

*Leave of Absence*

*Tuesday, March 29, 2011*

**SENATE**

*Tuesday, March 29, 2011*

The Senate met at 1.30 p.m.

**PRAYERS**

[MR. PRESIDENT *in the Chair*]

**LEAVE OF ABSENCE**

**Mr. President:** Hon. Senators I have granted leave of absence to Sen. the Hon. Brigadier John Sandy and Sen. Prof. Patrick Watson who are both out of the country and to Sen. Basharat Ali who is ill.

**SENATORS' APPOINTMENT**

**Mr. President:** Hon. Senators, I have received the following correspondence from His Excellency the President, Prof. George Maxwell Richards, T.C., C.M.T., Ph.D.:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency Professor GEORGE MAXWELL RICHARDS, T.C., C.M.T., Ph.D., President and Commander-in-Chief of the Republic of Trinidad and Tobago.

/s/ G. Richards  
President.

TO: MR. RABINDRA MOONAN

WHEREAS Senator the Honourable Brigadier John C.E. Sandy is incapable of performing his duties as Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, in exercise of the power vested in me by section 40(2)(c) and section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, RABINDRA MOONAN, to be temporarily a member of the Senate, with effect from 29<sup>th</sup> March, 2011 and continuing during the absence from Trinidad and Tobago of the said Senator the Honourable Brigadier John C. E. Sandy.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 28<sup>th</sup> day of March, 2011.”

*Senators' Appointment*  
[MR. PRESIDENT]

*Tuesday, March 29, 2011*

TO: DR. VIDHYA GYAN TOTA-MAHARAJ

WHEREAS Senator Patrick Watson is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 40(2)(c) and section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, VIDHYA GYAN TOTA-MAHARAJ, to be temporarily a member of the Senate, with effect from 29<sup>th</sup> March, 2011 and continuing during the absence from Trinidad and Tobago of the said Senator Patrick Watson.

Given under my Hand and the Seal of the  
President of the Republic of Trinidad and  
Tobago at the Office of the President, St.  
Ann's, this 28th day of March, 2011."

#### OATH OF ALLEGIANCE

*Senators Rabindra Moonan and Dr. Vidhya Gyan Tota-Maharaj took and subscribed the Oath of Allegiance as required by law.*

#### ORAL ANSWERS TO QUESTIONS

**The Minister of State in the Ministry of National Security (Sen. The Hon. Subhas Panday):** Mr. President, I humbly seek your leave and the leave of the Senate to have questions Nos. 35 and 36 be answered later in the proceedings. The reason for the same is the hon. Attorney General will be answering these questions, and he is still at the LRC Meeting. I just left that meeting a few minutes ago.

**Sen. Hinds:** This is the Parliament

**Sen. The Hon. S. Panday:** Yes, he will be here in a few minutes.  
[*Interruption*] So you do not want it to be answered then? If you do not, well then, no problem.

**Sen. Hinds:** Mr. President, I feel obliged to say, in response to the comments from my learned friend opposite, that this is the Parliament of Trinidad and Tobago, this is question time and we expect that the Government will answer questions promptly at question time, something that they purport all the time, not truthfully, to do. And the fact that a Member of the Government is elsewhere on other business, less important than the sitting of the Parliament, does not in any way count as a proper reason for delaying the questions as asked by my friend.

**Sen. The Hon. S. Panday:** Mr. President, we intend to answer the questions today. We are not like the PNM who would take a year and would not answer questions. We shall answer it today—[*Desk thumping*] a year and do not answer the question.

**Mr. President:** Sen. Panday, are you indicating that you are ready to answer question 40 though?

**Sen. The Hon. Panday:** Yes, please Mr. President.

**Mr. President:** Are you asking that questions 35 and 36 be deferred?

**Sen. The Hon. S. Panday:** To later in the proceedings.

**Mr. President:** To later in the proceedings? [*Interruption*]

**Sen. The Hon. S. Panday:** Mr. President, I am certain that this hon. President knows the Standing Orders.

**Sen. Hinds:** Mr. President, I am so sorry to trouble you. I want to know clearly from my friend whether the deferral of those questions will be for later during the time allotted for questions, or is he speaking about sometime after that?

**Sen. The Hon. S. Panday:** Before 2.15 p.m.; that is the time allotted for questions.

**Sen. Hinds:** Thank you, very warmly.

**1.40 p.m.**

**National Physical Development Plan (NPDP)  
(Details of)**

**40. Sen. Dr. James Armstrong** asked the hon. Minister of Planning, Economic and Social Restructuring and Gender Affairs:

With reference to the requirement under the Town and Country Planning Act, Chap. 35:01 that a fresh survey of approved development plans is to be undertaken every five (5) years, and given that the last National Physical Development Plan (NPDP) was approved in 1984, could the hon. Minister indicate:

- (a) what arrangements are in place for the preparation of an updated NPDP;
- (b) when will a final document be submitted to the Parliament for its consideration; and
- (c) whether any consideration is being given to updating the legislation and institutional arrangements governing land use in the country?

**The Minister of Planning, Economic and Social Restructuring and Gender Affairs (Sen. The Hon. Mary King):** Mr. President, in 2010 the former administration entered into a contract with DESSAU International Inc., Montreal, Canada, to prepare a national physical development plan. On assuming office, this administration reviewed the contract and determined that the proposal did not meet all the objectives of this Government. They did not take into account the fact that there were local experts capable of doing the job, and we did not approve of a cost which was very high and which totalled \$16 million. We considered this an exorbitant cost, besides the fact that it was an insult to our many qualified expert land planners in Trinidad and Tobago. So given these concerns, the contract was terminated.

The newly appointed Advisory Town Planning Panel has been requested to advise on the matter, taking into account the public objectives of the People's Partnership Government for planning reform and local government. This will incorporate the completed municipal corporations development plans of which all 14 of them have produced such plans.

The People's Partnership's policy objectives are:

**Constituency planning:** A development plan is envisaged for every constituency at local government level. Also, we intend to implement the Planning and Development of Land Bill (PADL Bill).

It was intended that the Ministry of Local Government would add its consideration to the proposed Planning and Development of Land Bill for governing land use planning and development, so that development can take place in a coherent and a sustainable manner.

We have envisaged and we have started to develop new community institutions. The Government policy framework proposes various new institutions which will impact upon the structure of planning. These will include civil society boards and the establishment of community councils.

Further, Mr. President, the Planning and Development of Land Bill envisages a more strategic land use development plan than the 1984 plan, with more detailed local area plans to follow. It is intended to commence work on such a plan whilst the PADL legislation is being reviewed and brought to Parliament.

Mr. President, we envisaged a two-year time plan, subject to the passage of the new planning legislation which will replace Chap. 35:01, which mandates a process by which the development plan is outdated even before it is completed.

Yes, the People's Partnership Government proposes to reintroduce in Parliament the revised Planning and Development of Land Bill by December 2011. [*Desk thumping*] The Planning and Development of Land Bill is substantially different from the current legislation, Chap. 35:01, in that, while it retained its ministerial model of accountability to Parliament, much of its powers are delegated.

The Bill recommends a multi-stakeholder planning commission; delegation of development planning and development control to municipal corporations; integration and coordination of planning and building approvals at the municipal level; the establishment of a statutory chief building inspectorate at the level of the commission to provide a technical oversight function to the municipal corporations; the provision also of a statutory one-stop shop of statutory agencies involved in development regulatory regime; and the creation of a statutory appeal process to replace the current ad hoc procedures of appeals to the Minister.

So the model proposed is both a devolution and a decentralization model to bring planning and decision-making closer to the public. As a background, we would like to add that, in 1996, the then new UNC government appointed a committee to review the Bill based upon its policy objectives. This gave rise to a Planning and Development of Land Bill that was tabled in the Parliament in 1999.

In 2001, the Bill was passed in both Houses with amendments, but lapsed when the general election was called in that year. So, since 2001, there has been a need to review the provisions of the PADL Bill to ensure appropriate levels of delegation and participation by stakeholders. So the new Advisory Town Planning Panel has been mandated to develop a work plan for the proposed new legislation, and this legislation, as I say, will be reintroduced to Parliament by December of this year.

I thank you. [*Desk thumping*]

**Sen. Dr. Armstrong:** Mr. President, a supplemental question. If I understood correctly, is the Minister saying that the actual PADL Bill will be introduced in December? It means that there would be some time to have that go through Parliament, and that the actual planning will commence after that date in which case the two years for the plan would really be somewhere down the road. Could the Minister clarify that, please? If you bring the Bill back in December 2011, it means that has to go through the process before the actual preparation of this plan starts. Is that correct?

**Sen. The Hon. M. King:** Mr. President, the PADL Bill which is now being reviewed by the Advisory Town Planning Panel (ATPP) and by a task force which Cabinet has just approved, will be reviewing the current legislation and bringing it back to this Parliament by December 2011, this year. That is not to say, that the planning for the national physical development plan is not continuously ongoing and that will be brought back in two years. Okay! Thank you.

**Sen. Panday:** Mr. President, I humbly ask that the Senate do agree that questions Nos. 35 and 36 be answered later in the proceedings before 2.15 p.m. The Attorney General will be here in a few minutes—

**Mr. President:** You want us to continue at the moment and we will come back before 2.15 p.m.?

**Sen. Panday:** Briefly, Mr. President.

**Mr. President:** Having regard to what the Leader of Government Business has said, I must enquire whether it is the wish of this Senate to have questions Nos. 35 and 36 deferred until sometime before 2.15 p.m., in the meantime continuing with the remainder of the Order Paper in the order in which it appears before you.

*Question put and agreed to.*

**Sen. Hinds:** Government disrupted the business of the Parliament.

#### ELECTRONIC TRANSACTIONS BILL

[*Second Day*]

**Sen. Hinds:** Mr. President, what is happening with the business of the Parliament?

**Mr. President:** We will hear from the Leader of Government Business.

**Sen. Hinds:** Is this happy hour? Therefore if it is so, “bring drinks”.  
[*Laughter*]

**Sen. Panday:** I know that you are accustomed to that, but when the bread is fried you are very respectable and have that desire to drink all the time. Mr. President, the Attorney General will be here in a few minutes. Could we proceed with the proceedings, and the moment he comes, I humbly seek the Senate’s permission to have him answer the questions? The questions are prepared and they are in the possession of the Attorney General.

**Sen. Hinds:** We do not want to hear that.

**Mr. President:** I am not sure what you want us to do at this point.

**Sen. Panday:** To continue with the proceedings, please.

**Mr. President:** We have. The matter of the Bill has been called.

**Sen. Hinds:** So what are we going to do?

**Sen. Panday:** We have our speaker to speak.

*Order read for resuming adjourned debate on question [March 15, 2011]:*

That the Bill be now read a second time.

*Question again proposed.*

**Mr. President:** The list of persons who spoke on March 15, 2011 are: the mover of the Motion, Sen. The Hon. Rudrawatee Nan Gosine-Ramgoolam; Sen. Dr. Lester Henry; Sen. Dr. Rolph Balgobin; Sen. Prof. Patrick Watson; Sen. Shamfa Cudjoe; Sen. Prof. Harold Ramkissoon; Sen. The Hon. Mary King, Sen. Faris Al-Rawi; and Sen. Elton Prescott SC. Members wishing to join in the debate may do so at this time.

**The Minister of Health (Sen. The Hon. Therese Baptiste-Cornelis):** Mr. President, it is an honour to be asked to make a contribution to such a debate, and by this I would like to make a few observations on this Bill which was brought forward by the hon. Minister, Sen. Rudrawatee Nan Gosine-Ramgoolam. We must be aware that the revolution of technology innovation is approaching us, if not already upon us. We must, as a nation, ride on this crest of change, or be forever lost in the wilderness that they left us in.

We as a nation do not desire to become derelicts on the landscape of the history of information and communications technology. We can succeed. Indeed, we wish to be pioneers, champions even, forging ahead with the banner of the electronic transactions, the electronic records, taking our country forward in 2011.

Mr. President, Trinidad and Tobago should have been long ahead of other Caribbean countries in respect of the impact of electronic communications on our daily transactions. In fact, we should have been ahead on many things, but alas we had them. We suffered under a party better known as “People Never Motivating”, such vital and such much needed change.

*Electronic Transactions Bill*  
[SEN. THE HON. T. BAPTISTE-CORNELIS]

*Tuesday, March 29, 2011*

**1.55 p.m.**

Mr. President, while the previous administration's acronym may have stood for "Politicking Never Managing", we as a Government recognize that this change is vital to our success. Our nation voted for progressive change and as a Government we are intent on implementing such change for the better. Thus, Mr. President, we have brought forward this Bill led by the hon. Minister who piloted the same Bill successfully in the other place and we now hope to do the same in this honourable Senate.

Mr. President, since two Tuesdays ago, when Minister Ramgoolam laid this Bill in the Senate, I have been inundated with calls from the management information systems students of mine, old friends and past and present associates, asking me why—what seems to them to be simply necessary—a long overdue Bill was being portrayed by some as complicated and not needed by society. As such, I promised them and I shall therefore, and if you permit me, summarize the substances and the spirit of this Bill.

I do not believe, however, Mr. President, that there is any need to define each component of the terminology, as such will not add to the greater understanding of the Bill before us, and neither would it lead to the intent of this Bill which was aptly done so by Minister Ramgoolam and the previous Government speakers.

This Bill in the simplest language seeks to provide for the transfer of information and records by electronic means. Said another way perhaps, it seeks to lend legal creditability to or to legally validate the electronic means of transferring of information and records. This I know immediately conjures up in the minds of some people: identity theft, hacking, excessive security, non-disclosure agreements, encryption and electronic embezzlement. Yes, I know for many these are indeed valid fears whenever they hear of electronic transactions. However, against this backdrop of intrigue and speculation, we must realize that this Bill seeks to remove all doubt, it seeks to remove all debate and ambiguity in relation to the invalidity of electronic transactions.

I will proceed to briefly introduce everyone to the salient sections of the legislation as such appears to be misunderstood by my learned members of the Opposition seated before me. Sen. Hinds, please pay attention.

Part I deals with the introductory clauses. These clauses briefly describe the legislation, the terminology, the purpose of the Bill that was enacted just specifically to do the following three things:

1. This Act will facilitate legally appropriate use of electronic transactions;
2. Facilitate electronic commerce and eliminate barriers resulting from uncertainties over the signature requirements; and



3. Promote the development of the legal and business framework to facilitate such electronic commerce in a secure fashion.

Mr. President, it is vital that nationals and citizens alike are aware of the exclusions from the definition of the electronic transactions that are covered in this Bill and when I say exclusions, I mean activities that are not covered under this Bill. It is a pity that Sen. Al-Rawi is not here today. The things that are excluded are:

1. Making, executing or revoking wills or testimonials. It is not covered by this Bill;
2. The conveyance of any interest in property, that is not covered by this Bill;
3. The creation, performance or enforcement of the power of attorney, that is not covered in this Bill;
4. Documents related to passport, immigration or citizenship matters, not covered in this Bill; and
5. Negotiable instruments.

So yes, we heard some speakers talk about the fear of these things being misaligned by this Bill but this Bill does not relate to those. I trust this clears up some of the concerns of those sitting on the opposite Benches.

Mr. President, Part II clearly states the requirements that must be met. One clause states that an electronic record or information shall not be denied legal recognition simply because it is in electronic form. This therefore gives legal recognition to the electronic representation. Additionally, where there is a legal requirement that something has to be in writing, it allows therefore an electronic copy to be legally accepted once it is accessible and can be retained.

Mr. President, further, when there is a legal requirement for a document to be presented in its original form, an electronic representation will now be deemed acceptable. It is very important to note that the acid test in this is that the electronic data must be accessible and capable of being retained.

Part III seeks to clearly define the requirements for the execution of contracts. Herein lies protection for both clients as well as vendors. As I have said on many occasions, we are a Government for everybody. When a legal contract governs a relationship, everyone will be protected. Under this legislation, one would expect to see expeditious agreement on negotiations, change request, as well as offer and acceptance.

*Electronic Transactions Bill*  
[SEN. THE HON. T. BAPTISTE-CORNELIS]

*Tuesday, March 29, 2011*

Furthermore, it specifically governs times of sending and receiving data messages often interpreted as emails—we have known a great deal of emails have been circulated in the press recently—as these have obvious impact on tender submission when there are rigid timelines. We as a Government, Mr. President, must ensure efficiency and effectiveness in all transactions while maintaining correct procedures.

Part IV of this Bill covers all aspects of electronic signatures, the standards that are required and the definition of any certified electronic authorization products. It therefore seeks, Mr. President, to define a clear criteria that determines the reliability and the integrity of electronic signatures, very crucial when you are involved in electronic transactions.

Part V deals with the recognition process for the electronic authentication service providers. It is important for all to note that while there are electronic signatures, there are electronic products to create them, and while there are software products, there are software vendors. This therefore needs to have a framework governing the qualification of these vendors, the accreditation process must be there, the registration process, the audit function and the rules governing cancellation of any transaction via registration. Why any learned mind would seek to object to this is highly questionable, if not outright disconcerting.

Part VI, Mr. President, deals with the recognition process for the telecommunication service providers whereby these transactions will occur. They are an integral part of the process of transmission of the electronic information and records, yet even this, Mr. President, those on the opposite side would have us question. I do not understand where they come from.

Part VII deals with the recognition process for the public authorities. Here too, some again have sought to raise an issue. Why? This is essential for the transparency and the accountability; hallmarks of the People's Partnership Government.

Part VIII deals with the consumer protection process. I know some of the Independent Senators had concerns here. This area was dealt with in detail by the hon. Minister of Public Administration. Yes, it is indeed linked, as she clarified, to the Data Protection Bill which she has also indicated, Mr. President, is before us and will be dealt with, and should be dealt with in tandem to allow the requisite protection to be enforced.

**2.05 p.m.**

Part IX deals with the process of enforcement, auditing and penalties for contravention. I am known throughout my life to be an advocate of fair play and correct procedures and I hold no brief for those who choose to contravene such, and this Part deals with this process of enforcement of correctness.

Part X addresses the compliance of directors of corporate bodies and gives power to the Minister. The hon. Minister is there to ensure that policies are adhered to, though some may expect us to do, as was done in the past by some before us; merely collect a salary and rubberstamp decisions made by others who have no authority to make such decisions. The hon. Minister, like myself, took, when she became a Minister, an oath of office to perform her duties without fear or favour, and she intends to do so, such as I shall always do as a Minister of Health.

In closing, we must all be cognizant that in order to be competitive on a global level and to be a leader and major player regionally on the information communication technology landscape, we must ride this crest of change to be championing the cause for a legal framework governing the transfer of information and records by electronic means.

Mr. President, the People's Partnership Government represents, as the Opposition called "PP" but "PP" also stands for progressive people. That is what we are. We represent a Government that positively promotes change, a Government that places priorities on effective governance. Those are the other meanings for "PP"; a Government that was chosen by the people, for the people and will always work with the people. I thank you.

**Sen. Terrence Deyalsingh:** Thank you very much, Mr. President, for allowing me the opportunity to join the debate on the Electronic Transactions Bill. Before I get there, please allow me to send out my heartiest congratulations to the community of Spiritual Shouter Baptists on their holiday tomorrow, Spiritual Shouter Baptist Liberation Day. They are indeed one of the oldest religious groups in our society and we have to honour their contribution to our social and religious fabric of Trinidad and Tobago. On behalf of the team on this side, I wish them all the best for their day of celebration tomorrow.

Mr. President, in starting my contribution to this Bill—I am very happy that Sen. The Hon. Therese Baptiste-Cornelis said that she got calls from her students about why this Bill took so long. I will let you know why it could not be passed in 2008, because I have the *Hansard* record that will show why.

*Electronic Transactions Bill*  
[SEN. DEYALSINGH]

*Tuesday, March 29, 2011*

Before I get there, when various speakers were contributing to this Bill, in typical male fashion, you know we are testosterone laden, some of us sought to say how old we were by talking about the days when we would write with pens. I want to go one step further. When I was a standard one student at Caroni Presbyterian School, I do not know if you remember, the desks had three holes and there was an inkwell in them. That is what I remember writing with. You had your inkwell with Quink ink, blue Quink and black Quink ink. Senator, I am so old. That is how old—that is the way we have come now to electronic signature. I just want to throw that out. “I think my story win, so I could take all the marbles and go home.”

I would like to give way at this time to the hon. Attorney General, so he could answer questions 35 and 36 as promised by Sen. Panday. I would take my seat now and I would kindly give way to the hon. Attorney General.

#### ORAL ANSWERS TO QUESTIONS

**The Minister of Public Utilities (Sen. The Hon. Emmanuel George):** Mr. President, I seek your leave to defer the answers to questions 35 and 36 to our next session.

**Sen. Hinds:** Mr. President, I crave you indulgence.

**Mr. President:** One moment.

**Sen. Hinds:** Thank you very kindly, Mr. President. Right before your very eyes, you would have seen from the intervention of my friend, Sen. The Hon. Emmanuel George, the deception, the dishonesty, the more than usual penchant for misleading this Parliament. Because a few moments ago, the Leader of Government Business got up and had you do something that probably was never done before, disrupt the entire proceedings of this Senate to accommodate him; the leader having told us that they were able, and the answers were prepared, to respond to those questions today. He sought your leave to defer those answers up until sometime later in the proceedings.

You would recall I intervened to find out what precisely did he mean. He clarified it and he told us before 2.15 p.m. We are now hearing from his colleague who is sitting in his place, acting Leader of Government Business, Sen. The Hon. Emmanuel George, who now tells us that he wants to defer the answers to those questions to another time. This is unbecoming. This is unacceptable. It is misleading, and the Government and its representatives here must understand that this is the Parliament of Trinidad and Tobago and the word of a Minister, the

word of a parliamentarian, ought to count for something. We are deeply disappointed, though not surprised, at their usual manifestation of dishonesty and misleading.

**Mr. President:** Thank you, Sen. Hinds. I cannot join you in terms of the adjectives you have used about dishonesty or anything of that sort. I am sure that the Senator was just mistaken. On the other hand, what I intend to do—because I moved this Senate earlier, with your authority, to have the matter deferred to a time of 2.15 p.m. What I understand is the time required to answer the question is insufficient, given the allotted time. On that basis I would put before this Senate, the question: Do the hon. Senators agree that answers to these questions be deferred until the next session of Parliament?

*Question put and agreed to.*

**Mr. President:** Sen. Deyalsingh was on his legs. Senator, I would give you, I think, an extra two minutes, injury time given the time that has elapsed. Thank you.

**Sen. Hinds:** Mr. President, I am so sorry, is it then that we can ask, very humbly, whether they would circulate the answers now in writing, which the Standing Orders provide for?

**The Attorney General (Sen. The Hon. Anand Ramlogan):** Mr. President, I am grateful to you, Sir. I will be more than happy to circulate today the answers in writing to all Members on the Opposite side. The answers are ready and we will be happy to do so. It is just in the interest of time and in the efficient management of today's parliamentary session, we thought, in light of the fact that we are so close to 2.15 p.m., that we will defer, but I have no difficulty in circulating, before 3.00 p.m. today, to all Members on the opposite side, the answers to the questions. Thank you very much.

*The following questions stood on the Order Paper:*

### **Drug Related Offences**

#### **(Before the Courts)**

**35. Sen. Penelope Beckles-Robinson** asked the hon. Minister of National Security:

- (i) Could the Minister indicate how many drug related offences are presently before the courts in Trinidad and Tobago? [*Sen. P. Beckles-Robinson*]

**Firearm Related Offences  
(Before the Courts)**

**36. Sen. Pennelope Beckles-Robinson** asked the hon. Minister of National Security:

- (i) Could the Minister indicate how many firearm related offences are presently before the courts in Trinidad and Tobago? [*Sen. P. Beckles-Robinson*]

*Vide end of sitting for written answer.*

**ELECTRONIC TRANSACTIONS BILL**

**Sen. T. Deyalsingh:** As I was saying, I think I won on points of stories of how old I am. Before I get into the meat of my contribution, I would just like to relate a story that will become relevant to the debate as I get into my contribution later on.

The Friday of carnival week, that is the Friday after carnival, I had the very good fortune with some friends of mine from Port of Spain to spend the day in Debe and Penal. You know you cannot go to Debe and Penal without stopping and buying some Indian delicacies. I had the usual saheena with channa and you go down south of the vendors where there is an old wooden shop that has been there from time immemorial. I think we all know it. Sen. Oudit do you know it? Yeah? We had the compulsory red sweet drink. I think we should make Indian delicacies and red sweet drink a statutory treat enshrined in law. [*Interruption*]

**Sen. George:** Why?

**Sen. T. Deyalsingh:** That is part of the culture. The reason for my raising my trip down to Debe and Penal is because I met many old friends I know there and made some new ones. I will come back to a reference in *Hansard* later, which will answer Sen. Baptiste-Cornelis' quandary as to why this Bill could not be passed. I just want to hang that trip I made down to Debe and Penal—[*Interruption*]

**Sen. Baptiste-Cornelis:** Clarification. I said my students asked why you all were making it complicated two weeks ago.

**Sen. T. Deyalsingh:** Secondly, the Bill before us, the Electronic Transactions Bill, is a sister Bill to the Data Protection Act, so they share the same deoxyribonucleic acid also known as DNA. That is why they are called sister Bills;

they share some of the same DNA. Again, I will answer Sen. The Hon. Baptiste-Cornelis' question as to why this Bill and the particular objections to it. I hang that second coat on the figurative coat rack there to go to my Debe/Penal story and the DNA with these two Bills.

The third coat I hang has to do with these two Bills, side by side, and I will demonstrate later on, the philosophical, political and legislative similarities and differences which should go with them and why they should be similar in some regards and why they should be different in some regards. So I hang that third coat on the imaginary coat rack.

I go on to the history of this Bill. This Bill was first laid on September 05, 2008, called the Electronic Transfer Bill. It was also debated in 2009, so, therefore, this Bill goes back three years. That Bill was laid under the People's National Movement. It had nothing to do with us delaying the Bill. It was laid here in this Senate in 2009.

One of the reasons the Bill could not be passed, especially the Data Protection Act, was that in typical Opposition style, the now Deputy Prime Minister of Trinidad and Tobago, MP Dr. Roodal Moonilal, called it the Data Prevention Act and he went to town in the *Hansard* as to why these Bills could not be passed. I will get to that.

Why do we have objections to this Bill? There are objections to this Bill and some of the objections that we are raising are some of the same objections that the now Government, then Opposition raised in 2008.

I am quoting from *Hansard*, page 838 of Wednesday, February 18, 2009, the contribution by Mr. Vasant Bharath then Member of Parliament for St. Augustine.

**2.20 p.m.**

I quote:

“I was very glad that the Minister talked in some detail about issues of trust, because this entire Bill and the one discussed last week Friday, revolves around the issue of trust. In my contribution last week, you will remember—when we talked about the Insurance (Amdt.) Bill and the Central Bank (Amdt.) Bill—that I went to great lengths to highlight the need for significant levels of trust and confidence in the Government...”

Is there any trust and confidence in this Government today? So the same issues of trust which applied then apply even more now, and I will say why.

*Electronic Transactions Bill*  
[SEN. DEYALSINGH]

*Tuesday, March 29, 2011*

In that same *Hansard* report, Mr. President, on page 841:

“The Minister was right when he said these Bills that we have been talking about this afternoon: the Data Protection Bill and the Electronic Transactions Bill rely very heavily on users’ trust and confidence in the system. If they do not have trust and confidence they will not use it.”

Has anything happened recently to give people trust and confidence? I do not know. Then he goes on:

“How do I tell Mrs. Maharaj, who came to see me recently from Tunapuna, who is already blind in one eye and partially blind in the next, that I am here to discuss the Data Protection Bill or the Electronic Transactions Bill when, by the time her appointment at the San Fernando General Hospital rolls around for the operation in January 2011, she will be blind in both eyes? How can I convince her that I am here, assisting her in some way? How can I tell the children of the St. Augustine Government Primary School, who have been unable to use their playing field for the last two years, because it is constantly flooded, because two years ago in 2007 the early childhood care and education centre was built next door and they blocked...”

That is why the Bill could not be passed, because it was being linked to matters which had nothing to do with the Bill, and that is what your colleagues did in 2009—2008. It goes on:

“What about Mr. Durga from Bamboo Settlement who presently has to ‘fork out’ \$1,100 a month for medication? He is unable to do so and the...”

And listen to this, Senator:

“...and the generic drugs he is receiving from CDAP are not effective...”

When the PNM was launching CDAP they said everything wrong about CDAP and Indian drugs and free drugs. Is it now that the Senator, Minister of Health, should stop CDAP based on Sen. Bharath’s recommendation? Is this why the Bill could not have been passed? That is what the debate centered around, CDAP drugs—

**Sen. Baptiste-Cornelis:** Excuse me, point of clarification. I would have to say that Minister Bharath was quite correct when he uttered his statements back then because even now the whole CDAP is under audit, because some drugs that were brought in fact—

**Sen. Deyalsingh:** Is it a point of order?

**Sen. Baptiste-Cornelis:**—were not correct, thank you.



**Sen. T. Deyalsingh:** So let us scrap CDAP and let Mr. Durga from Bamboo Settlement go and buy his drugs, because I use CDAP drugs, I use Simvastatin from India, absolutely no problems with it, absolutely none. You have a medical doctor sitting right behind you. You could ask her about the efficacy of the drug. Or should poor people not have access to free drugs?

Mr. President, at the end of the day electronic documents, electronic signatures and electronic records are not going to help the poor people. That is why you all did not want to agree to the Bill. Right? It could not help poor [*Crosstalk*]*—no I am telling you why your students want to know why the Bill could not be passed. What is very apparent as a result of all this is that the Government really has no legislative agenda; words that we have been saying here since last year May, no legislative agenda—it is stumbling from crisis to crisis, most of them self-inflicting. [Desk thumping] Who is self-inflicting the crisis with the police service now? Not us, them, Mr. Nizam Mohammed, self-inflicted crisis. The police service is at its lowest morale in years.*

**Sen. Abdulah:** Mr. President, point of order—

**Sen. T. Deyalsingh:** Is it point of order?

**Sen. Abdulah:***—the issue of the Police Service Commission I do not know how that is relevant to the Bill being debated at present.*

**Sen. T. Deyalsingh:** Point of order?

**Sen. Abdulah:** Yes I did.

**Sen. T. Deyalsingh:** I will let the President rule.

**Mr. President:** You may continue, Sen. Deyalsingh. I do not see anything by it. [*Desk thumping*]

**Sen. T. Deyalsingh:** Thank you, Mr. President. Crisis to crisis self-inflicted—do you remember the CNG legislation? This is a debate on Electronic Transfers on Wednesday, February 18, 2009; I am trying to show Sen. The Hon. Therese Baptiste-Cornelis why this Bill could not be passed. It is now being linked to CNG legislation which we piloted here, I think it was last year, Sen. Ramnarine? Do you remember the CNG legislation? They came here and passed the CNG legislation, reduction on duties for CNG kits and all kinds of incentives for people to install CNG tanks, same Bill that we helped the hon. Minister of Energy pass, same Bill, but there are no stations to fill the gas. Are there any stations today?

**Hon. Senator:** We are building them now.

**Sen. T. Deyalsingh:** But I am showing you what you are linking electronic transactions to. Mr. President, in a similar vein we are here today to pass a Bill on electronic documents and signatures, and again we do not have the necessary infrastructure and operational systems on which it is going to be based.

**Sen. Baptiste-Cornelis:** He was right, that was not prepared today?

**Sen. T. Deyalsingh:** Mr. President, the contribution goes on and on, page 852 talks about the office—[*Crosstalk*]

**Mr. President:** Senators, allow Sen. Deyalsingh to continue with his contribution.

**Sen. T. Deyalsingh:** Thank you, Mr. President. And I do apologize for not sitting just now. Mr. President, in the Opposition's point of view, we would strongly recommend, as in the case in the United Kingdom from where most of this law is taken, so "they bad talking" the Bill, same Bill where the Data Commissioner is a public body—and I will come to that later on to show where there are 21 references to the Minister in this Bill. When they were in Opposition they recommended a Data Commissioner but now they have gone back on that, and they have taken out the Data Commissioner and put in the Minister 21 times.

Mr. President, I understand what Sen. Bharath was trying to contribute when he made his statements. If we take the politics out of Sen. Bharath's contribution, I know what he is talking about and he is right to a very large degree, and I will explain why. Sen. Bharath, and I am glad you are here, what he was—my take on what he was trying to say is as a country like ours, less than 50 years old, as we develop we have to look at priorities, and when he talks about poverty I think he is making the link we should be more concerned with those needs than what we call higher order needs like electronic transactions and so on. Is that the gist?

**Sen. Bharath:** Yes.

**Sen. T. Deyalsingh:** Good, great. And that feeds in very nicely, Mr. President, to a theory postulated by a 'fella' called Mr. Abraham Maslow, Maslow's theory of needs, hierarchy of needs where he says that we satisfy our basic needs first, and when those are satisfied we move up to satisfy higher order needs, and Sen. Bharath is right to a certain extent. How could we talk about poverty and then in the same breath talk about electronic transactions? How could we talk about—because in his contribution here he also mentioned people eating out of dustbins, and he is right. When the Mayor of Port of Spain tried to do something about people eating out of dustbins, a Government Minister came to this Senate and said we were catching them like dogs. That is why it is difficult to understand when this Government speaks—that is a different story.

So the point is, if we have all these needs from low-order needs to high-order needs, if we follow Sen. Bharath's logic we will satisfy all the lower order needs first, and then move up, but we cannot do that. There will be a point in time where we have look at different sectors of national society and try to satisfy different needs simultaneously.

**2.30 p.m.**

So while there is still poverty, as mentioned in this *Hansard* report by Sen. The Hon. Bharath; whilst there are still people eating out of dustbins, that does not mean that the work of government, whether it is the PNM government or the UNC Government, cannot go on and see about higher-order needs. That is where I differ and divert from Sen. The Hon. Bharath. I understand the rationale of his argument, but in government you have to satisfy the needs of different constituencies, different groups of people, simultaneously.

Later on in that same *Hansard*, on page 892, the then Dr. Tim Gopeesingh spoke about the Electronic Transactions Bill:

“...which is, as the Government says, en tandem with last week's Bill on the privacy of data information, we ask ourselves: why is it that the Government is bringing this at the beginning of the year January/February?”

What does that have to do with the timing of the Bill? It is a necessary piece of legislation that we all agree we need; but he was objecting to when it was being brought. Is there some bar, of which I am unaware that prevents the Electronic Transactions Bill from being brought to this honourable Senate in a particular month? We asked ourselves: why is the Government bringing this at the beginning of the year?

“There must be a rationale and a thinking beside the fact that what they have been speaking about on the other side and I want to proffer that the introduction of these two Bills is a diabolic, contrived and well orchestrated move by the Government into hoodwinking, fooling and placating the population into believing that the Government is really interested in protecting the privacy of information of citizens of Trinidad and Tobago...”

You did not support the Bill then because of this; but the rest of that contribution from Dr. Gopeesingh really does not need rebutting.

I will now go to the actual Bill, the Electronic Transactions Bill, 2011. We agree we need the Bill, but the same Bill put forward by the Government now was the same they opposed in 2008/2009. That is why Sen. The Hon. Baptiste-

*Electronic Transactions Bill*  
[SEN. DEYALSINGH]

*Tuesday, March 29, 2011*

Cornelis' students are calling now. What she should be doing is referring the students to *Hansard* to see why they objected in 2008/2009.

Clause 19 of this Bill deals with provision for contract information. Contract information in an electronic environment and the mere fact that the contract is formed electronically does not affect its enforceability.

Clauses 19, 20, 21 and 22 deal with contract formation and I am putting forward to this honourable Senate that although we have to go this way—there is no doubt about it; I am not objecting to this—if we go this way, then the Judiciary—when they have to adjudicate on electronic contracts, which is currently done under the common law, with real ink signatures, with Quink ink which I spoke about earlier—has to be educated and trained on how to adjudicate on these matters.

I am not objecting to the clauses. It is part of our duty here to illustrate the inherent difficulties and challenges that are going to be posed when we introduce legislation like this which is novel and new and in which our Judiciary will have had no experience.

Clause 29 of the Bill poses a particular challenge and there were various opinions in the debate two weeks ago—the differences or similarities between an electronic signature and a digital signature. This Bill enshrines and provides for an electronic signature. Mr. President, I confess at the onset that I am not an IT expert, but I did some research and I spoke to some people. I want to echo the sentiments of Sen. Dr. Rolph Balgobin, who also raised the issue of whether we want to go the way of an electronic signature or a digital signature.

What the Bill is doing—and this is a worldwide phenomenon with legal drafting—as legislators and legal draftsmen are faced with new technologies; as we break frontiers of science that were not available to us 20 and 30 years ago—heart transplant, DNA legislation, gene splicing; if you are in the United States, space exploration—the problem comes in when legal draftsmen do not fully grasp the meaning of technical terms and use them—I do not want to say loosely, but I will say loosely—loosely in draft legislation without understanding the exact technical meaning and context in which these words are supposed to be used. If we let them slip by and they become enshrined in legislation, you will have to come back here and amend it.

My little research shows there is a significant difference between electronic signatures and digital signatures. It is held that digital signatures are much more secure than electronic signatures. I propose to the drafters that we look at what we

really mean. Do we really mean an electronic signature or do we mean a digital signature? Digital signatures are held out to be safer and less prone to legal challenge. I want to throw that out to the legal draftspersons to look at.

[*Sen. S. Panday stands*]

Sorry, Sen. Panday, clause 29. It is a very serious point.

**Sen. Panday:** They said it is a digital signature.

**Sen. T. Deyalsingh:** Thank you very much. I am glad that we have listened and it will be a digital signature. I am comforted by that.

Clause 31 of the Bill talks about the criteria to be used to determine the reliability and integrity for electronic signature to include the authentication technology and so on. My concern with this clause—I do not have a legislative challenge with the clause; my challenge is that the population may not understand the implications of this.

This Bill if and when passed has to be accompanied by a serious public and private sector education process; really, really, really. This goes back to the first cloak which I hung on my imaginary coat hanger. My friends in Debe and Penal; people from Delaford, all over the place; even though they themselves may not be engaging in electronic transactions, they would have family, friends, children. We heard about Sen. Dr. Balgobin's son who took his electronic gizmo and downloaded stuff from Apple and he had a huge bill. Those are some of the considerations we have to look at. So it is incumbent upon us in the Senate to raise the issue and incumbent upon the Government to engage in a serious educational campaign.

Clause 35 of the Bill deals with the Electronic Authentication Service Provider. I want to echo the same concerns that the now Government/then Opposition had. It is a valid concern. That concern which they had in 2008/2009 is valid, but should have been taken out from this if we were to have learnt. It has to do with the nebulous terms used in this clause: "use a trustworthy system". What is a trustworthy system? Who defines "trustworthiness"? "Maintain sufficient financial resources". What is sufficient? Is \$1 sufficient? Is \$1 million sufficient?

I feel that the same objection which was posed then is valid and I pose it again now. What we may have to do with clause 35(d) is recommend a figure. I do not know if Sen. The Hon. Panday is amenable to that. You look at the industry, see

*Electronic Transactions Bill*  
[SEN. DEYALSINGH]

*Tuesday, March 29, 2011*

what the norms are abroad and either ramp it up or down to suit TT currency or have it tabled in US dollars; but to have a nebulous term like “sufficient” is not doing the Bill justice.

Those are some of the reasons why the Bill could not have been passed in 2008/2009. It had nothing to do with PNM; it had nothing to do with inefficiency. It had to do with the give and take. You listen; we listen; we make recommendations. The Bill that came before the Parliament then was not perfect and this Bill now is not perfect, but together we have to make it work. That is all we are suggesting. So when Sen. The Hon. Baptiste-Cornelis went on, I was quite disappointed. She should have read the *Hansard* first.

I refer now to clause 47 of the Bill. Clause 47 speaks about Electronic Authentication Service Provider. Again the now Government/then Opposition had valid concerns about this clause. This clause talks about assigning guilt if there is a breach, but in e-transactions it is very difficult to pinpoint a physical body and to find and serve a writ on a physical person or building. Although the clause makes provision, it is difficult in e-commerce and e-business to find the culpable party. They could be in Siberia or Timbuktu.

This clause needs to be revisited with experts in the field. That is the point I was making earlier. When we are drafting legislation now, crossing frontiers which we have never crossed before, like Star trek, this Bill is taking us where no man has gone before. We have no experience with it so we need expert opinion on what these technical terms mean. We have our Trinidad and Tobago Computer Society, I believe. Co-opt them and get some advice on what the terms mean and what their implications are.

There is a growing field called e-forensics. We know about accounting forensics and medical forensics, but when you have to do a trace on a transaction which has gone bad, the typical forensics experts do not know where to start. We will have to develop that capability locally to conduct e-forensics.

I go now to clause 51 of the Bill and the procedure for dealing with unlawful and defamatory information, et cetera. This clause gives me the most problems in this Bill and I go back to Sen. Shamfa Cudjoe’s contribution on this Bill two weeks ago. This now Government/then Opposition, when this Bill was first tabled, had a problem with the use of the term “Minister” in the draft Bill and how much power was given to a Minister. One of the suggestions we took on board was to replace the Minister with some other body; some other person who is apolitical.

**2.45 p.m.**

This Bill now goes back on their own recommendation, takes out that independent body and reinserts the minister and I do not know why. There is no philosophical, political or legislative reason for it and that is the third quote which I hung up some time ago, I bring it back down now and I don't, I put it on. What is the philosophical, political or legislative reason for giving a minister—any minister—this amount of power? Because you see, an offence under this Bill can give rise to civil or criminal liability but then clause 51(b) says:

“...notify the Minister or such person designated by the Minister (“the designated person”) and the appropriate law enforcement authority...”

Why should we be notifying a minister who is a political appointee if you have criminal and civil liability to follow? Does not make good sense to me. It did not make good sense then; you objected to it then, you were right then, I do not see the rationale for having it now. [*Desk thumping*] Plain and simple, and that is why this Bill could not have been passed. [*Crosstalk*]

**Sen. Al-Rawi:** It was put out for comment.

**Sen. T. Deyalsingh:** This Bill was meant to engage the population in debate. It was recommended by the then Opposition now Government to go to a joint select committee, which it did do, Mr. President.

**Sen. Al-Rawi:** What was the purpose of the Bill?

**Sen. T. Deyalsingh:** And it has come back here with all the flaws. That is why the students of Sen. Therese Baptiste-Cornelis are wondering, why is this taking so long.

The Bill is not ripe, it is not ready for public—it is ready for public consumption it is not ready for application to the citizens of Trinidad and Tobago. Why should any Minister be given a power under an Act that they be notified first about civil or criminal liability? That is a matter for the police, not a Minister, no matter how well-meaning, decent and honest Sen. The Hon. R. Nan Gosine-Ramgoolam is—and I have the utmost confidence in her, and respect for her but she is not going to be there forever. [*Crosstalk*]

**Sen. Hinds:** But the company. The company—if she was so, “the company she keeping...”

**Sen. Panday:** We put her in company with Calder Hart.

**Sen. T. Deyalsingh:** And, Mr. President—[*Interruption*]

**Sen. Hinds:** According to Benjai, you make bad company.

**Sen. T. Deyalsingh:** Yes they do. [*Crosstalk*]

**Sen. Panday:** “Yeah we goin in company with Calder Hart”.

**Sen. T. Deyalsingh:** So—[*Interruption*]

**Sen. George:** “I think yuh quoting Benjai wrong you know”, “he say ‘we make good company’”.

**Sen. T. Deyalsingh:** Mr. President, I want to urge the hon. Sen. Gosine-Ramgoolam who is piloting this Bill, I want to urge the hon. Attorney General, the Government’s chief legal advisor—who is not here again, I want to urge Sen. The Hon. Subhas Panday who is Leader of Government Business to take a serious look at this clause; Senators, it is not good law. And I want to make the point again if we enshrine something bad at the beginning it becomes difficult to take it out later on. [*Desk thumping*]

Mr. President, I go on in that same clause—clause 51(2) and (3). And this clause talks about the development of codes of conduct for businesses, bodies that will fall under the ambit of this Bill. Mr. President, the issue of codes of conduct as laid out in this Bill leaves me a bit unsure as to whether the Minister will be developing the codes or whether the industries will be developing the codes themselves. The wording of the Bill leads me to believe that the Minister is responsible for developing codes. Now that places a huge burden on a Minister to develop codes of conduct for every single industry in Trinidad and Tobago, whether it falls under agriculture, energy, whatever.

Another problem with these codes is that if somebody breaks this code, they have committed an offence, my question is: would these codes have legislative effect, in other words, are they legally binding? Because if you break one of these codes written by a Minister, what is the legal circumstance of breaking that code? So I want to suggest to Sen. Panday again that he “re-looks” at this issue of the making of codes of conduct. Are these codes going to be based statutorily, or are they going to be voluntary? Are they going to be developed in conjunction with the particular industry, or is it that a Minister develops a code and gives it to an industry?

The Bill leads me to believe that the Minister develops a code and gives it to an industry and says, “That is yours.” So we need to have some discussion on that and again that is one of the reasons why this Bill went to a joint select committee. It is not ripe for public application, it is ripe for public discussion.



Mr. President, those are some of the areas of the Bill which I have trouble with. And I think I have been forthright in saying where I agree with the Government when they were in Opposition pointing out certain deficiencies, and those same deficiencies hold true today. Mr. President, I hung earlier on my imaginary coat hanger the issue of the DNA that is similar to these Bills which is why they are called sister Bills. And in a sister Bill certain parts should mirror and reflect each other.

If you look at Part IX of the Electronic Transactions Bill—Part IX which is on page 27—and we take the Data Protection Bill which we will be debating at some time in the future, but they are sister Bills—they share the same deoxyribonucleic acid. Part V of the Data Protection Bill deals with contravention and enforcement and Part IX of the Electronic Transactions Bill also deals with contravention and enforcement. And because they share the same DNA, Mr. President, they are almost identically worded, which is correct. Because the offences are similar, the fines are similar \$250,000, the terms of imprisonment are similar, if not the same. So that is good drafting, I have no problems with that. I am using that as an example to flesh out my point about the political, philosophical and legal similarities and differences, so this is a similarity, which is excellent.

However, Mr. President, I go back now to clause 8 of the Data Protection Bill which deals with the information commissioner, and clause 51—which I referred to earlier of the Electronic Transactions, which deals with the powers of the Minister. And this is where I think we need to have some discussion, because, like clause 5 and clause 9 of the two Bills which I showed you just now are similar—if not identical and rightly so—clause 8 of the Data Protection Bill speaks about the office of an Information Commissioner which is the way to go, independent, apolitical, but the Electronic Transactions Bill does not share the same DNA. They do not reflect, they do not mirror each other because this Bill gives the power to a Minister—a political appointee. And I would very much like the hon. Minister, Attorney General and Sen. The Hon. Subhas Panday, to look at this. And maybe what is in the Data Protection Bill needs to be reflected in the Electronic Transactions Bill. [*Desk thumping*]

**2.55 p.m.**

Mr. President, I said earlier that if this Bill—and I hope it goes before a joint select committee. I want to assure Sen. The Hon. Therese Baptiste-Cornelis, we are recommending that the Bill goes to a joint select committee not to defeat the Government. It has nothing to do with that. It has to do with the fact that the Bill

*Electronic Transactions Bill*  
[SEN. DEYALSINGH]

*Tuesday, March 29, 2011*

has certain flaws. The same flaws which your colleagues pointed out in 2008 exist today. They existed then, they exist today. That is why! That is the rationale for it.

Mr. President, I have some recommendations which I hope the Government will take on board. I was supplied with a copy of the Singapore Electronic Transactions Act which deals with similar issues to us. If and when this Bill goes before a joint select committee, I strongly advise that committee to take a look at the Singapore Electronic Transactions Act, 2010. It talks about a digital signature, a point which Sen. Dr. Balgobin raised and which I raised and which Sen. The Hon. Panday has agreed to change. That is good law-making. I congratulate him on that. [*Desk thumping*] I think we can all take a pat on the back for that.

Mr. President, Part II of that Act under “Electronic Signatures”, if we read that particular section of the Singapore Act, it builds in a certain degree of flexibility for electronic signatures and digital signatures, and it could be looked at as a model. I highly recommend that we look at it.

What is interesting in the Singapore Act, under Part VI, “Electronic Contracts”, if you remember, Mr. President, at the start of my contribution, I raised the point that this Bill is needed. This Bill breaks legislature frontiers that this country has not crossed as yet, and it will pose challenges to our Judiciary. I made that point. The Singapore Act talks in detail about how electronic contracts are to be formed, offer, acceptance and so on; all the basics of a valid contract.

What is going to give us particular problems, and somebody alluded to it two weeks ago, is that society now, we no longer dip our pen into ink. Do you remember the ink that I spoke about in primary school where you put your pen in and you wrote? Those days are gone. Electronic contract making, electronic signatures take the postal rules—Hon. Attorney General, that has gone out the window, and the new electronic rules have given jurisdictions around the world no end of trouble in deciding when an offer is made and when an acceptance is made.

In doing some research, the old UK postal rule is now out the window, so we now have e-rules. Preceding e-rules you had rules made for transmission by faxes. There is a celebrated case in *Torres v Miles Far East Group* which you would know about, and after that now, the case in point which deals with electronic transactions is a case called *Brinkibon v Stahag Stahi*. We need to look at those decisions to see how e-contracts are to be formed, when an offer is made, when an

acceptance is made and when a contract is valid. We just cannot put this out there and hope our Judiciary will get it right. There should be some judicial training and judicial education.

I would strongly recommend to the Government that when this Bill goes before a JSC that we look at the Singapore Bill; we pay attention to the same concerns they had in 2008/2009 which are mirrored across here now. The concerns we have now closely resemble the same concerns then, and this brings me to an issue. I would not engage in political hyperbole. There was a Motion put forward in this honourable Senate—

**Mr. President:** Hon. Senators, the speaking time of the hon. Senator has expired.

*Motion made,* That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. F. Hinds*]

*Question put and agreed to.*

**Sen. T. Deyalsingh:** Thank you very much, Mr. President. [*Desk thumping*] Mr. President, it is very easy when the testosterone which I spoke to earlier in my contribution starts to flow. I am going to be very measured, because something occurred in this honourable Senate a few minutes ago when you put forward a Motion that questions Nos. 35 and 36 be deferred, and the Government used its numeric advantage to defeat or to have those questions deferred. That is not an abuse of Parliament, that is a misuse of the majority.

**Sen. Ramlogan:** Mr. President, on that note, inasmuch as my learned friend has brought that up, I just wanted to point out that the responses were circulated before 3.00 p.m. as promised, and all my learned friends from the Opposition Bench should have had it by now and, of course, for the Independent Senators, I believe they are making copies so it will come in two minutes' time. I am told this by the Parliament staff. As the Opposition, you have had it. You need to start reading your papers, Sir. Thank you.

**Sen. T. Deyalsingh:** Thank you very much, Sen. Ramlogan. I am proposing that this Bill—I think all the Senators who have spoken on the Opposition side and the concerns raised by one or two Independent Senators, I want to posit to the Government that if they use their numeric advantage to pass this Bill they will be misusing the Parliament. The Bill is not ready. [*Desk thumping*] As I said, I am not engaging in political hyperbole by saying “abuse”, it would be a misuse which is a lower bar.

*Electronic Transactions Bill*  
[SEN. DEYALSINGH]

*Tuesday, March 29, 2011*

We need to get an expert opinion on the Bill to make sure that the terms that we are entrenching are the correct terms. We need to go back to all their proposals in 2008/2009 and where they are valid and where they are not valid consider it, because they have changed their minds from 2008/2009 to 2011. That type of flip-flop in position is not good for law-making.

Mr. President, I want to suggest that this Bill goes to a JSC. I want to tell the Government that if it goes to the JSC please, and I beg of them, do not consider it a defeat, but let us iron out the problems and come back and celebrate a victory for all the citizens of Trinidad and Tobago from Debe/Penal, Delaford and Diego Martin, and bring back a good Bill which is right for legislation, and have it enforced in Trinidad and Tobago.

Mr. President, I thank you very much.

**Sen. Helen Drayton:** Thank you, Mr. President. [*Desk thumping*] This Bill provides a legal framework to support electronic business. It is a very essential Bill. I commend the Government for bringing it at this time [*Desk thumping*] even though I know there are flaws in the Bill, and those I have reviewed thoroughly. I share many of the sentiments of Sen. Deyalsingh with respect to certain clauses and, as a result, I have circulated a number of amendments.

Now, e-commerce in Trinidad and Tobago accounts for anything like 58 to 60 million transactions—this was in 2010—and that was valued close to TT \$450 billion with respect to Trinidad and Tobago. It will cover all credit card and debit card point of sale transactions; the automated clearing house transactions; and also real-time gross settlements which refer to the numerous and sizeable, in terms of dollars, interbank transfers.

This is a Bill that is necessary to protect all suppliers of e-commerce, e-business and also the consumer. I was very glad to see the clause with respect to preventing unwanted solicitations, although I would have much preferred to see that clause turn in such a way that the client and the provider of the e-commerce business would have the normal little box where you agree upfront whether you will accept unwanted mail or mail that solicits with respect to products, services and newsletters, et cetera.

I would get straight into the clauses. I am not going to make mention of all the amendments, only the ones I think are very important. As I said, they are now circulating those amendments. I, too, endorse what has been said with respect to authentication and electronic vis-à-vis digital signatures, but I think it is a matter that could be addressed in the Bill.

Getting right into the clauses, I would start actually with clause 2, under “interpretation”. I note that mention was made of a certificate as well as certification service providers, but nowhere in this Bill or in the Bill to do with the Data Transactions did I see any reference in the content of the Bill to certificates and certification service providers. I suspect that the intent was to deal with the issue of authentication, because that is where the certificates will come in, and it was omitted from the Bill before us.

With respect to clause 5—and there are other clauses that would pertain to what I would say now—under clause 5(c), the Bill makes reference to “authorities” and “agencies”, but nowhere in the definition do you see “public authority” or “public agency”. What is mentioned in the clauses and the definition is “public bodies”. So I think that the content of the various clauses must be consistent with the definitions that were given, and anywhere you see the words, “authorities” or “agencies”, it should be changed to “public bodies”.

With respect to clause 7 which deals with the voluntary use of electronic transactions, there is a disconnection between the content of the clause and the marginal note in that the clause actually deals with record maintenance while the latter deals with electronic transactions. So, I have suggested an amendment to this entire clause where 7(i) will now read:

“Nothing in this Act shall require any person to use or accept electronic communications, electronic signatures or electronic contracts.”

And then we redo 7(ii) to say:

“Nothing in this Act shall require a person who uses, provides, accepts or retains documents, records or information, to use, provide, accept or retain them in an electronic form.”

There are also grammatical issues in the clause that need to be corrected.

Now, clause 10 certainly worries me because that deals with the provision of information. We need to be clear here as to whether we are dealing with providing information; whether we are dealing with the delivery of information, and there is a vast difference. Let us just say you have a banker/client relationship and they have agreed to use their electronic transaction. So the customer sends the bank an email to credit his, let us say, credit card account, from his saving account. But the client or the bank, there is no indication as to whether that information, that email, was received, and the reason for that has to do with the sensitivity of technology.

**3.10 p.m.**

So that the provider might have sent information, or the bank would have sent information, or the client, but either for the reason of service provider disruptions, crashes, spam, malware, trojans, viruses, harmful cookies, that information would not have been delivered; and particularly when you are dealing with contracts and other financial matters, that is a major issue.

So that I have suggested an amendment which basically says that:

“Where information is required by law to be delivered, dispatched, given, or sent to, or to be served on a person, that requirement is met by doing so in the form of an electronic record, provided that the originator of the electronic record states that the receipt of the electronic record is to be acknowledged and an addressee has acknowledged receipt.”

It has not been delivered until it has been knowledged.

With respect to clause 16, it is a bit confusing in that it makes reference to: “Electronically signed message deemed to be an original document”, but then, when you read the section, I am not clear as to how a data message can contain what you would say is a “non-electronic signature”. There is something that is not quite right and I have made an amendment—suggested an amendment—which is:

“A copy of a data message containing an electronic signature shall be valid, enforceable and effective”

that is really all that is needed, in that regard.

Now clause 17, which deals with the “admissibility and evidential weight of electronic records”, basically, what this is trying to say is that electronic records and electronic signature are valid for evidence, and that validity is based on reliability, and how you are going to weigh the integrity of the message. So that what is here is not sufficiently extensive to address this very critical issue. So that I have suggested an amendment which says that in proceedings in a court, tribunal or arbitration, whether of a legal, judicial, quasi judicial or administrative nature, the admissibility of an electronic record, or an electronic signature, in evidence, shall not be denied solely on the grounds that it is an electronic record or an electronic signature. Without wanting to put in too many protocols, it is necessary to qualify what one means by “reliability”. And therefore, I have suggested that information in the form of an electronic communication shall be given due essential weight and in assessing the evidential weight of an electronic communication, regard shall be had to the reliability of the manner in which the

electronic communication was generated, stored or transmitted; the reliability of the manner in which the integrity of the information was maintained; the manner in which the originator was identified—one has to know whether the person who sent the message is in fact the person who sent it—and, of course, any other relevant factor.

With respect of the “place of business”, clause 27, it is very convoluted, and I propose that we change that to say:

“...unless the originator and addressee of a data message agree otherwise, the place of business of either party is deemed to be-

- (a) the principal place of business of the originator or addressee of the data message; or
- (b) if the originator or addressee of that data message has no place of business...”—which, of course, would happen between supplier and client—“then the habitual residence of the originator and addressee of that data message”.

With respect to clause 30, there is a lot of vagueness in the last three lines of this clause, I will not read the entire clause, but at the end it speaks about standards of reliability and integrity, “or is as reliable as appropriate, given the purpose for which the circumstances in which the signature is required.” I really do not know how to interpret that. I have suggested an amendment that it be deleted, and the necessary replacement inserted.

Basically, Mr. President, that is the extent of the amendments that I would mention. The list I have sent is very long, and I hope that the Minister would give it due consideration. In view of the fact that we are talking about an important matter, such as e-commerce for facilitating a business environment, and we have been speaking about a business environment, and the Government has been speaking about wooing private investors, locally and internationally, to take the lead as the main drivers for economic growth and to promote justice, fairness, accountability and equity, I think that as leaders, all of us, we need to reflect a bit on the state of our society.

When we were debating the private motion on the Constitution, I made mention of the civil strife that is going on in the Far East, and over the weekend we witnessed 500,000 people in Britain marching against the government and its austerity measures. A few weeks ago, we witnessed thousands of the citizens

*Electronic Transactions Bill*  
[SEN. DRAYTON]

*Tuesday, March 29, 2011*

marching against a proposed law that had to do with labour representation. In Germany, they are marching against nuclear facilities. In Canada the government has collapsed, and in Japan, we feel the pain of the Japanese citizens following nature's wrath and, of course, we have to admire the dignity of those people in the face of a horrendous tragedy.

I think that if anything at all has happened over the past few weeks, past few days, that should make us stop and reflect, it is this, on how precious life is and why every moment should be treasured for one of peace, for one of stability, for one of harmony and reflection and plain common sense. The entire world is on edge. We are on edge. We are not isolated from all that is happening in the environment that is not conducive to business and even living. And as leaders, I think we have to look at what we are doing, what we are saying, and ask ourselves whether it is going to serve the entire public good, and when it comes to collective sensitivities that we move in directions that would bring about productive results.

As I have said, I commended the Government for bringing this Bill. In this environment we have our own industrial disputes, all of which affect the environment—this Bill is one thing—and I will certainly urge that the Government and the trade union movement try to reach some agreement, as soon as possible, so that we could treasure some lighter moments with respect to less hysteria in the society. Mr. President, with that, I thank you.

**3.20 p.m.**

**The Minister of Food Production, Land and Marine Affairs (Sen. The Hon. Vasant Bharath):** Mr. President, I really had no intention of joining the debate this afternoon, but having heard Sen. Deyalsingh quote extensively from my contribution in 2009 and having read that Sen. Al-Rawi quoted similarly when the debate was held about two weeks ago, and I also know that in the other place several other Members quoted extensively from that contribution, I felt compelled to provide the next PNM Opposition, which starts in 2015, with some further information for their speeches. [*Desk thumping*] [*Laughter*]

Mr. President, I thank you for giving me the opportunity to speak on this Bill. I do not mean for this to be a lengthy discourse, but merely an intervention to hopefully clarify some of the issues that have been brought up.

I do not think there could be any doubt, on either side of the Senate and in both places, in fact, that there is significant need for this legislation. In fact, when this Bill was brought to the other place in February 2009, I did say at the time,



and I quote:

“I really do not have any major issues and any significant problems with the principle of the Bill or with the technical aspects related to it.”

I did, however, have serious reservations, many of them brought up by Sen. Deyalsingh today, and I know mentioned by Sen. Al-Rawi two weeks ago. I think many of these concerns and issues were properly ventilated, and I would hasten to say that a number of them were actually corrected when Sen. Nan Ramgoolam-Gosine piloted the Bill, some two weeks ago.

Essentially, what we have before us today, in my opinion, is a well-crafted and timely, if not, in fact, overdue piece of legislation. It is important because of context. When Sen. Deyalsingh quoted from what I said in 2009, really, he was referring to the issues of priority, because everything is placed in context. Today we have, I believe, about 485,000 Internet users in Trinidad and Tobago, with an Internet penetration rate of close to maybe over 40 per cent. Back then in 2009, we had an Internet penetration rate of about 15 per cent and it was significantly different, therefore our context is completely different. [*Desk thumping*]

We have many of our young people today engaged on Facebook or Twitter, many of them texting on several telephones at a given time, “bbming” now through their Blackberries. The world has changed significantly in a very short space of time. As a matter of fact, as we speak now—[*Interruption*]

**Sen. Hinds:** Thank you for your graciousness in terms of your giving way. Since you referenced the fact that penetration was 15 per cent in 2009 and we are a long way away from that, according to your mini thesis, what is the penetration rate at this time?

**Sen. The Hon. V. Bharath:** Clearly you were outside of the room. [*Laughter*] [*Desk thumping*]

**Sen. Hinds:** Would you like to tell me?

**Sen. The Hon. V. Bharath:** I will reiterate for you. I mentioned that it was about 40 per cent today. In fact, those numbers go back to the end of 2010, so it may very well be significantly more today. With the advent of the Prime Minister of Trinidad and Tobago and the Government of the People’s Partnership handing out almost 20,000 laptops to SEA students, only a few months ago, 17,000 of which went to actual students and 3,200 going to teachers, I hasten to add that the Internet penetration rate may even be significantly greater than that number. [*Desk thumping*]

*Electronic Transactions Bill*  
[SEN. THE HON. V. BHARATH]

*Tuesday, March 29, 2011*

I also want, for the sake of information, to place on the record that, in fact, all of those laptops now carry parts of the school curriculum, so many of the students could be at home and could be taught things like mathematics and science. Those are the two components that have now been added to those laptops. It is what makes this legislation so critical and so compelling, at this point in time.

Many government agencies and departments, large corporations, big and small and many citizens of Trinidad and Tobago, are now conducting business and other kinds of transactions online. It has now become a fact of life. In fact, over the last two years or so, many government corporations, under the instructions of the Ministry of Finance, have been engaged in things like e-procurement and e-auctions; many of them pooling their resources to get suppliers to reduce unit cost so it could redound to the benefit of this population, the taxpayers and the stakeholders.

It is true, however, as Sen. Dr. Henry said in his contribution a couple of weeks ago, that several critical government agencies remain buried under mountains of paper. I think that was what you said, or words to that effect. These include, most notoriously, the licensing division, our health services and customs and excise. But in the space of just a short nine months, this Government has already moved to correct all these issues and anomalies. We are already attempting to address all of them.

In fact, the Minister of Works and Transport will bring to the Lower House very shortly new legislation that will replace and repeal the current Motor Vehicles and Road Traffic Act. This will provide all records of the licensing division to be digitized so that certified copies of ownership will now be available within three working days, something that is totally unheard of. Driver's licences, for example, will now provide enhanced security features, so that it would prevent criminal and fraudulent activities. Driver's licences will also carry information relating to things like blood type, so in the event of an accident the person involved, his or her information would be immediately available to the services that attend to the accident.

The Ministry of Trade and Industry, under the guidance of the Minister, hon. Stephen Cadiz, has moved swiftly to introduce the single electronic window, which is a portal that would allow for faster clearance of documents for goods and products coming into Trinidad and Tobago, coming into our ports. So we are moving with alacrity to correct a lot of the anomalies and issues in the system.

The fact is: who is to blame for the tardiness in bringing this ICT legislation and bringing the agencies into the ICT age? It is the PNM. The PNM has governed this country for 13 out of the last 20 years—for 13 of the last 20 years. During the ICT revolution, the world ICT revolution, the PNM was in government for 13 out of the last 20 years. During that time they enjoyed the highest annual revenue this country has ever seen, \$300 billion alone. Mr. President, \$300 billion alone was spent in the last eight years, from 2002—2010; \$300 billion was frittered away in the last eight years alone.

**Sen. Al-Rawi:** Public servants cannot be frittering.

**Sen. The Hon. V. Bharath:** Waterfront projects, my friend, \$4 billion; Brian Lara Stadium, \$1 billion and counting. That was supposed to have been finished in 2006. The Tobago hospital, \$700 million and counting; NAPA, over \$650 million by the time it was finished. The one in South has not even been completed. [*Crosstalk*] Cost overruns on those four projects alone amounted to over \$3 billion.

It was a time of unbridled, unadulterated, unabashed—I was going to say “tiefing”, but I will choose not to use an unparliamentary term, Mr. President. It was a time of unfettered indulgence.

**Hon. Senators:** Oooh!

**Sen. The Hon. V. Bharath:** While the so-called project manager, aided by some of them who sit in this Chamber here today and many in the other place, frittered away these large sums on these large and lavish projects, the PM failed to fast-track these government agencies into the ICT age.

**Sen. Panday:** Not the project manager? [*Laughter*]

**Sen. The Hon. V. Bharath:** The PM. While he fiddled, the citizens of this country suffered; that was the point I was making in 2009. While he fiddled, and the then government fiddled and twiddled their thumbs, the people of this country suffered. There were no beds in the hospitals. People were sleeping and having babies in the corridors. Mr. President, 200,000 of our citizens, according to a UNDP report, were living below the poverty line. Yes, you are right, I said that people were eating out of dustbins, and I went further to say they were sleeping on the pavements and streets of the cities of Port of Spain and San Fernando.

**Sen. Hinds:** Including outside the Parliament last week, the PSA!

**Sen. The Hon. V. Bharath:** There were water woes and traffic gridlock. It must not be forgotten. I know that on many occasions we have been told move on, forget those things—[*Interruption*]

**Sen. Hinds:** Those were your Prime Minister's words!

**Sen. The Hon. V. Bharath:** But again, we come back to context. That is why on May 24, 2010, the citizens of Trinidad and Tobago took the opportunity to impale the PNM on the bayonet of the People's Partnership. That is why. [*Desk thumping*]

Do you know what, Mr. President? With significantly lower revenues, this People's Partnership Government intends to rectify all these anomalies. So to calm Sen. Dr. Henry's fears and his nerves—[*Interruption*]

**Sen. Hinds:** He has none!

**Sen. The Hon. V. Bharath:**—let me assure all of you, and let me assure this honourable Senate, that all these agencies will very soon be brought into the digitized and computerized world. In fact, I can speak of just one Ministry, my own, the Ministry of Food Production, Land and Marine Affairs, which has embarked on an exercise to ensure that we can considerably speed up the distribution of leases and the regularization of land tenure in Trinidad and Tobago, which has a backlog, in many cases, of up to 40 years. Forty years people have been waiting to have their leases handed to them.

Additionally, a new regime of incentives was taken to Cabinet on Thursday of last week that incorporates major incentives to deal electronically with the whole issue of praedial larceny. That would be divulged very shortly.

Sen. Dr. Henry also said in his contribution, and I quote:

“As we all know just several years ago one cable company was allowed to buy up all the others and no one said anything about it. So, we have essentially a monopoly in cable, you know when in the early period each area had a specified cable company, just to give you an example—and there seems to be a lack of urgency or a lack of foresight in terms of developing proper competition policies and fostering a very open marketplace when it comes to these issues. It is as though people assume that the market will take care of itself and we know that never really works that way. Without the proper legislation you always will get monopolization and centralization of economic activity in the hands of one or two businesses and we see the dangers that could lead to many times over.”

That was what he said, probably not as well, but he said that.

**3.35 p.m.**

I think that also Sen. Dr. Balgobin in his contribution mentioned the fact that Flow's monopoly in Trinidad and Tobago was being threatened or under challenge from TSTT and from Digicel. As we all know, Mr. President, all three of these companies are competing in the telephonic market and two of them are also competing in the Internet and the cable television sector. In fact, there are three other companies that come to mind Caribel, Illuminat and Green Dot which are also providing high-speed Internet services to Trinidad and Tobago.

But what Sen. Dr. Henry should have asked himself, is how and under whose watch did that monopoly arise? Because you see, up until the year 2000, Mr. President, there were four providers in Trinidad and Tobago. There was AJ Cable, there was Trans Cable, there was Rainbow Cable and there was Cable View. In 2000 a new local company called the Cable Company of Trinidad and Tobago (CCTT) acquired all of the others. And in fact it was not until 2005 when the PNM was truly entrenched in government, that Columbus Communications, fondly known as Flow, bought out CCTT the Cable Company of Trinidad and Tobago and proceeded to monopolize the market—2005, that is when it happened.

But you know, worse than that, if that was not bad enough, Mr. President, there were a handful of rogue and illegal operators who were operating outside of the Telecommunications Act at that point in time, a handful. In fact, what they were doing was providing their own little satellite services to limited little districts. And you know who was one of those amongst those rogue, illegal providers, Mr. President? None other than the—I guess he is no longer—but none other than the then treasurer of the PNM. [*Desk thumping*] The then treasurer of the PNM was providing illegal and rogue cable services—

**Sen. Panday:** Stone Street Capital.

**Sen. The Hon. V. Bharath:**—to the area in Haleland Park. The same gentleman, Mr. President, who of course is involved in this scandal with Clico Investment Bank, where he was the Chairman, where he borrowed money from Clico Investment Bank to purchase shares in the Home Mortgage Bank, \$100 million.

**Sen. Hinds:** Mr. President, I—please, Standing Order.

**Sen. The Hon. V. Bharath:** What! What!

**Sen. Hinds:** Mr. President, Standing Order. I am addressing the President.

**Mr. President:** Sen. Hinds, can you refer me to the Standing Order that you are about to—

**Hon. Senator:** Sit down!

**Sen. Hinds:** You relax, you just relax.

**Sen. Panday:** You do not speak when the—

**Sen. Hinds:** Calm down, calm down. You are sufficiently experienced, calm down. I said to calm—Mr. President, I am being disturbed. Mr. President, I am trying to address you and identify the point of order that speaks to a matter being *sub judice*. I am not protecting anyone, this is a Parliament of free speech, and my friends are entitled to say what they want.

**Mr. President:** Sen. Hinds—

**Sen. Hinds:** Yes, Mr. President, I was looking for the number and it escapes me because I was being distracted. However, Mr. President, in essence I am talking about a matter that is now before the court and it is therefore explicitly *sub judice* and I am calling upon you, Mr. President, to address the matter accordingly.

**Sen. Panday:** Name the matter.

**Sen. Hinds:** I am not protecting anyone.

**Mr. President:** Thank you Senator, thank you Senator. Certainly there is an order and as the Senator pointed out he cannot refer to it immediately in which matters that are *sub judice* may not be raised in this Senate. On the other hand, I do not think that the Senator raised it directly but inferentially. What I will ask him to do is to not refer to the proceedings regarding to Clico Investment Bank, that referred to other matters.

**Sen. The Hon V. Bharath:** Thank you, Mr. President. [*Crosstalk*]

**Mr. President:** Sen. Hinds wants to make another point of order.

**Sen. Hinds:** I thank you very warmly, Mr. President, for your usual sound judgment. Mr. President, I admire and appreciate your ruling on the point that you have just ruled. However, Mr. President, he had already made reference to the particular case and therefore I am calling on you by extension to cause that to be withdrawn, in keeping with the honour of these Standing Orders.

**Mr. President:** The reference, thank you Sen. Hinds, to Clico Investment Bank, I saw it as a passing reference. I think the main point being made by the Senator had to do with questions relating to communications. I think he stepped

too far in referring to matters relating to Clico Investment Bank and insofar as he made those references, I will ask him to withdraw just the reference to that other reference we will accept. [*Desk thumping*]

**Sen. The Hon. V. Bharath:** Thank you, Mr. President, I am happy to withdraw any reference I made to Clico Investment Bank. However, Mr. President, I am sure I am at liberty to quote from the daily newspapers?

**Sen. Baptiste-Cornelis:** Yes.

**Sen. Hinds:** Not on the matter.

**Sen. The Hon. V. Bharath:** I beg to differ, and the President will have to rule on that one because I am quoting from today's daily newspaper which is public knowledge and it is out in the public domain.

**Sen. Hinds:** But this is the Parliament.

**Sen. The Hon. V. Bharath:** Yes. Good.

**Sen. Hinds:** And there are rules here.

**Sen. The Hon. V. Bharath:** Yes, yes, good. So the President will rule on that. Mr. President, in as much as I am not—I am actually quoting from today's newspaper, the *Daily Express*, and the point I am attempting to make here and to link, Sen. Deyalsingh talked about the whole issue of trust, and this is the point I am attempting to draw reference to and inference from, this whole issue of trust and the people who are involved in the running of the affairs of our country.

“CIB is alleging that Monteil and Trotman secured a...” [*Interruption*]—I am reading from the newspaper.

**Sen. Hinds:** Mr. President—

**Sen. The Hon. V. Bharath:** I am reading from today's newspaper.

**Mr. President:** Senators, if you both have a seat, thank you. I will allow the Senator to read from the paper and then we will determine the question of whether he has transgressed the provisions of the Orders.

**Sen. Panday:** They trying to save the —of Monteil.

**Mr. President:** Senator.

**Hon. Senator:** [*Laughter*]

**Sen. Hinds:** I am not “breaksin” for anyone. I am trying to uphold the honour of this institution.

**Hon. Senator:** The President has ruled on that. That is not your intent, that is not your role.

**Mr. President:** Just the number will do, thank you.

**Sen. Hinds:** It is 35(2), Mr. President, which speaks against the matter and if we anticipate it we do not have to let it happen, to be an embarrassment to the rules of this honourable House.

**Mr. President:** Thank you Senator. Senator, I cannot imagine that anything said in the paper that the Senator is about to read would prejudice the interest of the parties in the matter that lies before the court. On the other hand, I cannot rule, I do not know the article to which he refers, but of course I cannot prejudge what he is about to say to determine in fact whether it would prejudice the interest of the parties and therefore I will let him read from the paper and we will proceed from there. Thank you.

**Sen. The Hon. V. Bharath:** Thank you, Mr. President. Mr. President, I shall not belabour this point, but I just wanted to put it on record because it comes back to the whole issue of trust that Sen. Deyalsingh was speaking of.

“The lawsuit alleges that Monteil approached CIB for the loan in December of 2007 to purchase shares in Home Mortgage Bank (HMB) and he used Stone Street Capital to borrow the money for the shares, while Trotman”—who is the CEO—“facilitated the loan allegedly with the knowledge that Monteil was at the time an executive member of Stone Street Capital.

After the CL Financial Group collapsed, CIB sought to recover its losses.

The loan with interest is...in the vicinity of \$123 million.”

**Hon. Senator:** That is it!

**Sen. The Hon. V. Bharath:** And this is the same gentleman who was running a rogue operation for cable television that Sen. Dr. Lester Henry was so very concerned about. And then in fact, my information is that when a legitimate licence holder moved into the area, the goodly gentleman, the goodly treasurer of the PNM, attempted to sell him, sell his rights, his illegal rights if that is possible—that is an oxymoron I believe—sell those rights to the person who, in fact, had the genuine rights.



**3.45 p.m.**

All of this happened under the nose of the project manager and the head honchos of the PNM at the time and you probably do not know that, but that is what happened. [*Desk thumping*] That is why the PNM must never be allowed or must not be allowed for a very long time to walk the corridors of power of Trinidad and Tobago again, nor to hold on to the purse strings of this country. [*Desk thumping*]

You see, Sen. Deyalsingh likes to talk about DNA. He mentioned DNA several times. Mr. President, although there may be a few new faces, the DNA remains the same. The DNA is exactly the same. [*Desk thumping*] It is a mettle that is stamped with the hallmark of a bygone era. That is what it is. It never changes. [*Desk thumping and interruption*] Mr. President, recently when they had the opportunity—I do not know how your PR “fella” is going to spin all of this, but he has a big job ahead, but he is a very capable gentleman—at their general assembly to infuse and inject some level of integrity and decency at the highest levels within their organization, the DNA kicked in again and pulled them back into line. [*Laughter and desk thumping*]

Mr. President, let me not digress for fear of risking your intervention, but that sort of illegal operation is exactly what this Bill will ensure does not happen under the watch of the People’s Partnership. These are the kinds of protection that we are putting in place. Mr. President, I was unavoidably absent a couple of weeks ago when Sen. Al-Rawi spoke at length and again quoted extensively from my contribution in 2009. I am happy that he did. He alluded to the fact that there was, at the time, a very low Internet penetration rate, which, as I said, has now increased exponentially, and today of course, we all heard Sen. Deyalsingh quoting again, extensively, from the same document, where, essentially, what I was doing, I was promoting and prioritizing the issues that confronted society at the time: the spiralling crime rate, the endemic poverty, the major issues in the health care system.

I was promoting those over the need for us to be discussing at that point in time the issue of electronic transactions. [*Interruption*] I did, in fact, bring some real examples of people who I had helped during that period of time: Mrs. Maharaj, Mr. Douga and others who had genuine problems, who we were wrestling with the situation in terms of how to assist them and I felt compelled to bring their particular matters to the other place. But in their discussions, both Senators are correct and I still have these concerns. I agree with you.

*Electronic Transactions Bill*  
[SEN. THE HON. V. BHARATH]

*Tuesday, March 29, 2011*

I think as Members of Parliament and as representatives of the people we must be genuinely concerned when there are people out there who are not able to live the same lifestyle that we may be able to live in. It does not assist us very much when we have to lock ourselves behind bars, when we have to have a burglar alarm system, when we have to have dogs and when we cannot go out at nights. That does not assist us when we create a society of haves and have-nots. I think none of us can rest peacefully knowing that there is this disparity that exists in a country like Trinidad and Tobago, particularly, where large amounts of money have passed through our system over the last 20-odd years; [*Interruption*] as a former Jamaican Prime Minister alluded to as a dose of salts.

The difference is, however, between then and now this Government is working overtime to rectify these ills. In every sphere this Government is working overtime and that is the difference; even as we pilot Bills of this nature we are doing many other things that would create a positive lifestyle for the majority of the citizens of Trinidad and Tobago.

The mess that the last administration has left the People's Partnership in, having abandoned ship for the second time, midway through a term—that is what they did. They abandoned ship. [*Desk thumping*] It was everybody overboard! All men overboard! They abandoned ship for the second time. When the going got rough they jumped out, they jumped off; second time they did it. [*Interruption*] But unlike the PNM, we are confronting these problems head-on: the problems of crime, the problems of health, the problems of education and problems of poor services throughout the welfare service.

Mr. President, do you know that when a pensioner turns 65—many of you there, apart from Sen. Hinds, have not been an actual representative in a constituency, and I am not saying that in any condescending way. When you are a representative of people and they come to you on a daily basis, particularly the old people, many of them do not access their pension or start receiving moneys sometimes for two years, three years or four years. They are bounced from pillar to post, back and forth; “go to this office, go to that office, come back on Tuesday, we only see people on Thursday”, and so it goes. Many of them are too old, they are too fragile, they give up and they fall out of the system. I have seen many of those.

I am not politicking here. I have seen many of those people, and all of these services have to be revamped. All of these services have to be brought into the modern age where we can service our people, where we can genuinely say—and not just out of rhetoric, that we really do care, that we really genuinely care about

helping and serving our people and making this a nation that we could all feel proud of, that we could all want our children to be part of, that we could all want our extended families to be in a position to give service like we give service, and that we are not here for selfish motives and selfish purposes.

That is why, Mr. President, we have moved expeditiously to do some of the things that we said we would do in our party's manifesto. Things like increasing the minimum wage from \$9 to \$12.50; [*Desk thumping*] giving every child at the SEA level a laptop, which is what we said we would do; establishing a Children's Life Fund—no longer, Mr. President, would any child in Trinidad and Tobago die because of lack of funds; increasing the old age pension to \$3,000. [*Continuous desk thumping*]

Do you know that there are over 53,000 persons today who benefit from that \$3,000 a month? Compensating farmers in record time—for the first time in the history of this country when farmers were “flooded out” they got their compensation within one month of the floods affecting them and they losing their crops. [*Desk thumping*] We have started handing out Caroni leases—610 leases were given out in December—for the first time since 2003, when those people have been waiting for their farms. [*Desk thumping*]

Mr. President, when you look at some of the welfare services I alluded to, we have made them more relevant to today's world. Funeral grants have gone up from \$3,450 to \$7,000; the housing grant has gone from \$10,000 to \$15,000. If you cannot pay your rent instead of getting \$4,500 which you were getting before, it is now \$7,500. So, what we have moved to do is to ensure that we provide the goods and services to ensure that the people of Trinidad and Tobago have a decent life, as well as bring this Electronic Transactions Bill. We did not come here and bring an Electronic Transactions Bill and the people of Trinidad and Tobago are totally left behind and suffering. We are doing it concurrently and that was the point I was making in 2009.

**Sen. Panday:** You understand!

**Sen. The Hon. V. Bharath:** That is what we were saying. [*Desk thumping*]

Mr. President, most of us in this Chamber would have conducted transactions online, mainly purchasing from foreign organizations like eBay, Amazon and so on. In fact, thousands of our citizens have joined tens of millions of people across the globe making online purchases. In fact, Bloomberg News has estimated that the global retail sales in 2010 approached US \$300 billion. That is only touching the surface. That only represents 2.6 per cent of global sales, but when you add

*Electronic Transactions Bill*  
[SEN. THE HON. V. BHARATH]

*Tuesday, March 29, 2011*

the potential of industrialized transactions in the manufacturing sector and in the service sector, one could easily appreciate the magnitude of the opportunity presented through this medium, not just in Trinidad and Tobago, but of course, throughout the world.

Whilst the domestic e-commerce sector in Trinidad is a fledgling one we expect it to grow by leaps and bounds over the next few years. In fact, all of us in this Chamber would know that there are many organizations, both locally and abroad, that offer its products that you can actually view online and make a decision and buy. You could buy a car online where there is a camera installed and you could look at every aspect of the car; you could look at the colour, you could look at the engine, you could look at the type of upholstery, you could look at anything you wanted in that car and actually purchase the car online.

You could do the same thing for properties today. You could walk into a house as though you are virtually walking in a house, go into every single room, you could go to the toilet, you could go to the kitchen, you could look at every part of the house, you could swing 360 degrees, you could look at the garden, you could look at everything and you could make a decision as to whether or not it is worth your while going to visit this particular property, and that saves you a tremendous amount of time.

In the financial sector, we know that online banking has been around for quite some time. People now stay at home and pay all of their utility bills, people transfer money between accounts over the telephone. In fact, now, the technology is such that a lot of these transactions can be done over your cellphone. We are now working on a system with the farmers of Trinidad and Tobago whereby we are implementing electronic devices at their farms and when the electronic device goes off in the event that there is a praedial larceny a message is sent to the farmer's cellphone. [*Interruption*] Because not many of the farmers actually live on their farms, many of them live in remote locations or away from their farms so they are now updated in terms of if there is burglary taking—or there is an incursion on the farm and they could then, either inform the police or they could go there themselves.

NAMDEVCO for example, one of the agencies under the watch of the Ministry of Food Production, Land and Marine Affairs, has also implemented a system recently, whereby, they are now updating farmers with regard to pricing, at each of the wholesale markets in Trinidad and Tobago over their cellphone. Any consumer in Trinidad and Tobago can access that by registering with NAMDEVCO,

so we know, I can tell or any consumer in Trinidad and Tobago can tell, having subscribed to this service, what the price of any vegetable or fruit is in either Debe, in Macoya or in Port of Spain, at any of the wholesale markets just by using their cellphone.

So the technology is there and therefore it is becoming more and more important. All of our people in Trinidad and Tobago today, many of our people have more than one cellphone, they have two and three cellphones today and therefore it is urgent and it is critical that we bring this legislation into place. But of course, Mr. President, with the advent of this take off in electronic commerce, there has to be a legal framework, a proper legal framework that governs any such type business.

Today we are dealing with \$100 million worth of business, tomorrow it might be \$1 billion, and therefore it is incumbent upon us, as lawmakers, that we must address all of these issues that confront us and we must put rules in place that would govern these transactions. But more important is that as a Government we must ensure that our citizens are protected, that our corporations are protected and that whoever uses this new technology uses it in a responsible and mature fashion. And this is what this Bill proposes to do, nothing more, nothing less.

**4.00 p.m.**

In fact, Mr. President, the Bill proposes to put in place several overseeing and overarching measures and mechanisms that will of course become law as and when it is passed by this honourable House. But there are many precedents for us to follow. I said again in 2009, and Sen. Deyalsingh will remember having read the contribution, that it is quite obvious that the document that was presented in 2009 was a cut and paste document which came from European legislation. To be more precise, the Privacy and Electronic Communications Regulations 2003, European directed, Mr. President. I said I have no problem with that because we ought not to be looking to reinvent the wheel every time we are looking at passing this piece of legislation in Trinidad and Tobago. Others have already done the "bull work". So there is no need for us to do it. I still hold that position.

Mr. President, I think quite frankly, that the Minister of Public Administration and her team must be congratulated for having come up with this piece of legislation that takes into account many of the serious concerns and issues that were aired by the then Opposition in 2009. Of course, Mr. President, in the other place as well as here, many hon. Members have expressed legitimate concerns with regard to the security of the citizens who choose to conduct transactions online.

*Electronic Transactions Bill*  
[SEN. THE HON. V. BHARATH]

*Tuesday, March 29, 2011*

There are genuine fears about identity theft of course, and of personal financial information getting into the wrong hands and as to what could happen. These are genuine concerns, we understand that. In fact, the Internet, as we all know, is a very powerful tool, but of course in the wrong hands it becomes a very powerful weapon. Therefore, we have to make sure that—there are people for example, full-time hackers, who are looking at every opportunity to hack into information that is sitting in residence in some of our computers. It is an occupation for them, because they are looking for ways of fleecing gullible people, parting those people from their money.

So, the Bill addresses some of these loopholes that allow people to be duped and fooled on the Internet. But how does anyone, how does any bank, how does any credit card company, how does any Government protect those who fall prey to these cheap tricks, Mr. President, particularly those who may be gullible? How can we legislate to protect the gullible? All we can do—is, as Sen. Deyalsingh said, to try and ensure that we embark on an education programme which is necessary.

It is absolutely necessary that we embark on an education programme so that we alert the population of what they can—how they deal with Internet transactions. And what we can also do as the legislation does—is impose penalties and fines on those who are deviant, who attempt to scamp people by selling substandard goods, substandard products, substandard services or who relieve people of their money under false pretences.

It is very difficult again as Sen. Deyalsingh said, in today's context of international law, of placing the burden of guilt when an international transaction takes place. It is extremely difficult and we are hopeful that as e-business becomes more prevalent and more mature that there will be certain protocols and laws that will be developed internationally, that we can come back to this House and make amendments to this existing piece of legislation.

Sen. Ramgoolam herself had said this is not cast in stone, as should no legislation be cast in stone. It should always be reviewed in the context of relatively, where we are at a given point in time.

**Sen. George:** Amen; [*Desk thumping*] at a point in time.

**Sen. The Hon. V. Bharath:** So, Mr. President, I do not want to take much more of this honourable Senate's time, but the most important—I think everyone has recognized—impact that this Bill will have, is to simplify, making Government's goods and services more easily accessible to the ordinary people of

Trinidad and Tobago, the ordinary citizens who are the ones who need it most. My colleagues and other Members in the other place have expounded at great length on this aspect of the legislation.

I would not bother to repeat what they have said except for no other reason but that. If for no other reason but the fact that it will in some way make people's lives easier by bringing goods and services closer to them, then I implore all Senators of this Chamber to support this Bill. It is long overdue. I ask that they support it in its current context and that if and when we see that changes need to be made because there are gaps in the legislation or there are major flaws, we will come back to the Parliament and make good on that commitment.

So let us move forward, let us move with speed and with confidence and with alacrity as we implement 21st century technology, Mr. President, applying it to good governance and to commerce in general with all the necessary checks and balances that we can provide at this point in time, as we, the People's Partnership, in conjunction with the People's National Movement, continue as a Government to deliver on our commitments and our promises to the people of Trinidad and Tobago.

Mr. President, I thank you.

**Sen. Fitzgerald Hinds:** Thank you very much, Mr. President. Mr. President, I am—well let me say it this way. Had I not been a bold and lion-hearted man, I would have been approaching disappointment, sad disappointment. I would have been sore with disappointment having listened to my friend, Sen. Bharath.

**Sen. Panday:** “You ha” to have no brains.

**Sen. F. Hinds:** Mr. President, you know from our human experience, you purchase a pair of shoes and, depending on the circumstances of your body, the shoe will become twisted overtime. I think Sen. Bharath takes us further. His contribution today suggests to me that he could “twist a socks.” The man is very obviously articulate [*Desk thumping*] and, “a la” his Prime Minister, particularly skillfully deceiving.

Mr. President, I looked on him for a moment and I was about to commend him on his very elegant attire as well—[*Interruption*]

**Sen. Panday:** 35(5)—he has indicated that the Prime Minister is deceiving, and my friend is like the Prime Minister, deceiving. I ask you to rule and to expunge that from the record.

**Sen. F. Hinds:** I will demonstrate what I mean. [*Crosstalk*]

**Mr. President:** Sen. Hinds, I am on my legs. I did hear the reference to both parties being deceptive in some way and I will ask you to withdraw that remark. Thank you.

**Sen. F. Hinds:** I thought, Mr. President, you would have asked me to justify it, as earlier.

**Mr. President:** You can withdraw it.

**Sen. F. Hinds:** I withdraw it, Mr. President. I should search my mind for words similar in effect. I will call it “seagullism”, “seagullism”. I told you before, Mr. President, that the seagull has a strange way. They appear in their thousands for example, in Charlotteville, and they are known for making a lot of noise and a lot of unholy mess. I think that this is an example of “seagullism”. [*Desk thumping*]

Mr. President, orange, orange. My friend wears a wonderful orange tie and a wonderful orange kerchief. My friend, Sen. Al-Rawi told me that that is called a pocket square. Well I did not know that one. [*Laughter*] But he chose orange, which of course you know is the international colour for poison and danger. You will know as well—[*Interruption*]

**Sen. Baptiste-Cornelis:** I thought it was red?

**Sen. F. Hinds:** No, not red, not red. You look elegant in your red—not red at all. And I will tell you this, Mr. President, as I said that I recall, even the product, the chemical Agent Orange—dangerous—and they have chosen that as their party’s symbol and, well, colour.

Mr. President, I think first of all I must say in response to Sen. Bharath that, rather than come here as routinely as they do and attempt to criticize the past regime, they should really be thanking God, Allah, Mother Lakshmi, Lord Shiva—[*Crosstalk*]—for the governance of the People’s National Movement.

#### **4.10 p.m.**

I will give you two simple examples. The Senator boasted lustily about the fact that they have increased the funeral grant. It was the PNM who had put the funeral grant in place to start with. So they come and they meet a good thing; all they are asked to do, as the economy hopefully now permits, is to improve on the policy. That is all.

I read in today’s newspaper—because he read—that WASA issued a bond and he, as acting Minister of Finance—the hon. Senator who just spoke—signed off recently—yesterday, I thought it was—on a \$1.3 billion bond to raise moneys to



do some of the things that have to be done in WASA. I thought he would have graciously come here and thanked the People's National Movement. He did not negotiate that. [*Desk thumping*] He knows nothing about it, other than now, as Acting Minister of Finance for a couple days, to sign a document. It is published in the newspapers. You should be thanking the PNM. I do not want to tarry on those matters, so, having said that, I would move on.

He mentioned that the first-formers have been issued with laptop computers [*Desk thumping*] and they celebrate a half-truth. He told us that these computers are being used for curriculum delivery. My information is, that is not so.

**Sen. Bharath:** I did not say that.

**Sen. F. Hinds:** He said that a child could stay at home and can be taught—it is on the *Hansard*—Mathematics. To be taught, you have to be taught by someone. And he gave the impression that if the child was sick and stayed at home, the child could benefit from the lesson that was taking place in the school. [*Desk thumping*] That is what he said! But they are not even Internet connected. They are not! Some of the students, particularly in Tobago, have not yet even received their laptops, and for those who may have it in the schools—unthinkingly they issued the computers—there are not even sufficient outlets in the school when charging the batteries is necessary. [*Interruption*]

So I understand the thing full well, you know. I have said here before that, from the mid-1970s, Trinidad and Tobago is on a trajectory towards development and the objective was to achieve it on or by 2020. We are on a trajectory; we are doing quite well, and I understand full well that when government changes, it is the responsibility of the incoming government to continue to advance all of the elements of our society on their way and to maintain the trajectory towards becoming a developed nation.

**Sen. Panday:** Why “yuh didn’t do it?”

**Sen. F. Hinds:** But they just cannot understand that. They do not miss a beat; they do not miss a minute to stand here and criticize the very platform on which they stand. [*Interruption*]

**Sen. Cudjoe:** Mr. President, Standing Order 39. I can barely hear my friend speak.

**Sen. Panday:** Against your own Member?

**Sen. F. Hinds:** I thank you and I thank the hon. Senator. I thank her very much. She is bringing your attention to the fact that she can barely hear my contribution—[*Desk thumping*]—because of the “seagullism” coming from the other side. I told you they make a lot of noise and they are making an unholy mess as well—“seagullism”!

Mr. President, it is true that in some countries, for example, Japan, if a child is unable to go to school on any particular day, the child can—and it happened at a school right here on Abercromby Street, you know, where the children were all issued with laptops and the curriculum delivery was by way of the computer, and if a child connected was unable to come to school—it happened right here in Port of Spain; there was an experiment taking place right here on Abercromby Street, where children, by the age of 13 years, were writing and passing with 1s and 2s, three CXC subjects, including mathematics and English, and perhaps Spanish or some other language—right here in Port of Spain. This is the way we would be aiming to go.

In the essence of criticism, he spoke here and told us about the fact that we frittered away—and I am using his words. “The last government frittered away \$300 billion.” I thought that we would have heard—[*Desk thumping*] They simply will not learn. We told them time and time again—I learnt last week that in a particular department of national security the statistics are showing that their wage bill—salaries and emoluments—is as high as 84 per cent! I looked at it last year in preparation for the budget. On average we said it was about 61 per cent. So that the ministry’s budget in relation to that particular—and I will leave him to find it out, the Minister of State in the Ministry of National Security—84 per cent.

Sen. Al-Rawi has said here before as well, that, when you say the last government over the past eight or 10 years frittered away \$300 billion, a large amount of that—if it is 61 per cent or if it is 84 per cent—goes to pay the citizens of this country and those who work in support of the citizenry; a substantial amount of those allocations.

In the context of frittering away, he spoke about the waterfront project and he spoke with gusto on that matter. But, you know, unfortunately—and I will produce it very shortly—that Government spent a whole lot of money advertising Trinidad and Tobago in the internationally acclaimed *Forbes Investment Magazine*, and predominant in their advertisement is a photograph of the very waterfront. The very waterfront! [*Interruption*] And the article is quoting the Prime Minister. I have the document.

**Sen. Panday:** Let us see it. Produce it.

**Sen. F. Hinds:** In that advertisement they actually—would you believe this, Mr. President—boasted the establishment of the very waterfront project, called it in the article—I have it—a \$300-million success of Trinidad and Tobago. That Government did that and I have the document, in the *Forbes Magazine*. [*Desk thumping*] They cannot be trusted; they cannot be believed, and I will make the point, why I had used the word that you caused me to withdraw and my heart pained because I could justify it every day of this week, and you could read my lips on the word again—the “D” word, and I do not only mean “Demon”. You know the word.

**Sen. Baptiste-Cornelis:** Dynamic.

**Sen. George:** Tarouba.

**Sen. F. Hinds:** You see? I say the “D” word and the Minister of Public Utilities said, “Tarouba”. He cannot even spell. He cannot even get that right. I tell you it is “seagullism” in the extreme. Mess! They cannot be trusted. They speak badly of Trinidad and Tobago here and they go internationally and praise Trinidad and Tobago as the best thing since sliced bread. And, you see, we are debating today electronic transfers and the management of electronic data and not realizing that they speak with one side of their face internationally, like in the *Forbes Magazine*, then they come here quietly trying to say bad things about Trinidad and Tobago for local, political consumption.

That acting Minister of Finance, that hopeful who wants to displace the incumbent—[*Laughter*] [*Desk thumping*—told the farmers here, in the same vein, that the EU had donated money—had given a grant to the Government of Trinidad and Tobago for them, when Caroni was closed down.

**Sen. Bharath:** I never said so.

**Sen. F. Hinds:** It is on the record.

**Sen. Bharath:** I never said that.

**Sen. F. Hinds:** He went to Europe on at least two, but possibly three, occasions and pleaded with the EU to rearrange their terms so that he could meet his local political excursions.

**Sen. Bharath:** Mr. President, on a point of order. At no time did I go to Europe to plead or to meet with the European Union.

**Mr. President:** That is not a point of order, but I take it that Sen. Hinds gave way and we will restart.

**Sen. F. Hinds:** Yes. I regret it sorely, but I did. He met with them either in Port of Spain or abroad. You met them in Port of Spain.

**Sen. Bharath:** You said I went to Europe.

**Sen. F. Hinds:** All right. You went and you met with the Europeans, begging them to change the terms of the grant, because you had spoken an untruth to the farmers to win their votes—[*Desk thumping*]—and then would learn eventually that it was not so, so he had to come back to the farmers and tell them, “All yuh eh getting no money”.

**Sen. Moonan:** Mr. President, a point of order—35(1). What is the relevance to the Electronic Transactions Bill?

**Mr. President:** Please proceed.

**Sen. F. Hinds:** I am proceeding. I am speaking about the Electronic Transactions Bill. [*Desk thumping*] Mr. President, he told us, shamelessly, that we the PNM always say that we should move on. Those are not our words; those are the words of his Prime Minister. When the Reshmi matter came up in this country and in this Parliament—

**Sen. Moonan:** Mr. President, on a point of order—35(1).

**Sen. F. Hinds:** The Prime Minister is who told us we should move on.

**Mr. President:** You are now going off track, I think.

**Sen. Moonan:** He is making a mockery of this Parliament. [*Interruption*]

**Sen. F. Hinds:** You see? They want us to move on. We will move on. But before I move on I would like to know what is the influence—whether it is directed at the Prime Minister orally or whether it is by way of an electronic transaction, I would like to know what is the influence Reshmi Ramnarine has over the Prime Minister of Trinidad and Tobago. That is what I want to know, whether it is a positive influence or a negative influence. I want to know.

**Sen. Moonan:** Mr. President, on a point of order—35(1). He is making a mockery of the Parliament.

**Mr. President:** I did ask you, Sen. Hinds, to let us move on.

**Sen. F. Hinds:** Most certainly, Mr. President, always giving way to your very timely rulings.

The last time we met here to debate this, my learned friend, Sen. Al-Rawi—and that is not with a “W”; that is with an “R”—told us in reference to the contribution made by Sen. Bharath in 2009—and you know why I said he could “twist a socks”? The man criticized the Bill then; everything about it, he criticized it; the essence of it, he criticized it. He thought it was poor legislation; he thought that it was not suitable for application to a very backward Trinidad and Tobago where, according to him, Internet penetration was then 15 per cent. The same Bill that they rejected out of hand in 2009, we have demonstrated here over and over again in our contributions that it is the identical Bill, and if not identical, it is worse. [*Desk thumping*] And he comes here today—

**Sen. Panday:** Would the Senator kindly indicate which sections are worse than before?

**4.25 p.m.**

**Sen. F. Hinds:** I am not giving way. And he comes here today trying to resile from the positions he took in 2009 on the same Bill, and by the way this Bill was drafted by the People’s National Movement in government at the time. [*Interruption*] And we have already said in this debate—but you see the noise of their “seagullism”, they did not hear it.

**Mr. President:** Senators, I would ask you to give Sen. Hinds leeway.

**Sen. F. Hinds:** That is the way seagulls behave, that is the way they behave, and came here today recognizing that his—“listen nah” I tell you, Mr. President, they should be really thanking the PNM, you know.

**Sen. Panday:** What?

**Sen. F. Hinds:** Yes.

**Sen. Panday:** Thank who? Thank the people for moving you out on the 24<sup>th</sup> of May.

**Sen. F. Hinds:** And the hardworking public servants in the CPC and the Attorney General’s Department who, guided by policy, and intellectual thought, and intellectual force, and with a view to developing this country, would have given them instructions to prepare legislation, but we had intended, in terms of the Electronic Transactions Bill, to take the thing to a joint select committee, so that it could be refined, because we want to bring good law to the Parliament. We do not want to come with law and have to go back and waste people’s time.

*Electronic Transactions Bill*  
[SEN. HINDS]

*Tuesday, March 29, 2011*

And I will give you one example which my friends have already articulated, but they seem to be unable to understand, and therefore, I am obliged to say it again, when we debated the Bill—and I will come back to what I was dealing with—my friends on the other side.

**Sen. Panday:** Which clause are you referring to?

**Sen. F. Hinds:** I will tell you in a little while. You just relax and do not get so discombobulated, do not get jumpy; take your time. I know you all are very uncomfortable these days, because you all have discovered very swiftly that the people of Trinidad and Tobago have had enough of you.

**Sen. Panday:** Remember May the 24th.

**Sen. F. Hinds:** They have had enough of you. Mr. President, we had proposed a data commissioner, an independent person who would deal with issues arising from the legislation [*Interruption*] independently. They criticized it vehemently. They criticized that. They said we were setting up a national “maco”.

**Sen. Panday:** What?

**Sen. F. Hinds:** Yes, those words are in the contribution of Dr. Roodal Moonilal, the now Leader of Government Business in the other place and the Minister of Housing and the Environment. The words are in the *Hansard*. [*Interruption*] You see they now come and this is why I tell you the Bill is not identical but it is worse, and they have removed “data commissioner” which they criticized and they have replaced that with “the Minister”, so any issues must be resolved by the Minister.

**Sen. Panday:** We are not talking about data protection this is electronic.

**Sen. F. Hinds:** They are of the same DNA as we agreed earlier, and in any event, I am speaking about clause 34, in particular clause 34(3) you understand, and as my friends have reminded me, there are 21 references to “Minister” in their offer of legislation, and we were suggesting independence which they criticized. And they made a recommendation. They recommended that we establish a tribunal, rather than the one “maco”. According to them, we should put in place a tribunal to deal with these issues. They have thrown that out in usual “seagull style”, and they have come with a proposal today to replace that with “the Minister.”

**Sen. Panday:** Clause 34(3), who will make the legislation, not the Minister?

**Sen. King:** You are reading the wrong Bill. [*Interruption*]

**Sen. F. Hinds:** Mr. President, they could say what they want. We are approaching 4.30 p.m., I want to make one point. I am on my legs, and I am not giving way.

**Sen. Panday:** Mr. President, the hon. Senator is misleading the Senate.

**Sen. F. Hinds:** Mr. President, we are approaching tea time, and I have one minute to make the point.

Minister Bharath in the 2009 debate criticized the Ministry of Agriculture for not even having sufficient telephone access, and making the point that with basic issues like that missing how could you impose on it the fineries of electronic transfers and technology. You know what, today, Mr. President—

**Mr. President:** It is now 4.30 p.m. I propose that this Senate will now break for tea, and we will resume at 5.00 p.m.

**Sen. F. Hinds:** Much obliged, Mr. President.

**4.30 p.m.:** *Sitting suspended.*

**5.00 p.m.:** *Sitting resumed.*

[MADAM VICE-PRESIDENT *in the Chair*]

**Madam Vice-President:** Members, when the session ended a while ago before the tea break, Sen. Hinds you were on your legs, and I believe you have until 5.21 p.m. You have 21 minutes again.

**Sen. F. Hinds:** Thank you very much, Madam Vice-President. May I welcome you to the Chair. Essentially the point we had been making from this side is that the Bill is indeed the product of a very good idea, a vision to take Trinidad and Tobago from one place to another using the ICT platform. In so doing, the very casual onlooker at the national affairs would understand that in order to give life to this vision, in order to give effect to it, it is sometimes necessary, as indeed is the case, to move legislation to make the thing happen.

But we seriously indicated to the Government, when the Bill first came in 2009—to the other side—when it came in 2009, as we do again in this debate, that you can have a bad beginning to a good story. You need to be careful, just take a little time, and we have proposed from this side that the Bill is a complex one. It has come to the Senate with some very fundamental challenges that we had recognized, and it was intended to be refined as we have done in many other cases. We have just finished a joint select committee on the anti-gang legislation. Something that is a burdensome problem, crime in Trinidad and Tobago, we responded to, but certainly not as technical as this.

*Electronic Transactions Bill*  
[SEN. HINDS]

*Tuesday, March 29, 2011*

I mean no offence to the hon. Minister who piloted the Bill, but I gathered from my listening she had some difficulty demonstrating in her own mind the difference between an electronic signature and a digital signature, and it took efforts from my friends on this side, Sen. Deyalsingh and Sen. Al-Rawi, to highlight this, and really, for many people in Trinidad and Tobago, and indeed some of us in this Senate, these are very technical constructs, technical issues and require expertise, and we are saying just a little more, just to refine the thing. But Sen. Bharath is proposing that we push the thing through as is, and when we discover errors we should come back and attempt to fix them. That is inefficient if you know in advance that there are issues.

When you look at the number of amendments that we have proposed in our contribution to this debate from this side, and you look at the long list of amendments as documented by Sen. Helen Drayton, this alone is a clear indication. When an Independent Senator could propose something like about 15 or 20 amendments to a piece of legislation—and you heard her contribution. It was not as empty as was Sen. Bharath's in terms of substantive issues regarding the Bill. It was meaningful—and the fact that she could have taken time, having gone through this very—is it about 61 clauses? [*Interruption*—66 clauses, and there are other speakers to come in the debate, and therefore, Madam Vice-President, I am submitting that the thing is sufficiently, technically burdensome to warrant further scrutiny. So it cannot be gainsaid that this is a simple piece of legislation that we can all walk through. I mean the Minister had some difficulty.

**5.05 p.m.**

**Sen. Gosine-Ramgoolam:** No, not at all!

**Sen. F. Hinds:** These problems are not new or unique to Trinidad and Tobago.

I have in my hand, Madam Vice-President—you are very familiar with the *Parliamentarian*—a reportage on the 56th Commonwealth Parliamentary Conference which was staged in Nairobi, Kenya in September. It was attended, among others, by the very Minister who piloted the Bill, Sen. Nan Gosine-Ramgoolam and, of course, the usually very quiet, Sen. Moheni. From the reportage from that conference, there was a particular segment that dealt with “Parliament Accountability and the Role of Internet Governance in Strengthening Oversight”, and as usual—I attended one of this myself in Malaysia a few years ago—the discussion leaders included the hon. Rudrawatee Nan Gosine-



Ramgoolam, Member of Parliament from Trinidad and Tobago. I want to reflect on some of what was discussed at that important conference of parliamentarians from all around the Commonwealth.

We had the privilege of having our Minister as one of the discussion leaders, and they noted some of the contributions that she made. Generally speaking, it was noted that Parliament could not call for the public service to account or to enforce parliamentary recommendations without transparency and information access. These two were said to be the greatest tools for parliamentary accountability:

“Participants appreciated the tremendous impact the internet had had on the society in the last 20 years wherein large-scale scientific research network had been transformed into a global communications platform.

Since then, governments had found themselves challenged with a host of public policy issues, ranging from finding ways to ensure their own citizens can fully benefit from the internet’s potential, to dealing with inappropriate or illegal content, as well as the need for appropriate consumer protection measures and addressing problems of jurisdiction in an increasingly globalized online world.”

So I say this to demonstrate really that this is not unique to Trinidad and Tobago. The reality is, the information age is well with us.

Technology has imposed itself on us whether we like or know it or otherwise, and Trinidad and Tobago, of necessity, must keep in step. This demonstrates that parliamentarians from the entire Commonwealth are mindful of it. We are seeing right now that China is in a technology struggle with Google to protect some of its citizens from information that will come by way of that search engine, to protect its people according to their understanding of it. This is something we have to grapple with because our young people are getting some exposures, and the legislation that we are passing here today will enhance their access to some of these exposures. Some of it may be technically sound, scientifically appropriate but morally troubling.

There are a number of issues that we have to grapple with very seriously in respect of this, and all we are saying in respect of the Electronic Transactions Bill is that the Government should take it nice and easy and step back a bit. I understand your haste to look good because things are not looking good for you within the last nine or 10 months. There is a great deal of public outrage, a great deal of concern. I see your Government having to issue a statement from the

*Electronic Transactions Bill*  
[SEN. HINDS]

*Tuesday, March 29, 2011*

Office of the Prime Minister. We would have preferred to hear her, but she used an electronic means and communicated to the national community through all forms of electronic media that she was—I rather suspect, hypocritically—upset with the comments of the Chairman of the Police Service Commission. I thought to myself, in more trivial events without using the electronic means and sometimes using them, she would present herself and even cry.

She returned from London a few days ago and made an intervention to save the Minister of Health from further trouble in the health sector, and I know that the Minister is relieved. I would have thought that on a matter like that the Prime Minister would have intervened directly, but she chooses to issue a statement by way of electronic means and condemned the actions of the chairman. I am sure the Prime Minister is probably not aware that there are others in her Government who have expressed similar sentiments, using electronic means to transfer their poisonous thoughts.

Not the hon. Minister of Health, because on the day that mess was made in this Parliament, the Minister immediately—I saw it by way of electronic means because it was transferred to me electronically. I was at home watching the thing on the television—intervened, and we are all proud of that. She made a statement in defence of good sense and sensitivity for all of us in Trinidad and Tobago to hear, but there are others in the Government who share the view and I will come to that another time.

We asked a question as you would know, Madam Vice-President—question No. 35—which was answered in writing today because of the discombobulation, disorganization, inefficiency and deception of the Government, but we got it eventually after pressing them. We finally got it in writing having exposed their dishonesty, and I am amazed. The question was to list the number of drug offences before the court to the present time, and the result showed—I am quoting from an answer submitted by the Attorney General a while ago which was handed to me:

“As a result of certain challenges, the Police Service has indicated its inability to comprehensively respond to the question. The police service has provided data which conveys the number of persons that, as December 31, 2010, were before the Courts of Trinidad and Tobago, but only from charges laid between January 01, 2005 and December 31, 2010. Hence, persons who were charged prior to January 01, 2005, whose matters were still before the courts as at December 31, 2010, were not included.”

We are here discussing electronic transactions, and even now Sen. Bharath told us that Internet penetration is as high as 40 per cent. The police service being an important institution and organization as we know it to be—not the Chairman of the Police Service Commission. He does not understand that. Instead of dealing with improving the technological and the Internet capacity and the information technology capacity of the police service, they rather sought to destabilize it by a very wild comment from their friend who they chose and recommended to the President to be the Chairman of the Police Service Commission. This ingeniously after that fact, knowing full well that the Attorney General is on record as saying the same thing, they now wipe their hands and seek to disassociate themselves from that philosophy.

We want the Prime Minister to come and face us on television, on electronic means again, and tell us so, that we could judge from her countenance the degree of insincerity that I anticipate we should hear and see. That is not a laughing matter. This is quite serious because here it is the country wanted to know, through Sen. Beckles-Robinson, certain things, and she cannot get the information in a time when Internet penetration is as high as 40 per cent.

We need, therefore, to take from this a simple point. Not only do we need to get the legislation right, but we need to get the support systems right, which incidentally is what Sen. Vasant Bharath, Member of Parliament for St. Augustine at the time was saying then, but twisted the socks today to say something else, because his Government has come here with a Bill that is worthy of the attention of a joint select committee, before it is embarrassingly presented to the national community through this Senate.

So as I proceed—because they want me, no doubt, Madam Vice-President, to move on and I propose to do just that, but before I do, I have noted on the same document that it says in this regard, police records indicated that as at December 31, 2010, there were 18,086 drug-related cases pending before the courts. Eighteen thousand and eighty-six; substantial figure, but what will they say when they rise to speak after me? That they have inherited this problem.

**Hon. Senator:** True!

**Sen. F. Hinds:** Oh, yes! So all of the criminal offences that would have taken place from the day they went to Government—if I want to be as ridiculous as they could be—they inherited that too because the people would have committed half the crime before the Government changed and finished it off after. It just does not make sense, but that is the way they see it and that is the way they do it.

*Electronic Transactions Bill*  
[SEN. HINDS]

*Tuesday, March 29, 2011*

Madam Vice-President, I received this document from the constituency of Chaguanas West. It is not the first time. I do not know if it came to my inbox electronically as well, but I received a hard copy and I want the Government and the Member for Chaguanas West to know that this is burdensome. I do not like it, I do not want it and I do not want them sending it to me again. It is full of propaganda. [*Interruption*]

**Sen. Cudjoe:** Spam.

**Sen. F. Hinds:** Pure spam to use an electronic term as we discuss electronic transactions in this Bill. Absolute rubbish! He can afford it. He has a lot—a lot of money. This is what made him so prominent in that Government because for them money maketh man, but for us it is “manners that maketh man”. [*Desk thumping*]

As we approach Shouter Baptist Liberation Day, I want to take this opportunity to commend my friend, the learned Sen. Therese Baptiste-Cornelis, who looks rather resplendent in her African attire. [*Desk thumping*] She deserved to, because her last few weeks in this country as Minister of Health have been particularly trying. I know. Not only trying, I suspect privately crying as well. You will not win any fight with doctors. They work hard.

Last evening, I had the opportunity to speak to a young trainee doctor, and he told me he had a very traumatic day—by the way he was speaking to me by electronic means. He told me that in the course of his training he performed the second autopsy, of course, at the hands of senior practitioners, registrars, or whatever we call them—words that my friend probably does not even want to remember, but you cannot win a fight with doctors. They are an essential part of the programme. You have to handle them gingerly and respectfully as you most often do.

Anyway, he told me that this arose in Jamaica where he is studying, and it was a very heinous crime. A mother witnessed a 36-stab victimization of her daughter, and when the daughter fell, the criminal attacked the mother instantly, plunging about nine stab wounds into her neck and about 40 others—many defensive wounds as he called it, probably as she was trying to shield them—and finished her life.

Sen. Bharath spoke about crime; sometimes he wonders how could we all feel comfortable. Yes, it is a serious, serious situation, but on that occasion, from what the youngster told me, the police had informed them at the hospital that this is like a psychiatric case. There was no clear motive. It is possible the fellow had some mental issues, which is why he went into the people’s house and behaved that way.

I said that only to demonstrate two things to my friend, the Minister of Health, that those persons in the health sector, who serve this nation as they do, need to be treated in a certain way. You need to handle them very carefully because they suffer a great deal of trauma. They work hard for us, to some extent perhaps are even underpaid, but as you are theorizing, you now have a small national pie, the economy.

The Attorney General used the reference of the pizza. He said it is a small pizza and it is hard to share. I had to respond to the Minister of Finance and the acting Minister of Finance, Sen. Bharath, that the skill and the craft, as the PNM has demonstrated, is the capacity to grow the pizza, to let it fluff, to let the dough rise, so that it could meet with satisfaction of all those who are in the state, reminiscent of the scripture that spoke of feeding the multitudes with the two fishes and the five loaves.

**5.20 p.m.**

You see, that is the craft that they lack and that is why the nation is so sorely disappointed with their presence in Government, but we are talking about electronic transfers and I will content myself and confine myself to that. As we approach Shouter Baptist Liberation Day, I received an invitation electronically—

**Madam Vice-President:** Hon. Senators, the speaking time of the hon. Senator has expired.

*Motion made,* That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. P. Beckles-Robinson*]

*Question put and agreed to.*

**Sen. F. Hinds:** Thank you very warmly, Madam Vice-President and I received an invitation. It is without electronic signature but the name that appears at the bottom is Episcopus Archbishop Barbara Gray-Burke on behalf of the Council of Elders Spiritual Shouter Baptist Faith of Trinidad and Tobago, and I want to take the opportunity to congratulate all the Spiritual Baptists of Trinidad and Tobago as they celebrate a major milestone in their religious lives. Tomorrow I shall participate, as I have done for many years though I am not myself a Spiritual Baptist, but I understand the history, the struggle from whence they came and I will give it my usual full support.

But as I said, I received this electronically and appearing thereon is not only a picture of Archbishop Burke but also a picture of the Prime Minister, and I became a little concerned and perhaps even dejected when I saw it, not only

*Electronic Transactions Bill*  
[SEN. HINDS]

*Tuesday, March 29, 2011*

because it is not as elegant and pretty a picture as might be possible, but perhaps because it is to my mind, not being a Spiritual Baptist, a very unfortunate admixture of the temporal with the spiritual. But notwithstanding that troublesome element, I will participate fully in the events tomorrow, but I will tell Archbishop Burke when I see her that I will take my spiritual offerings pure and untarnished by politics.

Madam Vice-President, as I move to the conclusion of my address on this very important debate, which as I indicated in no uncertain manner is an important one, since it seeks to legislate a vision to take Trinidad and Tobago from the place we are at to another place, and to provide for all of the elements of the Bill as they are therein written—I should not read them all together as the Minister who piloted it did but it behoves me to identify, that one of the Bill's primary intentions, of course, is to provide for the application of existing principles of contract law to transactions that are mediated in an electronic environment. So, contract, offer, acceptance, agreement and all of those things that we are familiar with in the normal run of un-electronic affairs, if I may put it that way, we are now moving into an electronic environment, so we have to contemplate, apply our minds to how we deal with the law in that new environment.

For an example, the Attorney General, before he assumed that office, he would have had a contract with the *Guardian* newspaper where he wrote a weekly column, and I received a copy of one of those columns electronically today, which I would like to quote from in order to demonstrate the power of electronic transactions, if I may, with your leave. It may serve another purpose, but we will see what purpose it serves when I come to the end of it. He wrote in an article dated November 15th, 2009 published by the *Guardian* on that day and if you are interested, you can see [test.guardian.co.tt](http://test.guardian.co.tt) and it was under the headline "Equitable Governance". He is making the point and I quote—having made reference to the glaring absence of Indo-Trinidadians from the top in the governance of this country, he says:

"This glaring absence at the top explains why people identified with political jargon such as 'alienated,' 'marginalised,' 'ostracised' and 'tolerated.' Political discrimination in our system carries a racial connotation and perception if the victim is of the 'other' tribe."

And he went on to list almost every single state company, counting heads:

"Airports Authority: Out of 11"—only—"2"... "Caribbean Airlines: Out of 8"—only—"1"...."

And he goes through the list. He took his time to do that research and I say so to demonstrate the power of electronic transactions because it came to me that way, but also, perhaps to demonstrate that the philosophy of the Chairman of the Police Service Commission is in the heart of your Government where they believe, wrongly perhaps, that there is some imbalance and they come in to Government with a philosophy to fix it.

The chairman told us threateningly and menacingly because he did not know, he did not know, and by the way the laws of Trinidad and Tobago are available electronically, had he pursued it, he would have seen—and he is a lawyer—that the role of the Police Service Commission has changed. It now only supervises the appointment of the very senior ranks like Commissioner and Deputy Commissioner and it is now more than anything else an appellate body dealing with appeals from tribunals within the police service in response to acts of indiscipline, but he told us that he would fix it. How would he fix it? This is the troubling question. How does he plan to fix it? He told us that he will do it with the help of Parliament, which suggests to me that he may have had intimate conversations with members of the Government, who sit in the Parliament and maybe he was given assurances that together they will fix a problem that they perceive to exist. Dangerous!

He had officers of the police service, superintendents worried sick on Monday as they were going to write an exam—to which they were invited electronically because they received emails and so on—that he would interfere with the results of the exam because he made a very strange comment about when the exam is written to the rank of Senior Superintendent, the brighter ones—now that the system is a meritocracy—the brighter ones will make it to the top, as if to imply that those who have been making it to the top were not very bright.

I read, Madam Vice-President, the *Guardian* newspaper today on the Internet, in other words “electronically”, and I saw the President of the Police and Social Welfare Association trying to resile and wiggle out of a situation, because it was the same Police Service Commission Chairman, looking for support for his very dubious, malicious and wicked argument, who quoted the President of the Police and Social Welfare Association, one Anand Ramesar, who he said sent him a letter telling him that when he appeared before the Promotion Advisory Board, because it was populated with only non-Indians, he felt uncomfortable and threatened.

A man who went up against another man who was vying for the office, called Emerald Bruce, black as the ace of spades, and who the large membership of the Police Second Division voted against in order to install Anand Ramesar as

*Electronic Transactions Bill*  
[SEN. HINDS]

*Tuesday, March 29, 2011*

President of their association and I now have to wonder: are they uncomfortable now and intimidated by him? But madness is madness; “seagullism” is “seagullism” at any time and in any language. [*Desk thumping*]

**5.30 p.m.**

I wish I could send this advice electronically, but for the time being we are here, and I must do it orally. And since the Prime Minister is not here and Nizam Mohammed is not here, they will pick it up electronically, Madam Vice-President. I want to advise them, Trinidad and Tobago is a beautiful example of interracial solidarity and diversity and harmony and it requires sensitivity to have created that! It is a land of opportunity for all! All have done well, some, perhaps, better than others, and we need to be very sober and to be very sensitive. And on that basis, we have seen insensitivity, and I repeat my call electronically to the Prime Minister, because she is not here, that Nizam Mohammed should be fired promptly, and the elements of her Government, including the Attorney General, should also be attended to similarly. [*Interruption*]

**Sen. Maharaj:** Madam Vice-President, Standing Order 35(1). It is not relating to this Bill.

**Madam Vice-President:** Are you in the process of winding up, because you just have a few minutes?

**Sen. F. Hinds:** Indeed, Madam Vice-President. The Bill is a key component of fostering the knowledge-based economy. I read a few years ago, a book written by a man called John Friedman, I think it is, *The World is Flat*.

**Hon. Senators:** Thomas Friedman.

**Sen. F. Hinds:** Thomas Friedman.

**Sen. Beckles-Robinson:** They are listening, they are listening.

**Sen. F. Hinds:** Oh, yes. They probably would have read the cover! Madam Vice-President, I have a few minutes left. When I read that book, it engendered a bit of a life-changing experience for me, because, it showed really, that—he argued in that book that Columbus said the world was round, but technology has rendered the world flat, pointing out that the cost of a phone call to any distance in the world is roughly the same; pointing out that people in the United States calling 911 or some emergency service, or even a restaurant for a dinner appointment, when they think that they are speaking to an American in the city that they are calling, they are really speaking to an Indian from Bangalore or from



Karachi in Pakistan. And they have learnt to put on American accents. So you hear, “Hi, this is John”, but this time it is a young man or woman from Bangalore, and they would make the appointment.

I learned some time before that, that there is a big insurance company in this country, I do not want to just call their name, but the claims, they used to have a vibrant claims department here, they shut that down, and they started processing their claims electronically in Canada. It was cheaper to do it that way. So, technology has really imposed itself on the world. When I was in the Ministry of National Security, the simple cellular phone had rendered the walls of the prison almost valueless; serious issue.

I am very pleased that the PNM would have understood the Vision 2020 and articulated it. I am very saddened that the other side, in their usual way, rejected it, because they saw it as a PNM, rather than a national thing, and now they come crawling back, in metaphor, with their political tails between their legs, trying to implement very many of the aspects of the Vision 2020 project, of which this is one of them, and we give these measures full support, but urge that you take them to a joint select committee and have them refined.

We will give you the benefit of our experience and our participation, as we have done in the Anti-Gang Bill, in the Bail Bill and so many other pieces of legislation, as we would have been willing to do for you in your failed Constitution (Amdt.) Bill, the so-called “hanging Bill”. We stand ready to do that. We have always demonstrated optimum responsibility, even in the face of your recklessness and insensitivity, as personified by Nizam Mohammed recently. *[Interruption]* And they laugh, they laugh while Rome is burning. You laugh Madam King/Sen. King. You laugh.

I wish that there was more time for me to say a few more things, but time has run. In consequence, I should retain my seat, commend to the Government again, as I close, the very simple suggestion that they should take the Bill before a joint select committee, tidy the thing up, and represent it to this Senate in a pristine and more ready form, and I think the nation would be all the better for it.

May I thank you.

**Sen. Dr. Victor Wheeler:** Thank you, Madam Vice-President, for giving me the opportunity to contribute in this Electronic Transactions Bill, 2011, and I commend the Government for introducing this Bill. Hopefully, when it is implemented, we already know that it will certainly have improved the lives of the people of Trinidad and Tobago.

*Electronic Transactions Bill*  
[SEN. DR. WHEELER]

*Tuesday, March 29, 2011*

The previous contributors to this Bill have already dealt with the use of electronic transactions in our day-to-day activities in our life in general. I would just like to focus on the benefits of the implementation of this Bill in the health sector. We are aware that through iGovTT there is an effort to interconnect all the ministries in the Government, and there is also a project to interconnect all the health facilities in Trinidad and Tobago. With respect to the health sector, the advantage of something like this is that it will make communication among the health facilities and the health professionals cheaper and faster. There will be lots of paper saved, because some of the institutions will be going towards reducing the amount of paper transactions that they conduct.

The benefits of having access to the information online are wide and varied. For example, in the health sector, there is a move towards introducing standard operating procedures, policies and protocols of care, which could be available online with very easy access to the medical practitioners, nurses and other health professionals who rely on these policies to conduct their business.

With respect to getting information and transmitting information, in the laboratories, for example, when a test is done and that sample is sent to the lab, the results, when available, can simply be sent electronically to the various hospitals and health centres that will need this information. The advantage of this is that it will save time in transferring this information, which would result in faster treatments. One of the problems that plague the health sector is waiting time in casualty. A significant amount of time is wasted in casualty waiting for results. A patient comes to casualty, they get a blood test done, that sample is sent to the laboratory, and often, because of short staff, there is no one to actually go and collect the results. So, the successful implementation of this will certainly result in the faster receipt of lab test results, which, I am sure, will have a positive impact on the waiting times in accidents and emergencies.

Another benefit of this is in the way of diagnostic assistance. Some of the more rural hospitals, Tobago for example, Sangre Grande, may not have access to all the specialist services, as compared to somewhere like Port of Spain General and San Fernando. And, with the use of telemedicine, whereby, for example in radiology, an X-ray could be done by a technician, and that information is then converted electronically and could be sent to anywhere in Trinidad or abroad and that expertise can be used to interpret the information and send the results back to the particular facility.

We have CAT scans, MRI, ultrasound scans, lots of additional expertise that is not available in some of the smaller hospitals which would certainly benefit from the successful implementation of this Electronic Transactions Bill.

Another way in which its implementation would be useful is in the way of health records. We have infrastructure, hopefully, when it is in place, that will allow records of patient care to be accessed in remote areas. For example, someone could be a patient at Port of Spain General Hospital, has an emergency and has to go to Sangre Grande. If these records were available in an electronic format, the doctor in Sangre Grande can easily access this information quickly, would then have a history of that patient's data, may even have some results from a test that he would have had done, and this would result in him being better able to diagnose the patient's condition, or continue with whatever treatment that patient would have been on, all to the benefit of the patient. One of the concerns with accessing patients' records electronically is that you would want to ensure that there is proper security.

With respect to clauses 23, 24 and 25 of the Bill, where clause 23 reads:

“A data message or record in electronic form is attributed to a particular person if it resulted from an action of that person or through an agent or electronic agent of that person.”

You want to be sure that if you are in the health sector, and you request information electronically, and that information is received, you want to be sure that the correct person is the one sending that information to you. You also want to make sure that in medical liability cases—for example, you are waiting on a particular lab test or X-ray in which to make a decision, and you made a request for that information, and the information does not arrive, but the person who was supposed to send that information to you sent it.

Clause 25(1) says:

“Unless the originator and addressee agree otherwise, if information in electronic form or a data message is capable of being retrieved by an addressee, it is deemed to be received by the addressee—”

For example, if that person said: “Well, I sent it to your email address”, but you did not check it, or there was some difficulty with your modes of retrieval, maybe you had Internet access and there is a poor service from where you are, one of the dangers of this is that it could introduce medico-legal problems, where we see in the health sector these days there is an eagerness to apportion blame.

In situations like these, you might have someone being responsible or being blamed for a bad outcome, when it may not be his fault at all. It may be the technology that he is using. I think, with respect to this, when we look to

*Electronic Transactions Bill*  
[SEN. DR. WHEELER]

*Tuesday, March 29, 2011*

introduce this technology, we need to be very sure that the infrastructure which you are using, or the infrastructure on which you are relying to send these very important bits of information is, in fact, in place, and is reliable. [*Desk thumping*]

We would want to make sure, for example, that “the current does not go” as it sometimes does. In Tobago, we have been told that there is an increase in capacity, but where I live, at least once a week, “electricity still goes” for 10—15 minutes. So, unless you have backup, and you might have been in the process of receiving some important bit of information, a simple thing like “electricity going” can actually interfere with that process. We need to be very mindful that all the supporting infrastructure is actually in place.

I will just quickly go to—when this Bill is fully implemented, then we have its sister Bill, the Data Protection Bill. When you have all the infrastructure put in place and it is fully operational, what that would mean is, for example for a facility like the new Scarborough Regional Hospital, when the building is finally finished and all the services are fully commissioned, the Scarborough Regional Hospital is expected to be a fully computerized medical institution. When it is fully operational it is expected to be the most modern facility in Trinidad and Tobago, and this is because when all the equipment is installed and functioning, all the medical equipment is expected to be digital, all the wards are supposed to have computer access and Internet access.

#### **5.45 p.m.**

What this would mean is that if someone comes to that institution it will be possible to access their records from any visit anywhere in the country, because by that time it is expected that all the health facilities will be interconnected, or a patient from Tobago going to Trinidad, it should be just at the press of a button you should be able to retrieve that person’s information. But as I mentioned before, the safety features that need to be put in place are important.

As part of the physical infrastructure of having this paperless environment, one of the most important things you also need to have is trained staff. There is no point having all the modern technology, computerized building, digital equipment and the staff whom you hope to operate this equipment in the new building does not know how to use a computer. It is expected that there will be ongoing training of staff to use these new facilities, and as I mentioned before, it will be important and essential that the equipment is well maintained.

Furthermore, as I mentioned just now about electricity going, it is important to have some backup information somewhere, hard copy, so that if you suffer a malfunction you should be able to access the information that you need in some hard copy. Certainly for Tobago there is going to be a significant transition period which is said to be taking place right now. That transition period seems to be for an extended period of time, because we are aware that the new hospital should be—the building should be completed in June, we are hoping that it would be fully functional by the end of the year, we have been told of significant staff vacancies or vacancies that the RHA has proposed. We hope that they are moving full speed ahead to acquire the staff that they need, so that when the hospital is complete it would be fully operational and would be staffed by well-trained people.

But, furthermore, I would like to agree with something that Sen. Deyalsingh said, which is, it is important to educate the wider community, so that they would know that, particularly for the health sector, when they go to a particular institution they should have the confidence when this system is in place that they can go to a health centre in Charlotteville with a particular complaint, and they should know that the doctor who sees them in Charlotteville will have access to the information from where they had surgery two weeks prior in the Scarborough hospital, so that, at the end of the day, the care provided to them would be at a much higher standard than is there now.

Madam Vice-President, I would like to thank you for allowing me this opportunity to certainly inform the Senate of some of the benefits the successful introduction of this Bill will have on the health sector. I hope that we do resolve the challenges that have been pointed out by the Opposition and some Independent Senators, because I believe that this Bill is very important and I look forward with eagerness and anticipation to its successful implementation. I thank you. [*Desk thumping*]

**The Parliamentary Secretary in the Ministry of Energy and Energy Affairs (Sen. Kevin Ramnarine):** Thank you very much, Madam Vice-President. I want to start by sending, on behalf of all Members of the Government Benches and I am sure the Opposition and Independent Bench, best wishes to all those students and all those families—I think it is about 17,000 children today who sat the Secondary Entrance Assessment exam. And I also want to extend best wishes to Sen. Al-Rawi and Sen. Abdullah because I know they both had children who sat that exam today. [*Desk thumping*]

*Electronic Transactions Bill*  
[SEN. K. RAMNARINE]

*Tuesday, March 29, 2011*

Madam Vice-President, on that note I think that—on the whole issue of education, knowledge and technology, I think those are the pillars that really underpin this Bill. And my contribution will be in a similar vein to the contribution of my learned colleague, Sen. Dr. Victor Wheeler, in that I intend to point out some of the benefits that this Bill will have for Trinidad and Tobago. Before I start off I want to say that, of course, the Bill before us has had previous incarnations in, I think, 2008 and 2009 and was brought here by a former Minister of Public Administration who is no longer a Member of Parliament.

Our Minister of Public Administration, Sen. The Hon. Rudrawatee Nan Gosine-Ramgoolam has had 10 months at the crease as Minister of Public Administration and has reviewed this Bill and made changes, and has brought the Bill back to the Parliament of Trinidad and Tobago. In a nutshell, what this Bill seeks to do is to provide the enabling framework for the legal recognition of electronic documents, records, contracts, electronic signatures, et cetera, with specific exceptions, as well as to provide for rules governing any electronically mediated transaction.

Madam Vice-President, the foundation of commerce is trust. In commerce people enter into contracts to exchange goods and services. The world economy is therefore based on trust and confidence and the Trinidad and Tobago economy, of course, is also based on trust and confidence. And on that point I want to add that it is clear that after 10 months in Government the Trinidad and Tobago economy has, of course, stabilized, has withstood the ravages of the most serious economic crisis since the Great Depression, and we have, of course, seen that very difficult period in world economic history behind us, and based on a lot of the feedback that we have been getting from international trade missions, from Chambers of Commerce, et cetera, confidence is beginning to slowly return to the economy of Trinidad and Tobago.

The world economy is therefore, as I said, based on trust. The oldest economic systems as we remember from our Economics 101, those old economic systems were based on what they called the barter system, and that system too was based on trust. Over time man developed standardized units of value and that is what we call today money, of course, so, we no longer have to barter, we no longer have to trade goats to get olive oil, et cetera. Man therefore started to conduct trade using coins made of stones and precious metals. That system too was always based on trust. Given therefore the increasing use of e-commerce as the platform for global economic trade in today's world, there is a need, therefore, an urgent need, for legislation to be passed that would engender trust in that system.

I want to add that many of the more advanced economies in the world are almost 10 years ahead of us. The United States passed a similar Act in the year 2000. So, really, in a nutshell, nothing has changed since the days of the early economies of the world and we are still basing our economic system on trust and, of course, when that trust goes away we see what has happened in the United States, for example, in the year 2008 and, of course, in the United States in the year 1929 I think it was when the Great Depression started.

So, Madam Vice-President, our concept of what money is, is changing. In Europe right now—and I had the good fortune to be in Amsterdam, Holland last week—there are groceries that have signs saying “We no longer accept cash”, so it means, therefore, that if you do not have a credit card or a debit card you cannot trade in such countries, and that is the direction in which the world is headed, slowly away from paper money. To understand the connections of the global economy, we need to understand how that trust which underpins the global economy, and the Trinidad and Tobago economy, will be guaranteed in the world of electronic transactions. We heard some figures from various speakers as to what is the volume of commerce being transacted electronically.

**5.55 p.m.**

The world of electronic transactions has long arrived in Trinidad and Tobago. E-commerce arrived in Trinidad and Tobago as far back as the mid-1990s. Here in Trinidad and Tobago, there is already widespread use of e-commerce. Over the last decade, I myself have been a regular customer of amazon.com. I am sure many of you here shop on amazon.com and, of course, their service is highly efficient and many of us buy our books from them. Some of us use eBay and we have to sign on to PayPal, which guarantees a secure transaction and protects against things such as identity theft and fraud.

I am speaking at 5.55 p.m. and I know that there are many young people, who use the Internet to source their entertainment, who will be listening. There are also the iTunes and Apple websites that sell songs, movies and software applications legally. There are illegal websites too from which you can download movies and songs. I want to say that I always buy my music and movies from the Apple iTunes store legally.

The Apple Jiggernaut has changed the world. Last week Friday, the iPad 2 was launched in Great Britain. That was quite an event in the city of London as thousands of people overnighted outside of the Apple store on Regent Street to get their iPad 2.

*Electronic Transactions Bill*  
[SEN. K. RAMNARINE]

*Tuesday, March 29, 2011*

In terms of banking, on an increasing basis, our citizens are doing online banking. I myself do all my banking online. I cannot recall the last time I had to stand in a line in a bank. Online banking allows you to pay your credit card and your utility bills. In Trinidad and Tobago, we can go online and use our credit cards, for example, to pay for a flight with Caribbean Airlines. If you are going on an overseas trip, you can go online, pay for your ticket with Caribbean Airlines; you can also go online to expedia.com and book a hotel and a car. This is where the world has gone.

The impact of this shift has resulted in a lowering of the need for people to stand in long lines in the bank and reduce the amount of time people spend driving around Trinidad and Tobago, which is obviously something we have to do less of in this country and do more of our banking online.

There is an implication of that shift, an issue I hold very near and dear, and that is the issue of energy efficiency. If one were to look at the World Development Indicators report for 2010, one would quickly see that Trinidad and Tobago sadly is one of the most energy inefficient countries in the world and that has a lot to do with our lifestyle; the fact that we have a lot of cars; the fact that we have some rather inefficient power plants that need to be converted to what they call combined cycle power generation. We may have inefficient plants at Point Lisas and so on which need to be upgraded. This move to more online transactions could support the thrust toward energy efficiency and a lower carbon society.

Surveying the literature with respect to e-governance and e-commerce, this is what the United Nations had to say in their survey. I quote from one of their reports. The report says:

On demand access to information, services and social networks on the Internet through a personal computer is no longer considered cutting edge in developed regions but a norm that many people take for granted.

It was Sen. Shamfa Cudjoe who cited an example where she had gone to Europe and the young people were now saying that access to the Internet was a right they should have. So when we consider, too, social networks, we live in a tremendous age.

In the year 2003, a young man called Mark Zuckerberg in Harvard University created a website called Facebook and today he has 500 million people. That has changed the way human beings socialize; not only in the United States, but throughout the world. It is also changing the way we do business because people now use Facebook to trade.



That gives you an idea of the direction in which we are headed in the world and that is why this Bill is critical. It may be coming to the Parliament of Trinidad and Tobago a bit late, but it is very important if we are to take our economy to the next stage.

I want to add that Prof. Michael Porter, a person held in very high regard in business circles and business schools throughout the world, graced this country with his presence last Friday, March 25. Sen. The Hon. King would be the person who is most familiar with his work. He spoke about an economy going through three phases: one phase being the factor-driven stage; the other being the investment-driven stage; the third being the innovation-driven stage. According to the World Economic Forum, we as a country fall somewhere between the factor-driven economy and the investment-driven economy. This legislation and what it seeks to achieve would be an important tool to allow us to rise to an innovation-driven economy similar to Finland and the rest of Scandinavia.

The UN also found that there was an exponential growth pattern in the usage of mobile phones in the developing world. In India, if you travel through that country, you will see everybody using cellular phones; from people riding on the back of bison to people riding on the Metro. It is ubiquitous in India that cellphones have permeated that society. That allows for the sharing of information on a faster basis; it allows farmers to call markets in other villages and find out the price of produce so that supply and demand are determined in large by your access to information. There is a theory in economics called the efficient market hypothesis, which speaks to the relationship between information and the determination of market forces. Madam Vice-President, I do not want to bore the Senate with efficient market hypothesis and so on.

In the period 1995—2001—many of you will remember that period; it was when a UNC government was in power—that government recognized the need to bring Trinidad and Tobago up to speed with the changing world. Of course, you would recall, I think it was in the year 1999, the then government took a decision to offer public servants interest-free loans for computers.

Speaking on a personal level, that was the first time I had a personal computer in my home, and shortly after we signed up with TSTT to get an Internet account. You remember the days of dial-up; how slow it was? Those were the early days of computer penetration in Trinidad and Tobago. Almost 12 years later, a similar government, the People's Partnership Government, has taken the bold move to introduce laptops to Form I students and those 17,000-plus children today who have written the SEA exam will all have access to laptops when they enter Form I.

*Electronic Transactions Bill*  
[SEN. K. RAMNARINE]

*Tuesday, March 29, 2011*

I want to add that there was a time in this country when one had to write the Common Entrance Exam and that resulted in some students being allowed to progress to the secondary school system; but some would fail and not be able to enter the secondary school system or they would go in different directions. It was in the year 2000 that we had an education minister, Mrs. Kamla Persad-Bissessar, who oversaw the introduction of universal secondary education. We see a clear path to the introduction of computers with low interest rates for public servants and the abolition of the Common Entrance Exam.

Mr. Vice-President, policy, and the Bill like the one before us, laid the foundation for our participation in the information age by putting laptops in the hands of high school students. We are using the revenue from our depleting assets, oil and gas, to leverage competitive advantage in the future.

I just want to pause and say that if one were to read the story of the life of one William Gates III, better known as Bill Gates, one would see that when he was around the age of 13 his parents introduced him to the computer. That moment, of course, is a historic moment in world history because he went on to change the world to create a tremendous amount of value; not only for himself, but also for the United States and for his company Microsoft and its shareholders. The point I am making is that if our putting laptops in the hands of Form I students results in the creation of one Bill Gates or one Steve Jobs in Trinidad and Tobago, it will be all worth it.

I want to talk a bit about the security of data. Trinidad and Tobago has a natural comparative advantage for data storage and that is because we are not as prone to natural disasters—knock on wood—as other countries in the Caribbean. One of the critical requirements of data storage is that your data has to be safe; so it has to be safe from earthquakes and tsunamis and all sorts of natural disasters. This is one area that we could get into. We could provide data storage for firms in the United States or other countries in the world.

At this point, I use the opportunity to pay condolences to the people of Japan for the recent tragic events in that country. It is admirable the way they have gone about dealing with that issue, with a lot of courage and grace.

What are the advantages of this Bill, given the context I just provided? I would say one of the advantages would have to be that citizens have greater access to Government and the services it provides. That will go a long way to improving the quality of life of persons living in rural communities.

I am from a rural community as is my dear friend, Sen. Elton Prescott SC. I always remind him that he is a Toco boy and over the years there have literally been two Trinidad and Tobagoes. There has been an urban Trinidad and Tobago and a rural Trinidad and Tobago. I think that Tobago would have to be classed in the category of rural Trinidad and Tobago because of the way it has been treated by successive PNM regimes.

I see Sen. Cudjoe's attention has been piqued. It is no secret that the PNM in the past has always been a Port of Spain-centric government and one hopes that with their new thrust in attracting membership—I see that they have elected a new chairman and I think what was underpinning that move was trying to become a more diversified party. We, the People's Partnership, are trying to diversify the economy and they are trying to diversify their party.

It is a great loss to Trinidad and Tobago and to the PNM that our dear friend, Sen. Beckles—I was not in the country but I followed the goings-on in the People's National Movement very closely. I think she lost very narrowly, by a couple of votes. I do not know if she had the support—I think it was three votes—of her colleagues on that side.

Having said that, Sen. The Hon. Vasant Bharath said that the DNA of the PNM—I would not attempt to spell out what DNA is; I leave that for my friend, who is a pharmacist, Sen. Deyalsingh—suddenly returned on that weekend and Mr. Franklin Khan, who has been the chairman before, was re-elected. Our dear friend, Sen. Beckles-Robinson was left to concentrate on her senatorial parliamentary duties.

### **6.10 p.m.**

So, Madam Vice-President, historically we packed everything into Port of Spain, we have the waterfront in Port of Spain, all the ministries are in Port of Spain. And in fact the very word “decentralization” which is central to the Electronic Transactions Bill—because one of the things we will achieve from this Bill is the decentralization of information and the provision of services—the very word “decentralization” in the lexicon of our politics has its genesis in the NAR. And those of you who remember the NAR would remember that the NAR had a Ministry of Works, Transport and Decentralization, and the Minister at that time was Dr. Carson Charles, who is now at NIDCO.

And it was under the UNC administration again, of 1995—2001, that we began to build high schools in rural communities and high schools today—there are high schools in places like Coryal which is close to where I am from, Matura,

*Electronic Transactions Bill*  
[SEN. K. RAMNARINE]

*Tuesday, March 29, 2011*

Manzanilla, Brazil—not Brazil as in South America, Rio Claro, Valencia and of course the famous high school in Biche. And when those high schools were being built—and I say this in the context of the Bill because the Bill seeks to empower people in rural communities—there was an unfortunate comment by a Member of Parliament from the other place, that the government of the day was building schools in the bush for “douen and parrot”. Of course, today those children—I would not call them “douen and parrot”—would be the children who are entering our university system and going forward in life in Trinidad and Tobago. So that, Madam Vice-President, the placing of high schools in rural communities was an attempt to make government services such as education available to all citizens, and not to concentrate the State apparatus in Port of Spain.

What that did and what this Bill will do is what Thomas L. Friedman who was referred to earlier spoke about in his famous book, *The World is Flat*. The world is flat is really a metaphor that he used for describing the world in the age of the Internet, where barriers have been broken down and where everybody with access to a computer is empowered—access to the Internet and to a computer. And he was speaking about a world where somebody could take an X-ray in the United States and that X-ray could be emailed to India for a doctor to interpret, and the results, the interpretation, emailed back to the United States.

Another benefit of this Bill is lower costs of doing business. E-commerce and e-government lower the cost of doing business, as of course you have less driving around to do. So we get an Order Paper, Madam Vice-President, once per week from the Parliament and I assume somebody, a messenger, has to come down to the Ministry of Energy and Energy Affairs at the waterfront and drop that Order Paper in an envelope for me, and that has to be taken by a messenger upstairs. I do not know the exact process but I am sure there are a number of steps involved. And if we were to use iPads, for example in the Parliament—just a suggestion—maybe there would be no need for the Parliament staff to be physically mailing—using “snail mail”—the Order Paper throughout Port of Spain. And of course, that reduces the congestion in the capital city.

Madam Vice-President, another advantage is that such a Bill as this one promotes good governance. E-governance and e-commerce allow for more openness and transparency in public affairs, for example—and there is a joint select committee right now that is looking at the whole issue of government procurement and that committee will shortly report back to Parliament. And of course e-commerce and e-procurement and so on are fundamental to modern procurement systems. It also allows citizens an avenue to voice their views on

public policy, for example, in British Columbia and Canada there is a budget consultation website that invites citizens to submit videos with their views on alternative ways of addressing the economic crisis in that country, and their thoughts on budgetary priorities.

In June 2009, the then governor of California—you may know him, he was governor of California; he is a famous movie star, Mr. Arnold Schwarzenegger, he put out a message on twitter—another social networking type tool—where he invited citizens of the state of California to provide their views on how the state could deal with its budget deficit. So e-governance, e-commerce allow for citizens to have greater interactions with the Government.

And finally, as I wrap up, Madam Vice-President, I spoke about Prof. Porter earlier and about what he said and what his theories are. And so, such a Bill as the one before us will allow for the improvement in our overall competitiveness ranking, which I think is 84th right now in the world. So, as I wind up, I just want to summarize by saying that I think our economy is at a very critical point where we have to lift it to the next level of performance and that we can only do so by passing this legislation. And this legislation, to my understanding, is also a requirement of the EPA (Economic Partnership Agreement), which is our trade relation with the European Union. So this will prepare Trinidad and Tobago for participation in the global economy and empower our citizens and empower the Government to provide higher quality goods and services to the people of Trinidad and Tobago. Madam Vice-President, with those few words I thank you. [*Desk thumping*]

**Sen. Pennelope Beckles-Robinson:** Thank you very much, Madam Vice-President, I too would like to join this debate on the Electronic Transactions Bill, 2011. And I am happy that the Minister of Public Administration is back in the Chamber because I am going to adopt some of the utterances of our acting Minister of Finance, Sen. Bharat, because in essence he spoke about this Government taking a position where they want to improve the standard of living for everyone.

He talked about the fact that it is really ensuring that we make goods and services much more accessible to urban communities, rural communities as Sen. Ratiram spoke about and he indicated that you want to—Sen. Ramnarine sorry, my apologies, I must have been thinking about somebody else at the time—bring

*Electronic Transactions Bill*  
[SEN. BECKLES-ROBINSON]

*Tuesday, March 29, 2011*

services into the modern age, so that at the end of the day when we have completed the legislation we would feel proud of it. And I do not know of anything that Sen. Ramnarine said that we disagree with, because in essence I think he gave a good overview of modern technology, modern communication.

Actually his contribution, I think, would underscore the importance of what we are saying as it relates to this Bill going before a joint select committee. Because what Sen. Ramnarine has actually done is he has crystallized, I think, what exists for us in terms of modern-day technology. I think our concern as a Parliament has to do with the problems that you encounter as it relates to the existing technology. I think that is a matter that needs urgent attention and that is the only issue with which we have a problem.

Now, the hon. Minister, for example in her presentation—and it is not at pages, but one of the issues I would like her to address is the reason for this Government moving from the data commissioner to the Minister. Minister, you highlighted at length all the responsibilities of a Minister as it relates to this Bill and actually the responsibilities are very, very onerous. And I am wondering why—and this is not personal to you because it could be any Minister of Public Administration, but I would just like you to help me with why the Government thought it necessary to shift from the commissioner to the Minister.

**6.20 p.m.**

If you look at your presentation, you would see that you actually—it is about four or five pages—went through all the responsibilities of the Minister. I mean, coupled now with all the work that a Minister already has, especially your portfolio, I am wondering why they would want—

#### PROCEDURAL MOTION

**The Minister of State in the Ministry of National Security (Sen. The Hon. Subhas Panday):** Madam Vice-President, in accordance with Standing Order 9(8), I beg to move that the Senate continue to sit until the completion of the matter before this honourable Senate. Thank you very much.

*Question put and agreed to.*

#### ELECTRONIC TRANSACTIONS BILL

**Sen. P. Beckles-Robinson:** Thank you kindly, Madam Vice-President. [*Desk thumping*] The Minister of Public Administration went through all the responsibilities of the Minister—you talked about clauses 31, 33, 34, 35 and 38—which, to me, are extremely onerous, some more onerous than others. I would just

like if you can give an explanation, because it has not been given by any of the previous speakers, as to what is the thinking of the Government behind moving from the “data commissioner” to “the Minister”. I would be happy for that explanation, and I would have some comfort.

In your initial discourse, you talked about trust and integrity which are critical components of a sound e-commerce platform to provide the foundation for this thrust, and to ensure the integrity and authenticity of electronic transactions. This Bill will establish the regulatory framework to administer a new segment of endeavour in the economy. I am saying that, to me, is a very important issue.

The other matter is for the Government to indicate what is the real difference between the Bill that was debated in 2009 and this present Bill, save and except the issue that I raised as it relates to the data commissioner and the Minister.

I would also like to know which model of legislation this particular legislation is based on. Now, as I understand it, this seems to be based on the old Singapore legislation, 1998, similar to the Antigua legislation. This is the legislation that is now before us. Singapore has since passed very recent legislation and their legislation focuses on—if I could just read three of the sections where it talks about the purposes and the construction. It says to minimize the incidence of forged electronic records, intentional and unintentional alterations of records and fraud in electronic commerce and other electronic transaction. It also refers to help to establish uniformity of rules, regulations and standards regarding the authentication and integrity of electronic records.

The third purpose that I want to read from in relation to the recent Singapore legislation is to promote public confidence in the integrity and reliability of electronic records and electronic commerce, and to foster the development of electronic commerce through the use of electronic signatures to lend authenticity and integrity to correspondence in any electronic medium.

Now, Madam Vice-President, at the end of the day, we are going to be taking the Freedom of Information Act, the Electronic Transactions Act whenever it is passed, the Data Protection Act and you have to combine those pieces of legislation, also the Exchequer and Audit Act which has to be amended at some point in time, in order to ensure that this Bill is truly effective. You have to take all those pieces of legislation together but, at the end of the day, with all that Sen. Ramnarine spoke about, the real issue is, how are you going to treat with fraud? We are a very litigious society and that is really the essence of it. There is

*Electronic Transactions Bill*  
[SEN. BECKLES-ROBINSON]

*Tuesday, March 29, 2011*

nowhere in this legislation that is before us where this Government has spoke about the issue of fraud, minimizing fraud and treating with the incidence of forged electronic records. Now, that may be an intention, but I am saying it is not there.

Again, I really want the Government to explain why it has used the old Singapore Act and not the new Singapore Act. Now, I am certain that the hon. Minister of Public Administration would have had the benefit of the consultations and the recommendations that would have been given to the government. When I say “government” I mean the Government of Trinidad and Tobago, not this Government or the last government, but I suspect that it has to be somewhere in her Ministry, where they would have advised us as it relates to the best possible electronic transactions Bill, that should be passed. I would like the hon. Minister to indicate whether she is aware of those consultations; whether she has had sight of those documents; and whether those documents have in any way influenced this piece of legislation that is before us. If that is the case, I suspect that we may have had a totally different piece of legislation before us today. In other words, if we are using the 1998 Singapore EDI Model, we are talking about 13 years later.

Again, using Sen. Ramnarine’s discourse, he gave us a little history and brought us up-to-date in terms of the use of technology, but 13 years is a very long time in terms of the electronic and communication industry. I really feel that it would be important for the Government to explain why they used an older model and not a recent model. I think that is why we are recommending that there is no harm in going to a joint select committee.

I want to make the point that, with all the pieces of legislation that have come so far to the Senate, we have been very cooperative. As a matter of fact, we have voted for almost every piece of legislation. I agree with everyone who said that this is a very important piece of legislation—the Government Senators, the Independent Senators and Opposition Senators. There is nobody who said that this Bill is not important. Is it going to harm us to take another two or three weeks to ensure that when we pass this piece of legislation, as Sen. Bharath said, that it is going to be the kind of modern legislation that we are all comfortable with? That is all we are asking the Government. The explanation for using the term “the Minister”; the reason for using an older model and not a recent model and what is the difficulty of looking at the Bill going to a joint select committee.

Madam Vice-President, when this matter was debated in 2009, that was the recommendation of the then government. Even at that time—I am not going to go through what any of the previous speakers said in the Lower House—the



Opposition that is now the Government had a lot of difficulties with the legislation. In essence, what they have brought today is really not much different from what was there before. So I am a little concerned that with very little change we are actually ending up with the piece of legislation that existed before. I am hoping that we are going to have the benefit of some of the recommendations that have been made by Sen. Drayton and some of the suggestions that we have.

Now, Madam Vice-President, the other issue that I want to raise is following up on what Sen. Bharath said. Sen. Bharath spoke about the whole issue of service. I know the hon. Minister of Public Administration is looking very closely at the issue of service and public service reform. I raise that issue because I think there are many Ministers who are here today and would appreciate the point I am going to make. We can pass this piece of legislation but, at the end of the day, for it to be properly implemented and operationalized; much of it has to do with the changing of culture and attitude in the public service.

I am sure Sen. King or any one of the Ministers is familiar with this thing called an “in tray” and an “out tray” or an “in dip” and an “out dip”. In essence, you want to eliminate some of that, but how did we get to this “in tray” and “out tray” and this “in dip” and “out dip”? The fact is, when it goes to the “out dip” if the person who is supposed to collect that document—Madam Vice-President, I am sure you know what I am saying—happens to be on vacation, sick leave or casual leave, that document in the “out tray” is going to remain right there. People are going to pass it every day and leave it. Sometimes it has to do with your salary or your pension—Sen. Abdullah, I am sure you know what I am speaking about—but nobody is going to touch that document.

Now, in essence, we want to eliminate a lot of this and probably send what we have to send to heads of departments and other persons via emails. I suspect that if some of them are not at work it is the same way they are not going to respond to the emails either. So, therefore, as the Minister of Public Administration talks about public service reform, how do we change that culture and attitude to ensure that what we are trying to do today takes place at the end of the day?

Minister Bharath talked about the issue of pensioners. I am sure hon. Minister Panday, who was an MP, would appreciate what he was speaking about. People would come to you from time to time—whether it is help for pension, public assistance and the same funeral grant and all the other services that he spoke about—and they would tell you that they have been going for years and, what happens? The file is lost.

There are persons who have retired from the public service and waiting on their gratuity. The file goes in with all your documents and somebody who started looking at it is retired, and nobody can find the file. Those are some of the things you want to cure as we talk about a paperless environment. How are we going to treat with some of those things in terms of people realizing that, yes, we are going to get into a whole new world and we are going to be modernized? How are we going to modernize our culture and our thinking at the end of the day? The same thing that Sen. Ramnarine spoke about, which is the issue of your urban and rural, how are we going to make it easier?

Now, we know that the Ministry of Public Administration has stated tconnect and, in essence, tconnect allows some of the communities outside of Port of Spain to benefit a lot easier.

Now he talked about Tobago as an example and the impression that Tobago has not been treated as fairly by the PNM as it should have. Now, whilst we are talking about Tobago, we are talking about many other communities in Trinidad that suffer some of the same challenges—whether it is Toco, Barrackpore, Cedros or Moruga—the fact is that some of them suffer the same challenges where they have to leave and “take a bus five o’clock in the morning” and get to town, and they are basically going over the same exercise over and over.

Of course, in relation to Tobago, it is more costly even if it is to get a passport or register a company. Very often they apply for the search in Tobago and then it comes to Trinidad, and to register the company it has to go back to Tobago and, ideally, when you look at what has happened in the Ministry of Legal Affairs over the last two to three years, they have actually made things a lot easier in terms of birth certificates, the registration of documents and deeds. I think we have improved a lot, and we are seeing that certain things have actually been put in place probably to make this legislation, once it is passed, a lot easier.

So, the point I was making has to do with the issue of that shift in culture, our whole attitude, that as we pass legislation the operative word is, how are we going to service and make life easier for people? How are we going to put some of the other things in place so that the legislation can actually be implemented in a way in which we would like?

Coming back to Tobago, I was in Tobago this weekend, and a taxi driver actually raised this matter with me and asked me to raise it, whenever it comes up in Parliament I should talk about it, and I did not think I would have the opportunity so quickly. He was talking about getting his taxi badge and, basically,

all the documents have to come to Trinidad, and you have to wait almost a month to six weeks before you can actually get your taxi badge, which really ought not to be that difficult, or even as it relates to the collection of a simple deed. Sometimes, we do not understand the challenges and the inconveniences that Tobagonians face by having to come to Trinidad from time to time for these documents. [*Crosstalk*] I am sure he told Sen. Shamfa Cudjoe. She actually lives it on a daily basis. Those are the things ideally we want to treat with.

**6.35 p.m.**

Now, we went through the exemptions and we saw what the exemptions are—I was looking at an American document actually, and their exemptions are a lot more than our exemptions. I cannot find it right now, but probably at the committee stage I will raise it, but I feel that that is something we could look at a little closer; the details as it relates to exemptions.

Why is this so important for people in urban communities? It is important because—you know at the end of the day you are looking at minimizing inconveniences and allowing them to have the same benefits as some of the people who live in the towns and in the cities. Sen. Ramnarine spoke about Tobago, and certain things that have transpired over the years. I just want to share with him that under the THA Act, the THA has been given certain responsibilities for dealing with certain things that exist in Tobago. But, it is just that over the years it has not been, I guess, implemented in a way in which the THA would have liked. But there is a new Bill, a Constitution (Amdt.) Bill, 2011, that would probably give this Government an opportunity to remedy some of the concerns that have been raised by the THA and Tobagonians.

The only unfortunate thing is that that constitutional Bill, the draft has been completed, but it has been completed without the THA having put any appropriate recommendations, and/or being consulted. And it may very well be that to avoid some of the issues that have been raised by Sen. Ramnarine, as it relates to the whole issue of how Tobago is viewed as urban, and all the things that I raised about Tobagonians coming to Trinidad “to do this” and “to do that”, that it would do well for the Government, the Attorney General having drafted this Bill, to closely look and see whether or not a lot of these transactions that are going to be taking place in Trinidad, what would they put in place to make sure that they minimize the inconveniences for Tobagonians. But more importantly would be the issue of the Bill having been completed, drafted, and the THA never having participated in the drafting of this Bill.

*Electronic Transactions Bill*  
[SEN. BECKLES-ROBINSON]

*Tuesday, March 29, 2011*

Now, Madam Vice-President, the other issue that I want to raise is the issue of the online transactions, and this probably is an interesting point for the Minister of Public Utilities, because what actually happens—and this is something that I have read a couple of times, and this is what is normally told to the public. They are told:

“Imagine paying all your bills with a few clicks of a mouse. Kiss stamps, envelops and trips to the post office goodbye by...” using online “...paying services”. “Paying your bills online saves you oodles of time and money. These services are available twenty-four...” hours a day so you “...can pay your bills on...time”.

“Online bill pay also saves you the hassle of paying late fees. Most services provide alerts that let you know when your bill...” is “due and when they have been paid. Your payments are guaranteed to arrive on the date you set every time”.

Members of the public are told:

“Online bill pay is faster and is as secure as regular mail. Legitimate financial institutions go to great lengths to protect...” the “...identity theft occurs from your own mailbox, so transacting online with the latest encryption and security technology...”—will be as safe as possible.

Now, I thought of the Minister of Public Utilities, who is not here, because, obviously that has implications for an organization like TTPost when this transactions Bill is passed, because, in essence, whilst there are some of us who would always prefer to go and purchase our stamps and make sure that our mails are posted via that way, this kind of legislation obviously tells us that that organization will have to modernize itself if it is to continue to be relevant. So, I would have loved to hear what his thoughts were as it relates to the challenges that might face TTPost.

But, Madam Vice-President, at the end of the day—I just want to repeat because I do not intend to be very long on this piece of legislation—that you think of—I mean, we had SEA exams today, and I join with Sen. Ramnarine in congratulating Sen. Abdulah and Sen. Al-Rawi whose children did their SEA exams today—I am sure you have passed through that—your son as well. Yes, and our Madam Vice-President, her son also did SEA today and to wish certainly all successes when the results are out.

But we know that again with modern technology, as you know you can do your distance learning. All your exams come via the Internet, the correction of papers is done via the Internet, and it is not the old, tedious task of whether you had to leave here and go to Britain, or go to the United States, or go to Europe, you can do everything online, and some people, therefore, have been accused from time to time of purchasing, whether it is their doctorate or their degrees online. So that we understand that when I talk about the issue of forgery and the issue of fraud, why I say that that aspect of the Bill that is missing is so very, very important. One may say that it can go in at committee stage, I think that it is too fundamental, it is too important a section for us to just slip it in at committee stage. I think we have to look at it in the context of the Bill and I think even the initial clause, the operating clause, that has to be changed, first and foremost, to ensure that that particular aspect of the Bill is actually included.

The other thing, Madam Vice-President, that is very important, when you look at the most recent Singapore Bill, 2010, the Singapore Bill is very specific as it relates to copyright. As a matter of fact, the Singapore Bill stipulates that there is no penalty for breach of copyright by the service providers. Now, that is almost revolutionary legislation, but I imagine that they realize that because of what is now going to be available to the public, that it was important to have that particular section tied into what you call innocent infringement. I think that is another very important issue that the Government needs to think about and whether or not we should contemplate that.

Finally, again, to just go through my points to deal with the issue of the information authority, that is to say, that would more than likely be headed by a data commissioner versus the Minister, the issue of ensuring that the relevant section to deal with fraud, to minimize the incidents of forgery, that that section should be included and to recognize at the end of the day, as I said, that we are a very litigious society, and if we are not careful, that this legislation as presently drafted can open up a can of worms and a lot more litigation than the Government anticipated. So, I hope that those matters will be addressed by the hon. Minister in her winding up. Thank you very much.

**6.45 p.m.**

**Sen. Corinne Baptiste-Mc Knight:** I thank you, Madam Vice-President, for the opportunity to intervene in this debate. Let me say, at the onset, that I am happy that I have waited this long, because quite a few of the points that I felt necessary to make have been mentioned. I would like, though, to repeat the plea just made by Sen. Beckles-Robinson, with respect to certain aspects of this Bill.

*Electronic Transactions Bill*  
[SEN. BAPTISTE-MC KNIGHT]

*Tuesday, March 29, 2011*

First of all, I understand, from all that has been said before, that this is a revision of a previous Bill or Bills, but since the previous Bills had been done prior to 2010, like the Senator before me, I am at a loss to understand why this new bit of legislation does not seem to have taken into account existing documentation that can be termed “state-of-the-art” in this particular matter.

I refer not only to the recent Singapore Act 2010, but there is the UN Convention on the Use of Electronic Communications in International Business, which is a 2005 document, although I note that we are not parties to that convention. Since there are aspects of this particular Bill that have international repercussions, I wonder, for example, when we talk about accrediting providers and people with prior accreditation—prior accreditation obviously means accreditation in a jurisdiction outside of Trinidad and Tobago—how are we dealing with this. There is no mention in the Bill, except where it says that these accreditations will be recognized. But if we are not a party to an international convention that deals with these matters, how can this be enforced?

There is the UNCITRAL model legislation on electronic signatures that does not seem to have been considered in taking this Bill into account. Then there is also the South African legislation, which combines this with the other Bill that we will be dealing with.

As the hon. Minister of Food Production, Land and Marine Affairs pointed out, cut and paste in doing draft legislation is our preferred *modus operandi*. Therefore, I cannot understand why we did not take advantage of some of these obvious available bits of information. The result of that is that there are aspects of this Bill that are, at least, confusing and, at worst, would be totally impossible to implement.

I think my colleague, Sen. Drayton, mentioned that in the definitions there was mention of certificates and certification of service providers, and there is absolutely no mention of any of this in the body of the Bill. Even though, I admit readily, this is not an area I would call an area of knowledge of mine, far more expertise, in preparing for this Bill I think that I have come to understand that providing a service and certifying that service are two completely different aspects of verifying electronic signatures. That is totally confused in this Bill, but we will get to that.

Some of the definitions are so convoluted that they are extremely difficult for a layperson to understand, in which case I could see lawyers having a field day with them, just running a Mack truck through any number of them. I talk about

data message, and it is pretty obvious that the definition of “data message” was not internalized by the framers of this draft, because in the body of it they mentioned data message in a context that makes one believe that it is not a computerized electronic communication. I think again Sen. Drayton made mention of that.

Many of the definitions here are stated much more clearly and succinctly, either in the Singapore legislation, the UNCITRAL model or the South African legislation. I cannot understand why we keep trying to reinvent a round wheel, perhaps to get it square. I think we succeeded.

I want to look at some of the actual clauses. Clause 6 is dealt with in a completely different manner in the Singapore legislation, which I really think we ought to take a very serious look at, if we are serious. When I say, “if we are serious”, I think of pronouncements of the Minister of Trade and Industry in terms of moving Trinidad and Tobago with alacrity into the 21st Century, and possibly looking towards becoming the hub, at least in the Caribbean and probably South America or, at least, in the ACS region, in terms of electronic communication. This legislation just would not hack that.

Clause 7 talks about partners in a transaction accepting and retaining documents, et cetera, and this is to be adjudged by the past conduct of the parties. What exactly does that mean? No other bit of legislation talks about it in these terms. One of the things I think would be very important, especially in a new field like this, is the fact that our legislation must be easily read in terms of other existing bits of legislation. We must try to have the terms that we use, as far as possible, coincide with what is accepted internationally. I think we are running into a bit of a problem there.

When we look at clause 12, where it talks about the original form, compared with the other bits of legislation, it is absolutely incomplete. I think we need to go, again, to Singapore and, perhaps, to the Convention, and complete this bit of legislation.

Then we move on to clause 16, which talks about an electronically signed message being deemed to be an original document. But when you read the actual clause, the one thing that is conspicuously omitted from it is the fact that nowhere is the copy of the data message deemed to be original; so that definitely has to be redone.

When at clause 20 we talk about “electronic expression of offer and acceptance”, the Convention, as well as the Singapore legislation, talks about two

separate stages; one, an invitation to make an offer as separate from an expression of an offer. Our legislation does not contemplate the idea of the invitation to make an offer. This could be considered a loophole.

Then we go on to clause 22, where it talks about errors that may occur. At 1(b), where it talks about an electronic agent doing stuff, I wonder whether this pertains to what I believe is called “automated message systems”. That is these electronic systems set up to operate on their own, with no human intervention. There is no mention made of that anywhere in this Bill, and that is one of the most common forms of electronic interaction.

The whole question of the timing of sending and receiving data we need to look at again and make far more precise than it is. Then too, there is the problem of the place of business. The place of business elsewhere is very comprehensively dealt with. I think even though at clauses 27(2) and (3) we seem to have got part of Article 6 of the Convention complete, (1) is incomplete. For example, the fact that the Convention recognizes a place of business as the location indicated by the parties is not included in our Bill, and one would think that is one of the basic definitions.

Similarly, I think that clause 30 could be far more precise than it actually is. When one talks about an electronic signature being as reliable as appropriate, even though this is the jargon used elsewhere, it is not used in exactly that form and needs to be tidied up. The whole matter of Part IV dealing with electronic signatures needs to be far more comprehensively dealt with than it is here.

Similarly, Part V very uniquely talks about “electronic authentication service providers”, where most people talk about “security procedure providers” and going to the different categories of security providers, those who provide the keys for the electronic signature and those who certify those signatures. This difference is not even vaguely mentioned here, and I think if we want state-of-the-art legislation, instead of accepting something that many of us believe is flawed, and having to come back and amend it, we should look at doing it properly now.

**7.00 p.m.**

The mention in 33 and in many other clauses of “the Minister”, which I note has been amended by the amendment being offered by the Minister, with due respect, I do not think the amendment offered by the Minister goes far enough. Because when we talk about the authority, once you introduce an authority it means that you have to state somewhere in the legislation what is the function of this authority, and that is totally missing.



When you talk about application for registration, which I imagine is what everybody else talks about as accreditation, what are the criteria? Would the sole criteria be the name and the business address and previous accreditation, if it exists? How is this previous accreditation going to be evaluated? It is possible that right now perhaps, worldwide, there might be one or not more than two people who would be involved in this line of business but the whole system is evolving? So, that if we have to make legislation, let us look for instance at the South African legislation; they cover it. The Singapore legislation has a comptroller doing the job of what would now be our authority, and with precise details as to how this comptroller is going to operate. This is what we need of have here.

Madam Vice-President, I would be hard put to accept a bit of legislation for something as technical as this that says an authority would do the job. Who is going to be in charge of the authority? What sort of qualifications would this person be expected to have? Because if this person is to oversee audits of service providers, and we suspect from now that these service providers probably would not even be in the country, hello, something is a little wrong here.

Then at clause 37, where we talk about recognition of these qualified external electronic authentication products, on what basis are we going to do this? We are not members of any international convention that would help us in this respect. I think this whole part dealing with the authentication of these services, we need to look very carefully at the Singapore legislation and see what needs to be done there. Again, I agree with Sen. Beckles-Robinson when she talks about the need to include copyright, because I think that it would be very important to identify the liability or lack thereof, of the service provider in terms of copyright infringements.

When we come to consumer protection, I think that on the matter of consumer protection I would really like to suggest that we have a close look at section 43 of the South African legislation, I think theirs is 2005 or 2006, because if part of the purpose of this is to protect your consumer, then I think we need to do a little more than what we have right here.

At clause 62, where is talks about the liability of directors and officers, I note that an unincorporated body is free to do anything, and whereas that might be very nice, I have serious doubts that that is what is intended.

Given the hour and the fact that other people have mentioned some of the other problems that I had with this Bill, I would like to join the chorus of those who went before me, who requested that perhaps this Bill should be sent to a joint

*Electronic Transactions Bill*  
[SEN. BAPTISTE-MC KNIGHT]

*Tuesday, March 29, 2011*

select committee—and you know, if I suggest a joint select committee it is because I really think something is wrong—because, as it stands, I do not think that in a clause by clause consideration we would be able to bring the Bill up to the standard that it should be, given the existing documentation that we have to work with.

I thank you, Madam Vice-President.

**Sen. Danny Maharaj:** Thank you, Madam Vice-President, for this opportunity to contribute to this Bill, the Electronic Transactions Bill, 2011. Indeed, Madam Vice-President, it is with the sense of celebration and jubilation I rise here today, as the Minister of Public Administration has brought this Bill to the forefront of the Parliament, to really position Trinidad and Tobago in the global scenario. So, congratulations to the Minister of Public Administration, and I know the people of Trinidad and Tobago would be very well pleased in having this Bill debated here today.

Madam Vice-President, I know the technocrats and the Minister in her response will deal with the number of issues raised, but I must take this opportunity to respond to some of the comments made previously by particular Senators. I was rather disturbed by the contributions of Sen. Deyalsingh, Sen. Hinds and Sen. Al-Rawi. Their contributions seemed very skewed, and away from the core point and the core substance that this Bill resonates.

For instance, Madam Vice-President, Sen. Al-Rawi spent half of his time quoting from Minister Bharath's former contribution, and he said that this Bill was practically a dead ringer for the former Bill. Then, Sen. Deyalsingh, when he spoke, it seemed that his contribution was a practical dead ringer for Sen. Al-Rawi's contribution, and they said nothing was really changed, and nothing was really done. But I want to quote, Madam Vice-President, from the *Hansard* record of hon. Dr. Roodal Moonilal in his contribution in the other place. I quote:

“Mr. Speaker, I am informed by our technical support staff that there have been 34 amendments of a substantive nature, and in all, between minor amendments, substantive amendments, over 50 matters have been dealt with. In doing these amendments and changes, it was the intention to bring this Bill up to date with improvements in legislative construction proposed in the international convention on this matter.”

**7.10 p.m.**

“It was also our ambition to rationalize certain irregularities in this Bill, the 2009 version, to ensure adequate alignment with regional standards and policies which are developed in the area of electronic-based legislation.”

Over 50 matters, Madam Vice-President. I further quote:

“...one of the things we had to do with this Bill was really to reformat, redraft, clean up, sanitize because a lot of these provisions sometimes, in some cases, needed redrafting, not to change it really, but for clarity.”

So there were a lot of problems with clarification.

Madam Vice-President, a lot of work went into sanitizing and cleansing this Bill as it is now today in an updated and a more refined fashion and form for presentation before this very Senate. If need be, I know in committee stage we can crystallize it into its final product.

Sen. Hinds, in his usual way, circumvented the Bill at hand and ran, it seems, some parallel Parliament debate, where he really strayed to the length and breadth of various issues not applicable to this contribution. He said, take it nice and easy. They have been taking it nice and easy for a very long time. [*Laughter*] This is why today in this country we have so many people clamouring for development, for progress and for the changes we are now instituting, because they have been taking it very nice and easy with their foot up on the table, relaxing for a very long time.

This is a hardworking Government, this is a progressive Government and we are here full thrust ahead, full speed ahead and we are not going to take it nice and easy—Madam Vice-President, the traditional form of “seagullism”, I understand.

I want to move forward and look at the People’s Partnership Manifesto on page 2, “Information and Communication Technology”, and it is very important as I draw from this policy document and I would like to quote so we would understand that the Bills brought forward are in line and in relation to the policy document of the People’s Partnership Manifesto as part of our vision to develop Trinidad and Tobago:

“In order to be a competitive nation in the global knowledge economy we will link our diversification strategy to the creation of knowledge industries in order to create high-end jobs. This will be achieved by installing basic, technology-driven infrastructure so as to create the information superhighway

*Electronic Transactions Bill*  
[SEN. MAHARAJ]

*Tuesday, March 29, 2011*

to connect us locally, regionally and internationally. We will take all necessary steps to ensure that access to ICT is extended to every household—making Trinidad & Tobago a connected nation.”

Madam Vice-President, words of thought, words of vision and words of progress. We are on the path of progress here.

Furthermore, I would like to really indicate to the national public that this Bill is revolutionary. When it is implemented and the functionality behind it as corporations, the Government sector and private individuals utilize the pathways that would be realized through its effect, there would be a new age of convenience and comfort in Trinidad and Tobago, and that is in relation to online processing; submission of payments; submission of concerns to various agencies, corporations and to the Government, e-government.

Madam Vice-President, I speak of paying taxes, registering a business, application for particular grants, be it social services, agricultural grants, scholarships, GATE applications, a job application, applying for an HDC house, and, as currently stated by Sen. Beckles-Robinson, we know about the horror stories previously, of individuals filing applications for different grants, for a house or whatever it may be and they are lost to the process and the state and status of the application and they live in a world of virtual uncertainty. We cannot continue as a nation to exist in that environment of uncertainty as we plan to move forward with best practices for business. So with the advent of electronic transaction as a medium of transacting business in Trinidad and Tobago, by setting this legislative platform in place, we would have a greater sense of certainty.

I speak of situations where you can file an application and on filing your application you may now have the possibility of receiving an electronic receipt in your inbox as to your application. So when previously, if you file your application and you go back two months after and ask, “Where is my application”? “We do not have anything on file”, and you have no evidence of filing it, so you could now have the possibility of an electronic receipt.

Furthermore, it opens up the possibility where you could have an online tracking system. You file it but it needs to move from point X to Y, to Z, you go online and possibly there is a code for entry to check your application and you realize it is by point X for three months without explanation; you could enquire about why there is no movement in your application. These are the possibilities,

so now you could track your business and make sure that it is moving and there could possibly be a turnover period for the movement of applications until completion, because we need to have efficient sectors in Trinidad and Tobago.

Madam Vice-President, we must also look at the improved levels of productivity as a nation, because normally if you have to transact some business, you might have to take time off and spend half day and stand in a line before you finally get your business completed. That is a loss of a lot of productive manpower hours. If we should really utilize this efficient system we could have hundreds of thousands of increased manpower hours that could be directed into rebuilding Trinidad and Tobago.

Madam Vice-President, Sen. Ramnarine touched on a very important issue of decentralization which I believe to be critical, because one of the important aspects that this Government is working on for efficiency is to really decentralize the services of Government and have offices in the far reaches of Trinidad and Tobago to make things more accessible to our citizens by having the capacity to utilize electronic transactions right at home on your laptop, desktop and cellphone. The services of Government would be readily available and that would be one of the greatest forms of decentralization.

But most critically, Madam Vice-President, and what I am very interested in, is the whole issue of entrepreneurship. We must appreciate that this Government has come with the new philosophy as it relates to our economic development, trying to diversify our economy away from oil and gas and utilizing the natural creativity and innovativeness of our citizens as entrepreneurs to propel our economy, build our economy and generate revenue for this country.

E-commerce would play an integral role in building our economy and I know there would be many young entrepreneurs who would be very excited about this legislation as now they have more confidence in setting up e-businesses and we know there are certain advantages as it relates to e-businesses as there is no need for physical infrastructure. You do not need to rent a place or you do not need to own a place, the staff cost—so the set-up cost is a lot cheaper for e-commerce and e-businesses which is very critical so they could now possibly partner with NEDCO and get loans to initiate businesses. We have initiated—I know under the UNC the dollar-for-dollar programme was started and expanded into GATE, so we have a lot of young individuals are tertiary level educated who have done courses and degrees in e-commerce who would be very excited about this.

Madam Vice-President, furthermore we understand that this Government is putting the systems and structures in place so that there is a proper platform for the operation of electronic transactions, the understanding and the fears that are associated with electronic transactions vanishing and that is why we have thousands of laptops being distributed through this country furthering the Internet penetration in Trinidad and Tobago. I would like to congratulate the Minister of Public Administration for that move.

Furthermore, the Minister of Housing and the Environment, in his contribution, also indicated, with the HDC developments he is going to make those communities Wi-Fi ready and have Internet facilities available free for the occupants and owners of these houses, further expanding our Internet penetration. So we see the difference from 2009 to 2011; there are more systems and there are more structures, a clear move to have the platform ready for this type of legislation to have an impact.

Madam Vice-President, we must also understand the environmental advantages in terms of less paper usage, in terms of less carbon monoxide and carbon dioxide in the environment, less driving up and down, so clearly there is a big environmental advantage in the utilization of electronic transactions. But this is not a forced system, this would be a voluntary system; meaning that not everyone would be mandated to utilize such action and it is really giving the opportunity for those who wish to utilize this facility as 7(1) indicates:

“This Act does not require a person who uses, provides, accepts or retains documents, records or information, to use, provide, accept or retain it in an electronic form.”

Indeed, there is rich jurisprudence internationally as it relates to contract law or for acceptance, agreement, consideration relating to electronic transactions and e-commerce. We could surely draw from it, but we must get the wheels going; we must get moving; we cannot take it easy and slow down because we have a lot of catching up to do; we have a lot of making up to do, and, as such, I would like to really express my full support for this Bill and in the shortest time possible to see that this Electronic Transactions Bill forms law so the people of Trinidad and Tobago could stand as equals in the global environment.

I thank you, Madam Vice-President.

**7.25 p.m.**

**Sen. Subhas Ramkhelawan:** Thank you, Madam Vice-President, for giving me this opportunity to contribute to this Bill, the Electronic Transactions Bill, 2011. I must say that I do so with a great deal of trepidation, because I do not

consider myself very much qualified to speak on matters of electronic transmissions. But I am qualified to speak and to raise a few points on behalf of citizens of this country who, like myself, might not be particularly versed in the areas of electronic transactions and transmissions, but who will want to know that any legislation that is passed in this Senate would be truly representative of their concerns with regard to this area.

Let me start by saying that you would know, Madam Vice-President, that one human year is equivalent to seven dog years, I think I have it that way. But one human year, if we were to draw the analogy in terms of ICT, IT technology and communications, would probably be more like 20 or 25 years. So that when we pass a piece of legislation which is not significantly different from what would have been put in this honourable Senate some two years ago, and would have been under preparation for another one or two years, what you find is that we might have legislation that might be 25 years passé. [*Desk thumping*] That is the reality. That is the reality of it.

I do not need to be an expert in computers or electronic transmissions to tell you that, we know that. We know that the rate of change that is taking place in IT is at such an exponential rate, that if we were to look at what has been achieved in terms of technological change compared to a motor car, it would be equivalent to the progress that has been made with a motor car 100 years equivalent to maybe 10 years of IT transformations. Therefore, it is very important that the legislation that we put in place gives proper support to what is happening around us. [*Desk thumping*]

Now as I looked at the Bill, I deliberately came in last or near last in this discussion, because I feel in terms of my own knowledge base I am last or near last as far as IT matters and electronic transactions are concerned. Therefore, I wanted to learn from my hon. colleagues in this Senate to see what I can draw from them in order to be able to make a reasonable, reasonably enlightened contribution. I start with my learned friend and colleague, Sen. Dr. Balgobin, where he raised certain matters and in particular the question of electronic signatures versus digital signatures.

I will come to him in a minute, because I am—I should not say I am grateful to him, but I should say that I was at pains to try to understand what were the elemental differences. Therefore, I had to go, like many of my colleagues, to the Singapore legislation to read the definition of a digital signature versus an electronic signature and electronic records, and then I found myself having to delve in particular areas which I really did not want to, about asymmetric cryptosystems and hash functions and so on, I will dwell on it a little bit more.

*Electronic Transactions Bill*  
[SEN. RAMKHELAWAN]

*Tuesday, March 29, 2011*

Madam Vice-President, I think that it is important for our citizens to know that if they apply an electronic signature versus a digital signature, what is the extent of protection they have in terms of making payments and receiving payments from parties otherwise. I will use this to demonstrate that there may be a very significant need to revise the legislation up to the current status of 2010 as opposed to being back in the dark old ages, the dark old ages of 100 years ago in terms of IT time. But I am just a novice, new to this particular area and what I am concerned about more is the protection of the citizens and the service that can be provided to citizens with regard to this legislation.

Now let me say, Madam Vice President, that the electronic transactions are going on around us all the time and it is old. But up to this point in time we have not put in place a legal infrastructure to underpin these various transactions to protect our citizens as well as to create some level of regulation as to those persons who may be providers and facilitators for electronic transactions. So I was tempted when my colleague—before I heard all of my colleagues and had to do some modicum of research. I was tempted to quote the old adage, that “half a loaf is better than none”. [*Desk thumping*] But after some deliberation I thought that maybe that half a loaf is not sufficient. [*Desk thumping*] Maybe it is not sufficient where we are going and how we are going.

So it is very important that we evaluate this matter properly. And it is very important because this is not, as some of my colleagues have said, cut and paste. It is original legislation as far as Trinidad and Tobago is concerned. It is not amending an existing piece of legislation that my hon. colleagues in this Senate would understand or would have had exposure to before. It is something that is new. When it is new you have to look at it in a more intense and intricate way to make sure that the “devil” who is normally in the details does not come to overrun us. And that is why I choose to participate in this particular debate in the way that I have chosen to do at this point in time.

Madam Vice-President, the legal infrastructure that we are seeking to create is laudable and it is necessary. But, is it that in the legislation that we are putting, the extent of lacunae may be of such an order that it, in a sense, defeats the noble purposes which we are pursuing in putting down this legislation? I ask that as a question because I do not have a clear answer for how we need to go about it, but I am sure it has raised questions in my mind as to whether we should have a second look or not and I will come to that.



**7.35 p.m.**

Legislation really puts into the frame the recognition of the whole question of electronic contracts, and that has been said over and over again. Once we put that legal structure for recognition of these contracts electronically, I think it is a step up, because what is happening now, we are, in fact, entering into contracts electronically but we do not have a legislative framework that supports these contracts. We would have to depend on custom and practice; we would have to depend on precedents from other jurisdictions, and when we do that, it is those precedents that would be open, should I say, to much more legal questions and questionings as to the validity of those contracts. I would not say much more on that lest I be embarrassed by my colleagues who are legal luminaries in the Senate.

The second area, apart from contracts and the legal recognition of contracts, is this area of electronic signature and the facilitation and the checks and balances in terms of electronic signatures with regard to the electronic authentication service providers. As I said before, I wanted to dwell on this before I go to the next area which is that of e-Government and then finally conclude, talking a bit about consumer protection.

So, it is not with gratitude to my colleague, Sen. Dr. Balgobin, that I had to delve into some of the definitions, the difference between electronic signatures and digital signatures. My colleague, Sen. Al-Rawi, spoke to that, and several other Senators spoke to that, and the essential requirement for us to resolve this matter, whether an electronic signature is sufficient, or whether a digital signature is another step that we need to go in order to resolve certain issues, particularly with regard to payments and with regard to authentication of contracts and so on.

Let me bore you a bit, Madam Vice-President, because I looked at—having been referred so many times to the Singapore legislation I felt it incumbent upon me; it was inescapable for me to have a look at this piece of legislation, particularly definitions. So “electronic signature” in that definition—not in the legislation that we have before us, but in the definition of the Electronic Transactions Act of Singapore—I want to stress what are the differences for someone like myself, being a novice and someone like myself seeking to make it as perspicuous as possible to our citizens, what that difference is and what it could mean.

“‘electronic signature’ means any letters, characters, numbers or other symbols in digital form attached to or logically associated with an electronic record...”

*Electronic Transactions Bill*  
[SEN. RAMKHELAWAN]

*Tuesday, March 29, 2011*

Then, of course, there is a definition of “electronic record”.

“and executed or adopted with the intention of authenticating or approving the electronic record;”

Now “digital signature” by definition, in this, is what I would call the high-water mark of legislation, because it is recent; it has been tested over a number of years and the legislators have come up with adjustments to reflect some of the issues and challenges that have to be addressed in terms of the question of that signature. So in the Singapore legislation, “digital signature” means an electronic signature but with a number of bells and whistles and attachments. It means:

“an electronic signature consisting of a transformation of an electronic record...”

And here is the rub:

“...using an asymmetric cryptosystem”—one, and two—“and a hash function such that a person having the initial untransformed electronic record and the signer’s public key can accurately determine—

(a) whether the transformation was created using the private key that corresponds to the signer’s public key...”

It sounds very complicated, does it not? [*Interruption*] Not very complicated? Great.

“(b) whether the initial electronic record has been altered since the transformation was made;”

This sort of takes us very much closer to, shall I say, a physical signature that is so much more difficult to copy, in terms of the difference between the electronic signature and digital signature. It means a lot when you are dealing with contracts. When you are dealing with contracts for significant sums of money, the difference between digital signature and electronic signature could mean millions and millions and millions of dollars. [*Desk thumping*] And when you are sending money to pay for some asset abroad, as some of us have to do when we pay for securities in other jurisdictions—bonds, stocks and so on—when you are sending very significant sums of money, it makes a big difference whether it is a digital signature or an electronic signature. [*Desk thumping*]

So when you go to the whole question of definitions where certain other factors are built into the digital signature to ensure or to assure as much as possible, or to lift the bar so much higher in terms of protection against fraud,

protection against theft via identification theft or otherwise, to siphon off somebody's money, I think it certainly makes more sense to go to that higher watermark which is the mark of a digital signature. [*Desk thumping*] So I feel very strongly that we need to get to that higher level, because the Bill that is before us in terms of some of the definitions, and so on, even before the Bill is passed or turned into an Act, long before that, the Bill is outdated.

Now, if I could be assured that there will be frequent revisits to this particular piece of legislation to make sure that we are constantly updated in this electronic information age, then I would say let us take half the loaf, because very quickly we will have a full loaf on the table. But I cannot be assured of that and I cannot be assured of that because the two major administrations in this country have been guilty of exactly the same thing: delay and delay and delay.

So even in this particular Bill in 2008 tabled; we are in 2011 debating whether that Bill is still valid, and the answer to that is definitely no. That one I know. I do not need to be an expert in IT. What I need to know is that the rate of exponential changes that are taking place in IT makes this Bill outdated, even before it is passed. And if that is the case, what is the challenge to us; what is the offence in having a close look at it and bringing it back in short order? [*Desk thumping*] There is none. Because what we want to do, is, if we are building a house and we put up the foundation wrong; we put three pillars in the wrong place and so on, no matter what you do when you build on top, those pillars are going to be off. They are not going to be plumb; they are not going to be square; they are not going to be all those things we talk about in construction, not being a construction man myself.

But the point is that I would like to see us get it right the first time. I would like to see this piece of legislation done correctly the first time, because, as I want to reiterate, this is not about cut and paste amendments to existing legislation that we would have had for 10 years, 15 years, 20 years, as the case may be. It is completely different; it is first time. And when you do not do it right the first time, you pay the price.

So I am appealing to Government to take this on board and in quick order, make the changes that are necessary to ensure that we have the right piece of legislation, so that I will not have to go through the great pain of trying to figure out what is asymmetric cryptosystem and what is a hash function. All I need to know, as I do with my car, is that when I start the engine—the car that I bought—I know the brakes will work well. I do not need to know the horsepower under there. I know when I press the accelerator, I could get up to speeds that might be past the speed limit and then slow down to come within the speed limit.

What I need to know is that the infrastructure around me, those who look after me in the sense of ensuring that I am protected, that they have done the job, and therefore I do not have to worry that much about what is under the engine. They have done the job; they have looked under the engine and I can be assured that when I start that car I am in the right place and I have the right vehicle to take me forward.

This is what it is. This piece of legislation is a vehicle; it is a piece of infrastructure that is meant to provide for the protection of our citizens in certain ways. So if you wish, I will read the definition for you of “hash functions.” I might even go and read the definition for you, and if my colleagues on the other side ask, I might read the definition of “asymmetric cryptosystem.” But I do not think that it is particularly necessary. What it says is that there are various levels of insulation to ensure that when you put your electronic signature or your digital signature in this particular case, you can feel very much assured, and therefore the legislation should reflect that.

I would like to turn away from that now and speak to the question of, shall we say, e-Government, because the legislation, more or less, seeks to allude to e-Government by Part VII. Many regulations will have to be put in place and many structures will have to be put in place to get to the level of e-Government. One, of course, is the legislative infrastructure.

As I address my mind to this question of e-Government, I looked at a response to Question 35 which was posed earlier in the day with regard to the question of whether the Minister could indicate how many drug-related offences are presently before the courts in Trinidad and Tobago. And the answer in written form to this question posed by Sen. Beckles-Robinson, amongst other things, was that:

“The Trinidad and Tobago Police Service has advised of a number of challenges that make the provision of the data required for a comprehensive response to this Parliamentary Question difficult. Key among these is the fact that the information storage system within the judiciary is not fully computerized.”

I am quoting the answer. This is not my opinion.

“As a result, the Police Service must source the information manually in order to keep the Police records updated.”

**7.50 p.m.**

There is no greater reason for us to pursue e-Government in terms of efficiency and effectiveness of the services that we must produce for our citizens, there is no greater reason! And we can talk about the other things, but if we cannot do this, then you have some great difficulties. So I support any infrastructure that we put in place that can facilitate e-Government, and so I fully support and endorse this area of the role that could be played by public bodies and government authorities, public authorities.

I would stay on the question of the police service since it is high on the mind and the agenda of our citizens at this point in time, but I am not going to turn to that particular instance. I want to turn to another instance in the police service. How many of us, ordinary citizens, go to a police station to register a complaint, the police officer with the best of intentions says to you, "I will write it on this little piece of paper and it is only after I get the station diary, only after I get access to the station diary, I will put it into the station diary. Do not worry about it". But you know what, 99.35 per cent of our population who visit a police station are worried, because they are not sure whether their complaint is registered. And if their complaint is not registered, and they go back to the police station at some point in time and say "What about that complaint that I made"? "Oh, it is not there."

Now, if you could register that complaint electronically, and the legislation makes provision for the maintenance of that record, then you have your copy, and you can get an automatic receipt, and then you will know when it was lodged and if anybody did anything about it.

That is just one example of what can happen in providing better public services for our citizens. And nobody would want to dispute, or can dispute the power of e-Government, and the legal infrastructure put down, and properly recognized in our law will give better effect to what we want to do as a nation in terms of e-Government.

I want to turn to the question of consumer protection which is contained in clauses 55 to 58, and then touch a bit on the matter of contravention and enforcement. Because we are operating in cyberspace— and I hope it is a correct word that I am using—because we are operating in cyberspace, because we do not have any hard copy of certain things, and we have electronic copy and so on.

Many of us who would have started life with that inkwell have reservations, have difficulties that something is outside there in cyberspace, and we do not have a hard copy that we can pull at any time. And suppose we type it up and it is lost,

*Electronic Transactions Bill*  
[SEN. RAMKHELAWAN]

*Tuesday, March 29, 2011*

where will we recover it? And of course, the world has changed considerably and we have to accept, and we should accept, and we should even embrace this, because it is indeed a more efficient and effective way for us to keep our records, for us to do our business.

But the question of protection without a legal infrastructure could leave us up in the air and out in the open. And therefore, we have to ensure that there is effective legislation there to protect us. And again in that context, I support the legislation. But my learned colleague, Sen. Prescott, first raised the matter, one, of fraud, and then whether it is necessary for us to make amendments to the Evidence Act to ensure that with the legislation and associated legislation there is a full force of law in order to create the proper effect in terms of enforcement, which is the next area. And I would like to hear in the winding up from my hon. friend, Sen. Ramgoolam, how that matter is going to be properly addressed.

The question of fraud and it has been raised once, twice, three times and therefore, it is a matter of concern. How are we going to deal with it? And I am hearing, and it is my understanding that some legislation may come to deal with cyber fraud, to deal with some of these issues, but we are not seeing it, this is all that we are seeing, and we would like to hear what is there, see what is contained. And it may have made more sense that we would have brought these pieces of legislation in a package: the question of electronic transactions, the question of data protection, the question of fraud. And then it was also brought up that there are issues with respect to copyright which Sen. Beckles-Robinson raised.

Now let me say that I have been hearing in this Senate certain persons taking credit for this legislation that is being brought. And there is some sort of blame game as to who brought it, when they brought it and which version is better and so on.

**Sen. Panday:** No, it is “patrimony game”.

**Sen. S. Ramkhelawan:** Well, if it is a patrimony game or even a maternity game it really does not matter to the citizens, once it is the correct game that we are playing. I am less concerned about who brought the Bill, and I am less concerned about who adjusted the Bill. I am more concerned that we have the correct Bill for the citizens of Trinidad and Tobago [*Desk thumping*] and once we have that you can take the credit and you can carry the can and you do whatever you want. At the end of the day, the real game is what is in the best interest of the citizens of Trinidad and Tobago. And it was in the interest of the citizens before—

**Sen. Karim:** So why they did not pass it?

**Sen. S. Ramkhelawan:** There we go again, and we go now, who did not pass it and who did pass it. Okay, it is not passed as yet. I would like to see these particular issues with regard to fraud, with regard to copyright, with regard to matters of digital signature and so addressed. I get the sense that it may not be and it cannot be fully addressed in a committee at this point in time, unless we have a chance just to reflect a bit on some of the issues. So that I want to appeal—I join my colleagues on this Bench in appealing to the Government if there are reservations, and we on the Independent Bench have expressed some reservations. If there are reservations that cannot be fulsomely addressed in committee stage, take a breather and let us go into a joint select committee. Address these issues with the assistance of experts in that area.

**8.00 p.m.**

I dare say as I look around this Senate Chamber, I really do not see a hell of a great deal of experts in this particular area. Therefore, take some more time. Take some more time, not much. There are a few things that have to be addressed. There is precedent elsewhere as to how to address these few clauses. I think we would be well served if we take that time to reflect and to correct, and then I personally would congratulate both the Government and the Opposition—  
[*Interruption*]

**Sen. Panday:** No, no, no!

**Sen. S. Ramkhelawan:**—one, for bringing the initial Bill; and, two, for correcting whatever deficiencies that were in this Bill.

So, these are my thoughts and my contribution to this particular piece of legislation, Madam Vice-President, and I thank the Senate for giving me the time to address these issues. [*Desk thumping*]

**The Minister of Public Administration (Sen. The Hon. Rudrawatee Nan Gosine-Ramgoolam):** Thank you, Madam Vice-President. I take this opportunity to thank all Members of this Senate for their contributions to this debate. These contributions clearly underscore the need for establishing an appropriate legislative environment, to enable the Government to meaningfully engage with the wider global economy in e-commerce transactions.

Madam Vice-President, I am comforted that all contributors endorsed the need for the Electronic Transactions Bill, and we take on board the suggestions made by hon. Senators with regard to the ways in which the Bill can be further improved. [*Desk thumping*] You see, this People's Partnership Government believes in the value of debate as we are intent on demonstrating good leadership

*Electronic Transactions Bill**Tuesday, March 29, 2011*

[SEN THE HON. R. N. GOSINE-RAMGOOLAM]

by first listening to the comments and issues raised by all parties, assessing the material concerns and making adjustments where required, so as to provide for the passage of good law. [*Desk thumping*]

By taking this approach, we affirm our commitment to taking steps that would enhance what is before us in the interest of our development as a people, and developing our economy to keep abreast of technology developments. In this vein, I now take this opportunity to respond to some of the comments raised by Senators, so as to address their concerns and give further explanations why this would serve to clarify issues, or some of the issues in the context of the provision of the Bill.

With regard to my good friend on the opposite side, Sen. Dr. Henry—apparently he is missing in action right now—he stated that the Bill gives an out to Government in that it does not oblige public bodies to use electronic means. Later in his contribution, the Senator also indicated that there was the need to treat with systems, training and development, procedures and, most importantly, the culture of the organization if we are to maximize the return on investment in technology systems. However, if the Government undertook this linear approach recommended by the goodly Senator, Government would have had to be assured that all public bodies had sufficiently transformed their systems, processes and infrastructure to immediately support online interactive service provisions.

I take this opportunity to assure Sen. Dr. Henry that there is a rationale behind the approach taken, and this approach took into consideration the Senator's concerns about systems, procedures, culture of the public service, as this Bill will fit into the larger picture of public sector transformation and modernization; a much larger initiative also reflected by Sen. Beckles-Robinson earlier in her contribution.

My good friend, Sen. Dr. Balgobin, also recognized the potential of this Bill to transform the public service delivery system, and for this we on this side are extremely grateful. It is a point that must be underscored when looking at this Bill. Within the Ministry of Public Administration, initiatives are being undertaken in this regard even as we speak. I am revealing one of the initiatives to assure hon. Senators that this Bill, and the issue of using ICT as a tool for development, is all part of Government's plan for the macro and social development of our people.

This initiative, namely a Green Paper, Renewing the Transformation Agenda in the Civil Service of Trinidad and Tobago for Improved Service Delivery is in a nascent stage of development and, of course, consultation with key stakeholders



would precede its finalization. This document presents for discussion a case for embarking on a new pathway towards facilitating civil service renewal, modernization and improvement, with an emphasis on institutional strengthening.

In achieving this objective, Madam Vice-President, this paper will address some main issues. These include, inter alia:

- Service delivery improvement and, that is, developing a sustained culture of continuous service improvement delivery in all ministries, departments and agencies supported by ongoing training and development, particularly, in the use of technology identified by many of the Senators on the other side.

For example, I think it was Sen. Deyalsingh and Sen. Dr. Victor Wheeler.

- Another area is information and communications technology. This is utilizing platforms which support a holistic approach to service delivery.
- Change management, development and promoting innovative strategies within the civil service so as to encourage creative and innovative ways of delivering public service goods and services.

Madam Vice-President, Sen. Beckles-Robinson asked, “How would we bring about culture change?” Well, let me inform the gracious Senator that management theories and practices give us the tools to engage the process, and these tools we shall harness. Let me also remind Sen. Beckles-Robinson that culture change is a process. It is not an event.

- The last area, change management, squarely addresses the issue of change so pointedly raised by Sen. Dr. Henry. The only thing constant is change, and we are indeed cognizant of the need to manage this change process, hence the progressive, supportive and guided approach taken in this Bill.

There are many other initiatives on the way, which are intended to initiate the cultural and systemic changes necessary to maximize Government’s investment in ICT.

Madam Vice-President, while ministries and public agencies have made great strides in the development of ICT projects that will advance the transformation in the way in which they do business, it has to be acknowledged that due to specific mandates associated with each governmental ministry or agency, many governmental organizations have progressed further than others. Notwithstanding these initiatives, there is still some way to go before there could be full automation of all the processes and systems of ministries and public agencies.

*Electronic Transactions Bill*  
[SEN THE HON. R. N. GOSINE-RAMGOOLAM]

*Tuesday, March 29, 2011*

Sen. Dr. Henry's position also presumes that the necessary critical supporting infrastructure, procedural guidelines and policies are in place. The provision of efficient e-Government services is dependent on an organized and well-managed process that will be developed under the aegis of this Electronic Transactions Bill.

If the Bill obliges public bodies to engage in transactions by electronic means immediately on its proclamation, there is the real possibility that many agencies will be unable to accept applications and filings by electronic means immediately and could be found to be in breach of the provision of the legislation. So, Madam Vice-President, we cannot wait for everybody to reach to a certain point before we proclaim the Bill. It has to be done progressively in sensible degrees and coaching, guiding and supporting the various agencies to get on board. So far, we must say at this point in time technology is being used. There is less resistance to the use of technology and, as a result, culture change has been taking place and it is rapidly increasing.

**Sen. Beckles-Robinson:** Thank you very much. Hon. Minister, I hope that you did not take what I raised about the culture change the wrong way. You have been in the public service a long time, but as a Minister, whether you are hopeful of the change. My concern when I discussed it, yes, we have these pieces of legislation, but I am saying the practice is so endemic that if we want—and you have talked about service because you have come to the Parliament and made the statement in terms of public service transformation.

So what I was asking you is that in terms of your practice and your experience now, have you really seen that effort to make that shift. So that these pieces of legislation which clearly the objective is to work in tandem with your culture and with your legislation, what has your experience been like and do you really believe that at the end of the day that culture change will take place? Probably even if you have a reasonable time frame in which you expect that we could see some difference in terms of the attitude in the public service?

Thank you.

**Sen. The Hon. R. Nan Gosine-Ramgoolam:** Very good comments and questions from Sen. Beckles-Robinson. Where there is life there is always hope, and if we look—and those of us who have probably dabbled a bit in the development of civilization in centuries gone by, that in itself is going to tell us that there is hope for greater things to come. [*Desk thumping*]

You are right, culture change is extremely difficult. It is more than the how of the what rather than the what, and how we engage the process of change is going

to make a big difference. If we could harness the positive aspects of human beings, I think it would go a long way in helping us to change.

In teaching change management, there is an example that just came in my head, but probably I would share it with you. If we feel that the attitudes of persons around us are not in keeping with the norm of the organization or what we would like to see in order to execute the mandate of that organization, how do you go about changing that attitude? Well, it is just like a bucket of very dirty water. Probably if that is reflective of a person with the kinds of attitudes that you do not like, how would you make that dirty water clean without losing a drop? Anybody knows? Well, this is not the time for question and answer. All we need to do is place the bucket underneath a pipe, turn on the pipe and all we pour is clear water, and by the process of displacement the entire bucket of water becomes clean.

We are trying to say that if we emphasize the positives around us in human beings, I am pretty sure that is one way that is going to go a long way in helping people to change. It is more difficult than the way we say it, but I am sure with commitment, stick-to-it-iveness, dedication and passion in engaging the process, Madam Vice-President, I think to answer Sen. Beckles-Robinson's question, we would be able to make a difference. But one thing I can assure Sen. Beckles-Robinson, this is a long process. It does not happen overnight.

### **8.15 p.m.**

So back to the response. The only practical means of effecting this transformation is to allow the progressive, guided and phased approach to the implementation of this Bill. Through the approach proposed in clause 4 in conjunction with Part VI, the governmental agencies can notify the public when they are ready to engage in the electronic transactions. Hence, Madam Vice-President, this progressive, guided and supportive approach is necessary due to the scale and magnitude of the transformation programme underway. Therefore, we have to introduce it in sensible degrees so that people do not feel or Senators do not feel that they are pushed or forced into things.

Sen. Dr. Henry also highlighted issues relating to the logistics associated with the implementation of e-commerce and cited the prevailing profile of online transactions as evidence that this Bill would not achieve its desired goals. To this, I must say that surely one must recognize that legislation by itself will not treat with these issues. Probably it needs culture change, it needs attitude change, it needs behaviour change, as well, of the individual.

The passage of the Bill will not change the nature of the supply and demand characteristics of international trade. What this Bill will create is the framework to encourage more domestic businesses to be more active online, thereby engendering, over time, greater confidence in consumers purchasing online from domestic vendors. This, together with other actions, contributes to the reversal of the profile of current business to customer transactions.

Madam Vice-President, a few Senators have expressed concerns about the use of the phrase “electronic signatures” and the approach to treating with this technical aspect of the Bill. I take this opportunity to assure Members of this honourable Senate that the framers of the Bill did recognize the difference between the general terms “electronic signature” and “digital signature.” There was, in fact, no vacillation in the application of either terms, but in fact, a deliberate approach was used in the drafting of the Bill.

Madam Vice-President, a digital signature—and I am pretty sure all of us did maths up to Form I—so a digital signature is a subset of the forms of electronic signatures available for use. A digital signature is among the first secure approaches to forming an electronic signature. The term “digital signature” refers to the output of a specific type of technology called “Public Key Encryption Systems”. To ensure technology neutrality of the Bill, Madam Vice-President, in its review, the drafters took great care not to use any term that would prescribe the sole use of any specific type of technology.

Additionally, the term “digital signature” is seen as too much of a term of art to achieve the functional equivalence of the digital signature, and the criteria for reliability and integrity, as outlined in clause 31(1), which describes the effect of the use of asymmetrical key-based technologies. Therefore, for purposes of this Bill, wherever an electronic signature is required to meet the reliability and integrity criteria outlined in clause 31, a digital signature using public key encryption technology or its technological equivalent is presumed.

The use of the electronic signatures vis-à-vis digital signatures is consistent with international best practices of several leading countries in the global ICT sector such as Singapore—and may I say Singapore reviewed its Act only last year, in 2010. It is not dated—we did not fudge and I will get to that point in the end—nobody fudged Singapore’s 10-year dated Act. It is also used in the United Kingdom, Canada, New Zealand, Malta, Australia—all these pieces of legislation were referenced. This approach is also adhered to by our regional counterparts: Bermuda, Barbados, Antigua, Jamaica and Belize and more recently, Madam Vice-President, St. Lucia has just enacted its Electronic Transactions Act on

March 18, 2011.

**Sen. Al-Rawi:** Through you, Madam Vice-President, I thank you for giving way. Just a question through you so that perhaps you can gain clarification from those who may have assisted in the sources of legislation. To the best of my knowledge, the English Act in particular, and the Canadian Act, are both under legislative reform as a result of the 2005 directives, the UNCITRAL—which we do not subscribe to, we are not a member of—perhaps, it may be clarified at a later point, whether those legislative positions that are referenced are, in fact, in the course of being amended. Thank you.

**Sen. The Hon. R. Nan Gosine-Ramgoolam:** Madam Vice-President, we have made a few amendments that would bring the Electronic Transactions Bill in line with the prevailing international best practice standards. This would include the proposed amendment of the definition of “electronic signature” to ensure that the information must not only identify the signatory but also indicate the signatory’s approval.

Another significant amendment is being proposed in Part IV, clause 31 and this is in relation to the criteria for the integrity and reliability of electronic signatures. The amendment clearly identifies the need to establish an electronic signature capability of verifying the identity of the user and should also be created using a means that, at the time of signing, is under the control of the user. Madam Vice-President, this may also help to address the issue of fraud in the whole transaction.

It is important to bear in mind, widespread public and private sector best practice standards when considering regulating electronic authentication and signature. Stringent requirements for electronic authentication and signature, in particular the imposition of a particular method or technology, may inadvertently cast doubt as to the validity and enforceability of a significant number of transactions that are entered into every day without the use of any particular kind of authentication or signature.

While experience has shown that the use of electronic signatures carries with it certain challenges, the general principle underlying the progressive, phased, supportive and guiding nature of electronic transactions, clearly outlined in clause 7, is applied here. So that once the individual is appropriately sensitized to the challenges of a particular method of signature, the individual must take the responsibility for risks associated with the choice of the signature utilized.

Madam Vice-President, in spite of all the laws and regulations, we have to

ensure to take care of our identification. We have to walk with our insurance in our cars, we have to ensure we have our driver's permit, we have to secure our passports. The Government cannot legislate securing of your passport in any Bill. We have to also take responsibility for some of these actions. It is not the intention to legislate for the due diligence of the citizen. To be overly prescriptive in that way, Madam Vice-President, is to tend towards the genre of overregulating with all its associated pitfalls.

**8.25 p.m.**

What we are saying here is that anything overdone is not good; they have their pitfalls. It is unrealistic to expect that imposing a certain high level of authentication and signature requirements would eventually lead all parties to actually use them on a daily basis.

By stipulating the exclusive use of highly sophisticated methods of authentication such as digital signature, it can have the effect of restricting innovation in the sector or limiting the applicability of new technologies, as concerns about cost and complexity act as disincentives to the practical use and incorporation of signature technologies in conducting regular transactions.

Madam Vice-President, concerns have been expressed regarding the administration of the electronic authentication service providers. Sen. Dr. Balgobin and Sen. Prescott SC questioned the adequacy of the regulatory framework proposed, while Sen. Dr. Henry raised concerns of monopolization of domestic markets for these services. These are notable points which I wish to clarify.

The Government agrees with Sen. Dr. Balgobin that the participants in the sector of electronic authentication services called certification service providers in the industry are largely global operators who provide services across borders. We agree with the position articulated by the good Senator that the persons creditably recognized across the globe to provide such services generally have significant investments in resources, procedures and systems that are not easily replicated. However, I take this opportunity to clarify that in no way is the registration function associated with the verification of the firms' technical ability to provide such services. In fact, the obligation for the firm to first register is actually associated with the general regulatory practice in Trinidad and Tobago where, if a person is undertaking a business that is regulated, that person should register with the oversight body in order to indicate that the business has commenced operations.

This requirement to register in jurisdictions of operations is in alignment with

international best practices. It is essential for ensuring that the necessary assurances are provided, that the operations of electronic authentication service providers comply with international industry best practices and standards that the firm is thus trustworthy. Many jurisdictions, including the United States, Brazil, Israel, South Africa—yes Sen. Baptiste-Mc Knight, South Africa, we also referenced South Africa—and others all require such service providers to be registered in their jurisdiction before they commence operations.

The countries belonging to the European Union, due to their prevailing regulatory practices, do not require firms to register, but instead oblige them to notify the relevant oversight agency. This notification achieves the same regulatory purpose as registration, which is to inform the oversight body that a person providing this service has begun operation and meets the relevant criteria.

Notwithstanding the need to inform the oversight body that such an operation intends to provide service to the public, general practice in major jurisdictions with a mature operating framework is to limit the regulatory barriers to entry of bona fide service providers to that which is necessary. Therefore, in accordance with the principle of fostering innovation in the provision of such services, the regulatory framework should also be like touch in nature.

The Government has proposed to emulate these practices as we continue to work to adjust our regulatory frameworks to make them attractive and facilitative of prospective foreign investors, by providing for the simple registration of parties who propose to provide electronic authentication services. The only particular requirement for registration is evidence of their accreditation to provide such services by an internationally recognized accreditation body. This will facilitate easy entrance into the market by the major players of certification services, who would merely have to establish a local business presence and register to provide their services.

Cumulatively, it is anticipated that the ease of entry into the market would provide sufficient incentive to facilitate the establishment of domestic presences of established certification service providers and this will effectively mitigate against the monopolization of the market, which was a cogent point raised by Sen. Dr. Henry. In the instance where the person wishing to register is not accredited, as in the case of a domestic or regional start-up company, the Government proposes to have that person accredited in accordance with regulations established under this Bill.

I take this opportunity to restate that it is through accreditation that there is

assurance that the operation of the firm has the necessary established foundation to ensure confidence in the products issued. It is the accreditation process that will require the prospective firm to prove capacity in human resources, systems, procedures and rules, as well as the technical infrastructure to provide reliable systems that ensure appropriate levels of operation.

It is therefore the intention of the Government to establish regulations that will be in accordance with international best practice industry standards. In this way, the Bill supports the development of local businesses entering this sphere of activity, in accordance with standards that allow for operation on par with the best in the world. The regulations will provide clear guidelines and elaborate on each of the areas highlighted in clause 35, dealing with requirements for electronic authentication service providers.

I take this opportunity to assure Senators Cudjoe, Prescott SC and Deyalsingh that we agree that there is need to be a more explicit delineation of the established standards for the conduct of business operations by electronic authentication service providers. However, it is not prudent to fossilize such framework in the parent legislation, as this may unduly restrict the ability to modify such standards to complement the evolution of technology and market demands over time. I am advised that this approach not only fosters technology neutrality but, in addition, facilitates the continuity and adaptability of the legislation to meet the rapid developments and advances in technology and concurrent international best practice standards.

I now move on to one of the major issues raised relating to the role of the Minister—it is “the Minister”, not this Minister—in the administration of various functions of the Bill. These roles are outlined in two parts of the Bill, that is Part V and Part VI. I intend to address the policy principles of each Part in turn.

In Part V of the Bill, there is concern that the Minister will be involved in the approval of the registration of firms wishing to operate an electronic authentication service provider in Trinidad and Tobago. We have taken on board such concerns and, in the best interest of providing the requisite clarity in regard to the purpose and intent of the Bill, we have suggested the amendment of the wording to reflect that the exercise of such function is to be performed by a designated authority under the Bill.

It is to be highlighted that the drafters of the Bill were deliberate in the selection of a registration approach to be undertaken by the relevant designated authority. Registration suggests that once an applicant meets the pre-requirements



for registration, there is no discretion that will permit the rejection or non-inclusion of the person from the relevant register. Under the Bill, registration is an entirely administrative function that will be carried out by the designated authority, in accordance with the principles of transparency, equity and efficiency, which guide all operations in the public service.

Moving on to Part VI: the points raised are again quite crucial and I shall attempt to address the concerns raised by the Senator opposite. To be clear in the instance of clause 51(1)(b), the scenario under consideration is one where the telecommunications service provider or intermediary has clear evidence that some malfeasance is being facilitated. While the rationale for requiring the notification of law enforcement is self-evident, the rationale for notification of a designated person was due to the recognition that any takedown action undertaken in subclause (a) may be construed as a breach of the contract with the end-user. In this regard, the policy position was to notify the designated person so that he is apprised of the situation. However, in light of the comments of distinguished Senators opposite, we have agreed to remove the requirement to notify the Minister.

I will now address, in passing, the perceived inconsistencies with the Interception of Communications Act. As stated in clause 50(3), nothing in this Bill obliges or requires a telecommunications service provider or intermediary to intercept or store any communications of a given user, or share any intercepted information with an individual. Accordingly, I would like to underscore that no instance of incompatibility arises.

With regard to the contribution made by my good friend, Sen. Helen Drayton, I take this opportunity to highlight at the outset that the Bill does not treat with financial transactions by electronic means. The concept of e-money, e-cash and e-payment, as well as the systematic institutional or procedural questions that are required to appropriately govern electronic payment, are outside the scope of the Electronic Transactions Bill, 2011. The Bill is limited to treating with the equivalence of electronic and paper documents and the application of existing principles of contract law, as it relates to contract formation in an electronic environment.

With regard to Sen. Dayton's comment relating to clause 58 dealing with unwanted communications, the Bill provides the options to opt out of receiving future communications. This provision permits a legitimate marketing approach by facilitating that first communication and if the subscriber wants no further

*Electronic Transactions Bill*  
[SEN THE HON. R. N. GOSINE-RAMGOOLAM]

*Tuesday, March 29, 2011*

communication, the opt-out provision allows for the subsequent cancellation of the marketing approach to the consumer.

We take on board the suggestion made by Sen. Drayton relating to the use of the term “certificate” in the interpretation section of the Bill and we are to inform this Senate of the amendments to the definition of “electronic authentication product” to include “certificate”.

Finally, I take this opportunity to address a few concerns raised by my colleagues on the opposite side. The point was raised that clause 17 of the Bill is inconsistent with the provision of the Evidence Act, as it relates to the “best evidence rule”. I assure my friends opposite that the intention of the clause is not to replace or change the rules of evidence established in law. In an environment where a contract is prepared, reviewed, executed and stored electronically, the application of the best evidence rule would suggest that the required evidence is electronic in nature.

**8:40 p.m.**

As such, subclause (a) provides for the general recognition that such evidence may be lodged and admissible in electronic form. The Bill also seeks to include electronic copies of the evidence in accordance with the requirements of the best evidence rule, in such instances where the original hard copy is unattainable, due to destruction of the original record or other such situation.

Madam Vice-President, the intention is not to change the interpretation of rules of evidence, but to include electronic copies as relevant. As such, it should be noted that the clause does not provide the other affirmative test regarding the rules of admissibility. Such details will be included in amendments to the Evidence Act and court procedures that are to be proposed and, of course, it can be recalled that this is one of the pieces of the legislation I had indicated need to be addressed.

With regard to the perception that there are not appropriate sanctions associated with the non-provision of information to consumers as required by clause 55(1), I wish to elaborate on the intent of this particular clause. The objective of this clause and this part is to create the foundation of a code or standard of practice relating to e-commerce to which e-merchants in Trinidad and Tobago shall adhere. By adhering to these provisions, Madam Vice-President, and the guidelines for the error correction in clause 22, merchants may be able to cement their sales made through this electronic channel. In this instance it is a

default presumption that the merchant and purchaser are both legitimate, with neither having any intention to defraud each other, or the other party.

The question raised by the good Senator regarding the treatment of online fraud, such as identity theft, online copyright infringement and misinterpretation with the intention to defraud is to be treated more holistically in the Cybercrime Bill, referenced in my initial presentation. This will enhance the prevailing legislative framework established in the Computer Misuse Act of 2000.

With respect to Sen. Beckles-Robinson's contribution, our drafters did not use the so-called Singapore dated model as she alluded to. Many models were studied as identified before, and this piece of legislation reflects what existed before, and changes made as a result of referencing others. This legislation is, therefore, home-grown, Madam Vice-President, on best practice.

Sen. Beckles-Robinson has confirmed that the former government piloted a dated Bill in 2008. Is it that they were trying to hoodwink the population then? Madam Vice-President, one of the reasons this Government had to review this piece of legislation is to ensure that it reflects contemporary issues prior to its return to this Parliament. With respect to consultation, I was advised by my drafters that they took these issues on board and discussed them prior to preparing the final draft.

In closing, Madam Vice-President, I take this opportunity again to thank hon. Senators for their contributions. It is hoped that, together with the explanations I have provided in response and the proposed amendments, this Bill will be endorsed and supported. I therefore, look forward to full support for this Bill, which is important in our transformation as an e-transaction ecosystem, as it has tremendous implications for our people, our business sector and the delivery of public services within the Republic of Trinidad and Tobago. Madam Vice-President, I beg to move. [*Desk thumping*]

*Question proposed.*

*Question put and agreed to.*

*Bill accordingly read a second time.*

#### ADJOURNMENT

**The Minister of State in the Ministry of National Security (Sen. The Hon. Subhas Panday):** Madam Vice-President, I beg that this House be now adjourned to Tuesday, April 05 when we shall continue this matter. Madam Vice-President, we have noted all the amendments put forward, but having heard the

*Electronic Transactions Bill*  
[SEN THE HON. R. N. GOSINE-RAMGOOLAM]

*Tuesday, March 29, 2011*

response from the other hon. Minister, we observe that they have been answered. But in any event we invite further amendments and we shall take them on board, study them and when we return on that date we shall go into committee stage. So that the reason we do not want to go into the joint select committee is that we want to bring the Data Protection Bill as fast as we can, but we want to ensure hon. Senators on the opposite side that we will not let their amendments go unheeded. Thank you very much. [*Desk thumping*]

### **Greetings**

#### **Spiritual Shouter Baptist Liberation Day**

**The Minister of State in the Ministry of National Security (Sen. The Hon. Subhas Panday):** Before the Senate adjourns, I have spoken to my colleagues on the other side, Sen. Penelope Beckles-Robinson and Sen. Subhas Ramkhelewan and informed them that we shall be saying a few words to the Baptist community on the occasion of the Spiritual Shouter Baptist holiday which would be celebrated tomorrow.

Madam Vice-President, we want to say congratulations to the Spiritual Shouter Baptist community on the holiday tomorrow, the Spiritual Shouter Baptist Liberation Day. This religious group has suffered intense pain over a period of time. Sometime in 1917, this religion was established by the Shouter Baptist Ordinance of 1917. They were banned from carrying out or practising their religion. On Thursday, November 28, 1917, this Ordinance was passed which made illegal the activities of the Shouters.

The Ordinance, Madam Vice-President, was entitled an Ordinance to render illegal indulgence in practices of the body known as the Shouters. Madam Vice-President this was the most draconian piece of legislation that was ever placed on our law books. It said:

“...any person to hold or take part in or to attend any Shouters’ meeting...to be held in any part of the Colony indoors or in the open air at any time of the day or night...”

So nobody could have held a prayer meeting. It further said:

“...any Shouters’ house to be erected...”—it prohibited that:

“...any Shouters’ house to be erected or maintained... or to shut up any person in any Shouters’ house for the purpose of initiating such person into the ceremonies of the Shouter.”

That is, Madam Vice-President, where you are indoctrinated in the religion by the mourning and then the baptism. That Ordinance was so draconian it said it made:

“...it lawful for any party of members of the Police Force...”—to enter—  
 “...without a warrant at any time of the day or night, any house, estate, land, or place in or on which such...Officer...may have good ground to believe or suspect that a Shouters’ meeting”—that is a prayer meeting “...is being held...”

Madam Vice-President, due to the hard work of Rev. Griffith and Albert Gomes on March 30, 1951, because of the tremendous struggles as I said of Rev. Griffith and Albert Gomes, this Ordinance was repealed.

### **8.50 p.m.**

Madam Vice-President, as we pass that this year be declared the Eric Williams year, we want to indicate to the nation that the repeal of this most draconian legislation was pioneered by Albert Gomes. His centennial birthday was on March 25 this year. As we support the celebration of Dr. Williams, I think not only those who are concerned but the whole society should take notice of the good work that Albert Gomes did and also celebrate his 100<sup>th</sup> anniversary. [*Desk thumping*]

Shortly after that, in 1956, the PNM came into government, and for 30 long years they were in power until they were removed in 1986. The United National Congress came into power in 1995 and, on Friday, January 26, 1996, the UNC declared the Spiritual Shouter Baptist Liberation Day a public holiday, on March 30. Only a few months in government and they listened to cries, hopes and aspirations of the Shouter Baptists.

At that time, the government had also granted them a parcel of land to build a school and other buildings. The PNM came back into power in 1991 and stayed for nine long years, 2001—2010. However, it is this Government, the People’s Partnership Government, that gave an undertaking—as a recognition of the good work that the Spiritual Shouter Baptists have performed—to build that school for which the UNC gave them the land. [*Desk thumping*]

Madam Vice-President, we feel that sense of appreciation and hard work of the Spiritual Shouter Baptists. They were concentrated in the area in which I live, Princes Town. I know all their practices; their traditions and they are well respected and have done a good job.

*Adjournment*

*Tuesday, March 29, 2011*

[SEN. THE HON. S. PANDAY]

We, on behalf of the Government and people of Trinidad and Tobago, wish the Spiritual Shouter Baptists a holy and spiritual Shouter Baptist Liberation Day.

**Sen. Pennelope Beckles-Robinson:** Thank you very much, Madam Vice-President. I, too, join my colleague, Sen. The Hon. Panday, in wishing the Spiritual Baptists a happy, peaceful, religious holiday tomorrow. We know that this holiday commemorates the repeal, on March 30, 1951, of the 1917 Shouters Prohibition Ordinance that prohibited the activities of the Spiritual Baptist faith. To our credit as a country, Trinidad and Tobago is the only country in the world that celebrates a public holiday for the Spiritual Baptist faith. [*Desk thumping*]

When we think of the Spiritual Shouter Baptist, we really think of the lessons we can learn. We learn about struggles; we learn about faith and belief. As Sen. The Hon. Panday said, they were a people who basically wanted the right, like everyone else, to practise their religion and were denied that right.

There were people like Pastor Tobias and Clementine Ford; those were persons, who, even before the repeal of the legislation, before 1917, challenged the police officers who were denying them that right to exercise their freedom of religion. Notwithstanding the struggles and challenges, they continued and struggled; they kept the faith. Not only did they do that, but they maintained their beliefs and up to today, even though in some countries they may be in a minority compared to other religions, they hold their heads with pride and are extremely proud of their religion.

Many of us can learn about that perseverance and that belief in a religion. Today, many of us may not understand their struggles because many of us have not taken the time to understand the Shouter Baptist religion and some of the other religions, the Orisha. Tomorrow, even though we have the holiday, some of us do not understand. I think we have gotten a lot closer. The holiday has meant that tomorrow on the newspaper there will be articles; and people have written a lot of books.

I also think it is important as a Parliament that we take time, not just to pay tribute, but also to congratulate and commend so many of those who have come long before, the Elton Griffiths, Tobias, Ford, Granville Williams; all of those who, in essence, would have struggled to ensure that those who are here now can practise their religion in a lot more comfortable way and with pride.

In a sense, the religion is almost indigenous to Trinidad and Tobago and a couple of other islands in the Caribbean, but it has now gone as far as the United States, China and some European countries. There has been the influence of Africa in terms of the drums and we know that there was even the prohibition of

*Greetings*

*Tuesday, March 29, 2011*

the beating of drums. Now they can celebrate and practise their religion in comfort.

Some of my colleagues are not here because today we are celebrating the life and times of Dr. Eric Williams. All of us could not leave. Some of us stayed and the others went.

I join as well with Sen. The Hon. Panday in recognizing the work of Dr. Eric Williams, Mr. Gomes and all the others. At the end of day, all we can say is that as time goes on and as we continue to celebrate this holiday, maybe it will be a part of the school curriculum—the history and struggles of the Baptist community—so that our children would really understand their struggles and have a better understanding of history.

I want to say, on behalf of all my colleagues on the PNM Benches and the Leader of the Opposition, to the Spiritual Shouter Baptist community, we congratulate you on your struggles and wish you a successful holiday tomorrow.

**Sen. Subhas Ramkhelawan:** Madam Vice-President, thank you for giving me the opportunity to speak on behalf of my fellow Senators on the Independent Benches and, indeed, the entire nation in joining with the Spiritual Shouter Baptists on this day of celebration.

It has already been expressed, the challenges that were faced by this community in achieving this recognition as a public holiday. While it is a day of celebration, it is a day for all of us to reflect that ours is a nation that has the potential to be great and it is exhibited very often in some of the things we do; one of which is that we do not want to have any community, any person, discriminated against.

We, as a nation, have taken that decision that any form of discrimination institutionalized against any of our citizens must be removed; whether it is religion, whether it is ethnicity or anything otherwise. We will not, as a nation, tolerate it and, certainly, from the Benches of the Independents, we will do all in our power to ensure that if there is any discrimination, we will fight with every bone in our body to ensure that it is removed.

As we celebrate and as we reflect, I thank the citizens of the Shouter Baptist community for enriching us with the way they worship and with the way they celebrate and with the rhythm and with all that is good. I want to join in that

*Greetings*

*Tuesday, March 29, 2011*

celebration and wish them well; not only tomorrow in that celebration, but in all the endeavours they pursue for the good of the community and the good of our society.

On behalf of the Independent Benches and all the citizens of Trinidad and Tobago, my very best wishes for a wonderful day tomorrow and beyond.

I thank you.

**Madam Vice-President:** Hon. Senators, I would like to add my own contribution to the Baptist community. The Baptist faith, as we know, contains elements both of the Christian faith as well as those of African rituals and beliefs. While the religion is not unique to Trinidad and Tobago, as Sen. Beckles-Robinson pointed out Trinidad and Tobago, as of this year, is the only country in the world that celebrates this particular public holiday in recognition of the Spiritual Baptist faith.

I would like to recognize, as well, the work of the late Ashford Sinanan, who was the then Opposition parliamentarian who moved the Motion in Parliament to repeal the Shouter Prohibition Act that was under the former administration. I also pay recognition to the government of the United National Congress, in 1996, which granted the public holiday and, ironically, chose the same date, March 30, which was the date of the repeal of the prohibition.

I wish the Baptist community all the best for the public holiday tomorrow and allow me, please, to thank those persons, on behalf of all the parents who are in this particular Chamber, including myself, whose children would have written the SEA exam; as well as to the 17,000-plus children as they move forward. They have breathed today a collective sigh of relief, joined by their parents, after weeks of intense preparation. I urge parents as well as those children to take the time to re-energize and to reaffirm as they move in preparation for the next step of secondary life in our nation.

*Question put and agreed to*

*Senate adjourned accordingly*

*Adjourned at 9.03 p.m.*