industries (Hon. Colm Imbert): Thank you, Mr. President. As Acting Minister of Energy and Energy Industries, I will answer on behalf of the substantive. The answer to (i), yes, a public register containing licences issued by the Ministry to oil and gas producers, suppliers and contractors during the period 2018 to January 2024 is available to the public for public viewing on the Ministry's website; (ii), yes the Government intends to publish the issuance of said licences in the *Gazette*.

Mr. President: Sen. Mark.

Sen. Mark: Mr. President, can the Minister indicate when these licences were issued?

Mr. President: Minister.

Hon. C. Imbert: Mr. President, I do wish Sen. Mark would ask all the questions he wants to ask. This question simply asked whether there is a public register and whether it would be published, and the answer is yes to both. As to the dates when the licences were issued, that is detailed technical information. I do not have that but I will be happy to provide it if

properly asked.

Mr. President: Sen. Mark.

Sen. Mark: Mr. President, can the Minister indicate whether it is the practice of the Government, through the Ministry of Energy and Energy Industries, to issue licences without having those said licences simultaneously gazetted?

Mr. President: Minister.

Hon. C. Imbert: Mr. President, I will have to solicit that information, but as the answer says, the public register is available online on the website of the Ministry of Energy and Energy Industries, and the Government does intend to publish the issuance of said licences in the *Gazette*.

Mr. President: Sen. Mark.

Sen. Mark: Can the Minister confirm or deny whether the absence of these licences being gazetted can now be termed as illegal and unlawful—those licences that have been issued that have not been officially gazetted, Mr. President?

Hon. C. Imbert: I can certainly not address that allegation at this time.

Mr. President: Sen. Mark.

Sen. Mark: Can I ask the Minister when does the Government intend to issue these licences—to have these licences gazetted as he has indicated?

Mr. President: Minister.

Hon. C. Imbert: Mr. President, I think Sen. Mark has asked me that question twice. I think that was in his second supplemental. As I indicated, that information could be provided once asked in the proper manner. It was not asked in the question.

Mr. President: Sen. Mark, next question on the Order Paper

Atlantic LNG
(Licences Granted)

69. Sen. Wade Mark asked the hon. Minister of Energy and Energy Industries:

In light of the Government's decision to extend the licence granted to Atlantic LNG for a further twenty-five (25) years, can the Minister cause to be laid in both Houses of Parliament the current and previous licences granted?

The Minister of Finance and Acting Ministry of Energy and Energy Industries (Hon. Colm Imbert): Thank you very much, Mr. President. The prior and current licences were granted by Government to Atlantic LNG for the liquefaction of natural gas, and the sale and disposal of liquefied natural gas and natural gas liquids pursuant to the Petroleum Act and Regulations. These licences contain sensitive, operational, trade and financial information that cannot be publicly disclosed due to the commercial and global nature of the LNG business.

As a consequence, there is included in the licences—as was the case in all licences issued under the UNC Government—a provision that requires the terms of the licences to be kept confidential. Therefore, the Government is unable to accede to the request to have the licences laid in Parliament. The Opposition is well aware of the fact that if its request was acceded to, it would immediately put the Government of Trinidad and Tobago in breach of contract and make our country a very unattractive location to do business.

Mr. President: Sen. Mark.

Sen. Mark: Mr. President, having regard to the fact that Trinidad and Tobago is a member of the Extractive Industries Transparency Initiative, can

the Minister indicate whether transparency of these licences has not been addressed by this said organization, to which we are a member, so that they can now be made public? Is the Minister aware of this?

2.10 p.m.

Mr. President: That question does not arise, Sen Mark. Next question.

Sen. Mark: Having regard to the fact that the previous licence has expired and a new one has been issued for 25 years, can the hon. Minister indicate to this honourable Senate why the Government is refusing to share that old licence by making it publicly available for scrutiny?

Mr. President: I think that question was answered in the response to the original question. Sen. Mark, next question.

Sen. Mark: Mr. President, can I ask the hon. Minister what specific harm or injury will be meted out to Trinidad and Tobago if the old licence is issued for public scrutiny? Can the Minister indicate that to this honourable Senate?

Mr. President: The answer to that question is contained in the original answer, Sen. Mark. Next question.

Petroleum Act, Chap. 62:01 Order

(Status of)

70. Sen. Wade Mark asked the hon. Minister of Energy and Energy Industries:

Given that the Petroleum Act, Chap. 62:01 provides that the Minister is required to issue an Order ensuring that all agents and contractors must be licensed, maintain offices and pay taxes in this country, can the Minister advise whether such Order is in effect?

The Minister of Finance and Acting Minister of Energy and Energy

Industries (Hon. Colm Imbert): Thank you, Mr. President. An order to defect as per the question is not in effect. However, to provide clarification, non-resident companies are required to maintain offices in Trinidad and Tobago pursuant to Regulation 23 of the Petroleum Act for which an order is not required. Further to this, the requirement to pay taxes is governed by the various tax legislations including the Petroleum Taxes Act. The Petroleum Act provides that where a licensee fails to pay taxes, the licence will be revoked. There is also no requirement for an order in that regard. Additionally, section 6(1) of the Petroleum Act provides that:

“...no person shall engage in petroleum operations...unless he first obtains a licence...”

Therefore, the primary legislation provides for the grant of licences and there is no requirement for an order in this regard.

Mr. President: Sen. Mark.

Sen. Mark: Can the Minister confirm or deny whether all licences issued to these agents, as well as contractors associated with the upstream industries, that they have established registered offices in Trinidad and Tobago and are consequently paying their fair share of taxes to the Government of Trinidad and Tobago?

Mr. President: That question does not arise from the original answer. Sen. Mark, next question.

Sen. Mark: Can the Minister indicate, Mr. President, whether the revenue stream of the country is being negatively impacted by the non-issuance of this Order compelling all agents and contractors of upstream operations once they are issued contracts, that they must open offices and must pay taxes in Trinidad and Tobago? Can I ask that?

Mr. President: So you want to state that more succinctly so the Minister could understand?

Sen. Mark: I would like to ask the Minister whether the Government in the absence of the issuing of the order compelling these agents and contractors associated with upstream companies to open offices here and pay their taxes, I am asking the Minister whether that has, in any way, negatively impacted on this country's revenue stream.

Mr. President: Minister.

Hon. C. Imbert: Thank you, Mr. President. I think they will have to expand the ALTA programme. I made it crystal clear that under Regulation 23 of the Petroleum Act, all non-resident companies are required to maintain offices in Trinidad and Tobago. I want to repeat that. Under Regulation 23 of the Petroleum Act, all non-resident companies are required to maintain offices in Trinidad and Tobago. Ipso facto, if they do not, they are in breach of the petroleum regulations and therefore an order is not required.

Sen. Mark: Can I ask the hon. Minister when these non-resident contractors and agents of these upstream companies breach the Regulation 23 that he talks about, what are the sanctions and penalties invoked by the Government under the Petroleum Act?

Mr. President: Minister.

Hon. C. Imbert: Mr. President, I think the hon. Senator is going upstream, downstream, mid-stream and under water, a long way away from the original question. The fact of the matter is there are statutory requirements for the grant of licences and if these requirements are breached, the licence is revoked or suspended.

Sen. Mark: Can I get a final question? Can I ask the hon. Minister as far as

he is aware, how many licences have been revoked for non-compliance with the Regulation 23?

Mr. President: Minister.

Hon. C. Imbert: I suggest that the hon. Senator pose that question in the usual manner as a question on notice and it will be answered.

Mr. President: Minister of Finance.

STATEMENT BY MINISTER

Allegations by the Auditor General

(Treasury Submission for Financial Year 2023 Accounts)

The Minister of Finance (Hon. Colm Imbert): Thank you, Mr. President. I am authorized by the Cabinet to make the following statement.

Yesterday evening at 5.51 p. m., I received from the Attorney General an electronic copy of a legal letter from Freedom Law Chambers headed by Anand Ramlogan SC, with Sen. Jayanti Lutchmedial listed on the firm's letterhead as the first associate in those law chambers. I have not seen this letter before that. The letter contained a number of outrageous, false and defamatory accusations and allegations about which I have sought legal counsel and were purportedly based on instructions given by the Auditor General, Ms. Jaiwantie Ramdass to Freedom Law Chambers.

In this letter, it was alleged that the Auditor General received from the MOF, that is the acronym, described on page 12 of the letter from Freedom Law Chambers as the MINIS-TER of Finance, two sets of public accounts comprising the original accounts and the amended public accounts for the financial year 2023, with a statement of declaration and certification dated January 31st, 2024, showing a statement of revenue figure of \$64,488,503,781.84. The letter went on to say that both the original and

amended statements were dated January 31st, 2024, despite the error which caused the amendments being discovered long in March—clearly a typo—long after the statutory deadline of January 31st, 2024.

It further alleged that it was clear that the MOF, which acronym could easily be interpreted by a member of the public on reading page 12 of the letter from Freedom Law Chambers, to mean the Minister of Finance, simply backdated the original accounts and the old revenue figure with the new one and that it did so without showing any amendment to the national accounts. The following statement was then made.

“Our Client quite properly viewed this as an unethical attempt to backdate the original national accounts which were submitted to her to cover what was a financial mistake of unprecedented magnitude with grave financial, economic and political implications.”

The letter went on to flagrantly misrepresent statements made by the Minister of Finance in the House of Representatives on Friday 26th, 2024, in the debate on a Motion to extend the deadline in sections 24 and 25 of the Exchequer and Audit Act and to falsely accuse the Government of attempting to coerce and intimidate the Auditor General into doing its bidding in breach of law.

As I will demonstrate momentarily, the allegations made against me as Minister of Finance and the dedicated public servants involved in production of the national accounts on an annual basis are totally false. But it is important to identify for the record the officeholders whose character and reputation the Auditor General through Freedom Law Chambers has impugned.

Throughout the letter from the Freedom Law Chambers, the terms

MOF and Ministry of Finance and reference to officials of the Ministry of Finance are co-mingled and confused with the persona of the Minister of Finance, with the clear intention to give the false impression that the original and amended public accounts for the financial year 2023, were prepared and submitted to the Auditor General by the Minister of Finance himself, when nothing could be further from the truth.

For the avoidance of doubt, the Minister of Finance does not prepare, declare, certify or submit the national accounts to the Auditor General and no Minister of Finance has done this for decades, if at all. In reality, the national accounts are prepared, declared, certified and submitted by the accounting officer in the Ministry of Finance, who is the Permanent Secretary and are co-signed by the Comptroller of Accounts and the Treasury Director. The Minister of Finance is not involved in this exercise, a fact that I made clear in the House of Representatives on Friday last.

However, what is particularly disturbing is the statement in the letter from the Freedom Law Chambers that the MOF—which as I said before, could be me—unethically backdated the amended public accounts to January 31st, 2024:

“to cover a financial mistake of unprecedented magnitude with grave financial, economic and political implications.”

Since I, as Minister of Finance, did not prepare or amend the public accounts nor did I date them, certify them or submit them to the Auditor General, I consulted with the staff in the Ministry about this very serious accusation of improper conduct on the part of the MOF, which as I have indicated, before is described on page 12 of the letter from Freedom Law Chambers as being the Minister of Finance.

I was subsequently sent a copy of the Statement of Declaration and Certification submitted by Ministry officials to the Auditor General with the Amended Public Accounts on April 16th, 2024. From what has been shown to me, this Statement of Declaration and Certification of the Amended Public Accounts is dated April 16th, 2024, and not January 31st, 2024, as falsely alleged in the letter from Freedom Law Chambers. I have seen on that declaration, April 16, one, the signatures of the Permanent Secretary in the Ministry of Finance, the Comptroller of Accounts and the Treasury Director and the date “April 16, 2024”, written in their own hands.

The insinuation that I as Minister of Finance or alternatively the officials in the Ministry unethically backdated the amended public accounts to January 31st, 2024, to cover a mistake of unprecedented magnitude in the national accounts has therefore taken a new dimension. If the document shown to me is authentic and the true date on the Statement of Declaration and Certification of the Amended Public Accounts for the financial year 2023, submitted by the Ministry’s officials is in fact April 16th, 2024 and not January 31st, 2024, then a blatant untruth has been put into the public domain.

This matter now requires a full independent investigation, the findings of which will be reported to the Public Service Commission and any other relevant officeholder for their review and whatever action these independent institutions deem appropriate.

Thank you.

Hon. Senators: [*Desk thumping*]

2.25 p.m.

Sen. Mark: Mr. President, can the Minister indicate that, in light of the

Constitution that gives the Minister direct control over his Ministry as well as substantiated in the Exchequer and Audit Act, section 3 which says that the Minister has complete supervision, control—

Mr. President: What is the question? Sen. Mark state your question.

Sen. Mark: Can the Minister indicate, in light of his statements which cannot be verified, can the Minister indicate whether he is prepared, in the interest of transparency, openness, and accountability, to put on the Table of Parliament, in the interest of full disclosure, all documents, all records, including the senior counsel opinion on this entire matter, so that our Senate and the Members here can have a better picture of what the Minister is attempting to insinuate against the Auditor General? I ask the Minister whether he is prepared to provide this Senate with full disclosure. Full disclosure.

Hon. Senators: [*Desk thumping*]

Mr. President: Minister of Finance.

Hon. C. Imbert: Mr. President, I was not born yesterday and I did not come in town last. In a letter from the Auditor General, the letter I referred to in the statement, I was called upon to retract statements, otherwise action would be taken. Therefore, it would be foolish in the extreme for me to accede to Sen. Mark's request since clearly they are all acting in concert because this is from Freedom Law Chambers.

Hon. Senators: [*Desk thumping*]

Sen. Mark: Mr. President, 46(6), imputing improper motives—

Hon. Senators: [*Crosstalk*]

Sen. Mark:—to this side saying that we are acting in concert. That is dangerous.

Mr. President: So, again Members.

Sen. Mark: I ask that they withdraw that statement.

Mr. President: Sen. Mark.

Sen. Mark: [*Inaudible*]

Mr. President: Member—Members, Members. So, Minister of Finance there has been a statement made, there has been a question asked, and a response given. We will now move on to the next item on the Order Paper. Clerk.

Sen. Mark: Mr. President, I have asked for a ruling but you did not rule—
[*Inaudible*]

Mr. President: Sen. Mark, I ruled.

Hon. Senators: [*Interruption*]

Mr. President: Members, Members, Members. So, the ruling is we will move on to the next question from Sen. Teemal. Sen. Teemal.

Sen. Teemal: Thank you, Mr. President, through you, to the hon. Minister of Finance. Based on what was presented there by the Minister, in terms of the letter from Freedom Law Chambers house, and what is stated within from what I have grasped, is a question of the backdating of the amended statements, particularly the revenue statement. Within that letter, is there any definitive evidence as to the actual backdating towards any evidence put forward as to say this conclusively says that the statements were amended by January 31st?

Mr. President: Minister of Finance.

Hon. C. Imbert: I am not sure what sort of evidence the hon. Senator would like me to produce, but I do have a copy of the letter in front of me and the letter says the following, which is what was in my statement:

Contrary to what was stated in Parliament, our client did in fact receive the amended national accounts from the MOF. She had two sets of public accounts in her possession. The public accounts for the financial year 2023 with a statement of declaration and certification dated January 31, 2024, showing a statement of revenue figure of \$61,890,373,020.22, and the amended public accounts for the financial year 2023 with a statement of declaration and certification dated January 31, 2024, showing a statement of revenue figure of \$64,488,503,781.94. Both the original and amended statements were dated and signed January 31, 2024.

Now, I have in my possession the copy of the Statement of Declaration and Certification signed by the Permanent Secretary, the Comptroller of Accounts, and the Treasury Director. I am not trusting my own eyes, I sent it to a senior counsel who looked at it as well and confirmed to me before I came to this House, that the three signatures on the Statement of Declaration and Certification for the Amended Public Accounts for 2023, are signed in their own hand, April 16, 2024. I have not seen any other Statement of Declaration and Certification for the amended accounts, where those three officials who submitted it signed it January 31st, 2024. I do not know if it exists, but I do not believe that what was shown to me is a forgery, okay.

Mr. President: Attorney General.

ICC MEN'S T20 CRICKET WORLD CUP 2024 BILL, 2024.

XXX

An Act to make provision for the efficient and effective staging of the ICC Men's T20 Cricket World Cup 2024 and for related purposes.

Motion made: That the next stage of the Bill be taken at the next

UNREVISED

sitting of the Senate. [Hon. R. Armour SC]

Question put and agreed to.

**EXCHEQUER AND AUDIT ACT (EXTENSION OF SECTIONS
24(1) AND 25(1))**

Mr. President: Minister of Finance.

Hon. Senators: [*Desk thumping*]

The Minister of Finance and Acting Minister of Energy and Energy Industries (Hon. Colm Imbert): Thank you Mr. President, I beg to move the following Motion standing in my name:

“Whereas it is provided by section 24 of the Exchequer and Audit Act, Chap. 69:01(“the Act”) that within a period of four months after 30th September in each year, the Treasury shall cause to be transmitted to the Auditor General accounts (hereinafter referred to as “financial accounts”) showing fully the financial position of Trinidad and Tobago on the said 31st December;

And whereas it is provided by section 25(1) of the Act, that on receipt of the financial accounts prescribed by section 24, the Auditor General shall cause them to be examined and audited and shall, within a period of seven months after 30th September in each year;

And whereas the said section 24(1) provides that the period provided for the transmission of the financial accounts by the Treasury to the Auditor General may be extended to such longer period thereafter as Parliament may by resolution appoint;

And whereas the said section 25(1) also provides that the period provided for the examination and auditing of the accounts may be

extended to such longer period thereafter as Parliament may by resolution appoint;

And whereas it is necessary that in respect of the financial accounts for 2023 that the period of time specified under section 24(1) of the Act and the period of time specified in section 25(1) of the Act be extended for the purposes stated in the said section:

Be it resolved that for the purpose of the financial accounts for 2023 that the period of time under section 24(1) of the Exchequer and Audit Act be extended from the period of four months after the 30th September 2023 to a period of eight months after the 30th September, 2023:

And be it further resolved that for the purpose of the financial accounts for 2023 that the period of time under section 25(1) of the Exchequer and Audit Act be extended from the period of seven months after the 30th September 2023 to a period of eleven months after the 30th September, 2023.”

Mr. President, the root cause for this Motion is the discovery that the statement of revenue, which had already been submitted to the Auditor General, contained a variance on understatement. This understatement was later quantified by the Ministry of Finance officials comprising personnel from Treasury, Budgets and Inland Revenue divisions to be of the order of \$2,599,278,188.73 and led to the resubmission of the public accounts to the Auditor General on April the 16th, 2024. What has happened since then, surprising.

In the face of written documentation that demonstrates that there is a

variance in the public accounts to the sum of nearly \$2.6 billion, the Auditor General finalised her report without factoring this information in. Bearing this in mind, it is important to highlight that the Motion to extend today has nothing to do with how the Auditor General does her job, or what the report will eventually look like. The Opposition may try its best to make heavy weather of this, but this Motion does not in any way change or alter the independence of that office. It is simply the utilisation by the Minister of Finance of the Exchequer and Audit Act to extend deadlines for the submission of accounts.

It is quite simple, the Ministry is required to submit financial statements, and the Auditor General prepares and makes a report on these statements. This has been made clear and well understood in this country since the first appointment of a Director of Audit in the year 1862. Having said that, the purpose of this Motion is simply to extend the time, so that a submission on the variance can be considered by the Auditor General.

I would like to place on record the issue as posed by the Auditor General to the hon. Attorney General by way of a letter dated April 17, 2024.

In both instances, the first and second amended statements, the Ministry of Finance requested the Auditor General to consider the amended statement even though it was received outside the period contained in section 24 of the Exchequer and Audit Act. Your advice is sought on whether the Auditor General is required to consider the amended statements in light of the provisions of sections 24 and 25 of the Exchequer and Audit Act.

Based on this letter, the hon. Attorney General—as he said in the other place—was unable to provide advice since the Office of the Attorney General had the day before issued a pre-action protocol letter to the Auditor General. This is exactly why there is a Motion to extend time today, so there is no ambiguity whatsoever on whether the Auditor General can properly consider the amended financial statements.

I think it is necessary before I go into the meat of the matter to debunk some of the statements made by the Opposition yesterday. It is alleged that the Government has delayed the laying of the Auditor General's report. The Exchequer and Audit Act at section 25, something that many commentators have avoided, states categorically that the Minister of Finance is required to lay the Auditor General's report within 30 days of receipt. The Auditor General's report was received by the Minister of Finance on or around the 24th of April. Therefore, by my calculations, 30 days from that date is the 23rd of May. We are still in April, so I will challenge those opposite to show under which law the Minister of Finance is statutorily required to lay this report today.

2.40 p.m.

The Opposition has also said that the Ministry of Finance recalled the public accounts initially submitted in January and sent an amended public account for audit. And went on to say:

No supporting documents were produced by the Ministry of Finance to verify or substantiate their claims of a variance of \$2,598,000,000.

This, of course, is completely untrue.

Prior to April 16, 2024, and this is the reason why we are here today,

the Auditor General declined to accept the amended statement of the public accounts for the financial year 2023. It is only when a pre-action letter was sent by the Office of the Attorney General to the Auditor General making certain observations with respect to the law, and advising the Auditor General that she had a constitutional obligation to consider all available information, that the Auditor General said in a letter dated the 15th of April, 2024, that the Ministry of Finance is free to recall and submit amended national accounts, and a deadline was given of April 16th, 12.00 noon.

So, there is also the question about a special report. Even in this scandalous pre-action letter from Freedom Law Chambers, the letter actually confirms the fact that it is necessary to extend the time in order for the Auditor General to provide what is referred to as a special report. Because that was an allegation made in the other place by the Leader of the Opposition; that really what should be done is that the Auditor General should submit a special report on the financial year accounts for 2023. But in this letter from Freedom Law Chambers, they say that it is necessary to extend the deadline to allow the Auditor General to receive the information to do precisely that. So, what we have here today is a case where the Opposition is speaking out of both sides of its mouth. So, let us deal with that.

Section 25 of the Exchequer and Audit Act speaks about a special report, and it says that such special report may be made on any matter incidental to his powers and duties under this Act. Those are the duties and powers of the Auditor General. So, it refers to the ability of the Auditor General to make a special report on any matter incidental to its powers and

duties under this Act. It therefore does not speak directly in any form or fashion to the annual report on the public accounts of Trinidad and Tobago required under section 116 of the Constitution.

And since the Auditor General has decided to go to the legal advisor to the Opposition for advice, we really do not know whether a special report will ever be submitted at all or what it will contain. And, therefore, we are here today, as we were in the other place, to do the only thing that the Minister of Finance can do. I have made it crystal clear that as Minister of Finance, and I will check the records, my predecessor did not submit any accounts to the Auditor General, nor did his predecessor, nor did her predecessor. I have gone back into the records.

Since the Minister of Finance cannot prepare the accounts, certify them, declare them to be correct and submit them to the Auditor General, the only thing the Minister of Finance can do is to exercise the provisions of sections 24 and 25 of the Exchequer and Audit Act, which are crystal clear, which says by resolution the Parliament may appoint a later time for two things: for the submission by the Treasury, which has been deputed to the Comptroller of Accounts decades ago. The Treasury will submit to the Auditor General the national accounts, and the Auditor General then has a period of time to audit these accounts. The period of time given under section 24 for the submission of the accounts or the date, is four months after the close of the financial year.

So, the financial year ends on September 30th. So, if you count four months after that, you get January 31st. So, the Treasury, which in this case is the Comptroller of Accounts, is required to submit to the Auditor General

the national accounts for the previous fiscal year by January 31, 2024. But section 24 of the Exchequer and Audit Act makes it clear that Parliament, and it means both Houses, can extend the time. Because it says or such later time as Parliament may by resolution, appoint.

Similarly, section 25(1) says the Auditor General has seven months from the end of the financial year to submit her report on the annual accounts. And that takes us to tomorrow, actually, April 30th. But again section 25 says the same thing or such later time as Parliament may by resolution appoint. So, the only thing I can do as Minister of Finance, having been advised of this, I call it confusion, and having been advised of the reluctance, unwillingness and I daresay refusal of the Auditor General to accept the revised amended accounts, the only thing I can do is extend the time for the Treasury to give the Auditor General the amended accounts and for the Auditor General to consider the amended accounts.

Now, a question came up in the other place: while it could be seen that it is appropriate to extend the time for the Treasury to submit the accounts to the Auditor General by four months, which takes it to the end of May actually, why was the Government seeking to extend the time for the Auditor General to audit those accounts by a further four months? The reason is, the original time that the Auditor General had was three months. And, therefore, we also want to extend, four months actually, we also want to extend by the same amount. We do not want anybody to make a complaint and say we are putting the Auditor General under undue pressure. We do not want to say look—because that was proposed in the other place. But as I told Sen. Mark a little while ago, I did not come in town last. And if

we had been foolish enough to say we are extending the time for the Treasury to submit the accounts to the Auditor General to the end of May by four months, and we are only extending the time for the Auditor General to look at the amended accounts by one month, allegations of unfairness and, you know, victimization, and so on, would have ensued. So, we are giving the Auditor General the same amount of time. It is a maximum time. The Auditor General could take a week, could take a month, could take two months, could take three months, could take four months. The Auditor General is not compelled to use the entire time of the extension.

Similarly, the Ministry of Finance is not compelled to use the full extension to the end of May. Once this resolution is passed in this Senate today, which I am hoping it will be, then the Ministry of Finance will have approximately one month to give the Auditor General all of the papers and the records and the documents that relate to the amended public accounts for 2023. And the Auditor General will have four months to audit it. And the Auditor General can utilize that entire period or part of it. So, I just want to explain that is why we are simply doing an extension; a four-month extension for both.

Sen. Dr. Richards: Hon. Minister.

Hon. C. Imbert: Sure—

Sen. Dr. Richards: Minister, could you—well, you have identified that—and correct me if I am wrong—this resolution is to facilitate this particular situation, or is it intended to continue ad infinitum? And, two, I read, but I cannot substantiate independently, that one of the issues that was raised by the Auditor General is that not all the supporting documents related to the

reported revised revenue position have been supplied. Can you speak to that a bit please? Thank you.

Hon. C. Imbert: I can talk about that in general terms, Sen. Richards. Let me deal with the first part. If you look at the resolution that is before the Senate, it says it is for the financial year 2023. So it is only this year. It is not next year. It is not in perpetuity, so it is very specific. Okay? And I will just read:

“...that for the purpose of the financial accounts for 2023 that the period of time under section 24(1) of the Exchequer and Audit Act be extended from the period of four months after the 30th September 2023 to a period of eight months after the 30th September, 2023:”

And then it goes on similarly, with respect to the Auditor General:

“that for the purpose of the financial accounts for 2023 that the period of time under section 25(1) of the Exchequer and Audit Act be extended from the period of seven months...to a period of eleven months...”

So we have done four and four; four months for the Treasury to submit, four months for the Auditor General to audit, but only for this year. Okay? I cleared that up.

2.55 p.m.

With respect to the allegations about missing documents and so on, I really do not want to get into that, because in the first place, as far as I am concerned, I have until the 23rd of May to lay the Auditor General's report in the other place and this place, and I do intend to do that. Because, you know, certain entities in Trinidad and Tobago love to twist, distort,

misrepresent, misreport, embellish, editorialize and just downright tell untruths with respect to what Ministers say.

In the other place, I gave that commitment that under the Exchequer and Audit Act, I have 30 days, and I will lay the Auditor General's report within the prescribed 30 days, and in this place as well. I just want to make that clear. But in terms of what documents the Auditor General has received or not received, my investigations lead me to a place that I would not like to be, where officials on one side are saying, "We provided the documents," and officials on the other side are saying, "We did not provide the documents." And really, I do not want to dive deeply into that whirlpool of accusations and counter-accusations, and that is why in my statement I said, we are having an independent investigation because, you know, the Auditor General is saying that, the staff in the Ministry are saying the opposite, they are saying we presented everything. So let somebody else determine that.

In fact, I had a discussion with the head of the public service last night and I would obviously have to get the permission of the Prime Minister, but as a neutral person, I have asked him to look into it for me and see what really—what went on. But of course, that is not the independent investigation I am talking about, that is my own internal investigation I am doing. So I would say, from what the public servants tell me, the Auditor General has received all of the relevant documentation. The Auditor General, allegedly from the letter says, that that is not so. So we would find out what the truth is.

Now, what the effect of the amended accounts does—and I am going into now what happened, because I think it is important to understand what

happened. Prior to February 2023, there was a cheque reconciliation process between the commercial banks and the Central Bank. Now, the Central Bank is a principal actor in all of this and one must understand that, as Minister of Finance, I do not have any special powers to compel the Central Bank to do anything except what is prescribed in the Act. So there are certain things that the Minister of Finance can do with respect to the Central Bank, but there are certain things I cannot do. There is certain information I cannot get.

And in fact, we had a matter on the adjournment just the other day about the Central Bank making a decision to print new \$100 bills because they felt they did not have enough of them in circulation. So they just wanted to do another batch to replenish the supply. And I asked the Central Bank to give me details of their contractual arrangements with the printer of the notes and the cost and all that sort of thing, and they very promptly referred me to a section in the Central Bank Act, which made it illegal for the Central Bank to provide me with that information, and that any officer of the Central Bank that provides that information to an unauthorized person, which includes the Minister of Finance, will be subject to imprisonment and a serious fine. So that there is a principal actor in all of this, which is the Central Bank, and the Minister of Finance only has limited powers with respect to getting information out of the Central Bank.

So the Central Bank, prior to February 2023, used a manual system to deal with tax refund cheques, because this all goes to the reconciliation of tax refund cheques. When revenue is reported—and we are talking tax revenue, individual income tax, corporation tax, value added tax, et cetera.

When it is reported in national accounts, it is a net figure, because there will be a gross figure of VAT collected, but you have to subtract from that gross figure, tax refunds to get the net figure. So when revenue is reported in the Auditor General's report, it is the net figure that is reported. So what has been done for decades is that the commercial banks will send tax refund cheques to the Central Bank—the actual physical paper cheques. The Central Bank would then review all these tax refund cheques, then batch them into types: corporation tax, individual income tax, VAT, et cetera.

They would then send these physical cheques—you can see how cumbersome this exercise is. So the commercial bank sends the tax refund cheques to the Central Bank, the paper. The Central Bank batches them out and sends it to the Board of Inland Revenue, because the entity that reports on tax revenue is the Board of Inland Revenue, and the Board of Inland Revenue alone. Again, under the Income Tax Act, section 4, the Minister of Finance, again, cannot get information out of the Board of Inland Revenue on individual and corporation tax matters. So, again, the Minister of Finance has limited powers there to solicit information. So commercial banks send the cheques to the Central Bank, the Central Bank sends the cheques to the Board of Inland Revenue, and the officers on the Board of Inland Revenue then look at all the tax refund cheques, reconcile and come up with a net figure for tax revenue.

Central Bank changed that system, in 2023, to an electronic system. Instead of physical cheques, there are now electronic images of cheques. So the commercial banks no longer send the physical cheques, it is no longer transported by vehicle or whatever from the commercial banks to the Central

Bank, and then by another vehicle back to the Board of Inland Revenue. There is now scanning of cheques done by the commercial banks and electronic images are sent to the Central Bank, and that is where the problem began. I am told—again, I have to go on what I am told. Remember, as Minister, I do not get involved in this. You have the Central Bank, you have the Board of Inland Revenue with their secrecy provisions. I cannot dig into this and say, “Let me see the cheque.” I cannot do that. That would be a breach.

So I am told that when the Central Bank switched from a manual system to an electronic system, they stopped batching the cheques. So they sent the files in a bundle, so corporation tax, mixed up with the individual income tax, mixed up with VAT and so on. And it proved to be very, very difficult for the officials at the Board of Inland Revenue to properly reconcile tax refunds, because they are not getting electronic images but they are no longer batched. I was also told that the platform—the software platform had some glitches in it, so the persons at the Inland Revenue were getting locked out of the system from time to time. The end result of all of this is that on one day, the Central Bank posted a VAT refund amount, in the amount of \$2.6 billion. Clearly, a mistake because there is no way you are going to have VAT refund cheques of that magnitude, \$2.6 billion, received by the Central Bank and processed in one day. It is impossible. And it is assumed there was an error in the decimal point.

So that when the information was sent from the Central Bank to the Board of Inland Revenue, there was this huge VAT refund amount of \$2.6 billion and it was actually double-counted. This is what I am told. I am told

further—and this is why an investigation is now required because you are dealing with a number of high officials in the system. One set of high officials was saying, “We never got any notification about the correction of that error.” That is what one side is saying. The other side is saying, “Yes, we did correct it,” but the problem is that at the end of the day, the double-posting of refunds—and we have to understand refund is a negative, so that when you double-post a refund, you are going to understate the revenue by that amount, the \$2.6 billion. So the Central Bank advised the Board of Inland Revenue of tax refunds of the order of \$2.6 billion twice, so that the revenue was understated by \$2.6 billion.

The Board of Inland Revenue sent this information to the Treasury—because, again, it is independent authorities operating on their own. Only the Board of Inland Revenue can report on tax revenue. Nobody else. So the Board of Inland Revenue sent the information to the Treasury, which had to accept what it had received from the Board of Inland Revenue and submit it in the public accounts. Fortunately, in Trinidad and Tobago, we have a series of checks and balances.

So after the January date, it is practice in February that the Budget Division, which is another division within the system, will review the information submitted by the Board of Inland Revenue to the Treasury, to the Auditor General. And it is in that examination in February that the Budget Division discovered the \$2.6 billion error, and it is at that time the whole process began where an approach was made to the Auditor General that, look, we need to send your amended accounts. Remember, this is after January 31st. And the way the story goes, the Auditor General declined.

Some would say, refused, just said, “Sorry.” The reports I have from my Permanent Secretary is the Auditor General would not take her calls, would not meet with her, would not receive anything. That is what I was told. Again, we have to dig into this to see if that is so.

But the bottom line is the Budget Division discovered the error, advised the Permanent Secretary in the Ministry of Finance, and then the Auditor General was subsequently advised that, look, there is an error and we need to amend the accounts. And that has taken us to this place today, where the Auditor General refused point blank to accept amended accounts based on an interpretation of independence—I think the Attorney General has referred to the concept of independence and, in fact, a judgment—an illuminating judgment, would you say, Attorney General?—from former deceased Chief Justice Sat Sharma; an illuminating judgment about the whole concept of independent entities within the sovereign State of Trinidad and Tobago.

I made the point that nobody is really totally independent of everybody else. You have to talk, we are not enemies. The Comptroller of Accounts, the people in the Central Bank, the Director of the Treasury, the Chairman of the Board of Inland Revenue are not enemies, we are all trying to get at a particular result. And at the end of the day, the Auditor General would report whatever she considers to be appropriate. What the officials are trying to do was simply give her the information, and she could have disregarded it, she could have said, “Well, I am not auditing that,” whatever, but the whole point is that she refused to receive it. Okay? And we were faced with a very strange situation where—and I found this out this morning.

For those of you who are familiar with audits, there is something called a management letter. Any person who has been involved in audited accounts will be aware of something called a management letter.

So an auditor, whether it is in the private sector or in the public sector, if they detect irregularities in accounts, will send the entity a management letter. In that management letter, all the discrepancies, as found by the auditor, would be identified, questions will be asked, clarification will be sought. And then the auditor is required to receive explanations, responses, clarifications from the entity that it is being audited, and then incorporate those responses, if they deem those responses to be appropriate, into the accounts. My Permanent Secretary told me this morning that he completed audited accounts and the management letter were received on the same day. It does not make any sense. So there are a lot of questions here that have to be answered. But the bottom line is, Mr. President, what we are about here today is to extend the time to allow all of the officials involved to put their house in order.

3.05 p.m.

Now, as I said in the other place, I have to give respect to the public servants. This is a very serious matter for them, and their character has been impugned. They could have, as I said in the other place, simply not bothered. They discover the mistake and they say, “Well, dais de Minister, he go deal with dat, cause he is the politician.” And they could have simply done nothing, let the Auditor General report the incorrect revenue figures, and then when it goes to the Public Accounts Committee, of course it is now being examined, and the revenue figures in the Auditor General report

would be matched against the revenue figures in the *Review of the Economy* and so on. And they would not match, so the public servants could have done that. “Dat is de Minister problem, he go deal with dat.” But they did not. So professional are they and so concerned are they.

Hon. Senators: [*Desk thumping*]

Hon. C. Imbert: And I must, I must give a plug for them, they are all under stress, I know that because they have all been working feverishly day and night for the last two months to determine the source of this discrepancy. For the last two months, day and night to determine what went wrong, who made the mistake, how it was made, and what can be done to correct it. And they did not, they went the other way, and they have placed themselves in a very embarrassing position where they could now be subjected to disciplinary action and that sort of thing. But they felt it was better to inform me as Minister, and I was only told this on the 25th of March, by the way, that there was a problem. They thought it better to inform me as Minister that we have a problem. And they thought it better to ask me to see what could be done to get the Auditor General to receive the amended accounts and of course, I went straight to the Attorney General, who gave me the relevant advice and took appropriate action.

A statement was made in the other place, which is completely inaccurate but part of the campaign of misinformation, that the Minister of Finance knew about this for over a month. That is nonsense. When the Auditor General responded to the pre-action letter from the Attorney General, the Auditor General in that letter made the statement that the Ministry of Finance is free to recall the accounts previously submitted and

submit amended accounts. And that was done on the 16th of April. After that, there was no indication, so I am told, that the Auditor General was going to proceed to publish a report without a full and comprehensive audit of the amended accounts.

It was only the 24th of April, last week Wednesday, that my Permanent Secretary called me in a bit of anxiety and said, “Minister, the Auditor General has completed a report and sent it to the Speaker and the President of the Senate”, your good self. So therefore, we moved with alacrity to convene a Sitting of the House of Representatives, knowing that the statutory deadline is tomorrow. We moved immediately to convene a Sitting of the House of Representatives to extend the time for submission of the accounts, and the time for auditing of the accounts, and we are here today on the 29th of April to ensure that the statutory provisions are followed.

This debate is simply about that, about amending the time period in section 24 and section 25 of the Exchequer and Audit Act and nothing else. And the whole intent is to allow the Treasury to give the Auditor General the amended accounts, allow the Auditor General to receive them because the Auditor General is clearly of the view having gone to Anand Ramlogan who has advised her, “doh receive dat.” So the purpose of this Motion is to extend the time so that the Auditor General can receive the documentation from the Ministry of Finance officials, and then will have four months to examine these documents to meet with—because it is a process.

Once the documents are submitted, like in any audit process, there are meetings. You have interviews, and in fact my PS also told me, and this is

something we need to look into, in the exit interview, there was no mention of the report being presented without a full audit of the amended accounts. So we now have to get things done properly. The Treasury will submit the documents and the alleged missing documents if they are missing at all, and the Auditor General did not have time to look at these documents and do whatever the Auditor General deems to be appropriate.

Much has been made outside of there, the usual hysterical political allegations about attempts to bully and coerce people. Nothing could be further from the truth.

Hon. Senators: [*Desk thumping*]

Hon. C. Imbert: I am here today as Minister of Finance, simply doing my statutory duty utilizing the Exchequer and Audit Act to extend timelines that are cast in stone in legislation, but can be extended by resolution, to allow all parties involved—I dare say, to calm down a little bit, and get together and try and have a reasonable meeting of the minds, and try and see if you could have some kind of collaborative and consultative process leading to a proper result, rather than this antagonistic and politically charged approach with the introduction of this I dare say, “poison pill”, Freedom Law Chambers.

It is really interesting that—it is really interesting and intriguing that the Auditor General will go to Anand Ramlogan for legal advice. And of course you see the result. You see the result.

Hon Senators: [*Crosstalk*]

Sen. Mark: “We does stop you?”

Hon. C. Imbert: Mr. President, what is this screaming all about? What is this screaming all about?

Sen. Mark: [*Inaudible*—“dis man have a problem. We does stop you?”

Mr. President: Members, Members. Please—Sen. Mark, allow the Minister of Finance to finish. Continue.

Hon. C. Imbert: Some facts that—

Sen. Dr. Dillon-Remy: Minister, Minister—

Hon. C. Imbert: Sorry, Miss—

Sen. Dr. Dillon-Remy: I have one question. You said the date for submission was tomorrow. But before that, you said you have up until—you have a month in which to lay the report in Parliament? In other words, I see on the Order Paper that there is a report that there are two reports and they were not called today. In other words, you did not present them to the House today. Why were they put on the Order Paper if they were not going to be presented today? I just have that question, particularly as you are saying you have until—in other words, you still have time to present these reports. And yet you were saying there is a deadline of the 30th of April, this is why I thought we had to do this thing before the 30th of April. So I just need some clarification, please.

Hon. C. Imbert: And I thank Sen. Dillon-Remy, you have raised a number of important points. There are a number of different timelines here. It is different timelines. They all flow from the Exchequer and Audit Act but they are different.

In section 24 of the Exchequer and Audit Act, the Treasury, the Comptroller of Accounts, has until the 31st of January to submit the national accounts to the Auditor General, okay? And then, the Auditor General has until the 30th of April to publish—present a report to the Speaker, the

President of the Senate, and the Minister of Finance, okay? So that is what the Exchequer and Audit Act says, okay?

However, in the same Exchequer and Audit Act, in section 25, it says: The Minister after having received the report and the obligation is for the Auditor General to give that report to the Minister on or by the 30th of April, the Minister then has 30 days to lay it in the Parliament. So those are the different timelines. The Auditor General must submit the report to the Parliament—to the Minister. Let us use Minister of Finance, let us leave out the other office holders. The Auditor General must submit the report to the Minister of Finance by the 30th of April and the Minister of Finance has 30 days after receipt of the report to lay it in the Parliament. So those are the different timelines. I do not know if I have explained why.

We have two problems. The problem is not me laying the report, per se. The problem is that the Treasury had until the 31st of January to submit the information to the Auditor General. The Treasury discovered the error in February. And there was a lot of toing and froing because there are all these cogs in this wheel, you have the commercial banks, you have the Central Bank, you have the Board of Inland Revenue, you have the Treasury, all of them came together to see what is going on, where did this mistake occur. And then, they approach the Auditor General, having established in their mind from their records what happened, they went to the Auditor General and said: “Look, we want to alert you and inform you that there is this large error in the accounts”, and the Auditor General refused to receive it.

So the Treasury is now in a conundrum. They know there is a

mistake; they have told the Auditor General there is a mistake. They want to send the Auditor General the amended accounts and the books, and the records, and all that to show the error, and the Auditor General says, “No, I am not receiving it.” And the reason why, apparently from the Freedom Law letter, is that she is not empowered to receive it. That is the advice she has gotten from Mr. Ramlogan, apparently.

Sen. Dr. Dillon-Remy: Minister, you also said in the other place that she did receive it eventually, or is that wrong?

Hon. C. Imbert: Yes. There is a—

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

Hon. C. Imbert: Sure. Based on legal advice, the advice was that the 31st January deadline applies to the accounts themselves but does not apply to errata. That is the advice, that is the legal advice, that the accounts were submitted on the 31st of January, but errors were discovered, and the legal advice is that the 31st January does not apply to errata. That is the legal advice I have received. The Auditor General clearly has different advice that it does not matter what mistake you find inside of there, you could find it the day after the 1st of February, too bad. She is saying she cannot receive it.

So the whole point of this Motion is to extend the time to allow her to receive the information and to extend the time for her to look at the information, because the curious thing is, the report was due on the 30th of April, which is tomorrow, but it was sent last week. It is strange that was sent a week before. And what I find funny about that is that you know there is a problem, you know that you have been told there is an error, you have

been given documentation on the 16th of April, allegations about about missing documents. Sen. Richards has referred to these allegations about documents do not exist to support the error. But you still have a whole week. Why was the report prepared on the 24th of April? Why was it not prepared today, for example? The public servants were prepared to work day and night, work all weekend and so on, to try and clear up any misconceptions or alleged missing information. So something is very strange in all of this.

First, you have the Auditor General saying that she is not going to receive any additional information after January 31st, even if it is just a correction of an error. And then, you have the Auditor General saying that she could not deal with the information, did not say why. There is no thing about I did not have enough time. I have looked at all the correspondence and so on, and I have not even seen that comment made that there was not enough time, because you had a whole week again to go. So this is all extremely curious.

If this Motion is not passed today, then even the special report that was spoken about by the Leader of the Opposition in the other place and outside, and is referred to in that pre-action letter I got last night, where it says, "Well, if you extend the time the Auditor General might be willing to look at the information." If the time is not extended, it is clear from the legal advisors to the Auditor General that she will not consider the information.

So that what you are going to have instead is that on the public record in Trinidad and Tobago, you are going to have information with an error of

\$2.6 billion.

Hon. Senator: Wow.

Hon. C. Imbert: And what that does, what will that do to our credit rating? What will that do to our relationship with the IMF? What will that do to our relationship with the international banks in the international financial community? Whose interest does it serve to have all of this comes and confusion? Whose interest does it serve to have wrong information on the public record? Whose? How does it help Trinidad and Tobago not to extend the time? How does it hurt anyone to extend the time? There can be no harm in extending the time, but there could be a lot of damage done if the time is not extended.

So, I urge honourable Senators to support this Motion and allow the timelines in section 24 and section 25 to be extended, and that is all this debate is about. I thank you, Mr. President.

Hon. Senators: [*Desk thumping*]

Question proposed.

3:20 p.m.

Mr. President: Sen. Mark.

Hon. Senators: [*Desk thumping*]

Sen Wade Mark: Mr. President, the last time we checked, we on this side checked, Trinidad and Tobago remained a sovereign, democratic, republican State.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: That is the last time we checked. And governed by the rule of law. And when we look at this Motion that is before us, which we wish to

tell the Government, Mr. President, is both unlawful and unconstitutional. We tell you that.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: That is the first thing we want to tell the Government. You are unlawfully attempting to get this Parliament to engage in an action, Mr. President, that the Government knows fully well is not lawful, is not constitutional. I think I want to indicate when we speak of this, it brings back chilling memories of a pastor called Martin Niemöller, a survivor of the Jewish holocaust in Germany under Adolf Hitler. He came up Mr. President, with a famous and classical piece. When they first came. When they first came, he said when they:

“First...came...”—that is the Nazis—“for the Communists...I was not a Communist...”—so—

“...I did not speak out...”

“Then they came for the trade unionists...”

“...I did not speak out

Because I was not a trade unionist

Then they came for the Jews...

...I did not speak out

Because I was not a Jew”—and—

“Then they came for me

And there was no one left

To speak...”

Mr. President, we have to ensure that we are not silent on this matter. We have to ensure that we do not fast forward, and we are to some extent, to that

same classical piece and then substitute it for Trinidad and Tobago. When they first came for the CPC, then for the DPP, then for the Chairman of the Integrity Commission now—

Mr. Imbert: Point of order.

Sen. W. Mark: —the Auditor General.

Mr. Imbert: Point of order.

Sen. W. Mark: —Mr. President, who is next?

Mr. Imbert: Point of order.

Mr. President: There is a point of order.

Mr. Imbert: Which one is that? 46(1), this is only about extension of time in sections 24 and 25. It is not about an assault on various institutions.

Mr. President: So Sen. Mark, you know what is before us and just temper what you are saying, continue.

Sen. W. Mark: I put this in context for the Senate's appreciation for what I am about to say. Mr. President, I have in my hands the Constitution of the Republic of Trinidad and Tobago. And I want to go to Sen. Dr. Dillon-Remy who asked a question a short while ago. And when I go to section 2 of this Constitution, Mr. President, I want to tell you what section 2 of our Constitution says, and I quote:

“The Constitution is the supreme law of Trinidad and Tobago”—
listen carefully eh—“and any other law that is inconsistent with this
Constitution is void to the extent of the inconsistency.”

Mr. President, this is supreme law of the land. The reason why I raising this, Mr. President, I want to go to 116 (5) of the Constitution because we need to understand what this Government is attempting to do to Trinidad and

Tobago. Mr. President, if you go to 116(4) and that is the point that was being made earlier by the distinguished Sen. Dr. Dillon-Remy, it says, and I quote:

“The Auditor General shall submit his reports annually to the Speaker, the President of Senate and the Minister of Finance.”

That is the only time the Minister of Finance is mentioned in the Constitution under section 116(4). Let us go to 116(5) of the Constitution. Mr. President, 116(5) says:

“The President of the Senate and the Speaker shall cause the report to be laid before the Senate and the House of Representatives...after the receipt thereof, respectively.”

Mr. President, nowhere did the Constitution mention the name of the Minister of Finance.

Here, Mr. President, I have in my hand something called the Exchequer and Audit Act, which came into being in 1959. This provision that the Minister speaks to, which is in 25(3) which he is now telling Trinidad and Tobago and the Parliament that the hon. Minister has until May the 23rd to table the Auditor General's report. Hon. Minister, you are wrong, and you are wrong—

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: Mr. President, may I repeat? The Constitution under section 2 is the supreme law of the land and any law that is inconsistent with the Constitution is void. This talks about the Minister in 1962 when this was amended having the power to receive the report and within 30 days' table the report and thereafter, if there is not a Sitting 30 days after. That is now

functus. It is dead. You know why?—because section 116(5) gives the President of Senate the responsibility to lay that report, not the Minister.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: You have done your duty hon. President by laying the report. What has happened is a clash between the Executive and the Legislature. There is a clash between the Executive and the Legislature. So the Executive infiltrates the Constitution using the Exchequer and Audit Act and takes it upon himself not to lay the report when the Constitution does not give him any authority to lay any report.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: He has no authority and I want to tell you something hon. President. Practice does not trump the Constitution. Practice does not trump the Constitution. There was a dishonourable act committed in this hon. Chamber today, a dishonourable act and I can only say, Mr. President, we will have to amend the Standing Orders or the so-called practice.

Mr. President: Sen. Mark, you began by responding to a point made by the Minister of Finance in the moving of the Motion, and now in your expansion of that response you are veering out of the boundaries of what is before us. You are speaking to a procedure prior to the moving of that Motion by the Minister of Finance, so I would ask you to move off of that and on to another point if you have it.

Sen. W. Mark: Mr. President, let me indicate to you, there is a procedure. I am not an accountant by profession, but I did serve as Minister of Public Administration for five years in this republican State. So, I have an understanding of the processes and procedures involved.

Mr. President, if you go to the recital in the Motion before us, it outlines the process, the procedure involved. At the end of September of each financial year all Ministries, all Government agencies, all Government departments, state enterprises that are audited by the Auditor General, are given four clear months to have their accounts audited. Four clear months by themselves they have to prepare their books and there is an entry by a team of audit officials to those Ministries whether the Treasury Division in this instance we are dealing with, and they are able to meet with the Auditor's staff or the audit staff and they go through the process. So, they have a chance to tell the audit staff these are the records, these are the documents. Audit staff would say, look we are seeing something inconsistent in (a) and (b). They are able to produce the records to ensure Mr. President, that they are addressed and corrected.

Then there is an exit when the Auditor would get at the end of the 31st of January the audited accounts of the particular Ministry, agency or department, in this instance, the Treasury Division. So they were able, Mr. President, to submit to the Auditor the public accounts of the Treasury Division, Ministry of Finance in accordance with the law 31st of January.

Mr. President, the Auditor General then has a period of four months, January so we count February, March, April, three months after that, three months almost. To do what? To obey the law. The law says that the Auditor General must table and submit to you Mr. President, her annual report on or before the 30th of April. The Auditor General carried out her legal and constitutional duty.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: And the report was laid, was sent to the hon. President and the Speaker. The hon. Mr. President, laid it. Right.

3.35 p.m.

Mr. President, this is like an *Alice in Wonderland* story. It becomes “curiouser and curiouser”. The Ministers confessed earlier this morning, that an error after—Mr. President, let me explain something here, in terms of the audit process. We have a running commentary, I am being disturbed. Mr. President, let me just indicate something to you. When you submit your audited accounts on the 31st of January, it is certified, it is stamped, so the Auditor General is relying, Mr. President, on the trust and the ability of the team within whatever Ministry, in this instance, the Treasury Division, to properly represent the facts, the figures, the records, as at the 31st.

Mr. President, we are told by the hon Minister that some time in February—he did not tell us the date. He said in February, a couple days later, or a couple weeks later, an error was discovered. What was this error, Mr. President? The understatement, the understatement, or I will put it in another way. The statement of revenue for T&T was understated by 2.5/\$2.6 billion. That is what we were told by the hon. Minister. And that happened in February. Mr. President, February came and went. March came, 24th of March, 24th of March.

The Permanent Secretary—and I have the greatest respect for public officers. I have nothing against them. The Permanent Secretary takes up the phone after certifying and signing off on the accounts of the Treasury Division, Ministry of Finance, Mr. President, and told the Auditor General—like if the Auditor General is some child, some child, some infant—an error

has been made. And then on the 28th of March, they sent a document indicating to the Auditor, “this is the error”. “Understate it by 2.4/\$2.5 billion.” And it was broken down into VAT, individual, business levy, et cetera.

He went on to also say that they discovered an error in the green levy, Green Fund levy, of about 1.1/\$1.2 billion, Mr. President. This is on the 28th of March. So for almost two months, two months, Mr. President, the Ministry of Finance discovered an error. And you want to tell me, Mr. President, the Minister of Finance who has responsibility, who has a fiduciary responsibility—because under section 3 of the Exchequer and Audit Act, the Minister is responsible for supervising, for governing, for controlling, and almost being in-charge of the financial affairs of the State of Trinidad and Tobago. And we are being told by the Minister—and we have to believe what the Minister has said. He would not come here to misguide us. The Minister said he was not aware of anything in his Ministry for two months. Imagine a big error involving \$2.6 billion, and another \$1.14 or 7 billion, Green Fund levy.

Those things are understated errors which are discovered. And Mr. President, I am the Minister of Finance, for purposes of our discussion, and I do not have a clue of what is going on—

Sen. John: [*Inaudible*]

Sen. W. Mark:—in the Ministry of Finance, in the Treasury Division. That is what we are told. That is what we are told.

Hon. Senator: Under claimed.

Sen. W. Mark: But, Mr. President, what is even worse, on the 14th of April or thereabout, the said Ministry of Finance sends to the Auditor General—who has a constitutional duty and role, and responsibility, to report on the accounts of this country, public accounts, on, or before the 30th of April of the following year, of the public accounts of T&T—on the 14th of April, or thereabout, a letter came from the Ministry of Finance—and that is in the papers today as well. And all—I think I saw on the social media, some letter, protocol letter that was issued, recalling, Mr. President—now, this is the Auditor General of Trinidad and Tobago, recalling the certified accounts of the Treasury Division, signed off in accordance with the law.

And on the 14th of April, the Auditor General is being told this is the new amended version of the true accounts of the Ministry of Finance. That is what we are told. That is what is in the public domain. What do you want the Auditor General to do?

Sen. John: Sign it.

Sen. W. Mark: You know what the Attorney General is saying? The Attorney General is saying to Trinidad and Tobago, once the Auditor General received this amended version of the accounts of that Treasury Division, the Auditor General must simply amend, insert this amendment, remove the 31st of January accounts—

Hon. Senator: [*Interruption*]

Sen. W. Mark: Mr. President, you said he will have his chance to speak. To simply remove it and replace it. That is what we are being told. Now, Mr. President, how can an Auditor worth her salt—

Hon. Senator: Qualified.

Sen. W. Mark:—qualified professional, allow herself to be—I want to use the word “manipulated”, I do not want to accuse anybody—to allow herself to be “manipulated”, by simply removing what was sent on the 31st of January, and replace it with something they would have sent on the 14th or the 16th of April. Mr. President, nobody worth their salt, their professional salt, would do such a thing.

Sen. Nakhid: Unethical.

Sen. W. Mark: That would be unethical, Mr. President.

Sen. John: Illegal.

Sen. W. Mark: Mr. President, it goes—it becomes “curiouser”. Mr. President, it becomes “curiouser”. The Auditor General did not stop there. The Auditor General according to public information in the space that is available to us, went on to dispatch an audit team to the Ministry of Finance to check this error, and asked the Ministry officials, and the Treasury officials, and the Board of Inland Revenue officials.

Sen. John: And could not find the—[*Inaudible*]

Sen. W. Mark: Listen, you are saying what—? There is an error of \$2.6 billion. First it was 3.3. They cannot reconcile, they cannot find, it is missing in action, \$780 million cannot be accounted for.

3.45 p.m.

So we are only dealing with 2.6, Mr. President. So hear what is going on, sends in her team of officials—you see, there are a lot of unfortunate remarks being made about the Auditor General that is simply not true, and I will correct the record on that. We are the Parliament, the Auditor General reports to the Parliament. We have a duty, as a Parliament, to protect the

independence and the constitutional independence of the office of the Auditor General.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: That is our duty against any Executive incursion or adventure.

So, Mr. President, here it is we—the Auditor, that is—sent in the officials, they began to audit and then they reached a dead end. The audit officials from the Auditor General’s Department is being told that \$2.6 million is understated and we have to increase the revenue from \$61 million to \$64 million. That is the new revenue figure that they are proposing—

Sen. Lyder: Billion.

Sen. W. Mark: Billion, rather. Thank you.

Sen. Lyder: “B-b-b-billion”.

Sen. W. Mark: “Buh-buh-buh-buh-buh-buh-billion”.

Hon. Senators: [*Desk thumping and laughter*]

Sen. W. Mark: Mr. President, we are now in a strange place. You are the Auditor General—I am the Auditor General, I sent my staff to audit this understatement and, Mr. President, when they tried to audit and they called on the officials from the Ministry of Finance, where are the records to substantiate this 2.4? It cannot come out from thin air. It must be supported.

It is like I am issuing a cheque to you, Mr. President, from my account for \$100,000, and all I have in my account is \$50,000. Mr. President, what is that? You cannot cash. So you are telling me, Mr. President, 2.6, and when I ask you, “Kindly produce the records, kindly produce the documents, show me audit evidence,” Mr. President, they get a pre-action protocol letter.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: The Auditor General got a pre-action protocol letter for simply asking the Ministry of Finance to produce their records to substantiate the \$2.6billion—“buh-buh-buh-buh-billion” dollars; 2.6—Mr. President, this is an unprecedented magnitude.

How can you tell the Auditor General that you cannot produce the records, and you are telling the Auditor General after that, Mr. President, “Simply include in your report what we say.” Mr. President, it does not work that way. It does not work that way. What is this? Is this invisible money or is it Monopoly money?

Sen. Lyder: PNM money.

Sen. W. Mark: I do not know. PNM money.

Sen. Nakhid: Balisier House money.

Sen. W. Mark: I do not know.

Mr. President: Sen. Mark, just be careful.

Sen. W. Mark: Okay. Alright. So, Mr. President, this is the conundrum that has brought us here today. Mr. President, that office is constitutionally protected under section 116, and if you go to section 54 of the Constitution, if you want to touch any or omit any section in section 116, you have to have a three-fifths majority.

The framers of the Constitution recognized the importance of this independent office and did not want political interference, Mr. President—did not want political interference from anybody, whether it is from my side, from their side or from any side. That office is supposed to be independent. So when the Minister comes here and seeks, through this resolution, for

2023 accounts, extend the period by four months to August the 31st instead of April 30th, what is the Minister trying to do?

Why is the Minister not coming sufficiently and transparently clean with the public and have the report tabled and allow the Auditor, through this extension, to address the issue that is being claimed to be understated, and you could have a special report generated to address this issue, so we do not have to tamper with the Constitution and we do not have to tamper or bring the office of an independent constitutional holder into disrepute? We should not be doing that.

Mr. President, as I am on this point, I want to ask the Minister, in his absence, when this thing was brought to your attention—the hon. Minister said it was brought to his attention some time by the end of May or at the end of March, Mr. President, why did the Minister not bring this very Motion in the month of March for an extension? Why? Why? Why did you carry the Auditor General down to the wire? On the 16th—the 14th or the 16th, Mr. President, you recalled and then you submitted your amended version for inclusion, but you are talking about 16 days before the lawful period that the Auditor General has to submit her accounts. You carried it right down to the wire. Why? And then you come here to ask us, as a Senate, to give you support, Mr. President, to extend the time.

So what do you expect the Auditor General to do, Mr. President? You expect the Auditor General to change and amend her report? She cannot do that. She will be in breach of her duties under the Constitution. She cannot amend a report that has been lawfully submitted to the Parliament, but an office-holder, in the persona of a Minister, bluntly refused to table and to lay

the report. That is not the Auditor General's report—

Mr. President: Sen. Mark, you keep referring to the tabling of a report, which is not what is before us. What is before us is the extension of time, so I would ask you, once again, to get back to what is before us. Continue.

Sen. W. Mark: So, Mr. President, let us be clear what we are being asked to do today. I want us to be very clear. We are being asked by the Government to breach the Constitution. That is what the Minister is asking us to do. We are warning this Government, you may have the majority today—

Sen. Dr. Browne: Point of order, Standing Order 46(6), the Member is clearly imputing improper motives to the Minister of Finance.

Mr. President: Okay. So, Sen. Mark, in your reference to what you just stated, just be careful of the language that you are using. Continue.

Sen. W. Mark: So, Mr. President, we are of the view, very clearly, that the measure before us today is unconstitutional and it is unlawful, and we are serving notice on all and sundry, here and abroad, that you will meet us in the courts of Trinidad and Tobago.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: We will not allow the Government, Mr. President, to use the Parliament and utilize whatever majority they have to, in the end of the day, bring about bad law. We will not facilitate that, Mr. President. So we put them on notice.

Mr. President, you know what it reminds me of? I asked a question some time ago—I think it was in January. I asked a question—because it is a kind of analogous to some extent. I asked a question about \$17 billion that

we have been hearing, shouted all over the place by the Government, and all I asked the Government to do was to tell me where this came from, how it came, who paid. You know what I was told? “It is a secret and confidential.” So up to now, on behalf of the people, I do not know—

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

Sen. W. Mark: Right. I do not know.

Sen. Dr. Browne: Mr. President, on a point of order, Standing Order 28(1)(d).

Mr. President: Continue, Sen. Mark.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: So, Mr. President, it is clear to us, and I want to quote—because everybody is quoting from protocol letters. I want to quote from the protocol that I have. Everybody is quoting protocol. Mr. President, as a “bush lawyer”, I want to quote from a document that I found somewhere on the system. It states, and I quote:

It is clear that the Government wishes to sweep this matter under the carpet. However, the Auditor General has a duty and a responsibility to carry out on behalf of the people—

Mr. President: So, Sen. Mark, you indicated that you are quoting, but as a rule in this Chamber, if you are quoting, you have to state your source.

Sen. W. Mark: No, I do not—[*Inaudible*]

Hon. Senators: What?

Mr. President: Sen. Mark—

Sen. W. Mark: [*Inaudible*]

Mr. President: No, no, no. No, no, no. No, no, no. No, no, no. Listen to

me carefully. If you are going to quote, you have to state your source. What is your source?

Sen. W. Mark: My source—

Mr. President: Yes.

Sen. W. Mark:—is a protocol letter that I got on the system addressed—

Sen. Mitchell: [*Inaudible*]

Sen. W. Mark: No, you do not ask—you are out of place.

Mr. President: Sen. Mark, have a seat.

Hon. Senators: [*Crosstalk*]

Mr. President: Members. Move on, Sen. Mark. Do not even bother to quote.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: So, Mr. President, look, I will leave others to extensively quote this matter because I am about to close.

Key players are involved in this drama: the Central Bank, the Board of Inland Revenue, the Treasury Division, the budget office. I understand the Minister wants to conduct an independent investigation, but that is already poisoned. It will be biased. You know why? The Minister has confessed to us that he called and was in contact with the head of the Public Service Commission, asking him how to go about this exercise and he wants his advice. How can you want an independent investigation, headed by the Public Service Commission, and you have already contacted—you have poisoned the whole process.

Mr. President, I want to advise them that the framers of our Constitution, in closing, protected that office. You want to remove me? I

am the Auditor General. Set up a tribunal, get three judges from the Commonwealth, they will report—

Hon. Senator: [*Inaudible*]

Sen. W. Mark: Yes, your objective is to remove.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: You want to hound her out of office. They want to bully the Auditor General.

Mr. President: Sen. Mark, have a seat. Again, 46(6), be careful with the phraseology that you are using. You have a few seconds left.

Sen. W. Mark: Mr. President, I want to close by telling Trinidad and Tobago, we do not support this unconstitutional, illegal and unlawful Motion before us. Secondly, we are going to take this matter to the courts of Trinidad and Tobago because we recognize it to be unconstitutional and the courts will make a determination. Finally, we want to make it very clear, we are here to protect the constitutionally independent, protected office of the Auditor General.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: If the Auditor General does not have the support of the Government, she has the support of the Opposition in Trinidad and Tobago, and the people in Trinidad and Tobago. I thank you, Mr. President.

Hon. Senators: [*Desk thumping*]

4.00 p.m.

Mr. President: Sen. Hazel Thompson-Ahye.

Sen. Hazel Thompson-Ahye: Lest, the voice of the gayelle drown out why we are here today, I would like to say that the Motion before us is that the

period of time under section 24(1) of the Exchequer and Audit Act for the Treasury to transmit to the Auditor General, the financial accounts showing fully the financial position of Trinidad and Tobago on the 31st December 2023,

“...be extended from the period of four months after the 30th September 2023 to a period of eight months after the 30th September 2023... that the period of time under section 25(1) of the Exchequer and Audit Act be extended from the period of seven months after the 30th of September, 2023 to a period of 11 months after the 30th September, 2023.”

Mr. President, I thank you for the opportunity of speaking on this Motion brought by the hon. Minister of Finance. Whenever I am informed of the matter to be debated on the Order Paper of the day, I scrutinize it very carefully. I ask myself, is this a matter within my domain with which I feel comfortable and can handle without too much effort, or does it present a challenge and require me to exercise my research skills and the process widen my sphere of knowledge? The answer determines the length of time I must allocate for preparation and if the notification is received as this one was fewer than two working days to prepare, I wonder if it is a state of emergency.

I do not ask who is bringing the Motion though, and from whence it came, I consider these matters irrelevant and immaterial and capable of leading me down the garden path of loyalty to a brand, rather than the common good, and I feel a sense of gratitude for my independence. So, instead, I ask myself, is this good for the country? Would it benefit the

citizens? Is it bad law not likely to benefit my compatriots but would cause them hurt? What would be the consequences if this matter to be debated were not passed into law? Is there precedent for this, here or anywhere? Sometimes there are more questions than answers, but when I ask those questions of myself though, and my intellect through my research and my heart prompted by my conscience gives me answers, then and only then I can proceed to debate and later vote.

If there are matters of a hybrid nature on the Bill, some clauses with which I agree, some of which I am not in favour, others which give pause and cause me to be conflicted, I may abstain. My vote is never malevolent, as I may run the risk of “cutting off my nose to spite my face.” No, I would like to withdraw that analogy because if you remember, “Mr. No-Nose Brackley” in the olden days if he had cut off his nose, it would not have spited his face but improved it.

Now, this Motion was one I really had to research. I looked at the Constitution, I looked at the Exchequer and Audit Act, and the laws of Trinidad and Tobago to ascertain what does it say about the Auditor General’s role and functions, and I examined the case law from parts of the Caribbean. I find it convenient though, to begin with the method of appointment of the Auditor General under the Constitution, section 117—

Mr. President: Senator, you do not need to go that far. Remember, we are dealing with the extension of time as it relates to what is before us. So, you may need to skip over all of that and get to the part of your contribution that deals with that and what has been stated by the Minister of Finance and Sen. Mark before you. Continue.

Sen. H. Thompson-Ahye: Thank you, Mr. President. So the Auditor General is empowered to carry out audits of the accounts, balance sheets, and so on and the reports are to be laid before the Senate and the House of Representatives respectively at the next Sitting.

In my quest to understand the meaning of the phrase that:

“...the Auditor General is not subject to the direction or control of any other person or authority.”

I encountered the case of *Transparency International v the Attorney General*, Petition 388 of 2016: [2018] eKLR Kenya Law Reports. This case was citing an article titled, “The Role, Independence and Accountability of the Auditor General: A Comparative Constitutional Analysis” written by Professor John Hatchard, Professor of Law of Buckingham Law School, a school of which I have fond memories, that is a story for another time. If I may quote Hatchard, he wrote:

“In this important case, the petitioners submitted that a number of sections of the Public Audit Act...were unconstitutional both in purpose and effect as they tended to ‘interfere with the independence and mandate of the Auditor General, an independent constitutional office’. The Constitution of Kenya provides, amongst other things, that the Auditor General is ‘subject only to the Constitution and the law and independent and not subject to direction or control by any person or authority’. Further, that in carrying his/her constitutional mandate the ‘Auditor-General may audit and report on the accounts of any entity that is funded from public funds’... and ‘An audit report shall confirm whether or not public...’—funds—’... has been applied

lawfully and in an effective way.

One provision of the...”—law—“...that was challenged was section 40 ...”—by judge—“Mwita J”—who—“noted the section required the Auditor General ‘to hold a pre-audit meeting at the highest level to agree on areas to audit and the appropriate audit approach when auditing national security organs and even allows the vetting of officers to conduct the audit. In addition, he noted that section 42 of the...”—Act—“...barred the Auditor General from questioning government policy objectives during audits.

In an impressive and thoughtful judgment...”—Justice—“...Mwita J declared these sections unconstitutional.”

He said:

“A statute cannot seek to impose conditions on the Auditor General’s audit approaches when the Constitution gives him the mandate to do his work without direction or control from any person or authority. This violates national values and principles of governance including integrity, transparency and accountability in Article 10 and financial openness in Article 201 of the Constitution...”

Now, Hatchard saw the case emphasizing not only the supremacy of the Constitution but also as recognizing the role of the Auditor General. This was explained in the Transparency International case thus:

“...the Auditor General is an ally of the people. While Parliament is the peoples’ representative, the Auditor General provides Parliament with accurate and independently derived audit information on state organs and public bodies expenditure...thus ensures that there is public

sector accountability.”

Further he said:

“...it demonstrates the role of civil society organisations in supporting and publicising the work of 421 such constitutional bodies.”

Mr. President, the words “...accurate and independently derived audit information...” are crucial to this debate here today and should be the starting point. Mr. President, far be it for me to presume to advise the Attorney General, but, the present office holder is my senior at the Bar and can describe himself as my superior. He did suggest recently, during a debate that some people needed to return to law school, I wonder if he meant me. But I am an insatiable student, my love for learning is insatiable and I have been to law conferences in India, Belgium and [*Inaudible*] because really one never should stop learning.

My view, however, differs from the Attorney General and that of the Minister of Finance regarding the behaviour or attitude of the Auditor General. I see the present Auditor General as a person who has just come to office and wants to do the right thing but is unsure of how to proceed. True, she has been a deputy for some years, and although a deputy may be essential, a deputy is not a principal. She met with a situation that is unprecedented and it needs to be resolved. It might have achieved a better result had the Attorney General sat down with the Auditor General to arrive with a common understanding of the meaning of “accurate and independently derived audit information.” But then, subsequent events

namely the delay in reconciliation would have rendered the then desirable result academic.

Curiously though, when the Auditor General reached out to the Attorney General in what I saw as *cri de coeur* to ask how she should proceed in light of the law which governs her operations and which states clearly in section 24(1), and I quote:

“24. (1) Within a period of four months after 30th September In each year, or such longer period thereafter as Parliament may by resolution, appoint—

the Treasury shall cause to be transmitted to the Auditor General accounts showing...the Financial position of Trinidad and Tobago on the said 31st December, which shall include—”

And it goes on. The Attorney General informs her that he is already advising the hon. Minister of Finance on this very matter and she should retain independent counsel to give her advice on the matter. And I was astounded by his response, the long title of the Exchequer and Audit states in part:

“An Act to provide for the control and management of the public finances of Trinidad and Tobago...”

We therefore know immediately that the Auditor General is dealing with the public purse, the Government’s money. Section 10 (f) of Act:

“In the exercise of his duties under this Act the Auditor General shall be entitled—

(f) to lay before the Attorney General a case in writing as to any question regarding the interpretation of any written law

concerning the powers of the Auditor General or the discharge of his duties, and the Attorney General shall give a written opinion upon such case;”

Mr. President, having regard to these provisions, I find it hard to imagine that the very sensible framers of our Constitution did not envisage that the Attorney General in his role as legal advisor to the Government would also have to advise the Auditor General on matters involving the Government to which he is also advisor. What other entity would she be dealing with in discharge of her duties as Auditor General, if not the Government to whom the Attorney General is also advisor? That of itself is mind-boggling and I wondered if the Attorney General had thought through that odd response.

We are told that the Minister of Finance submitted the accounts within the statutory period of four months after September 30 as set out in section 24 of the Exchequer and Audit Act. Subsequently, a huge error described as a material understatement in the statement of revenue to the tune of \$2, 599, 278, 188. 73 was discovered in the accounts. The Ministry of Finance contacted the Auditor General’s office advising of the error and informing that a reconciliation process was underway.

Mr. Imbert: Senator, respectfully would you give way? I am just asking you to give way, respectfully. I would like to just ask you something and say something.

[Sen. Thompson-Ahye nods in agreement]

Mr. Imbert: Thank you very much. It is the Minister of Finance who submitted that.

Sen. H. Thompson-Ahye: Pardon me?

Mr. Imbert: It is not the Minister of Finance who submitted that report, it is the Comptroller of Accounts. Okay?

Sen. H. Thompson-Ahye: I am guided.

Mr. Imbert: Thank you.

Sen. H. Thompson-Ahye: You are so kind.

Sen. Roberts: “Allyuh could mamaguy people”.

Sen. H. Thompson-Ahye: [*Laughter*] As late as April, the finance Ministry was still trying to reconcile figures, yes? There was a lot of back and forth between the two entities with lawyers becoming involved and threat of legal action against the Auditor General as the Auditor had refused to accept the CD with the amended public accounts.

A great deal was made of the implications if the amended revenue statement was not accepted. The Auditor General was advised that her refusal to accept the amended public account was unlawful and irrational because it was inexplicable that she would produce an audit based on incorrect information having regard to the dire repercussions of understanding revenue to that extent.

Mr. President, the law is quite clear about the period for submission of account of the Government’s financial accounts. Having regard to the huge discrepancy in the first account submitted and the corrected amount, surely, this second account must be viewed as a submission of the full financial position of Trinidad and Tobago, and that it was being done outside the statutory period and this would require a resolution being brought to Parliament to extend the time.

Section 25(1) outlines the procedure on receipt of the accounts under

section 25. It states:

“On receipt of the accounts prescribed by section 24 the Auditor General shall cause them to be examined and audited and shall, within a period of seven months after 30th September in each year or such longer period thereafter as Parliament may by resolution appoint, prepare and transmit to the Minister a report upon his examination and audit of all accounts relating to public moneys, stamps, securities, stores and other State property together with certified copies of each of the said accounts.”

4.15 p.m.

I see nothing wrong, bizarre, irrational or even obstructionist in the stance being adopted by the Auditor General. She seems to me to be trying to do her job to the best of her ability and everyone else should get on with theirs. Perhaps an apology could be extended to her.

Sen. Mark: Yeah.

Hon. Senators: [*Desk thumping*]

Sen. H. Thompson-Ahye: While—I really do not need the help. Thanks. While it may not have occurred here before, it is not unknown for governments to approach their Parliament to seek an extension of time to submit the accounts.

In the same High Court action from Kenya with Transparency International which I referred to earlier, the petitioner impugned section 12 of the Public Audit Act as being in contravention of the Constitution. Perhaps Sen. Mark was living there. That Act created a position of acting Auditor General, a position not contemplated in the Constitution. Because

of that lacuna, this resulted in several bodies failing to meet the statutory guidelines for crucial reports to be tabled in Parliament. Fortunately, the framers of our Constitution had the foresight to provide for an acting Auditor General.

Today, we have before the Parliament a double-pronged Motion for extension of time to submit the audited accounts to Parliament. In the Transparency International case under discussion, the court held *inter alia* that:

“Going forward, the Governor of the Central Bank of Kenya should adhere to statutory timelines in submission of requested documents including placing requests to Parliament for extension of time limit for submission of such requests as provided in Section 90 of the Public Finance Management Act 2012.”

So it is nothing so unusual that we are doing here today. It also held that:

“The Attorney General should always provide legal advice to government entities to avoid being in breach of the law.”

When we consider the implications of the Motion not being passed, we really do not have a choice but to support it. I trust that our Attorney General will take notice of these recommendations in the Transparency International case, especially the last one, about providing legal advice to government entities to avoid them being in breach of the law and that he will follow suit. I will support the Motion as every sensible person ought to.

In closing, I wish to quote from John Rawls “Justice of Fairness: A Restatement”.

“A well-ordered society is stable...because its citizens are satisfied,

all things considered, with the basic structure of society. The consideration that moves them are not perceived threats or danger from outside forces but are given in terms of their political conception they all affirm. For in the well-ordered society of justice as fairness, the just and the good (as specified by that political conception) fit together in such a way that citizens who count as part of their good being reasonable and rational and being seen by others as such, are moved by reasons of their good to do what justice requires. Among these reasons is the good of political society itself.”

This would require that the extension be granted so that we can get on with the business of government and it will proceed. Thank you.

Hon. Senators: [*Desk thumping*]

Mr. President: Minister of Public Administration.

Hon. Senators: [*Desk thumping*]

The Minister of Public Administration (Sen. The Hon. Allyson West):

Thank you, Mr. President. Mr. President, I am not an accountant although a lot of people think I am because of the areas that I have worked in for most of my career, but I have worked with accountants and auditors for most of my professional career. Because my focus has always been on tax law, and because tax, the tax treatment of an item generally, follows the accounting treatment of an item, I have paid throughout the course of my career a lot of attention to accounting standards and auditing standards because I needed to understand those to understand how to treat with a matter for tax purposes.

So when I first heard about what was transpiring with respect to our accounts for 2023, it took me back to look at the learnings that I have gained during the course of my career on how accounting and auditing matters

should take place. In doing that I thought that it is important to point out during the course of the debate what are the objectives of an audit, what is required of an independent auditor and what essentially we are trying to arrive at as a reasonable solution to this conundrum that faces us. So that is how I am going to frame my contribution this afternoon.

So there are international standards that guide auditors, and the international standards set out the overall objectives of independent auditors in the conduct of an audit. Those standards cover various things. In respect of this item there are two terms that we need to understand to determine what we are dealing with. Those two terms are material misstatement. What is a material misstatement? A material misstatement is something that is included in the accounts or that is missing from the accounts that will influence somebody to whom those accounts are directed to make a decision.

There are lots of mistakes that can occur in audits and a lot of them the auditor can ignore because they are not material, but once you are talking about a material misstatement, focus has to be placed on that because it can mislead a potential investor. It can mislead a lender. It can mislead even anybody interacting with the person producing those accounts. So that is one. The question is, is the misstatement that the Ministry—not Minister—of Finance is claiming exists in respect of these accounts as material. It is \$2.6 billion. I do not think anybody can dispute that the absence of \$2.6 billion of revenue in our accounts in 2023 is material.

Hon. Senator: It is significant.

Sen. The Hon. A. West: That is, I mean, something that needs no debate.

So we are talking a material misstatement. Once we have a material misstatement it requires attention, it cannot be ignored. So that is our first premise.

The second item that needs consideration is the subsequent event. There is an entire auditing standard dealing with what is called a “subsequent event”. This is an event that would have occurred after the accounts were closed but impacts on the accuracy of the accounts. Now it may be arguable that this is not a subsequent event, but a discovery subsequently of an event that took place before, but that is at a lower standard than a subsequent event. So if you have an entire audit standard telling you what to do with respect to events that occur after accounts are closed that you need to address to properly treat with the accounts, surely they must relate to a discovery of a material item that occurred during the year but impacts the absence of which or the presence of which would significantly impact the accuracy of the accounts. So let us see what the standards say regarding subsequent events.

Hon. Senator: Educate them.

Sen. The Hon. A. West: Okay. So it says that:

“The date of the auditor’s report informs...”—the reader that—“...the auditor has considered the effect of events and transactions of which the auditor”—became—“aware and that occurred up to that date.”

So, we are talking in this scenario about an auditor be presenting with accounts at the end of January. The auditor issuing a report almost at the end of April. An item, a serious misstatement being brought to the auditor’s attention in respect of those accounts that occurred no later than the middle

of March. So that is before the auditor issued his or her report. That is an item that this says, that the auditing standards say, have to be taken into account, because once the auditors opines on that, the auditor is saying, “I am aware of this thing because it happened before I issued my report”.

The objective of the auditor, one of the objectives of the auditor is to:

“...obtain sufficient appropriate audit evidence about whether events occurring between the date of the financial statements and the date of the auditor’s report that require adjustment of, or disclosure in, the financial statements are appropriately reflected in those statements in accordance with the...financial reporting...” standards.

So that is what the auditing standards require of the auditor. It goes on to say that:

“The auditor”—shall, not may, but shall—“...perform audit procedures designed to obtain sufficient appropriate audit evidence that all...events...”—occurring between the date of—“...the financial statements...”—and the date of the auditor’s report that—“...require adjustment of, or disclosure in, the financial statements have been identified.”

That is required of the auditor.

“If, as a result of the procedures performed as required...”—in the paragraph I just quoted—“...the auditor identifies the...events that require adjustment of, or disclosure in, the financial statements, the auditor...” shall “determine”, again not may, shall “determine whether each such event is appropriately reflected in...” those “financial statements in accordance with the financial reporting framework.”

“The auditor” shall “request...management, and where appropriate, “...those charged with governance” to “provide a written representation that all events occurring—“...subsequent to the date of the financial statements...”—and for which the—“applicable financial reporting framework requires adjustment or disclosure have been adjusted or disclosed.”

So those are the requirements on an auditor in respect of an event that occurs subsequent to the closure of the accounts but before he or she issues the report. And/or I would say an issue that arises subsequent to the provision of the report, but before the auditor signs, issues his report.

So this is where we are. We are talking about an event, we are talking about a discovery that occurred after the accounts were provided at the end of January, but significantly before the audit report was issued. Having, as I said before, worked with auditors, I have seen this happen on countless occasions. It is not unusual for errors to be spotted, for events to occur which will impact on accounts that have already been issued by the accountant to the auditor. What happens? What is the practice when that happens?

The auditor, and I am talking about the independent auditor here, in the normal course of things, either spots the problem and brings it to the attention of the client, or the client will realize that there is an issue and bring it to the attention of the auditor. As a general rule they work together not to collude, not to “cook the books”, but to determine that what is put out to the public is accurate, because you must remember that audited accounts carry a significant weight throughout world. It tells the world, it tells

lenders, it tells investors, it tells whoever is interested that these accounts have been certified as essentially correct by an auditor.

So it is important for the auditor to understand what has transpired to investigate the records and come to his conclusion and issues his opinion. Which is why when an event comes up, that it is brought to the auditors attention or the auditor spots, the auditor is at liberty and, in fact, is required to request such information as he or she requires to determine what is the position with respect to this adjustment, with respect to this event and ascertain whether it is properly reflected in the accounts. That is important.

4.30 p.m.

And having done those investigations the auditor then determines, yes I am satisfied with these accounts or no I am not, and he issues his opinion or her opinion accordingly. If one does not examine the issues related to a material misstatement, how can you then say whether or not you are satisfied with the accounts? And investigating a material misstatement is not saying I agree to include whatever adjustments the preparer of the accounts says should be included.

All it is, is a requirement for the auditor to investigate the issue and come to his or her own opinion. That is all we are asking for time for, to allow the auditor to investigate the issue and determine whether the originally issued accounts or the accounts that were prepared after the discovery of the issue would represent the correct state of affairs on which the auditor can sign off. That is all we are requesting.

So, these things happen as I said in the private sector all the time. There are two categories of opinions generally that an auditor will issue. An

auditor will issue an opinion which says that the accounts are fine and/or he can issue a qualified opinion that says I have some concerns regarding a particular thing or things so that the standard opinion would read like this:

We have audited the consolidated financial statements of—fill the company's name and its subsidiaries—which can price the consolidated statement of financial positions as at—X—date.

The consolidated statements of comprehensive income changes in equity and cash flows for the year that ended—and—

Notes to the consolidated financial statements.

In our opinion—this is the important part—In our opinion the accompanying consolidated financial statements present fairly in all material respects, the financial position of the group as at—the relevant date—and its financial performance, and its cash flows for the year ended—whenever it was.

So that is the normal opinion issued by an auditor. This is in respect of a private sector—publicly listed but private sector company.

On the other hand the auditor can issue a qualified opinion because he or she is not satisfied about a particular item or items. And again, he would start off the opinion by saying:

We have audited—whatever—and continue in our opinion except for the possible effects of the matter described in the basis for the opinion, the accompanying financial statements present fairly in all material respects, the financial position of the company.

In this case the auditor was not satisfied with a particular item. He or she stated he was not satisfied with this particular item, but said in all other

aspects the accounts were fine.

So a bank can take that and say okay, let me ignore that part of the financial statement. I can say the finances presented but for this amount, \$1 million, \$2 million, \$2 billion in our case, is certified as correct, so on that basis I could determine whether I am prepared to lend, how much I prepared to lend. An investor can say the same thing, I have looked at this, the income is less than the company says it has earned, so let me determine whether I should invest on that basis, but he has something concrete from the auditor on which to basis his conclusion which is the purpose for audited accounts. Other than that we could just prepare normal accounts and put them up there and let the investor and the lender, just you know, play it by ear and determine what they think should be done.

So audited accounts and the opinions of auditors is very important. I looked back a couple of years in our history to determine what the Auditor General would generally say in respect of the public accounts. And in 2021 and 2022, in paragraph 3, I believe in both years, this is the opinion of the auditor:

“In my opinion, the accompanying financial statements...and the supporting Notes...present fairly, in all material respects, the financial assets and liabilities of the Central Government as at September...”

—This would have been 2021 and 2022—

“... and the expenditure and revenue of Government Ministries and Departments for the financial year ended September 30 ...”

—Whatever year—

“... in accordance with the cash basis ...”

Because unlike most people, we used the cash basis of accounting, right. So this is what the auditor would have said in her 2021—Auditor General, in the 2021 and 2022 reports to the Government in respect of the financials for those years.

In addition to that, the auditor may and in both years he or she did, refer to certain items that may cause them concern. For example, she would have said in 2021 that Government made no contribution to the Heritage and Stabilisation Fund and this is the status of the fund. She would have commented on the status of our debt, those kinds of things. But she gave a clean opinion which is what the auditors call it when there are no reservations they call it a clean opinion. So in those two years we got a clean opinion. In that very report the Auditor General says:

“The Auditor General’s responsibility ...”

I am quoting from her or his report:

“The Auditor General’s responsibility is to express an opinion on the Public Accounts...to report thereon...”

She has claimed that is her responsibility or he has claimed that is his responsibility, because as I said these are ’20 and ’21:

“The Auditor General’s objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an audit report that includes his opinion.”

The Auditor General says that her main responsibility is to issue an audit report. So, how in 2023, are we saying that it is fine for the said Auditor General to say, “I do not express an opinion on the Public Accounts of the

republic of Trinidad and Tobago for the year 2023.” How is that consistent? So what we are saying is not that Auditor General should put in the accounts what we say should go in the account.

We are saying to the Auditor General let us know what you need, here are the documents, here are our adjustments, review them, check the document, and issue your opinion as you have said you are required to do. As opposed to saying, “I am not expressing an opinion”, because when you do not express an opinion nobody can rely on this document, and we are talking about an entire country with no account on which anybody could rely. What do our lenders do? What do our investors do?

Hon. Senator: Rating agencies.

Sen The Hon. A. West: What do our rating agencies do? We need accounts on which we can rely. So what we are saying to the Auditor General is let us know what you need, we will provide it for you and if you are satisfied we will include it. If you are not satisfied you express an opinion that says that. But to not examine the records is just not acceptable. And the legislation—Sen. Mark of course, gone off on his tangent about we being illegal and unconstitutional. The legislation contemplates the scenario. The legislation says if we need more time you can come to Parliament and get more time.

The same way when you look at a private sector organization, the private sector organizations are publicly listed. Also have statutory deadlines. The Trinidad and Tobago Securities Exchange Commission are the bulldogs that watch and ensure they comply within the three-month period that they have. They have less time than the Government but of

course, their accounts are not as complicated and not all over the place as a general rule.

4.40 p.m.

They have statutory deadlines, but there is a recognition that things may occur that may cause you to miss the statutory deadlines. What happens when there are issues between when the financial statements are presented and when the auditor presents his report and they are not able to agree? The auditor will write to or otherwise communicate with the person whose financial statements they are and say, “I have a concern about this, I have a query about that, I am not satisfied with this.” The auditor will—the client, let us call him a client, will present such documents as they have.

In presenting the challenge that the auditor is facing in being satisfied with the accounts, the auditor will say, “I am dissatisfied with that, this is what I need to satisfy me, and these are the implications that are not satisfying me.” I will not recognize this income, I will not recognize this expense, and so on and so forth. So the client knows what is the outcome of not being able to satisfy the auditor, and the client will do his/her best to provide the evidence that is required to satisfy the auditor because the objective for both the client and the independent auditor is to produce accounts that are accurate. And if at the end of that process, the auditor is not satisfied, the client can reasonably expect, and will usually get a qualified opinion, and he has to live with that, because he has not done what is required to get the accounts to where he wants it to get. All we are saying is, we need the opportunity to do the same thing.

Sen. Mark ranted about the fact that the auditor sent his people in, and

they were auditing the paper work, and they were not presented with the evidence. He sounded as though he was part of the process because he sounded very convinced about what he was saying. My information is a little different from that, so I am not here to cast aspersions on anybody. There were mistakes made in the Ministry of Finance, there was a certain position adopted by the Auditor General, that is not my concern. My concern is, what is the right thing for us to do? But in determining what is the right thing for us to do, if we listen to Sen. Mark, we may say that, "Well, the Auditor General gave them a fair chance and therefore, we should not give them anymore." But my information is that the error was discovered in February, they did their investigation, they came to a position close to the end of March, they attempted to bring this information to the attention of the Auditor General, the information was not accepted until the protocol letter was issued. I will leave the Attorney General to deal with that because that is his area.

But in my understanding, those were the sequence of events, and this is why the information on the material misstatement was not received by the Auditor General until the second half of April, which left them a little under two weeks to resolve the issue. And as the Minister of Finance said, the public servants in the Ministry of Finance would have worked night and day to satisfy the Auditor General of this misstatement. I mean, who does not want Trinidad and Tobago to recognize \$2.6 billion more that is just floating around? We want it in the accounts because we want to get a proper report from the rating agencies, we want to be able to get proper terms when we go to borrow, we want investors to come here because they say things are

happening and things are improving and they are getting better

So the Ministry of Finance people—and I have worked with them and I know I can certify that they will be prepared to work night and day to produce what is required. So for Sen. Mark to come here and say that they are not prepared to produce the information, and they were asked for it and they just refused, it is ridiculous because it does not work to their advantage to not produce the information. Because the Auditor General will not sign off on the accuracy of that \$2.6 billion unless he/she is satisfied that it actually exists, so they would have produced the information if they were asked for it. So this is the crux of the matter that we are treating with today.

So in light of that, let me deal with some of Sen. Mark's other egregious statements. I dealt with the request in the records. I dealt with the pre-action protocol letter.

Hon. Senator: [*Inaudible*]

Hon. Senators: [*Laughter*]

Sen. The Hon. A. West: He also made the claim that the Ministry of Finance is saying, "Simply accept what we say as correct and put that in the accounts." And what I have said before, this is—nothing could be further from the truth. We understand that for the Auditor General to pen her signature on that, saying that these accounts are fine, she needs to be satisfied. We are quite prepared to satisfy her. And if after she examines the accounts, she is not satisfied, then, okay, a qualified opinion may be required. But in order for you to get there, you have to look at the accounts. And as I said earlier, saying, "I am not prepared to issue an opinion," is not fulfilling your obligations that you yourself claimed that you have. So we

need to address that issue.

We are in no way seeking to attack the independence of the Auditor General. We are in no way seeking to remove the responsibilities of the Auditor General in respect of the audit of this or any other accounts. All we are saying is, an investigation that needs to be done to confirm the accuracy or otherwise of accounts that were prepared subsequent to January 31, 2024—needs to be investigated to determine the accuracy. That is all we are saying. And the time has passed—the statutory time will be passed by tomorrow and it cannot be done under the law unless Parliament gives us the time, which the law allows Parliament to do, to have that investigation completed.

Nobody thinks it should take us long as the end of August to get it done, but having regard to the challenges we have faced so far, out of an abundance of caution, we think we should give equal time to the Auditor General, as we are giving to the Ministry of Finance. Of course, most of the Ministry of Finance's time has passed, so they are basically dealing with the adjustments that they have already identified, but we want to ensure that everything is seen to be fair, and we will, from the Ministry of Finance's perspective, do our best to ensure that—and I am talking as though I am still Minister in the Ministry of Finance. But the Government will do its best, working with the public service, to ensure that the Auditor General is supplied with everything that she needs to get the job done, but we need to get this job done because we need accurate accounts.

We are not seeking to bring the office of the Auditor General into disrepute. There are concerns, as I said, about the different sides being

taken, and we really should—as auditors and clients in private sector do when there is an issue, they get together, they have a discussion, they determine how long it will take to resolve an issue. Because we could have come to the Parliament earlier had we had the discussion with the Auditor General that says, “It will take me two months to review this, so I need two months, and the legislation tells me I have until the end of April.” At that time, the Ministry of Finance could have offered, “Let us go to the Parliament and get the additional time that you need.” Because the legislation recognizes that these things happen, and the legislation gives us the ambit to come to the Parliament to get the extended time.

So as the Minister of Finance would have said in his presentation, this is a simple matter. It does not have anything to do with “who do what and who say what, and the timeline of people, and who eh respond, and who eh take documents”. It is, do we need accurate accounts for the Republic of Trinidad and Tobago? The answer to that has to be, yes. Do we currently have accurate accounts for the Republic of Trinidad and Tobago? Not even the Auditor General can certify that, because the accounts have not been looked at and her position, as outlined in the newspaper, is that is not giving an opinion. That serves nobody. We need the time to get the accounts right and to put them out there. We are happy to do that as quickly as we can, so I am asking the Parliament to go with us on this Motion and give us the time to get the accurate accounts that will work for the benefit of everybody in Trinidad and Tobago. Mr. Vice-President, I thank you.

Hon. Senators: [*Desk thumping*]

Mr. Vice-President: Sen. Anil Roberts.

Hon. Senators: [*Desk thumping*]

Sen. Anil Roberts: Thank you, Mr. Vice-President. The hon. Minister looks resplendent in red. The spirit of Hanuman Jayanti is obviously in her pronouncement. The problem is she is moving with kumbaya. And maybe if the hon. Minister of Public Administration had been put in charge of this situation, we would not be here because she would have, as she stated, communicated, discussed and not gone out on a warpath against an independent office-holder, using the precincts of the Parliament and safety of parliamentary privilege to attack an office-holder, to talk and read out pre-action protocol letters to state their case. But there is one problem with the hon. Minister's position, ignorance is bliss, because the only side that she knows is what she has been told, and she is not fully aware of all of the information.

Because when you read both sides and you gather information, you would see that while the Government and the Minister of Finance talked about this \$2.58 "b-b-billion", there is really \$3.379 "b-b-billion" missing that the PNM Government cannot account for; \$780 million, not a word of that. Not talking about documentation, but we come in the Senate and we come in the Parliament and we talk about an office-holder refusing to meet and refusing—stating categorically, and when you hear the other side, there is no such thing.

Furthermore, this debate, Mr. Vice-President, could have been very short, very simple. It could have been section 24(1) and section 25(1) of the Exchequer and Audit Act; could have been very short, pristine, quiet, but then the hon. Minister of Finance got emotional. I have never seen it in all the years. And he extended debate, he opened up debate, he went on the

warpath against the office-holder, like the PNM's Napoleonic Minister of Finance, and he opened debate to all form and fashion.

So why did the Government not just come and say, "We made an error, we apologize, we need time to find the documentation for the \$3.79 "b-b-billion" that we would like to put into the accounts so that the deficit does not swell, because we have elections and we were telling you all, everything is nice, the economy is booming, the deficit is being managed, we are coming down and bringing down the budget deficit, and then, boom, the whole thing opens up and money missing." This could have been an easy, simple debate, but the hon. Minister went into all realms, and as a responsible Member of the Opposition, I must respond to the erstwhile Minister of Finance.

Mr. Vice-President: Sen. Roberts, just as a point of clarification, the statement made before—

Sen. A. Roberts: I am not dealing with that, Sir. I am—[*Inaudible*]

Mr. Vice-President:—the debate was separate and apart.

Sen. A. Roberts: Sir, that is over here. "I here long time". Right? I am not dealing with that statement, I am dealing with the 44 minutes and 35 seconds of the Minister's presentation. So let us get going because my time is short. He brought in politics—the hon. Minister brought in. He brought in that the PNM does not want to control the office of the Auditor General. He spoke about untruths and truths. He spoke about documentation being available. He spoke about the process. He spoke about dates and deadline, January 31st, March 25th, April 25th—

Mr. Imbert: Point of order, 46(1). This never happened. This is totally

irrelevant.

Sen. Mark: [*Inaudible*]

Mr. Vice-President: Sen. Roberts—

Mr. Imbert: [*Inaudible*]

Sen. Mark: [*Inaudible*]

Sen. A. Roberts: Sir, please, he said—you forget the *Hansard*? I am not playing that game today. I am—[*Inaudible*]

Hon. Senators: What?

Mr. Vice-President: Sen. Roberts—

Sen. A. Roberts: I am responding to the Minister.

Mr. Vice-President: Sen. Roberts, I am on my legs. Let us just keep it relevant and keep it to what was debated and what was laid in the Motion.

Sen. A. Roberts: Thank you, Mr. Vice-President. Maybe the hon. Member does not recall what he said, but I sat here and I took copious notes of every word that came out of his mouth. He also went on to talk about public servants, and he praised some public servants, while attacking others. There are good public servants and others who are not worthy of a praise. He talked about UNC lawyers, he talked about insinuations about the actions of the Auditor General, and implied *mens rea* in what necessitated or what proved or put forward her actions. He spoke about a pre-action protocol letter that he had received, and he was very pained that it was hurting him that he received a pre-action protocol letter. He spoke about the Central Bank and the Central Bank Governor, and dollar bills, \$100 bills, and who decided to open up.

Yes, if you did not pay intention, Sir, I paid very close attention to the

hon. Minister. He spoke about the Treasury being involved and the budget department at the Ministry of Finance. He spoke about previous Ministers of Finance and what they did. The process and theory of audited and accounting, the Minister spoke about. He spoke about technology versus old school, technology with pictures of cheques as opposed to batching and all of that. This is what the Minister spoke about.

4.55 p.m.

He spoke about Freedom Law Chambers and the PNM Members were talking about UNC lawyers and they are UNC lawyers and why the Auditor General “gone” for a UNC lawyer. If the UNC lawyers happen to be good when you are under pressure and you are under attack from powerful forces, you need the best lawyer.

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts: So if Anand Ramlogan and Freedom Law Chambers are the best attorneys, you have to get the best. If you have unfortunately an aneurysm or something you want the best neurosurgeon. So I do not see why the PNM is afraid of Freedom Law Chambers like that. I mean Freedom Law Chambers never had a senior counsel go in a court of foreign jurisdiction and say he is not a senior counsel. Freedom Law Chambers never forgot to put in a defense and lost a case up to \$3 million. Freedom Law Chambers never lost—

Sen. The Hon. Dr. Browne: Point of order, Mr. Vice President. Standing Order 46(1), none of this is relevant.

Mr. Vice-President: Standing Order upheld. Keep the arguments within the debate, please.

Sen. A. Roberts: Mr. Vice-President, if the hon. Leader of Government Business thinks that his Minister of Finance is irrelevant, I agree with him but this is what was stated by the honourable. I am responding to the hon. Minister of Finance in this debate, in this House and that is what the debate is about. So, he also, the Freedom Law Chambers under Anand Ramlogan, never advised a government that an illegal indemnity was legal until it was not. He never did that.

Mr. Imbert: Mr. Vice-President, point of order, 46(1), this is a Motion extending timeline.

Sen. Mark: [*Crosstalk*]

Mr. Vice-President: Sen. Roberts, Sen. Roberts, this is not a debate about that. It is on a Motion, 24(1), 24(5), extension of time. Reel it in please.

Sen. A. Roberts: Yes, Sir, thank you, Sir. I know that you would be well aware that the debate began on a narrow 24(1) and 25(c), but the hon. Minister of Finance opened the debate in all areas and once the debate is opened, I am within my rights to debate that Minister.

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts: That is what it is called. This is just yet another example and that is why they want to stand up now on Standing Orders. I sat there quietly as they cast aspersions on everybody, on UNC, on Opposition, on the Auditor General, on lawyers and I sat there quietly. “Now they are getting nervous because they cyah find the money. Where de money gone?”

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts: Where the \$780 million gone? This is just another pellucid example of the dangers of electing a tyrannical, oppressive, corrupt

PNM regime.

Mr. Imbert: Point of order—

Sen. A. Roberts: Citizens—

Mr. Imbert:—46(1), and what is the other one, offensive language? The other one. Irrelevant, imputing improper motives.

Mr. Vice-President: In the spirit of the debate whilst you do respond—

Sen. A. Roberts: Thank you.

Mr. Vice-President:—finish it now.

Sen. A. Roberts: Thank you, Mr. Vice-President. The hon. Minister of Finance said that this Motion, these Motions are not to try to control the Auditor General. I am here to debate that point made by the hon. Minister of Finance. And in fact I put it to him that it is to control and if he needs to go and check his *Hansard*, I request the *Hansard* of the Minister of Finance be given to him for him to read what he said for himself. Because I am putting it to you that the PNM is in fact trying to control another independent office, the mere fact that we are actually now debating the Office of the Auditor General. I have never seen—

Mr. Imbert: Point of order. This Motion is about extension of time in section 24 and section 25—

Hon. Senators: [*Crosstalk*]

Mr. Imbert:—of the Exchequer and Audit Act.

Sen. Mark: [*Crosstalk*]

Mr. Vice-President: Sen. Mark, Sen. Mark, silence, please, silence, please.

Sen. Mark: [*Crosstalk*]

Mr. Vice-President: Sen. Roberts as much as you believe you are

responding—

Sen. A. Roberts: Not believe, Sir.

Mr. Vice-President:—as much as you are responding I ask that the tone and the relevance be upheld.

Sen. A. Roberts: Yes, Sir. It is very relevant, Mr. Vice-President, because not only did the Minister of Finance say that they did not want to control—the hon. Minister of Public Administration just spent eight minutes saying that the PNM just want good accounts—

Sen. Lyder: Yes.

Sen. A. Roberts:—they want nice accounts. They do not want to control anybody, they just want the process to go ahead. I am saying that that is not true and I am going to show that this has—

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts:—been the methodology and the DNA of the PNM, to control independent institutions. Just let me remind you as you are a member of that party and others, that this is the Government that locked up Occah Seepaul because she did not do as they wish. So that is control of an independent—

[Sen. Gopee-Scoon *stands*]

Mr. Vice-President: Sen. Roberts you are really going outside the realm of the Motion. You are going outside of the realm of the Motion. I ask that you keep it relevant, please, to the Motion at hand.

Sen. A. Roberts: Let us go to the Constitution. Section 116, let us read it a little bit, because it is quite clear, and the hon. Minister said in trying to criticize the hon. Sen. Wade Mark that they should expand ALTA. I

suppose he “doh” remember he said that too. But let me say that I “doh” require ALTA at this time, but I will read the Constitution—

Mr. Imbert: On point of order, 46(1), that is irrelevant. I have not yet responded to Sen. Wade Mark.

Sen. Mark: [*Crosstalk*]

Mr. Imbert: That is impossible.

Hon. Senators: [*Crosstalk*]

Mr. Vice-President: Sen. Mark, Sen. Mark, Members—

Hon. Senators: [*Continuous crosstalk*]

Mr. Vice-President: Right, hold a second. Senators! Senators on both sides I am on my legs, I am on my legs. Sen. Roberts it was the use of English that was misconstrued there, but the words were mentioned. Proceed.

Sen. A. Roberts: Thank you, Sir. “Tank yuh”.

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts: I know, I know, I know the job—

Hon. Senators: [*Crosstalk*]

Sen. Nakhid: He has ruled, he has ruled.

Sen. A. Roberts: Can I have some protection, please, Mr. Vice-President. First time in “meh life ah asking”, please protect me from these PNM, protect me from them. I am trying—

Sen. The Hon. Dr. Browne: Point of order. Standing Order 46(1), the words of the Minister of Finance—

Hon. Senators: [*Crosstalk and desk thumping*]

Sen. The Hon. Dr. Browne: I am moving a point of order, Mr.

Vice-President.

Sen. Mark: [*Crosstalk*]

Mr. Vice-President: Sen. Mark, Sen. Mark—

Hon. Senators: [*Crosstalk*]

Mr. Vice-President: Sen. Mark, Sen. Mark, Sen. Lyder—

Sen. Mark: [*Crosstalk*]

Mr. Vice-President: Sen. Mark, I said it was the use of English of how it was phrased. The Minister said that he did not say it in that manner because he did not respond. It is—

Hon. Senators: [*Crosstalk*]

Mr. Vice-President: One moment.

Sen. The Hon. Dr. Browne: Point of order, 46(1), the Member is misconstruing the words of the Minister of Finance which were uttered in his capacity—

Hon. Senators: [*Crosstalk*]

Sen. The Hon. Dr. Browne: May I finish, Mr. Vice-President.

Mr. Vice-President: Remember how this works, when it is a point of order everyone listens to the Senator on his legs. Proceed.

Sen. The Hon. Dr. Browne: Those words were uttered by the Minister of Finance in his capacity as acting Minister of Energy and Energy Industries in responding to a question, not during this debate. Thank you, Mr. Vice-President.

Hon. Senators: [*Crosstalk*]

Sen. Lezama-Lee Sing: Correct.

Mr. Vice-President: Sen. Roberts, keep it relevant to what was debated, to

what was debated, not what was previously stated.

Sen. A. Roberts: Thank you, Mr. Vice-President. They jumpy over there, but that is alright, okay. Do not worry.

Hon. Senators: [*Crosstalk*]

Sen. A. Roberts: Section, the Constitution, section 116(4):

“The Auditor General shall submit his”—well her, his or her—
“reports annually to the Speaker, the President of the Senate and the
Minister of Finance”—shall—

“(5) The President of the Senate and the Speaker shall cause the report to
be laid before the Senate...”

In section 116(6):

“In the exercise of his functions under this Constitution the Auditor
General shall not be subject to the direction or control of any other
person or authority.”

Hon. Senators: [*Desk thumping*]

Mr. Imbert: Point of order, point of order, 46(1), this is a debate on a
Motion with respect to two sections of the Exchequer and Audit Act. And
the Senator cannot be responding to me because I did not refer to any of
those constitutional provisions. I referred to 24 and 25 of the Exchequer and
Audit Act which is what this Motion is all about. He is being irrelevant,
46(1).

Hon. Senators: [*Crosstalk*]

Mr. Vice-President: Sen. Mark. Sen. Roberts, proceed with caution.

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

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts: The hon. Minister of Finance and the Minister of Public Administration and the PNM position is that they do not want to control the Auditor General. They just want to get the correct accounts as all of us do for our beloved country Trinidad and Tobago. And one of the arguments made by both Ministers is that the separation of powers does not mean that we cannot talk. The hon. Minister of Finance said that different office holders can talk, can meet, can share information, that is fine, that is fantastic. But what they cannot do is direct, coerce, bully, threaten or try to cause pre-action protocol letters.

The very Minister, a man who is very experienced in this politics and who may have received many pre-action protocol letters, he was ruffled by the Freedom Law Chambers' pre-action protocol. He was speaking about how Anand Ramlogan and the UNC lawyers are trying to bully them and to push them in a corner and was even speaking about, how could the Auditor General go to a UNC lawyer. But he—it does not use the same argument when a Government—

Sen. The Hon. Gopee-Scoon: 46(1).

Mr. Vice-President: Sen. Roberts, please come to that point swiftly.

Sen. A. Roberts: You know the point is very clear and if the hon. Members could relax and “doh” jump up and down. If they had spent that time running up and down looking for the paperwork for the \$3.6 billion—

Hon. Senators: [*Laughter and desk thumping*]

Sen. A. Roberts:—we would not be here. You “eh” talk about the billions that missing, you are only stopping me from talking and responding. Separation of powers. The PNM is trying to redefine separation of powers

so that they could talk. Of course you can talk. You cannot instruct. You do not threaten with pre-action protocol letters. Even the hon. Independent Senator was confused because the Auditor General should be able to go to the hon. Attorney General for advice, but they were so busy threatening and throwing pre-action protocol at her that he could not advise her because he had already taken a position against her.

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts: Against the “kumbaya”, against the great accounts because the fact of the matter is that a grave error was made. They are referring to \$3.79 “b-b-billion” as if it was two dinner mints that slipped out of this envelope out of this pocket. They keep talking about the little mistakes and it was just on a date, on January, and then they found out—

Sen. The Hon. Armour, SC: [*Inaudible*]

Sen. A. Roberts: Absolutely not. I do not give leave and I do not recognize you at all. Please, “doh” interrupt me.

Hon. Senators: [*Laughter*]

Sen. A. Roberts: I—whaa, what, what is it?

Hon. Senators: [*Desk thumping*]

Mr. Vice-President: It is okay if you do not give leave, but you cannot confer disrespect onto another Member. Continue, please.

Hon. Senator: [*Inaudible*]—room 201

Sen. A. Roberts: Thank you. Room 201? At least I passed my exams without \$500,000.

Hon. Senators: [*Laughter*]

Sen. A. Roberts: But I will now quote from an hon. Attorney General and I

am going to show that the DNA of the PNM as they need to keep interrupting, the DNA of the PNM has always been to control independent institutions. If you love your country and you want to do a good job, checks and balances are okay, that is great, do it properly, but not the PNM. Throughout their history, anybody who disagrees or tries to follow the law is met with the wrath of the PNM. I read a quote here from a PNM Attorney General, it is beautiful, the hon. Keith Sobion, may he rest in peace, brilliant individual. August 5, 1995—and the hon. Attorney General in the other place said:

“The Government”—the PNM—“is committed to maintaining our democracy which is founded on the principle that the elected Members of Parliament must uphold the Constitution and the law. It is no part of our tradition that any person or group of persons, whether elected or not, should seek to control or overturn our Parliament and other democratic institutions.”

Mr. Imbert: Point of order.

Sen. A. Roberts: “Any such...”—

Mr. Imbert: 46(1), totally irrelevant.

Mr. Vice-President: Sen. Roberts you are speaking about a time that is way before this occurrence and this Motion. Please be current with your argument, please.

Sen. A. Roberts: Yes. Thank you, Sir. Under this Government we “doh have current because T&TEC not operating”. However, to bring context to a debate when we are dealing with the power position of the Government of Trinidad and Tobago, trying to use heavy-handed tactics to try to cover up

and cook the books and “chunkay” the books for \$3.6 billion missing—

Mr. Imbert: Point of order.

Hon. Senators: [*Desk thumping*]

Mr. Imbert: Point of order—what is imputing improper motives?

Hon. Senators: [*Crosstalk*]

Sen. The Hon. Dr. Browne: 46(6).

Mr. Imbert: 46(6), 46(1), this has nothing to do with the Motion to extend the time.

Hon. Senators: [*Crosstalk*]

Mr. Vice-President: Sen. Roberts, the relevance is for questioning. I ask you to bring it in and keep current please.

5.10 p.m.

Sen. A. Roberts: Thank you, Sir, and that is all right. There is no Member over there who could rattle me. I am debating the hon. Minister of Finance. Yes, he is getting on in age and his skills are diminishing, but I am still debating him. So he has to grab for protection. The point is that the PNM is saying that this is just a Motion to extend. My position and the UNC’s position is—if that was so, then why you did not just come and extend? Why you had to go and attack with pre-action protocol? Come and say that the Auditor General refused to accept information when in fact she did, and she could not find the substantiating or the substantiated document for the money.

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts: All the Independent Senators, they want real accounts. Well real accounts require bills, require invoices, require paperwork, and if

the paperwork is not there, then like the hon. Minister of Public Administration, the money is floating in the sky. It does not exist. And, if it does not exist, no PNM could force the Auditor General to say it exists. “Where de money gone?”

Mr. Imbert: Point of order. Point of order, 46(1), 46(6) and 53(1)(b) as well. Tedious repetition.

Mr. Vice-President: Sen. Roberts, in making your contribution as your time is going—

Sen. A. Roberts: Nah, I want extra time, Sir.

Mr. Vice-President: Well please try not to be repetitive. Yes?

Sen. A. Roberts: Repetitive. I am trying to make my point. If they keep jumping up like they are doing squats—anyway, healthy lifestyle is very good. Exercise is good.

So in quoting from a PNM Attorney General about the separation of powers, about independent officeholders, we are here with the Government using all its might and all its power, the power of the executive, to attack and wage war against an officeholder who nobody knew before. I did not even know if the Auditor General was a man, woman, child. I did not know anything, but it is only when the PNM decided to attack this human being. After the PNM make the error you know—they make the error, but I never hear error talk so slow, so soft. The Minister of Finance, “Well an error was seen. It was not seen by me.” And then, the hon. Minister of Finance does the incredible. In a simple letter where any reasonable person reading it and knows that it is not the Minister who places accounts—the Minister does not do accounts. The Minister does not collaborate with the Treasury and so on.

How could anyone interpret MOF as the Minister of Finance? Only someone trying to create mischief would do that because it is the Ministry of Finance, the Ministry, public servants, the officials there, could not account. They gave in their accounts on January 31st and \$3.79 billion was unaccounted for. They then said, “Oops, we found this.” Now the Minister say he did not know anything about it, but by the Constitution—

Mr. Imbert: Point of order, 53(1)(b), extremely tedious repetition.

Mr. Vice-President: Continue Member.

Sen. A. Roberts: I know he is tired of being wrong. He is tired of being a failure. He is tired of being the worse Minister of Finance in the history of Trinidad and Tobago. He is tired of acting as Prime Minister because his Prime Minister—

Mr. Vice-President: Sen. Roberts, you may believe that you have gotten my protection, however you do not need to hurl insults. Keep your contribution succinct and senatorial please.

Sen. A. Roberts: Thank you, Sir. I will not “cuss” down the place like a Senator over there you know, Sir. I am just saying this Minister of Finance, his track record is woeful. That is a fact. That is not an insult. He is just not good. That is all. But when we go to the PNM, they said in the debate here they do not want to control. The Attorney General back in 1995 said, “We do not want a control. We want democracy.” Do you know when was that debate? That was the debate calling a state of emergency to lock up a Speaker.

Mr. Imbert: Point of order. Point of order, 46(1). He is persisting in irrelevance

Mr. Vice-President: Sen. Roberts, we raised 46(1) and I have upheld it on that same argument already, and I have also would like to remind you of 53(1)(b) where you are repeating yourself or a matter you have already said.

Sen. A. Roberts: Thank you, Mr. Vice-President. The other way that the PNM Government controls, as we can see once again, is by, as the hon. Minister of Finance said, it is the public servants. But we have seen public servants, especially in this Ministry of Finance under this Minister, public servants who by convention should do their job, do their accounts, stay apolitical. We have seen them in the spotlight of the economy sharing the views of the PNM and the existing Government, and then receiving cushy positions in London. We have seen—

Mr. Imbert: Point of order, 46(1). Imputing improper motive as well. 46(6).

Sen. A. Roberts: [*Inaudible*]—hear the truth.

Mr. Vice-President: Sen. Roberts, 46(6). First of all, Minister of Finance, 46(6) is imputing improper motives.

Sen. A. Roberts: No problem. Okay Sir.

Mr. Vice-President: Keep it relevant.

Sen. A. Roberts: Moving on. All I said, Mr. Vice-President, is there was a Permanent Secretary in the Ministry of Finance, who—

Mr. Imbert: Point of order, 46(1). He is repeating his irrelevance.

Mr. Vice-President: Senator—

Sen. A. Roberts: He is confused.

Mr. Vice-President: Sen. Roberts, you are starting to ramble around improper motives and repetition repeatedly. You have made that point

already.

Sen. A. Roberts: Which point, Sir?

Mr. Vice-President: Can you please move on without repetition?

Sen. A. Roberts: Mr. Vice-President, thank you. I am making a point that has not been made. The point is that the PNM Government has historically, and in this incarnation tried to control every independent institution in our constitutional Republic.

Mr. Imbert: Point of order, 46(1), 46(6).

Hon. Senators: [*Desk thumping*]

Mr. Vice-President: Sen. Roberts, if you persist you are going to be met with Standing Orders of same. I just ask that you create a new way to say it or we just move on within your contribution please.

Sen. A. Roberts: Thank you, Mr. Vice-President. One thing is sure, the people are listening out there and the next point that will be made is that this PNM—For example, the hon. Minister spoke about the Central Bank Governor, but we have already seen—He said today that the Central Bank office, the Governor, is an independent office and so much so that there is a section under the Central Bank Act that the Minister cannot get and make a request for information, and the Central Bank public servants and the officials there told the Minister, “Stay in your corner. You cannot ask us for this information.”

But in November 2019 into December, the very same Minister of Finance instructed the Central Bank Governor to stop cotton notes in two weeks and the whole country was put into a—

Mr. Imbert: Point of order, 46(1), 46(6), 53(1)(b).

Mr. Vice-President: Sen. Roberts, we have heard your point. Standing Order upheld. Kindly proceed.

Sen. A. Roberts: Thank you, Mr. Vice-President. They say errata. The hon. Minister of Public Administration said, “There is a process for errata.” Well they need a new word to describe what has occurred with this PNM because errata is just a few little dollars here, missing here, paperwork there. Not \$3.9 billion. That could not be described as errata. That could be described as irrational, as wrong, as incompetent—

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts:—as corrupt. They kept saying that the Auditor General refused to take meetings and take information. That is not true and I correct the record—not on behalf, I do not need to defend the independent office, but when you attack someone you must be able to correct the record. The Auditor General is on record as saying that she went and gave the Ministry of Finance officials every opportunity to show the substantive paperwork to back up the figure of \$2.58 billion and she did not see it yet.

Furthermore, she said that the public officials at the Ministry of Finance and so on admitted that they can make no attempt to account for \$780 million.

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts: “Dey doh have paperwork, dey doh know where it come from, dey doh know what it is about.” But now the Auditor General is being attacked in the most vile manner by politicians, bringing an independent office into the gayelle and that we will not stand for. So we ask the PNM where the money—

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts:—where the \$780 million? And that is on the revenue side. We are not even talking about the \$1 billion of expenditure that the PNM spent and they cannot account for a cent, and they are coming here to take like Pontius Pilate inside of this Senate. That is what this is about.

The PNM moves with a culture of fear. Even here you can see they were trying to intimidate me, trying to jump up, but I do not scare very easily. So they could jump up whole day, but they use this culture of fear on independent offices and our democracy is suffering, because that is why we have for the first time in a history—in my recollection I have never heard of such an error, errata, on such ridiculous account ever being put forward—

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts:—by public servants who are qualified. And for the Minister of Finance to say, “I was not aware” well he needs to read the Constitution because each Ministry under the portfolio, the Minister has the general direction and policy implementation of that Ministry. Furthermore, accounts are not done all in one “grap” at the end in a rush.

Accounts are fluid. They come through within the months, within a quarter, every month, quarterly and so on. Is the Minister of Finance here admitting that he never took a look, never checked, never undertook to do his fiduciary responsibility to check the accounts moving forward as the quarters passed? Because we were here in the Senate just a little while ago and the Minister of Finance was coming to ask for an increase in the borrowing limit of \$10 billion. Now, if the information and the accounts were wrong, how does he know he needs \$10 billion to borrow?

Hon. Senators: Aaah. [*Desk thumping*]

Sen. A. Roberts: And the Minister of Works and Transport start to spend out the \$10 billion before it borrow. Do you recall the debate? So how did the hon. Minister of Finance know that he needed and required an increase in borrowing limit of \$10 billion when his account all wrong—

Sen. Dr. Browne: Mr. Vice-President, Standing Order—

Sen. A. Roberts:—when it “ha no money dey?”

Sen. Dr. Browne:—46(1). That is not the Motion that is before us.

Mr. Vice-President: Sen. Roberts, in your seven remaining minutes—

Sen. A. Roberts: Seven minutes, Sir?

Mr. Vice-President: Yes—I ask that you be reminded of Standing Order 46(1).

Sen. A. Roberts: Thank you, Mr. Vice-President. Could I have the 18 extra minutes that I was interrupted by the PNM colleagues please? I know they do not want to hear the truth, but the abject—we must understand this is an issue that requires truth because we are hearing pre-action protocol, we are hearing about an Attorney General, and truth be told when this Attorney General was appointed I said a sigh of relief. I said at least we have a Senior Counsel, an intelligent lawyer.

My hon. colleague Jearlean John said, “Sen. Roberts, what are you talking about?” Because I recall this hon. Attorney General, when he was much younger, while I was doing my homework sitting in my mother’s office and she was trying to teach him and guide him, I am for once glad that she is not here to see his performance because she would have, for the first time in her entire life, known that she had failed at something because she is

not impressed with how he is performing. But this Attorney General went on a warpath with an independent officeholder with pre-action protocol letter. Why? To cover up their mistake, to cover up no money—

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts:—to cover up—

Sen. Dr. Browne: 53(1)(b), tedious repetition of the same point.

Mr. Vice-President: Standing Order upheld, Sen. Roberts.

Sen. A. Roberts: Thank you. Mr. Vice-President, well let me wrap it up like a roti as they cook the books and put some curry goat in it.

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts: I am just going to show you and the hon. Senators, the Independent ones, because our country requires independence of thought. We enjoy the political gayelle. They could jump up there, that “doh” bother me. I could debate whole day. But that is because we are politicians and we are in the political gayelle showing policy differences and debating. Independent Senators are to pick through sense from nonsense, to eliminate the politics and get down to the truth.

We are in a crisis for the first time in our history. This Ministry of Finance led and run by the hon. Minister has failed to a degree that we have never seen before. But we need the truth to come out now, Mr. Vice-President. We do not need 20 years to pass as it was in the case with Basdeo Panday and Ishwar Galbaransingh in the Privy Council.

5.25 p.m.

Because when PNM go after officeholders—independent officeholders, the truth takes a long time to come. Only if you have money

to go all the way up. When Lord Malcolm could state about this PNM when they were interfering and trying to remove Satnarine Sharma—

Mr. Imbert: Standing Order.

Sen. A. Roberts: An independent officeholder.

Mr. Imbert: Point of Order. 46(1), 46(6), irrelevant, imputing improper motives.

Mr. Vice President: Standing Orders upheld. Standing Orders upheld.

Sen. A. Roberts: Yes Sir, the relevance is that the PNM wants to control independent offices. The PNM want to infiltrate independent offices. The PNM cannot interact with checks and balances of independence—

Sen. Dr. Browne: Mr. Vice President—

Sen. A. Roberts:—because of their—

Sen. Dr. Browne:—Standing Order 53(4)(c).

Sen. Nakhid: We now have a Minister of Standard Orders. “He pulling dem out. He pulling dem out.”

Mr. Vice President: Senator, I do not believe you know that Standing Order, but you are not taking on the ruling of the Chair which is the reason why the debate is going so far. I ask in your last remaining three minutes that you keep it not just respectful but respect the Chair and respect the ruling. After I make a ruling please do not go against it.

Sen. A. Roberts: Yes, Mr. Vice President, I have not gone against any of your rulings. You have ruled and I respect your rulings. So let me just wrap up in my three minutes that has been curtailed by some 15 minutes by these jumpy PNM who cannot find the \$3.6 billion that the people want to know plus the 1 billion they expend. This could have been a simple Motion if it

were not for the PNM. This could have been an easy Motion where everyone could have said we need a little extra time, let us fix the accounts. But the PNM fired the first salvo. They drew first blood. They attacked an independent officer, pelted them and fired missiles of pre-action protocol. They come in the precincts and the safety of privilege in the Parliament and hurl accusations, state falsehoods and the record must be corrected.

[MR. PRESIDENT in the *Chair*]

So this extension of time, this extension of time is to give the PNM more time to go and try to find documentation not only for the 2.58 billion but the 780 million and the 700,000 for a man up in Toco that they cannot find for—

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts: The Auditor General and independent institutions must be left alone. The PNM is totally incompetent. They are afraid of independence. They need people to take their side no matter how ridiculous and ludicrous their argument. Leave the Auditor General alone. We did not know who she was, we did not care to know.

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts: But just under the PNM when our money in gone, has gone as much as the Prime Minister has gone all over the world, we need to find out where our money has gone and the people call for the Auditor General to be upheld and for the accounts of Trinidad and Tobago to be made public and to table the report immediately and stop this cooking of the books.

Hon. Senators: [*Desk thumping*]

Sen. Mark: “PNM have to go“.

Mr. President: Sen. Vieira

Sen. Anthony Vieira SC: Thank you, Mr. President. I agree with Sen. Roberts, this could and should have been an easy Motion but here we are today. And so let us look at the purpose of this Motion brought by the hon. Minister of Finance. The purpose is twofold. First, to give the Treasury time to submit corrected financial accounts to the Auditor General. And secondly, to expand the time within which the Auditor General can look at and audit what is being submitted.

Now, I see nothing in this Motion which commands the Auditor General to do anything or which can be taken to as subjecting her to the direction or control of any other person or authority in breach of section 116(6) of the Constitution. As we have heard under the Constitution the Auditor General is an independent official responsible for auditing the finances and operations of Government agencies and public entities. The role of the office is to ensure transparency, accountability and the proper use of public funds. The Auditor General conducts audits to assess compliance with laws, regulations and best practice. The Auditor General is required to report annually to the Speaker, to the President of the Senate and to the Minister of Finance. The Auditor General has a responsibility to act in the public interest.

Now, it is trite but nonetheless worth emphasizing that these audits are necessary for ensuring transparency, accuracy and accountability in financial, operational and compliance matters. They help identify errors, fraud or inefficiencies, and they provide citizens with confidence in the integrity of the information being audited. So it should go without saying

that accuracy, accuracy is paramount in audits because their purpose is to provide reliable and trustworthy information to citizens and other stakeholders.

Inaccuracies can lead to incorrect decision making. It can undermine trust and may even result in legal and financial consequences. So in the event, there are many dimensions to this Motion and to this debate, which unfortunately has taken on a life of its own, not just in this Chamber, but in the public discourse and in the media. However, I do not think it is helpful to prejudge issues, to stigmatize key officials under the Constitution or to add to the bipolar political rivalry. We have seen the ping pong of legal letters passing between the two camps and there has been a lot of vilification adding more to confusion than clarity.

It is easy to talk a lot and say very little but truth, truth can be complicated and it usually involves many different perspectives. So in my opinion instead of taking sides, instead of pitting one official against another or treating one as a villain and the other as a hero, depending on which side of the political divide you find yourself on, we should be seeking to reduce, to eliminate the dissonance. We should not allow demonizing narratives to be the ground upon which we cast our respective votes on this Motion. Now, while we may have very wide gaps in terms of opinions on things, we have something very powerful in common, and that is the need for the Auditor General to have access to the right financial information, for her office to be given sufficient time, space and resources to examine and audit all relevant financial information, and ultimately, for the Auditor General's report which is going to be laid in Parliament, to be true and correct.

So the central question boils down to this: do we agree or do we refuse to grant this request for an extension of time so that the Treasury may transmit corrected financial information to the Auditor General, and then for the Auditor General to be able to examine, audit and report on that new information; revised financial information reportedly at variance with what had been submitted to her earlier in January this year.

Now, there is a presumption in law, the Latin goes: *Omnia praesumuntur rite esse acta*, which basically says that in the absence of evidence to the contrary, that which should be done will in fact be done.

There is a presumption of regularity and that things will be done in accordance with all the relevant laws and technicalities.

So applying that presumption, it seems to me that it should fall to the Auditor General to determine whether what is being said about glitches in this system are true or not. And the same applies as to whether the alleged discrepancies in the previously submitted accounts are fact or fiction. I am content to leave it to the Auditor General after she has had the chance to examine and report on the corrected financial information, to decide whether she is willing to revise her report or not. Time will tell.

5.35 p.m.

In the meantime, however, I believe personal issues should be put aside for the greater good. We cannot run democracy on a hate machine. There has to be a level of trust and cooperation. If responsible persons assert that there are conspicuous discrepancies in our public accounts, calling for re-examination and verification by the Auditor General, it would be irresponsible to blithely disregard and dismiss such warnings and concerns.

We should have enough faith and confidence in the Auditor General's integrity, independence, objectivity and competence to believe that she will do the needful, and we should be doing everything that we can to ensure that the country's audited accounts are accurate and reliable. If the revised financial accounts prove to be bogus, then let the Auditor General come and say so—

Hon. Senator: Exactly.

Sen. A. Vieira SC:—after she has had a chance to properly examine, and the Public Accounts Committee can take it from there.

But if, on the other hand, the revised financial accounts and the concerns of the hon. Minister of Finance prove to be genuine, then having granted the requested extension and by being careful, we would have avoided a horrendous mistake. Either way, it is only right and proper that the Auditor General should have an opportunity to properly evaluate the new information and as such, I have little, if any, interest in this back and forth, or who said what or did what. The strongest reactions are not necessarily the best advised. What matters at this point is ensuring that the country's audited accounts are true and correct.

The purpose of an audit is to provide accurate information. Accordingly, we should seek to manage and mitigate the consequences of inaccurate accounts being presented to the Public Accounts Committee. Again, we do not want problems with the rating agencies, like the IMF or Moody's, because if we are judged on the basis of faulty data, fraud data, it is going to affect financing and our international standing and international loans, nor do we want the public to be misled because underreported revenue

would show a larger deficit than what actually obtains.

So both as a matter of principle and pragmatism, it seems, to me, we should support the requested extension. Let us give Treasury, let us give the Auditor General sufficient time and space to critically assess this new information. If the tax refund cheques can be reconciled, then the matter should end there and we will look back on this episode as the proverbial storm in a teacup. If it transpires that in her independent judgment, the figures are suspect and the office of the Auditor General is unable to reconcile the revised financial information, then let us so report to Parliament and the PAC will take it from there.

At that point, we would have had a more refined understanding of whether this was a case of attempted bullying, as is being suggested, or if it was a genuine attempt on the part of Government to set our financial records straight. Either way, our interest, our job as parliamentarians in this matter is threefold. Firstly, to ensure that the country's audited accounts are accurate. We have to guard against—as Minister West put it, we have to guard against the material misstatement. Secondly, we want to ensure that key officials under the Constitution and independent agencies, such as Central Bank, Auditor General, Board of Inland Revenue and the Attorney General continue to work harmoniously in partnership for the good of the country. And thirdly, we would want to avoid an overt clash between important administrative offices.

In Africa, there is a saying that:

“When elephants fight, the grass gets trampled...”

—meaning that when powerful forces go to war, it is the people who are

hurt. In this case, it will be the integrity of our audit system which hangs in the balance. If there is tension between important constitutional officials, that is unfortunate. We should seek to repair rather than to pulverize those relationships. We should strive to find solutions and avoid the grass being trampled. The office of the Auditor General provides the essential reminder that the Legislature, Judiciary and the Executive are not satellites in independent orbit, but wheels on the same vehicle.

Hon. Senators: [*Desk thumping*]

Sen. A. Vieira SC: If this Motion can extend the time for the relevant public officials to regularize the situation; if this Motion can give the Auditor General the comfort needed in being able to circumvent the time limits imposed by section 24(1) of the Exchequer and Audit Act; the Minister of Finance has expressed the hope for a collaborative and consultative process, if this Motion can avoid a legal showdown between the Office of the Attorney General and the office of the Auditor General, then all the more reason to support it. The vote on this Motion should not be defined by our most disorderly elements. I thank you.

Hon. Senators: [*Desk thumping*]

The Attorney General and Minister of Legal Affairs (Sen. The Hon. Reginald Armour SC): Thank you very much, Mr. President, for the opportunity to contribute to the debate on this Motion, which is an important Motion, because at the end of the day, after all of the back and forth, what really is at stake here is the national interest. It is as simple as that.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC: It is the national interest for the reason that

the material misstatements—which the Treasury Division of the Ministry of Finance has attempted to bring to the attention of the Auditor General, so that she may properly take it into consideration—will impact the credibility of the financial reputation of this country, either positively or adversely. And let me make it very clear in everything that I say today, and by way of emphasis of what I said in the other place, that I am not attacking the Auditor General. I accept the point that Sen. Thompson-Ahye has made. This is someone new to the position. She needs the support and the assistance that she can get.

At the end of the day, just to make a point in relation to Sen. Thompson-Ahye, when I wrote to the Auditor General to say that I was unable to give her the advice, bearing in mind section 10(1)(g), I believe it is—the section that Sen. Thompson-Ahye referred to—it was not that I was in dereliction of my statutory responsibility. The fact of the matter is that as a matter of record and historically, I was already advising the Minister of Finance and therefore, on the first application of the ethical standards, which I subscribe to as an attorney-at-law and certainly as a member of the inner Bar, it would have been a conflict of interest for me to be both advising the Minister of Finance and the Auditor General on the same issue. And what I did is I said to her, “Get independent advice and as Attorney General, I undertake to pay the reasonable fees of whoever you get to give you that advice.” That was my response to the Auditor General because I recognized at that point, that the best advice that the Auditor General could get was good advice. I was not available to give it to her. She is new to the job and she would benefit from good advice.

Mr. President, with those few preambulatory remarks, I am going to begin where I ended in the other place for an important reason. Where I ended in the other place was to cite from a Court of Appeal decision of the Court of Appeal of Trinidad and Tobago, and it is important that I cite it again as I begin my response this afternoon, the Court of Appeal decision, Civil Appeal No. 10 of 2004, *Director of Personnel Administration and Police Service Commission v Cooper, Balbosa and Birjah*, the judgment of Chief Justice Sharma, 2005, at paragraphs 28 to 29. That dictum has been approved in a number of cases since then at the level of the Privy Council on the doctrine of separation of powers. This is what Chief Justice Sharma said in 2005:

“In all Constitutions, based on the Westminster system of government, there is in operation the doctrine of the separation of powers. By this doctrine, the autonomy of each branch of government is presumed to be immune from undue encroachment from any others. Thus, the Legislature, Executive and the Judiciary operate in an environment which is presumed free from influence from each other’s sphere.

While in the popular sense it may be convenient to divide the powers of government into three...spheres,”—and I emphasize this—“in practical reality such rigid classification is neither desirable nor possible. On the basis of the doctrine as initially formulated by French jurist Montesquieu,”—*Espirit des Lois*, Book XI, Chapter 6—“what is desired”—and I emphasize this—“is not that the different organs such as”—not exclusively—“the Legislature and Executive should have no influence or

control over the acts of each other but rather that neither should exercise the whole power of the other.”

That is what the separation of powers, properly understood, means, that the different arms of the State, whether it be the Legislature, the Executive, the judicature, or the Auditor General, or the Director of Public Prosecutions, or other independent arms, it is not that they must not speak to each other. Separation of powers does not mean that you wrap yourself in an ivory tower and decline to engage with the other arms of State. It means that you must engage, but in the engaging with each other, you respect the territory of each, so as not to unduly encroach on the other.

In the Treasury Division—coming to the point. In the Treasury Division beseeching the Auditor General—and I will make a short point before I continue—who clearly was not getting good advice—and I say this to say that I would encourage the Auditor General to proceed, from here on, on the basis of good advice. Clearly, in the entreaties that the Treasury Division were making to the Auditor General, she was getting advice to suggest that on the basis of section 116(6) of the Constitution, she was not to receive from anyone any information; 116. When she wrote to me through her legal officer, and when she wrote through her legal officer to the Treasury Division of the Ministry of Finance, they underlined section 116(6) and put the words next to it, on behalf of the Auditor General, “emphasis mine”. And what section 116(6) says is:

“In the exercise of his functions under this Constitution the Auditor General shall not be subject to the direction or control of any other person or authority.”

5.50 p.m.

The Auditor General was being badly advised, and I dare say continues to be badly advised as to the meaning, substance, purport and effect of this subsection. It does not mean that the Auditor General is not to speak with anyone or receive from anyone any information. And I refer in that vein, to the essence of why that cannot be so. My colleague, Sen. West referred to the International Accounting Standards, Auditing 560 and to standard 6:

“The auditor shall perform audit procedures designed to obtain sufficient...audit evidence that all events occurring between the date of the financial statements and the date of the auditor’s report that require adjustment of, or disclosure in, the financial statements have been identified.”

What are the dates here? The date was the 31st of January 2023, when the Treasury Division submitted the accounts for the year 2023. That is the date when the Auditor General received the accounts. The next relevant date was the 30th of April which was the prescribed due date under the Exchequer and Audit Act on the computation of the time from the 30th of September to 30th of April, by which the Auditor General was required to submit a report. And the accounting standard by which she is obliged to operate, requires that between those two dates she must receive all reports, she must receive all information for the purpose of verification. It is very clear.

And that takes me to a false point that Sen. Mark—but one has come to appreciate that this is the area of Sen. Mark’s forte—wishes to mislead this population on. He says that there is a breach, or words to this effect—I

am not attempting to quote him—by the Minister of Finance in claiming that he has any function to play in the submitting of the report, and laying of the report before the Senate today, or before the House on the last occasion. And Sen. Mark holds up the Constitution, he walked with a book that looks something like mine, and he declared it to be the Constitution—I have no doubt it was—and he says, “I have the Constitution here”, and he read from section 2. Well, I do not need to read from section 2, I know it. It is the supreme law clause. It says that the Constitution is the supreme law of this Republic. Yes, but a constitution, like all other laws, must be interpreted to serve its purpose and its intent.

So, what does section 116 of the Constitution say? Which is what Sen. Mark, misadvising himself, seems to want to rely on. Section 116 of the Constitution (4) which he cited, says:

“(4) The Auditor General shall submit his reports annually to the Speaker, the President of the Senate and the Minister of Finance.”

Section 116 (5) goes on to say:

“(5) The President of the Senate and the Speaker shall cause the report to be laid before the Senate and the House of Representatives, respectively, at the next sitting of the Senate and the House of Representatives after the receipt thereof, respectively.”

So, the Auditor General sends her report to the Parliament in the persons of yourself—Her Excellency the President—and the Speaker, and either the President of the Senate or the Speaker shall cause the report to be laid. The

Constitution does not say that the Speaker or the President of the Senate shall lay the report. You find that in the Exchequer and Audit Act, section 25(3) says:

“(3) The Minister”—and this is a reference to the Minister of Finance—“shall lay the report...”

—note the difference in language between section 116 (5).

“The President of the Senate...”

—I am reading from 116 (5).

“(5) The President of the Senate and the Speaker shall cause the report to be laid...”

The prescription is provided for in section 25(3), the prescription is:

“(3) The Minister shall lay the report of the Auditor General on the table of”—the—“Parliament within thirty days of its receipt...”

So, you read the Constitution together with the law that prescribes the specific functions to be performed by the functionaries within the Exchequer and Audit Act. And we remember when we read the Exchequer and Audit Act that this Act was passed as a law of Trinidad and Tobago, as Act No. 20 of 1959. So, this Act came into force before the independence Constitution, and has existed through the passage of Trinidad and Tobago’s independence and through the passage of Trinidad and Tobago’s republican constitution status. It is, in other words, a saved law.

And therefore, it must be on principles of construction, read as a saved law that is beyond challenge as a law of this country together with the Constitution. And therefore, caused to be laid by this President and the Speaker of the House by the Minister, section 25(3), actually laying it on the

Table within 30 days. So, there is no violation or breach on the part of the Minister of Finance. And the advice which Sen. Mark, has given to himself—

Hon. Imbert: The constitutional breach.

Sen. The Hon. R. Armour SC:—the constitutional breach. There is no constitutional breach.

Hon. Imbert: Bush lawyer.

Sen. The Hon. R. Armour SC: The advice which he has given to himself—

Hon. Imbert: Bush lawyer.

Sen. The Hon. R. Armour SC:—on the basis of his understanding of the Constitution, with respect, is flawed.

Hon. Imbert: Worthless.

Sen. The Hon. R. Armour SC: If I may continue, Mr. President. My duty here today really is to speak to my understanding, for the benefit of all listening, including the Auditor General. My understanding of how the law is intended to operate in this impasse that we find ourselves in.

Section 24 of the Exchequer and Audit Act makes it very clear, Mr. President. It requires the Treasury to cause the account, showing fully the financial position of Trinidad and Tobago to be transmitted to the Auditor General:

“24. (1) Within a period of four months after”—the—“30th September in each year, or such longer period thereafter as Parliament may by resolution, appoint...”

So, as a general proposition, if the Treasury proposed to submit accounts for

whatever reason, after the 31st of January of a particular year—and the 31st of January being the four months after September in the year before—that time would have to be extended by the Parliament. In this case, the Treasury submitted the accounts on time but later discovered errors and brought these to the attention of the Auditor General. The Treasury was obviously, Mr. President, bound to do so. Because its obligation was to provide the Auditor General with accounts showing fully, the financial position of Trinidad and Tobago. And if it is discovered that the accounts submitted were indeed not full, and did not represent the financial position of Trinidad and Tobago.

Mr. President, we have heard from the hon. Minister of Finance, we understand in the very clear explanation that he gave us today, of the error that occurred, the double booking error, as between the Central Bank and the Board of Inland Revenue, in the information that eventually came to the Treasury Division. It is the Auditor General's duty, both with respect to the International Auditing Standards, to which I have just referred, and section 9 of the Exchequer and Audit Act to audit those accounts. And to that end, she has the power under section 10(1):

“(a) to call on any officer for any explanation and information...”
—between the period 31 January, 2024, and the 30th April, 2024.

It is her duty under section 10(1)(b), to authorize if she does not get the information she is looking for. When the Treasury Division came to her and provided her with information, it was her duty to accept the information. And then under section 10(1)(b):

“(b) to authorize...”—one of her officers—“...to conduct...”—a further—“...inquiry, examination, or audit...”

And under section 10(1)(c) if she was not happy, or satisfied with what the Treasury Division was giving her, to explain this double accounting error, she could:

“(c) ...send for and have...custody of...books accounts, vouchers...papers...and in any wise...”

—I am quoting from section 10(c):

“...in any wise concerning the public accounts...”

Between the period 31st of January and 30th of April, 2024. Implicit in the performance of the Auditor General’s powers is the possibility and the acceptance of the possibility, that during the course of her audit, errors may be discovered and noted, and corrections accordingly made.

Mr. President, the plain, ordinary English dictionary meaning of audit is:

“An official examination and verification of financial accounts especially by an independent body.”

That is the plain, ordinary English language definition of the word “audit”. An examination and verification, how do you verify? You call for information, you admit persons who wish to give you information, you look at it and you say, “I am not satisfied with this, I want a better explanation,” and you send for more information. That is the process of verification, and that is what an audit is about. You do not lock yourself away, you do not lock your doors—and she was misadvised, clearly she was being misadvised. You do not lock your doors and refuse entry to persons who are seeking to help you to get it right in the process of the audit.

And it is a fallacious piece of advice to persuade the Auditor General that by reason of section 116(6), because she is an independent institution,

under the Constitution, she can lock herself into the Waterfront towers, and not allow anybody any access to her, because she is independent and not subject to control or otherwise. It is fallacious advice. And I regret that she is new to the job, with all the promise that she has, she is being given bad advice.

Mr. President, just as much as the Treasury is obligated to present the full financial position of Trinidad and Tobago, so too is the Auditor General required through her audit, to determine whether the full financial position of Trinidad and Tobago has been presented. There was nothing, nothing untoward, nothing illegal, nothing wrong about the Treasury notifying the Auditor General of errors in the accounts, and providing her with information which would have allowed corrections to be made.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC: Nothing wrong, it was their duty. If they had failed to do—and I will come to the detail in which they tried to do it—if the Treasury Division had failed to do that which they tried, over two months to do, they would have been in dereliction of their statutory duty under the Exchequer and Audit Act. Mr. President, you have heard from the Ministry of Finance as to the cause of error, the concerted efforts—including the concerted efforts made by officers of the Treasury Division, including her refusing entry to persons. And so alarming was the conduct of the Auditor General that the Minister of Finance came to me as Attorney General and asked my advice.

I gave advice and I recommended a very eminent Senior Counsel and a very eminent Senior Junior Counsel to advise him, and they have given

him advice on an ongoing basis since this thing has developed from early March, all through to now. And as a result of that advice, the Minister of Finance, given the deadline of the 30th of April that was approaching, given the material misstatement, the magnitude of the material misstatement that the Auditor General was unadvised, declining to even consider, was persuaded on good advice of Senior Counsel to cause a pre-action protocol letter.

6.05 p.m.

So, my Secretariat, the Attorney General's Secretariat, on behalf of the Minister of Finance, settled by Senior Counsel, wrote a pre-action protocol letter to the Auditor General. That pre-action protocol letter outlined the narrative of events, Mr. President, starting with the 31st of January, 2024, when the financial statements for 2023 were submitted to the Auditor General.

I am not going to read that statement, that pre-action protocol letter, it is eight pages long, but I would like to highlight the narrative sequence of efforts that were made. So, in that letter, the pre-action protocol letter settled by Senior Counsel, addressed to Ms. Jayanti Ramdass dated the 15th of April, starts off by reminding her that she received the Treasury Division's revenue statement on the—Jaiwantie, I beg her pardon, I may have mispronounced her name—31st of January, 2024. That was the start of the sequence. Thereafter, in this eight-page pre-action protocol letter you have a record of events.

The error was brought to the attention or was discovered by the Treasury Division in late February of 2024, the week of the 26th of February.

On the 25th of March, having spent the 25th February to 26th March, cross-referencing amongst themselves the different institutions that the Minister of Finance has told us about today, and verifying to make sure that this alarming material misstatement was correct, then a call was put to the Auditor General on the 25th of March. She received the call and said she could not speak and she was on her way home and she would call back; she did not call back. All of this is set out in the pre-action protocol letter. On the 26th of March, the Permanent Secretary of the Ministry of Finance, not having heard from the Auditor General, sent her a WhatsApp message at 10.11 of that morning and elaborated in the WhatsApp message the concern why the Treasury Division of the Ministry of Finance needed to have an audience with her.

Subsequently, the Ministry of Finance was contacted by an Assistant Auditor General. A meeting was scheduled for the 27th of March, 2024. At that meeting everything was brought to the attention of the representatives of the Auditor General and the representative, the Assistant Auditor General, requesting certain documentation indicating he would report the matters discussed at that meeting to the Auditor General.

On the 28th of March, not having received any further communication from the Auditor General, again, the Permanent Secretary called the Assistant Auditor General to enquire, and was informed by the Assistant Auditor General that the Auditor General would not be issuing any communication to the Ministry of Finance and that the Ministry should write to the Auditor General with respect to any material misstatement. So, that was immediately done; 28th of March, memoranda by e-mail was sent to the

Auditor General setting out the details of the material misstatement. It explained the process by which the understatement was identified and quantified, et cetera.

On the 5th of April, the Permanent Secretary submitted further material to the Auditor General's office, in particular setting out the error with the Central Bank and the new electronic clearing system. On the 8th of April, a further memorandum is sent to the Auditor General setting out, by the Permanent Secretary of the Ministry of Finance and the Treasury Division, details. On the evening of the 8th of April, the Comptroller of Accounts sent an e-mail to the Auditor General advising that a compact disc containing electronic copies of the amended public accounts would be delivered to her office on the morning of the 9th of April.

On the morning of the 9th of April, the Treasury executive attended the office of the Attorney of the Auditor General to deliver that compact disc. On arriving at the Auditor General's office that Treasury executive was told by personnel in the Auditor General's Department that they had been instructed by the Assistant Auditor General that he was instructed not to accept the compact disc containing the amended public accounts.

After being informed of that refusal, the Comptroller of Accounts attempted to call the Auditor General on a landline on the 9th of April. The calls went unanswered. A WhatsApp message was sent, no acknowledgment. On the afternoon of the 9th of April, the Treasury Director, her Senior Treasury Account Financial Assistant, Management Branch and the Treasury executive went to the office of the Auditor General to deliver the Permanent Secretary's letter of the 9th of April, together with

the compact disc. On arrival, they were told there was no one there to receive those items and they should return on the 11th April, 2024.

On the 11th they returned. They met with the Assistant Auditor General who told them that he was instructed by the Auditor General to accept only one of the two CDs, the compact disc, containing the original 31st January, 2024 financial statements, but not to accept the compact disc containing the amended public accounts. The officers cautioned the Assistant Auditor General of the ramifications and implications of presenting the public accounts without making the amendments or considering the amendments that were being requested. At the request of the Auditor General, those three officers then met with the Senior Legal Officer of the Auditor General's Department and they asked her if the amended public accounts could be audited before the 30th of April 2024. The Senior Legal Officer then excused herself to consult with the Auditor General, and on her return indicated that she too was instructed by the Auditor General to accept only the compact disc containing the electronic copy of the original public accounts that were based on the 31st of January, 2024 public statement and not to accept the compact disc containing the amended public accounts. I used the word in the other place and I use it here now, Mr. President; it is bizarre. There is no explanation for this. No matter what one reads on the front pages of the newspapers and letters that are being written, pre-action protocol letters that are being written by other persons, misstating the facts. This is the record. And having received this pre-action protocol letter and given a deadline to respond, the Auditor General responded on the very day, the 15th of April. And in her response she said—and the Minister of Finance

has already read this out—

The Ministry of Finance is free to submit an original signed and dated letter to the Auditor General by 12 noon on April 16th recalling the public accounts previously submitted and dated January 31, 2024, confirming the statement of declaration and certification previously provided as inaccurate and providing the revised public accounts and this letter will be published in the Auditor General's report.

I was told by the attorneys in my office that it was their expectation, having received this letter and the Treasury Division persons having complied with this request, that they had assumed that the situation had been resolved, that the Auditor General had now accept it she would receive the documents and would proceed to consider that which had been provided to her so that she could include it or say otherwise in the report that she was required by law to lay with the Parliament on the 30th of April.

The next thing that we know is the Ministry of Finance gets word that on the 24th of April, with no further word, a report has been laid in the Parliament, which does not include any of the material that had been provided and the Auditor General had agreed to accept. It is nothing short of bizarre, Mr. President. And that is the very regrettable state of affairs that existed at the date at which—well, no, this was before.

So on the 17th, before the 24th of April, I then received the letter from the Auditor General asking me for advice. And because of what I already explained, a conflict of interest, I am advising the Minister of Finance, I wrote to the Auditor General. I did not, as Sen. Roberts has said in this House, and that is why I sought to ask him to give way and he declined, I did

not say I had taken a position against the Auditor General. What I said to her in my letter and I will read it for the record:

Dear Auditor General.

Dated the 19th of April in response to her letter to me of the 17th of April asking for my advice, I said:

I acknowledge receipt of your letter dated 17th April, 2024, with attachments requesting my advice on whether the Auditor General is required to consider the amended statements referred to in your said letter.

In light of the provisions of sections 24 and 25 of the Exchequer and Audit Act, consistent with my duty under the Constitution, and as you are aware, I am already advising the hon. Minister of Finance on this very matter. I refer in that regard to the pre-action protocol letter dated 16th April, which is one of the attachments to your letter to me.

So in her letter to me of the 17th she attached the Attorney General's Secretariat letter from my Ministry which had been written to her. So I say to her:

In the circumstances, it would be inappropriate for me to render any advice to you in this matter.

I did not say to her, as Sen. Roberts has said, that I have already taken a position against you. I said it would be inappropriate for me to render any advice to you to on this matter. I was cognizant of section 10, which Sen. Ahye has referred to. But even though the Auditor General can come to me with a request for written consideration and advice under section 10(3), in the circumstances of the conflict that I found myself in, I said to her it would

be inappropriate. I then said to her:

I recommend that with all appropriate urgency—

Bearing in mind that I was writing on the 19th of April and the deadline date for the report to be submitted is the 30th of April, I said:

I recommend that with all appropriate urgency, you should retain independent counsel to give you such advice. I give the undertaking that as Attorney General I am prepared to pay reasonable fees incurred by you as Attorney General for the retention and obtaining of that independent advice.

Sincerely yours

That is the last communication we had. The next thing we knew is that the report had been laid five days, 24th April, five to six days before the deadline date.

So that, we find ourselves in this remarkable situation, Mr. President, where the Minister of Finance, to his credit, has no choice. The Auditor General is being misadvised and we hope that situation can be corrected. We are in a situation in which audited reports of a national Auditor General are before the Parliament omitting significant information. A report is before the Parliament with an offer over a period of March to April 2024, to give all the support and assistance that the Auditor General could possibly require to accomplish and conclude her report and all that we are asking for in this very unfortunate situation that we find ourselves in today is that this House extend the time so that we can bring the heat down—very regrettably, there was no need for the heat to go up—and give the Auditor General some time—

Mr. President: AG, you have four more minutes.

Sen. The Hon. R. Armour SC: Thank you very much, Mr. President. Give the Auditor General some time in which to do that which she is required by law and by the international audit standards to do and that is to take into consideration relevant information to verify her audit between the date when she received the financial statements and the date which hopefully this House will extend by which she must submit her report.

And before I close, let me make it very clear, Mr. President, in my view, and it is a view shared by Senior Counsel who have been advising the Attorney General, the circumstances that we find ourselves in, that is to say the report was submitted on time with errors that are discovered after the fact, that does not necessarily require us to have to come here for a resolution to extend the time. It was perfectly lawful on the definition of “audit” on the accounting standards and the provisions of sections 9 and 10 of the Audit Act for the Auditor General to have received the information which the Treasury Division has been trying to put at her disposal. It is only because we are now forced into this near impossible situation that we are before this House for the extension that we request.

6:20 p.m.

Mr. President, I end where I began. This is about the national interest of Trinidad and Tobago.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC: It is not about gamesmanship, it is not about scoring political points or embarrassing anyone, and it is certainly not about attacking any constitutional office. It is simply about the fact that

what is good for this country is that the true accounts should be stated so that at the end of the day, we can continue to do business with the world on a verified true and correct audit report. Mr. President, with those words, I support the hon. Minister of Finance and I ask that this resolution be passed.

Hon. Senators: [*Desk thumping*]

Mr. President: Senator Lutchmedial-Ramdial.

Hon. Senators: [*Desk thumping*]

Sen. Jayanti Lutchmedial-Ramdial: Thank you. Thank you, Mr. President, for the opportunity to speak on this Motion before us today. Mr. President, I note that the—in his closing remarks, the Attorney General said that this is not an opportunity to, you know, embarrass anybody, and this and that, and the other. You know, the fact of the matter is that the Government should be embarrassed. They should be embarrassed. Not because of the fact that such a large error has occurred, in respect of reporting the revenue, and there are issues with expenditure as well, in terms of sending the accounts and—

Sen. Sagrarsingh-Sooklal: Mr. President, on a point of order. On a point of order 42(5), as clarified by Standing Order 3, Mr. President. I thought that is what the Senator would have started with.

Sen. J. Lutchmedial-Ramdial: What?

Mr. President: So, Sen. Lutchmedial-Ramdial, have a seat. Standing Order 42(5), if you have that in front of you, it speaks to the declaration of a financial interest before you engage in any debate before the House.

Hon. Senator: Mr. President—

Mr. President: One second. So, the only question I have at this point in

time is if you do have such an interest, to so declare before you begin your debate.

Sen. J. Lutchmedial-Ramdial: Mr. Vice-President—Mr. President, sorry, I have absolutely no interest in this matter.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial: I know it is difficult for Members opposite, right? It is difficult for Members opposite to understand that because they have no integrity, that other people have none as well.

Hon. Senators: “Ahhh.” Yes. [*Desk thumping*]

Mr. Imbert: Point of order.

Sen. J. Lutchmedial-Ramdial: I have absolutely no financial interest—

Mr. Imbert: Point of order 42(5). Is Sen. Lutchmedial-Ramdial saying that as an associate of Freedom Law Chambers, she has no—this hon. Senator has no financial interest whatsoever, in fees received by those chambers for—

Sen. Dr. Browne: An ongoing matter.

Mr. Imbert:—this matter and an ongoing matter?

Hon. Senator: Correct.

Mr. President: So, again. I am not able in this Chair to verify such statements and again, I have to go upon what you indicate, Sen. Lutchmedial-Ramdial. I just remind you as a Senator that you stand on your statement here.

Hon. Senator: [*Inaudible*]

Mr. President: One second. That you stand on your statement here. Once uttered it goes into the record and of course, other actions could be taken

accordingly if it comes forward as something different. Sen. Lutchmedial-Ramdial.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial: Yes. Mr. President. I want to place on the *Hansard* and for the record for all of eternity that since 2018, I have received no financial benefits as an attorney from Freedom Law Chambers. That is when I resigned as an associate.

Hon. Senators: Yes. [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial: I am briefed in specific matters.

Hon. Senator: Why “yuh” name on it?

Sen. J. Lutchmedial-Ramdial: You can go to the Board of Inland Revenue and check.

Sen. John: “You jealous” or what?

Hon. Senator: Your name is on the letterhead.

Sen. J. Lutchmedial-Ramdial: I operate as a consultant.

Mr. President: Senator, Senator, have a seat.

Hon. Senators: [*Crosstalk*]

Mr. President: Members no, no, no. Sen. Lutchmedial-Ramdial is responding to a point of order raised. Allow her to finish doing so, so that I can hear it properly, and that the *Hansard* Reporters can do so as well. Continue, Sen. Lutchmedial.

Sen. J. Lutchmedial-Ramdial: Thank you. And—I have not been in this specific matter, I have not met with anyone from the Auditor General’s department. I have not received any instructions. I have not reviewed any documents provided in the form of instructions by a client who sought the

advice of senior counsel in this matter. I want that to be placed on the record.

Hon. Senators: [*Desk thumping*]

Hon. C. Imbert: Point of order, Mr. President. Is Sen. Lutchmedial saying that Freedom Law Chambers, when they receive fees, that Sen. Lutchmedial receives no part of that? I have been in a personal matter where Sen. Lutchmedial was part of the legal team from those chambers.

Hon. Senators: [*Crosstalk*]

Mr. President: Okay.

Sen. J. Lutchmedial-Ramdial: I do not understand what is the point of order, please.

Mr. President: Okay, okay. All right. Members. So the point of order has been raised indicating a question. Sen. Lutchmedial-Ramdial has answered that question categorically and placed on the record certain statements. As such, she has indicated that she stands by those statements. Sen. Lutchmedial-Ramdial.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial: Mr. President, I understand that, you know, the Minister of Finance has some PTSD after the Jwala Rambarran licking that he got under Freedom Law Chambers. But—

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial:—I want to reiterate.

Mr. President: So, that part is done. Straight to your contribution.

Sen. Nakhid: They ready to give, but they “cah” take.

Mr. President: Sen. Nakhid.

Hon. Senators: [*Crosstalk*]

Mr. President: Time is ticking. Straight to your contribution.

Sen. J. Lutchmedial-Ramdial: Yes. Yes, Mr. President. And I stand by my word. Anyway, this Motion, Mr. President, is being brought here today where the Government is saying that they want time to submit amended accounts and also, that they want to extend the time for the Auditor General to consider the accounts. And several speakers have misrepresented a number of facts and ignored two very important details.

The Attorney General went through a chronology in a pre-action protocol letter but ignores information in the public domain today, published in the newspaper where the Auditor General says that the accounts were received on the 16th of April. So, regardless of whether before the fact, there was an issue and the Auditor General was unsure and even sought the advice of the Attorney General, whether or not she was legally capable of receiving those accounts, that is gone. The accounts were received and in the public domain, there is information that the Auditor General had concerns. The concerns, one of them being that the amended accounts did not properly reflect an amendment.

You know, there is a way that you do things, so if you are amending the accounts and submitting amended accounts, two things should have been done by this Government, and it is embarrassing that they have to come here today after the fact, after the Auditor General submits her report as she is required to do in accordance with the Constitution by a specific date, that they have to come here now, and try to extend time to fix the things that they ought to have done. And I will get into what a responsible Government

ought to have done, this situation having arisen. Revenue has been found. There was a way to go about it. If they had proper advice, instead of coming to criticize the adviser, the Auditor General on her own volition after they told her to do it, sought advice, they would have done this thing properly. But they remained ill-advised.

Sen. Nakhid: Yes.

Hon. Senators: [*Desk thumping*]

6.30 p.m.

Sen. J. Lutchmedial-Ramdial: The Auditor General took issue with the fact that there was no clear amendment to the public accounts, that it did not reflect the amendments. So on the 16th of April, what she received was a simple swapping out of figures, and she was not satisfied with it.

The second thing that the Auditor General has raised in her response, which is in the newspaper today, is that the statement of amended accounts was backdated, and she considered that to be like fraud. How could you come on the 16th of April, saying in your own pre-action letter, saying in your own correspondence from your Permanent Secretary, that you did not discover the error until after almost two months after you submitted the accounts? The error was discovered in March, but you simply amended the statement and signed it over and dated it as the 31st of January? The Auditor General has every right to take issue with that. And that is the issue that the woman has, and she is entitled to raise it.

And then the other thing—the other very important point, apart from the fact that the corrected accounts were in fact submitted, and were in fact received by the Auditor General, and were in fact considered, is that they are

trying to give the impression to Members in here and to the wider public that the Auditor General went ahead and submitted her report to your good self, the Speaker of the House, and the Minister of Finance without considering the amended accounts. That is entirely untrue because, as stated today in the newspaper, what the Auditor General has included in her report is a comment on what transpired. The Auditor General apparently—because we have not seen the report—says in the report that she received amended accounts and that she was not satisfied. She has said in that report, according to—

Mr. President: Senator.

Sen. J. Lutchmedial-Ramdial:—what is said—

Mr. President: Senator.

Sen. J. Lutchmedial-Ramdial: Yes.

Mr. President: There is no report laid publicly. So saying what was said in the report is not relevant to this debate.

Sen Mitchell: “How you get the report?”

Sen. J. Lutchmedial-Ramdial: “I doh have de report, I reading from de *Express*”.

Mr. President: Again, what is in the so-called report is not relevant to this debate. Continue.

Sen. J. Lutchmedial-Ramdial: Well, Mr. President, the fact is, yes, there is no report laid in this Parliament but a report is in existence. It is public, a matter reported in the newspaper today that the Auditor General said that she was unable—and the Minister of Public Administration has commented on what the Auditor General has said. So I am responding to that. What the

Minister—because she has criticized the Auditor General, saying that she has refused to issue an opinion, and that is incorrect, and I want to read from a report today appearing in the *Express*. It says:

“Auditor General hits back”

—which says:

“...Ramdass was justified in doing so and quoted from the report where she stated in part, ‘I was unable to obtain sufficient appropriate audit evidence to form an opinion on whether all revenue has been fully accounted for and included in the Public Accounts. I was unable to determine whether any additional...’”—

Mr. Imbert: Point of order, 46(1). Is this before—

“...adjustments might have been found necessary...”

Mr. Imbert: Is this matter before us for debate?

Mr. President: Point of order again?

Mr. Imbert: Point of order, 46(1). This is a Motion to deal with sections 24 and 25 of the Exchequer and Audit Act, not all of those newspaper reports. That is not true.

Mr. President: So, Senator, the point of order raised is one of relevance, but what I have indicated before, which is why I was asking you to stay away from what is in the report, whether it be quoted in the papers or not, is because that report is not yet a public document. It has been said by many Senators that have gone before, the procedure by which that report gets to where it needs to get to, but as far as I understand it, it is not a public document. So what you are doing is quoting what somebody would have said in the papers that might have been in the report or not. That is why I

asked you to just skirt over that part and get to your other points.

Sen. J. Lutchmedial-Ramdial: The point is—and everyone has stood here and quoted from documents not in the public domain, including pre-action letters sent to the Auditor General and so on, but they do not want to—you see, that is the essence of this Motion. The essence of this Motion is to hide that report.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial: The essence of this Motion is—

Mr. Imbert: Point of order—

Sen. J. Lutchmedial-Ramdial:—to prevent that report from being laid.

Mr. Imbert: Point of order, 46(1), 46(6), imputing improver motives.

Mr. President: So 46(6) applies in this particular circumstance. You cannot say what you just said, Sen. Lutchmedial-Ramdial. It would be imputing improper motives in relation to actions taken. Continue.

Sen. J. Lutchmedial-Ramdial: So, Mr. President, the fact is—and Sen. Vieira made the comment that accuracy is important in accounts and audits, and there could be very, you know, dire consequences if we do not have accuracy and so on, when you have the accounts prepared, especially—any accounts, but national accounts, and when you have the auditing process.

Mr. President, the fact is, and the facts that are in the public domain and the facts that nobody can refute is that there was a period of time where the Treasury had the opportunity to submit the corrected accounts. The fact is that they were considered. And what we are being told, and what we know, and what nobody can refute to this day is that they were unable to provide documentation to substantiate the amendments that they were being

sought in the public accounts.

Now, as I said before, this is an improper Motion because what you are trying to do is to undo things that have already been done during the statutorily prescribed period. There is a timetable and it is set out, and the Members cannot dispute that. The accounts were supposed to be submitted on the 31st of January, that was done. Thereafter, the Auditor General had an opportunity to conduct her audit, and an audit is a process. You sit, you have meetings, you discuss, you ask for information. During that period of time, they came up with this—how much it is?—3 point how much?—billion dollars of revenue. You know, the Auditor General apparently attempted to check the veracity of those claims and could not do it. So what was the Auditor General to do? Was the Auditor General to simply accept the backdated accounts, which did not properly—

Sen. Nakhid: That is the point.

Sen. J. Lutchmedial-Ramdial:—demonstrate the amendments, as she has said, that did not properly, you know, have any documentation to substantiate them and then merely include that into her report? No. What she did is she proceeded within the time frame given to her, by law, to submit her report, and it was done on the 24th of April. That is also in the public domain. And thereafter, after the fact, with the report being laid, the Government is here with a Motion to try to prevent that report and to stop that report, and that is what is happening here today. And, Mr. President, this is reminiscent of an incident where “ah merit list was submitted and dey doh like what in the merit list and dey want to pull it back”.

Hon. Senators: [*Desk thumping*]

Mr. Imbert: Point of order, 46(1)

Sen. J. Lutchmedial-Ramdial: They want to pull back the report.

Mr. President: So, again, Sen. Lutchmedial-Ramdial, that last statement is not relevant to what is before us.

Sen. J. Lutchmedial-Ramdial: Mr. President, I just want to say the relevance is that this seems to be a pattern of behaviour, and we cannot simply sacrifice and burn our Constitution on the altar of political expediency. “Yuh doh” have to like what is in a report or like what is on a list in order to follow the law and do what is required.

Sen. Nakhid: I like that. I like that.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial: That is the problem that this Government has and that is why I say this Motion is most improper.

Someone—I have a note here. I think it was Sen. Vieira who said if it is that the opportunity is given and she is not satisfied, and she wants to put that into her report, let the report come to the Parliament and let the Public Accounts Committee take it from there. But she has done so, she has sent her report. Why not lay the report and let the Public Accounts Committee take it from there?

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial: So that is what they are doing here today. The second point, apart from it being improper, I want to say that what this Motion seeks to do is to use sections 24(1) and 25(1) of the Exchequer and Audit Act to get around the obligations imposed by section 116 of our Constitution. No piece of legislation, I do not care how old it is, can be used

to trump the Constitution of the Republic of Trinidad and Tobago, the supreme law of this land. That is quite simply a known fact. And I do not understand how the Government believes that the wording of section 116(5) gives them the power to use the Exchequer and Audit Act to get around the wording and the requirements set out in our Constitution. That is simply not on. It is wrong. They are wrong. There is no other way I could explain it, except that they are completely wrong.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial: And the courts will have to decide on that. The courts will simply have to decide, if after someone has completed every single step in a process, including sending a report—

Sen Mark: To the Parliament.

Sen. J. Lutchmedial-Ramdial:—to the Parliament, whether the Government could now come and use the Exchequer and Audit Act to extend time after the fact; after the fact. And this is where I will pause and I will get to, if they had good legal advice, maybe if they use to retain Freedom Law Chambers—

Hon. Senators: [*Desk thumping and laughter*]

Sen. J. Lutchmedial-Ramdial:—if they had good legal advice, if instead of trying to hire counsel to shoot of pre-action protocol letters to the independent high constitutional office of the Auditor General, they had stopped and thought about what they were doing, you know what they would have done? They would have come well in advance of the report being completed and sent to the Parliament, and use sections 24(1) and 25(1) and extend the time, stating that there is a material difference and they need to

get it done. But now, when they see the report, and they are not happy with it, they come here to use sections 24(1) and 25(1).

Sen. Mark: Exactly.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial: You are out of time, you missed the boat.

Sen. Nakhid: And out of place. Out of time, out of place.

Sen. J. Lutchmedial-Ramdial: No, you have missed the boat. I agree that sections 24(1) and 25(1) provide for an extension of time. But you cannot wait until the entire process is completed, you cannot wait until you have submitted the accounts. You have raised the issue in March, there has been a meeting of sorts, you have sent memoranda and so on, saying that you have admitted that you still do not have documentation for what?—some 780—

Sen. Mark: Eighty million.

Sen. J. Lutchmedial-Ramdial: Yeah. The \$780 million question they cannot answer is, “Where de money gone”?

Hon. Senators: [*Desk thumping and laughter*]

Sen. Mark: “Where de money gone”.

Sen. J. Lutchmedial-Ramdial: That is the problem. They also cannot—and what I think is the real issue here and what I really think is being, you know, put aside—because they are talking about all this revenue we find, and we find, and we find, they find—“like is Monopoly money somewhere that dey pick up and dey find”. They are also ignoring the fact that there are other comments in that report that they do not want to get out there about expenditure that they cannot substantiate and there is no documentation for.

And all of this is coming to light, because why? They are trying to prevent the Auditor General from doing her job.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial: And they come here to be patronizing and, I find, very offensive, continuously speaking about, “Well, she is new to the job, and this, and what kind of advice she getting,” and all of that. She is getting—somebody is willing to stand up to you all and you do not know how to deal with it—

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial:—because you think that you could bully everybody.

Hon. Senators: [*Desk thumping*]

Sen. Mark: Firing people, Jwala.

Sen. J. Lutchmedial-Ramdial: That is what they want to get around.

So, Mr. President, the other thing is that, apart from being improper and in violation of our Constitution, this Motion is also completely unnecessary. And it is completely unnecessary because this exact situation is contemplated and dealt with by section 25(4) of the Exchequer and Audit Act. Without any interference, without any bullying, without any pre-action protocol letter, without any patronizing and demoralizing statements being made against a public servant by the Government, the law provides:

“The Auditor General may at any time...”

—any time, there is no statutory prescribed time frame for this being done.

“...may at any time if it appears to him”—or her—desirable, transmit a special report to the Minister for presentation in like manner to

Parliament.”

So they could have allowed the Auditor General’s report, with her comments on what transpired between the 31st of January and the 24th of April, to be laid in the Parliament. And then they could have taken their time and find, manufacture, “chunkay”, cook, whatever they had to do to find what they needed to—

Mr. President: Just be careful of your phraseology.

Sen. J. Lutchmedial-Ramdial: I am guided, Mr. President. They could have taken their time to locate the documentation necessary. And if they could locate that documentation necessary to substantiate this massive increase in revenue, they could have done so and transmitted that information to the Auditor General and she would have done the special report.

6.45 p.m.

They have come here today to insinuate that, one, that cannot be done and two, that for some reason—and what they are trying to plant in the minds of everybody here is that, everything is going to fall down if this report is laid in Parliament because that is how they operate, with fear mongering. They want to tell everybody IMF, this is one, credit rating agencies, everybody how we cannot borrow, we do this, we do that, the other, that—everybody will be so upset about this. But the fact of the matter is that you simply cannot get around the fact that you bungled this entire situation, you had the opportunity to extend the time prior to the report being prepared, it is improper, it is in violation of what the section 116(5) of the Constitution says that you can do after the report has been transmitted.

It is on the record that the report has been transmitted and there is nothing in this Motion that is legal, that would allow that report from—that should prevent that report from being laid. And I want to say that the United National Congress remains committed. We know that the fight inside of here is a hard one, the Government has the majority, they will come with simple majority Motions and so on and ride roughshod over our Constitution, and do what they please, but we will take it to court and get an order of mandamus—

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial:—that that report be laid in this Parliament. And if you want to take one year, one month, one week, or a decade, to find the documentation to substantiate this increased revenue that you have found, go ahead and take your time. Take your time and do it. When you have done it, let the Auditor General be satisfied with it and then she will exercise her power and I have more faith and confidence in our public officers, particularly, our high constitutional office holders like the Auditor General. It is unfortunate that we find ourselves here time and time again having to defend them against this tyrannical government—

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial:—that tries to intimidate them. But I have all faith and confidence, based on what I have seen so far—I do not know the lady. “Dey calling her Jayanti, t living so rent free in their head that they calling the lady Jayanti”—her name is apparently Jaiwantie Ramdass. I have all faith and confidence that Ms. Jaiwantie Ramdass will not ignore her duty to prepare a special report and have it transmitted if the Government is

able to justify what they are saying, this is increased expenditure. The ball is in their court, Mr. President, the ball is in their court to utilize section 25(4) and have that special report prepared and laid, if they can do it. The point is, they appear unable to do so—they appear unable to do so, but what are they doing? Buying time so that they could bully her further? Buying time so that they could terrorize a public officer?

Mr. President: Senator, just the language. It is bordering on imputation when certain phrases are being made. Continue.

Sen. J. Lutchmedial-Ramdass: So that they could stand—I was listening to the television, Mr. President, when the Attorney General spoke in the other place and he said what—the Auditor General appears to be misadvising herself and I recommend that she change attorneys and not obtain and what—and obtain competent legal advice. They have repeated those things here today. So they are trying to discredit a public officer and discredit her choice of legal representation.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial: And that is what they want more time to do to undermine this individual and her office, to act as though she has not acted appropriately. When, you know up to now nobody has commented publicly or otherwise in this debate about what they are, you know, what the Government's view on this whole misstatements, and under estimated revenue and so on is, but you are attacking the person who actually did their job. There probably a whole lot of people who did not do their job properly—

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial:—in this whole debacle, “but you doh hear nothing about dem—you doh hear nothing about dem”. You are hearing about the one person who actually sought to do her job, do what she was required to do during a timeframe—even went so far as to seek legal advice from the Attorney General. And, you know, this is why in other jurisdictions, you have an attorney general who, you know, it is a position that is advertised and they hire someone who is not political.

It is for these exact same reasons. And the Attorney General has missed a very golden opportunity, I think, to have properly studied the law, and to properly advise all the parties involved in this matter that they could have extended the time under section 24(1) and 25(1) prior to the report being sent. Instead, he chose to retain counsel to shoot off a pre-action protocol letter to the Auditor General and I find that to be very, you know, falling very short of the duty of a person who is supposed to be the guardian of our democracy. Right. But that is the choice some of us make and it is their choice, and they live with it.

Mr. President, had that been done, we would not have been here today and a very ugly situation, that is a stain on this country, but more so, just one more stain on the record of the People’s National Movement and their commitment to defeating democracy in this country. It is just another black mark. When I was in school we had things called bad marks. I never got any but there was something called bad marks, another bad mark for this Government is what this is, in their history, their entire history of doing things like this. And Sen. Roberts was interrupted about, I think I lost count after about 15.

Sen. Mark: 50 times.

Sen. J. Lutchmedial-Ramdial:—yeah, I lost count after 15 times. He was interrupted because he tried to demonstrate, and we do not have to do it in here, it is well known. It is all out there and we will continue to demonstrate it out there for the people, that there is a history of this type of behaviour on the part of the Government, where they have the opportunity to do the right thing but they choose to do the wrong thing—

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial:—and that is what they are here to do today. They have the opportunity to say that errors are made, they have the opportunity to utilize whatever intellect they may they could scramble up between all of them there and use it to do what the law permits them to do but it is like they choose to go the wrong way.

It reminds me of something that somebody once said, speaking about a person, he said: If you give that person a key to the front door of your house, they would still try to find a way to go through the window—that is this Government. They could have come through—

Hon. Senators: [*Desk thumping and laughter*]

Sen. J. Lutchmedial-Ramdial:—they could have done things the right way and resolve this matter but they choose not to do it, because they are always trying something underhanded. They are always trying to find a way around what the Constitution permits. I do not know if it is that they simply—I find it hard to believe that they could be so ignorant of the law and what is proper. So, I have to conclude that it is just part of their DNA, it is just they are so accustomed to doing it but in this occasion, I think they have met their

match in the person of the Auditor General, who has decided that she would stand up to them, and that she will not tolerate people trying to ask her, ask her to breach—not just a breach of law, but to help them cover up their mistake, because that is what this is about.

This is about the fact that the accounts submitted on the 31st of January in accordance with the law were inaccurate, had a major error in it and the Government tried to change the accounts, and to have it backdated and asked her to accept it and issue her audit report based on the amended accounts without even recognizing that and making it known to anyone, and now they are here today, to say that time must be extended. Time extended for what? They have provided no justification whatsoever for what they need this time for and why the time must be extended when section 25(3), I think it is or (4) of the Exchequer Audit Act exists and allows a special report to be laid.

Is it that they are embarrassed, is it that they are ashamed, or is it that there is simply something else in that report that they do not want us to see? And that is the question that, as I said, probably it is the \$780 million question. It might be the \$1 billion on expenditure question but whatever is in that report ought to be brought before the Parliament and it could be read together with whatever special report comes afterwards, as is the role and duty and function of our Public Accounts Committee. We have processes and procedures built into our system to deal with these things and it is not for the Government to abuse and to utilize this Motion and abuse this Parliament to try to get around what is proper and what is right. I thank you.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Maharaj.

Hon. Senators: [*Desk thumping*]

Sen. Sunity Maharaj: Thank you very much, Mr. President. I would like to start off by focusing on the timeline of this event. The Treasury Division, the various arms of the Government that are involved in organizing the financial data and information here, they took the required four months allocated them under the Constitution to get the material together and have it delivered to the Auditor General on January 31st. The Constitution, in its wisdom, gave the Auditor General three months from that date, which will complete the seven months to supervise, audit, scrutinize that material in order to fulfill her constitutional obligation.

During the week of the 26th of February, this pre-action protocol refers a lot to 2023, but I am thinking it is 2024. The Treasury Division was informed by the Budget Division of an apparent material understatement, so that is within the Ministry of Finance, different divisions are talking to each other and saying we have a problem. This information has not yet reached the Auditor General.

On the 28th of March, one month later, the Permanent Secretary submitted to the Auditor General via email, advising among other things, and I will focus on only what is relevant—that the Ministry of Finance would continue to liaise with the Central Bank of Trinidad and Tobago to complete the reconciliation process. This is in response to the—a follow-through on the understatement in the amount of 3.8. In other words, that process of reconciliation was not yet completed. And this is on 28th of March—keep in mind, the constitutional deadline with which the Auditor

General is working. On the morning of the 9th of April, an executive from the Treasury Division attempted to deliver a CD containing electronic copies of the amended public accounts. This is three weeks to go before the constitutional deadline.

Now, we have heard a lot about trying to reach the Auditor General, trying to get a meeting with her. If your job is, and you have a constitutional obligation, you can take as many phone calls about amendments coming, about discrepancies we have found, huge sums of money. But what you are only able to deal with is what is factual and before you as your fact, in order to deliver your work. Because somebody might say something is coming and it never comes and then it is you to catch on the 30th of April.

So, I am assuming that one of the reasons, and I am optimistic that these are adult experts trying to do their work—that the Auditor General is focusing on completing her work, in time, to meet her obligation which is a very serious undertaking. And she is aware, all the calls for meeting, all the phone calls, all the urgings, that, until it is a factual material before her, is not relevant to the task at hand which is to deliver to the Parliament, to the Speaker of the House, the President of the Senate, Minister of Finance by April 30th audited accounts.

On 11th of April, finally, it seems to me, three officers meet the Senior Legal Officer of the Auditor General and they have arrived with a CD containing the electronic copy of the public accounts that were based on the revenue statement, sorry, with the amended—they asked if the amended public accounts could be audited before 30th. That person said that she has been informed by the Auditor General that she should not accept the CD

containing the amended public documents and proceeds to continue and complete her work.

7:00 p.m.

Now, we are here at this point, two and a half weeks before the deadline. I do not know how this process works, but it would seem to me if you are giving the Auditor General three months constitutionally to scrutinise audit accounts, two and half weeks seems to me to be obvious, you cannot conduct that, unless you are going to rubber stamp those figures and put it into a report. Obviously none of us wants her to do that. So I am asking myself, why did the Government think that the Auditor General, with such short notice at the time, at which it actually received a CD with the amended information, that they thought it was at all possible to have this material, all this data scrutinised, because the term they have in the Constitution is scrutinising audit. It must be obvious to anybody that two and half weeks is just not practical and I take the point made, that even before that point, from the minute it was discovered, that the statements were underreported to the extent of over \$3 billion, you knew you had a problem.

You had to be proactive, and you had to file for the extension at that point. Because what you needed to give to the Auditor General was the comfort that she would be acting within the Constitution. When you did not go for an extension, the only date she is dealing with is April 30th. If, if the Government had moved at that point, come, come to Parliament, and said, “We want the same three-month extension, four month extension”, then the Auditor General would know that she has adequate time to engage that

material. You cannot engage that material with two and a half weeks to go, and then come after the fact. It was a grave mistake of the highest order, in my view, for the extension not to have been sought to let the Auditor General know she had constitutional protection in order to do the job, to go back over those figures. Who knows what she would have found, whether it would have been totally consistent with what different—the senior people in the Ministry of Finance was saying. Remember there, they have their record of a mistake, a massive mistake, or it might have been perfectly fine, or there is a problem.

But to assume that you can just hand her something, and that would get in, and be printed, and be here in this Parliament with two and a half weeks I do not know how that could be reasonable. In fact, we know it is not reasonable because now the Government is seeking four months to do the same thing and that reconciliation process is still going on. We are here extending something after the fact, and we are being told that the consequences are dire. Well, first of all, if there is a lesson for all of us to learn as citizens of the country, there are consequences to actions. That is what we tell little children all the time. That is what we tell criminals all the time. There are consequences to actions, and when you have the power of law, to make law on your side, you should be extra careful, because you do not want to abuse that right of making mistakes, and having the power to erase your mistakes by legislative power. That is not how laws work in a democratic country. Because you have the power you have to be extremely careful, in the use of that power. Not because you can, you should.

So, I am not even clear on what the consequences are, we are hearing, you know, that it could affect our credit rating. We still do not know, in fact, how this auditing process is going to take, what is going to come out of it at the other end. We do not know four months from now what will be the findings. And it is incredible to me, that people are rushing the Auditor General. Hurry up and put that in, so that we can get it on time and they have not even thought about let us extend it, let the person, let the professional work with—she knows she has protection. She did not have that protection and therefore she did what she had to do. She brought it on Wednesday assuming that the deadline is on Friday, because the 30th is looming and that was the last Friday for the House to meet. To me that is just—that is common sense. That is what you would do. How did this get escalated?

So, we have two problems here, we have the error that was made. The Minister says, you know, he feels so good about the public servants who owned up to their error, and you know it shows that, you know they are honest. Well you know that error was going to be found out sooner or later and somebody has to be held accountable. You cannot pat them and say, “Nice child”, right.

Hon. Senators: [*Laughter*]

Sen. S. Maharaj: You cannot say, “That is okay because you owned up.”

Hon. Senators: [*Desk thumping*]

Sen. S. Maharaj: “Is \$3 billion. Right. Is \$3 billion.” Not every error is equal. You may have an errata for something like where it is being said here 2023 and you meant 2024. You could have tonne loads of errata, but it is \$3

billion, with consequences that are serious for this country. That understatement—had it not been caught it would have affected, and it would have gone into the auditor. So where is the accountability inside of the system? Because all of us, the entire citizenry cannot gloss over that mistake. If it was human error, we want to know how. And if it was technical errors, because you know there are a lot of digital transitions taking place. I am aware of one state enterprise in the energy sector, massive dislocation, because they have engaged a new system. Now we could talk about the management of this, of the old systems, and how they are being used and who is coming and putting them in, what is the planning and so on, but we know that there are glitches.

But the point there—all of our attention as we deal with this error, of this magnitude, cannot just focus on the one person at end of the line who is being pushed unreasonably to cover up this thing, because—I do not want to believe that the reason the Government did not take the obviously proactive measure from—they could have done it from March or February, or when it was first discovered internally, anytime in March and definitely in April, giving it enough time so we would not have had, that very awkward situation of the reports having been submitted.

So my concern now is, I think this was really unnecessary, a proactive response, all of this. We would have come, we would have voted for the extension. There is a massive problem, a technical glitch, whatever it is, and we would have said, “Okay, give the Auditor General the extension and get the work done”. All of that would have been avoided. Instead, the worst assumptions were made that—and I have to—I am detained by asking what

would have made the Government believe that two and a half weeks were sufficient? Because nobody should expect an Auditor General to just accept figures brought to them and I hope that has never happened. An Auditor General has a very—it is constitutionally protected, and it is a watchdog.

The concern now is what happens from here, given the riling up that has taken place, and the quick resort to a heavy-handed legal response—I am taking in my view a hammer to swap a fly. How do we take this issue to a place of safety so that we do not end up with yet another incident of the Government locking horns or a head of an independent institution, and I use the word, I agree, “independent” in inverted commas, locking horns with the Government; I am not taking a side on this matter. How do we avoid that? How would we deescalate that and get this issue back on track, without having people, you know, at each other, and expecting the country to take sides? Sooner or later it is already there, it is sides.

7.10 p.m.

The inferences, imputations, all of it is already there. We need to de-cloud this issue and make it possible for some kind of detente, some kind of, you know, mediation. Where is there the scope for mediation? The only thing I could think about is the regular meetings that the Prime Minister has with the President because the President appoints the Auditor General. The Auditor General is not under the Government in any way and the Prime Minister is the head of Government. Is there some scope there?—because this law will pass and the extension will happen, and there is a chance for all those figures to be subjected to rigorous review and come out saying, “This is our figure and we are very happy”. “Our figures look better than we

thought”, or if there are doubts, if there are challenges, are we going to hear that there is something else that is behind all of this because there is so much murkiness in the public discourse? How do we get ourselves—how do we change tact as it were?

The way how this has been handled, we have to consider the precedent it sets. This is not something—I am assuming that when the legislators of the past allowed scope for an extension, they were probably thinking about the kinds of things you really do not expect, like war breaks out or, you know, some terrible thing and you go and you say—you know, we always cater for an extension. An extension because of, you know, an error. Okay, I suppose you would want everything to be correct, yes, but the precedent is in the way this has happened. The precedent we are creating here is that if the Auditor General claims the time that is needed, you have opened a door. You have created an argument that if there is a disagreement, this is the way we deal with it in the future.

Let us assume in a government that is in the future that is not as straight as you are, and is walking through that door because they just do not like the figures, they do not like what the figures say and how they want to change it. You have opened that door. This is why it should have been done properly. This is why it should never have become a contentious issue. So I know this will pass but I urge the Government to de-escalate this. This one falls on the Government. It was your responsibility to have acted in time when you saw that there was a problem; you did not, and therefore to pursue on the path that the problem is somehow with the bizarre behaviour of the Auditor General, what I find bizarre is coming as late as this is to see this,

expect this.

What I find bizarre is the presumption that this person is willfully not doing her work, willfully trying to block this information and not deal with it. So that I am just going to put that there because I am hoping that out of this, out of the contributions that have been here today, that we do not escalate this to the point that we have had other things escalated, because once again what we are doing is undermining independent institutions. There must be space in the way we deal with each other, to deal from the point of view from the perspective of fixing a problem, where in the system—I know it is not easy, I have said before, our Constitution creates a lot of conflict in itself, but where is there the possibility and why? And just assume, put yourself in the shoes of the other and imagine what you would be doing instead of rushing to wave the hammer, the legal mallet on a person. So with that, I rest. Thank you.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Teemal.

Hon. Senators: [*Desk thumping*]

Sen. Deeroop Teemal: Mr. President, I do thank you for the opportunity to contribute to the debate that is before this House. If you would just allow me, very briefly—I know it has been said before, but so much has been said, it is just to try to place my mind back in a certain context, just to repeat the resolution that is before us.

Mr. President: No need to repeat, Sen. Teemal.

Sen. D. Teemal: “Mm?”

Mr. President: No need to repeat.

Sen. D. Teemal: No need to repeat. All right. I was just trying to see after all in the debate has gone on, you know, just to kind of gather my thoughts, but I will press on. The fact that the framers of this piece of legislation regarding the extension of time, under sections 24 and 25 of the Exchequer and Audit Act, did have the foresight to allow for an extension of time within the legislation, it would have been, I think, quite prudent of them to expect that, you know, nothing is perfect in this world and there will be occasions that would come up arising out of the legislation where there would be considerations for extension of time, as is before us here today. Outside of acts of God, you know, natural disasters, and all of those things, I would really like to think that one of the reasons for catering for extension of time would fall within the ambit of what is before us, in that substantive mistakes can be made that have substantive consequences that would warrant that we revisit, you know, what is allowed for under the Act, and I think that that is what is before us here.

So it is not a question of—you know, in the consideration of this, what is before us, it is whether the officials of the Ministry of Finance are correct or they are wrong, or the Auditor General is wrong or she is right. It is a question of allowing an extension of time in order to determine that, and not for this present debate for us to conclude who is right and who is wrong. Now, we have been hearing thus far about the law, about the Constitution, and in such cases where constitution and law is being subjected to interpretation, in the absence of definitive pinpoint aspects within the Constitution and within the law, in this case the Exchequer and Audit Act, you know, is there any other means available to us, for us to examine the

issues before us?

Primarily the debate thus far has been within the question of constitution and law, and I think it was refreshing, at least on my part, to hear the hon. Minister of Public Administration introduce an aspect to the debate regarding professional practice and what would be practised in accordance with international accounting standards regarding auditing. But I must say that her reference to the international auditing standards, I felt the hon. Minister of Public Administration would have probably gone a bit more directly into the particular standard of reference that would have encapsulated the responsibilities of the Auditor General.

Just from some brief research, Mr. President, what I have come across is that the Auditor General's Department is a member of the Caribbean Organization of Supreme Audit Institutions or CAROSAI, to abbreviate it, which was established in 1988. CAROSAI comes under the umbrella of the parent body, International Organization of Supreme Audit Institutions or INTOSAI, and coming out of that we have the International Standards of Supreme Audit Institutions (ISSAI), which is really the authoritative international standards on public sector auditing. It is based on a set of concepts and principles that define public sector auditing.

Now, whilst the ISSAIs provide a broad framework for auditing government entities, we need to understand also that auditors must apply their professional judgement and expertise to assess specific situations, because in itself the guidelines and the framework of ISSAI, you know, may not be very specific about every situation that could occur. But professional judgement comes into being and this is why we have specialized expertise in

the office through the Auditor General and her staff in that respective department, and to me a specific situation would be material understatement. Because material understatement, whether in terms of revenue or expenditure, or any aspect of accounting would be something that is possible and definitely it happens, maybe on different scales but it happens. And of course the professional expertise on judgement should ensure that audit procedures are consistent with the principles of auditing as outlined in the respective standard and are conducted in accordance with relevant laws, regulations and of course the professional standards.

So I think a debate on this matter, we cannot not look at, in interpreting the whole thing about law and procedure, it just cannot be looked at in the absence of relevant professional standards in determining, you know, whether or not we are heading in the right direction. In the case of a national audit, in my opinion, where a government submits a revision to revenue after a deadline date, I think several principles and concepts from the ISSAI's framework needs to be considered as relevant. There are several of them, I would go through them point by point; one is transparency. And the Auditor should ensure that any revisions to revenue are transparently documented and disbursed.

This includes providing clear explanations for the reasons behind the revision and the impact it has on the financial statements. I think what is before us was that opportunity provided to the Auditor General, and if the opportunity was provided, you know, whether or not the Auditor General did take into account these principles of transparency. Now, to determine and make a judgement on whether the Office of the Auditor General did or did

not, unfortunately, we do not have that kind of information before us. I mean, matters have been said, but I am very reluctant to pronounce judgement on what has been presented thus far, because to me, we do not have a complete picture of what has transpired.

7.25 p.m.

The other aspect will be that of independence, where it is expected that the Auditor General must maintain the independence and objectivity in their assessment of the revision to revenue in this particular case, and whether or not they have been influenced by political or external pressures and should conduct their evaluation impartially. So that issue of independence does crop up and as I said, without the benefit of full documentation or adequate documentation, it is a bit difficult to make a call on it.

In addition, the aspect of professionalism comes in, and auditors—the question is, whether they should apply their professional judgment and expertise in assessing the revision to revenue after the submittal of the financial accounts. And this would involve gathering sufficient and appropriate audit evidence to determine the accuracy and completeness of the revised revenue figures.

Then there is compliance with laws and regulations, and whether the auditor should evaluate—whether the revision to revenue complies with the relevant laws, regulations and accounting standards. And, of course, this would include assessing whether the revision is supported by valid documentation and it is in accordance with established accounting procedures. Then, of course, accountability and reporting, and whether

auditors should communicate their findings regarding the revision of revenue effectively to stakeholders, including management, governing bodies and the public, for this would ensure accountability and transparency in the audit process.

So on the background and the basis of that, you know, I ask some basic questions, was the law in any way preventing the Auditor General from allowing the understatement of revenue to be considered? And if so, if the law was preventing her, why was this not proffered by the Auditor General on advice? To me, just as a laymen outside of the sphere of the professional audit field, simply put, it would mean that, to me, the objective should be for the report to be issued on basis of accurate financial data. To me, for a national audit for a country, for a substantial error and the severe consequences such an error could have on the functioning of the country, in terms of the ability to instil investor confidence, the ability to borrow and all of those things, to me, the objective should be for the report to be issued, first to begin with, on the basis of accurate financial data. And if there is a material issue, as we have before us, this can be raised up until the point when the report was issued. I see it like that, that this concern, if there is a material issue, to me, this can be revised up until the point where the report was issued. Was it the situation in this case?

The auditor then has a responsibility to get comfort on the figures—due diligence, you know, putting additional resources, check all the facts, but the responsibility to get comfort in the figures should be there. If this is the case, to me, it would be indicated in the report. And if that comfort cannot be achieved by a review of what is there before, or due to limitations

of time to properly investigate—and in this case we did have limitations of time. So if this is not the case, then, to me, it should be stated in the report. But as I said, Mr. President, that is just a layperson's approach to this thing.

Now, what is interesting also in this entire debate is in a letter that was sent to the Director of Legal Services, Office of the Attorney General and Ministry of Legal Affairs, a letter that was sent to Ms. Kendra Mark-Gordon, the last paragraph of that letter—and this letter was sent by Ms. Anita Mangra, Senior Legal Officer of the Auditor General's Department—states that:

The Ministry of Finance is free to submit an original signed and dated letter to the Auditor General by noon on April 16, 2024, recalling the public accounts previously submitted and dated January 31st, 2024, confirming the statement of declaration and certification previously provided as inaccurate, and providing the revised public accounts, and this letter would be published in the Auditor General's report.

Now, I am not certain whether or not that that response from the Auditor General was taken into consideration and maybe some clarification regarding that aspect could be given, if the hon. Minister of Finance so chooses.

Now, Mr. President, Sen. Maharaj did go through a timeline, and that timeline was presented initially in the debate, it was repeated several times. So in the interest of time and not to be pulled up by you, Mr. President, I am not going to repeat all the dates. But the question is, you know, if we would just move away from the rigidity of the Constitution—and I am not suggesting that for any minute that we do not recognize our responsibilities

to the Constitution and the written law, but in terms of implementing law and taking into consideration the spirit of what was intended by the legislation.

And it has been brought to the attention during this debate that on the 26th February, the Treasury Division was informed by the Budget Division of the material understatement, and then a series of things went on. Between late February and early April, officials from the Treasury Division, Budget Division and Inland Revenue Division did their investigations with regard to the causes and the quantum of the understatement, but it was not until the 25th March that the Permanent Secretary in the Ministry of Finance spoke to the Auditor General by telephone. And I am just asking, from a point of having an approach to a major problem that will have consequences and impact negatively on the progress of the country, from an economic and financial point of view, we are talking about almost one month for communication between the Treasury Division or the Ministry of Finance, through his Permanent Secretary—almost a month before there is a formal communication. And I am including the attempt to reach the Auditor General by telephone as “formal communication”, because if we go to push that back to official written communication, we would have to add on a couple of days to it.

And whether or not, in the spirit of the whole thing, that the Auditor General—you could have signalled to the Auditor General, look, we have a problem, there is—subsequent to our submission on January 31st, we have come up—they have discovered that there is a problem. The nature of the problem is this, we do not have the details at this point in time but these are

the issues. We are working on it, but we are bringing you into the loop as early as we can. We are bringing you into the loop as early as we can, with the intention that we can arrive at an agreeable solution to the challenge that we have before us.

I do not know if that is a naive expectation, or from high-level professionals and officials functioning in the highest level of this country, whether such action would have been expected, in that, we have seen a problem and should we signal, as early as possible, to see how we get this matter sorted out.

Because as Sen. Maharaj said, I do not know, in the case of the Auditor General, whether, with just a couple days to go, it was a situation of being backed into a corner—I mean, we have heard about the advice she may have received, may not have been the best advice and all of those things, but in a situation like this, whether or not, you know, a different approach would have borne different results.

And just as I close, is that if the hon. Minister of Finance can say—because we on this side we do not know about the report because the report has not been laid, we have not seen it. And with all due respect to the media, I am reluctant to take the reports in the media, to bring it into this debate, without having the benefit of the report being laid and what is actually in the report. So the question is—one of the questions would be, whether the amended books were included in the documentation that the Auditor General refused to accept; whether the books themselves, the amended books, were included in the corrected financial accounts.

And hon. Minister of Finance, with my limited experience in this

thing, I am aware that the management letter normally comes with the audited report, and it is not a post-report exercise but it normally comes with—where any issues that maybe affect the integrity of the audited report are raised, it is flagged, so that it is brought to the attention of the entity being audited, as well as it provides for professional, you know—it gives professional approach in terms of, “I have looked at it but I am signalling these,” and I think the hon. Minister of Public Administration did go into some details in that regard, regarding the management letter.

7.40 p.m.

So I will conclude here in that, what is before us, I agree, it is a question of the extension of time under 24 and 25 of the Exchequer and Audit Act, but there are factors surrounding this entire debate that impacts, I think, on just that extension and I have tried to just mention a few of them.

Now as I said, without the benefit of the reports, you know, where I stand today is that, you know, based on the debate, it is a question of I am hearing whether there would be winners, you know, and there would be losers, because if the matter heads to court, obviously, you know, based on decisions. But I just would like to conclude by saying—

PROCEDURAL MOTION

The Minister of Foreign and CARICOM Affairs (Sen. The Hon. Dr. Amery Browne): Mr. President, in accordance with Standing Order 14(5), I beg to move that the Senate do continue to sit until the completion of the business at hand, inclusive of the matters on the adjournment.

Question put and agreed to.

EXCHEQUER AND AUDIT ACT

UNREVISED

(EXTENSION OF SECTIONS 24(1) AND 25(1))

Mr. President: Continue, Senator.

Sen. D. Teemal: Yeah. I was saying about the question of winners, but to me in this matter the biggest loser irrespective of what happens, is the country of Trinidad and Tobago. I thank you.

Hon. Senators: [*Desk thumping*]

Mr. President: The Minister of Finance.

Hon. Senators: [*Desk thumping*]

The Minister of Finance (Hon. Colm Imbert): Thank you very much, Mr. President. I will just deal with a few points made by the last speaker. The account of the timeline given by Sen. Maharaj was an inaccurate statement of events, and therefore, Sen. Teemal, if you had followed that, you could be misled. Let me read into the record the statement of the timeline.

It was on the 25th March, that the Permanent Secretary in the Ministry of Finance spoke to the Auditor General by telephone advising her there appeared be a material misstatement in the revenue statement. If you read from the letter written by the lawyer from the Office of the Attorney General and Legal Affairs to the Auditor General's office, what the Permanent Secretary reported is that, on the 25th of March the Auditor General said to her that she was on her way home and she would contact the Permanent Secretary the following day. The following day was the 26th of March, and the Permanent Secretary did not hear from the Auditor General, so she sent her a WhatsApp message, indicating that she wanted to follow up on the matter which is the appearance of a material misstatement with the revenue.

Now the 25th March is not a few days before the deadline. It is five weeks, and you have to understand—I counted the weeks, it is five. You

have to understand that the Auditor General has somewhere between 12 and 13 weeks to do the audit. So five weeks is a little less than half the entire period and you are only dealing with one part of the accounts. It is just the revenue statements as they relate to tax refunds. So it is not the whole thing that you are dealing with. You are dealing with a very particular component of it, and the communication came five weeks before, five out of 13. So, I want to clear that up. There is an unfortunate impression that has been given that the Auditor General was confronted with this problem and only had a couple of days to deal with it. That is simply untrue.

Secondly, if one looks at the letter, the Ministry of Finance was contacted by Mr. Shiva Sinanan, the Assistant Auditor General in the Auditor General's Department, and a meeting to discuss the revenue statement, and this is the understatement, was scheduled for the 27th of March, 2024. That is one month and four days to go to the deadline.

So the Assistant Auditor General met with the staff in the Ministry of Finance, the Permanent Secretary, another permanent secretary, the Comptroller of Accounts, the Chairman of the Board of Inland Revenue, the Director of Budgets, the Deputy Director of Budgets, budget manager, budget adviser and so on. So there was a high-level meeting between the Assistant Auditor General and all of the senior staff in the Ministry of Finance to discuss this material understatement on the 27th of March.

What the Permanent Secretary has reported is that the Ministry of Finance staff invited the Auditor General's Department on the 27th of March, one month before, which is still one-third of the time just to discuss a part of the accounts. Certainly less than one-third, the accounts and the books and

so on that have to be looked at are certainly less than one-third of the entire national accounts, but you have one-third of the time to go. This is what the Permanent Secretary has reported.

At the meeting on the 27th of March, the Auditor General's Department was invited to make recommendations with respect to future steps to be taken in resolving the problems and the issues raised in the meeting. So more than a month before the deadline all of the senior staff in the Ministry of Finance met with the Assistant Auditor General, that is a high-level officer in the Auditor General's Department. That is not the cleaner. That is the Assistant Auditor General, and they asked the Auditor General's Department, make some recommendations on how we deal with this problem. And the problem that was known to the Assistant Auditor General on the 27th March, not a few days, not a few weeks, over a month before the deadline was there is a material understatement. At that meeting the Assistant Auditor General requested documentation and indicated that he would report the matters discussed to the Auditor General and then contact the Ministry of Finance on the matter.

Again, no information was forthcoming from the Auditor General's Department. There is a pattern. So that on the 25th of March the Permanent Secretary contacted the Auditor General. The Auditor General indicated that she would contact her the following day to discuss this problem. She did not. On the 27th of March, the senior staff in the Ministry of Finance met with the Assistant Auditor General who said that he would report the matter to the Auditor General and then contact the Ministry of Finance. They did not.

So the Permanent Secretary called the Assistant Auditor General again to discuss the same thing, the material understatement. The Assistant Auditor General told the Permanent Secretary that the Auditor General would not be issuing any communication to the Ministry of Finance with respect to this matter. So these are the facts. It has been portrayed that the Ministry of Finance harassed, try to bully, coerce, tried to make the Auditor General do something that she should not do. Nothing could be further from the truth, at the last minute, a few days before too. The Ministry met with the Auditor General (Assistant) one month before and said, tell us what to do. Nothing forthcoming from the Auditor General's Department, absolutely nothing. So what happens after that? So that is the 28th of March.

The Ministry of Finance continued and sent a memo, since the Auditor General had indicated that she would not be speaking to the officials in the Ministry of Finance. The Ministry of Finance officials did not sit down and throw up their hands in the air. They said, "Alright You do not want to talk to us, well we will talk to you". So they sent a memo with the details of the material understatement in the revenue statement. That memo was sent on the 28th of March, which still a month before, not two days before, a month before indicated the process by which the understatement had been made, identified, what quantified, what caused it and the reasons why the understatement had not been identified prior to the 25th of March. So all of that place over a month before.

One would expect, if weeks later you are hearing that you did not go to Parliament to get an extension, one would expect that on the 25th, 26th, 27th of March when the Ministry of Finance said, "Look we have this

problem. The documentation is wrong, it is inaccurate. Tell us what to do.” And the response is, “I am not speaking to you, because that is what occurred” and the situation just continued to roll along like that with the—

Sen. Nakhid: [*Interruption*]

Hon. C. Imbert: The officers in the Ministry of—Mr. President, I “doh” know what is going with Sen. Nakhid.

Mr. President: Continue, Minister.

Hon. C. Imbert: Thank you very much. So it continued. It continued with the senior staff in the Ministry continuously sending communications by email, documentation to the Auditor General explaining everything, supplying the information and so on and saying, “Tell us what to do”. There was no response whatsoever coming from the Auditor General. And this got all the way down to the 5th, the 6th, the 7th, the 8th of April, where the staff at the Ministry decided, “Well, we will go physically with the documentation and deliver it”. At that point in time as the Attorney General has reported, the Auditor General refused to receive the information. Okay? So this was reported to me as Minister of Finance.

I sought the advice of the Attorney General. He wrote the pre-action letter. I understand what Sen. Hazel Thompson-Ahye is saying. I have been here around long enough. I know people take positions based on feelings, not always on facts, eh. They take positions based on feelings. I heard Sen. Thompson-Ahye say, that the Attorney General should apologize to the Auditor General. I am not sure for what. It seemed to be an apology for writing the pre-action letter, but what else could we have done? For weeks now the Ministry of Finance’s staff are trying to get from the Auditor

General, “tell us what to do”.

As soon as the letter was written, and you asked about that, Senator, through you, Mr. President, Sen. Teemal, you asked. The next day the Auditor General says, “Alright. I will take the information now, but you will have to get it to me by noon on the next day”, and they arrived with the information by noon on the next day, and the Auditor General’s Department signed for receiving it, so they have it now.

So the assumption is, it is just a small part to the accounts. You have got the information weeks before. It is not to say that the Auditor General’s Department did not get it. They got it, you know? This is now the formal transmission of the information, but you have it already. So the assumption was that it will be dealt with. Further, any normal and reasonable person would expect, because we are not enemies, we are all in this together. This is the assumption. This is a series of public servants working together. They have done this task for years. Some of them for 30 years they have been associated with this task. So they are accustomed to a certain approach to the matter.

So the assumption is, among the public servants, well, this is a small part, you have finally received the thing, “yuh go” deal with it, and if you cannot deal with it, you will say, “Well look, you better go and get an extension of time”. That is the assumption. Lo and behold, on the 24th of April, the report is sent to the Parliament. But what is interesting about that, is that on the same day a letter was sent to the Permanent Secretary in the Ministry of Finance, a management letter, and the management letter was sent on the 24th of April. So the completed report which does not do a full

audit of the material understatement was sent—and a management letter was sent the same day.

What is interesting about the management letter which has 14 pages, it refers to a number of issues with respect to the amended accounts and seeks clarification and information on all of these things, all sorts of things. It refers to all sorts of things. I can give some examples of what is in this letter that was sent by the Auditor General to the Permanent Secretary in the Ministry of Finance and it was sent on the 24th of April, the same day that the report had already been bound and already been sent to the Parliament.

In this letter, which is entitled, Management Letter on the Amended Public Accounts of the Republic of Trinidad and Tobago. It speaks to statement of receipts and disbursements, Board of Inland Revenue, taxes on income and profit, taxes on goods and services. It speaks to taxes in the exchequer account. It goes on and it looks at various heads in terms—this is all about tax refunds.

7.55 p.m.

It continues with a number of areas within the national accounts that it wants clarified. It goes right down to the end and makes the following statement which I find very interesting. Remember this letter is the 24th of April, and remember the accounts are already finished, bound, and sent to Parliament, and this is what the Auditor General tells the PS of Finance at the end.

It will be appreciated if you could let us have written comments on the findings, observations, and recommendations contained in this letter, which deals only with the matters which have come to our attention.

So, on the 24th of April, the Auditor General is asking for clarification on a number of matters but “de report finish already”. I find that very interesting, very, very interesting. What is the point of this letter seeking clarification on all of these things when the report is already finished, bound and sent to the Parliament? What is the point?

Clearly the information will come afterwards. The letter is written on the same day, delivered on the same day, with same dates stamped. And Sen. Thompson-Ahye, again, going back to this whole thing about apologizing. In this letter from Freedom Law Chambers, where Sen. Jayanti Lutchmedial-Ramdial’s name is boldly displayed at the top as the first associate of Freedom Law Chambers, and this is dated April 2024. This is not ’23, ’22, ’21, ’20, ’19 or ’18. It says “associate”; the word consultant does not appear.

In that letter, this letter, which must have been based on instructions from the Auditor General; the Auditor General cannot resile from this. Lawyers write letters based on instructions. Freedom Law Chamber, they are not accountants, they have not perused the national accounts. They are taking instructions from their clients. Everything in here is based on instructions from the Auditor General. The Auditor General cannot resile from that. Neither can Freedom Law Chambers say “we get bad instructions”.

And in there is the astonishing statement that the declaration, and I need to read this again—it is the Statement of Declaration and Certification for the Amended Public Accounts. In this letter, twice, maybe three times, I, Minister of Finance, am accused of essentially backdating the amended

accounts to January 31, 2024. It says the date on the Statement of Declaration and Certification is January 31, 2024. Sen. Teemal, I will show you this later. But I can say without any fear of contradiction that I have in front of me the statement of declaration and certification of the amended accounts, and the Permanent Secretary in the Minister of Finance, the Comptroller of Accounts, and the Treasury Director, have all dated in their own hand in their own handwriting, April 16th, 2024.

I think if an apology is due from the Attorney General for having the effrontery to send a pre-action letter on a very important matter, then I think an apology is due for that blatant untruth contained in this letter from Freedom Law Chambers, the Chambers in which Sen. Lutchmedial-Ramdial is named as an associate. I think it is unfortunate that when points of orders were raised in this House that Sen. Lutchmedial-Ramdial disavowed being in receipt of any financial benefit from Freedom Law Chambers. I have gone into the records and disavowed on several occasions.

Sen. Dr. Browne: Repeat it.

Sen. Mark: [*Inaudible*]

Hon. C. Imbert: What is your point of Order?

Hon. Senators: [*Laughter*]

Hon. C. Imbert: What is the point of Order?

Mr. President: Hold on, both of you all cannot stand. Have a seat. Good. So you would like my ruling but I need to hear a point of order. What is the point of order?

Sen. Mark: [*Inaudible*] is that hon Minister under 46(6), the Minister is imputing, once again, improper motives, which you have already ruled on,

and he is going on a commentary on his own.

Mr. President: Okay, so a question was raised earlier, statements were made, and the Minister is responding to that in his wrap-up. So I am going to allow him to continue, but of course, Minister tread carefully.

Hon. C. Imbert: I will be very careful. In Claim No. CV 2022-01181, where the Minister of Finance was successful against Freedom Law Chambers, not only in the High Court, but in the Court of Appeal. In civil appeal No. P007 of 2023, the lawyers on record are as follows:

“...Anand Ramlogan SC, ...K. Samlal, ...J. Lutchmedial and Abdool Mitchell instructed by...V. Siew saran and...Ms. N. Bisram...”

In this letterhead, who are the lawyers for Freedom Law Chambers? Who are the associates? We have Anand Ramlogan, head of Chambers. That is written here and that is here. We have Natasha Bisram, I think I am seeing that there. We have Robert Abdool-Mitchell, yes, that is there. We have Vishal Siew saran, yeah that is there, and we have Jayanti Lutchmedial-Ramdial in this matter.

Sen. Sagramsingh-Sooklal: Oh my. Wow.

Hon. Senators: [*Crosstalk*]

Mr. President: So, the Standing Order raised is 46 (1) but I once again rule that the Minister is responding to something that put on the record which he is allowed to do as the mover of the Motion and the person wrapping-up. Continue Minister.

Hon. C. Imbert: Mr. President, it seems they do not like your orders and rulings and that is too bad. So in this matter and other matters, Sen. Lutchmedial-Ramdial is part of the Freedom Law Chambers' team. In this

letterhead 2024, Sen. Lutchmedial-Ramdial, is named as the first associate.

Hon. Senator: Take that chance to—

Hon. Senator: Not consultant, first associate.

Hon. C. Imbert: And within a law firm of that nature, it is my understanding there will be shared services, which will be paid for by a portion of the fees received in the matters and therefore, all of the associates will have a financial benefit. But that is matter that I am sure will be dealt with under Privileges

Hon. Senator: [*Inaudible*] or not consultants.

Sen. Mark: Privilege what? I think the Minister is imputing improper motives.

Hon. Senators: [*Crosstalk*]

Mr. President: Continue Minister.

Hon. C. Imbert: You know it is really interesting. We have had Sen. Roberts screaming at us in his normal way and saying “they cah take it”. Well you “cah” take it. That is your problem.

Sen. Roberts: “Me ain’t tell you take nothing short man”.

Hon. C. Imbert: See, see? He “cah” take it. [*Laughter*]

Hon. Senators: [*Laughter and crosstalk*]

Mr. President: Alright, so whereas, banter is always good for the debate, again, we do not allow it to get out of control. Minister continue.

Hon. C. Imbert: Thank you. Sir. Now, let me just deal with the contribution from Sen. Mark, who has no qualifications in law, none, but portrayed—The goodly Senator portrayed himself as a constitutional legal expert here today and sought to regale us on the Constitution.

Sen. Mark said that according to section 116 of the Constitution the President is supposed to lay the report of the Auditor General. Well, that is nonsense, because the Constitution does not say that. The Constitution simply says that the Auditor General submits reports annually, and there is no date. It just says “annually”. It does not say by January, February, March, April, May, or June. It just says “annually”.

The Auditor General submits reports to the President, the Speaker, the Minister, and that the Speaker and the President cause it to be laid at the next Sitting. But the Constitution does not—at any part of the Constitution does it say that the Presiding Officer has to lay the report or that the Minister of Finance has to lay the report.

The Attorney General has given you the construction. Where does the information about laying the report come from? It comes from the Exchequer and Audit Act, which is very, very clear in section 25(5) which says, well 25 (4) and (5), which says that the Minister of Finance has 30 days to lay the report after receipt, and if the Minister of Finance does not lay it the Auditor General can cause it to be laid.

8.05 p.m.

So, there is no constitutional conflict here. The Constitution simply requires the Auditor General to send the report to the Presiding Officers and that they are required to cause it to be laid, but the Exchequer and Audit Act gives the timelines. So it is unfortunate that Sen. Mark tried to be a “bush lawyer” today but he failed miserably, miserably.

If I could look at the other remarks—first I want to thank all Independent Senators who have understood why we are here. They

understand. They may have different points of view. The Hon. Senators may misunderstand the timeline which has happened. There has been a misunderstanding of the timeline, but that is all right. I am not speaking about the Lower Bench, Mr. President, I am speaking about the Upper Bench, there has been a misunderstanding of the timeline, and I have made crystal clear that the communication took place five weeks before, and there was a plea from the officials in Finance to the Auditor General's Department to tell us what to do. So Independent Senators may, one or two of them—

Sen. Maharaj: Could you give way?

Hon. C. Imbert: Who is asking to give way? Oh, I am so sorry. Apologies.

Sen. Maharaj: The point to be made about that timeline is you are referring to communication about an appearance of an understatement. When that communication came to the Auditor General it was not yet a confirmed; "there appears to be". So my point in making that, there is no misunderstanding, it is that at the stage of "appeared to be" it was not actually yet confirmed, and you have to take that into consideration when you are the Auditor General. What you deal with as the Auditor General is not what appears to be, what is confirmed before you. Thank you.

Hon. C. Imbert: Now I can see how sometimes misunderstandings find their way into the newspapers, because I was very clear that on the 25th of March, the Permanent Secretary told the Auditor General that there appeared to be a material understatement but on the 27th of March, four weeks and more before the staff told the Assistant Auditor General there is a material understatement and provided the documentation. So I understand how

things can be misconstrued, but it is okay.

The point is, I want to thank Independent Senators for whatever your point of view is, however you may feel about something. Because I said I have been around long enough to understand Sen. Hazel Thompson-Ahye, she said the Attorney General must apologize. That is a feeling, in my opinion, because should the Auditor General not apologize to me for putting that blatant untruth out there in the public domain in the same newspaper, that I backdated the amended reports to January 31st? A total untruth. Should I not get an apology too? So as I said, I can understand different points of view.

Sen. Roberts: [*Inaudible*]

Hon. C. Imbert: I am not—Mr. President, I am not speaking to the Lower Bench, I am speaking to the Upper Bench.

Sen. Nakhid: You are speaking to everybody.

Hon. C. Imbert: And, Mr. President I want to thank all Independent Senators for expressing the point of view, that we are in a difficult place—

Sen. Nakhid: [*Inaudible*]

Hon. C. Imbert: You know, Mr. President, I am sorry for the Opposition, you know. The Independent Senators who have spoken, at least two of them have come out and unambiguously, categorically, and no matter how they feel about the situation, and they may have issues about how it happened, and “how it go look”, and “what go happen”, and how the public servants will be affected, and there has been all of that from over there. It is all very valid points about what should be done, who is at fault, should disciplinary action be taken, et cetera. These are all extremely valid points. But two

Independent Senators have already said categorically that they have no option but to support the Motion. So taking that at face value I am sorry for the Members of the UNC. Your attempts to intimidate the Independent Bench have failed. Because that Sunday night forum, that Sunday night forum where the Opposition Leader is screaming and making all kinds of wild allegations, that press release that came out from the UNC was a clear attempt at intimidation of the Independent Bench. Clear attempt at intimidation.

Sen. Roberts: What press release?

Hon. C. Imbert: What press release?

Sen. Roberts: Quote it.

Sen. Nakhid: [*Inaudible*]—waste of time.

Hon. C. Imbert: Mr. President.

Mr. President: Minister, continue.

Hon. C. Imbert: I am being disturbed by Members who are excited. Mr. President, that press release was so ridiculous, so ridiculous, and then they are carrying on in the Sunday night forum, and so on, and so on.

Sen. Roberts: “But you does watch them.”

Sen. Lutchmedial-Ramdial: Reported.

Hon. C. Imbert: That was reported unfortunately in the media today.

Hon. Senators: “Aaah.”

Hon. C. Imbert: And there is a clear attempt there to intimidate the Opposition Bench.

Sen. Nakhid: Do not tell him. Do not tell him.

Hon. C. Imbert: Independent Bench, I am sorry. But the fact of the matter

is, there is nothing that the Members of the Opposition have said that has any merit whatsoever. Sen. Mark's attempt to be a constitutional expert has flopped. Sen. Roberts has screamed and hurled insults in his normal way. Sen. Lutchmedial, her very curious contribution, I will say no more on that because I am sure that may feature in a privileges Motion. I really do not have much more to say about that. And the denials that I heard here today, the denials that fly in the face of facts, because facts are facts. But it is all right. It is all right, Mr. President. I just want to end by—

Sen. Lutchmedial-Ramdial: [*Inaudible*]

Hon. C. Imbert: Mr. President, are you hearing what the Senator is saying?

Mr. President: Keep wrapping up.

Hon. C. Imbert: I just want to thank Independent Senators for understanding the problem, and I can assure you as I assured Sen. Richards, this is only for 2023. This is not a blueprint for the future. I hope in the future that the public servants can talk to each other. Nobody is trying to bully anybody with anything. What I would have expected to happen is that the Auditor General's office, does not have to be Auditor General herself, would say look, I do not have enough time.

Yes, you brought this thing to me a month before. Yes, it is just a small part of the accounts, but this is a serious matter and I need a lil more time to look at this, and therefore, why do you not you ask the Minister of Finance to exercise section 25 and section 24 of the—that is what I would expect in a serious country, Sen. Mark. That is what I would expect serious people to do. If you are all working together and you are not insulated in a silo, and you do not have this concept of supreme independence, that you are

Exchequer & Audit Act
Hon. C. Imbert cont'd)

so independent that you cannot even speak to somebody, you cannot even offer a recommendation, you cannot collaborate, you cannot even give a hint, that is a concept of independence which I just cannot align myself to.

So I want to thank all the Independent Senators for your support. I beg to move.

Hon. Senators: [*Desk thumping*]

Question put.

Sen. Mark: Division.

The Senate divided: Ayes 23 Noes 6

AYES

Browne, Hon. Dr. A.

Armour SC, Hon. R.

Gopee-Scoon, Hon. P.

Sinanan, Hon. R.

Hosein, Hon. K.

West, Hon. A.

Mitchell, Hon. R.

Bacchus, H.

Singh, Hon. A.

Ibrahim, Dr. M. Y.

Sagramsingh-Sooklal, Hon. R.

Sookhai, Hon. R.

Lezama-Lee Sing, Mrs. L.

Hislop, L

Cox, Hon. D.

Richards, Dr. P.

Vieira SC, A.

Teemal, D.

Thompson-Ahye, Mrs. H.

Dillon-Remy, Dr. M.

Hutchinson, Prof. G.

Patasar, Dr. S.

Francis, H.

NOES

Mark, W.

John, Ms. J.

Lutchmedial-Ramdial, Mrs. J.

Nakhid, D.

Lyder, D.

Roberts, A.

Ms. S. Maharaj abstained.

Question agreed to.

Resolved:

That for the purpose of the financial accounts for 2023 that the period of time under section 24(1) of the Exchequer and Audit Act be extended from the period of four months after the 30th September 2023 to a period of eight months after the 30th September, 2023.

That for the purpose of the financial accounts for 2023 that the period of time under section 25(1) of the Exchequer and Audit Act be extended from the period of seven months after the 30th September 2023 to a period of eleven months after the 30th September, 2023.

Hon. Senators: [*Desk thumping*]

ADJOURNMENT

The Minister of Foreign and CARICOM Affairs (Sen. The Hon. Dr. Amery Browne): Mr. President, I beg to move that this Senate do now adjourn to Tuesday, April 30, 2024 at 1:30 p.m.

Mr. President: Dr. Paul Richards.

Urgent Legislative Reform

(Digital Platforms in Light of General Elections)

Sen. Dr. Paul Richards: Mr. President, thank you for the opportunity to present this Motion on the Adjournment on the need for urgent legislative reform to address the risk posed to the democratic electoral process by the pervasive misuse of social media and digital platforms in light of the general elections due by 2025 in Trinidad and Tobago.

Mr. President, let me start by quoting the late and Nobel Peace Prize Laureate and Secretary General of the UN from 1997 to 2007, Kofi Annan, who said, and I quote:

“Technology does not stand still, and neither can democracy.”

Mr. President, there are such vivid and profound examples of so many of the institutions of state in Trinidad and Tobago that seem to be under threat, and I shudder to think that the electoral process could suffer a significant blow if there is not enough attention placed on the potential impact of digital misuse and abuse on the electoral process. I am quoting from an article and a Report of the Kofi Annan Commission on Elections and Democracy in the Digital Age, dated January, 2020, titled: “Protecting Electoral Integrity in the Digital Age”, and I am quoting liberally from this: “Our”—extremely—“interconnected world”—in the era of massive and ever

growing digital arena—“has become even more pervasive, ubiquitous and prominent.

As of December 2017, it has been reported that 85% of Europe and 95% of North America is online. The global penetration of the internet is said to be 54%. It is estimated that by 2020,”—or it was estimated by 2020—“the vast majority of the world will be online.”

DataReportal’s figure shows that Trinidad and Tobago has a 79.0 per cent of the population as at 2021, Internet penetration rose at 80 per cent by 2024, early 2024. DataReportal’s figure also shows that there were 833,000 active social media user identities in Trinidad and Tobago in 2024. Now, those could be multiple users being counted in 833,000, we have to keep that in mind for clarity also. Kepios which is a digital advisory company and analyst, shows that social media users in Trinidad and Tobago increased by 104,000 which is an added 14.2 per cent between early 2023 and the beginning of this year 2024. More broadly, 67.8 per cent of T&T’s total Internet user base regardless of age, used at least one social media platform in 2024; 54.8 per cent of T&T’s social media users were female while 45.2 per cent were male.

The article I quoted from earlier also indicated that digital communication technologies have enabled those who would exploit fissures and gaps in modern democracies to undermine elections and democratic deliberations. Parties, candidates, campaign consultants, foreign agents including governments have weaponized social media to spread disinformation, misinformation, insight hate and violence, and meddle in elections both domestically and abroad.

8.20 p.m.

“The unique properties of the new information...technologies...”—the advantages are—“...virality, velocity,”—the speed at which it goes out—“anonymity...and transnational reach...”—which—“...create novel challenges...”

It is well documented about the—what has been described in this article as:

“Unscrupulous consulting firms like Cambridge Analytica”—have been—“deployed...in elections across Africa, Asia, and Latin America...”—South America and the Caribbean—“before”—they began—“their campaigning in the United States and the United Kingdom.

The defense of electoral integrity against the misuse and abuse of social media will depend on the choices and behavior of the major tech companies and platforms...”—but more—“...importantly, governments, politicians, traditional media, election management bodies...”—like our EBC.

It is important to also note that in an article titled:

“Protecting Election Integrity in the Age of Social Media: Best Practices”

—in a:

“Report written by Liga Stafecka, associated researcher of Center for Public Policy PROVIDUS”

—said:

“Ever since U.S. Presidential elections in 2016, the role of social networks and the threat of foreign interference has become...”—dominantly an—“...issue...”—among—“...all discussions related to

election integrity...”—across the world.

“It is especially...”—relevant for the country—“...Latvia.”

The authors of the document identified main areas of possibly election interference, among them are but not limited to, persons and agents advancing their:

“- ...own political agenda (undermine trust in democracy;”—and democratic process—“undermine cohesion;”—in the country—“destabilize countries; influence”—specific—“target audiences)”—to up turn elections around the world, particularly in developing countries.

“- Undermine trust in the election process (hacking of election management systems; physical election interference; disinformation about the reliability of election)”—results, all extremely significant issues that face us in Trinidad and Tobago, like any other part of the world.

These bots and trolls and algorithms can influence, in some people’s estimations:

“...the will and ability of voters...”—through—“...disinformation about voting procedures; undermining”—actually—“the”—very—“will to vote...”—whether they should vote or not.

The:

“- Influence of political preference of voters”—in some instances—“(hacking political organizations...”—leaking—“...stolen information; targeting specific groups...”—that is so-called—“...‘dark ads’; “shadow financing of alternative media;

trolls/automated user manipulate social media);”

And they:

“- Influence...”—also in some jurisdictions the—“...(subversion of politicians and candidates and/or political parties...”—and also in many cases the—“...government institutions)”—themselves that have been charged with the responsibility of managing the election and maintaining credibility.

There is some—how much more time do I have, Mr. President?

Mr. President: You finish at 8.26 p.m.

Sen. Dr. P. Richards: Thank you. Three minutes. There are some recommendations coming out of these think-tanks across the world and it has been a significant discussion in the major countries because of what they realize is the threat to what they hold sacred, as we should, because I do not think this country can easily survive a blow to the credibility of our electoral process. We have so many attacks and so many institutions, and a blow to the credibility of that process is going to put us back decades.

So there are some recommendations:

Countries must adapt their political advertising regulations to the online environment vis-à-vis our Representation of the People Act and the provisions contained in it that are very limited and do not contemplate or did not contemplate, at that time, the digital arena being so pervasive.

Define in law what is considered to be a political advertisement, either traditional media, press and online, where that comes from, who is paying for it and who are the sources.

Compel social media platforms operating in your jurisdiction to make public, if you can, the information involved, including the purchase of an ad, the real identity of the advertiser, the amount spent, the targeting criteria and actual ad creative process, and if they are subversive, subliminal messages inside of that, that seek to disrupt the situation.

Specify, by law, the minimum audience target, size and demographic.

Legislate a cooling-off period for digital political ads, in some instances and jurisdictions, at least 24 hours or at least the day before an election actually is due to happen.

Because in many jurisdictions, including Trinidad and Tobago, during the last election, election ads continued amass online, unabated, unregulated and unmanaged, in some instances, sending misinformation to specific target groups, and that could have the effect of undermining the electoral process.

In conclusion, Mr. President, and I think I have a couple more seconds, I keep bringing these election-related Motions and questions because of how much—I think we all love this country, and how much under threat and how much we have to deal with—I certainly know I do love this country tremendously—how much we have had to deal with, in terms of the erosion or the attempted erosion of significant institutions in the country. And I do not think, as I have said before, the electoral process and the democratic electoral process can withstand the blow if we are not proactive and do not take these considerations before the national elections is due in 2025. Thank you, Mr. President.

Hon. Senators: [*Desk thumping*]

Mr. President: Minister of Communications.

Hon. Senators: [*Desk thumping*]

The Minister in the Office of the Prime Minister - Communications (Hon. Symon de Nobriga): Thank you very much, Mr. President. Mr. President, I want to thank you and the hon. Senators for the opportunity to join you here today on a most important matter raised by Sen. Dr. Richards. Mr. President, there is very little, if anything at all, to disagree with, regarding the spirit of Sen. Dr. Richards's Motion. The Motion acknowledges, and I agree, that there are risks posed to the democratic electoral process by the pervasive misuse of social media and digital platform. But, Mr. President, let me state for the record of the part that I have the utmost regard for the professionalism and the integrity of the Elections and Boundaries Commission, the body charged with conducting our national elections.

Mr. President, there was a time not too long ago when none of us would have disagreed that something of this nature was impossible in Trinidad and Tobago, where we have proudly held free and fair elections since 1996, and Sen. Dr. Richards raised it. The notion was shattered with the advent of Cambridge Analytica and the startling revelations made in no lesser place than the British House of Commons about the influence in our own 2010 and 2015 general elections in Trinidad and Tobago. And you will recall, Mr. President, that among the revelations was their ability to be gifted access to the electronic data of hundreds of thousands of citizens by the principals who engaged their services. And access to that data allowed them to peddle misinformation and disinformation to hundreds of thousands of unsuspecting citizens who would only discover later how their voting pattern was influenced.

So, yes, I do agree with Sen. Dr. Richards, there is a risk posed to the democratic electoral process by the pervasive use of social media and digital platforms, and we, of course, are not a singular case. As he has rightly pointed out, this is a global phenomenon and a battle that many governments are facing around the world.

Mr. President, in recent years, engagement strategies using social media has emerged as a powerful tool in contemporary global politics, transforming the way people engage with political actors and consume information about political events, and the importance of that influence lies in its potential to shape political discourse, mobilization and governance around the world. And the issue here goes beyond political ads in and around election time. That issue exists right now, where you have platforms, fake and otherwise, that drive misinformation, that drive disinformation, and that, in many ways, is the greater evil that we have to confront.

So powerful it has become, Mr. President, that there are discussions in the United States about banning the TikTok platform because of its ability to be abused and misused. The spread of misinformation, the erosion of trust in political institutions and the manipulation of public opinion though are among the more insidious challenges posed, not by social media but by the misuse of social media. These platforms are just that, they are platforms.

The definition of social media gives a few answers if you do a quick Google search. How long do I have, Mr. President?

Mr. President: You end at 8.36 p.m.

Hon. S. de Nobriga: [*Laughter*] Time flies. But basically, it is this:

“...the means of interactions among people in which they create,

share, and/or exchange information and ideas in virtual communities and networks.”

There is no reference whatsoever in these definition to truth, to responsibility, the morally upright or the unpleasant. The platform by itself is benign. And so in that clear distinction of the Motion, I agree with Sen. Dr. Richards completely, any conversation must be focused on the misuse and the abuse of these platforms, and not the platforms themselves.

Now, there is quite a lot I have put down here and I absolutely have no way I will get through it. However, what I did want to say is the European Parliamentary Research Service noted that tackling their risk of social media abuse will require measures in many areas, including competition, data protection, electoral law, technological design, research, education and citizen engagement. And, Mr. President, they have identified seven key approaches to tackling social media risk to democracy and they are: One, enhancing competition to combat abuse of market dominance. The truth is that this approach does not apply to us. This would be for larger jurisdictions where you would have multiple platforms coming in, competing with each other for dominance in the market.

The second thing is to protect data and privacy to prevent abusive processing of data. And the third is to review content liability, rules to clarify responsibility for online content. In this respect, Mr. President, and Senator, the OPMC and MDT are working to operationalize all key functions of the Data Protection Act. There was a commitment made in this very Chamber to do so and will meet that commitment.

The fourth approach is the increase of—increase the transparency and

accountability for filtering and moderating content; fifth is to oversee algorithms to increase their transparency and reliability; sixth is to regulate targeting political advertising to prevent abuse and manipulation. And these three do, unfortunately, do come with a moniker that I am sure will be bandied about if this was tried to be done in this country, and that is censorship. And it—I suppose gets to the root of the issue here which, in my closing minute, I will get to. And the fourth is about empowering citizens to enable them to understand digital risks and fend off attacks, and that speaks to public education and citizen empowerment.

So, Mr. President, I did ask the hon. Attorney General about our own response here in Trinidad and he has advised, amongst other things, that the electoral process is governed mainly by the Representation of the People Act. These include the liable—as well as the Libel and Defamation Act and the Summary Offences Act. There are various sections that treat with offences related to election campaign, the offences committed on the polling day and offences that—and other election offences.

And under the Libel and Defamation Act, there is a very wide explanation, but the good thing that I got here was that apart from the existing legislation, the courts have shown its ability to provide the legal framework to regulate actions in libel or slander by delimiting what is lawful and unlawful, as seen in the local case, CV 2014-01949 *Therese Ho v Lendl Simmons* in October of 2015, and the High Court relied on the duty of confidence at common law. As we know, this was a dissemination of pictures.

Mr. President, I want to suggest to Sen. Dr. Richards that perhaps

while there are real incredible bases to discuss a legislative solution to protect against the misuse and abuse of social media, through fake news and synthetic disinformation, deepfake, troll farms, microtargeting and malinformation, to do so would have its own operationalization challenges, in that, the crafting of that legislation would have to be done while also jealously guarding both the freedom of the press and the freedom of expression, and may also require a constitutional or special majority, neither of which the Government enjoys right now.

8.35 p.m.

But, Mr. President, luckily for us, they are looking five short now in the other place, so that could drastically change at the next opportunity. But Senator, the legislation alone cannot be the answer and cannot be the only answer. It is not the panacea for all the ills of social media, abuse and misuse. We must also focus on education as laid out on Key Approach No. 7 in the report I cited. And more than that, the major stakeholders in this must accept the responsibility in protecting those who are targeted by the nefarious actors in the digital space.

Traditional media which is also more and more involved in these various social media platforms must continue to be a trusted source of truth and a counterbalance to this proliferation of conspiracy theories and disinformation, deep fakes and fake news. There must be collaborative vigilance, and there must be a responsibility by political actors to not contribute intentionally to this misuse and abuse.

Sen. Richards, Mr. President, I give the assurance and I think this Motion deserves a more fulsome discussion than the time we are limited to

at this time unfortunately, and that I will speak with my colleagues, the Minister of Digital Transformation and the Attorney General and Minister of Legal Affairs, to ventilate this matter further to also include wider consultation and I would be more than happy to sit with you at that time in this regard. Thank you, Mr. President.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Vieira.

Powers of Attorney

(Persons with Alzheimer's and Dementia)

Sen. Anthony Vieira SC: Thank you, Mr. President. In 2020, Trinidad and Tobago over 60 years of age population was over 236,000 persons and this population is growing at an annual average rate of 2.66 per cent. Of that number, it is estimated that one in nine will suffer from Alzheimer's and 3 per cent of those between 65 and 69 will suffer from dementia and cognitive impairment. A salient point being that we have a large aged population which is growing exponentially. Now when an elderly person suffering from Alzheimer's or dementia is no longer able to handle his property, financial and other affairs, or to make decisions for himself, an application has to be made by his relatives to the High Court under the Mental Health Act. However, such legal proceedings can be expensive and involved, and even contentious.

Without a power of attorney in place, loved ones may face challenges and delays in managing the afflicted individual's affairs potentially leading to financial, legal, and health care complications. A power of attorney is a document by which one person gives another person the power to act on his

behalf and in his name. The power may be general entitling the attorney to do virtually everything the donor, the grantor, or the principle could himself do, or it may be specific. That is to say, it is limited to certain defined objects. Powers of attorney can be used, for example, by nationals living abroad, say for work or study who wants someone to handle their affairs while they are out of the country. They can be used by the physically incapacitated who needs someone to act on their behalf whilst they are unable to move around for themselves.

So logically, a forward-thinking person may reasonably anticipate the possibility of giving a power of attorney to a loved one, or to a trusted friend, for the purpose of handling his affairs in the unhappy event he develops Alzheimer's or dementia. Logically, that would be the responsible thing to do, especially if it could avoid expensive, protracted and complicated applications to the court, but there is a difficulty. There is a stumbling block in that the rules relating to capacity for creation of a valid power of attorney are still to be found under the common law, and those rules coincide with the law of contract. The general rule of contractual capacity is that the person concerned must be capable of understanding the nature and effect of the contract at the time he or she enters it, and the test for mental capacity to grant an ordinary power of attorney also follows the mental capacity required in contract.

So therefore, an ordinary power of attorney executed by a person incapable through mental incapacity of understanding, what is to be effected by executing the deed is invalid. Where the grantor, the donor, or the principal lacks the mental capacity to create an ordinary power of attorney,

the purported grant is invalid and anything done on the strength of that power of attorney is void. The fact that neither the attorney nor any third party was aware that donor's mental incapacity is irrelevant. Now its trite law that a power of attorney ends with the death of the donor at which point the handling of the estate will fall to the legal person or representatives. But what may be less fully appreciated is that there is a body of case law to the effect—and remember here we are dealing with the common law—that subsequent mental incapacity of the donor terminates any ordinary power of attorney that he granted earlier, even though the attorney knows nothing about the change of circumstances.

So in other words, at the time when it becomes most critical to have a power of attorney, it is all rendered useless. You think you have a parachute in place, and when you pull the ripcord it turns out that there is nothing there. The solution to that conundrum, as has been done in other countries, is to provide for lasting and enduring powers of attorney, and this will require legislation with carefully drafted regulations and processes. And while we are at it, this may be also an opportune time to provide for a general form of attorney, as occurs under the UK's Powers of Attorney Act which allow the grantor, the donor, or the principal to confer a general authority on the attorney without having to set out at length all the various powers being conferred upon the attorney.

Remember, back in the days before we had the new Companies Act, you had to do a memorandum of association, and the memorandum of association it was tedious and it was potentially fraud because if something important had been left out then you did not have the power to do it. So

thankfully we have jettisoned the memorandum of association under the new Companies Act, and so we should think in similar terms for powers of attorney. Given the increasing number of people living longer with impaired mental incapacity and the need for a comprehensive code dealing with persons who lack capacity to make decisions about themselves, it may also behoove Government to consider having a mental capacity Act.

In any event, the purpose of this Motion is to highlight the difficulties faced by adult children, and close relatives responsible for the caring of an elderly patient or relative, and the additional complications and expense faced when having to make applications to the court under the Mental Health Act. Worse, and the irony here is painful when those who thought they had everything under control via a properly executed deed poll, discover to their dismay that the power of attorney they thought they had, which they might even had been using for a while, is unceremoniously revoked by the supervening mental incapacity of the afflicted individual. So that if a parent who had given his child a power of attorney becomes incapable of managing his or her affairs, the power of attorney terminates and the child cannot continue to act under that law.

Mr. President, we need a way in which persons can privately arrange and advance to give someone authority to handle their affairs when at a later date they become mentally incapable.

Mr. President: Senator, you have two more minutes.

Sen. A. Vieira SC: Thank you. Lasting powers of attorney can and should be a vital part of intergenerational planning as they would allow the elderly to choose who they want to make the decisions for them, whether for health

care, property, or finance in the event that they lose mental capacity. I thank you.

Hon. Senators: [*Desk thumping*]

Mr. President: Attorney General.

The Attorney General and Minister of Legal Affairs (Sen. The Hon. Reginald Armour SC): Thank you very much, Mr. President, and thank you to Sen. Vieira for bringing this Motion which I am happy to say I agree with much of the concerns that he has expressed. And I am able to advise this honourable Senate, Mr. President, that on taking office I found that there was in fact already, a draft Bill that has laid fallow for a while that I have engaged the Law Reform Commission to work with me on. But before I get to that, just to put the context and to add to what Sen. Vieira has already spoken to for the information of the public, a power of attorney—and I think we are all familiar with it—is a legal document which gives to one person, ordinarily called either the donee or the attorney, power to act for another person, the donor, and the donor on the terms of the power of attorney can have broad legal authority or limited authority to make legal decisions about the donor's property and finance.

At common law, a power of attorney is an agency created by deed and the agency thus created is terminated—and this is the crux of the concern which Sen. Vieira has outlined and a concern which I share, the agency thus created is terminated by the subsequent loss of mental capacity of the donor of the power. This consequential loss of mental capacity is acknowledged in today's world as a defect in the law, and as I have said I have engaged the Law Reform Commission to work with me on looking at the draft legislation

which is already in existence.

The draft powers of attorney Bill, 2024, was prepared some time ago and it is comprised of four parts in order to address the following matters. One, to provide for regulating certain aspects of the law relating to powers of attorney in general and it may be in that context that the remarks of the hon. Senator as he concluded, could be part of the consultation—because we are going to consult on this—which we will engage to deal with those general powers of attorney under the legislation.

Secondly, to provide for and regulate the powers, duties and responsibilities of donees under general powers of attorney and to introduce the enduring power of attorney. Thirdly, to provide for the protection against misuse of the instrument and to create offences and miscellaneous provisions lastly.

And If I may just briefly say on the role and function of the ensuring power of attorney, Mr. President, we have looked at different jurisdictions to take our patterns from in terms of precedence. We have looked at the United Kingdom and other Commonwealth jurisdictions, and from those jurisdictions an attorney under an enduring power of attorney is expressed to confer general authority on the attorney and may, following registration of the instrument creating the power, do on the behalf of the donor anything which the donor could lawfully do by an attorney at the time when the donor executed the instrument, provided that the thing to be done is not unreasonable having regard to all the circumstances and in particular, the size of the donor's estate.

The donee of an enduring power of attorney must during any period of

legal incapacity of the donor, exercise his powers as attorney with reasonable diligence to protect the interest of the donor, and if he fails to do so shall be liable to compensate the donor for loss occasioned by the failure. So these are all common law principles that we are looking at very carefully to bring it into the draft that is under consideration.

8.50 p.m.

There is a distinction between an enduring power of attorney and a lasting power of attorney, although an enduring power of attorney essentially has the same role as a lasting power attorney. For property and financial affairs, it crucially does not normally allow donees to make decisions about the donor's health and welfare. So the draft Bill is proposing to address this deficiency so as to broaden the scope of the enduring power of attorney and to allow a donee to make decisions as to the donor's health and welfare as well.

The current status of the draft Bill is, as I have said, being looked at by the Law Reform Commission which is part of the Office of the Attorney General and in consultation with me, and we intend to in due course to put it out for stakeholder consultation. It is primarily based on the Powers of Attorney Act Chap. 81 of the laws of the Bahamas, but legislation from several other Commonwealth jurisdictions are being considered in its formulation. I thank you Mr. President.

Hon. Senators: *[Desk thumping]*

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 8.52 p.m.