

SENATE*Wednesday, January 31, 2023*

The Senate met at 1.30 p.m.

PRAYERS[MR. PRESIDENT *in the Chair*]**SENATOR'S APPOINTMENT**

Mr. President: Hon. Senators, I have granted leave of absence to Sen. The Hon. Reginald Armour, SC, who is out of the country.

Hon. Senators, I have received the following correspondence from Her Excellency the President Paula-Mae Weekes, O.R.T.T.

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By Her Excellency PAULA-MAE WEEKES,
O.R.T.T., President of the Republic of Trinidad
and Tobago and Commander-in-Chief of the
Armed Forces.

/s/Paula-Mae Weekes

President.

TO: MR. NDALE YOUNG

WHEREAS Senator the Honourable Reginald T.A. Armour is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW THEREFORE, I, PAULA-MAE WEEKES, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, acting in accordance with the advice of the Prime Minister, do hereby appoint you, NDALE YOUNG to be a member of the Senate temporarily, with effect from 31st January, 2023 and

UNREVISED

continuing during the absence from Trinidad and Tobago of the said Senator the Honourable Reginald T.A. Armour.

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 30th day of January, 2022.”

AFFIRMATION OF ALLEGIANCE

Senator Ndale Young took and subscribed the Affirmation of Allegiance as required by law.

DELEGATION (Assembly of Zambia)

Mr. President: Hon. Senators, I wish to advise that a delegation from the National Assembly of Zambia comprising the Second Deputy Speaker, The Hon. Frank Moyo MP and Leader of the Delegation; Mrs. Loveness Maambo Mayaka, Acting Deputy Clerk, Administration; Mr. Thokozani Kamanga, Principal Clerk, Parliamentarian Reform Programme and Mr. Tobolo NC Situtu, International Relations Officer are present in the Chamber for today's proceedings. I ask you to join me in welcoming the delegation to the Senate of the Republic of Trinidad and Tobago.

Hon. Senators: [*Desk thumping*]

PAPERS LAID

1. Annual Report of the National Information and Communication Technology Company Limited for the period 2020 to 2021. [*The Minister of Digital Transformation (Sen. The Hon. Hassel Bacchus)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Port of Spain Corporation for the financial year

ended September 30, 2012. [*The Minister of Foreign and Caricom Affairs (Sen. The Hon. Dr. Amery Browne)*]

3. Ministerial Response of the Ministry of Finance to the Sixth Report of the Public Administration and Appropriations Committee on the examination into the internal controls expenditure and the accessibility and availability of diagnostic imaging services at Public Health Institutions with specific reference to the Tobago Regional Health Authority. [*Sen. The Hon. Dr. A. Browne*]
4. Response of the Tobago House of Assembly to the Sixth Report of the Public Administration and Appropriations Committee on the examination into the internal controls expenditure and the accessibility and availability of diagnostic imaging services at Public Health Institutions with specific reference to the Tobago Regional Health Authority. [*Sen. The Hon. Dr. A. Browne*]
5. Freedom of Information (Exemption) (Amendment) Order, 2023. [*Sen. The Hon. Dr. A. Browne*]
6. Ministerial Response of the Ministry of Labour to the Seventh Report of the Public Administration and Appropriations Committee on the examination into the implementation of the Public Sector Investment Programme for fiscal year 2021. [*Sen. The Hon. Dr. A. Browne*]
7. Ministerial Response of the Ministry of Education to the Ninth Report of the Public Accounts Committee on the examination of the administration of the CAPE Scholarship Programme as reported on in the Special Audit Report within the Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the financial year 2019. [*Sen. The Hon. Dr. A. Browne*]

URGENT QUESTION**Buccoo Reef Fast Ferry
(Mechanical Failure)**

Sen. Wade Mark: Thank you, Mr. President. To the Minister of Works and Transport: In light of the recent mechanical failure of the Buccoo Reef Fast Ferry and the resulting inconvenience to travellers using the sea bridge, can the Minister indicate what measures are being taken or implemented to address this problem?

Mr. President: The Minister of Works and Transport.

Hon. Senators: [*Desk thumping*]

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan):

Thank you, Mr. President. Mr. President, the mechanical issue experienced by the Buccoo Reef Fast Ferry on Monday 30th January which resulted in a pump malfunctioning, was rectified yesterday and the boat is back in service today. Thank you.

Hon. Senators: [*Desk thumping*]

Sen. Mark: Can I ask the hon. Minister, through you, whether all the engines, I understand four of them, can the Minister advise this honourable Senate whether all four engines on this very is spanking new vessel, costing the taxpayers over \$500 million—

Mr. President: Question!

Sen. Mark: —are these engines, Mr. President, functioning? Can the hon. Minister clarify whether all four engines are functioning, seeing that the Minister has said that a pump broke down?

Mr. President: Sen. Mark.

Sen. Mark: Sorry Sir. Sorry Sir, I am guided.

Mr. President: The Minister of Works and Transport.

Sen. The Hon. R. Sinanan: Mr. President, I want to assure you and this nation

that those beautiful, spanking new vessels are working beautifully. Thank you.

Hon. Senators: [*Desk thumping*]

Sen. Mark: Can the hon. Minister verify, deny or confirm that out of the four engines on that particular vessel only three are currently functioning, can the Minister confirm or deny this statement?

Mr. President: I will not allow that question Sen. Mark.

Sen. Mark: Do I have another chance?

Mr. President: No, you do not. Sen. Mark that is the end of Urgent Questions today.

ORAL ANSWERS TO QUESTIONS

The Minister of Foreign and Caricom Affairs (Sen. The Hon. Dr. Amery Browne): Mr. President of the Senate, I am pleased to indicate that there are three questions for oral answer on the Order Paper and the Government is prepared to answer all, 100 per cent, of these questions.

Hon. Senators: [*Desk thumping*]

Ministry of Agriculture, Land and Fisheries, National Flour Mills and Aripo Livestock Station (Establishment of Partnership)

28. Sen. Wade Mark asked the hon. Minister of Agriculture, Land and Fisheries:

Can the Minister indicate when will the partnership among the Ministry, the National Flour Mills and the new owners of the Aripo Livestock Station be established?

The Minister in the Ministry of Agriculture, Land and Fisheries (Sen. The Hon. Avinash Singh): Thank you, Mr. President. As one of the top feed producers in this country, National Flour Mills offers technical support and designs specialized feed depending on the needs of its clientele. In 2022 Aripo Livestock

Limited contacted the NFM requesting technical support to improve its dairy cows' condition and milk production. NFM began the process to develop a newly specially formulated feed to enhance the cows' milk production, and this was purchased by Aripo Livestock Limited.

Trials then began from June 1st 2022, and Aripo Livestock Limited committed to provide the results to the Ministry of Agriculture, Land and Fisheries. This trial run is currently ongoing where the effects on animal health and productivity monitored are recorded. The quality and composition of the feed is also being monitored. Aripo Livestock Limited has indicated that the trial will continue for an additional three months.

Mr. President, the Ministry of Agriculture, Land and Fisheries remains committed in providing the shared data to livestock farmers across this country to help improve their decision making, productive capacity and quality of milk when testing is completed. Thank you.

Sen. Mark: Mr. President, can I ask, through you, to the hon. Minister, whether he can share with this honourable Senate the purchase price for technical services provided to this Aripo Livestock Station by the National Flour Mills?

Sen. The Hon. A. Singh: Mr. President, unfortunately I do not have that information before me.

Sen. Mark: Can I ask, through the President, that you provide it to this honourable Senate in the next, or by the next sitting?

Mr. President: Is that another supplemental?

Sen. Mark: Yes, I am asking.

Mr. President: Minister in the Ministry.

Sen. The Hon. A. Singh: Mr. President, as Sen. Mark would know, this trial is ongoing between NFM and the Aripo Livestock, and I will ask NFM to see if they

can provide that. But as I understand it, it is a confidential arrangement, and I will leave it there for now.

1.45 p.m.

Sen. Mark: Can I ask the Minister whether other livestock farmers are able to access on the same level as the Aripo Livestock Station similar technical services from the National Flour Mills?

Mr. President: Minister in the Ministry.

Sen. The Hon. A. Singh: Yes, Mr. President. As I have indicated in the body of my response, NFM being a wholly state-owned entity designs specialized feed depending on the needs of the clientele. So I thought that would answer Sen. Mark's question.

Mr. President: Sen. Mark.

Sen. Mark: Mr. President, in light of the private nature of this partnership at the current moment, can the Minister indicate whether this said private entity that is now in charge of the Aripo Livestock Station has accessed other governmental facilities during the last period?

Mr. President: I will not allow that question, Sen. Mark. Next question on the Order Paper.

Sen. Mark: Mr. President, is the private sector that was supposed to provide technical skills and knowledge—

Mr. President: Sen. Mark, Sen. Mark that was four supplementals. Next question on the Order Paper.

Sen. Mark: Oh, I beg your pardon, Sir.

Police Service Commission Insufficient Finances (Steps Being Taken)

29. Sen. Wade Mark asked the hon. Minister of Public Administration:

In light of May 2022 reports identifying insufficient finances as one of the

factors negatively affecting the operations of the Police Service Commission, can the Prime Minister indicate what steps are being taken to address this issue?

Mr. President: Minister of Public Admin.

Hon. Senators: [*Desk thumping*]

The Minister of Public Administration (Sen. The Hon. Allyson West): Thank you, Mr. President. Mr. President, it is unclear to which report Sen. Mark refers. But contrary to the impression sought to be created by his question, the Service Commission as a whole, received an allocation in 2023 of \$78.4 million which exceeded its 2021 allocation and the original allocation for 2022. If there was in fact a shortfall in the allocation to a specific line Item or line Items for the Police Service Commission, it could easily be addressed by virements, which is a routine and common place exercise and it could be corrected in the mid-year review as has been done in the past.

In fact, Mr. President, the chairman of the Police Service Commission was assured that any funds reasonably needed for the conduct of the operations of the Service Commission would be made available and this has been done.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. A. West: Thank you, Mr. President.

Mr. President: Sen. Mark.

Sen. Mark: Mr. President, having regard to the nature of the work being performed by the Police Service Commission, can the Minister indicate whether part of that \$78 million allocated for fiscal would incorporate those commissioners being made full time commissioners rather than part time commissioners as currently exists?

Mr. President: I will not allow that question, Sen. Mark. Next supplemental.

Sen. Mark: Can the Minister indicate for our information what was the allocation to the Police Service Commission in 2021/2022 that you have said far exceeded, well not far exceeded, the 2023 allocation of 78.

[Device goes off]

Mr. President: Okay, could the Senator with the offending device please exit the Chamber. Put the device on silent and then you may return.

Sen. Mark.

Sen. Mark: Yeah. Mr. President, I just want to ask the hon. Minister whether she can share with us what was the allocation to the Police Service Commission in 2020/2021.

Mr. President: Minister of Public Admin.

Sen. The Hon. A. West: Mr. President, I do not have those details with me. What I can do is reiterate that the 2023 allocation exceeded the allocations for both of those prior years.

Mr. President: Sen. Mark.

Sen. Mark: Yeah. I can proceed, Sir? Can I proceed?

Mr. President: Yeah, next question if you are moving on to the next question.

Digicel Price Increase (Measures Taken)

30. Sen. Wade Mark asked the hon. Minister of Digital Transformation:

Given a May 2022 report which states that Digicel will be increasing the prices of its broadband internet services, bundles and add-ons provided to its customers for the second time in less than one year, can the Minister state what measures will be taken by the Telecommunications Authority of Trinidad and Tobago to address frequent price increases?

Mr. President: Minister of Digital Transformation.

Hon. Senators: *[Desk thumping]*

The Minister of Digital Transformation (Sen. The Hon. Hassel Bacchus):

Thank you, Mr. President, and thanks for the question, Sen. Mark. As the independent regulator overseeing the telecommunications and broadcasting sector, the Telecommunications Authority of Trinidad and Tobago closely monitors the operations of all concessionaires and this includes continuous monitoring of the 11 Internet service providers in Trinidad and Tobago, including Digicel Trinidad and Tobago Limited.

The Authority does this in accordance with the objectives of the Telecommunications Act, Chap. 47:51 which mandates that the Authority establish conditions for, and I quote:

“(a) an open market for telecommunications services including conditions for fair competition, at the national and international levels;”

Digicel, in accordance with the terms of its concession, wrote to TATT in March of 2022 indicating its intent to increase the prices on some of its broadband Internet services, bundles and add-ons. It had previously done so in April of 2021. At that time in 2021, the TATT reviewed the proposed increases and the reasons given and engaged Digicel, seeking reductions in some of the proposed increases especially for entry level packages. Digicel did agree to some reduced increases and that went its way. As for March 2022 the TATT took similar approach that it did in 2021.

It is important to note that in section 29 of the Act:

“(1) Prices for telecommunication services...shall be determined by providers

in accordance with the principles of supply and demand in the market.

(2) The Authority may establish price regulation regimes...”—only in instances where evidence of dominance, cross-subsidization or

“...detects...acts of unfair competition.”

None of the conditions for price regulations have been met.

The Authority continues to foster fairness in the market place by advocating for consumer rights, such as the right of service access, facilitating an over-market so consumers can have a variety of choice of these services available, the right to complaint and redress, and protecting customers who remained dissatisfied with service product even after seeking to have the matter resolved with the operator and the right for information by ensuring information is easily available to customers and the cost of various provided services by the concessionaire. The Authority will continue to monitor the market place and act appropriately to ensure fair competition exists. Thank you, Mr. President.

Mr. President: Sen. Mark.

Sen. Mark: Yeah. Mr. President, in terms of fair competition, through you, can I ask the hon Minister whether TATT considered these draconian increases to services provided by Digicel constituted fairness for a captive, consuming public in Trinidad and Tobago? Can the Minister clarify the fairness of these recent increases?

Mr. President: Minister of Digital Transformation.

Sen. The Hon. H. Bacchus: Thank you, Mr. President, thank you, Sen. Mark. Maybe when I did this before, fair deals with competition, open competition in the market. There are 11 providers, which means that the public has choice. If Digicel increases their rates to something that they do not like, and this is from the consumer level, they are free to so move and change to any other provider of their choice. Eleven of them exist. So the Authority will seek to see if there is anything going on in terms of malfeasance, namely of the three things that were provided and if none of that exists it will simply use moral suasion to get them to where—

[Inaudible]

Mr. President: Sen. Mark.

Sen. Mark: Can I ask through you to the hon. Minister, how often, through you, Mr. President, can the Minister share with us, providers such as Digicel in the context of fair competition and fairness and all the elements outlined, would approach the TATT to justify increases in their prices re: services to the population. How often do they approach TATT for permission or consent within the parameters that you have outlined?

Mr. President: I will not allow that question Sen. Mark. Next supplemental.

Sen. Mark: I can proceed, Mr. President, thank you very much.

**DATA PROTECTION ACT, 2011
(PROCLAMATION OF REMAINING SECTIONS)**

Sen. Wade Mark: Thank you, Mr. President. Mr. President, I beg to move the following Motion standing in my name:

Whereas it is provided by section 1(2) of the Data Protection Act, 2011 that the Act shall come into operation on such day as is fixed by the President by Proclamation;

And whereas Part 1 and sections 7 to 18, 22, 23, 25(1), 26 and 28 of the Act were operationalised on January 06, 2012 and section 42(a) and (b) were operationalised on August 20, 2021;

And whereas there are other sections of the Act that offer the necessary checks and balances in safeguarding the personal data/information of every citizen;

Be it resolved that the Senate call on the Government to immediately proclaim the remaining sections of the Data Protection Act and in the process ensure the necessary checks and balances aimed at safeguarding citizens' fundamental right to privacy.

Mr. President, a healthy society is dependent on trustworthy information in any nation. Today I have brought this Private Members' Motion to address a very critical issue that fundamentally impacts on the privacy, dignity and democracy of our nation. That is, the right of every citizen under the Data Protection Act to have his or her private data, private sensitive personal confidential information protected and safeguarded by the Government and by extension the State through the necessary checks and balances.

Mr. President, let it be made very clear, when we look at the Data Protection Act we would recognize that the Data Protection Act represents a fundamental enhancement and elevation of the citizens' fundamental human rights.

2.00 p.m.

I want to say from the very outset that the Constitution of the Republican State of Trinidad and Tobago protects the rights of each citizen to privacy and that is entrenched under sections 4 and 5 of our Constitution. Anyone can look at that section 4 to recognize that privacy right that we all enjoy.

So therefore, Mr. President, this Motion is seeking to address what I would like to describe as the absence of the necessary and appropriate checks and balances in order to safeguard and protect our personal data, our personal information. And I will demonstrate, as I proceed to prosecute this Motion, how the separation of powers is being impacted negatively by the Government's refusal to proclaim the Data Protection Act and all its provisions under the Data Protection Act that I have before me, Mr. President.

Mr. President, I do not know if you are aware but we have over 100 sections of the Data Protection Act. And that Data Protection Act makes it very clear that if anyone wishes to access any citizen's personal data, there are provisions in the law that gives that person the right to object. And without consent, you cannot invade,

you cannot access, you cannot extract a citizen's personal data. Just to emphasize the importance of the data protection, I want to draw Members' attention to section 4 of the Data Protection Act which states, and I quote:

“The object of this Act is to ensure that protection is afforded to an individual's right to privacy and the right to maintain sensitive personal information as private and personal.”

This is in section 4 of our Data Protection Act. The Government of Trinidad and Tobago did not proclaim section 4 of the Act. So you and me and the citizens of T&T have no protection, Mr. President.

And you know what the Government of Trinidad and Tobago did through a proclamation, as I outlined in the actual Motion? The Government of Trinidad and Tobago, right, Mr. President, went to section 42 of the Data Protection Act and on the 20th of August, 2022, the then Acting President proclaimed section 42(a) and (b), and you would see in (a) and (b) of section 42 that the Government was given access to personal data, and it says that:

“for the purposes for which the information was collected or compiled by the public body or for a use consistent with that purpose;”

So the Government went to 42, invoked and proclaimed section 42 of the Act which allows the Government to provide public bodies and the law tells you what is a public body. So when you go to the Interpretation section of the legislation:

“‘public body’ means—

(a) the Office of the President;

(b) Parliament...”—joint select committees, the courts of Trinidad and Tobago—

(d) the Cabinet...”—all Government Ministries, departments, agencies—

(e) the Tobago House of Assembly...”—municipal corporations.

All of these are public bodies, Mr. President. And you have state enterprises, you have statutory authorities, all of these under the definition of “Public Body”.

So what the Government did, Mr. President, is to cherry-pick section 42(a) and (b) and proclaimed it so that public bodies under this section of the Act can now share between and amongst themselves personal, private, confidential, data of every citizen in the Republic of Trinidad and Tobago without their expressed consent. The Data Protection Act makes it very clear that no public body can use your personal data without your consent but those provisions have not been declared, have not been proclaimed by the Government.

So, Mr. President, you now have a situation where personal data is now accessible without your consent and without my consent by any public body; any public body. T&TEC can give your personal data to the Government, Board of Inland Revenue. WASA can give your personal data to the Board of Inland Revenue. Any public bodies that you are in contact with, Mr. President, that you provide private and confidential data to, can now under this proclamation of 42(a) and (b) provide that to any public body without your consent.

Now, Mr. President, this is highly troubling, it is highly disturbing because what it means is that that proclamation that took place on August 20th and which came into effect on August 23, 2022, Mr. President, gives a certain amount of authority to the Government to interfere with your personal information and personal data.

Mr. President, under the Interpretation section of the Data Protection Act, hear what personal information means. Personal data information means the:

“...identifiable individual that is recorded in any form...”

One:

“information...”—related—“to the race, nationality or ethnicity...of the individual;”

It deals with one’s:

“...religion, age or marital status...”

It deals with:

“information relating to one’s education or...medical, criminal or employment history...”—and records.

It also refers to any financial information and/or transactions that you might be involved in. It deals with the individual’s telephone number, the person’s address, any correspondences you may have had with any public body. The Government can now have access to all of that information without your consent, without your permission. So this is a very serious matter.

We had a similar situation with the Equal Opportunity Act when the Government failed to fully proclaim it and it had to reach the Privy Council. And it is as a result of a judgment out of the Privy Council called the Suratt judgment, I think, on the proportionality principle, that the Government was forced to proclaim the Equal Opportunity Act as law.

So what we have today is a situation, Mr. President, where the Government has ignored certain fundamental aspects of the Data Protection Act in order to provide the necessary safeguards and checks and balances fundamentally required to avoid any arbitrary use, abuse or misuse of the your private, personal, sensitive, confidential data.

Mr. President, you know what is extremely troubling about what we are addressing today? What is troubling about what we are addressing today is that the Government of Trinidad and Tobago, right, did certain things and I need to bring it to your attention. In the Government’s haste to roll out the property tax, the

Government required the population of the valuation roll and to get the valuation roll up to a certain threshold, 50 per cent or above, the Government needed certain pieces of information and the public was not cooperating with the Government.

2.15 p.m.

So what the Government did, Mr. President, is that the Government literally instructed the Valuation Division to share confidential information with the Board of Inland Revenue. But the Permanent Secretary in the Valuation Division, or what is called the Commissioner of Valuations, wrote, Mr. President, to the Permanent Secretary in the Ministry of Finance saying that they could not share data, because sharing data of a private and confidential nature would be in breach of section 42(a) and (b) of our data protection law. And they advised the Government through the Permanent Secretary in the Ministry of Finance, that they have two options, either repeal the entire Data Protection Act, or they will have to proclaim certain sections of the Data Protection Act. The Government opted to proclaim section 42(a) and (b) of the Data Protection Act. And Mr. President, in declaring those sections, as I said, what the Government did in essence, was literally going behind the backs of the population to access their private data through this particular proclamation without their knowledge and, Mr. President, that is troubling, that is disturbing, and that is concerning.

Mr. President, I have a memorandum out of the Valuation Division dated August the 10th, 2021, subject matter, the effect of section 6(c) of the Data Protection Act on Valuation Division's ability to share data with the Board of Inland Revenue and the Ministry of Rural Development and Local Government. And in this memorandum, I would not call the gentleman's name, I respect the public officer, he is just doing his duty, but he was then Acting Commissioner of Valuations, and he signed this document, this memorandum, which was addressed

to the Permanent Secretary in the Ministry of Finance, and Mr. President, it is dated the 10th of August 2021.

And this memorandum was essentially designed to pickpocket, hijack information without the consent, without the expressed permission of the citizens of Trinidad and Tobago and allow the Valuation Division to provide that information to the Board of Inland Revenue in order to facilitate the Government's population of the valuation rolls, in order to effect the property tax.

Now, Mr. President, I want to you to understand the gravity, the severity, the seriousness, involved in this matter. Citizens are unaware that T&TEC, postal services or corporation, WASA, are now providing confidential information that you provided to WASA to connect your lines when you were constructing your house. They are doing that without your permission, and they are providing that to the Valuation Division, to the Board of Inland Revenue in order to populate the valuation roll, so that the Government can effect the property tax.

Mr. President, I want to serve notice today on the Government of Trinidad and Tobago, this action on the part of the Government of Trinidad and Tobago is unlawful, it is illegal, and it is unconstitutional.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: We intend to take the appropriate legal measures to safeguard, and protect, and defend the rights of every single citizen—

Hon. Senators: [*Desk thumping*]

Sen. W. Mark:—to protection of the personal data in Trinidad and Tobago.

Mr. President, this matter is so grave and so serious that you know what, Mr. President, in the European Union—this matter is so serious that even in the European Union they have taken action, Mr. President. And under something called, Mr. President, the “Charter of Fundamental...”—human—“...Rights of the

European Union”, or put it another way, the “Charter of Fundamental Rights of the European Union” under Article 8 of this Fundamental Right, there is an Article 8 that says:

“Everyone has the right to the protection of personal data concerning him or her.”

Mr. President, may I repeat this for you? Under the charter of human fundamental rights or the “Charter of Fundamental...”—human—“...Rights...”—in—“...the European Union”, Article 8, says that:

“Everyone has the right to the protection of personal data concerning him or her.”

So here it is, the Government of Trinidad and Tobago, conscious of this fundamental human right of data protection, conscious of our right to privacy under our Constitution, the Government of Trinidad and Tobago being in power for almost eight years, August the 7th of 2023 will make it eight years since the Government has been in office. And for those eight years the Government never proclaimed the Data Protection Act, they never. Only in 2022, the Government decided to cherry-pick and to deal with one section, one section, to allow them access to your private and personal data.

Mr. President, if you go to the Data Protection Act you will see where in 2012, under the hand or pen of the then President, and may his soul rest in peace, Maxwell Richards, he proclaimed in January of 2012, certain sections of the Data Protection Act, and those sections, Mr. President, were aimed at laying or establishing the infrastructure. So there is a provision under this Data Protection Act called the “Office of Information Commissioner.” And that office is a very powerful office because it audits it the information and actions taken by any public body with respect to data, information, but because that office of commissioner of

information has not been proclaimed, we have no protection whatsoever.

Mr. President, I want you to journey with me to really understand the seriousness of providing information to any administration without any checks and balances. You know, there is a saying that information is knowledge, and knowledge is power. So here it is Mr. President, the Government, which is the largest custodian of information of your personal character or nature, is offering no protections. They are offering no safeguards. They are offering no checks and balances to the citizens of Trinidad and Tobago, and they are going into your telephone numbers. They are going into your mobile numbers.

May I remind you, Mr. President, that there is something called cyber surveillance software? The cousin to Pegasus is in Trinidad and Tobago. And Mr. President, if you study the accessibility of cyber surveillance software with the access just of your mobile phone number, which the Government has on every citizen in Trinidad and Tobago as we speak, who have access to mobile services. Mr. President, that data and access to your mobile can give those persons outside of your reach, and without your consent and knowledge access to every e-mail, every WhatsApp on your system without your knowledge. It can tell them your movements; they can take camera shots of you wherever and whenever.

So Mr. President, what I am advancing to you, and through you to this hon. House, is that what the Government has done without proclaiming the entire law, all the 101 provisions is to allow an Orwellian nightmare in Trinidad and Tobago. It is big brother watching you, and I do not think, Mr. President, that is the objective of the data protection law. The data protection law came in conjunction with the electronic transaction legislation, because people were now going to do everything electronically. And if you are going to do everything electronically, you have to provide data and information, and in order to protect you from any

arbitrary misuse of your personal data when you are conducting electronical transactions, the Data Protection Act was passed.

So the question that I ask today, Mr. President, is this: Is the Government of Trinidad and Tobago guilty of deliberately frustrating the will of the Parliament of the people of Trinidad and Tobago, in the context of the separation of powers?

2.30 p.m.

The executive has no control over the legislature. Under the concept of the separation of powers, when we pass a law in the Parliament, the executive must implement the law.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: They must operationalize the law.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: You cannot frustrate the will of the people and their representatives in the Parliament. And that is what the Government has been doing for the last eight years. They have frustrated the will of the people and they have undermined in an indirect and direct way, the Parliament of Trinidad and Tobago. So, Mr. President, I raise these issues with you and my colleagues today to bring to your attention the dangers to our privacy, the dangers our dignity and the dangers to our democracy with this kind of arbitrary behaviour.

Mr. President, may I tell you also, it did not stop in the Data Protection Act alone, you know. I have a Bill, which is now an Act, Act No. 21 of 2022. It was assented to on the 14th of November, 2022. We all took part in this debate. It is a finance Bill, literally, Mr. President. You know what this Government did, when we debated this matter? Under section 6 of the Finance Act of 2022, the Government amended the valuation Act. And you know what they did, Mr. Vice President? The valuation Act allowed the Commissioner of Valuations to access

information, which shall be provided to him when he writes to you and me and the citizenry in Trinidad and Tobago. It was confined only to the following office holders, or public bodies I should say:

- “(a) the Board of Inland Revenue;
- (b) the Registrar General;
- (c) the Registrar of the Supreme Court;
- (d)”—and employees—“employed in...”—departments related to—
“Government...”—activities and operations.

You know what the Government did by amending section 14 of the valuation Act? They incorporated the following bodies. And Mr. President, may I say—may I read, I should say, what section 6 says? It says that:

“The Valuation of Land Act is amended by repealing section 14 and substituting the following section:”

And these sections are designed to provide the Commissioner Valuations with the required information, Mr. President. When you talk about information you have to go to the Data Protection Act for the definition of information. So, this provision in section 6 of the Finance Act, the Government incorporated the following new bodies:

- “(e) the Trinidad and Tobago postal Corporation...”
- (f) the Water and Sewerage Authority...”
- (g) the Trinidad and Tobago Electricity Commission...”

Now, Mr. President, this section goes on to say that:

All—“information...”—in possession of these bodies can now be provided—
“...to the Commissioner...”—of Valuations.

And the word “mandatory” I say shall—“shall be”—provided on an approved form by the Commissioner of Valuations and:

“...within the timeframe prescribed by the Minister, by Order.”

So, Mr. President, not only the Data Protection Act, now allows the Government to access your personal private and sensitive information, but the Government went further in 2022, through Act. No. 21 of 2022, to compel T&TEC, to compel the Postal Corporation of Trinidad and Tobago, and to compel T&TEC, the Trinidad and Tobago Electricity Commission to provide him with all the information that he, that is, the Commissioner of Valuations requires of you and if you do not do it, there are penalties.

Now, in undemocratic or authoritarian fascist oriented states, that is the behaviour of modern day autocrats.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: Hitler, in Germany, controlled the information machinery. That is why he was effectively in charge of Germany. Nothing could have taken place in Germany without Hitler’s knowledge. And he had a fella called Goebbels, propagandists, number one. And, Mr. President, you see, information is life. That is like breathing, that is like oxygen. If you do not have information it is like you do not have oxygen to breathe. And when a government has total control of the information machinery, they can do anything and everything that they want without your knowledge. That is a dangerous road that we are on. And that is why I have brought this Motion to call on the Government, proclaim the entire law, proclaim the 101 provisions in the legislation.

Mr. President: Sen. Mark, you have 5 more minutes.

Sen. W. Mark: Mr. President, yeah—Mr. President, proclaim the entire legislation. That is in the interest of the public. But why they are not doing it, is because the name of the game is control. The Government wants to control the minds, the hearts, the souls of the people of Trinidad and Tobago. My telephone,

my mobile phone, Mr. President, if you call me you cannot have a proper conversation with me. I am hearing all kinds of noises in the background. The SSA is at work. The SSA is at work. I cannot talk to you. I have to call you over and over.

Hon. Senators: [*Laughter*]

Sen. W. Mark: Because the SSA using cyber surveillance software is spying on everybody in Trinidad and Tobago.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: And they are accessing your data without your knowledge. This thing about WhatsApp, that is a waste of time. The Government has the technology to decrypt—you know it has “encrypt”, well they have the power to decrypt.

Hon. Senators: [*Laughter*]

Sen. W. Mark: And they can decrypt your information and get all your email, all your WhatsApp, all your telephone numbers, all your contacts, knowing where you are going. “Anybody who hornin’ dey wife, dey in trouble.” Because look, look, they have the—

Hon. Senators: [*Desk thumping*]

Sen. W. Mark:—they can tell you where you are and what time, where. That is what the power of the cyber surveillance software does.

So, Mr. President, this is serious business and that is why I have called—I am calling on the Government today to proclaim the entire legislation, provide the checks and balances provide the safeguards.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: Mr. President, in closing, in closing, proportionality, Sen. Vieira, versus disproportionality. If you proclaim only a portion of the legislation, and

you leave a large chunk unproclaimed, Mr. President, this is a disproportionate matter. It makes the law unconstitutional, it makes the law illegal because the protections that the people have, the Government has failed to proclaim those sections.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: So no safeguard, no checks and balances. We do not live in a fascist state, Mr. President, we do not live in a fascist state. And I am calling on the Government through this Private Members' Motion, to take immediate action to proclaim the entire Data Protection Act to give all the citizens the protection that they require, so that they can live in dignity, they can protect their privacy—

Hon. Senators: [*Desk thumping*]

Sen. W. Mark:—and we can allow our democracy to flourish and to grow and to expand. Mr. President, I beg to move.

Hon. Senators: [*Desk thumping*]

Mr. President: Hon. Senators, this Motion requires a seconder.

Sen. John: I beg to second the Motion and reserve my right to speak at a later time.

Mr. President: The Motion has been seconded by Sen. John.

Question proposed.

Mr. President: Minister of Digital Transformation.

Hon. Senators: [*Desk thumping*]

The Minister of Digital Transformation (Sen. The Hon. Hassel Bacchus):
Thank you, Mr. President. I, having paid close attention to Sen. Mark's discourse, I have very little choice but to try to correct for the record some of the things that were stated. Mr. President, I must apologize for you for the fact that I do not have Sen. Mark's flair for the extravagant and for the verbosity that he has.

Hon. Senator: [*Inaudible*]

Sen. The Hon. H. Bacchus: And I certainly do not have his capacity for imagination, and extension of—

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

Sen. The Hon. H. Bacchus:—the latter part of his discourse rarely took me in a different direction and had me wondering, particularly with the noises that he is hearing within his phone, and who he attributed it to, I have no such problem. A substantive part of what he said dealt with the proclamation of parts 42(a) and 42(b). And if you were to take what he says to be fully literal, I could understand how a public could find itself in tremendous fear. But let me use the same legislation and deal with why I believe they do not have to be as fearful as Sen. Mark wants them to believe.

2.45 p.m.

With sections 42(a) and (b) being proclaimed, what really happened here? Well, part of it is when personal information may be disclosed. And it says the circumstances for which:

“...personal information under the control of a public body may only be disclosed—

(a) for the purposes...collected or...use consistent with that purpose...”—or pursuant—

“(b) ...with any written law...”

That has not changed. So you are not going to be collecting your medical information and giving it to the Inland Revenue. It was not collected for that purpose. But just to be even more sure, and I want, through you, Mr. President, for the public to understand this, that notwithstanding the partial proclamation of this, all organizations, all organizations—public and private—are obliged under the Act

to comply with the General Privacy Principles.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. H. Bacchus: And the General Privacy Principles are set out in section 6. By the way, Mr. President, section 6 is proclaimed, and just some of the details. The General Privacy Principles are the following principles that are applicable to all persons who collect, retain, manage, use, store or process personal information belonging to another person—data controllers, et cetera, et cetera. The organization is:

- “(a)...responsible for...personal information under its control;
- (b) the purpose for which...”—the—“information is collected is...”—to—
“be identified before or at the time of collection;
- (c) knowledge and consent of the individual are required for the collection, use and disclosure of personal information;”

And:

- “(d) collection of personal information...”—to—“be legally undertaken and...limited to what is necessary...”—for—“purpose...”

I can go on and on and on. And what I am trying to say, Mr. President, is that this flight of fantasy that took us down into places where only a very creative mind could go, really was only about noise.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. H. Bacchus: I can agree—and there are other parts of what was said, I will deal with it later as I go on. But I can agree that there is significant value in data and information. As a matter of fact, I actually agree that more of the Data Protection Act should be proclaimed and for good reason, and the reasons were stated. It does have a significant part to play in ensuring the necessary checks and balances are in place to safeguard fundamental rights, without question, and it

will happen. But the adoption and utilization of appropriate technology is one of the critical success factors that we have to have if we want to get to where we have to get to as a digital society. And the information that is being collected by various organizations, Ministries, divisions, agencies and the private sector, all of those things still have to fall under these general regulation rules. I really did not get it. I really did not.

If we have to continue—and Sen. Mark, I think, said it well when he said that almost everything is going to be done electronically soon enough. And so, as we work to get more parts of the Data Protection Act proclaimed, and the words I use are “work to get more parts of it proclaimed”, those things would become necessary as we advance our digital agenda. So let me start a lil bit and tell a bit about what that digital agenda is, and you will understand why it is relevant.

Digital strategy is really built on two foundational layers. The first layer, strangely enough, is about ensuring that everyone has access to technology, simple enough. The Government has stated its position where that is concerned. It is our belief that affordable broadband Internet is a public good and, as such, it should be ubiquitous, reliable and available to all. Our commitment to connect the underserved continues and we work along with a number of programmes to do that.

You also have to ensure that everyone has access to the devices and the things that are required to utilize that technology. We also have to build awareness and campaigns to make sure that people have confidence in the safe use and a secured environment within that technology. We are doing all of that. But the other foundational layer is being built on concerns that the content and applications that define the uses to which technology is being put. In other words, not just that you have access to ways to use it, but you have to be concerned about the content

and the applications that actually use it.

So the primary building block is easy. It is establishment of infrastructure, but the source of the secondary piece is data, and that is why the Data Protection Act is actually important. It is an enabler for digital transformation and, by extension, national development. So we will and must proclaim other layers of it, but you cannot just do this—one of bad words that was used in that Motion was “immediate”. I do not think you could quarrel about the value of having the Data Protection Act and most of it proclaimed, but that immediacy is part of a problem.

Considering how to manage data is one of the highest priorities that we have because it is absolutely critical. The thing is, we have to find the balance between our responsibility to protect the identity and privacy of our citizens, and the need to put effective systems and processes in place to enable to make sure that we have effective use of that same data. It is interesting. Here we are trying to protect it and here we are trying to use it, and we have to find a way to do that.

Data is considered the new oil. Well, in Trinidad, we could say it is the new gas. It is a key component of how everything in the world works. The availability, analysis, management and consumption of data is a major driver for not only for social things, but for economic growth. Data adds value. The digitization of data enables digitalization of the way that a society, the private sector and governments conduct business. This, in turn, creates the enabling environment for which digital transformation occurs.

The value and use of data will only accelerate at an exponential rate. There is no question about that. When we talk about the technologies—Sen. Mark was clear, 2011, 2012, 11 years ago. When you think about what has happened with technology over the last 11 years, it would only make sense that one reviews what we have to ensure that it is still fit for purpose, implementable and would have the

impact that we want it to do. That is only reasonable, which is why the word “immediate” is unreasonable.

When we talk about things like distributed ledger systems, blockchain, the serious advances in open data and big data analytics, the growing importance of AI and machine learning, in 2011 those things were either bare concepts, but certainly not the realities that we have today. All of these emerging developments, and some of them even now being fairly mature because of the duration and time, impacts on the way we approach the management of data, especially our approach to what we are doing with the data protection and privacy Act. We have to look at it, and we have the opportunity so to do.

So when we are dealing with this—and I want to use the word “data governance continuum”, and maybe it is the easiest way I could say it, we have to find the right balance between two rather different philosophies that are coexisting between data governance. On one end is the data protection. The personal information and the privacy of the citizen always must be protected and everyone must feel confident that they can live and conduct business in a digital world securely and privately. But, at the other end of the continuum, what do you find? Concepts such as open data, freedom of information. All that information is now something that people need access to be able to provide services and to fulfil the requirements of you the citizen yourself, through you, Mr. President. There is a concept that in space, that all information that is not personal, confidential or secret should be made freely available for all.

Open data, in particular, is increasingly regarded as a valuable tool that enables data to be harnessed as a national resource. And, strangely enough, that improves openness and transparency and increases trust in government, very much the opposite to what was just prosecuted. So to put that part of it to an end, the

effective management of data, therefore, requires us to find the right balance between ensuring our national data resources are available to everyone while, at the time, protecting the personal information or the citizen's life, government and agencies.

Mr. President, the practical consequence of all these considerations is that the full proclamation of the Data Protection Act is much more than an administrative process. And just by including the word "immediate", you get the impression that that is all it is. Ten years have passed since we have this. Again, I state, we must validate that it is fit for purpose; that it will meet today's fast-paced and rapidly changing and evolving digital world. The first thing we have to make sure is that it addresses the various technological and social changes that have occurred since it was partially proclaimed in 2011 and 2012. We still have to maintain the fundamental design of technological neutrality in the structure of the Act.

Sen. Mark spoke about a companion piece of legislation. The Data Protection Act, together with the companion piece of legislation, specifically, the Electronic Transactions Act, which was also passed, by the way, in 2011 and partially proclaimed in 2012, are fundamental elements in the legislative framework that supports digitalization of Government data; the digitalization of business processes in the Ministries, divisions and agencies, and therefore, it is a key component for the improvement of the delivery of goods and services to the citizens. We cannot make things better for you if we cannot use the data that you have provided for your own purposes.

I would like to suggest that the proclamation of the Act really is a subsequent thing to the modernization of the Act. I almost want to put both of them as a one-time exercise. I will give you a sense of what that is, Mr. President,

that in practice, the Ministry of Digital Transformation developed an e-services maturity framework. We wanted to assess the state of the various e-services provided by Government. We reviewed over 170. Of these, more than 90 per cent of them are quite basic. They are limited to just information, download forms, you could upload applications and so on. A few of them, however, can be considered through end-to-end services and examples of those are easy. If you apply for a scholarship, for example, you could complete the entire process online; applications for GATE; Caricom Skills Certificates, several of the services offered by companion Ministry, the Ministry of Trade and Industry. You can start and complete your transactions online, and all of that requires the manipulation of data. A modernized Data Protection Act, and if you include with that the Electronic Transactions Act, will be key enablers to support the work that has to be done to make the lives of the citizens of Trinidad and Tobago easier.

3.00 p.m.

An example—and I should do this, maybe the public assistance programme is a good place to go. The vision for the use of data, that same data that is being collected that you are voluntarily given, to facilitate a service that you want for a member of the public who is eligible for a benefit, for example, through the public assistance, and a lot of that is offered by several agencies of Government. This Government has been providing a lot of social safety net things for a number of people for a number of years.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. H. Bacchus: We want to make that process to access that easier, but think about it, think about applying once, you make your application and you will get all of the benefits that are applicable to you. For that to happen data has to be collected and manipulated.

It is interesting that the concept of validation of data without perusing it seems to have escaped a number of people. You can validate things without examining the content, you know, making that content available to anyone that is using it, and I find that to be—especially in a modern world that is something that happens all the time. But just think about what I just said relative to the social services; here you are, you make an application online, you submit your information online, and because of the training of the solution it knows that you are eligible for this, this, this and this, and it makes it available to you. Why would you deny yourself something like that—

Hon. Senators: [*Desk thumping*]

Sen. The Hon. H. Bacchus:—because you are scared of providing the Government with service.

I mean, that kind of thing will undoubtedly assist us, but in introducing those same systems we must ensure that the personal data of the user remain secure. Manipulation of data does not mean disclosing it; it does not. So as we work and we build these systems, we still have to remain compliant with the requirements of the Data Protection Act, and nor can we force Ministries, Divisions, agencies or any private sector person to get around the general requirement rules that I stated before. The safeguard is there. Now, work on the modernization of the Data Protection Act has been on going “eh”, and maybe that is another thing that is not known. It is part of the e-legislative component of the national digital transformation agenda. Maybe I have not spoken enough about it. I will start to do so more frequently now.

One of the major considerations being taken into this as we review this original 2011 legislation, is the need to ensure that the protection of the individual data and privacy does not inadvertently create an “over-bureaucratic” system that

may negatively affect the ability of the thing that we are trying to create to work. The legislation and the things that we do here must be fit for purpose; it must be implementable. So right now amendments to modernize the Data Protection Act being developed with the assistance of reputable and experienced international consultants, some of them engaged by the Office of the Prime Minister, in the Ministry of Communications, with support of the Inter-American Development Bank.

A number of these proposed amendments are being evaluated and, of course, they will find their way back here into this Parliament. A lot of heavy weather was made of the Office of the Information Commissioner. I heard such was not created by proclamation; that is not so. The office has been proclaimed. Notice I did not say it with the flare and gusto of, “That has not”; it has been proclaimed.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. H. Bacchus: And while that is so, when you look into the Act you will see that the other parts of things that are not proclaimed, but that has been. Why would we want to do it, because we understand the function of it, you know; it is an important thing and that is why we are working on. Part II of the Act treats with the framework for the regulation of public and private bodies by the Office of the Information Commissioner. This Part provides for all powers of audit, inspection by the Office of the Information Commissioner to ensure compliance with data protection and privacy principles, as stated by Mr. Mark. So it is there.

Part II addresses the protection of personal data by public bodies. It is there. They must uphold collection, processing and disclosure of personal information, ensuring generally that the informed consent of individuals as the owners of their personal data is sought before public bodies prior to the use and disclosure of such information. But because it is covered in section 6 in the general rules, this is the

safeguard to make sure that it actually happens, but the compliance requirement for it is already there and already proclaimed.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. H. Bacchus: I do not want to go too far into that Office of the Info—but, I mean, but Part IV of the Act addresses protection of personal data by the private sector. The role and function of the Information Commissioner in that case, in adopting and adapting the regulatory framework that enables and facilitates appropriate and cooperative oversight of a private sector compliance. So what you have, we are creating where that is concerned is the monitoring and oversight network, but that is because you have to be compliant.

I have my regrets of the fact that the Office of the Information Commissioner has not yet been fully operationalized and that has spanned several administrations. If you listened to Sen. Mark you would believe that this only started some time—it spanned multiple administrations. Let us leave it at that. So if you want an update, let me just give some information of that as it relates to the operationalizing of the operations at the Office of the Information Commissioner, but it is a lot of work to do this. It involves the finalizing of the structure and the requisite technical and administrative resources for the Information Commissioner, arranging for a method of open and transparent—open and transparent recruitment of the Commissioner ahead of an appointment to the office, and obviously that office will be—the appointment will be made by Her Excellency, along with the open and transparent recruitment of other requisite members of staff as guided by the finalized organizational structure, reviewing and, where necessary, modernizing and/or strengthening this same Data Protection Act to ensure that the Office of the Information Commissioner has the required scope and authority to fulfill its mandate given the advances in technology in the evolving needs of the

citizens. If we want to be true to this, how could we proclaim it immediately?

The landscape and the groundwork has changed. We do not want to be in a world—well, as they would have said some time ago, “In blind man country, one-eyed man is king”. We can go into this with our eyes open. Sen. Mark spoke about international agencies, one of the considerations that we have to take into account when addressing the modernization in this same full procurement of the Data Protection Act is the alignment of the Act with recent changes in the data protection landscape in the wider international community. This is not something that is being addressed in Trinidad and Tobago alone. And to be more specific, in particular, we are working to ensure that the measures in this same Data Protection Act meet and are consistent with the European Union’s General Data Protection Regulation, the GDPR. Sen. Mark did quote from one part of things from—he did not mention this part. The European Union’s GDPR is considered the gold standard for data protection and privacy worldwide.

So in that regard, the Ministry of Digital Transformation has received, and is in the process of, accepting an offer of assistance from the European Union in the area of data management, including and ensuring that our local data protection schemes/regimes meet the standards of the GDPR. We are working for you to ensure that what we produce is fit for purpose, implementable and correct.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. H. Bacchus: What do we expect to derive from this thing, the key benefit out of this GDPR? It is a collaboration and deep understanding of the EU’s experience with the GDPR and the strategies needed to ensure that the finalized Data Protection Act, as I said, is fit for purpose but in the Trinidad and Tobago context. The GDPR, for example, has a practical challenge and has the enforcement in cases of non-compliance with data protection requirements. I

expect we will have similar challenges here. Another issue would be how best to ensure that the application of data protection regulations do not become over bureaucratic and therefore difficult for private sector and Government agencies, and even individuals to manage. It is that spread across, that continuum, we are talking about.

In conclusion, Mr. President, I would like to thank Sen. Mark for raising the issue of data protection and privacy. It is an important issue and it is not—and, I mean, it is something of national interest and rightly deserves the attention of our citizens and so on, but not prosecuted the way in which it was earlier. Mr. President, I would like to assure you that the Government places the highest importance on the proclamation of the Data Protection Act and we are moving in that direction. But where we seem to have somewhat of a divergence with our colleagues opposite, is the approach and the exact process by which we move towards that full proclamation, and that is obvious, again, by the use of the word, “immediate”, in the Motion.

I could understand the anxiousness given the duration of time that is there but we have to make sure we do this right. The sample body of work that I have outlined today will ensure that the Data Protection Act when—is fully modernized and thoroughly equipped to address the fast pace changes in technology and the increasing and widespread data use in society. Can you imagine how much data has changed from 2011 and 2012 to now? It is my sheer hope that following some of that explanation that I have given, that the various initiatives to which Government is currently engaged to deal with the same Data Protection Act, that the people of Trinidad and Tobago, through you, Mr. President, now have a better understanding—

Hon. Senators: [*Desk thumping*]

Sen. The Hon. H. Bacchus:—of what the Government is doing with respect to the Data Protection Act and how we are going about getting to the point of its full implementation. Mr. President, I thank you.

Hon. Senators: [*Desk thumping*]

Sen. Dr. Dillon-Remy: Can I ask him a question before he is finished, before he leaves?

Mr. President: Say again?

Sen. Dr. Dillon-Remy: Can I ask the Minister a question for clarification?

Mr. President: Sure.

Sen. The Hon. H. Bacchus: Yes, Senator.

Sen. Dr. Dillon-Remy: Minister, given that the environment will continue to change, and even at a more rapid rate now as we go ahead, and you are now talking about 11 years since the Act is proclaimed, what kind of time frame are you looking at in moving forward for the amendments to come to the House?

Sen. The Hon. H. Bacchus: So Senator, what is happening, and you would have recognized that during my discourse I mentioned the number of different agencies involved in ensuring that what we are doing is compliant with international standards, and even with the European standards, those things are at various levels. So some of the things are already prepared but they are being evaluated against the standard. Some of those things also have to go through—and you would understand, and I am sure when my legal colleagues reply that they will address some of that other process that has to happen for this to—what I can assure you is that we are trying to do it in the shortest possible time.

The other thing about it, Senator, is that we do not have to do all of it at once, as has been the case now. We have done some and we can do others. So it is not that we have to wait on all but we have to make sure that we continue, and it is

foremost in our minds, making sure that the people remain protected while we make the necessary adjustments and everything, and that is already there.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Vieira.

Hon. Senators: [*Desk thumping*]

Sen. Anthony Vieira: Let me begin by commending Sen. Mark for bringing this Motion and for highlighting this very important area of the law which gives people rights in their personal information and restricts the way in which organizations can use, process and hold such information.

3.15 p.m.

That data is important and touches all of us, must be beyond question. So I do not agree that this debate relates to a flight of fantasy or just noise. It was important over a decade ago when the Data Protection Act, No. 13 of 2011, was assented on June 22nd that year. It is even more important today, when gathering information and data is now a critical part of the functioning of Government and the private sector. When very personal information and data is routinely collected, identified and stored on computers. When in today's cyber physical space we are constantly leaving digital records of ourselves wherever we go. When business and other agencies seek to monetize biometrics and personal information, and when, as we have heard, it is possible for the unscrupulous to access, exploit and even weaponize data, using spyware such as has been developed by the Israeli cyber arms company Pegasus.

Now, it is tempting to say government, and I deliberately refrained from saying "government", because as it stands, this type of spyware can be used by any political party, persons in the private sector, those who want to engage in industrial espionage, high-tech criminals and even terrorists. So it behoves all of us to pay

attention to this very important issue. Data protection and data security matter, because it can reduce the risk of fraud, identity theft, online manipulation, phishing, mistaken identity situations, and even discrimination against citizens. The takeaway here is that when data, which should be kept private, gets into the wrong hands, bad things happen.

The key principle behind data protection is the need to safeguard and protect data and, in particular, sensitive personal information, from different threats and under different circumstances. Now, it is all about privacy, but what is privacy?

Privacy has been defined as an interest of the human personality. It protects the inviolate personality, the individual's independence, dignity and integrity. Privacy is one of the truly profound values for civilized society. It is deeply linked to individual dignity and the needs of human existence. So data protection laws are regulatory in nature, in that they are intended to control the behaviour of those who handle, those who store, those who process data and those who work for them.

Now, the Data Protection Act has been on the law books for over a decade, and it applies to any person or entity who determines, whether alone or jointly with others, the purposes for which and the manner in which personal data is handled, stored or processed. But let us start with a healthy dose of realism because, as this debate will undoubtedly show, the Data Protection Act represents a triumph of form over substance. Here, important legislation has been so emasculated as to be weak, ineffective and essentially toothless.

To understand the sham we must consider the sections of the Act which have been operationalized and those which have been allowed to languish for over a decade. Very briefly, the sections of the Act which are in effect, pertain to the title, the definitions, the objects—and I want to just say I have a little difference of opinion with Sen. Mark. Section 4 was in fact proclaimed and is in effect. When

you read it you see that the Part I is in effect, and then you go to 4 and so on, and section 4 is part of Part I.

So objects are in effect. The general privacy principles, the office of the Information Commissioner, as Minister Bacchus has pointed out, the purported powers of the Information Commissioner, the purported functions of the Information Commissioner, service and execution of documents, the staff of the Information Commission—that is it. And here is where the reality of data protection in Trinidad and Tobago is very different from the idealized version set out in the Act, because the following provisions were never proclaimed and, as it stands, they are just words on paper:

- The designation of inspectors and their powers;
- the Information Commissioner's ability to conduct audits or enquiries on public bodies;
- the privileging of information and data provided to the Information Commissioner;
- the Information Commissioner's ability, or more accurately, his inability to disclose information as necessary when conducting audits and enquiries under the Act, and his ability—more realistically, his current inability to authorize persons who may be involved in making such disclosures;
- immunity from prosecution and from lawsuit for the Information Commissioner in the performance of his duties;
- the Information Commissioner's right to report annually to Parliament;
- all of Part III, which deals with the protection of personal data and

information, by public bodies, including the service commissions, municipal corporations and state enterprises, all of whom may come into possession of very sensitive personal information;

- all of Part IV which treats with the protection of personal data within the private sector;

—whereas we know the object of business is to make money. People in business do not have any particular desire or interest to set out to see about protecting rights. So we have left a Wild, Wild West there—

- and all of Part V, which sets out the important and necessary enforcement provisions.

So it is one thing to say, well, you know, the law is there, people are supposed to comply, but it is only on a voluntary basis, because if you do not comply, what is the consequence? We do not enforce it, we cannot enforce it, so there is a gap. There is a big gap between where we are and where we want to be, and where we need to be.

I do not want to get into conspiracy theories on why after having a decade to regularize our data protection regime, critical sections of this important legislation remain in limbo. I would not like to believe that because this Act was piloted when a different administration was in power, there has been no imperative to move things forward, because that would not be in the service of the highest good for all. That would not be in our national interest.

Now, I was one of the panellists at a seminar hosted by the Law Association in November 2011, to consider the Data Protection Act. Back then, there were concerns whether the legislation had been hurriedly cobbled together, primarily for the purpose of avoiding threatened embargo by the international community—hurriedly put together and passed, even though there were concerns about

loopholes and apparent shortcomings in the legislation.

Now, I expect—I suspect, that at that time the bigger concern related to signals from the international community that countries without data protection legislation would face data embargo, because the laws of those countries would not allow their data controllers to share important data information with us. That would have had a devastating impact on our banking sector, business, finance centres.

So there would have been pressure at that time to avoid, well, to implement, a Data Protection Act, even if you were just paying nominal lip service, but it would avoid the consequences or the implications data embargo could have had on this country. All right.

Let me just say as an aside, even though at that panel discussion certain loopholes, concerns and shortcomings had been identified in relation to the legislation and the regime, they were not regarded as insurmountable, and the overwhelming view was that this country needs good data protection laws and regulations.

We had 11 years—11 years, to find the right balance. We have had a decade, over a decade to reflect on, to examine the Act in light of data regulation trends, the needs and circumstances of the time. I get it, yeah, we may need to update the Act to deal, for example, with digital service providers, the software supply chain, the payment card industry, but we sell ourselves short when we are content to just enunciate the principles of data protection, without actually having them work in practice.

By all the canons of plain sense, it is clear that this country needs, this country deserves a good and effective data protection regime, one consistent with section 4(c) of the Constitution, which enshrines the right of the individual to

respect for his private and family life, a fundamental human right, a crucial part of the spinal cord of the Constitution.

I would also say, it is beyond question that under our Constitution the right of privacy from unwarranted interference by the State is a fundamental human right. So state agencies can always be challenged where they unlawfully invade privacy and misuse private information. The real problem—the real problem for me, as I see it, is with the private sector, because we have an uncharted open area, where private citizens can spy on each other, where you can engage in industrial espionage. You can intrude on the privacy of other citizens.

Now, Sen. Mark talked about the European community and he quoted their regulations, but the European community has different laws to us. In Europe there is, for example, the right of personality, where an individual would have rights in his image. We do not. Well, let me put it this way. The legal decisions say quite clearly that there is no right of privacy in English common law. Interest in privacy—they get protection obliquely and indirectly.

So, for example, you can bring an action for breach of confidence, copyright infringement, defamation, malicious falsehood. Under the criminal law you could get some protection. For example, protection from harassment and physical intrusion, but for privacy itself, there is no tort of invasion of privacy.

3.30 p.m.

Let me put it this way, the law as it stands in Trinidad and Tobago, how it treats with privacy is in a piecemeal fashion at best. So short of coming up with an omnibus privacy law, we need good and effective data protection and security legislation to shore up against our lack of privacy and to guard against the misuse of private information. We are in a time of digitization and this has ushered in the potential for biometrics and personal data to be monetized. You see it, you hear

about it all the time. When government departments, banks, commercial institutions are making greater use of things like e-filings, e-payments and other electronic transactions, but there are risks, and we ignore those risks regarding the misuse of our personal data at our peril.

When one considers, for example, cases of mistaken identity. Now, there are three Anthony Vieira's, all of the same age. What happens when my information gets confused with one of my other namesakes? When you have out of date information? When you have wrongly recorded information? Information that may have been hacked into and changed? Information that may have been wrongly or maliciously deleted? Private information which may have been leaked into the public domain? This is where we need the Information Commissioner, right? We put ourselves at a serious disadvantage when we are not able to resolve issues, such as these, swiftly, effectively and in a transparent manner.

Now, as mentioned earlier, the Data Protection Act may not be perfect, and even if for the sake of argument it was perfect in 2011, as Minister Bacchus has said, circumstances have changed, we have new technologies, and I dare say we may even have new norms of societal behaviour because people are putting all kinds of things on social media that I would not have imagined 10 years ago. So as such, I do not support carte blanche proclamation of all the remaining sections immediately. It seems to me that if we are to move forward responsibly, we are required to revisit, to reassess the legislation, tweaking and updating as necessary. If aspects of this important Act are built on shaky ground, it behoves us to reinforce and to repair them. So to the extent that this Motion calls on Government to implement meaningful and effective data protection, I am 100 per cent behind Sen. Mark. I support the Motion. But on the matter of immediate proclamation, my respectful recommendation would be—I would ask the Government to commit,

commit to proclamation later this year.

But before doing so, conduct a review with edits as necessary to ensure that the legislation is up to speed, up to date or, as you have said, Minister, fit for purpose. But this exercise should not take long. You have said that the work on it has been ongoing, right? And the approach I am calling for is one based on fine-tuning, not root and branch reform. We must recognize that data is at the centre of business and many government organizations, so we need to get it right where data protection and data security is concerned. Now is the time to translate the words and the promised protections set out in the Data Protection Act. Now is the time to translate it into action. Mr. President, I thank you.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Lutchmedial.

Hon. Senators: [*Desk thumping*]

Sen. Jayanti Lutchmedial: Thank you, Mr. President. Mr. President, I firstly want to begin my contribution by congratulating Sen. Mark for bringing this very important Motion before this House today. On the 28th of January, every year, we observe something called international Data Privacy Day. So it is very timely that today we, as a responsible Opposition, have chosen to use our Private Members' Day to debate this very important Motion that calls upon the Government to take action, something which they have failed to do for the last seven and a half years that they have been in office, to bring into effect a very important piece of legislation.

And as Sen. Mark has said, legislation passed by whichever administration, when it is passed by the Parliament of the Republic of Trinidad and Tobago, it reflects the will of the people, it reflects a decision taken. And if you look at the *Hansard* back in 2011, you would see the extensive debate that took place on this

piece of legislation, amendments proposed, taken on board, unlike what we see happening now. Back then the Government took on board suggestions, made amendments, and a piece of legislation was crafted and passed by the representatives of the people of this country. And it is a crying shame that a piece of law passed in 2011, so important, that around the world, almost every single country is moving in the direction of ensuring that they not just have this law, but that they are continuously strengthening it, and strengthening the enforcement of those types of data protection and privacy laws, that we are still here pussyfooting around the issue, listening to excuse after excuse after excuse, while we watch every other country and several of our neighbours push forward for good reason, for very good reason, and I will mention some of those reasons, but to ensure that they have good laws in place.

And we are here listening to a series of excuses, and not just here today, but the issue of the unproclaimed Data Protection Act was very recently debated, and there is a report—it was discussed—coming out of the Joint Select Committee on Finance and Legal Affairs. And what we uncovered during the course of that enquiry and the public hearings, because we heard from people of the Office of the Prime Minister, the Ministry of the Attorney General and Legal Affairs and so on, is that there has just been a lot of talk and no action, and within government we have seen they are somewhat at cross purposes. So whilst I hear the Minister of Digital Transformation talking at length about all that is happening and all that is been done, I do not think that left hand understands what right hand is doing, and that was evident. And I would urge every Member, if they have not done it, to go back and look, it is all on YouTube, go back and look at the public hearings that we had in relation to this piece of legislation not being proclaimed. And the myriad of excuses, and all of the talk, and you keep hearing about this expert and

that consultant and all of that. You know what all of that translates to, Mr. President? Money being spent and nothing to show for it. Because at the end of the day, the citizens of Trinidad and Tobago still do not enjoy the protections afforded by this very important piece of legislation.

If it is one thing that I could say with pride, is that when it came to the legislative agenda of the People's Partnership administration, and even the UNC administration prior to that of '95 to 2000, we prioritized important legislation to give effect and to preserve and protect and to promote the rights and freedoms of citizens of this country.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial: Judicial Review Act, Freedom of Information Act, the Act which allows citizens of this country to open up the filing cabinet of every government Ministry where they will try to hide—they will try to hide the reasons and information from the general public, that piece of law was brought by a UNC government., and this data protection law now to give the population the protection that they deserve, because we understand that your right to private and family life, being a constitutional right, has to be fleshed out and developed. You cannot bring a constitutional Motion for everything, every time your right is infringed, but that is what people have to do.

And a classic example, recently, I know people—everybody rolled their eyes at us when we filed that claim against the attempt to use valuation return forms in property tax. But the court held at the end of the day that you must have—that persons enjoy a reasonable expectation of privacy and the attempt by the State to add on things to that form was completely unauthorized by law and was, therefore, a violation of your rights under the Constitution. Now, if we had proper data protection laws in place governing how the State collected your information, how

they were able to use it, what they could do with it, you would not have those situations arising.

The reason why I stopped there and I asked Sen. Mark to get my phone for me is because whilst I am sitting here today, hot off the press, a judgement handed down today in the High Court of Trinidad and Tobago, someone challenging a number of things, where they were arrested and so on, and I will give you it. It is Claim No. 2011-00626, dated January 31, 2023—handed down today—Benjamin Martin and another v the Attorney General of Trinidad and Tobago. And do you know that the court awarded damages in this case because the TTPS disseminated a mugshot of somebody who was arrested. And this is what the court held:

The publication and/or dissemination of the claimer's mugshot by the Trinidad and Tobago Police Service constitutes a breach of the claimer's right to respect for his private life under section 4(c) of the Constitution and the right to the protection of the law.

And the reason being is that because the Police Service Act has provisions that deal with the collection of photographs and so on, when a person is arrested, when they are charged. But how many of us on a daily basis see those things plastered all over social media pages? Who is regulating the State when it comes to the dissemination of the information that they are collecting? The answer is nobody. It is a free for all. It is a free for all.

Now, somebody will go and quarrel and thing, and "oh, the lawyers and the lawyers and the lawyers", because the State now has to pay to the defendant \$125,000 in damages, costs, et cetera. They will quarrel about the lawyers but at the end of the day, the lawyers have to stand up for the—defend the rights people, because the legislative regime designed to govern these things, designed to ensure that every single government agency, as well as private sector agencies, take steps

to protect your data and not have your data disseminated all over the place. And I agree with Sen. Vieira, if it was important then, it is so much more important now.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial: The Minister stands here and talks about explosions in technology and how much it changed, and dropping nice words like “blockchain”, and whatever, and whatever. You know what all of that means? It only means that the potential for an invasion of your privacy, the potential for the misuse of your information is that much greater that you should be moving expeditiously. You have been vested with the power to do something. If you find the law from 2011 “ain’t” good enough, well what have you done from 2015 to 2023 about it?

We are hearing about consultants have come on board. We, under—when the law was passed in 2011, immediately the following year, all of the sections needed to operationalize the Office of the Information Commissioner. Those sections were proclaimed. To date, they have not hired an Office of the Information Commissioner. One of the issues raised before the Joint Select Committee—imagine this is the Government saying that concerns have been raised that the private sector is not ready. Well, under section, I think it is section 70 of the Act, who is the person that is supposed to issue, I think they call it the code of practice? Who is the person that is supposed to sit down and work with the private sector on the code of practice? Not the Information Commissioner? So you are running a chicken and egg argument. Because you are saying the private sector is not ready and that is why we have to come back to the drawing board and we have to talk to them, and talk and talk and talk. Analysis paralysis. That is something that plagues this Government, implementation deficit.

I did not come up with that. It was in a newspaper editorial some time ago talking about something which suffered a similar fate to this Data Protection Act and that

is the procurement legislation.

3.45 p.m.

You see any legislation that regulates this Government and their actions and how they could do things, they put it on the back burner. That is not important. That is not important. They are not interested in bringing on board regulators, to regulate procurement, to regulate the use of information and so on, that does not affect them. When somebody talk about their business they would put you in court, they want to sue you for exposing that their name is in all kind of reports and all kind of thing. But they have no interest in protecting the privacy of the people of this country. They have no problem sitting down and watching every single day the taxpayers forking out money, right, because it is not them it is taxpayer forking out money in damages in court when people challenge the State and various state agencies for breaching their constitutional rights to privacy, and when they have it within their power to do something and to regulate it they are talking about, well, there are other considerations and we have to look at it and all of that.

Mr. President, I am surprised I have not heard anybody as yet say that it was COVID that caused them to lag behind, because I know that is the usual—if they cannot blame Kamla they would have blamed COVID and they cannot blame Kamla this rounds.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial: Right, Kamla passed the law. So I was expecting to hear COVID. But you know what was interesting, in 2019 Barbados passed their version of a Data Protection Act, in 2019. That law is actually based on the EU's General Data Protection Regulation, what they call the GDPR and the GDPR—and the Minister knows, he said it, the Minister said one of the most advanced and thorough privacy laws in the world and Barbados based their law that they passed

in 2019 on that. And do you know in March, I think it was, March of 2021 they proclaimed the law. No COVID, nothing prevented them from moving forward and you know why that is so?—because they understand the benefits.

As I said on the 28th of January every year is International Data Protection Day and I was looking at it, I was looking around the world about what people were saying about it and so on. In Nigeria they have passed and proclaimed their data protection law and do you know what was the primary, primary reason that they put forward when they are selling it to the public and telling the public, listen, you need to get educated, private sector get on board and come forward, it is because of foreign direct investment and the importance, the importance of having good data protection laws if you want to attract foreign investments.

Anybody, and I read some of the comments made by their Minister of Communication and Digital Economy, saying:

“...that the presence of data protection law in the country will give foreign investors confidence to do business in Nigeria.”

Are we not concerned about foreign investors coming in here and seeing that we have a law that is languishing on our statute books not being proclaimed? Are we not concerned when we put it out there that, well, we have a process and it takes time and we are looking at it and we are considering it, that you could run that issue for seven and a half years. What is the message that we are sending to the people who are looking to invest in this country? The message I think is loud and clear that whilst the Government is quite comfortable to relax and to not prioritize data protection of citizens they are quite prepared to invade the rights of the citizens and constantly take steps to get around data protection and privacy laws in order to achieve their objectives and purposes.

Mr. President, one of the critical issues raised in the legal matters that deal

with your right of privacy under the constitution, we talk about the expectation of privacy and we talk about any sort of invasion of your privacy and any exceptions, it is required that these things be authorized by law.

It is now public information. It was exposed and discussed by the Opposition last year that in 2018 this Government took a note to Cabinet stating that they would sign memorandum of agreement and non-disclosure agreements between a number of arms of the State, including the security services. And listen to this: included in that would be T&TEC, NGC, WASA, TSTT and private companies, Digicel, Flow, Green Dot, Downtown Owners and Merchant Association. I am speaking about Cabinet Minute 1971 of November 16th, 2018.

So what the Government should come here to do today—and talking about we are not into conspiracy theories. And we do not—this is a Government that tried to campaign around a whole election on a fake email—

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial:—coming to talk about Sen. Mark bringing conspiracy theories. What you should do today is account to the people of this country and tell them, between 2018 when this Minute was drafted and confirmed and Cabinet took this decision, how many MOAs have you entered into with private sector entities in order to take and retrieved personal data belonging to the citizens of Trinidad and Tobago? That is what you should say. Whilst you have been sitting down on the Data Protection Act and not appointing someone to fill the office of the Information Commissioner; whilst you have not done anything to amend the law which you say need to be amended; whilst you have passed other pieces of legislation to allow for sharing of information, such as the amendment to the Income Tax Act and so on, that allows you to share information with other entities about the citizen; whilst you have sat and taken a decision to establish and I will

quote from that Cabinet Note:

The establishment of the memoranda of agreement and non-disclosure agreements with confidentiality provisions among Government Ministries, statutory authorities and other legal entities identified and the SSA for the sharing and management of data to the NOFC—the National—well, as they renamed everything, the National Operations Fusion Centre, right.

So whilst we have an Interception of Communications Act that requires you to go before a judicial officer and justify getting some body's personal information from one of these providers and so on, whilst you—and the court will of course consider privacy considerations and constitutional rights and so on, that is not what this Government is about. This Government is about coming here to make excuses about technology has exploded and we have block chain and we have this and we have that and we have the other and what have you done in the meantime, you have found ways to get around every single safeguard that is put in place to ensure that you do not unduly authorize the collection and the interception of information from the private citizen.

Is there a political motive behind the reason why you refuse to implement this Data Protection Act? Is there a political reason?—because we see here now that in the seven years that they have been there what they have done is advanced an agenda whereby they can get into your personal information. And they have used every opportunity to do so while doing absolutely nothing to ensure that there are checks and balances.

So the Minister stands and the Minister at one point in time—I told Sen. John but he is making the case for Sen. Mark's Motion. Because he talks about the importance of checks and balances and so on. Well Minister how do you justify not having those checks and balances in place when your Government is pursuing

an aggressive agenda of intercepting people's personal information by a process not authorized by law? How do you justify your Ministry and I do not which other Ministries, because again one of the things that came out of this Joint Select Committee meeting is that you have about 100 cooks in this one kitchen and everybody, nobody is stirring the pot, quite frankly, everybody stand up waiting and watching somebody else to stir the pot. And I am not making that up. The ministerial response that was laid in this Parliament by the Office of the Prime Minister, Communications Division, this is what they said in response to the findings of the JSC.

It is unfortunate that both Ministries—and they were talking about the Ministry of, well the Office of the Prime Minister, Communications and I think the Ministry of the Attorney General and Legal Affairs.

They said that:

It is unfortunate that both Ministries attempts at leading the amendment to this Act led to cross-purposes and created an atmosphere of dissonance.

So, the Ministries were quarreling. The Ministries could not get along. The Ministries could not sit together and decide what was the direction to be taken here, so they did absolutely nothing. And in the background you have somebody else, pushing an agenda forward to get into the private and personal information, information which this Parliament sat and decided ought to be protected. And they decided that whilst we squabble around and spin around each other and pay a consultant—I am asking the Minister make it public how much money has been spent to date on this consultant that you all have hired to look at this piece of law. Make the date that the consultant was first engaged, the amount of money spent to date and how much you propose to spend on this consultant to look at this piece of legislation, make it public, I dare you. Because we are only being fed, we are

being fed information in a piecemeal manner about expenditure of money—over the weekend it was a commission of enquiry that cannot start. Today we are hearing about a consultant looking over a piece of legislation that the Parliament agreed to pass in 2011 that cannot get, see light of day up to now. And whilst the taxpayer is footing the bill for all of these actions the taxpayer must go to the court and say you are violating my rights.

Government agencies like the TTPS today being put before the court for disseminating information that ought not to be disseminated and a violation of constitutional rights. Well what we could have had, what we could have had and what was envisioned by a government that had a vision in 2011 was an office of information commissioner that would create a culture within our country of responsible collection, storage and dissemination of data when authorized by law. And that would be done in such a way that would recreate a culture, that would attract people who want to invest in this country and are concerned about their private and personal information and that of their companies.

We have a situation, I read an article today written by a young lawyer in the newspaper identifying problems with data, and he pointed out two things that happened recently. One was that the fingerprint system where you could get a certificate of character went down for months and nobody in this country could get a certificate of character. Whether you needed it for travel, employment or what it is. If that system could go down and be out of commission for how much ever months think about what could happen if the information stored in that system is leaked. Who will be responsible if the criminal records of every person became public and was published? Who would be responsible? Who in government would take responsibility for saying that we did not do what was necessary and take the steps to get, at least get the public sector on board with data protection and

privacy.

The other example used today in that article, I think the person name is Jonathan Bhagan who wrote the article. It is in today's *Guardian* I think, is the collapse of the Companies Registry. All of the data in the Companies Registry that is there, I mean, you can access it via an account and so on, but, you know, there is a reason why you have a process by which you could access that information because some of it is people's personal information. But the fact that government Ministries are now experiencing those types of challenges is not a reason to sit down and as I said go through the analysis paralysis and think and think and talk and talk and have meetings about data protection. It is reason for action, it is reason to fast track, it is reason to push forward with solid data protection and privacy. And if our neighbours in Barbados could get it done and they could look to the European Union and their very recognized stringent policies and procedures surrounding data protection, then what is stopping us. What is stopping us?

4.00 p.m.

And that is why—I am no conspiracy theorist but when I weigh on one hand, the actions that the Government has taken, signing memoranda of agreement to get around information sharing and not going through the Interception of Communications Act so that they could collect data on the one hand, since 2018—we only found out about it last year but they have been doing it since 2018, that Cabinet Minute was dated. So they on the one hand collecting your information, all now so, “I doh know if Digicel must be sending them all my bill every month, I doh know, they could be doing that”. They could be asking people for all the information.

Sen. Mitchell: Who are you talking to?

Sen. J. Lutchmedial: I am talking to you, Minister. And they could—[*Laughter*]

and they could, you never know, you never know, Minister. The Minister of Tourism is asking “who I does be talking to”. You never know one day if they might want to know if I am talking to you and they would try to intercept my information. And it is important when you look at it and you examine it on the one hand the actions that they have taken versus the actions that they have not taken, you do not have to be a conspiracy theorist to sit here and say that this is a politically motivated lapse on the part of the Government. It is not a lapse, it is a deliberate political decision—

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial:—not to give citizens rights and protections because it is more prudent, it is more prudent for this Government to go the roundabout route and collect your information, use your information, take it for whatever purposes they feel they need to do it. Because you see, that is how they run this country, like they are king and they must do what they want and they are not subject to any laws. If they feel to give “ah man an indemnity agreement and tell him sign ah statement, they doing that”. If they feel to get your personal information from Flow or Digicel, they will do that and this is a pattern of behaviour—

Mr. President: Senator, there is a point of order.

Sen. Gopee-Scoon: Point of order, 46(6).

Mr. President: Senator, just be careful along the lines that you are going in relation to the imputation of improper motives. Continue.

Sen. J. Lutchmedial: Mr. President, I have not referred to anything that is not confirmed in the public domain and I am saying that there is a pattern of behaviour that any right-thinking citizen will look to and look at when they are assessing why it is today, a piece of law so important recognized around the world for its importance, so much so that you have entire agencies and you know commissions

and people set up to look at these things and make recommendations and examine and rate countries. Countries are rated on the strength of their data protection and privacy laws. Why is it something so important is given so little attention by a government that seems bent on doing as they please and not being subjected to rules and regulations, whether it is in the conduct of litigation, whether it is in the conduct of procurement and even in the conduct of data and the collection of data.

It is clear and I think the population today and we as a responsible Opposition, we have brought this Motion to identify to the public and to inform them of the steps not being taken by this Government to give them the protection that they deserve, that citizens around the world and citizens right here in the Caribbean are being afforded. Our brothers and sisters in Caricom have made marvellous steps in the direction of enhancing their data protection. Whether it is for the citizens, whether it is to attract foreign investment, whatever it is but to comply internationally with what is seen as an important step in the direction of preserving fundamental human rights. And that, Mr. President, is very important. And so I give my full support to this Motion by Sen. Mark. I say it is important, it is timely and the responses so far that we have received leave much to be desired in terms of allowing or giving any sort of comfort to citizens.

I commend Sen. Dillon-Remy for asking a very pertinent question about a timeline and even that we cannot get from this Government. After seven and a half years, they still have absolutely no indication as to when they will give this attention, and I say beyond fear of contradiction that it is because it is no priority for a government that is bent on not being subjected to any rule or regulation—

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial:—with respect to how they treat with people's personal data and privacy. Thank you very much.

Hon. Senators: [*Desk thumping*]

Sen. Lyder: [*Interruption*]

Mr. President: Sen. Lyder. Minister in the Office of the Attorney General.

The Minister in the Office of the Attorney General and Ministry of Legal Affairs (Sen. The Hon. Renuka Sagramsingh-Sooklal): Mr. President, I thank you most sincerely for the opportunity to jump into this debate. So much to say and so little time so I will jump immediately into responding to a statement made by the hon. Senator. Sen. Lutchmedial, she made a call on the Government to take action on something we have failed to do in the last seven and a half years, but I ask the Senator and I ask the hon. Senator who brought this Motion from 2011 to 2015 when this Bill was passed, what did the then People's Partnership Government do to proclaim the legislation? My answer to that is nothing.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sagramsingh-Sooklal: The hon. Senator spoke about, you know, reading the *Hansard*, well, I did too in preparation for this debate, read most diligently the *Hansard* report of the 2011 Bill that was brought in two Houses, the House of Representatives and the Senate before it was passed and I want to remind the public, I want to remind the people of Trinidad and Tobago and the hon. Senator who spoke about this Government's lack of proclamation, I want to make reference to, Mr. President, *Hansard* dated May 23, 2011, pages 748 and 749 of the said *Hansard*. The then Minister who piloted that Bill, Hon. Colin Partap, this is what he said in the winding up of the Bill in the Senate. He said:

“To date, Mr. President, the office of the Prime Minister has already developed a draft organizational structure to fully operationalize the functions of the office of the information commissioner...I think that would allay some of the fears of those on the other side. It is the intention of this

Sen. the Hon. R. Sagramsingh-Sooklal (cont'd)

coalition Government that following the passage of this Bill...”—that is the passage of Bill in 2011—“the proper procedures would be followed, such as consultation with the Public Management Consulting Division of the Ministry of Public Administration to bring to the Cabinet before the end of this calendar year 2011 a finalized organizational structure for its approval.”

What was done at the end of 2011? Nothing. And that is on the *Hansard* by this Government—

Hon. Senators: [*Desk thumping*]

Hon. Senator: [*Interruption*]

Mr. President: Senator, Senator, Senator, first and foremost, there is absolutely no reason to raise your voices when while a Senator is making a contribution. That is one.

Sen. Lyder: Who is raising their voice here?

Mr. President: Sen. Lyder, I did not ask for a response. Minister, a Senator would like to ask if you would give way.

Sen. R. Sagramsingh-Sooklal: Mr. President, I have no difficulty with giving way to the hon. Senator but I just have to conclude respectfully the point that I was making. The point that I was making is to put on the record and to remind the people of Trinidad and Tobago who is paying attention to this debate. You see, the Opposition comes here and they speak as if “it eh have holier than dem” and they speak about all their great intentions. In 2011, the *Hansard* reflects and I brought the *Hansard* because the Senator spoke about the *Hansard* and I read the *Hansard* and I have it here. There were certain assertions, there were certain promises made by that coalition government that what would have done by the end of 2011 and all I remind the people of Trinidad and Tobago is by the end of 2011, 2012, 2013,

Sen. the Hon. R. Sagrarsingh-Sooklal (cont'd)

2014, 2015, nothing was done. Because “yuh see, they was focus on section 34 then, nah” and all the other things that followed that Government.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sagrarsingh-Sooklal: So they did not have time to proclaim this legislation but comes here to speak about this current Government and what we have not done to proclaim so far. So, Mr. President, I know the Senator has a question for me. Before I jump into responding to some other statements made by Sen. Lutchmedial, of course I will give way to the Independent Senator.

Sen. Seepersad: Thank you, Mr. President. Madam Minister, what aspects of this Bill are unusable and what is the timeline to fix these issues?

Sen. R. Sagrarsingh-Sooklal: Relative to the unusable parts of the legislation, when I get into looking at the GDPR model and look at some of the consultations that are currently engaging, Senator, I would certainly attempt to address—that is when I get into the crux of my contribution, I would certainly attempt to address those pertinent concerns that you have raised. But if you would respectfully just allow me to address before I jump into the crux of my debate, some of the points that were made by the Opposition.

You know, as I continue along with Sen. Lutchmedial and this is something that the Opposition always speaks about “taxpayers’ dollars, taxpayers’ dollars”. Mr. President, most respectfully, “I am ah taxpayer, eh. I pay rel taxes when the month come” and therefore I see it as my personal responsibility as well as a taxpaying citizen to ensure that what policies and provisions that the Government implements, that it is in the interest of all citizens, including myself and my pocket, me too being a taxpayer. So you see this taxpayer nonsense that they constantly come, “is not allyuh money, is tax”—I am a taxpayer. Mr. President, that being said and to be quite honest, that was really all I saw that was necessary to respond

to in Sen. Lutchmedial's contribution.

I will move immediately to the mover of the Motion, Sen. Wade Mark. Again, I said so little time and so much to say. You know, Sen. Wade Mark came to this Senate today and he said a healthy society is dependent on trustworthy information. He reminded us in this Senate, this Motion addresses a critical issue that fundamentally impacts on the privacy, dignity and democracy of our nation. I wrote it down as he said it. My answer to hon. Senator is two words: Cambridge Analytica. That is all. In response to privacy, dignity, democracy and our nation, the hypocrisy of the Opposition to come and speak here about—"I agree, yuh know", I agree the protection of data, it is about privacy, it is about dignity, it is about democracy of a nation. But this is the same people who are responsible for Cambridge Analytica and that is my only response to that statement made by Sen. Mark. And, of course, I have hundreds of articles here for the public who cannot remember, I could call the name, the time, the date of the article. I understand "it have ah Netflix series an all" on Cambridge Analytica.

Sen. Mark, Mr. President, he mentioned section 4 was not proclaimed and I know Sen. Vieira, in his response, addressed that. I myself have to address it and I say how very much disappointed I am in Sen. Mark. He is the person who brought this Motion here today and perhaps what the Senator should have done in his preparation for this Motion where he believed he was here to "buss mark" and "buss this Government throat". I respectfully address the Senator or ask the Senator to turn to the Legal Notice No. 2 of 2012, Part I, sections 1 to 6. And what that Legal Notice says is that indeed section 4 that Sen. Mark has placed erroneously on the record and said that it was not proclaimed, that has been proclaimed. As a matter of fact, it was proclaimed under the then People's Partnership Government and in that proclamation, what we have is the general

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privacy principles, of course, sections 1 to 6 having been proclaimed. So I just had to correct the record relative to when Sen. Mark came here and indicated that section 4 had not yet been proclaimed.

Sen. Mark, Mr. President, he also in his presentation, I want to say the Senator would have dropped the ball again in preparation for this Motion, his Motion, which again I would have thought he would have done a little more research or instruct his speechwriters a little differently.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sagramsingh-Sooklal: Mr. President, the hon. Senator said section—well, first to begin with, why I said that the Senator has dropped the ball is that section 25 of the valuation Act, of course it was an amendment in 2009 brought by the PNM administration. But I ask the Senator, your party was sitting in Opposition at that time and if when that said amendment was brought and the Opposition was dissatisfied, nothing at all prevented the Opposition from bringing forward any such amendments to the law in its existence at that point in time.

So that being said, Mr. President, I want to believe—oh, Sen. Mark as well also made the point that Article 8 of the European Union Charter of Fundamental Rights allows for the protection personal data. He went on to say yet still this Government fails to protect the personal information of its citizens. He said that the Government now has personal information of citizens such as telephone contacts and of course, he went on and on and on.

4.15 p.m.

Mr. President, in response to that statement made by Sen. Mark, in the substance of my contribution, I will look at the GDPR outlines. That, of course, regulates data protection in Great Britain, a 2018 structure. And, of course, I would show in the crux of my contribution how such data is to be shared and

disclosed. Hence the reason why, Mr. President, in the Caribbean, and more so in Trinidad and Tobago, most territories are reviewing their respective pieces of legislation to ensure that same is in alignment with this GDPR model.

And I am pleased to say that in Trinidad and Tobago, this is one of the reasons, as I get into the crux of my contribution in explaining to this hon. Senate, why we cannot support in its totality Sen. Mark's Motion. And more so, Sen. Bacchus would have mentioned at the part where he calls upon the Government to immediately proclaim. The reason why we cannot immediately support is because we too as a nation have to take into consideration the provisions of the GDPR, what it outlines and bring, of course, our legislation as close as possible to those international obligations which, of course, I will get into in the crux of my contribution.

Mr. President, of course, I want say—as I turn to a more sober contribution, which is the contribution made Independent Sen. Vieira. The Senator said that the key takeaways when data gets into the wrong hands, bad things happen. And I have to say to the hon. Senator, we on the Government Bench, we do agree with you. I do wholeheartedly agree with you with the misuse and the mismanagement of that data.

And, you know, I listened to the Sen. Bacchus' contribution, a very stellar contribution if I must say so myself, a very sober contribution made. And three takeaways from the Senator's contribution—which I would also like to springboard off of, in responding to why the Government is not in a position to immediately proclaim—is that the Senator, of course, spoke about the relevance, he spoke about the impact of the legislation and he spoke about the implementation bits of the legislation. And those three areas are critical, Mr. President, in us being in a position to be able to fully proclaim this piece of legislation.

Now, in explaining and looking at relevance, impact, and implementation, Mr. President, of course, what I would look at is, again, looking at some of the reasons why. We asking for your patience and we are asking for the time—to give us the time which is required for us to continue to revisit the legislation. So that, of course, we can ensure that the legislation, once fully proclaimed, is relevant, it has the necessary impact that the legislation intends to create, that was the intention behind the legislation. And more so, looking at implementation—part of it—looking at that area, implementation, we also have to ensure that all arms of state, private and public entities are ready to receive the roll out of this particular this piece of legislation.

Now, Mr. President, if I may respectfully take this Senate very briefly through the history of the Data Protection Act. Now, to put into some historical context on the proclamation of the Data Protection Act, Mr. President, under the former administration, it is correct and many of my colleagues would have alluded to it, Part I and Part II of the Data Protection Act 2021, these parts were proclaimed. And yes, they dealt with primarily—they dealt with preliminary issues.

So, for example, Part I, sections 1 to 6 it dealt with the “General Privacy Principles”. And then we have Part II—parts of certain sections of Part II were proclaimed. Those sections were sections 7 to 18, 22, 23, 25, 26 and 28, which primarily, Mr. President, dealt with the powers and functions of the Information Commissioner.

Now, under our current administration, under our Government, Part III, which was section 42(a) and (b), concerning the disclosure by public bodies for the purpose, for collected or use consistent with that purpose, that particular part, Mr. President, was indeed passed.

Now, I have heard a lot of information placed on the public record relative to this Government's intention behind the passage of Part III, section 42(a) and (b). And, Mr. President, just for the benefit of, of course the listening public, and of course the sober Members that sit in this hon. Senate, I want discuss the public interest point.

Public interest, when this Government took the decision, Mr. President, to proclaim Part III, section 42(a) and (b), the public interest points became so critical because sometimes, as legislators, as government, we are called upon in the interest of that public in which we serve, to bring forward legislation—that would bring forward legislation, Mr. President, that will serve a greater good.

Now, at the time, we would have—section 42(a) and 42(b), what would have happened at that time, the unproclaimed part, Mr. President, was resulting in an administrative blockade to implementing other pieces of legislation. And hence the reason—so what we had is a part of the law—we had an existing section 42 (a) and (b). And with section 42 (a) and (b) not being proclaimed, we found that there were administrative blockades that other pieces of legislation were, of course, stopped from being enforced by. And as a consequence of that, Mr. President, a policy decision was taken in order for us to be able to deal with that administrative blockade.

Why do I bring up the point of public interest? When laws are passed—laws are passed all the time, especially by responsible governments such as ours, with the interest of the public at heart.

Now, if I may respectfully remind this Senate of that whole concept, that legal concept of the public interest. Now, this is a criminal case, Mr. President, I am going to refer to. But the principle of the case, the ratio decidendi in the case, as it relates to the public interest, is what I want to read in to the record. The

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Canadian court, Mr. President, in a case called *R v Morales*, defined “Public interest” as one that:

“involves many considerations...”—inter alia—“not the least of which...the ‘public image’ of the Criminal Code...and ultimately the protection of that overwhelming percentage of citizens of Canada who are not only socially conscious but law-abiding.”

And the case goes on to say, therefore:

“There is no explanation of ‘public interest’...”

But the principle derived from a Namibian case:

“...where one of the grounds for refusing bail was that it would not be in the public’s interest...”—can be applied.

“In that case, a policeman was charged for stealing a police-issued firearm and shooting...”

Now, the case went on to say:

“The Namibian Criminal Procedure Act section 63(4)(e) states that A person may not be released on bail where, in exceptional circumstances, there is a likelihood that the release of that accused will disturb the public order and undermine the public peace or security.”

Mr. President, that is a piece of dicta that I want to pull from the case because that deals with the public interest point.

Whenever decisions—and I want the Senate and I want the listening public to understand, contrary to the conspiracy theorists, contrary to the fearmongering that is put forward by the Opposition as it relates to why this section 42(a) and (b) was proclaimed, I want the public to understand that often times, as responsible legislators, as a responsible Government, we are required to proclaim certain pieces of legislation, or we are required to review law in the interest of the public.

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And in this case, when Part III, section 42 (a) and (b) was proclaimed, that public interest was paramount in the minds of the Government when we dealt and we focused on this proclamation. So it was not about wanting people's personal information, it was not simply about pushing a political agenda. It was about freeing up and giving teeth to legislation, which had it not been proclaimed, served as a considering administrative blockade in the way of other pieces of legislation.

And hence the reason, Mr. President, I wanted to respectfully remind the public of that whole public interest point and the modus operandi of this Government when we pass pieces of legislation. Always bearing in mind how is this legislation going to, of course, one, contribute to affecting and improving the lives of our citizens; and two, we always take into consideration the interoperability of law position. The interoperability of law position is simply that which speaks to, there may be one piece of legislation that, based on the form or substance, may stand in the way of another piece of legislation being able to be operationalized. And when that comes about, we, as a responsible Government, we have to do what we have to do. And that is primarily as it relates to one of the reasons that our mindset behind that proclamation of section 42(a) and 42 (b) that was done in the Data Protection Act under this Government.

Now, Mr. President, for the benefit of, of course, our Senators, learned Senators, and the members of the listening public, the remaining provisions to be proclaimed are notably Part III, the "Protection of Personal Data by Public Bodies"; Part IV, the "Protection of Personal Data by the Private Sector"; Part V, the "Contravention and Enforcement"; and Part VI, the "Miscellaneous Provisions", which, of course, yes, is most of the Bill that remains—which requires proclamation.

Now, Mr. President, I know hon. Sen. Seepersad had asked a question

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relative to the parts of the legislation which are now unenforceable. What I can say to the hon. Senator, and this is not simply the Government looking for excuses, the reality of the day is that from 2011 to now, circumstances have changed. The reality of the day from 2011 to now, we have international obligations in the form of the GDPR. And what we have had to do now is to ensure and to bring—just as Barbados did. Sen. Lutchmedial spoke about Barbados passing their legislation. Jamaica as well would have had to do that. But what these nations did in proclaiming their data protection legislation, what was paramount to their mind was the GDPR model. So what we are currently doing what is currently before the Law Reform Commission, what is currently before the drafters, what is currently before the legislators, is this fundamental piece of law, this GDPR model, and seeing how close as possible we can bring it to the provisions provided.

What I will not want to do and what I am not in a position respectfully to do, is to itemize to you, unfortunately, clause by clause, currently that is not operational at this point or that has become obsolete. But what I can say to you is that that is foremost in our minds in the review of the legislation.

So, for example, we are embarking upon a process where the entire legislation—and remember, and if I may respectfully remind the Senator, while the Office of the Attorney General and the Ministry of Legal Affairs is responsible for the law part of it, we must work in tandem with the Ministry of Digital Transformation, we must work in tandem with the Ministry of Public Administration because it is a whole-of-government approach. And sometimes that is what requires the time, because what is critical is for us to be able to continue that dialogue, continue that consultation.

And as I am on the point of consultation, hon. Senator and, of course, for the benefit of all of the Senators here, do you know in 2011, when this Bill was

passed—and the *Hansard* is there to reflect it, so I am not making up information, I am not making up this. In 2011, a Senator who sits in this Senate, hon. Paula Gopee-Scoon, raised the point on the *Hansard* about the lack of consultation in 2011 when this Bill was passed. And that hon. Senator, in her contribution, asked the then government, why is it that this Bill was being passed and yet there was a lack of consultation that took place? Of course, the Bill went on and it was passed.

When the PNM Government took strain and took hold of the legislation in 2015, we would have, of course, notably recognized gaps in the passage of that law. And what we were then required to do is what I call some sort of damage control. And one of the areas is in the area of consultation. Now, I am bringing that up because, hon. Sen. Seepersad, while I am not in a position, because of time in particular, to go through ball by ball, every single section of the law that has now become obsolete, what I can say to you is that at the Office of the Attorney General and Ministry of Legal Affairs, we are working with critical stakeholders which are other critical Ministries who also have the technical expertise. We are also working with our Law Reform Commission and those who have been dedicated to the task of reviewing the legislation, in ensuring that once we are able to create a product, that product is in alignment with, of course, proper consultation or after proper consultation has been completed, and more so, that it is in alignment with our GDPR model. So that was just to quickly address part of—well, to somewhat address the concern that the hon. Senator would have had.

4.30 p.m.

You know, Mr. President, I recall in preparation for this particular—in preparation for this debate as well, and you will find me constantly going back to the 2011 *Hansard*. And the reason why I am doing that is because while there was a great debate, there was a considerable amount of debate on this Bill in 2011,

there are Members of our Government who raised critical issues in that 2011 debate as it relates to proclamation and none of those concerns in 2011 was answered. And therefore, I want the public to understand that from 2011—and this is not just about political gallantries, this is not just peacocking politically here, this is the serious business and state of affairs of our country.

In 2011, when our Government sat in opposition, I have pages of *Hansard* where Senator—he was then an Opposition Sen. Al-Rawi, on three critical instances, asked the then Government about his concerns, raising concerns that he had concerning the proclamation of that Bill. For example, if I may pull the Senate *Hansard* Monday, May 23, 2011, where the then Opposition Sen. Faris Al-Rawi at page 684 said:

“So when this Bill comes in and it is born as an Act, if we are serious about implementing this Act, we are going to run into extreme difficulties on the content control, the implementation control, the policing control and the reporting control; and that is in fact one of the main difficulties in considering this Bill because the issue of implementation is critical.”

And I will tell you why I am making reference to that concern raised by Sen. Al-Rawi, because when Sen. Al-Rawi became the Attorney General of Trinidad and Tobago priority in his mind was addressing his concerns, to deal these issues that he knew was in existence, or that the country would run itself into in the proclamation if this Bill was to be proclaimed. I recall at page 685, Mr. President, the same Sen. Al-Rawi, who was then Opposition Senator, page 685, he addressed the interoperability and effects of the Data Protection Bill with other pieces of legislation, he called again on that Government and he stated:

“The concept of operationalization of this Bill when it becomes an Act, is that, the discourse on data protection implementation has to factor the

development of policies, and that is national policies as they relate to data protection and data management across the board, because this Act, in fact, has”—“...links to several other pieces of legislation”.

And again, I want to reiterate, this is not—I am not reading this into the record, to waste the Senate’s time, but I need this country and I need this Senate to understand that even in 2011, during the debate on this Bill, these were the operational concerns that our Government had. So therefore, in 2015, when Sen. Al-Rawi did take the reins, and this Government did take the reins, these were concerns that were already prevalent in our minds. So, by the time we took control in 2016—2015, it was not that we were just sitting on our laurels, we knew that the Bill to proclaim it, there would have been serious challenges. And you know, what supports that position, Mr. President? I know I started off on a on a high horse when I responded to Sen. Lutchmedial, but you know what, Mr. President, you know, what reiterates that there were serious problems in proclaiming this Bill? The mere fact that in 2011, when the Bill was passed by the then People’s Partnership Government, that they could not proclaim in the five years of government that they did have. And maybe if during that debate, they had taken really some of the concerns that were raised by our Government, who were then in the Opposition at that time, as it relates to proclamation, maybe if it was done right then, we would not have been in the position that we are currently in now, and I need to remind the public about that.

And, Mr. President, as I said, Sen. Al-Rawi, the then Opposition Sen. Al-Rawi was not the only one, we had Sen. Hinds joined that debate and Minister Hinds who was then Opposition Senator, raising other concerns as it related to proclamation. Well as I mentioned, we then had Sen. Gopee-Scoon, speaking about the lack of consultation on the Bill, when this Bill was passed. And

therefore, all of this is being said and read again into the record for the public to simply understand that us not proclaiming the Data Protection Act in its entirety, is because from the get go we inherited a piece of legislation that required a lot more work and we were five years later in the dance. So you are looking at five years, later technology has changed, so therefore, we had to adjust our minds to that.

So we had we had a piece of legislation that required work, we were five years in the dance so, we needed to bring our legislation up to speed and on top of that, we had a piece of legislation in which we knew was passed without proper consultation. And as a government, that was one of—those were some of the places at which we had to start from taking control.

So, when we speak about this decade, that this Bill has been sitting on the books, remember is from 2011 to 2023 we are talking about and I that is why I—and I am asking the question to the mover of the Motion account then for us for the five years that you all had control. The same way in which you all ask us questions, I am asking the question to you. What did you do from 2011 to 2015? I can say to you what we have tried to do because we inherited a bad piece of law. We had to do consultation, we were five years in the dance, now we are later than that in the dance about seven years in the dance, so technology is constantly changing, we now have a GDPR model, international obligations that we have to ensure that our legislation is in alignment with, and again, we need to continue consultation.

All of that being said, Mr. President is simply to say to Trinidad and Tobago, to say it to the country to say it to this hon. Senate, I agree, I am so pleased that Sen. Vieira, in his wise—winding up of his presentation recognized that while this is critical, it cannot be done immediately because it requires the Government to

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take its time it requires legislators, the key stakeholders to take our time before we can put before we can really untruly breathe life into the legislation.

Mr. President, as I—can you send me how much more time to full time?

Mr. President: You end at 4.45.

Sen. The Hon. R. Sagramsingh-Sooklal: That is approximately—

Mr. President: [*Inaudible*]

Sen. The Hon. R. Sagramsingh-Sooklal: Okay, thank you, Mr. President. So, Mr. President, of course, those—that would have been one of the major concerns that we would have had. Now I know concerns were also raised—well, I am not getting into the Information Commissioner and the reason for that is because that bit of legislation has already been proclaimed. But what I do know and if I may respectfully take my colleagues in your own time, what you can rest assured about, and at least the country can rest assured, is that there is a budgetary allocation for that particular office.

So, for example, Mr. President, I know concerns were raised about the Information Commissioner, I just want to simply reiterate that the Government recognizes the importance of this office, and so much so what we have is for fiscal 2023, we have catered for the creation of the Office of the Information Commissioner under the Office of the Prime Minister. And for my colleagues who may want to take some reading—who may want to read it is under Head 13, Sub-Head 16: Contract Employment, Item 007, Office of the Information Commissioner. And what this shows Mr. President, is a revised estimate in the amount of \$500,000 for this year. It could be found, Mr. President, for the purpose of the *Hansard* at page 63 of the *Recurrent Expenditure* fiscal 2021 to 2023. And it granted that the institutional arrangements are brought to fruition within the next coming months, then we can move towards proclaiming the remaining sections of

part 2 of the Data Protection Act. And the reason why I am reading this into the record is to remind the public and remind the Senate that the Government has already made the allocation. Yes, of course, there are the administrative issues as it relates to the contract part, settling the contract for the individual who will hold this particular position, the terms and conditions, all of that, but at least the Government—this is to reiterate that the Government understands the importance of this office, so much so for fiscal 2023, and I have already identified the Head and the Sub-Head in which we have already made the necessary allocation—budgetary allocation that is for this particular office.

Now, Mr. President, I know I would have also spoken about consultation briefly. If I have to read into the record, Mr. President, that of course public consultation, it brings several functional benefits in the legislating process, consultation as we all know, we all understand that it allows government to tap into the widest sources of information possible, which improves, of course, the quality of the decision that we are able to reach. Mr. President, to make the consultation process effective, of course, checks are made as to whether the legal requirements have been met, and the failure to do so whether what has to be done, of course, to improve the failure in implementing certain legislation. Now, this is important, Mr. President, in the creation of any legislation, as it aids in covering all bases and ensuring that as a government, we are fostering more inclusive, democratic and transparent legislation.

Now, again, and this is—and I am going through this, I certainly do not like to waste this Senate's time and just go down a road of politicking. But again, Mr. President, in 2011, when this Government inherited the Bill, it was clear as daylight that the Peoples Partnership and the UNC had failed in consultation. Mr. President, in February 4, 2011, in the House debate, the PNM while sitting in

opposition would have both caution and provided advice to UNC led Government at the time, the Opposition Members would have raised various concerns in their contributions and they are pleas Mr. President, unfortunately, back then, would have fallen on deaf ears. I know I mentioned the hon. Paula Gopee-Scoon, Minister Gopee-Scoon who was a then Senator, Opposition Senator, in the *Hansard* page 62 House debate on Friday, February 4, 2011, the hon. Senator said:

“We believe that the public really must be a part of these policy decisions, because that is what we are doing here, formulating policies that affect privacy, data protection and protection of information. The public must be involved.”

Now, again, why do I raise this concern raised by Sen. Gopee-Scoon when this Bill was debated? Because when we took control, we already knew that this Bill was passed without proper consultation. So, before we could fully operationalize the thing, before we could fully proclaim the thing, we understood that we had to go back to some extent to the drawing board and continue consultation or in most instances begin the consultation process. Again, Mr. President, and so what would have happened is we too would have embarked upon looking at and having our public meetings, not public meetings sorry, meeting with our necessary stakeholders upon taking control in order to be able to determine what areas of the Bill we were required to revisit again.

[MR. VICE-PRESIDENT *in the Chair*]

Now, Mr. Vice-President, I am sure you would have heard of the phrase, “Rome was not built in a day”. What the UNC did, unfortunately, in 2011, was that they created a piecemeal piece of legislation. And what we would have had to do, Mr. Vice-President, is ensure that we go back to the key stakeholders. At this time too what we also had to bear in mind—what we have to bear in mind before

proclamation comes Mr. Vice-President, are, of course, regional comparators. Mr. Vice-President, the Data Protection Act is literally as we know everybody's business. It concerns both the private and public sector. Therefore, Mr. Vice-President enacting the Data Protection Legislation, unfortunately, is a tedious process that will take time and all we are simply asking for Mr. Vice-President, is a little more time so that we can be able to ensure that our Bill before—this Act, sorry, before it is fully proclaimed, that we are in alignment with our regional comparators, that we have met with all of our stakeholders, that we more or less do the damage control and the damage control that was caused by the UNC in a haste in which this Bill was passed in 2011.

4.45 p.m.

You know, Mr. Vice-President, on October 24, 2016—I want to read into the record, there was a media release entitled “Position on Proposed Amendments to the Data Protection Act” by the Ministry of Public Administration. And in 2016, Mr. Vice-President, in that particular report, it showed that immediately after the PNM Government coming into being, the Ministry of Public Administration recognizing that it was critical and it was necessary for that Ministry to address its mind to data protection.

Mr. Vice-President, additionally in 2018, for the public's benefit, the PNM Government undertook a comprehensive review of the data protection legislation in Trinidad and Tobago. The findings of the review confirmed that the Data Protection Act, as Sen. Bacchus would have said, certain parts had by that time become obsolete. Certain parts were not consistent with best practices, data protection best practices, as defined in the European Union's General Data Protection Regulations, that is the GDPR, that we spoke about all evening.

Further, Mr. Vice-President, in 2019, again, this Government, through

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collaboration with the Ministry of Communications, the Ministry of Public Administration and the International Telecommunications Union, engaged, and I have to read that into the record.

Mr. Vice-President: Minister, your time has come to an end.

Sen. The Hon. R. Sagramsingh-Sooklal: Mr. Vice-President, I thank you for the opportunity.

Mr. Vice-President: Sen. Deyalsingh.

Sen. Dr. Varma Deyalsingh: Thank you, Mr. Vice-President, for giving me the opportunity to speak on this Private Members' Motion, it was raised by Sen. Mark, which calls on the Government to immediately proclaim the remaining sections of the Data Protection Act. And, yes, we have an enforcement gap manifest in the lack of proclaimed provisions, but also due to the length of time for the delay, 11 years; a very long time, 11 years, I may say. So therefore, I note that there was a delay on both sides.

Sen. Sagramsingh-Sooklal did mention the fact that this was—parts of this piece of legislation were proclaimed in 2012, but it was not in its entirety. So she also made that idea that the Administration then could have done a little better to push this further. And I also make note of the fact that Sen. Vieira mentioned that probably the Government's hand, the Government at the time, was a bit forced in the sense that international bodies were trying to say look, get your act together for this.

So, while I heard some of the history of this Bill, I must say it was, really speaking, it was in 1995, the European Union's Data Protection Directive, which is Directive 95/46/EC was at the forefront of modern-day privacy law. So it started in 1995 on the global scene, where this was something the European Union decided that we needed some sort of legislation, some sort of push in that.

However, it was really in 2008 that the Caribbean took note of this and it was really something called HIPCAR Project, which was the Harmonization of ICT Policies, Legislation and Regulatory Procedures in the Caribbean, and it was launched in 2008. So it was really 2008, where there was a collaboration between the International Telecommunications Union, the European Union, the Caribbean Telecommunications Union and Caricom. So since 2008 it was on Caricom's agenda that we needed this. But here we are, 2023, and we are still a little deficient in what we needed to do.

So, the fact is this piece of legislation came about in 2011. And I must say it was really on January 06, 2012, the President then partly proclaimed the Data Protection Act, 2011 into force, His Excellency. And it was mentioned by Sen. Mark. It was His Excellency, the late George Maxwell Richards brought Part I and proclaimed Part I and Sections 7 to 18, 22, 23, 25(1), 26, 28 of Part II of the Act into force. So essentially, the general privacy principles were brought into force, along with the Office of the Information Commissioner. The powers of the Information Commissioner, however, was not proclaimed into force.

So, is it is interesting that we would have had pieces of this legislation proclaimed and others were just left in abeyance, left there. And, again another administration had to come on board and decide what they were going to do with this. But what was interesting, in 2011, and I wish to quote an article, "The importance of data protection". It was a *Newsday* article, on 3rd March, and Dr. Emir Crowne wrote this article, and he made mention, and I quote:

"...when our Data Protection Bill was...debated in the Senate in 2011, then opposition senator Al-Rawi bemoaned the suggestion that it would take ten years of consultation to pass comprehensive data protection laws. Nearly a decade later, that timeline no longer seems

far-fetched. As it stands, the partly proclaimed Data Protection Act, 2011 is a toothless piece of legislation that offers no meaningful protection for our personal information against breaches...”

So this article shows that even in the Senate then, the Opposition Senator actually said—bemoaned the fact it will take 10 years. So we probably had a timeline that yes 10 years, it may take. But look at that, 11 years it is going on. And definitely we as legislators have to understand what seems to be the delay when you sit here, you actually debate Bills, you put things forward and yet still you have the delays that occur so long after.

And the fact is, even when we looked at how this was proclaimed, Part IV of the Act governs the use and handling of personal information held by the private sector and section 52 provides the right of access to know what personal information is held about us by the private sector and how it is being used. Parts V and VI of the Act govern enforcement and other miscellaneous provisions. However, none of these Parts III, IV, V, VI are enforced. So, therefore, it seems that we had the intention but not the drive to follow-up.

So, I also would like to quote an article. It was an article in the *Newsday*. And it was an article given by BitDepth#1355 for May 23, 2022. It is an article the *Newsday* normally has looking at information, business in a sort of digital format. And in that article it said that it was really an article which spoke. It was really a sort of a meeting that was online meeting. They spoke on—it was a webinar, May 18th, where Mr. Sheehy, a:

“...public sector head of Cloud Carib and Rishi Maharaj, data protection adviser with Privicy, discussed the current state of the data protection legislation in the Caribbean.”

And some of the things they mentioned, I just want to put to the forefront. So this

article stated:

“The region is on the cusp of big changes...”

This article was on May 23, 2022. So it is a recent article.

“The region is on the cusp of big changes in the oversight of data handling within Caricom’s borders, but it isn’t clear that all the nation states...are pushing in the same direction...”—and the same—“enthusiasm.”

The point that they were trying to make here is that different countries in the Caribbean had reached different benchmarks. And by us in Trinidad, still 11 years behind, we were actually keeping back the rest of the Caribbean. Because they were trying to say this whole data protection is an inter-connective sort of legislation that one country, persons who are investing, persons who are involved would have to know what is the legislation in other countries. This is why I think it is important to move out of the Trinidad box and think about a more Caricom national level; why this is so important.

So, the article went on:

“The Bahamas led the adoption of data protection legislation in April 2007, followed by TT, which made its legislation enforceable in 2012.

Recent data protection laws in the Caribbean have been heavily...”—modified—“on the European Union’s General Data Protection Regulations (GDPR), with Barbados and Jamaica enacting laws heavily influenced...”

—the Barbados and Jamaican laws and their legislation. And again we heard here, I think it was Sen. Lutchmedial, that in 2019, Barbados passed another piece of legislation, which was very important in this.

So the article continues:

“The British Virgin Islands, the Bahamas, Bermuda and Belize are also following the model.

In TT, the Data Protection Act has been passed into law but has not been fully implemented, with legislation passed and a budget allocated to create an information commissioner's office.

There is no office. There is no information commissioner."

So, again it was mentioned, and I think it is critical that this is out in the public domain. It could reflect badly on Trinidad and Tobago that we have the legislation, yet still we are lagging behind our Caricom nations. So there is no office. There is no Information Commissioner.

"The TT Government has begun amending the act and is preparing for consultations with private and..."—other—"stakeholders."

—which was mentioned by the Minister of Trade and Industry; that the consultation was important, is important, is ongoing.

So, I also agree that the fact is we need other consultations and this is a fact that even though we are so far behind, we probably had initially went with the European Union's data protection directive, which is 95/46/EC, which was a directive in 1995. However, we came with our legislation in 2011/2012. But, the European Union had a repeal of its General Data Protection Regulations and the new legislation now is giving its directive 2016/679, the GDPR.

So, yes, we have fallen back. We are probably looking at an old regulation which formulated our old Act. So now we have to now do some sort of review. Now we have to say they evolved their directive so we will have to keep looking at that piece of legislation we have. And this is why I understand and I agree with Sen. Wade Mark's proposal that we need to put this. But immediately we may have to do some revision quickly, not immediately, quickly, with some sort of commitment as some Members mentioned, some timeline commitment. We have to do this, because it is embarrassing us in the Caribbean.

And the article that I mentioned from the *Newsday*, it spoke that Trinidad and Tobago Government has begun amending the Act and is preparing consultations. And someone had mentioned how much did a consultant—a Senator mentioned a consultant was retained. And the information I have, a consultant was retained by the MTI at a cost of US \$70,000 to review the legislation and this was given by a loan from the IADB loan.

5.00 p.m.

So, yes, Government has been looking at the legislation, Government has been consulted. So this is something we realize that the Government has to now swing with the new regulations that come out and the changes that are occurring in the scenario with this data that is out there.

So, the article quotes:

“From a service provider’s perspective, the greatest challenge to delivering cloud based services as a data processor or data controller is the unevenness in the legal regimes in use in the Caribbean region.”

And this why, again, I want to stress the fact, we really have to get it more detailed. And they mentioned:

“For Google, in March 2020, that turned out to be a fine of seven million euros after the search engine and advertising company failed to purge data it could not prove it still required.”

So even with Google, they had to, you know—you now will be able to go after Google, you will be able to go after other companies, but we have to have the legislation in place. It made mention of the fact that:

“Regulators [in the Caribbean]...”

There are fines in the Caribbean and:

“There are liabilities for directors, there are liabilities for senior management...”

So, all these things have to be taken into account when we are now reviewing this piece of legislation.

And it made mention that:

“...companies that operate in multiple jurisdictions or cloud service businesses...”

Again, would have to know what is happening in other countries and also:

“...understanding the specific nuances of each country’s requirements...”—is important now.

So, they said we should know our data and:

“...noting that the Jamaican data protection act allows for imprisonment of directors as well as fines.

‘You need to know what data you collect, how you collect it, the total lifecycle of the data...’”

And it was made mention that the privacy information, how you keep that data. All these are important. All these things need to be worked out:

“...from collection, to use, to sharing, to transferring, to eventual deletion.”

So, these things are some things that would have to be in any new piece of legislation that we would be considering here.

And it was made mention that, you know, we know that we have to be cautious in terms of protecting the right of privacy of individuals, we have to be alert. We know it is an important piece of legislation, especially for the economic benefits, as I mentioned before, and also to actualize any sort of modernization of society where the Minister of Digital Transformation notes that we would have no choice but to do this.

So, therefore, the fact I want to make mention of is that certain Senators made mention of the fact that abuse—could abuse occur? Could abuse occur in terms of the information privacy? Sen. Vieira had concerns, Sen. Lutchmedial had concerns and Sen. Mark had concerns, and I just want to quote that whilst we may bring pieces of legislation, we have to understand that it is not just our country. We have governments in different countries who may have used the data they collected against certain persons, and I want to just quote an article that I did in the *Guardian* on 22nd of July, 2021, captioned the “Shackled Media”, and in this article, I found out, for the first time, about the Pegasus Project, and I wrote on it. Five days ago, the OCCRP published the Pegasus Report, which found that the Israeli spyware:

“...steal personal data, read conversations, and switch on microphones and cameras...”—of journalists and others.

So 80 international journalists were investigating this breach, where government surveyed 200 journalists in 20 countries:

Reporters Without Borders—secretary-general Christophe Deloire said. ‘The revelations...inspire shock and revulsion, given the extent of the surveillance and targeting of journalists...Pegasus is a vile and loathsome tool...’”

“‘We urge democratic governments to place an immediate moratorium on the sale of surveillance technology until safeguards have been established to prevent its oppressive use.’”

So, we have to protect the Fourth Estate. They were under attack there, and it is not only that. I heard both sides mentioning that, you know—we heard one side mentioned that there was the Analytica—the other side mentioned the SAUTT. And, in my article, I also mentioned where SAUTT illegally wire-taped

and spied on the President, the Chief Justice, the Opposition Leader, judges, journalists, activists and even our present PM. And this political voyeurism was a dangerous threat to our democracy, more dangerous. And I made mention in an article at Abu Bakr's attempt at the coup. At least, with Abu, you faced the enemy.

So my point is, yes, governments—we have to protect governments, any sort of government's overreach. It may not be this administration, it can be another administration. And this forum of journalists also made mention that you have to be guarding against this. So it is our piece of legislation here would have to guard against this. Because I think it is inevitable that most governments may attempt propaganda manipulation, but it is our civic duty to put mechanisms in place to discourage that, and this is where the Bill needs to be updated and proclaimed for the protection of our citizens from any sort of governments overreach.

So I would like to say that we know the Bill, this piece of legislation was delayed, and we realized there was a need for it to be updated. I must say the fact is there was a Joint Select Committee on Finance and Legal Affairs, which also had concerns about this delay. And this Joint Select Committee actually went into some details about their delays and why the delays occurred, what reasons were given and how we could expedite it. Because the Joint Select Committee that went into this sort of enquiry actually had the concerns.

So it was the Joint Select Committee on Finance and Legal Affairs, and it was headed by our esteemed Sen. Hazel Thompson-Ahye. And in that report, they actually had an enquiry into the status of unproclaimed legislation, and they looked at the Data Protection Act as one of those pieces of legislation. So they too realized that delay was too much and they actually laid it in the House of Representatives on the 13th of the twelfth month, 2021, and in the Senate on the 7th of twelfth month, 2021.

So, we had a delay. We had a delay on both sides, both administrations. We had a delay, but we had a joint select committee which met, which studied, which called in people and which made recommendations in 2021, and here we are in 2023 still talking about this. And I thought we would have been, you know, given an opportunity to say, “Hey, you know, the legislator is, you know, we highlighted a—gaslighted—we highlighted, in a sense, the failure to put this piece of legislation on board.” And because of this Joint Select Committee, I thought we should have mobilized better—Government should have mobilized its team better to say, “Listen, let us see if we can put it on the Table as fast as we can do it. And I think they have the capability to do it because, recently, even here, the Attorney General had commended the Law Reform Commission to say that they are persons, very hardworking, and his staff would be able to, you know, bring pieces of legislation.

So I am thinking, we would have had to be able to put this on the agenda as a matter of priority; as a matter of priority in protecting our citizens, as a matter of priority in allowing the Caribbean, as a community, to develop the data protection and do business and not keep them back, because they want to know what is our thinking in Trinidad and Tobago.

And in that Joint Select Committee, there were certain excuses we heard. And I want to say we had instances where we heard that:

“In 2018, the Government sought to undertake a comprehensive review of Data Protection legislation...”

So I commend the Government. They realized they needed to do it:

“...and found it to be discordant with best practice established in the EU GDPR...”

And, as I mentioned before, the European Union did revise it. So, therefore,

Government had no choice now to say, “Listen, let us take this piece of legislation, let us try to reformulate it, let us move it. We got the consultant.” And they were actually looking at deficiencies in other areas, and:

“These deficiencies embody three core sources of challenge...”

And they classified it as one:

“A. Lack of expressed provisions

The OPM conducted two rounds of stakeholder consultations on the Act, prior to the start of the consultancy in November 2019 and in March 2021”

So, there are consultations again, as mentioned on the Government side, that they perceived there was a lack of consultation before. We know there were the gaps that were identified.

And also, it made mention:

“• The extent to which international standards, such as ISO 27701 relevant to a Privacy Information System...”—needs now to—“be incorporated and applied locally;”

So, there are other pieces of data out there, there are other pieces of regulations out there and there are other standards that we need to put into our legislation. So, there is need to update. I have no query on that, because 11 years ago, whatever was there needs to be updated.

“• The requirements to achieve compliance inclusive of the cost and length of time for implementation;”

So, all those are things that were given as reasons to the Joint Select Committee on Finance and Legal Affairs, looking at the unproclaimed legislation.

And they also said there was:

“• The need for policy directives related to the development of sector/industry specific codes and data classification standards;”

Also:

“• Lack of exemptions for certain categories of expression: journalistic, literary and/or artistic.”

All those are very important. So those are factors that we need to put into this.

They also looked at:

“B. Lack of an appropriate legislative framework

Not only was the current legislation found to be lacking in the clarity and uniformity of definitions but there were also gaps in the cross referencing between connected pieces of legislation such as the Freedom of Information Act...Electronic Transactions Act...Most importantly, there was a fundamental absence in the form of an information management system for the categorisation of data.”

So, therefore, I do not think we should rush into passing bad law. I do not think we should be rushed to pass legislation that had these deficiencies that were identified.

And they also mentioned that, you know:

“The DPA, Chap. 22:04 did not...make reference too, nor provide sufficient guidance regarding the use of novel technologies for consumer marketing, tools that the private sector appeared keen to integrate within their internal operations. Concerns over the use of electronic marketing, online privacy, the right to erasure, open data, cloud services, notification of breaches or safeguards for data matching and the creation of meta data were not addressed.”

And the Permanent Secretary of the OPM—actually, I want to quote what PS Maurice Suite stated, and the statement was made that:

““The consultant would have identified””—and this is the consultant that was hired that I mentioned before from the IADB loan—““numerous shortfalls or

things that need to adjust in the Data Protection Act. Some of the things would have covered like the development of technology over time...so there are some things in the Act...”—and he said—“remember it is between 2011 and 2021, that is a long time when you are dealing with information technology...and then you have some issues that would have been raised at the stakeholder consultation...so we are not looking to implement the Data Protection Act as it currently stands”—so we cannot rush it and I agree with this—“given that we are fully aware that a consultancy is going on and these deficiencies...have been highlighted.”

And this was verbatim notes in the public hearing that occurred on April 16, 2021, but that was in 2021, and this is where I say we need to go a little faster.

5.15 p.m.

So as I say, as I end, I want to thank Sen. Thompson-Ahye and her committee for the recommendations given. And some of the recommendations are clear for all to see, and basically they said:

“The Committee is of the view that multiple stakeholder agencies working towards a common goal must implement processes that facilitate information exchange and dialogue. An appropriate Communication strategy should be developed and implemented to foster dialogue among the OPM, the MTI, MoAGLA and MPADT with a view to adopting a well-informed and definitive position on the way forward for Data Protection Legislation in Trinidad and Tobago.”

So as mentioned, we need consultation and we heard we got it. The Committee also acknowledged that:

“...the value of a system for the classification of personal data that is held by third parties and thus acknowledges the merit in the creation of a

classification system, by way of policy or legislation, to guide the treatment of data.”

Another recommendation:

“The Committee advises that the OPM emphasis the benefits that would be derived from enhanced data protection legislation in order to build private sector support and buy-in for the proposed reforms. The benefits highlighted should include:

- a. Building of consumer trust which in turn boosts online trade;
- b. Reduction of bureaucratic processes and procedures;
- c. Provisions to ensure that SMEs can compete in the digital market;
- d. Simplification of international data transfers;
- e. Provisions to ensure long-lasting data protection solutions which can augment returns on investment.”

Another recommendation was:

“Pending the completion of amendments (if any) to the Data Protection Act, the OPM in collaboration with the Ministry of Digital Transformation should undertake a comprehensive public education and awareness raising initiative that would enable citizens to understand their privacy rights, how they work and what they should expect from organisations with respect to the use of their data. The Ministerial Response of the OPM should provide the Parliament with a status update on the proposed plan/strategy for implementing this recommendation.”

So, we await this anxiously. Another recommendation was:

“Following in the vein of the HIPCAR framework, model guidelines can be proposed at a regional level to build a local data economy, encourage the

development of technical standards, increase interoperability and ensure data integrity as part of a region wide initiative. The Committee recognises that:

A. There is value in open data flows between countries as ‘Countries that regulate data processing too rigidly and with specific restrictions on cross-border data transfers provide reciprocal restrictions by other countries, resulting in reduced access to global data and technology,’”

So we have to be aware what is going on in other countries and their data also. So, therefore:

“B. Piloting key initiatives in the data governance regime can be driven by policy initiatives at the level of CARICOM.”

Well, we saw Barbados, Jamaica, other countries are on board, we can probably use some of their information in this piece of legislation. And I think that, as I mentioned, it might be also a bit of a disrespect to the JSC if we just have to slide and take a long time. So I have hope that if it is too long in coming, the Joint Select Committee could actually implement a follow-up session to see where the delay is in bringing this piece of legislation. Thank you, Mr. Vice-President.

Hon. Senators: [*Desk thumping*]

Mr. Vice-President: Sen. Nakhid.

Hon. Senators: [*Desk thumping*]

Sen. David Nakhid: In the name of God, the most gracious, the most merciful. Mr. Vice-President, thanks for allowing me to contribute. My contribution would be brief and more of a rebuttal to some of the contributions that we heard in this honourable Senate. It must be a remarkable skill to speak for 45 minutes without saying anything of substance, and when we looked hopefully to that side to bolster what was a remotely interesting submission by Sen. Bacchus, what we received, Mr. Vice-President, was an indecipherable lesson in distraction, deflection and a

fair amount of deception. The Senator, Renuka Sagrarsingh-Sooklal, referred to 2011-2015 ad nauseam, but, Mr. Vice-President, this is the kind of politics typical of this Government. This Government, in truth and in fact, Mr. Vice-President, voted for the Bill. They did not abstain as a form of protest citing consultation. They actively voted for the Bill.

That is political hypocrisy that after eight years with their chance to actually do something, they have done nothing. That is why the people of Trinidad and Tobago, Mr. Vice-President, they are fed up of this visionless, shallow Government; 45 minutes we heard of 2011 to 2015, 12 years ago. It became so unbearable, Mr. Vice-President, that two Independent Senators—not the Opposition, two Independent Senators asked the salient question; the all-important question, “When?”. This PNM Government’s Achilles heel continues to be, Mr. Vice-President, actual work.

It is easy to come and talk what the Opposition did not do, “What you gonna do?”, but we are yet to see actual work from this Government thereby reflecting the state of this country in all spheres. Even their consultation or their illusion to consultations is a pretense, as is being currently exposed by their RIC consultations taking place right now; procurement legislation waiting to be operationalized. This is a Government of distraction and deflection; come down from there. The nation can no longer be fooled by these promises when inaction is your modus operandi. What have you delivered for the last eight years? All we see is complete inaction. Nothing seems to have a conclusion with this Government.

Where is the update on DSS? Not everyone has as short memory, Mr. Vice-President. Stop relying on the public short memory to pacify the public. People are suffering socially, economically, educationally and in the health care sector. Now they have to worry about their privacy matters? And let me, Mr.

Vice-President, exhibit where this deception comes in. I have in my hand a Cabinet Minute, No. 1971 of November 16, 2018, and it reads, Mr. Vice-President:

Establishment of a memorandum of agreement and non-disclosure agreements among Government Ministries, Statutory Authorities, other legal entities and the SSA for the sharing and management of data to the National Operations Fusion Centre. Cabinet agreed:—

—it goes on:

- a. in the naming of the Fusion Centre of the National Operations Centre as the National Operations Fusion Centre;
- b. to the establishment of a memorandum of agreement and non-disclosure agreements with strict confidentiality provisions among Government Ministries, Statutory Authorities, other legal entities identified thereunder, and the SSA for the sharing and management of data to the NOFC referred to at above.

And listen to this, Mr. Vice-President, we have the Ministry of National Security, the NSC, the Trinidad and Tobago Defence Force, the Trinidad and Tobago Police Service, Trinidad and Tobago Prison Service, Trinidad and Tobago Fire Service, the Immigration Division, the Ministry of Finance, Customs and Excise, the Ministry of Agriculture, Land and Fisheries (Land and Surveys Division), the Ministry of the Attorney General and Legal Affairs, the Registrar General's Department, the Ministry of Rural Development and Local Government, regional corporations and borough councils, the Ministry of Planning and Development, the Central Statistical Office, the Ministry of Works and Transport, the Ministry of Energy and Energy Industries, the Judiciary, the Tobago House of Assembly, T&TEC, NGC, WASA, TSTT, Digicel, Flow, Green Dot, the Port Authority of Trinidad and Tobago, National Quarries Company Limited, DOMA,

and, finally, and most curiously, the National Carnival Commission.

Mr. Vice-President, all of this points to an interception of data that Sen. Mark, Sen. Lutchmedial referred to, and when you look at the entities listed here, there can be no doubt, Mr. Vice-President, that the motives are not as what they are saying on that side. The motives are clearly with a nefarious agenda. And our question, Mr. Vice-President, why is this Government so bent on maintaining or retaining government that they will undermine the democratic rights of our citizenry to do so? Clearly, Mr. Vice-President, if a Bill they voted for, as they alluded to so many times—maybe as much as 20 times the goodly Senator alluded to it—in 2011—2015, if they were interested then why not implement the checks and balances that the country demands, a Bill they voted for? So the political hypocrisy, Mr. Vice-President, rises to the highest heavens. It exposes this Government that would do by any means necessary to hold on to power.

5.30 p.m.

This is another example, writ large, of this Government's seeking to maintain government without exhibiting any competence or democratic inclination in governance.

So, Mr. Vice-President, as I said, no intention to stay long. I only wanted to expose the political hypocrisy of this Government, and I once again ask the question that our Independent Senators asked. We do not want a vague answer that we got. Yes, we are working on it, yes it is time. It has been eight years—eight years. Any government, with any level of competency would have made certainly better strides than this Government has made.

Give to the people what we want. We want a clear answer from this Government. When do you intend to proclaim the legislation that will ensure the checks and balances that will safeguard the democratic rights of the citizens of

Trinidad and Tobago? If you cannot do so, stand down. Admit that you are not about proper governance, you are about retaining government.

I thank you, Mr. Vice-President.

Hon. Senators: [*Desk thumping*]

Mr. Vice-President: Leader of Government Business.

The Minister of Foreign and CARICOM Affairs (Sen. The Hon. Dr. Amery Browne): Thank you, Mr. Vice-President. I really had no intention whatsoever to intervene in the course of today's sitting on the private Motion brought by Sen. Mark, but Sen. Nakhid saw fit to introduce himself, and gave us a very startling, but fortunately, brief contribution, which requires a brief but robust response which I shall seek to deliver.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. Dr. A. Browne: Mr. Vice-President, the Motion today was a fairly straightforward one, as presented by Sen. Mark. The Government sought to use this debate as an opportunity to edify and educate the population of Trinidad and Tobago on this important issue of data and its protection, and we did exactly that.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. Dr. A. Browne: I heard Sen. Nakhid rise and say that it is a masterful skill to speak and not say anything at all, and then he gave us the gold standard for doing exactly that.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. Dr. A. Browne: He spoke. It was not for 45 minutes, not guilty in that regard, but for whatever period he occupied the crease, he scored no runs whatsoever.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. Dr. A. Browne: Then I heard a claim that Sen. Sagramsingh-

Sooklal, according to Sen. Nakhid, spoke for 45 minutes and only spoke about 2010 to 2015. This was the claim, and those were the words of Sen. Nakhid.

Mr. Vice-President, anyone who would have been present in this Chamber and anyone who would have been listening to the transmission of the parliamentary channel, and anyone who would resort to reading the *Hansard* record, after this debate is completed, would know that that claim has absolutely no basis in reality whatsoever.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. Dr. A. Browne: Anyone who would have been paying attention, and not misguided by Sen. Nakhid, would recognize that the Government had put in two speakers, until I rose. The first was the Minister of Digital Transformation of the Republic of Trinidad and Tobago. What he did in this debate was to give us, and to give Sen. Mark the mover, a treatise in dignity, accuracy and the words of a subject matter expert, that this country should be very proud of.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. Dr. A. Browne: That is what I heard, a treatise on the digital world, all anchored in the relevance associated with the Motion itself, but really helping to explain to Senators who many not be fully apprised on the subject, and most importantly, to the population who is paying attention to our discourse in this Chamber.

Then we heard from Sen. Sagrarsingh-Sooklal. It was rapid, it was energetic, it was factual, as always.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. Dr. A. Browne: And she also was able to convince this Senate that she is a subject matter expert on matters of the law. So this was a response of substance and, therefore, I could not—I could not understand Sen. Nakhid's use of

Sen. the Hon. Dr. A. Browne (cont'd)

empty rhetoric to try to rebut contributions of great substance moved by the Government of Trinidad and Tobago.

Mr. Vice-President, it really reminds me, having been exposed to all of that factual content, all of that relevance, all of that dignity, to hear that claim that all that was said was to focus on 2010 to 2015. It reminds me, Mr. Vice-President, a story of—not Chicken Little—a savage who was—let us not use the word “savage”—an individual who was not exposed to civilization, and who was brought in to a researcher’s room and shown a film.

Sen. Nakhid: [*Inaudible*]

Sen. The Hon. Dr. A. Browne: You see, Mr. Vice-President, we talk about dignity, and it is clear there are Members on the Opposition Bench who are simply incapable of a display of dignity in the Senate of Trinidad and Tobago. Well we will forgive them.

So this individual was brought into a researcher’s room and shown a film. It was an epic film, sweeping production, and in it there was war, there was construction of skyscrapers, there was development of civilization, a film of over two hours in length. At the end of the film, the researchers asked this primitive gentleman, tell us what you saw. Do you know his answer after seeing two hours of an epic, sweeping film? He said, “I saw a chicken run across the road”.

They went back, and they realized during the film, about half way through, a vehicle was proceeding down a highway, and yes a chicken ran across the road, but that is all the gentleman could have related to. That is all he was able to see in this film.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. Dr. A. Browne: That example really reminded me of Sen. Nakhid, because he got an epic treatise from the Government of Trinidad and Tobago on

Sen. the Hon. Dr. A. Browne (cont'd)

this Motion. We treated the Motion with respect. We responded to the clauses. We presented the evidence. We gave the policy position, and all this Senator was able to hear was 2010 to 2015. Mr. Vice-President, I see that as a very sad reflection of the capability of the Opposition Bench in the Senate of Trinidad and Tobago.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. Dr. A. Browne: There were reflections from the Independent Bench as well. I paid, as we always do, close attention to the Independent Senators when they speak, because very often, let me say more often than not, they find themselves speaking in respectful, sober tones, with great concern for the people of this country. When Senators speak like that, we have to pay close attention.

Sen. Vieira found some distance between his position and that of the Government. He gave some significant advice, which would have been well received, but he also warned the population and, I dare say, he warned the framer of the Motion and those who contributed from the Opposition Bench, that precipitous, instantaneous, immediate action, as called for by this Motion, could actually be dangerous to the very interests of the people of Trinidad and Tobago, that we should also be seeking to serve.

Therefore, Mr. Vice-President, as a Senator in this Chamber, I find myself completely unable to support or find merit in the Motion brought by Sen. Wade Mark.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. Dr. A. Browne: Again, I cannot chide him for bringing it, because it has given the Chamber and the country an opportunity to debate and engage on a matter of importance and relevance to all of us. So I just want to end my brief intervention by thanking Sen. Mark for giving the Government this opportunity to

Sen. the Hon. Dr. A. Browne (cont'd)

engage with our people, the people of Trinidad and Tobago, on the matter of data, its protection and the future with respect to Government's implementation of measures designed to protect all of us, as we move into the digital future.

Mr. Vice-President, I thank you.

Hon. Senators: [*Desk thumping*]

Mr. Vice-President: Leader of Government Business.

ADJOURNMENT

The Minister of Foreign and CARICOM Affairs (Sen. The Hon. Dr. Amery Browne): Mr. Vice-President, I beg to move that this Senate do now adjourn to Friday, February 7th at 1.30 p.m.

Hon. Senator: [*Interruption*]

Sen. The Hon. Dr. A. Browne: Mr. Vice-President, I beg to move that this Senate do now adjourn to Tuesday, February 7th, at 1.30 p.m., when the Government would propose to debate the Firearms (Amdt.) Bill, provided that it is taken to conclusion in the Lower House on Friday. Thank you.

Mr. Vice-President: Hon. Senators, before I put the question on the adjournment, leave has been granted for two matters to be raised on the Motion for the adjournment of the Senate. Sen. Mark.

Government Press Conferences (Exclusion of Non-traditional Media)

Sen. Wade Mark: Thank you very much, Mr. Vice-President. I have sought to raise two matters. I am seeking, rather, to raise two matters as it relates to issues affecting the people of T&T. I will deal with the second matter first, and that is the need for the Government to reconsider its decision to exclude non-traditional media personnel from covering Government press conferences.

Now, Mr. Vice-President, I have the Constitution of the Republic of T&T

before me, and under section 4(1)(f) [sic] of this Constitution, it states very clearly and unambiguously that there shall be freedom of the press in our country. So you could well imagine the people of this country being literally startled by the recent statements emanating from the Government, through the lips of the Prime Minister when he stated at some public function that the Government was seeking to establish who in the media sector can attend press conferences arranged by the Government, particularly at the Diplomatic Centre.

5.45 p.m.

Now, it is extremely difficult to appreciate that a government that is supposed to safeguard that rights of all of our citizens and ensure the implementation, and also respect for those fundamental rights and freedoms would do everything in its power to ensure that these rights are safeguarded. And we find ourselves in this peculiar position or situation where the Government is seeking to discriminate against members of the media.

Now, we know, Mr. Vice-President, that there appeared in the newspapers some time ago, and we were a bit concerned, that is what caught our attention, an article in the *Express* newspaper dated Saturday the 14th of January, 2023, on page 7, headlined:

“Media Houses denied entry...”

And:

“MATT”—which is the Media Association of Trinidad and Tobago—“cries foul”.

And when we read through this article we sought to get clarification from the Government, because in this article we saw where the Government, through the Office of the Prime Minister, according to this report, denied certain broadcast journalists entry into the Diplomatic Centre or, I should say, when one in particular

found his way in the Diplomatic Centre, one Mr. Robert Amar of 104.7 MORE FM was politely escorted out of the Diplomatic Centre by a police officer on the pretext that something was wrong with his vehicle. And when Robert Amar went to his vehicle, everything was in order. So it was deception and a ruse being used by a policeman, used by the PNM, to take a broadcast journalist from the Diplomatic Centre and escorted him outside of the compound. And it is only when he arrived at his vehicle, another senior policeman approached him and told him that he had to leave because they got instructions from high that he must not be part of this process because his name was not on the invitation list.

Now, Mr. Vice-President, I want the Government to clear the air on this matter, because in this same article I saw where one Stephen Cummings from Isaac 98.1 FM is also on record as saying he too has been denied access to the Diplomatic Centre to cover media conferences hosted by the Prime Minister. Now, this is very serious. This is an attack on the freedom of the press in this country.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: And this is why this matter is being raised today. Mr. Vice-President, there is one Alana Jules better known as Ruby Jemm from 104.7 FM, she too became a candidate for non-entry to the Diplomatic Centre. So the Government—in fact, there is one Prior Beharry of AZP News who was also prevented. But you know Prior wrote—I understand he wrote the Government and the Government has since responded by inviting him to come to the Diplomatic Centre. So I think good sense has prevailed in the case of AZP News, according to my information. But Mr. Robert Amar, Mr. Vice-President, is still not being allowed entry to the Diplomatic Centre. I do not know what is that state of play with Mr. Stephen Cummings, that will have to be cleared up by the Government,

and this matter of Alana Jules, Ruby Jemm, of 104.7 FM.

Now, Mr. Vice-President, the Government has been playing fast and loose with the media. This is not the first time that the Government has been playing footsie with the media. It happened with Venezuela, when they were escorting Venezuelans on some boat, they picked and choose who must come to cover that event. The Prime Minister himself has been in confrontation with the media in terms of answering and not answering questions. So the principle here forced the *Express* to ask the Government, do you have a policy on the media accessing the Diplomatic Centre to cover press conferences. I do not think I have read anywhere of a government's policy as it relates to the media covering the Prime Minister's press conferences at the Diplomatic Centre. So we would like the Government to state today if there is a policy and what is the policy. Is the Government discriminating against traditional versus those who are using Internet? Well, we call on the Government to get on board, get on track with the modern digital electronic age. Get on track. There is a journalist from the Philippines, she got the Noble Peace Prize recently, and her media is Internet-driven, Internet-fuelled, so what are you telling people?

Mr. Vice-President: Sen. Mark, your maximum time has passed for this question.

Sen. W. Mark: Thank you, Mr. Vice-President.

Hon. Senators: [*Desk thumping*]

The Minister of Communications and Minister in the Office of the Prime Minister (Hon. Symon de Nobriga): Thank you, Mr. Vice-President. Mr. Vice-President, thank you for the opportunity to attend this august Chamber and, more importantly, to respond to Sen. Mark's Motion of the Adjournment. Before I do so, Mr. Vice-President, if you would allow me, I would like to take the opportunity here to extend sincerest condolences to the family of *Newsday*

photographer, Sureash Cholai, and, of course, to the *Newsday* management and staff on his sudden passing. We pray that his soul will rest at peace and those who he has left to mourn will also find peace in these very uncertain times.

Mr. Vice-President, Sen. Mark Motion's calls for the need for the Government to reconsider its decision to exclude non-traditional media personnel from covering government press conferences. It is instructive that every example that the Senator provided referred to practitioners of traditional media, so I am worried that even the Senator, in his meandering way, has not even understood his own Motion.

Mr. Vice-President, Sen. Mark's Motion is invalid, it is baseless, is it erroneous in the extreme, it is simply not based in fact. It is no secret, Mr. Vice-President, that throughout the world there has been an explosion in what Sen. Mark's Motion refers to as non-traditional media, and here in this country we have not been exempt from that explosion. Of course, many of us will remember the much easier times when there was just one television station, TTT, and, of course, there were only a few radio stations as well, broadcasting on both the AM and FM bands. But today, thanks to the liberalization of the media, there are now approximately 40 established media houses in Trinidad and Tobago, some operating multiple media on multiple frequencies and platforms, both traditional and non-traditional.

Similarly, Mr. Vice-President, the advent of the Parliament Channel has been a welcomed boon for many who are now able to see, in real time, the antics and behaviour of the parliamentarians on both traditional and non-traditional media platforms. But it would be remiss of me if I did not say it again for the record, that the broadcast of parliamentary sittings was made possible through the intervention of the hon. Prime Minister, Dr. Keith Rowley, the very same said person that Sen.

Mark and his colleagues are now seeking to denigrate at every opportunity and at length, particularly utilizing non-traditional media platforms.

Mr. Vice-President, it is probably because we are in the carnival season that Sen. Mark decided to make “ah ole mas”, dressing up rhetoric in a motion costume to look like fact. But, Mr. Vice-President, rhetoric is not fact any more than dreams are plans, and Sen. Mark’s team has repeatedly discovered that fact at the polls. The simple truth is that there is no deliberate attempt, nor has there ever been any decision to exclude non-traditional media from covering government events. And, Mr. Vice-President, this Government understands the need for all media only too well. As former US President, John F. Kennedy, once said:

“Without debate, without criticism no administration and no country can succeed and no republic can survive.”

We understand only too well, Mr. Vice-President, that there is a poison running through out democracy, the poison of disinformation and fake news which is massively on the rise, where truth is buried by lies and then the lies live on as truth.

In fact, Mr. Vice-President, it is in recognition of this need for a symbiotic relationship with the media that this Government has facilitated the highest number of open press conferences of any administration.

Hon. Senators: [*Desk thumping*]

Hon. S. de Nobriga: In fact, it was in the throes of the pandemic, when media houses employed the technology available to them, that citizens found out about the non-traditional AZP News, and today I wish to encourage media houses to continue to take advantage of the online options that are available to them.

Mr. Vice-President, in those press conferences, the Prime Minister, Members of Cabinet and the subject matter experts were available to all and sundry, fuelling questions from real reporters and journalists, from all media

houses, traditional and non-traditional, and in so doing opening up themselves to the entire population, so much so that the phrase, “as of midnight” became a trending meme on social media. Throughout his tenure, both in Government and in Opposition, our Prime Minister—

Hon. Members: [*Crosstalk*]

Mr. Vice-President: Members, kindly refrain from the excessive crosstalk, please, and let the Minister continue with his contribution.

Hon. S. de Nobriga: I appreciate your protection. Throughout his tenure, both in Government and in Opposition, our Prime Minister has never shied away from meeting and engaging the media. And here is the thing, Mr. Vice-President, while there are those who may criticize their style—his style, as they are free so to do in a democracy, there can be no legitimate or truthful claim that Prime Minister Rowley has hidden himself from the media or refrained from taking questions at those press conferences.

Mr. Vice-President, I make the bold claim here today that if this is not the sole contributor, it is certainly one of the majority contributors which has contributed to Trinidad and Tobago being ranked 25th out of 180 countries on the World Press Freedom Index in 2022—

Hon. Senators: [*Desk thumping*]

Hon. S. de Nobriga: —a marked increase from the position of 41st which we inherited in 2015. And if anyone can justifiably accused of stifling freedom of expression, which Sen. Mark alleges, he should first look in the mirror to answer the question, who was the Speaker of the House that allowed a vote of no confidence in Dr. Rowley as Opposition Leader that saw him expelled from the House for months, thus denying the thousands of residents in Diego Martin West the voice of their legitimate, and I dare say, unlike the good Senator, elected

representative. By contrast, Mr. Vice-President—

Hon. Members: [*Crosstalk*]

Mr. Vice-President: Senators, especially Sen. Lyder, your volume in your crosstalk is increasing, I ask that you desist and cease from such activity.

Hon. S. de Nobriga: By contrast and by stark contrast too, Sen. Mark's leader for life, the Opposition Leader, has hosted more than 400 Monday night forums since 2013, and has never been in a position to take questions from any media house there.

Hon. Senators: [*Crosstalk*]

Hon. S. de Nobriga: Since August 2021, the Opposition has held more than 75 Sunday briefings, and I use "briefings" as a very loose term, and there too the political leader is never present to take questions.

And if that is not bad enough they have held close to 50 Thursday briefings again without their leader being present to field a single question from whom they purport to be reporters and journalists, of course, without any tangible proof of that being a fact, regardless of whether those are traditional or non-traditional.

Hon. Senator: Talk on de Motion.

6.00 p.m.

Hon. S. de Nobriga: [*Chuckles*] Mr. President, there are two factors which I wish to place on the table today. The first is the distinction or the lack thereof that the Senator has made between the traditional and non-traditional media, and the second is the share size of media that needs to be accommodated at Government press conferences. And since this manufactured furor has now made its way into Parliament I wish to reiterate this Government's position, that there is no decision to exclude non-traditional media from any government press conference.

Hon. Senators: [*Desk thumping*]

Hon. S. de Nobriga: And so my second point, Mr. President, I wish to thank the President of the Media Association of Trinidad and Tobago for her recent sober comments on this very issue when it was raised in the public domain. You see, unlike the mover of this Motion she did not simply seek an opportunity to make rab for political mileage, but chose to take the opportunity to present suggestions on a way forward. MATT has proposed amongst other avenues a rotation of the members of the press core at the press conferences hosted by the hon. Prime Minister, specifically where admittedly there are more journalists seeking to provide coverage. But I wish to push that envelope a little bit further and ask MATT and the TTPBA if they are willing to go the route of providing accreditation to all working and bona fide journalists. You see in that way, Mr. Vice-President, there will be some measure of assuredness that nobody fancying themselves a journalist or a media practitioner can demand admission to a press conference. I hasten to indicate that that would not only be for government press conferences, but for any press conference being hosted by business, civil society groupings or anyone else.

I know I am running out time so I just want to finish by saying that I give the commitment to this honourable House and to its Members, including life Member Sen. Mark, that as the Minister charge with the responsibility for Government communications I will be more than willing to facilitate any discussions with MATT and the TTPBA that would contribute to a deepening of our democracy and a strengthening of our fourth and most valuable estate. Thank you.

Hon. Senators: Oh yes! [*Desk thumping*]

Mr. Vice-President: Sen. Mark.

Sen. Lyder: [*Crosstalk*]

**Criminal Activities
(Protective Services Involvement)**

Sen. Wade Mark: Thank you, Mr. Vice-President. Mr. Vice-President, the second matter that I wish to address is the need for the Government to undertake—

Mr. Vice-President: Sen. Lyder, I must ask you not to speak again, please. If you do I would just have you vacate the Chamber.

Sen. W. Mark:—addressing matters surrounding members of the protective services participating in criminal activities.

Mr. Vice-President, it has now become extremely troubling and highly concerning to the population what has appeared to be a situation involving members of our protective service and their alleged involvement in criminal conduct and criminal activities.

Mr. Vice-President, I have a series of articles before me and I would not burden you with the contents of these articles. I will just let you know some of the headlines and the newspapers involved. We are talking about *Loop*, the date is May 18th, 2022, headline:

“Soldier among three held in Tobago”

I go to the *Trinidad Guardian*. And this is an article that talks about:

“Soldier rearrested and charged in Pennywise robbery, murders”

And that would have been some time I think in November of 2022.

Mr. Vice-President, we have had repeated instances of reports which found their way in an *Express* editorial, dated December the 14th, 2022. This particular headline or editorial detailed instances spanning the period May of 2022, June where a:

“...soldier was charged with possession of ammunition, assaulting a police officer...”

Then:

“In July”—four—a lance corporal was among four arrested”—involving and surrounding—“the seizure of...firearms...”

Then:

“In August, a soldier was arrested in Arima in connection with...”—again—
“firearms...”

“In September, a soldier arrested in connection with the...”—matter I just mentioned earlier.

“In October...”—you had in—“Camp La Romain”—a soldier, again, was involved in an activity there that resulted in that soldier dying.

So, what is emerging is that there seems to be a pattern where on crime scenes spent shells belonging to the Trinidad and Tobago Air Guard are found, spent shells belonging to the Trinidad and Tobago Regiment are found. And this is worrying because we have to rely on our protective services to safeguard the population and if these allegations are true then the question that arises, who will guard the guards. So there is need for an independent enquiry into the management and operations of the protective services made up of our defence forces and of course the Trinidad and Tobago Police Service.

Citizens are becoming extremely worried. They are fearful of what is happening with our members of our protective services and members of our defence forces. Hence the reason, Mr. Vice-President, I have brought this matter to your attention and through you to the attention of the Senate to get some clarification from the Government as to what is taking place in our defence forces today. There is need, as I said, for a management audit as it relates to the operations of the defence force. It may be, Mr. Vice-President, that the problem lies in the recruitment of our army personnel, our ordinary soldiers into the defence

force; it could be the recruitment of the air guard which is part of our defence force; it could be recruitment involved in the whole exercise involving the recruitment of our police officers at the level of TTPS.

The question that is arising is whether we are recruiting gangsters and criminals into our defence forces. And therefore there is need for the Government to look at this issue very seriously and take the appropriate action, because the defence force is there to defend the interest of the public and the police are there to protect and serve the public. We cannot be looking behind our backs to determine if the policeman is a bandit, or the policeman is a criminal or the policeman will murder me. This is very serious business and it is a pattern for the last year and a half to two. We are seeing this pattern emerging and the Government must take firm action and we want an independent report on the management and operation of these defence forces and the Trinidad and Tobago Police Service. The population demands nothing less as it relates to this issue.

So, Mr. Vice-President, I hope that the Government will understand that the population is fearful, the population is living in fear. It is one thing to have ordinary bandits murdering people, it is another thing when you have members of the defence force and the police involve in this kind of criminal activity and behaviour. So I therefore call on the Government to give us a clear undertaking that this madness that is taking place with our defence forces will come to an end and that will only be possible with an independent management enquiry into the management and operations of the defence force and the police.

Mr. Vice-President: Thank you Sen. Mark.

Sen. W. Mark: Thank you very much, Mr. Vice-President.

Hon. Senators: [*Desk thumping*]

Mr. Vice-President: Minister of National Security.

Hon. Senators: [*Desk thumping*]

The Minister of National Security (Hon. Fitzgerald Hinds): Thank you very much, Mr. Vice-President. Mr. Vice-President, the Motion raises an important issue for the people and the Government of Trinidad and Tobago. It essentially has to do with law enforcement personnel involved in wrongdoing. This wrongdoing we have seen in this country's history could have taken place from the last joined recruit to, Mr. Vice-President, the highest levels of these organizations. We have had Commissioners in this country whose conduct and dealings have been called into question.

Some of these wrongdoings, misbehaviours ranged from mere sloth, non-response, incivility, rudeness, all up to dealing with guns and ammunition, some stolen from the very organizations, trafficking and dealing with drugs, sharing intelligence, murders, gang involvement, racket as we call it in Trinidad and Tobago, corruptions, sometimes very well oiled.

Mr. Vice-President, this is not new, the Senator spoke about within the last couple years, but this is not new, unfortunately, certainly not unique to Trinidad and Tobago either. I read three DA officials who came to South America to assist in dealing with drug interdiction found themselves charged with drug trafficking a couple of years ago.

6.15 p.m.

We have seen multiple occasions of police excessiveness all across the world, most recently in the United States, so it is not unique, it is a problem, a serious one and we are addressing it. We have here the police, the defence force, the prison service, the Immigration Division and the Customs, largely our law enforcement platform. We have some other elements of it but essentially those organizations within national security, law enforcement.

The Government's policy is, has always been, one of openness, transparency, fairness, compliance with the laws and the Constitution of this Republic, non-corruption in public affairs and we treat with it by looking carefully at the question of the selection and the recruitment involving the vetting of those who seek to enter. We have situations in this world and no doubt in Trinidad, where gangs and people with ulterior and illegal intent will send people to try to get them into these organizations, just like there are those who got into Cabinet rooms and caucuses to get information to use to their advantage. This happens, it is a human condition, unfortunate as it indeed is. We pay attention to that.

Recently, I insisted on absolute and proper vetting and certification of every one of the personnel to enter the law enforcement platform and I am talking about very recently because I understand the nature of some of these problems. We focused on the training. All guided by the respective laws of these different law enforcement platforms and of course, the Constitution of the Republic.

Recently, well, not so recently, we passed anti-gang law in this country and we tried to rehash it sometime ago to refresh it without the support of the very Senator and those who speak. In those anti-gang laws, we had improved and we had double jeopardy I call it, stringent measures to deal with law enforcement personnel who find themselves involved in gang-related activity. We met objection from the other side. We passed in 2020 or 2019, Act 25 of 2019, where we did the Miscellaneous Provisions (Law Enforcement Officers) Act dealing with law enforcement where we gave protection to law enforcement officers, particularly prison officers and their families. We protected them, we made the sentences very severe for anybody who assaults, interferes with, kills, threatens, breaks the law in relation to these officers but at the same time, we seriously criminalized several aspects of the breaches of the law of which we speak.

Example, in the case of the prison, we made it a criminal, seriously criminal and serious punishment for unauthorized communications for persons who throw and bring things into the jail, including prison officers of course, who bring prohibited articles into there, fines as high as \$750,000 and 20 years in jail for tipping off, and if perhaps any member of the protective services “beat ah pastor”, they will perhaps serve and to perform nine bhagwats because that is a very serious matter as well.

Mr. Vice-President, the Member spoke about crime scenes and shells found, yes, that is an issue and we have mandated all the Heads of National Security to conduct more stringent management of their ammunition stock. But there is plenty more to say about ammunition stock in this country but this is not the time but we have mandated every one of them to implement serious measures and I am getting feedback of it having been done.

Mr. Vice-President: Members, kindly observe the volume of your chatter. Thank you.

Hon. F. Hinds: Thank you for your protection from that bunch. Mr. Vice-President, let me deal specifically with the Trinidad and Tobago Police Service very quickly which is charged with investigating reports of criminal activity in Trinidad and Tobago, including those affecting members of the protective services. Over the last five years, 118 members of the protective services have been investigated and charged for various criminal offences. These charges would mainly be proffered by the Professional Standards Bureau and otherwise by other policing divisions in Trinidad and Tobago.

The Trinidad and Tobago Police Service has demonstrated that it can and has responded to corruption and other criminality involving members of the protective services. They are aided and supported by the independent PCA which

conducts investigations as well into serious police misconduct and corruption and the show goes on.

I just want to take the opportunity and we saw an example of it, and I think the Senator alluded to it. A couple hours ago, a police officer involved in a scenario downtown in Port of Spain with a traffic warden, I want to commend the Police Commissioner for taking the action that the law permits her to take with promptitude.

Hon. Senators: [*Desk thumping*]

Hon. F. Hinds: I want to commend as well that officer, the traffic warden, her dignity, her poise, in the face of serious provocation perhaps.

Hon. Senators: [*Desk thumping*]

Hon. F. Hinds: But those matters are under investigation and the Commissioner has demonstrated the swiftness and the seriousness that that matter deserved. So we pay attention to training and we will do that.

I can tell you far more about what is happening with the Defence Force, we have taken a zero tolerance policy that was challenged in the court. We amended section 85 of the Defence Act to allow the Chief of Defence Staff to interdict officers who have found to have been alleged or charged for criminal offences and that now allows them like the police to be able to protect the force from the bad rap that it gets and at the same time preserve the legal and constitutional rights of the offender until the matter is resolved in the court and that is happening with the prison service as well.

Mr. Vice-President, I want to say as I close, we have an integrity testing piece of legislation before the Parliament and we expect the support of that Senator and his colleagues because it is designed to test their integrity so that we can be sure that the issues he raised are unlikely to prevail in that environment. So I

would like to say to the Senator, we understand the nature of the problem, we have the laws and regulations and the Constitution keeping it in check, and at this time, we see no need for any special independent enquiry into the operations—why the operations?—into the operations and the management of these organizations.

Mr. Vice-President, with that said and more that possibly could be said, I would like to thank you.

Hon. Senators: [*Desk thumping*]

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 6.23 p.m.