

SENATE

Tuesday, February 28, 2023

The Senate met at 1.30 p.m.

PRAYERS



[MR. PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Mr. President: Hon. Senators, I have granted leave of absence to Sen. The Hon. Hassel Bacchus, who is out of the country, and Sen. Dr. Muhammad Ibrahim, who is ill.

SENATORS' APPOINTMENT

Mr. President: 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. HARVEY BORRIS

WHEREAS Senator the Honourable Hassel Bacchus 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

UNREVISED

advice of the Prime Minister, do hereby appoint you, HARVEY BORRIS to be a member of the Senate temporarily, with effect from 28th February, 2023 and continuing during the absence from Trinidad and Tobago of Senator the Honourable Hassel Bacchus.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 28th day of February, 2023.”

“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 Dr. the Honourable Muhammad Yunus is incapable of performing his duties as a Senator by reason of illness:

NOW THEREFORE, I, PAULA-MAE WEEKES, President as aforesaid, in exercise of the power vested in me by section 44(1)(b) 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 28th February, 2023 and continuing during the absence of Senator Dr. the Honourable Muhammad Yunus by reason of illness.

UNREVISED

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 28th day of February, 2023.”

OATH OF ALLEGIANCE

Senator Harvey Borris took and subscribed the Oath of Allegiance as required by law.

AFFIRMATION OF ALLEGIANCE

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

PETITION

St. Dominic's Children's Home

Sen. Anthony Vieira: Mr. President, I beg to present a petition on behalf of the St. Dominic's Children's Home of 34B, Belmont Circular Road, in Belmont.

I move that the Clerk be allowed to read the petition.

Mr. President: Hon. Senators, it is agreed?

[Assent indicated]

Mr. President: Please proceed.

Petition read.

Question put and agreed to: That the petitioners be granted leave to proceed.

PAPERS LAID

1. Ministerial Response of the Ministry of Agriculture, Land and Fisheries to the Eighth Report of the Public Accounts Committee on the examination of the Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the financial year 2021. [*The Minister of Foreign and CARICOM Affairs (Sen. The Hon. Dr. Amery Browne)*]

2. Ministerial Response of the Ministry of Tourism, Culture and the Arts to the Eighth Report of the Public Accounts Committee on the examination of the Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the financial year 2021. [*The Minister of Tourism, Culture and the Arts (Sen. The Hon. Randall Mitchell)*]
3. Defence (Rates of Pay and Allowances) (Amendment) Regulations, 2023. [*Sen. The Hon. Dr. A. Browne*]
4. Annual Audited Financial Statements of the Deposit Insurance Corporation for the financial year ended September 30, 2022. [*Sen. The Hon. Dr. A. Browne*]
5. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Tobago Regional Health Authority for the financial year ended September 30, 2013. [*Sen. The Hon. Dr. A. Browne*]
6. Ministerial Response of the Ministry of Finance to the Seventh Report of the Public Accounts Committee on the examination of the Audited Financial Statements of the Trinidad and Tobago Securities and Exchange Commission for the financial years 2014 to 2018. [*Sen. The Hon. Dr. A. Browne*]
7. Ministerial Response of the Ministry of Rural Development and Local Government to the Fourth Report of the Joint Select Committee on Land and Physical Infrastructure on an inquiry into the impact of landfills on the environment of Trinidad and Tobago. [*Sen. The Hon. Dr. A. Browne*]
8. Ministerial Response of the Ministry of Sport and Community Development to the Fourth Report of the Joint Select Committee on Human Rights, Equality and Diversity on an inquiry into the role of the State in Preserving the Cultural Heritage of the Indigenous Peoples (First Peoples) of Trinidad and Tobago. [*Sen. The Hon. A. Browne*]

9. Ministerial Response of the Ministry of Education to the Fourth Report of the Joint Select Committee on Human Rights, Equality and Diversity on an inquiry into the role of the State in Preserving the Cultural Heritage of the Indigenous Peoples (First Peoples) of Trinidad and Tobago. [*Sen. The Hon. A. Browne*]

JOINT SELECT COMMITTEE REPORTS

(Presentation)

Sen. Wade Mark: Mr. President, I have the honour to present the following reports listed on the Order Paper in my name:

Public Accounts (Enterprises) Committee

Seventh Report of the Public Accounts (Enterprises) Committee on an examination of the Audited Financial Statements of the National Entrepreneurship Development Company Limited (NEDCO) for the financial year 2017 and follow-up on the implementation of the recommendations in the Committee's Tenth Report from the 11th Parliament.

Audited Financial Statements

Telecommunications Services of Trinidad and Tobago

Eighth Report of the Public Accounts (Enterprises) Committee on an examination of the Audited Financial Statements of the Telecommunications Services of Trinidad and Tobago (TSTT) for the years 2017 to 2021 and follow-up on the implementation of the recommendations in the Committee's Ninth Report from the 11th Parliament.

Mr. President: Leader of Government Business.

ANSWERS TO QUESTIONS

The Minister of Foreign and CARICOM Affairs (Sen. The Hon. Dr. Amery Browne): Mr. President, there are four questions for oral answer on the Order Paper, the Government is prepared to respond to questions 33, 35 and 36. We

request deferral of question 34 for two weeks. Thank you.

Mr. President: The request for deferral that the Member seeks is so granted. Sen. Mark.

ORAL ANSWERS TO QUESTIONS

The following question stood on the Order Paper in the name of Sen. Wade Mark:

Advisors to NIDCO on Construtora OAS S.A.

(Legal Fees paid to)

- 34.** Can the Minister provide the total amount of legal fees paid to the attorneys who advised NIDCO to terminate the contract with the Brazilian construction company Construtora OAS S.A.?

Question, by leave, deferred.

Bill & Melinda Gates Foundation

(Reporting of donation 'fraud' attempt)

- 33. Sen. Wade Mark** asked the hon. Prime Minister:

Can the Prime Minister indicate whether the donation 'fraud' attempt against the State, and using the name of the Bill & Melinda Gates Foundation, has been reported to the Police?

Mr. President: Minister of Energy and Energy Affairs and Minister in the Office of the Prime Minister.

Hon. Senators: [*Desk thumping*]

The Minister of Energy and Energy Affairs and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Mr. President. Mr. President, the Prime Minister had indicated by way of press conference that on Saturday May 21, 2022 the Chairman of the Caribbean Community, Caricom, had communicated to him that the Office of the Secretary General of the United

Nations wanted to reach the Prime Minister of Trinidad and Tobago and other Caricom heads, to advise them that the Secretary General had received a substantial grant from the Bill & Melinda Gates Foundation to be distributed to Caricom member countries to assist them in their ongoing poverty alleviation programmes.

On Monday 23rd of May 2022, the Prime Minister sought to speak to the Secretary General via his mobile phone using the Secretary General's mobile phone number, which he the Prime Minister had used in the past. However, the Prime Minister was only able to communicate via WhatsApp. On communication via WhatsApp means, the Prime Minister was able to determine that the individual on the other side was in fact not the Secretary General of the UN, and that it was in fact an attempt at what is known as an advance fee scam, which involves promising an individual a significant sum of money in return for an upfront payment, which the perpetrator claims is required in order to obtain the funds promised.

The Prime Minister did not report this matter to the Trinidad and Tobago Police Service as this scheme was generated outside of the jurisdiction of Trinidad and Tobago, using an international mobile phone number, and no funds were exchanged. I repeat no funds were exchanged. The matter of determining the identity of the perpetrator would have been extremely difficult and therefore, it was not pursued further.

Mr. President: Sen. Mark.

Sen. Mark: Yeah. Can I ask the hon. Minister whether the Government sought to contact the Government involved or the country from which this communication was had or made, to alert it of this, as you call it, advance scam, attempted by an individual unknown to the Prime Minister, and unknown to the Government of

Trinidad and Tobago? Was any attempt made to contact the country government involved where that particular communication emanated from?

Mr. President: Minister in the Office of the Prime Minister.

Hon. S. Young: Thank you very much, Mr. President. Mr. President, I find the question a bit confusing in that there was no country involved. This was supposed to be a communique from the Bill & Melinda Gates Foundation which is not a country—at least for the rest of us, and nor was it a government. I said very clearly, that there was a fraudulent attempt by a number, and you do not just go and contact a country or a government on the basis of a number.

Mr. President: Sen. Mark.

Sen. Mark: Can I ask the hon. Minister if he can share with this House what was the advance amount submitted by this fraudster to our hon. Prime Minister in this particular matter? Is the Minister aware of the quantum that was involved coming from this foundation purportedly owned and controlled by Bill and Melinda Gates?

Mr. President: Minister.

Hon. S. Young: First of all, there was as I have said no involvement by any foundation. Certainly, there was no involvement by the Bill & Melinda Gates Foundation. And the answer is no, I am not aware of what was the requested advance sum.

Mr. President: Sen. Mark.

Sen. Mark: What measures would be taken by the Government, and in this instance, the Prime Minister's Office to avoid a repetition of such occurrence which is absolutely embarrassing not only to the Office of the Prime Minister, but to the people of the Republic of Trinidad and Tobago?

Mr. President: Sen. Mark, what is the question?

Sen. Mark: That I am asking?

Mr. President: Yeah.

Hon. Senators: [*Inaudible*]

Mr. President: One second Minister. What is the specific question?

Sen. Mark: I am asking the hon. Minister what steps will be pursued to avoid a repetition of such an incident involving—

Mr. President: Minister.

Hon. S. Young: Mr. President, through you, to the population of Trinidad and Tobago, fortunately, in this instance, and there is absolutely no other instance that exists with respect to the current Prime Minister of Trinidad and Tobago. There was no fraudulent act that was perpetrated successfully on the people of Trinidad and Tobago. So there is no measure apart from the continued vigilance and the continued logical and sensibility of our Prime Minister.

But I do use this opportunity to remind the population that during the period 2010—2015 there were a number of instances, and one comes to mind where fraud was perpetrated on the population of Trinidad and Tobago to the sum of about US \$10 million under the Kamla Persad-Bissessar-led Government at the time, with the NGC Group. And I believe it was NE at the time, through the FCB Bank, where US \$10 million of ours disappeared and to date has never been able to be recovered.

Mr. President: Sen. Mark, final supplemental.

Sen. Mark: Mr. President, I would not engage my colleague at this time. But I will just go on to my final question. Was any due diligence conducted by the Prime Minister's Office upon receiving communication that this advance amount of moneys was being donated, purportedly, by the Bill & Melinda Gates Foundation prior to the Prime Minister communicating, purportedly, with the UN Secretary General? Can the Minister indicate, Mr. President, what due diligence

was conducted by the Government prior to this embarrassment?

Mr. President: Minister.

Hon. S. Young: Thank you very much. Mr. President, to remind the population in the answer I just gave, there was an attempt through a number that was attributed to the Secretary General of the United Nations, which turned out not to be true. It went absolutely no further, and there was absolutely no fraudulent act that was consummated on the population of Trinidad and Tobago. The Prime Minister was able of his own volition to verify that this in fact was not a legitimate transaction, and it ended right there and then, without any harm whatsoever to either the Prime Minister, the Office of the Prime Minister, or the people of Trinidad and Tobago. Thank you.

Mr. President: Sen. Mark.

Integrity Commission

(Authority to determine Staffing needs)

35. Sen. Wade Mark asked the hon. Attorney General and Minister of Legal Affairs:

Can the Attorney General advise whether the Government is considering legislative changes to grant the Integrity Commission the authority to determine its staffing needs and recruit staff?

Mr. President: Attorney General.

Hon. Senators: [*Desk thumping*]

The Attorney General and Minister of Legal Affairs (Sen. The Hon. Reginald Armour SC): Thank you, Mr. President. Mr. President, given the important constitutional relationship, which must necessarily be respected as between the Executive and the Integrity Commission, I as Attorney General have referred this question to external Senior Counsel for advice. As of yesterday the 27th of

February 2023, the question is still receiving Senior Counsel's attention and the advice has not been received.

Mr. President: Sen. Mark.

Sen. Mark: Can I ask, through you, Mr. President, whether the Attorney General has been approached by the Integrity Commission in an effort to address this issue of amending the legislation? Can the hon. Attorney General indicate?

Mr. President: Attorney General.

Sen. The Hon. R. Armour SC: Could I ask that the question be repeated please? I did not hear the question.

Mr. President: Sen. Mark.

Sen. Mark: I am not speaking Spanish.

Mr. President: Sen. Mark, the question has been posed.

Sen. Mark: All right. Let me see if I can speak a little louder because it seems like somebody is suffering from some defect.

Mr. President: So Sen. Mark—

Sen. Mark: [*Inaudible*]

Mr. President: Sen Mark, Sen. Mark, it is a simple procedure. The Attorney General has asked if the question could be repeated so that we may continue. Can you please repeat the question?

Sen. Mark: I apologize to you, Sir. Can I ask the hon. Attorney General whether at any time, as he should recall or not recall receiving any direct communication from the Integrity Commission on this whole issue of allowing of the authority to recruit its own staff? That is the question.

Mr. President: Attorney General.

Sen. The Hon. R. Armour SC: All questions which have been referred to me by the Integrity Commission within the remit of its independence and the

independence of the executive have been referred to external Senior Counsel for advice.

Mr. President: Sen. Mark.

Sen. Mark: Can the Attorney General indicate how long will it take to acquire, receive, advice from senior external counsel on the matter that I have raised?

Mr. President: Attorney General.

Sen. The Hon. R. Armour SC: I made that enquiry only yesterday of external Senior Counsel and he said to me that he was not in a position to give me a date, but that he was working assiduously on providing it in the shortest possible time.

Sen. Mark: Can I ask the hon. Attorney General how long ago did you communicate that request to the external Senior Counsel or counsel to assist you as Attorney General to arrive at some position given the independence of the Integrity Commission?

2.00 p.m.

Mr. President: Attorney General.

Sen. The Hon. R. Armour SC: More than one question has been addressed to me over the past couple months, and I have referred all such questions to external senior counsel. I cannot tell you the specific date on which I received the first of such requests, but certainly within the last couple months.

Mr. President: Sen. Mark.

Sen. Mark: Can I ask the hon. Attorney General to share with this honourable Senate, the name or names of these external attorneys that he has referred this matter to.

Mr. President: Attorney General.

Sen. The Hon. R. Armour SC: I have not referred to external attorneys in the plural. I have referred to external senior counsel in the singular and the singular,

external senior counsel to whom I have referred for advice is the honourable former Attorney General and very respected Russell Martino SC.

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

Audit of THA Financial Statements

(Details of)

36. Sen. Wade Mark asked the hon. Minister of Finance:

In light of concerns that necessary supporting information was not submitted to the Auditor General in relation to the audit of THA Financial Statements ending September 30, 2015, can the Minister provide the following:

- (i) a list of any receipts and payments which were not submitted to the Auditor General;
- (ii) a list of bank accounts which were not submitted to the Auditor General;
- (iii) a list of payment vouchers which were not submitted to the Auditor General; and
- (iv) the reasons why the above mentioned information was not provided to the Auditor General?

Mr. President: Minister in the Ministry of Finance.

Hon. Members: [*Desk thumping*]

The Minister in the Ministry of Finance (Hon. Brian Manning): Mr. President, the information being sought is available from the Auditor General through the Public Accounts Committee of the Parliament. The role of the Auditor General is clearly identified in section 116 of the Constitution of the Republic of Trinidad and Tobago, and the role of the Public Accounts Committee is clearly identified in section 119 of the Constitution. It should be noted that the Public Accounts Committee is chaired by an elected Member of the Opposition. The Ministry of Finance has no constitutional role to play in the auditing of the THA's Financial

Statements and should not get involved in the business of constitutionally independent entities. The Senator is advised to pursue the information requested through the Public Accounts Committee.

Mr. President: Sen. Mark.

Sen. Mark: Can I ask the hon. Minister, under the Exchequer and Audit Act of the Republic of Trinidad and Tobago, what role if any, does the Minister of Finance carry out as it relates to the financial and fiduciary responsibilities and duties in respect of the expenditure of public monies?

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

Sen. Mark: Can I ask the hon. Minister whether the Minister of Finance under the Exchequer and Audit Act has a responsibility to address these issues when public funds are involved?

Mr. President: Minister.

Hon. B. Manning: Mr. President, I believe I was absolutely clear in my response. This falls under the Public Accounts Committee and the answers that the Senator is looking for can be found there.

Mr. President: Sen. Mark.

Sen. Mark: Can I ask the hon. Minister, why did—in the instant case of the question that we have posed here, can the hon. Minister, indicate why it is the THA has refused to provide critical documentation to the Auditor General in order for that office holder to carry out its responsibilities on—Mr. President?

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

WRITTEN ANSWER TO QUESTION

Sen. Mark: Okay, I pause it, Mr. President. In pausing, your guidance. If you go to the appendix, you will see a question that is due today, the 24th of the second month, which has gone. So, can I ask through you to the honourable Government,

Leader of Government Business, when will this question be answered and the answer circulated?

Mr. President: Leader of Government Business.

The Minister of Foreign and CARICOM Affairs (Sen. The Hon. Dr. Amery Browne): Thank you, Mr. President. The question for written answer that qualifies today question No. 61, the Government has the response, it will be circulated shortly. Thank you, Mr. President.

Offshore Dragon (Gas) Field

(Details of)

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

In relation to the license issued in January 2023 by the US Government to the Government of Trinidad and Tobago to develop the offshore Dragon (Gas) Field in Venezuelan territorial waters, can the Minister provide the following:

- (i) what are the mechanisms and entities that will be used by the Government to enforce the Dragon (Gas) Field license;
- (ii) what are the activities involved under the Dragon (Gas) Field license;
- (iii) which companies will be engaged by the Government to carry out production activities under the Dragon (Gas) Field license;
- (iv) how will this country benefit financially from the Dragon (Gas) Field license; and
- (v) what will be the timeline of the benefits referred to at (iv)?

Vide end of sitting for written answer.

JOINT SELECT COMMITTEE

(CHANGE OF MEMBERSHIP)

Mr. President: Leader of Government Business.

The Minister of Foreign and CARICOM Affairs (Sen. The Hon. Dr. Amery Browne): Thank you, Mr. President. Mr. President, I beg to move the following Motion:

Be it resolved that the Senate agreed to the following appointments to the Joint Select Committees:

1. On the Joint Select Committee on National Security, Mr. Richie Sookhai in lieu of Mr. Nigel de Freitas.

On the Joint Select Committee on State Enterprises, Mr. Richie Sookai in lieu of Mr. Nigel de Freitas.

2. On the Joint Select Committee on the Fisheries Management (No. 2) Bill, 2020, Mrs. Paula Gopee-Scoon in lieu of Mr. Nigel de Freitas and Mrs. Renuka Sagrarsingh-Sooklal in lieu of Dr. Muhammad Yunus Ibrahim.

Question put and agreed to.

DATA PROTECTION ACT, 2011

(PROCLAMATION OF REMAINING SECTIONS)

[Second Day]

Order read for resuming adjourned debate on question [January 31, 2023]:

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.

Question again proposed.

Mr. President: Those who spoke on the last occasion would be Sen. Wade Mark, mover of the Motion; Sen. The Hon. Hassel Bacchus, Minister of Digital Transformation; Sen. Anthony Vieira; Sen. Jayanti Lutchmedial; Sen. The Hon. Renuka Sagrarsingh-Sooklal, Minister in the Office of the Attorney General and

Ministry of Legal Affairs; Sen. Dr. Varma Deyalsingh; Sen. David Nakhid; and Sen. The Hon. Dr. Amery Browne, Minister of Foreign and CARICOM Affairs. Sen. John.

Hon. Senators: [*Desk thumping*]

Sen. Jearlean John: Thank you, Mr. President. Mr. President, the Hon. Minister of Digital Transformation, in his response to the Motion, said:

“...I actually agree that more of the Data Protection Act should be proclaimed and for good reason...”—and he said—“...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...”—he said—“...it will happen.”

Mr. President, I thank the hon. Minister for his forthrightness, which is refreshing coming from the Government Benches. Because, Mr. President, surely, it is refreshing—not always a government who does not tell you the truth. Mr. President, surely if the Parliament of 2012, on both sides supported the Bill in its entirety, should this not count for something? Should the will of the people by way of its representatives, not be carried through right up to immediate proclamation?

Hon. Senators: [*Desk thumping*]

Sen. J. John: Mr. President legislation is drafted in a holistic fashion and usually clauses have a symbiotic relationship with each other, especially as it pertains to the overall effect and mischief that any piece of legislation is drafted to cure or prevent. By selecting bits and pieces here and there, there is the betrayal of the spirit of the legislation, and the real intent is lost. The hon. Minister Bacchus, in this House on January 31st, stated, he said:

“I would like to suggest that the proclamation of the Act is really a subsequent thing to the modernization of the Act. I almost want to put both of them...”—he said—“I almost want to put both of them as a one-time exercise.”

To this I ask the question: Then why pick sections 42 and 43 in 2021, for convenient proclamation? Why not wait like everything else or is it convenient proclamation for convenient property tax implementation? A clear case of this Government prioritizing only what is convenient to them.

Mr. President, when the Minister used the term that “legislation drafted 11 years ago, may not be fit for purpose”. Sure, technology has changed, perhaps in 2012, we used the Blackberry, I used it, the mobile phone, and when in 2023, our mobile phones are more like super computers and the cost—some of them cost more than the laptops. Mr. President, all this means is that we need data protection now more than ever. Because again, I agree with the Minister of Digital Transformation, when he stated and for context, he said:

“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...”

So, the Minister is really talking at cross purposes, because he is saying that things are getting more and more sophisticated. More importantly, Mr. President, these

developments emerging and mature, have changed the way we live and the way we interact. Mr. President, I am old enough to have witnessed the emergence of Amazon, when it was just a simple online bookseller and it is now the “everything store,” earning billions in profits, return on investment. I recall looking at Bill Gates one night and saw him moving around some cards on a table. And really what he was testing at the time, was he was demonstrating the idea of the touchscreen. Microsoft was not first on the market, IBM was, but in terms of monetizing and commercializing it, that was Steve Jobs in 2007, the 9th of January, I think it was in 2007, when he said, Steve Jobs made the case he said:

Today, Apple is going to reinvent the phone.

And he was right. Today, the iPhone has changed everything. Our lives are stored on the phone in our hand and that is data. So again, the Minister is very correct, when he says to manage data is one of the highest priorities that we have because it is absolutely critical. The Minister with responsibility for digital transformation suggests that:

“...the proclamation of the Act, really is a subsequent thing to modernization of the Act.”

He said there was an assessment of “the state of the various e-services”. Imagine the Minister is saying there was an assessment of the state of “e-services provided by the Government”, and they assessed 170 of the reviews—170 of these services. And more than 90 per cent, Mr. President, or 153 out of the 170 of the services, he said were quite basic:

“They are limited to just information, download forms, you could upload applications and so on.”

So, Mr. President, we are in no man's land with this Government. The PNM has returned Trinidad and Tobago to the Stone Age because there was a time they were calling Trinidad a tiger in a sea of pussycats. Now, we are really back to the Stone Age because even the Data Protection Act, even if not for us, certainly for interacting with the international community.

2.15 p.m.

Mr. President, there is a growing awareness that the apps and services we use every day can collect vast amounts of data. High-profile incidents and scandals have shed light on the perils of oversharing online. An example played itself out very recently in the public domain. So companies have previously abused permission to have its data. While much of this data may be considered harmless, even seemingly benign, information can have substantial commercial value and more information can be a threat to personal security.

So while we are fiddling, Mr. President, the world moves on. In November, there was a new—I do not know if you call it an app. They call it a ChatBot. I am seeing it everywhere, whether in the news, on Bloomberg, MSNBC, and the magazines and so on, and it is called ChatGPT. And I am saying that because Trinidad is part of the world, part of the digital highway, the information highway. You cannot hide from it. It is there. I mean, I go online casually, I see ChatBot. You go on YouTube, it is all over YouTube, et cetera, telling you how to use this tool. But it is fascinating. But what it does—and it does the same for whether you are a citizen in Nigeria or in Trinidad and Tobago or in the Philippines or in Charlottesville—it does the same thing. It keeps a record of every message you send. From those, it can learn a lot about your interests, your beliefs, your obsessions and concerns. This is a highly capable machine learning system. After

all, that is all so true of today's search engines, but ChatGPT can engage with a user in a completely different way.

So it is very engaging, and you feel as if you are talking to someone. And what they are saying is that it is very compelling and it can cause somebody to disclose more than they should. And there is—the other risk is they flow from the poor privacy practices of many of the ChatGPT clones on the loose. So this accumulates vast amounts of data from the Internet written by humans, including conversations. And because of the indiscriminate way that ChatGPT gathers data, much of it will refer to people and it will include things that they have written or said over the last few years or even decades in the most varied contexts.

So, Mr. President, there is a major exposure when one uses these kinds of applications. The article, I am quoting from, it goes on to say:

“When users interrogate ChatGPT, it could expose information or rumours about themselves or others that people would not want made public. Since ChatGPT has no understanding of what it produces, it will not hold back information that might be embarrassing or lead to careers or relationships being wrecked.”

Mr. President, the Minister said:

“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...”

How can the operationalization of the Office of the Information Commissioner not be relevant or fit for purpose? Is it not fit for purpose to establish such a critical office and, at least, begin the process and along the way advance the capabilities and iron out the kinks, or is it better to sit and do nothing as is now the case? Mr.

President, I get the feeling that this is being treated with the same lack of urgency as the Office of Procurement Regulation was. I put it to the honourable House that it is not the legislation that is not fit for purpose, but actually the Government who will not proclaim the legislation.

Hon. Senators: [*Desk thumping*]

Sen. J. John: Mr. President, the hon. Minister in the Office of the Attorney General and Ministry of Legal Affairs who spoke well, of course, with her usual sound and fury that we have grown accustomed to—and as my colleague, Sen. Nakhid, indicated, there were a lot of words, really signifying nothing, and it continues with that vagueness and ambiguity, which appears to be the Government's stance. One take away was that the Minister in the Office of the Attorney General and Ministry of Legal Affairs, she kept referring to the period from 2010 to 2015, and I thank the hon. Minister sincerely for her persistent reference, as Trinidad and Tobago was in a far, far better place during that period.

Hon. Senators: [*Desk thumping*]

Sen. J. John: It is not me saying, the streets are talking.

I also take this opportunity to remind that in 2012, this Bill was debated and passed with amendments from both sides of the House under a government that was not afraid to listen, collaborate and consult, which is a far cry from what we have in office today.

Hon. Senators: [*Desk thumping*]

Sen. J. John: I also put it on the record that since independence, the UNC has not been in office for 50 years plus, like the PNM.

So, Mr. President, the substantive part of the Bill, they have the right to privacy. That is enshrined, of course, in our nation's Constitution in section 4. In

the modern sense of the word, privacy and the right to one's private life now applies to our digital footprint. We all have a digital footprint. These apps are always just storing our data. So this—and our involvement—it applies to our digital footprint and our involvement in the digital community. This applies to our personal information—age, sex, identity—and now our contact information—passwords, banking data, credit card information and so many other areas of everyday life.

Mr. President, there is an expectation of protection in modern societies, with our Caribbean neighbours jumping ahead with data protection legislation being passed and implemented in Bermuda in 2016, the Cayman Islands in 2017, St. Kitts and Nevis in 2018, Barbados in 2019 and, most recently, in Jamaica in 2020, most of whom are following the holy grail of data protection in the EU General Data Protection Regulation of 2018, and this was also cited by the hon. Minister and Minister in the Office of the Attorney General and Legal Affairs.

Very soon, if our data protection laws are left to languish, as has been the case for the past eight years, foreign organizations and countries may blacklist us and impose sanctions unless we comply. So, Mr. President, that is why the question posed by two Independent Senators, not the Opposition, the all-important question: When will this law be proclaimed? That is very, very, pertinent.

As Sen. Nakhid pointed out, how can we take the Government seriously when instead of proclaiming the Data Protection Act, 2011, in its entirety, the Government found time to approve a Cabinet Minute which, essentially—and, of course, this Cabinet Minute which they approved, a memorandum of agreement and some non-disclosure agreement because they like this non-disclosure high secret agreement. Why will you do that? Because what is happening, the

Government now, outside of the law—outside of the protection of the law, outside of the guardrails of the law, would have given some state organizations, probably all of them, and some private sector organizations, they have this secret memorandum of understanding that they must handover information.

Now, if this law is fully proclaimed, at least, we have some guardrails, we have some guidelines because these people, unwittingly, will find themselves marching up and down the courthouse step, where I am sure my colleague, Sen. Lutchmedial, will be happy to meet and treat with them. So, Mr. President, if nothing else, it proves that this Government's only interest is not in the protection of citizens' private data, but to move heaven and earth to illegally spy on the citizens of this country. Because one of the organizations that was cited in this Cabinet Minute is DOMA. What does the Government want with DOMA? They want to know if you want your KFC crispy or original? What it is they want with DOMA? I mean, what has been done in exposing organizations, both in the public and private sectors, to liabilities? And I said, again, these guardrails—and what guidance was provided, you know, really, to these people with respect to giving out people's private information?

So when the Government, they come here and cannot defend what they are doing, they talk about conspiracies and “who have active imagination”. But this is a Government, obviously, up to no good, because the Act is there. The Data Protection Act of 2011 is there. It is something—you work with what you have and then you make the amendments as you go along.

Hon. Senators: [*Desk thumping*]

Sen. J. John: Every other jurisdiction is doing that same thing. You are there posing and talking and saying that we are waiting. What are you waiting on? The

sky to fall on our heads? And then you leave our citizens exposed to all manner of evil.

So, Mr. President, this—what I have been saying prior, underscores the importance of implementation and operationalizing of the Office of the Information Commissioner. This, at the very least, ought to have been done along with sections 42 and 43 in 2021.

Eight years later—this is a Government of no shame. You know, and they come here and they talk about, the what? The People's Partnership. What happens when the Government Ministries and state agencies holding criminal records—just now, as I was coming, I think there was some breaking news. They got into some—there was some ransomware that got into some database in America where the Marshals keep their information. And these are people who are may be on the run and so on, and they are saying they have people's biometrics, they know where the family lives, who they are likely to go buy, et cetera. These are very important issues and very scary issues. So what happens when the Government Ministries and state agencies holding criminal records, financial and personal inland revenue information, medical information or any other personal data—if banks get hacked and this information is leaked, what safeguards are the agencies taking?

Recently, in the Firearm (Amdt.) Bill debate, I made the point about the leakage of personal information and data belonging to prison officers, leading to criminals targeting off-duty officers at their homes. What protection is offered to them? Their names, their identities, addresses are leaked daily and, Mr. President, some end up dead. So these are serious issues.

So, Mr. President, which brings me to an app used widely in Trinidad and Tobago, mainly this TikTok app. Again, a serious government, they have told all

of their employees in the federal government of the United States of America that they must stop using that app, and they have given them 30 days. Today, they were saying they gave them 30 days. I think they had stopped in December but just now, again, the breaking news, they were saying they gave them up to well, 30 days—maybe the end of March, as it were, because they have a concern.

They said the popular social media app attracts its users' likes, dislikes and personal information, including email addresses, phone numbers and WiFi network. Now, TikTok, I mean, does basically the same thing in terms of storing data, you know, just as maybe, what you call it?—Snapchat or what?—Facebook or any of the other social media platforms. But these are American-based companies, and they are saying, this is a foreign company and we do not want any foreign company having access to our data. This is a serious government, and they are willing to go up into some kind of global confrontation with another superpower to say, we are going to close this down or, at least, the thousands of people working in the federal government will not have access to this app. They are very concerned about that.

So all of this is happening in a digitally connected world, and the Government of Trinidad and Tobago remains paperbound and paper-based, keeping Trinidad and Tobago in the Stone Age, satisfied to use the Cabinet to sanction the illegal spying and capture of the private data of its citizens, instead of approving the proclamation and operationalization of the Data Protection Act of 2011.

The Government, in responding to this Motion, made it seems like a large portion of the Bill has been proclaimed and it is just a bit more than needs to be done. But for the purpose of the general public and the right-thinking Members of

the House, that is not so. Part III of the Bill dealing with “Protection of Personal Data by Public Bodies”: the storage; use; protection; exceptions to when disclosure can take place; limitations in the processing of sensitive personal data; managing of personal information; banks; rights to counsel and mediation; responsibilities of public bodies in handling personal information, that has not been proclaimed.

Part IV, a most important era of the law, dealing with regulating the private sector’s handling of personal data, codes of practice. How does the private sector handle personal data? If you go to buy a lipstick at MAC Cosmetics at Westmall, they want to know your address, your phone number. I mean, two weeks ago, I went to get some sunscreen at a particular office and they asked me my name, my address and my data. I say, are you going to take my money or not? And this is serious business, I am telling you. And the attendant told me, well, they actually need my name and phone number to just ring up the sale, you know. So everywhere, across the spectrum, people are collecting your personal information and you are wondering what are they doing with it. So you cannot go and purchase some lil benign product that you want to use in your everyday life. They want your personal data, Mr. President.

So, how are they handling this? What are the codes of practice? The Commissioner’s role within the Act is in formulating a code of conduct, cross-border disclosure of information, right of access, refusal of access, review process, complaints and other critical components.

Part V of the Bill deals with “Contravention and Enforcement” of the Act, and violations of whistleblowing provisions, breaches of confidentiality and penal provisions, all remain largely unproclaimed. So, Mr. President, in effect, our data protection is inadequate, basic at best, and in dire need of proclamation.

Mr. President, the Government uses the EU General Data Protection Regulation as a scapegoat to defend its lack of action, saying that there is some kind of consultant looking to—I do not know if it is to harmonize or to look at the gaps. And the structure of this, what do you call it?—the General Data Protection Regulation, or the GDPR, in many ways is similar to our unproclaimed legislation, especially as it pertains to the “Rights of data subject” as seen in Articles 12 to 23; “Transfers of personal data to third countries or international organisations”, Articles 44 to 50; the establishment of the supervisory authority, Article 53; the independence of the authority, Article 52, sorry; competence of the supervisory authority, Articles 55 and 56; roles and responsibilities, Article 57, almost identical to our Office of Information Commissioner in the Act.

2.30 p.m.

In summary, there are many sections that could be and should be proclaimed to provide a starting point at the very least for the Office of the Information Commissioner and provide some level of enforcement. Technological advancement takes place daily, moment by moment, and the risk and threat of identity theft, fraud, data thefts, scamming and hacking are always evolving. It is simply not enough to blame the Opposition or say that the current provisions are ineffective when in reality something is better than nothing. Amendments can always be made as we go along, but leaving citizens with the exposure posed by a lack of data protection guardrails is totally, totally unacceptable. Mr. President, the UK’s Data Protection Act is designed in the same way to protect against abuse and they also had to do that whole harmonization as it were with the same general data protection regulations. Mr. President, I want to further make the point that under the UK Data Protection Act of 1998, eight data protection principles existed at the

centre of their legislation.

Everybody, we all have the same issues, and by 2018 these principles were developed and advanced further by the European Union's GDPR, their guidelines, and made a part of the UK law within the Data Protection Act of 2018. And with a great deal of crossover between their law and that GDPR is the same as I said about us, many of the now seven principles of data protection are only slight augmentations of the previous law. So we do not have to throw out everything and mash up what we have and say, "We have consultation and consultants" or "We did not have consultation", we need to proclaim the Act as it is and then we make the amendments.

Hon. Senators: [*Desk thumping*]

Sen. J. John: So below we can see how these exist in some principles of data protection that have been incorporated and developed by the GDPR.

Mr. President, the official version of this document is about 261 pages, so it was long, and so this endless time until the "twelfth of never" that we are taking to do something that is so critical, they looked at their Act and did that in 1998 Act, you know. I am not talking about 2011; 2011 is fairly recent. They looked at their 1998 Data Protection Act and they did the comparison, and they listed it. Whereas they had some principles one to eight, they just looked at what the Europeans had and basically they just made the adjustment. They did not just say, "Well, we are not going to proclaim this because we want to wait", so that is why we are—well, I am very, very suspicious of the Government's motive. It cannot be that large economies or large countries can do this so easily and we are sitting here and leaving our people at such great risk as it were that is presented. I mean, the Minister had said—what?—I think, that data is our new gas.

Well, I hope he knows the price of gas is tanking, but whatever it is, if there is value and the Government recognizes there is value in it, they did create a Ministry of Digital Transformation, but maybe it is just for the show because he is doing pretty much nothing. I mean, I listened to what the Minister had to say and, you know, and basically the Minister really could have been no firm—he could have given no firm date. He could have given no critical path. He gave no gap analysis in terms of where we are with this Data Protection Act. So I get the sense that this is not important to the Government. They will use the Cabinet and they will use their spy agents here and they “go” just spy, and they do not care because they have the money, they will just go to court and they will hire their major senior counsel.

So, Mr. President, Sen. Mark quoted—when he presented his quote he said, a healthy society is dependent on trustworthy information. Sen, Mark reminded us in this Senate this Motion addresses a critical issue that fundamentally impacts on the privacy, the dignity and democracy of our nation, and I agree with his call for the proclamation of the entire Act.

Hon. Senators: [*Desk thumping*]

Sen. J. John: And I am saying now, quite frankly—I know Sen. Vieira said the end of this year, but I do not know what the Government is waiting on. They have had eight years to swing their engine up and down. They have had eight years and that was eight years too long. We need to proclaim this now because Trinidad and Tobago is sick and tired of this Government’s laziness and lack of care.

Hon. Senators: [*Desk thumping*]

Sen. J. John: So if the Government cannot protect the rights and freedoms of our citizens, then it is the Government that is not fit for purpose, not the Act. Thank

you, Mr. President.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Seepersad.

Hon. Senators: [*Desk thumping*]

Sen. Cherrise Seepersad: Mr. President, thank you for the opportunity to contribute to the debate on the Motion to proclaim the Data Protection Act and other related matters. The Motion calls 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 are in place. The Data Protection Act, 13 of 2011, was partially proclaimed on January 06, 2012, and August 23, 2021. Mr. President, the Data Protection Act was legislated because Trinidad and Tobago faced a threatened data embargo in 2011. The effect being that countries with data protection laws would not be able to share their secure data with Trinidad and Tobago companies. This would be particularly detrimental to companies in banking, finance and the business sectors. Of equal concern is the collection, use and sharing of personal information to third parties without notice to or consent of consumers.

According to UNCTAD, 137 out of 194 countries have put in place legislation to secure the protection of data and privacy. Presently, there are 71 per cent of countries with legislation, 9 per cent with draft legislation, 15 per cent with no legislation, and 5 per cent there is no data available. The parts of the Act, of the Data Protection Act that are proclaimed are, one, Part I for preliminary, title objects, general privacy principles; Part II, Office of the Information Commissioner, except for the designation and powers of inspectors, power to

conduct an audit of enquiry of public bodies and private sector entities, and the Information Commissioner's right to report annually to the Parliament. Mr. President, this is significant since the parliamentary scrutiny is prevented. Part II is not proclaimed, except for section 42, which is the protection of personal data by public bodies. Part IV, Protection of Personal Data by the Private Sector is also not proclaimed; and Part V, Contravention and Enforcement are not proclaimed as well. Therefore, Mr. President, in Trinidad and Tobago our data protection is ineffective, feeble and unenforceable.

Data protection compliance is basically on a voluntary basis for both the private and government sectors. Citizens are really not protected. The onus is on the general public to adopt whatever measures are currently available to secure their private and confidential data, including intellectual property rights and business patents. In any event, Mr. President, to depend on one strategy in the age of artificial intelligence and a dynamic and evolving environment is foolhardy. The added layer offered by the proclamation of the entire data protection legislation would be invaluable. There are three key elements to data protection, confidentiality, integrity and availability. Confidentiality is the data is retrieved only by authorized operators with appropriate credentials; integrity, all the data stored within an organization is reliable, precise and not subjected to any unjustified changes; availability, the data stored is safely and readily available whenever needed.

Why do we need data protection legislation? Mr. President, if you have ever filed e-taxes, own a smart phone, used the Internet, have a social media account, or even wear a fitness tracker, you have been sharing your personal information either online or offline with private and public entities, including some that you may

never heard of. I am sure you realize that when you are doing research or shopping online you immediately start to get alerts, emails from companies who supply either information or products in the same sectors in which you are looking, and that is what you are doing, you are sharing your data online with people who you do not even know. While sharing data may bring some benefits, and while it is often necessary to perform everyday tasks or conduct essential business transactions, and engage with other people in today's world, it is not without risk. Personal data reveals a lot about you, your thoughts and your life. If it inadvertently or deliberately falls into the hands of the criminally-minded, people could be compromised.

Mr. President, personal and confidential data can easily be exploited to cause harm and that is especially dangerous for vulnerable individuals and communities, such as journalists, activists, human rights defenders, and members of oppressed and marginalized groups. Depending on the situation, one could become a victim of identity theft, discrimination or physical harm. Clearly, data protection laws are extremely important and are an essential component in today's evolving digital landscape. Mr. President, as I previously stated, 71 per cent of countries find it necessary to enact effective data protection legislation in its entirety. The legislation gives citizens control over how their data is used and protection against the misuse of information.

Entities must be required to report data breaches. Many businesses today collect information about people and use it to help promote their products and services. Personalized target marketing is pervasive with cyber titans, such as Google and the social media platforms. It is important to know what information is being collected and used. People need to be able to request entities to provide

them with their data collected by the entity and to remove or amend their data under certain circumstances. Currently this is not possible in Trinidad and Tobago. You cannot get information from banks on what they have on you; on private companies, neither. It is just not available.

Mr. President, citizens in Trinidad and Tobago do not know who has access to their data. It is open and unprotected. Whom is the data shared with? Is the information correct? Is the information being misused? There are very real and serious consequences of harmful privacy breaches. Uncontrolled access to personal data gives criminals the ability to exploit people and entities. The ease with which victimizers can find their prey on the web is not to be dismissed. Credit card numbers are being sold, people are being stalked, use of *YouTube* by paedophiles to seek out children's photographs and the actual children themselves, politicians are illicitly swinging elections. Data breaches can cause companies and governments significant reputational damage.

In one of the most disruptive ransomware attacks, Russian-linked cybercrime gang, Conti, brought Costa Rica to a screeching halt in April 2022, and the disruptions lasted for months. The group's attack on the country's Ministry of Finance paralyzed Costa Rica's import/export businesses causing tens of millions of dollars a day in losses. Costa Rica's president declared a national emergency; the first country to do so because of a ransomware attack, and one security expert described Conti's campaign as unprecedented. A second attack occurred in May 2022, on the Costa Rican Social Security Fund, and this was attributed to the Conti-linked Hive ransomware and caused widespread disruptions to Costa Rica's health care system.

2.45 p.m.

In Trinidad there have been several data breaches, including an insurance company and a supermarket chain, in the recent past to name a few. In fact, the data from the insurance company was uploaded to the dark web, and we all know what that means and who it could become available to.

The Electronic Transactions Act, which is companion legislation to the Data Protection Act, is only partially proclaimed. The provisions of the Electronic Transactions Act that are enforced effectively allow for the use of electronic documents and electronic signatures for certain transactions, but exclude documents such as wills and property deals where a wet signature is still required, as well as the storage of information in electronic form.

The sections of the Act that are not proclaimed include electronic authentication service providers, intermediaries and telecommunications service providers, consumer protection, contravention and enforcement. Mr. President, this Act should be reviewed and amended, taking into consideration current digital technologies and developments. Data protection is a moving target, and laws must be enforced and updated periodically to reflect the digital landscape in its present metamorphosis.

The Data Protection Act was conceived 12 years ago. Mr. President, a lot has changed since that time. We need to address the technical and social changes. Laws need to be updated to address today's reality. Ever since the Internet was created, people are sharing more and more of their personal information online. While privacy laws exist and are important to protect people's information and rights, they are not suited to the challenges of today's connected world. Self-regulation is not working to protect our data.

It is critical that the Data Protection Act be reviewed to ensure that it is in alignment with the changes in today's world. I am happy to see that the European Union General Data Protection Regulations are being reviewed to see what aspects can be included in our legislation. We must, however, balance the protection of data with the use of data. However, I firmly believe this process should be done expeditiously. Amendments to both the Data Protection and Electronic Transactions Acts should be brought to Parliament by May 2023. Once passed, both Acts should be proclaimed without delay.

I thank you, Mr. President.

Mr. President: Attorney General.

The Attorney General and Minister of Legal Affairs (Sen. The Hon. Reginald Armour SC): Thank you very much, Mr. President, for this opportunity to contribute to this Motion. By way of short background, Mr. President, the Data Protection Act, Chap. 22:04, which is an Act to provide for the protection of personal privacy and information, was assented to on the 22nd of June, 2011, and there have been partial proclamations since; January 06, 2012 and August 23, 2021.

Data protection in Trinidad and Tobago is governed with respect to, not only the Data Protection Act, which I will refer to shortly as the DPA, but also the Freedom of Information Act, 1999. The DPA provides for the protection of personal information by public and private bodies, establishes a Data Protection Authority Office, the Office of the Information Commissioner, and covers enforcement of the Act and penalties for breaches. The Freedom of Information Act promotes good governance through transparency and accountability in Government decision-making.

Mr. President, data protection is the process of safeguarding important information from corruption, compromise or loss. Data protection law has developed in Trinidad and Tobago over the last decade in the DPA, the object of which Act is to ensure that protection is afforded to an individual's right to privacy and the right to maintain sensitive personal information as both private and personal.

Data is integrated into almost all aspects of our lives, and it stimulates economic activity. It changes the way we do business. It affects the interpersonal relationship between persons in the private sector, and will affect the way we as a government deliver services to the citizens of Trinidad and Tobago.

In his contribution to this debate, Mr. President, my learned friend, Independent Senator the hon. Anthony Vieira—and let me digress for a moment, just to spend a little time on the term “my learned friend”. It is a term that we have used in the other place, to which my learned friend and I belonged, before we came to this Chamber, and it has to do with the respect that we have for each other's abilities, and notwithstanding differences, and sometimes strong differences, that we may have from time to time.

I regret to say that since my entry to this august Chamber, other persons to whom I have previously referred to as “my learned friend”, seem to have forgotten the code of honour that informs being a learned friend.

My learned friend, Independent Sen. Anthony Vieira, has given us a scholarly contribution, which the Government has carefully listened to. To his credit, Sen. Vieira has acknowledged that he would not like to believe that because this Act was piloted under a different administration that there is no imperative for this Government to move things forward, and he is correct. For all that I say here

today, I wish to underscore to our citizens that this Government of the People's National Movement was the prime mover on the National Policy on Data Protection in December 2005.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC: The policy document produced by the then Minister of Public Administration and Information, at the time under the Government of the late right hon. Prime Minister Patrick Manning, with your leave I will read a few highlights from that document, the National Policy on Data Protection, December 2005. Only to highlight the importance which this Government, and the previous Government under the hon. Patrick Manning, has placed on the importance of data protection. It highlights the fact that it covers a lot of areas, and with your leave I read:

“...and any Policy or legislation that purports to deal with all these matters will need to be accompanied by a significant number of guidance documents and regulations clarifying the specific requirements of the general policies.”

That is paragraph 2.1 of the National Policy on Data Protection, December 2005.

At paragraph 2.2, “Why is a Data Protection Policy Necessary?” It told us then that:

“Privacy has long been understood to have a value in a civil society that respects the inherent rights and values of mankind. The Constitution of Trinidad and Tobago recognises the right to privacy as an individual and within a family.”

It highlights for us at paragraph 2.3, the “Government Protection of Personal Privacy”, speaking to the importance, even then, of the Freedom of Information Act. At 2.4 it makes the point importantly of linkages with other laws, which is

something that I will touch on in my contribution here today. That is to say, the Data Protection Act, envisaged as it was as far back as 2005, is not a standalone piece of legislation. So that in 2005, we are reminded by the December 2005 national policy of the then People's National Movement Government that it would have to coordinate with laws of contracting and the commercial code, with the Evidence Act and admissibility and validity of electronic transactions, with Computer Misuse Act, with intellectual property legislation, with consumer protection, with laws on electronic transactions, with laws to protect company information.

It is a long document, but I will not trouble this House with it in detail, but it is a very important historical document, which we remind ourselves, lays out, what was then the *Vision 2020* vision of the People's National Movement Government, which continues today and going forward, for the safety and security of private lives of the citizens of this country.

The Data Protection Act, which was passed in this House, has a number of sections, some of which have now been proclaimed, others which await proclamation, as we seek to coordinate the holistic development of that particular piece of legislation with other laws still to be brought into effect.

I will refer in a little detail to two sections in particular, first of all section 4, and I remind this House most remarkably that when he piloted his Motion, the hon. Sen. Wade Mark said this:

“The Government of Trinidad and Tobago did not proclaim section 4 of the Act. So you and me and the citizens of”—Trinidad—“...have no protection, Mr. President.”

Well, I would have thought that the hon. Senator piloting what he claims is an

important Motion, would have sought to get it correct, because every speaker who has proceeded me and followed Sen. Mark, has taken the time and trouble, which I will not linger on, to remind him that section 4 has been proclaimed.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC: Another important section of the Data Protection Act, which has been proclaimed, is section 6 of that Act, and again with your leave I will touch on just some of those principles. Section 6 of the Act provides:

“The following principles are the General Privacy Principles which are applicable to all persons who handle, store or process personal information belonging to another person:”—and it proceeds from subparagraph (a) through to subparagraph (1):

“(a) an organisation shall be responsible for the personal information under its control;”

One can just pick the number of instances of areas within the personal general privacy principles which are part of the existing law that obtains in this country now.

I would not dwell on it in detail, I am sure that all Members present are aware of those general privacy principles, which are part of our law. But there is an important one that I want to touch on (1). So if I were to reread the introductory:

“The following principles are the General Privacy Principles which are applicable to all persons who handle, store or process personal information belonging to another person:

(1) personal information which is requested to be disclosed outside of Trinidad and Tobago shall be regulated and comparable safeguards to those under this Act shall exist in the jurisdiction receiving the personal

information.”

What does that section mean? It means that in the full proclamation of this Act, we have to ensure that our legislation is consistent with best international practices. We have to ensure that our personal protection of individuals’ personal information, under this legislation, has crossed jurisdictional compatibility and consistency, and that is important and I will return to that.

Mr. President, Sen. Mark has made quite a lot in his contribution of sections 42(a) and 42(b) of the Act. Section 42 creates exceptions to the requirement for consent for disclosure of personal information. Section 42(a) and (b) provide, and I quote from the legislation:

“Except as provided under any other written law personal information under the control of a public body may only be disclosed—

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

Section 42(b):

“for any purpose in accordance with any written law or any order made pursuant to such written law that authorises such disclosure;”

3.00 p.m.

The point I emphasize here, Mr. President, is that these two sections cannot be read as silos on their own. They are to be read in conjunction with all of the general privacy principles, to which I have earlier referred, that are part of the law under section 6 of the Act which has been proclaimed. And some time was spent on that and I will not repeat this equally scholarly contribution of Sen. The Hon. Hassel Bacchus, Minister of Digital Transformation.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC: While disclosure of personal information can occur for a specific purpose, the privacy principles will apply:

“...to all persons who handle, store or process personal information belonging to another person...”

It is, Mr. President, with respect, a work in progress. An ongoing review and consultation on amending the Data Protection Act has been ongoing under this administration since 2016.

In 2016, the then Minister of Public Administration and Communications, as the line Minister with responsibility for the operationalization and administration of the Act, indicated that the Act needed to be reviewed holistically so as to harmonize the competing public interest of protection of personal privacy on the one hand, and freedom of expression, including freedom of the press, on the other.

The Ministry then embarked on a policy review of the Act, with a view to exploring the creation of exemptions from the enforcement of provisions of the Act for certain categories of expression, inclusive of investigative journalism.

The proposed policy proposed then that such exemptions can be availed upon as part of an appropriate balancing of the public interest of privacy protection against journalistic publication of material. The point there being that whilst the Data Protection Act will protect public information, journalism—and that is the fourth estate—has the right to go out there and get information so as to keep the public informed. And one has to be careful, in the application of the Data Protection Act, to allow journalistic freedom in order that the fourth estate can continue to do their job.

The Ministry has noted the role of that fourth estate in ensuring the public's involvement in appropriate checks and balances on governmental action as an

important pillar of our democracy. Further to the ongoing review—policy review of the Act, Mr. President, the Government has continued to engage in stakeholder consultation.

In 2018, the Government undertook a comprehensive of the Act again. The findings of the review confirmed that the Act was not consistent with best practice in data protection as defined by the European Union's General Data Protection Regulation, the GDPR. For instance, the Act has no specific or expressed provisions in the areas of electronic marketing; online privacy, including cookies and location data; and breach of notification. It was also noted that the Act was deficient in many other areas as part of an ongoing consultation that the Minister of Digital Transformation is engaged in with our international partners.

Further, in November 2019, the then Minister of Communications held a consultation with stakeholders to obtain feedback to amend the Act. Issues raised included, among others, the following: the Office of the Information Commissioner, in terms of providing appropriate power, structure and composition.

The protection of children and adolescence: age of consent in a world in which everybody is online and we have to protect our young children.

Consideration for defined categories of expression, including journalistic, literary and artistic expression: Trinidad and Tobago is one of the most artistically creative countries in the world, and we have to be very careful to ensure that in the playing out of and the full proclamation of the legislation, we give recognition to the rights of our artistic community to be able to be out there practising and occupying the space in the artistic world that they are free to operate in, and not to be hamstrung and circumscribed by oppressive legislation. All of these are things

that are actively under consideration as we look to proclaim the Act in its full ambit.

The need for uniformity in the definitions used in the legislation: the ongoing exercise has ascertained that there are discrepancies between definitions provided in the Data Protection Act and in other pieces of legislation that already exist in the corpus of law in Trinidad and Tobago. That is a painstaking, careful exercise that needs to be undertaken in order to ensure that on the full proclamation of this legislation it is consistent with and therefore it will require amendments to other pieces of legislations, in addition to simply proclaiming the Data Protection Act in its full ambit.

It was recommended, Mr. President, that the Government of Trinidad and Tobago adopt the principles guiding the GDPR and incorporate them into a new data protection law to be adopted. To address those deficiencies, the Government is desirous of updating and harmonizing the Act in line with international standards. The Government understands that the pace in which the reform of digital transformation has transcended globally is such that we have to keep pace.

The Prime Minister, in July 2021, established the Ministry of Digital Transformation, for among other reasons, to lead on an in-depth review of the data protection legislation. And this House has had the benefit of the contribution of the Minister of Digital Transformation in that regard.

As part of the comprehensive approach that has been undertaken, the Ministry of Digital Transformation is in the process, Mr. President, of among other things, the full operationalization of the Electronic Transactions Act, and has continued to pursue implementation of the electronic identity, the eID programme. In this regard, it is envisaged that the eID programme will be subject to the

legislative framework applicable to electronic signatures and electronic authentication, notably the Electronic Transactions Act.

The full operationalization of the Data Protection Act will involve implementation work with other Ministries; the interoperability framework for Ministries, departments and agencies to enable a robust in-connectivity of systems and exchange of data between the MDAs. In this regard, data protection, data privacy and protection issues, and the regulation of same to ensure compliance with general privacy principles are a work in progress of particular concern.

There is the Telecommunications Act and its regulations. The Ministry of Digital Transformation and the Telecommunications Authority have been in communication regarding the approval process for the implementation of the policy informing proposed amendments to this Act as well as to the Telecommunications Act, along with a specific proposed amendment package.

The Act in its current form, Mr. President, does not comply with corresponding data protection laws worldwide. That is why I singled out section 6(1) of the general privacy principles. The Act in its current form does not comply with corresponding data protection laws worldwide which are evolving at a critical stage even as we sit here today. For example, there is no single data protection legislation in the United States of America. Rather, this is governed by the federal and state level laws. The EU, on the other hand, has a significant breadth of data protection laws which impact on cybercrime activity. And the EU's position is to enforce standards for base erosion and profit sharing, BEPS, and the automatic exchange of taxpayer information.

With the current Act—while the current Act present restrictions for the protection of personal information in this jurisdiction, other countries are far more

developed in the strides that they are making to protect personal information, including information which is to be and is being transferred across borders; section 6(1) of the current Data Protection Act.

The recent UK appellate case of *Soriano v Forensic News LLC and Others*, reported in 2021, EWC civil appeals, at page 1952, is a good example of the strides being made in cross-jurisdictions. That case—I will not trouble this House unduly, involved a libel case by naturalized British citizens. And part of the problem involved in that is that his data had been stolen, and it was a case that has made a significant input in recognizing that that jurisdiction for data protection operates across borders, inclusive of monitoring how organizations, who collect data, behave or treat with that information. So it is not just a question of how organizations and persons within Trinidad and Tobago manage their data protection under this Act, but how our management of our data under this Act corresponds with, coheres to and is consistent with international, cross-border jurisdictional protection of data.

It is, Mr. President, a work in progress. It is a work in progress and it would be a misrepresentation of the fact to suggest that since 2016 we have stood still and no work has been done in a decade on progressing our data protection laws. It is a continuing work in progress. And I dare say, which is not something that those in the Opposition exercised when they were in government, that a responsible government will work incrementally along the way to ensure that when they pass laws that impact the daily lives of citizens, they do it in a balanced way that takes into consideration all relevant considerations. A work in progress incrementally along the way. Holistic being the operative word, Mr. President.

Yes, we must fully proclaim the Act. But I urge this honourable Chamber,

we must not rush to proclaim the Act unless and until the necessary jurisdictional analysis and proper analysis of international best practice has been conducted. The Government, particularly through the Ministry of Digital Transformation, is working with the Office of the Attorney General and Ministry of Legal Affairs, and has under active review our Data Protection Act, our privacy protection rules and the general principles that prevail in other jurisdictions. It is this Government's intention to bring the necessary amendments to the Act to the Parliament in the shortest possible time frame so as to ensure the Act, as amended, fulfils its intended purpose, to protect privacy and personal information in a responsible fashion and in a manner that does not unduly infringe upon civil liberties.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC: In its current form, the Act does not currently reflect international ideals or views of the protection of personal data, and contains several ambiguities, misconceptions and omissions. Accordingly, we are of the respectful view that the Act ought to be amended before being fully proclaimed.

Our Independent Senators, and thank God for them, have made balanced and valuable service to this Motion, eschewing populist sound bites. I have already spoken of and paid tribute to the remarks of Sen. Anthony Vieira. In the course of hon. Minister Hassel Bacchus' contribution, Sen. Dr. Dillon-Remy asked a very pertinent question of Minister Bacchus: What kind of time frame are you looking at in moving forward for the amendments to come to this House? An intelligent, on-point, relevant question. Sen. Dr. Varma Deyalsingh has also spoken in balanced and relevant terms. He has pointed to the fact that the Act must be fully proclaimed. We accept that. No one takes issue with that. He has been

comprehensive in his review of what has been proclaimed and what has not. He has pointed to the fact that the legislation has received the scrutiny of the Joint Select Committee and has even suggested that perhaps we should return there one last time to review such revisions as need to be done. And very pointedly, and I quote from *Hansard*, he suggested we must:

“...quickly, not immediately...”—come up with a—“timeline commitment.” We accept that, Mr. President. There is work to be done in order for the Government to complete its consultations and review the existing legislation to prepare the necessary amendments to bring Trinidad and Tobago up to date with international best practice.

Mr. President, the Motion before this House, in the terms proposed by Sen. Wade Mark in its resolution paragraph, asked for a resolution:

“...that the Senate call on the Government to immediately proclaim...”
—the word “immediately” is used.

“...to...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.”

I have asked for an amendment to be circulated, Mr. President, on behalf of the Government, and I have circulated that by proposing that the word “immediately” be replaced with the words “as soon as possible”. If my proposed amendment is accepted, the resolution before this House will accordingly read:

Be it resolved that the Senate call on the Government to as soon as possible proclaim the remaining sections of the Data Protection Act and in the process ensure the necessary checks and balances aimed at safeguarding citizens’ fundamental rights.

In the circumstances, Mr. President, I accordingly beg to move that in accordance with Standing Order 40(3), the Motion be amended by deleting the word, “immediately” in the first line of the resolution and substituting the words, “as soon as possible”.

Mr. President, I beg to move. Thank you very much.

3.15 p.m.

Question, on amendment, proposed.

Mr. President: Senators taking part in the debate hereafter may speak on the original Motion and the proposed amendment. Sen. Lyder.

Hon. Senators: [*Desk thumping*]

Sen. Damian Lyder: Thank you, Mr. President. And, Mr. President, I thank you for acknowledging me as I rise to make a targeted contribution to the Motion properly before this House by my esteemed colleague Sen. Wade Mark. And the Motion says, and I know we have heard this before, but for the amendment I just heard I must repeat this part. So the Motion says:

“*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 of course, Mr. President, the Motion continues:

“*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;”

Mr. President, these sections treat with part two of the law and primarily relate to the Office of the Information Commissioner, proclaimed under the United National Congress-led government. And this Government only saw it fit to proclaim a

solitary section 42 while they omitted parts of the law which will draw my attention in my contribution here today. But, Mr. President, the Motion continues:

“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;”

And, Mr. President, other parts of the Data Protection Act are necessary for proclamation. That is the view of the Opposition and from what I am hearing on the Independent Bench that seems to be the view from the Independent Bench. But I will go further to state that it is more than an omission, but it is a travesty of justice that the law designed to protect data and I dare say the identity of each citizen is being proclaimed in such a piecemeal manner and which exposes many citizens and enterprises to severe risks.

And so that is why ultimately Sen. Mark’s Motion requests:

“...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.”

Now, Mr. President, I listened to the hon. Attorney General bring an amendment here to this House. Now, we have listened to the Independent Senators and I have listened to my colleagues and it is because of the Independent Senators, not because of this Attorney General who has brought an amendment here today. It is because we are being practical, understanding the limitations and the inefficiency of this Government to get anything done on a timely basis, let alone immediate, that we are suggesting a different amendment. And we do not want to leave it like the hon. Attorney General to say that, “as soon as possible”, because as soon as

possible could be in 2025 when they lose an election and we may have to come and actually proclaim it then. But, Mr. President, our amendment is as follows:

In the Resolution, delete line one, the word, “immediately” and add a new resolution to read:

“Be It Further Resolved that the Senate call on the Government to commit to proclamation of the Data Protection Act at the earliest possible date and in any event on or before December 31st, 2023.”

You see we need to be time specific and smart when we make these amendments and requests. So that is the amendment we would like to make.

Mr. President, let me state from the onset here that Sen. Mark should be commended for bring this Motion to this Senate. Because apart from this solitary proclamation of section 42(a) by this Government the entire Part III of the law is not yet proclaimed. And it is important to note that the section focuses on the protection of personal data with public bodies.

Mr. President, another part of this Data Protection Act that is also left unproclaimed is Part IV of the Act. You see Part IV of the Data Protection Act from sections 69 to 86 focuses on the protection of personal data with the private sector. One is with the public sector, the other is the private sector. And this entire section was left out, left untouched when it comes to the Government’s proclamation. So I wish to focus on this section given the importance that it plays in the ease of doing business in Trinidad and Tobago and in the ease of doing business indicator that continues to decline under this PNM Government.

You see, the obligations, these obligations that are put upon companies, we need to ensure they are protected, that data is protected, supplier information is protected, customer information is protected. This part of the law, Mr. President,

also deals with the instance of cross-border disclosure of information. And so, for the context in this debate the term cross-border was mentioned, when I read the *Hansard* from the last sitting, it was mentioned only once. It was done in passing by I think it was Sen. Deyalsingh that dealt with, treating with the need for mutual action in cross-border data transfers. So Sen. Dr. Deyalsingh asked about open data flows between countries.

Today, I heard the hon. Attorney General spend about three seconds on cross-border disclosure. So there is not much to respond there. And the only other Government Member that came after Sen. Deyalsingh was the hon. Minister of Foreign and CARICOM Affairs, Sen. The Hon. Dr. Amery Browne, he too dealt with nothing, had nothing to say about cross-border concern. And to be honest the hon. Minister, Sen. Dr. Browne, spent most of his time simply creating banter, spent his time presenting picong on my colleague, Sen. Nakhid. His contribution, Mr. President, was disappointing, was empty on substance. In fact this lack of substance in Sen. Dr. Browne's contribution reminds me of his very first contribution that he has ever made in the 12th Parliament during a budget debate where he repeated over and over where he visited, visited, visited and had nothing to say about the actual budget.

Mr. President, and let me tell you why I am disappointed in Sen. Dr. Browne and the banter on such a serious matter, Mr. President. Sen. Dr. Browne, the Minister of Foreign and CARICOM Affairs, let me tell you why I am disappointed. You see thumbs are wagging, Mr. President. It is tipped that the goodly Minister may be the next leader of the People's National Movement, and in fact, and by extension, the next Opposition Leader when we relegate this PNM to the Opposition Benches.

Hon. Senators: [*Desk thumping*]

Sen. D. Lyder: So I would have thought that we would have heard the Leader of Government Business respond properly to matters raised in this Motion.

Sen. Dr. Browne: Point of order, Mr. President, Standing Order 46(1).

Mr. President: Okay, so, Sen. Lyder as you are well aware, that particular line is really irrelevant to what is before us. Continue.

Sen. D. Lyder: Yes, I agree, Mr. President, a lot of things are very irrelevant coming from there, but I will leave it there, except to say that effectively Sen. Dr. Browne chose to not defend the Government's position.

Mr. President: So Senator just as a point of guidance, you keep calling the name of the Senators on the Government side or what we do as per Standing Order is refer to them by their Ministerial title or just say Minister.

Sen. D. Lyder: Thank you, Mr. President. And if I were to examine, Mr. President, the prior contributions of the Minister in the Office of the Attorney General and Ministry of Legal Affairs, Sen. Sagramsingh-Sooklal it was summarized as rapid and energetic. Not my words but the words of the Leader of Government Business, Sen. Dr. Browne. But needless to say Sen. Sagramsingh-Sooklal did not impress us—

Mr. President: Sen. Lyder I just indicated, you refer to the Members on the Government side by their Ministerial title and not by their name. So if it that you do not want to say the full title because some of them are relatively long, you just refer to Minister and you can shorten it a little bit just to make sure we know who you are talking about. But refrain from using the name of the Senators on the Government side. It is not in the Standing Order.

Sen. D. Lyder: Thank you, thank you, Mr. President. So the Minister in the

Office of the Attorney General, right, did not really impress the colleagues on this side, on the Opposition side, except maybe to cause me to retrieve my Panadol given the decibel levels that the Member used with the level of energy referenced by the goodly Leader of Government Business. But I want to respond to something that the Minister stated.

The Minister stated that the United National Congress did nothing to get, to forward to the Office of Information Commissioner. That is what the Minister stated. But I put it to the goodly Minister that we had already interviewed, short-listed and were about to put that person in place in the—the Information Commissioner in place when the election happened and after that it is the People's National Movement Government that scrapped that merit list. And you know this Government is very famous with scrapping merit lists, Mr. President, especially when we think about the Police Service Commission.

But, Mr. President, it has been a month since the last sitting, we have heard a few people speak here, but it is important to remind the Government on this side that it was Sen. Vieira's position, and I heard today Sen. Seepersad as well, that saw the need for an urgent, full proclamation of this piece of legislation. You simply cannot defend a position where the rights and privileges of citizens to secrecy and protection of such is being trampled upon.

Mr. President, let me go into the issues surrounding cross-border personal information protection. Let us look at the Data Protection Act in parallels, in different jurisdictions to understand how it is applied and its implications. My research has guided me to examine the European Space where there is a data protection board in place. And the European Data Protection Board in 2018 enacted updated guidelines, clarifications and best practices. And some of the

major updates include and I will quote them:

“Information on which companies are bound to the”—General Data Protection Regulation, “what consumer data is considered necessary to collect and how companies should fulfill data requests.”

And why is this important, Mr. President?—because many companies domicile here in Trinidad and Tobago transact business with clients in Europe, with suppliers in Europe, with distributors in Europe. I myself transact business with clients in Europe. I do not know if my friend Sen. Sagramsingh-Sooklal transacts business with clients in Europe. He would be concerned about this, cross-border. Many of these companies may find that there are fresh compliance requirements for client data collection and sharing as guidelines are folded into the separate jurisdictions in the Eurozone. And a case in point occurred in Europe where a data privacy, non-governmental organization called NOYB, None of Your Business, not Mind Your Business as the Prime Minister says, but None of Your Business, and I quote this, Mr. President:

“Bought a complaint over force consent against Instagram, Facebook, Google and WhatsApp the day the”—General Data Protection Regulation—
“became active.”

That very day, Mr. President.

So if an NGO in Europe could file legal suits on data privacy grounds for large corporations then how easy it is then to put it against smaller entities in Trinidad and Tobago. And beside civil suits you have the record of the general data protection, regulation levying 1,216 fines and amount of some \$2.5 billion in penalties as of December 2022 according to an enforcement tracker. Mr. President, this means that when businesses are doing their risk assessment upon

entering any country, inclusive of Trinidad and Tobago, they would need to include the risk of being caught by these possible penalties.

3.30 p.m.

And to give the Members present a sense of the potential fallout of errant companies, I obtained some information from the Business News Daily Report and you can see it on www.businessnewsdaily.com and it quotes:

“The penalties for failing to comply with the...”—general data protection regulation—“are potentially steep: fines of up to 10 million Euro or 2 percent of global annual revenue from the previous year. For many businesses, that could amount to a fatal blow.”

The report in the business daily concluded by stating that and I quote:

“The cost of compliance with new guidelines did result in the exit of about a third of Android applications, according to a study from the National Bureau of Economic Research.”

So, Mr. President, this could spell problems for companies based here in Trinidad and Tobago in the tech space specifically doing businesses across borders not just with Europe but with other jurisdictions that have these types of penalties in place for noncompliance. So if the laws and systems are in place locally, it will serve as an opportunity for domestic firms to comply in the marketplace familiar with them so they do not have to go seeking other markets to have their tech firms because of the risks posed here by this Government not fully proclaiming this law.

Mr. President, the Government’s failure to fully proclaim the Data Protection Act is a missed opportunity especially when it comes to the ease of doing business so allow me to use another jurisdiction away from the North Atlantic now to the Indian subcontinent. And in India, they have advanced the

Personal Data Protection Bill, 2022 for the express purpose being and I quote:

“...to provide a framework for the processing of digital...data in a manner that recognizes both the right of individuals to protect their personal data and the need to process...”—it—“for lawful purposes, and for matters...” connected to it.

So the question is: How does one establish the connection between here and the ease of doing business? Essentially, Mr. President, tech-based enterprises are the pride of India and the key for them will be to distinguish the difference between personal data and that of sensitive personal data. So this Government’s failure to proclaim all sections of the Data Protection Act in the piecemeal manner in which they are going about proclaiming it renders the legislation impotent on the question of the ease of doing business here.

Section 75 of the Data Protection Act treats with the right of access to personal information. The following section 76 speaks to the limitation of processing of sensitive personal information in the possession of a corporation, a business entity. This means that when the then Kamla Persad-Bissessar-led Government drafted this law, they contemplated the private sector in the protection of data and if we take an examination of section 76 pertaining to the sensitive data, it reads in subsection (1) and I quote:

“A corporation shall not process sensitive personal information in its possession unless it obtains the consent of the person to whom that sensitive personal information relates.”

So why this section is not being proclaimed by this PNM Government after seven and a half long years, we simply cannot understand. What recourse does one have in the event of a trespass on this section regarding sensitive information? So there

can be no excuse whatsoever with this Government today. I heard a lot of excuses but none that I could deem valid. Because I know that the Minister of Digital Transformation, I know him to be a good Minister, maybe the only good one they have in the PNM. I do not know how he slipped through the cracks, because to find a good PNM Minister is like looking for a unicorn; it does not exist but yet the Minister is here with us. And I know if it was within the remit of the Minister, he would have fully proclaimed this Bill.

When I know saw the Minister, that good Minister, the one good Minister responding to Sen. Mark, he was struggling. He was struggling to defend the Government's position and make any sense as to why his colleagues will not support proclaiming this full Act. Some others tried to defend but this Minister was sincere at heart, I saw the pain in his eyes. And as such, it cannot be the doing of the hon. Minister that these key sections have not been proclaimed. So who is at fault? Why has the Government not proclaimed these key sections? Is it the Prime Minister who leads the Cabinet? Has he held it back for a particular reason? I am only asking. Can the hon. Attorney General shed some light on this issue?

I listened to him intently, I will get to him in a moment but I was hoping that he could have shed light as to why it was not proclaimed fully and when it would be proclaimed. The hon. Attorney General sits in the Cabinet, he is the titular head of the bar in Trinidad and Tobago, certainly not Florida but here in Trinidad and Tobago where he is not disqualified, he is the Attorney General. So I would expect that the Attorney General would want to protect citizens data urgently, this would be an urgent matter, maybe a little bit more urgent than getting scrap metal dealers back up and running again. But the right to privacy of citizens cannot be sacrificed on the altar of political expediency.

Mr. President, we must do the right thing. The Government must do the right thing and proclaim all sections of the Act. The hon. Attorney General is here, I am glad he is here listening. The hon. Attorney General must protect the citizens and the businesses in this country from the trappings and facing the brunt of law from other jurisdictions. Fines that could cripple companies in this country but yet I listened to the hon. Attorney General come here and give us a history lesson about the Patrick Manning era and what was done for data protection in the Patrick Manning era.

But let me give the hon. Attorney General another history lesson. Both the United National Congress or the People's Partnership and the PNM unanimously passed this piece of legislation in the Parliament. That is another history lesson so we still cannot understand why it is not proclaimed as yet and when it will be proclaimed but the hon. Attorney General comes here and speaks about section 6 in the Act.

And, Mr. President, let me clarify this. Section 6 in the Act, this section states the general principles but nothing can breathe life into these general principles unless the other parts of this legislation, specifically Part III and Part IV are properly proclaimed so that it gives effect to these general principles in the whole Act. So the bobbings and weavings of the hon. Attorney General were not convincing. I put it to the hon. Attorney General to tell us why it is not proclaimed and when will it be proclaimed.

Hon. Senators: [*Desk thumping*]

Sen. D. Lyder: Silence is deafening.

Mr. President, let me remind the hon. Attorney General more than 300 lawyers voted in confidence of him, you know. So they too want to see why this is

not proclaimed. Yeah, they said that they had confidence so—but anyways, I will move on. But returning to the question of the ease of doing business in the country case of India, the 2022 data protection law specified and I quote:

Hefty penalties for non-compliance and relaxed rules on cross-border data flows, this is critical for big tech and much needed for India to maintain its leadership in technology.

So we have tech-based companies coming into this Trinidad market almost on a monthly basis, Mr. President, therefore, this law be necessary to assist these local companies to hold their market position in this region, in the Caribbean region.

I do not believe that this Government really cares much about tech anyway, so I am not surprised that this is not done with urgency. Because when we look at some other matters, you know, when we look at this Government, which is the same Government that chased away a Fintech company called WiPay with their big stick of bureaucracy. Yes, WiPay pulled up their sticks in 2021 and hightailed it to Jamaica. The same way the Government got the aspects of the legislative agenda wrong that caused WiPay to leave, we see here now again the potential risk of other tech companies having to leave because of the high risks. We do not want the Government to make the same mistake with the companies in the tech space because they fail to proclaim this legislation. We know WiPay left for other reasons other than data protection but if you allow me just a few seconds, Mr. President, I will tell why it is so important that we do not make the same mistake of the past.

Mr. President, on the 27th of October, 2022 in a *Newsday* business article, they stated:

“WiPay was founded right here in TT by Point Fortin’s very own Aldwyn

Wayne.

However, owing to the less than enabling environment for innovation in TT, Wayne was forced to move the headquarters of WiPay out of TT and set up roots in Jamaica in 2021.”

And:

“Since the move, he has also created the Caribbean’s first neo (digital) bank, Colour Bank...”

So this example is what we lost by not passing proper legislation because this Government abandoned their legislative agendas. So we have not lost other tech companies yet based on the lack of—this Government’s failure to proclaim this Act but we potentially do risk it. You see the Government is like kryptonite especially when it comes to tech firms. They are killing the sector by what WiPay referred to as less than an enabling environment for innovation and by not proclaiming this Act, it also adds to the less than desirable environment for these companies.

Mr. President, when the Leader of Government Business can rise to contribute and only engage in banter, that again shows the importance that this Government places on these tech firms. They come here simply to engage in rebuttals, it is like “ah game inside ah here”. Rebuttal, rebuttal, how can you rebuttal and embarrass the Opposition, when serious risks are being placed on this country by this Government’s failure to move forward on something that was agreed upon by both the UNC and the PNM.

Mr. President, data protection laws once implemented, will ensure a compliant environment that is easy for start-ups, a crucial component in the ease of doing business as I stated earlier. There are increasing services being conducted

using electronic platforms and so this law is needed as of yesterday. The Government ought to be moving post-haste and the hon. Attorney General should be in breakneck speed taking this back to the Cabinet.

Mr. President, another key risk in doing business is identity theft. I heard Sen. Seepersad speak about this earlier and every businessman knows that, eh. So it is important that the authority that is created in this Data Protection Act has the full proclamation of the law. This will empower them to enable them to create a safe operating environment for companies, businesses in our jurisdiction. Identity theft is a crime of opportunity and for many companies in Trinidad and Tobago, when you think about many of them even incapable of doing regular administrative tasks such as keeping proper books and ledgers, think about how much at risk they are. We need laws to protect those persons. These companies would benefit from mitigating factors such as a robust legal framework and an empowered regulator. This Government seems to continue to erode the power given to the regulators in this country, especially when we saw what happened under the procurement regulation Bill that came to this Senate.

And one question of identity theft, we recognized that there has been a massive migration of data online. Mr. President, the Consumer Sentinel Network Data Book 2020 published by the Federal Trade Commission paints a gloomy picture when it comes to identity theft. According to the 2020 report, the Federal Trade Commission received 2.2 million reports of fraud from consumers that resulted in a total loss of \$3.3 billion, Mr. President. Are you hearing that? And to provide context, the Government is making the claim that they are moving towards more digitalization. This is what we hear budget after budget and I hear the hon. Minister speak about it budget after budget. So they are therefore going to collect

more data on industrial properties, on commercial properties to improve revenue collection in terms of corporate taxes and other taxes.

3.45 p.m.

They have to make sure that they can protect and secure that data, Mr. President, because if not, it could make many companies vulnerable. If the information is not secured, and protections are not in place, there is a risk of data being leaked, Mr. President, and the result of this can amount to business identity theft.

What would a foreign firm from Europe be looking for, in terms of data protection? This could impact the inward investment into Trinidad and Tobago, where we know already \$10 billion in foreign direct investment exit our shores. So this is a further barrier. When companies are left vulnerable and not protected, they do not want to take the potential risks. Companies have suppliers. Companies have customers. Companies have employees. Companies have their sources of raw materials. Companies have various sensitive and competitive information, Mr. President, and all of these areas and more, if put into the wrong hands, can compromise millions of dollars in investment and potentially risk thousands of jobs for these companies in this country.

Mr. President, I would illustrate with an example. Let us look at one government agency involved in collecting data in the Central Statistical Office, the CSO. So the Government keeps talking about the CSO needs to improve the data they collect and we must note that every quarter the CSO collects data on raw materials being used by companies, for example. A company, for competitive reasons, may not want their competition to know where they are getting their supply from. That is fair. I think the hon. Sen. Sookhai is paying attention. He

will agree with me. His family business would not want competitors to find out where they are getting their supplies from. So this should be of utmost important to the hon. Senator.

Suppose someone is able to leak proprietary data from the CSO database. This data would undoubtedly be a trade secret, as it provides the company with a competitive edge in the markets that it serves. If someone gets their hands on the data through a hack, the company becomes exposed. And if not destroyed in the process, the company could lose millions of dollars.

The data that is stored could potentially be leaked, which includes sources to supply; costing; export markets being targeted by a company; export customer information and other details, sensitive details, of customers. And this is the public sector where data is collected on businesses. The same thing applies in the private sector as well too, Mr. President. When a businessman goes to the bank for a business loan, if there is insufficient protection, someone could hack the client's information.

For instance, any business that needs to get a loan, an overdraft facility, the bank requires them to list their top five clients, for example; the amount of business being done with these top five clients. This can put a risk on these companies if this information is leaked. So the companies that are looking to invest in Trinidad and Tobago are certainly going to be aware of these serious matters, yet the Government provides a very weak regulatory framework. And this is why, sadly, T&T today, under this Government, looks more and more like a banana republic, because we have a weak regulatory framework while the counterpart countries have laws that enforce data protection. "Trinidad is not a real place", is an expression made by many of these business people in Trinidad

and Tobago, but I am not going to make that claim, lest I “get fling” to Ukraine for some reason. “Ah hear it cold up there”.

So, Mr. President, there are several examples of business identity theft that we must be alert to that would impact, hopefully, on Members arriving to the conclusion that this Motion should be passed post-haste. You see, remember, when business identity is stolen it has the effect of hurting businesses’ profits. It has the effect of hurting a business’ reputation.

Mr. President, infringers—when we look at some of the examples, fake social media accounts—may create fake accounts to copy the names, the intellectual property, such as logos and branding of a company. We are all familiar with this aspect locally, Mr. President. Failure to proclaim the law leaves wiggle room for would-be offenders. Lookalike websites, well, that is self-explanatory. Customers may be lured away from official business websites and lured into purchasing items that do not relate to the company of choice and, of course, abuse of tax information. Often in businesses you are required to indicate licence number, tax information. This can be used by skillful actors to defraud companies of much needed revenue. And there are many others that can occur. And, of course, the longer the Office of the Information Commissioner has to wait to see full proclamation of the Data Protection Act, the more damage can be done to business confidence in an increasing online and globally-exposed business operating environment.

Mr. President, the question has to be, and many of us wish to know: What is the role of this data protection law in preventing or mitigating against identity theft? The reality is that, and I want to quote:

“Data protection law sets out what should be done to make sure everyone’s

data is used properly and fairly.”

Data protection laws generally assist in creating an environment of compliance.

This helps save the company time and money, Mr. President.

Mr. President, police officers are mentioned once in section 19 of the Data Protection Act. This is the proclaimed section which treats with the “Designation of powers to inspectors”, for instance. Given the continuous advances made in the tech space, it would raise the question as to whether or not there would be need to increase the inclusion and participation of police and, in particular, the cybercrime unit in the operations of the Information Commissioner.

On the 21st of March, 2018, *Newsday* reported the cybercrime unit to have disclosed, and I quote:

“There have been reports of identity theft and ‘catfishing’...to the local Cybercrime Unit said unit representative Sgt Daniel Hernandez.”

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

Sen. D. Lyder: Thank you, Mr. President. Sergeant Hernandez went further to disclose:

“...of the 25 cases 17 were solved and, because there are no cybercrime laws, there were fines of about \$200 and \$500 and imprisonment of one month. He explained this was implemented using legislation such as the Computer Misuse Act, Offences Against the Person Act and the Telecommunications Act.”

So the question is: If this Data Protection Act was in place, would there be another leg for the police to stand on when they have to deal with these types of criminals? So the failure of the Government, in this regard, is clear. They can no longer look in the rearview mirror to cast blame, especially when it is the United National

Congress that did the heavy lifting to bring us to this point, Mr. President.

Hon. Senators: [*Desk thumping*]

Sen. D. Lyder: And the only job left to do by this Government is to proclaim it. That is the only thing you all have to do. But even that you cannot.

So, Mr. President, as I come to a close, because I think anyone listening to this here today in the public, on the Independent side and those on the Government side—I will call a few names before I close—I am sure your conscience would lead you to approving this Motion here today.

Mr. President, on the question of data privacy, we must be alert, as Gary Kovacs, a San Francisco Bay Area technologist, was known to have said, I quote:

“Privacy is not an option, and it shouldn’t be the price we accept for just going and getting on the Internet.”

Citizens look to their government for protection. They look to their hon. Attorney General for protection. And the Government has been derelict in its duty. They are now six months in their eight years in office. So there could be no excuse for not fully proclaiming this Data Protection Act.

Hon. Senators: [*Desk thumping*]

Sen. D. Lyder: It simply reeks of incompetence, Mr. President. This action displays that the PNM Government lacks the care for the concerns of citizens. And ultimately, by their inaction on this matter, many citizens are put at risk.

So, for the record, I fully endorse the Motion by Sen. Mark. The amendment made, I think it is fair. We have to accept the fact, we are dealing with an inefficient Government so we have to give them a little time. We have no choice. But we must set a date. It cannot be whenever it happens. But, Mr. President—and I implore all my colleagues on all sides, including the Minister of

technology—not the Minister of technology, sorry, the Minister of information.

Hon. Senator: [*Inaudible*]

Sen. D. Lyder: Sorry, sorry, sorry.

Hon. Senator: [*Inaudible*]

Sen. D. Lyder: Yeah. Thank you [*Laughter*] Right. So, I implore that all those on that side; all those on that side—do you know why I have to find it? Because I have not heard this gentleman. “Ah cyah call no names”. I have not heard this gentleman for two and a half years sitting inside of here. This is the first time we come with a Bill for this gentleman. So I even forget the man’s title. But he too, the hon. Minister too, in his right conscience, I hope that he votes in favour of this.

I hope that Sen. Sookhai, the newly minted Senator on that side, who, at another time, represented many businesses in this country and understands the pain of the businessman, understands the risk that businesses could face, I hope he digs deep in his conscience today and sees it fit to vote in favour, along with the rest of his colleagues—I do not know the Leader of Government Business will do so. But with the rest of his colleagues, I sincerely hope that the Minister of Digital Transformation—look I got it; look I got it. Such an irrelevant Ministry, because we have seen nothing come out of that Ministry, Mr. President. So forgive me if I forgot that the Ministry even existed in this country. Right. So I trust today, they all would give their full support and ensure that this Motion is passed with the amendment and it is done so post-haste. Anything else other than that is irresponsible to the citizens of Trinidad and Tobago, and I thank you, Mr. President.

Hon. Senators: [*Desk thumping*]

Mr. President: So, Senator, in relation to the proposed amendment, which you

mentioned during your contribution, there is a procedural that needs to take place so you may go—

Sen. D. Lyder: Thank you, Mr. President. And for the record, Mr. President, I beg to move that the Motion being amended by Sen. Mark, deleting the word “immediately” and after the resolution, inserting the following new resolution:

And be it further resolved that the Senate call on the Government to commit the proclamation of the Data Protection Act at the earliest possible date and in any event on or before December 31, 2023.

Yes? That is it? Yes. Okay. Thank you, Mr. President.

Hon. Senators: [*Laughter and crosstalk*]

Mr. President: One second, one second. Okay. So this Motion needs to be seconded. But before I do so, Minister of Tourism, Culture and the Arts is there something you need to say?

Sen. Mitchell: Thank you very much, Mr. President. By way of a point of clarification, is it that the hon. Sen. Lyder has just amended the Motion put forward on his own Bench by Sen. Mark?

Sen. Lyder: You all did not do one last week?

Mr. President: Okay, okay. Senator, one second.

Sen. Lyder: [*Inaudible*]

Mr. President: Sen. Lyder. No, Sen. Lyder—

Sen. Lyder: [*Inaudible*]

Mr. President: Sen. Lyder—

Sen. Lyder: [*Inaudible*]—the Minister of National Security out. Draconian dictators.

Sen. Lyder: Sorry.

Mr. President: No. Do not tell me sorry, because when I call your name, I expect silence. Minister of Tourism, Culture and the Art, yes, Sen. Lyder has amended the Motion as put forward by Sen. Mark. All that is part of the procedure and it is allowed. This Motion needs to be seconded. Sen. Mark.

Seconded by Sen. Mark.

Sen. Lyder: [*Inaudible*]

Mr. President: Sen. Lyder. Hon. Senators, the amendment to the Motion has been seconded by Sen. Mark.

Question, on amendment, proposed.

Senators taking part in the debate hereafter may speak on the original Motion and the proposed amendments in the plural.

4.00 p.m.

Mr. President: Sen. Dillon-Remy.

Hon. Senators: [*Crosstalk*]

Mr. President: Minister of Tourism and Sen. Lyder there is no debate, I have already ruled on this. Everything has been done according to procedure; we shall now continue the businesses of the Senate. Sen. Dillon-Remy.

Hon. Senators: [*Desk thumping*]

Sen. Dr. Maria Dillon-Remy: Mr. President, I thank you for the privilege that I am allowed to take part on this debate on this Private Members Motion brought by Sen. Mark. I have listened carefully to the contributions made both on the 31st of January and again today, and now, I think, from what I understand, that most people are in agreement with the Motion with amendments. So my comments are going to be brief.

I particularly noted the responses from the Minister of Digital

Transformation, and the Minister in the Ministry of the Attorney General, and the Attorney General today as to what actions the Government has and is currently taking. And I am pleased that significant action is being taken. I hope that the Minister of Digital Transformation is getting all the support from the public and private organizations for this initiative, especially the public sector. Because Mr. President, I am aware that it is very difficult to get change within the public sector, and change in terms of digitalization. It is not is going to be easy. I am not sure whether that may be some of the reasons why there may be the delay, but I am just hoping that the support is there.

I also noted, Mr. President, I cannot not help to notice the back and forth between the Government and the Opposition about who is better than the other in bringing the best legislation to Parliament. For example, which Government brought the Freedom of Information Act? I heard about Cambridge Analytica. I heard about who did not proclaim the whole Act between 2012 and 2015, and who did not proclaim the Act since 2015 until 2023, I heard that. But the reality, Mr. President, is that an Act that was assented to in 2011, is still not fully proclaimed, and our nation needs an appropriate Act to be proclaimed. And if this means bringing amendments to the Parliament then bring the amendments whenever it is needed, and must be done in the shortest possible time, to use the AG's words.

Mr. President, I understand that the matter is complex. I heard the Minister of Digital Transformation talk about the balance between individual privacy and the need for technology to modernize the delivery of services, and I understand. But I also understand that we cannot have a perfect Act. Especially as things are changing so rapidly.

Many Senators have already spoken about the importance of the protection

of data, including the Minister of Digital Transformation, he spoke about that. And I also heard the Attorney General talk about privacy issues. And I would imagine that if there are changes to be made that would involve changing issues related to privacy of persons within the country, any amendments that are made will need the support of both Opposition and Independent. I am assuming that. So, bring the amendments is what I would like to say.

Mr. President, I remember the first time experiencing a doctor sending me digital images of a patient's information on WhatsApp for my action, I was shocked, and wondered what would happen if the image was inadvertently sent to the wrong person. However, I was also very excited that it was so easy to get the information that would previously only be available if I physically went to the hospital to review a file.

I grew up in an era where patient's notes were confidential in a physical file for the eyes of the healthcare personnel only. Now, patient's information can be on WhatsApp. Who is taking responsibility for any errors? And I shudder to think of the possibility of medical information being used for marketing purposes, and that is possible today.

So in my short contribution, Mr. President, I would like to conclude that I am in support of the Motion but would suggest one amendment, and basically the amendment has already been made. The amendment that was made by Sen. Lyder, that the remaining sections of the Data Protection Act be proclaimed. I was thinking that I would give the Government until the end of the third session of the Twelfth Parliament, which would be like about September. I thought that giving the Government about six months to do what was necessary, especially, since according to the Minister of Digital Transformation, he has already said that some

areas are ready for action to be taken, and therefore, I did not think it was too difficult a task. So, therefore, my recommendation is that the Motion be accepted with the amendments as made by Sen. Lyder. Mr. President, I thank you.

Hon. Senators: [*Desk thumping*]

Mr. President: Minister of Public Administration.

The Minister of Public Administration (Sen. The Hon. Allyson West): Mr. President, I thank you for giving me the opportunity to participate in this debate. Mr. President, in December 2005 the Ministry of Public Administration issued a publication entitled:

Fast forward Accelerating into the Digital Future National Policy on Data Protection.

In that publication, the Ministry, which I now have the honour to lead, said as follows, and I quote:

It is important for governments, data banks, and use of personal information be subject to a transparent and accountable regime with an objective of balancing personal information protection needs with broader public interest needs such as law enforcement, security, and public health.

Mr. President, I do not only endorse that statement and believe that it applies as much today, if not more so as it did when it was published. But I would go further, Mr. President, to say that among the public interest needs that must be balanced against individual privacy rights are not only law enforcement, security, and public health, but also improvement in the provision of public services and revenue collection.

So, Mr. President, I noted with interest when Sen. Mark complained bitterly during his presentation on this Motion that T&TEC and WASA can now give your

private information to the Inland Revenue Division. Sen. Mark's obvious distress that Inland Revenue can get access to private information held by other state agencies was abundantly clear.

In response to that, Mr. President, let me just say that the Inland Revenue Division has, and in fact has always had, the power under the Income Tax Act, section 117, to request information from third parties for the purpose of the administration of the tax laws. It has—this is the Inland Revenue—and continues to request and receive information from private and public sector organizations and other persons, and it uses that information to raise assessments on individual and corporate taxpayers.

The only entities in respect of which the Inland Revenue has only limited access to request information are financial institutions. As even in the 1950s when the Income Tax Act was passed and even acknowledging that the very purpose of the Act was to allow the Inland Revenue to get the information required to assess persons to taxes, provision was made for the protection of financial information.

So the Inland Revenue can only request information from financial institutions in very limited circumstances. So to hear that Sen. Mark now wishes the authority to collect information from third parties should be removed from the Board of Inland Revenue, and that he is of the view that the proclamation of the Data Protection Act as currently drafted will achieve that end, gives me even further pause in respect of the Motion before us.

Even as we pass laws and sign bilateral and multilateral agreements to provide foreign powers with more financial information on persons operating within our borders, Sen. Mark wants to reduce our local tax authority's power to secure such information, which will severely hamper its power to assess and

collect the taxes properly due to the State.

I certainly do not support such a position, Mr. President, and that was one of the many flaws I spotted in the legislation even before it was mentioned by Sen. Mark. At best, the present legislation creates some uncertainty as to its impact on the Inland Revenue's power to secure third-party information on taxpayers. And that is one of the many reasons I am unable to support this Motion.

Sen. Mark went further to complain that any public body can share personal data with any other public body. That Mr. President, has not been my experience. I recall when in my former post of Minister in the Ministry of Finance, I was trying to work through with the technocrats the approaches we should take in securing the relevant information, to undertake the land valuations for the purpose of operationalizing the property tax. The first difficulty I encountered was finding out that all the information gathered for this purpose in 2009 and 2010 had been destroyed. I wondered who instigated that move.

When we tried to secure information already within the possession of the State on properties within Trinidad and Tobago, we looked to T&TEC, WASA, and TTPost, all of whom would have gathered information on properties, but were informed by each that they were unable to share the information with the Ministry of Finance for the purpose of property tax operationalization.

So other than the Cambridge Analytica scandal when the personal information of citizens of this fair land was obviously improperly secured and shared, I am unaware that state agencies as a matter of course, share personal information without authority, and that to me is another flaw in the Act as currently drafted. It does not sufficiently cater for appropriate data sharing.

So let us look at some of the provisions of the Act so that I can identify some

other areas that concern me. Section 4 of the Act states the objective of the Act as being to ensure protection of:

“...an individual’s right to privacy and the right to maintain sensitive personal information...”

A very laudable objective. Data privacy is typically applied to personal health information, personal identifiable information such as financial information, medical records, social security, or ID numbers, birth dates, and contact information. So I fully support the objective of securing such information and acknowledge the growing need to protect personal data as the ability to unlawfully access that information increases.

Section 5 provides for various things. It says, for example, the purpose for data collection must be identified by the organization before or at the time of collection. While I agree, Mr. President, with this provision, we must more carefully define the purpose for which the data is to be collected to allow for appropriate data sharing, and I will treat with that a little later on in more detail.

4.15 p.m.

Section 6 requires the knowledge—indicates that the:

“knowledge and consent of the individual are required for...collection, use...”—and—“disclosure of...information.”

Again, I agree with this provision, but this too we need to reexamine because the exceptions to this rule are limiting, and perhaps need to be expanded to allow for the use and sharing of other information without express consent. It says, the provision says as well that:

“personal information...”—should—“only be retained for as long as is necessary for the purpose collected and shall not be disclosed for...”—other—“purposes...without...prior consent...”

Who determines the period that is necessary to retain information? For example, the Inland Revenue generally has the power to assess a person for the last six years. So, clearly, it is necessary to retain tax information for at least that long. However, it also—this is the Board of Inland Revenue—it also has the power to raise assessments for any prior year without restriction if it can establish fraud or willful neglect. And once an assessment has been raised against a taxpayer, the debt endures without limitation on the period until it is settled. So, my question is: Can someone successfully argue that their tax records with the Inland Revenue should be expunged in year seven, unless the Board can establish at that time that there is fraud or willful neglect to justify a more dated assessment? Some clarity is certainly required here. The very section also stipulates that the protection safeguards required for information will depend on the nature of the information. That provision requires the introduction and/or implementation of a comprehensive data classification policy.

I remember having to undertake such an exercise at the last place that I worked in the private sector and it was a very time-consuming task. And that organization did not possess anywhere close to the number of files held within the public service, many of which I will hasten to remind you are still in paper form. This is not only a mammoth task but I would say near impossible, while our records continue to be kept in physical form. Section 5 goes on to provide that:

Individuals may request details on—“...the existence, use and disclosure of their personal information...”

Again, until the State completes a comprehensive digitalization drive on which it is currently embarked, complying with this provision would be near impossible, especially within the timeline provided by the Act and if there are multiple requests placed before the relevant agency in possession of the data.

Section 6 of the Act outlines the general privacy principles and the Attorney General went into what those are, but I will focus on a few of them. It says that:

“an organisation shall be responsible for the personal information under its control;”

Understandable.

“the purpose for which personal information is collected shall be identified...before or at the time of collection;”

Mr. President, I ask in this regard, what about preexisting data?

“personal information is to be protected by...appropriate safeguards...”

My comment on this: in a world of increasing cybersecurity threats ransomware hacking, what is required to satisfy this provision has to be carefully considered, and measures taken to put things in place to ensure compliance. When we see the cases of significant ransomware attacks on huge companies in highly developed first world countries, we have to acknowledge that protection of such data is not a simple overnight task, and organizations must be given the opportunity to put adequate measures in place to address this issue.

Going now to Part III of the legislation, Mr. President, which deals with “Protection of Personal Data by Public Bodies”. Section 30 says that:

“Personal...”—data—“shall not be collected by or for public a body unless—
(a) the collection of that...”—data—“is expressly authorised by or under any written law;”

It says that collection—it allows for collection for:

“...law enforcement...”

—purposes and it will add the information or the:

“...information...”—must—“relates directly to and is necessary for an operating programme or activity of the public body.”

—collecting the data.

So, let me take the opportunity here, Mr. President to focus briefly on the issue of data sharing for the purpose of improvement of the provision of public services, which in my view, this law does not at all address.

In my limited stint as Minister of Public Administration and Digital Transformation, before those portfolios were split, I had a lot of time to think about and plan for the type of public service to which Trinidad and Tobago should aspire. My vision remains unchanged and I am trying to bring us closer to the realization of that vision through the efforts we are making at the Ministry of Public Admin in public sector reform, in terms of promoting, supporting and facilitating digitalization and process reengineering and change management.

So what is that vision? I have a vision for a citizen-centric public service with a whole of government approach. That vision requires us to not only address citizens' needs as they arise and services are requested, but to anticipate those needs where we can and reach out to the persons in need. So I see a world where we can go to any hospital through Trinidad and Tobago for medical attention, and the attending medical staff has easy and ready access to the relevant medical record regardless of where the patient was previously treated. I have a vision of all relevant birth information being supplied automatically by the hospital at which delivery takes place to the following agencies for the following purposes.

One, to the Registrar General to enable the production and electronic delivery of birth certificates. Two, to the Ministry of Social Development as required to satisfy any social security needs, such as details on the birth of a physically or mentally challenged child. To the Children's Authority if for example, the mother did not survive childbirth, and no next of kin has been identified. To the Ministry of Education so that it can anticipate and plan for the school population of the future. This requires the sharing of personal data. It also requires the re-engineering of government processes because at the moment, the Government agencies do not operate on a whole of government approach.

Citizens in my view, are crying out for the State to make life easier for them too, for example, relieve the elderly of having to physically visit a social development office to confirm that they are still alive and therefore still entitled to pension benefits. To confirm that someone in receipt of social benefits who has travelled abroad has not lost his or her entitlement because they remained outside of Trinidad Tobago beyond the stipulated period. Information sharing, for example, between the Social Development Ministry and the Ministry of National Security, Immigration Division could allow us to address the latter.

As we strive for interoperability with the objective of better serving the citizen, we need data sharing of relevant information across state agencies to achieve that, but who knows, perhaps more people think like Sen. Mark than think like me, maybe they prefer to sacrifice greater efficiency for the purpose of retaining a higher level of data protection, or perhaps they want us to land somewhere between those two apparently extreme points, which is why we are of the view that public consultation on this legislation is crucial.

This was proposed as early as 2011, when the Bill was first promulgated but no sufficient and robust public consultation has been held, to date. The public consultation that has been held so far by this administration since it has been looking to proclaim the legislation that was passed in '21, treated with stakeholders like the banks and the private sector and the Ministry of Health and those entities, we have not reached out to members of the public to determine what kind of service we want to build, what kind of service they want us to provide, and therefore, whether they wish to embrace the approach of information sharing to allow for easier operation and provision of public services. So, that kind of public consultation in my view, is desperately required. If we agree that data sharing for the more seamless provision of government services is desirable, then we would need to relax the provisions regarding the circumstances in which an agency can collect and share information and the type of information that agency can collect.

Moving on to section 31. That section says:

“(1) ...personal information to be collected...from that individual.”

But—

“(2) ...may be collected from...”—another—“...source...where—the individual...”—authorizes it where it—

“(b) ...is necessary for medical treatment...”—or just required for—“(c) ...Court...”—“proceedings”—“...or...”

(iii) collecting a debt or...

(iv) law enforcement.”

This is a provision that may be seen to negatively impact the Inland Revenue’s ability to collect third party information. And I would reiterate at this point that we cannot hamstring the Inland Revenue like this, especially now that we are moving

forward at long last with the implementation of the Trinidad and Tobago Revenue Authority from which we are expecting more efficient and effective tax administration. We need to ensure that the TTRA has the tools to deliver on that mandate, not the least of which is access to pertinent information. This is the only way that we can ensure a fair system of taxes that allows us to impose taxes across the board at reasonable rates to all citizens for the benefit of all citizens. Section 32 of the legislation states that:

“A public body...”—must disclose the reason and—

“(b) ...authority for collecting...”

—the information it is seeking to collect and it must also disclose the contact details of the person who is acting as the information officer in that agency. Certain exceptions exist.

While this is a reasonable ask, if we are to allow for information sharing as I advocate, then we would need some flexibility in the disclosure or at the very least to get further along our process reengineering exercises to be able to ascertain and articulate how the information is to be used. Section 35 of the legislation says that:

“A public body...”—must make—“...reasonable security arrangements...”—
for protection of information.

As I stated above, in a world of hacking, ransomware and increasing other cybersecurity threats, we need to give the Ministry of Digital Transformation time to complete its work of designing and rolling out the necessary safeguards, as the Minister of Digital Transformation would have said they have embarked on this exercise, but it is not a simple matter, as we would have seen from the various successful and potentially crippling ransomware attacks that have been launched in places far more advanced and sophisticated than Trinidad and Tobago currently is.

Section 36 says that:

“A public body shall...”—store—“...information in...Trinidad and Tobago...”—unless the—

“(a) individual...has consented...”—to external storage or the foreign—“(b) ...jurisdiction...has comparable safeguards...”

This too is a reasonable ask but it comes at a time when both public and private bodies already committed to external cloud storage contracts where portability of information from one service provider to one another is often problematic because of the different algorithms and policies used. Time may be required to allow for adjustments to such arrangements as required.

4.30 p.m.

I am sure that when the Government entered into such contracts, and private sector players as well entered into such contracts in the past, they would have chosen cloud services in countries with robust legislation. However, much of that would have been done before the issue of data protection gained the prominence that it now has.

Moving data or servers to jurisdictions with less robust legislation, for tax or other reasons, is something that may well have occurred over the years as contracts may not have included clauses, limiting the service providers' ability to do so. It is only reasonable, therefore, to give organizations time to review their contracts and either have them revised, as necessary, to ensure compliance with the provision or to change service providers.

Section 40 states that:

“A public body shall not process sensitive personal information unless it obtains the consent of the person...”

Exceptions exist in respect of health, research, law enforcement, social service entitlements.

Personal information has been defined in the Act to include:

“...information relating to financial transactions in which the individual has been involved...

any identifying number...to identify the individual;

correspondence...of a private...nature...”

While sensitive personal information includes financial records. This provision, again, may also present issues for Inland Revenue and to come, the TTRA’s administration of the tax legislation. So, it causes me concerns.

Section 45 of the Act says that:

“...medical information shall not be disclosed by a public body except—

(a) with the consent of the...”—individual or—

“(b) by order of the Court.”

When we acknowledge that our public health sector is divided among five regional authorities, each of which is a public body, it becomes evident how the inability to share information among these bodies without consent may pose a medical risk to an individual in need of critical care. While exceptions may exist elsewhere in the Act, this categorical provision, as currently drafted in section 45, coupled with the potential for the imposition of penalties, not only on the institution, but also on its directors and senior personnel, can, at least, cause unnecessary delay in dealing with medical issues where the transfer of data is required, leading to potential loss of life. This provision definitely needs to be revisited.

Section 46 of the legislation says that a public body must supply details of personal information requested by the person to whom the information relates

within 30 days of the request. How can this be accomplished in the context of years of accumulation of paper records? So let us look at the state of readiness of the public service for implementation of this legislation.

The public service is in the middle of an intensive digitalization drive, which ought to have been started long ago, but was not. It has started within the last few years. Some agencies are much more advanced than others, but we are diligently working towards that end and trying to expedite completion. Until that is substantially completed, it would be foolhardy to assume that it would be in any kind of reasonable position to comply with many of the provisions of this legislation.

When one considers the millions, literally millions of files that exist in hard copy on the compounds and often in off-site storage facilities, the concept of having to locate and identify what information you have on a particular person, within 30 days, is a daunting prospect. To give you a sense of the volume, let us look at a couple of state agencies. The Office of the Attorney General and Ministry of Legal Affairs has millions of files and records. Births and deaths, 4 million; Land Registry, there are 27,000 of these filed a year on average; 21,000 mortgage bills of sale a year; 60,000 deeds a year. In the Companies Registry, you have 120,000 companies registered, many with multiple files and all of them are required to file documents annually.

The Judiciary has indicated that it must retain files going back as far as 1900. Each year, it adds about 51,000 to 91,000 new matters. Before 2019, when this administration introduced several measures to reduce the number of traffic and minor possession charges, there were 157,000 new court matters a year. There are 4,000 active human resource files and 14,000 inactive files. There are 20,000

administration files and 20,000 finance files. There are also procurement files. Like the Office of the Attorney General and Ministry of Legal Affairs, the Judiciary has been diligently digitizing its records, but there is still much work to be done. For example, it took them two years, with a team of 30 people, to digitize 105,000 probate files, and that is a small drop in the bucket when you look at the full volume of files before them.

Policies need to be drafted, rolled out and implemented. Information officers have to be identified, appointed and trained. All the data within the service has to be classified into personal, sensitive personal and other to allow for the various levels of appropriate protection to be applied, what is called in the industry, an information audit. Again, imagine doing that with physical documents, which is why it astounds me that this legislation was drafted and passed without either a grandfathering clause to treat with pre-existing information but, more importantly, without a transition clause to allow, not only the Government, but also private sector organizations, who also possess personal information of their clientele and, perhaps, others, to prepare for implementation of the Act.

In the Bahamas, they introduced a transitional provision in their legislation. Section 31 of their Act allows for arrangements to be put in place for requests. They were given, I think, a year to put arrangements in place to allow for requests by individuals of their personal information. And government agencies were given five years to continue to use and process existing files, containing information that may not have been obtained in accordance with the principles of the Act. We have no such provision in our legislation. Once the legislation is implemented, on the very next day, people can start requesting information and

people could start demanding all of the provisions in the Act be operational. So even as data is digitized and more cloud solutions are necessary to put in place, proper arrangements need to be made to guard against cybersecurity attacks.

So one of the standards that have been put forward as being best practice, in terms of data protection, is the General Data Protection Regulation of the EU. It has been said that the regulation is large, far-reaching and fairly light on specifics, making compliance a daunting prospect, particularly for small and medium-sized enterprises who we have not yet considered in this debate at all.

To be compliant, you need—it is said that in the EU regulation—to designate data protection responsibilities to your team. You need to maintain detailed documentation of the data you are collecting, how it is used, where it is stored, which employee is responsible for it. You need to train your staff and implement technical organizational security measures. You need to have data processing agreements with third parties who you can track to protect the data in your possession. And data security, in that context, includes end-to-end encryption, implementing a data privacy policy, limiting access to personal data.

We must bear in mind that proper data protection legislation must encompass, not only the public sector but also the private sector. While the current legislation includes some fairly innocuous and ineffective provisions regarding the responsibilities to be placed on private sector organizations in possession of personal data, that is an issue that needs to be addressed if we are really serious about data protection. But it needs to be addressed in a way that balances data protection with the need to avoid putting too heavy a burden on, especially small businesses.

As we recognize that almost all businesses now offer online services and, as

such, have personal information of their clientele who use those services, we must acknowledge that it would be unreasonable to place as heavy a burden on, for example, food delivery providers, as we do on our financial institutions. There must, therefore, be a ranking of businesses and the obligations placed on them to address data protection. Failure to do that could result in the crippling of those businesses, as I can demonstrate by a couple of examples.

So on May the 25th, 2018, mere hours after the General Data Protection Regulation became effective in the EU, Facebook, WhatsApp, Instagram and Google were sued for their use of forced consent by not presenting options for data processing consent on an individualized basis, and requiring users to consent to all data processing activities, including those not strictly necessary as a condition to using the service. Google was fined £15 million for this breach.

In July of 2019, the British Commissioner's Office issued an intention to fine British Airways £183 million for poor security arrangements that enabled a 2018 web skimming attack, affecting around 380,000 transactions. The company was eventually fined only 20 million when the court took mitigating factors into account.

In March 2020, Google was fined £7 million for failing to purge data it could not prove was still required. These three cases provide clear evidence, not only of the need for robust but reasonable legislation, but also the need for a transition period to allow all persons in possession of personal data to prepare for enactment of the legislation. While our local legislation has less severe fines, one must bear in mind that it imposes liability, not only on the organization but also on directors and senior management.

Another issue to be addressed is the rationalization of the concept of data

protection on the one hand versus the provision of the freedom of information legislation on the other. Very recently, that information came before the Ministry of Public Administration, where we were asked to provide quite detailed and individual information on persons from whom the State leases property. Among the information requested was financial information and the issue that arose was which obligation takes precedence. The obligation to supply the information on government activity on request to allow for open, transparent governance or the obligation to protect the personal information of the individual? The issue does not seem to have been addressed or adequately addressed in the current legislation.

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

Sen. The Hon. A. West: Thank you, Mr. President. Sen. John says, something is better than nothing. I do not agree with that statement in these circumstances. In the absence of addressing the areas identified above, you will not be able to effectively protect individuals' information. And so, all it will do is open the State and the private sector to core challenges with no actual improvement on the level of protection provided to citizens in respect of their personal records.

4.45 p.m.

What we need to put in place are measures to protect that data rather than just legislation that exposes the State and others to protracted and expensive litigation where attorneys benefit but citizens do not. So what has this administration done and what is it doing to address the critical issue of data protection; firstly, as the AG said, it commissioned a comprehensive review of the legislation in the context of developments in the law, worldwide, since 2011. Files were completed, gaps have been identified and draft amendments have been prepared. While some consultations were held during the course of an exercise

with critical sectors, no widespread stakeholder engagement was required, and in fact, it was strongly recommended by the consultant who undertook the exercise. And in this context I will remind you of my recommendation, we need to engage in stakeholder consultation on the issue of data sharing.

So the Office of the Attorney General is dealing with the issue of draft amendments while the Ministry of Communications deals with the issue of stakeholder engagement. In the interim, while we await what the final workable version of the Act would look like, the whole of the public service is pressing on the digitalization programme, including project re-engineering to put us in a place to be able to comply with the provisions of the legislation. In particular, the Ministry of Public Administration has high priority areas that are currently receiving its attention, the following, process re-engineering, change management, performance management, legislative review, aligning HR to e-service delivery, improving and standardizing data governance, management and analytics to modern data standards, revamping data storage arrangements. All of these areas will impact in the State's ability to properly protect personal data and to comply with the provisions of the Act.

So, Mr. President, as I wind up, I ask the question, do we need data protection legislation in force to protect the personal data of individuals? The answer to that is, absolutely. But are we willing to agree with Sen. Mark that the best approach to that is to immediately implement what now stands as data protection legislation in Trinidad and Tobago, and which even the UNC was not able to implement during its period? My response to that is, absolutely not. Even the action of the other side today in amending its own resolution indicates that it was not carefully thought out. We need to proceed with caution to provide

Trinidad and Tobago with the protection required and this is what we are recommending on this side. I thank you, Mr. President.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Deonarine.

Hon. Senators: [*Desk thumping*]

Sen. Amrita Deonarine: Thank you, Mr. President, for the opportunity to contribute to this debate. I know I am coming very late down on the batting order so I would be very brief in my contribution. Much has already been said about the importance of data protection and the repercussions of not sufficiently having data protection in our country, so I will try to not elaborate too much on that. I would like to thank Sen. Mark for bringing this very important Motion for debate in this honourable House. Mr. President, this Motion recognizes that the Data Protection Act has been partially proclaimed and brings to this honourable House a discussion on whether or not the rest of the Data Protection Act should be immediately proclaimed. Now, Mr. President, I fully endorse the intention of the Motion, however, I too, like the amendment that would have been circulated, would suggest that immediate proclamation cannot be feasible at this point given what was presented by the Government. Now, from what I understand, there is a lot of work to be done. There is ongoing work and a lot of work that is work-in-progress, but still I do not understand why we cannot commit to a timeline.

I sense that there is a challenge by the Government in identifying exactly how long this proclamation—or reaching at a point where we can fully proclaim the amended version of this Act can be reached. Now, at is this point after having sat—or after having this Data Protection Act in effect—well, passed since 2011, and partially proclaimed in 2012, and then parts of it in 2021, irrespective of which

administration was in charge, not having a timeline or a deadline we are working towards can work to our disadvantage and cause us to experience even further delays. Mr. President, the sheer complexity of data protection laws bring with it, it is easy to succumb to a state of analysis paralysis. It is complex law, we understand that; it is difficult to roll out, as seen as in the case of the European Union with the GDPR, however, I am afraid that if we do not commit to a timeline or a deadline by which we should aim to fully proclaim this law, we may just not get it done at all.

Mr. President, data privacy protection is one of the most critical issues of the 21st Century. Our digitized world is at risk of having its data stolen, misused and even abused. No matter what kind of organization you are in, every public entity and private entity should be held responsible—should be made responsible for keeping their valuable data safe and should be held accountable for not doing so. Mr. President, data is an asset; we have to recognize that, and it is only when we recognize that we will realize that it has to be accounted for. Every custodian of data need to know where in their organization data should be stored, what are the rules that govern the use, the reuse and distribution of this data, and it must be guided by a framework and process to protect it. And when I speak of data, there are different categories of data that we speak of when you are talking about data protection.

There is public sector data that is free from protection issues; that is, for example, meteorological data, GDP data. But there is also public sector data that is confidential, which includes personal data; that is income data that usually is collected and stored by the Board of Inland Revenue, for example, even health data. But we have to understand that personal data is not only what directly

identifies an individual, but what indirectly identifies an individual, and this is where the identifiability issue—the spotting of identifiability issues becomes a problem when you are trying to deal with data protection issues. This is where the complexity in classification comes into play. So getting both the public sector and the private sector to understand their responsibility towards data, the classification of data is another aspect that we need to understand and we need to fully be able to implement before we can consider the full proclamation of this law.

So from my understanding, Mr. President, full proclamation of this law requires two major things; one, the review and upgrade of the current law to meet global standards, for example, the GDPR standards, given the advances in technology that affect data protection, such as Fintech Financial technology, artificial intelligence, big data. The other thing, the other critical aspect is the readiness of both the public and the private sector to observe the implementation and compliance, and the Minister in Public Administration went through how complex and tedious this task is. So both these issues to get us to full proclamation is a work in progress, it is under ongoing review. But I have to say, after I heard the Minister of Public Administration, it causes me to think that the sheer volume of work that has to be done makes it unachievable, reaching to a point where we can fully proclaim this Act.

Now, I heard when the Minister of Digital Transformation responded to this Motion by Sen. Mark proposed that the proclamation of the Act should be subsequent to the modernization of the Act. I heard when Sen. Dr. Maria Dillon-Remy would have asked for a timeline, the response was, the shortest possible time. I also heard that we do not need to do it all at once, we can continue to partially proclaim as we go along. Then, today, I heard the hon. Attorney

General asked—requested and proposed an amendment as soon as possible. Mr. President, these responses tell me that perhaps we are still very unclear of where we will end up upon the completion of all the studies, the consulting work that is ongoing concerning this Data Protection Act, or we are at a start of a very long journey in figuring out how to strike that balance between the freedom of information and data protection, because the sense that I got is that we are nowhere close to being able to strike that balance or even understand how do we classify or categorize those two issues. Sure we understand the repercussions, unregulated data and the importance of freedom of information, but I do not think we are settled yet on what the overarching data protection policy is because of the pace of advancement of technology. And, Mr. President, a lot seems to be dependent on what the outcomes of the consultant's works will be and where it will lead us to in terms of determining an overarching data protection policy, because, from my understanding, it is the data protection policy that will inform the amendments of the legislation.

It also tells me that we are not sure of the length of time it will take to reach a level of readiness for both the private sector and the public sector. As I said, upon—after listening to the Minister of Public Administration, it seems to me that this exercise—I would have been happy if an idea of a feasible timeline to get this done would be proposed, because it makes me feel that we are nowhere close to being ready. We heard from the Minister of Digital Transformation that work on the modernization of the Data Protection Act has been ongoing; I mentioned this already. There are amendments to modernize the Data Protection Act with the assistance of international consultants with the Office of the Prime Minister, Communications Division, with the assistance of the Inter-American Development

Bank and a number of proposed amendments are being evaluated.

5.00 p.m.

But, Mr. President, from my understanding, if you look at this second report of the Joint Select Committee on Finance and Legal Affairs in the First Session of the 12th Parliament, that looked at the status of unproclaimed legislations, one of which was the Data Protection Act, you would see that this consultancy with the IDB, the Inter-American Development Bank, placed attention on the Data Protection Act in December of 2020, because it was a requirement under the single electronic window with the Ministry of Trade and Industry. It needed to be harmonized with the GDPR regulations to achieve the full operationalization of the single electronic window, to ensure a smooth flow of data in international trade transactions.

We would see from this report that this consultancy with the Inter-American Development Bank included a GAP analysis, stakeholder consultations, a regulatory impact assessment, which resulted in draft legislation scheduled for completion by September of 2021, with the expectation that it would go to Cabinet in October of 2021 for approval, and onward submission to the Chief Parliamentary Counsel for their input.

In 2023, I understand, I gather from the contributions that were made today and on the first day of this debate, that these amendments are being reviewed. I am not entirely sure what exactly happened between October 2021 to now. So I do not know why these amendments, scheduled for review since 2021, were not presented to us in Parliament. Were their further issues encountered in these draft amendments that were proposed? Did it force us to go back to the drawing board and reconsider issues?

Now, I understand that the modernization of the Act is important, comprehensive review is important, review is ongoing. But consideration needs to be given to the need to ensure that the implementation of the Act does not inadvertently create an over bureaucratic system, and I agree with that. The avoidance of such is dependent on many things, on a proper classification system, something that does not exist right now.

I understand that there is a consultancy currently ongoing with the Inter-American Development Bank, to have a draft policy to develop a national policy for archives, records and information management. So I do not think that we are at a point where we are even starting to classify. We are still drafting the policy to advise on how it is we go about improving these classification systems.

At this point, Mr. President, advisory services were contracted under the single electronic window lone operation with the IADB to amend the Data Protection Act. Approximately 366,000 was spent on that contract. That consultancy is completed.

Mr. President, \$433,000 was spent on the modernization of a legal framework for the Electronic Transactions Act for electronic transactions. I am sure this forms part, and is one part of the whole process to get the Data Protection Act up to a standard where we can bring this Act to the Parliament again.

Then we have \$487,000 that was spent on a consultancy to develop a national policy for archives, records and information. A total of \$1.3 million was already spent just from under one loan operation. Just for purposes of the *Hansard*, I would have gotten this information from the audited financial statements of the single electronic window as at September 2022.

So a good bit of work has been done, and I am still—from what I am

hearing, a lot of work is yet to be done. At this point, I think that we should be very much informed, or be in a position to give a feasible timeline to which we can reach to the Parliament to propose the law for amendment and to fully proclaim.

The Minister of Digital Transformation also mentioned that he 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 meet the standards of the GDPR.

Now, a lot has been said about the GDPR during the course of this debate, and I agree, we need to upgrade the existing Act to a point where we are aligned with the GDPR. But, Mr. President, in drawing reference to the gold standard by the EU, which is what is commonly referred to as the GDPR, do you know that the GDPR was deliberated since 1995, before it came into force in May 2018? Even after such extensive deliberations, there were many complaints from companies in the EU about the law's complexities and the bureaucratic burden it would impose when it came into effect in 2018, but that did not stop the European Union.

In May 2018, of companies that needed to comply with the EU, GDPR, nearly 60 per cent were not ready according to some estimates. Many of them did not have the resources to organize themselves, and some were just simply clueless. The GDPR is thought to be some four or five times more complicated than existing law. So many organizations in the EU are even, up today in 2023, in the process of figuring out what it means to be compliant.

Nevertheless, while this is happening, it has not stopped the European Union from continuously upgrading its governance framework in how they manage their data. As of lately, they have recently passed something called the Data Governance Act. But why have they been able to persevere despite the

challenges? The EU has an overarching policy on what they intend to achieve from the exponential advancement of global technology. At every point the EU knew what it wanted to achieve when it regulated data.

Now, they are looking at data as a market and are regulating it as a market. Prior to that, the steep learning curve in preparing for GDPR, was to convince businesses and prepare the public sector and prove that data was an asset, an asset that needed to be accounted for, and getting businesses to think about the identifiability criteria of identifying personal data.

So, Mr. President, I would say that at this point a lot has been said. The Government has presented its case as to the amount of work that is required, and the amount of work that is pending or ongoing, and we should be in a position to more than advise this honourable House the length of time that it would take to fully proclaim the Act.

As such, I would like to fully support the amended version of this Motion, which places a deadline on the full proclamation of this Act as of December 31st of 2023, unless the Government presents otherwise a timeline or a duration of time that could explain how many years it would take. The furthest I would go at this point is to accept 18 months on the full proclamation. I thank you, Mr. President.

Mr. President: Sen. Roberts.

Sen. Anil Roberts: Thank you, Mr. President. It is amazing. I come here day after day, session after session, and I hear my colleagues on the other side talk about fantasies and fallacies, and things that are being investigated by the police. And the police said it did not exist, it does not exist, they found no evidence, but they still come here, Cambridge Analytica, Cambridge Analytica, Cambridge Analytica.

Let me let my hon. colleagues know, that even their leader, the hon. Prime Minister, when the police investigated and said there is absolutely nothing in that fantasy, that book that he keeps on the shelf behind him while doing his press conferences from home, he said that Trinidad and Tobago must not be a real place. He was the first politician to coin that phrase. I do not know why he calls the rest of us, “idiots” now, but that is the Prime Minister of the Republic. So please, when we are here to debate, let us debate with facts, let us debate with information and evidence.

A number of occasions the PNM has said that we are in the Upper House, and we must present an argument in such a way, but continuously the fallacies that are portrayed by the PNM are becoming obnoxious, especially a PNM that is led by a Prime Minister. We are here to debate a Motion brought by the hon. Sen. Wade Mark, about the proclamation of a critical piece of legislation 12 years in the making, data protection. One would believe that a Prime Minister who could be so bamboozled by an undetectable technological digital fraudster, that he announces to the entire population that we are to be the beneficiaries of a largess of money, that this Prime Minister being so embarrassed by that fraudster, would be the first one to ensure the full proclamation, implementation of data protection, to protect himself from fraudsters, to protect the Government and the people.

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts: But yet we are left here, the people, the businesses, the citizens, the Opposition, are left here begging the PNM Government to proclaim the Data Protection Act, 2011.

The incompetence and the ineptitude of the PNM is constantly on display. They cannot find a file, whether it is a hard file or a digital file. We come here—

and I just listened to the hon. Minister who is the former Minister in the Ministry of Finance, and she boasts on many occasions about her expertise in the digital arena, technology and so on. Yet I wonder if she is aware that citizens have complained. Citizens who wanted to pay their taxes early, before time in January and February of this year 2023, after they had gone on the Ministry of Finance's website, filled out all their forms, as they had become accustomed so to do, presented themselves to the Ministry of Finance to pay their taxes, and they were told, "No, no, no, we have a new App, the Ministry has gone digital".

So they ask, "But we are here. We have our \$80 to pay for the filing fee and so on, what do we do"? "Go home, download the App, and you will go and fill out all those forms, put information on it about each director, and each director must fill out and get an ID form." "Dey" say, "Well, okay, when we do that, how we are going to pay"? "Well, de payment portal not working yet, eh. So what you ha' to do is go and use de App and then come back here and pay." "Dat is PNM for you."

5.15 p.m.

That is PNM for you. And in a government who every single day, since the budget was read in the Lower House and here in the Upper House, when I remarked at what a dangerous thing PNM was doing, the Minister of Finance—if you all recall, I said, why are you pegging the budget so close to where the actual prices of oil and gas were, that is not the norm. The convention had been for Ministers of Finance to always leave a buffer, to leave a gap, but the Minister of Finance and the PNM said, no problem, they have it under control. But right now, people want to pay their taxes, the app is not working, and each day the Government is losing revenue that does not exist because they budgeted at \$92.50

for a barrel of oil and it is averaging now \$86. They budgeted at US \$6 per MMbtu and it is running at \$2.46.

Sen. Dr. Browne: Mr. President, Standing Order 46(1)

Mr. President: One second, Sen. Roberts. Leader of Government Business, point of order?

Sen. Dr. Browne: Standing Order 46(1), with respect to relevance.

Mr. President: Okay, Sen. Roberts, so as much as you are beginning your contribution and it is in the introductory phase, I would ask you to quickly tie it to the Motion that is before us.

Sen. A. Roberts: Guided, Mr. President. I would not expect my learned colleague to understand what I am saying about the app and the digital and the data protection, which all goes into why we are here, but I will move on. The lack of prioritization of this critical Act by the PNM. The hon. Minister of Digital Transformation said, and I quote, in his contribution to this debate:

“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.”

But I ask the hon. Minister if it is absolutely critical? Since 2016—you are in government since September 2015. What is immediate about seven years? I am finding it very strange and difficult to understand the immediacy in such long terms.

The hon. Minister continued:

“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...”—said the hon. Minister.

I nearly wanted to get up and applaud, but then I have to sit here and see that seven years on, we are still talking about, it is a work in progress, we are working, the work is difficult, and nothing is being achieved by this PNM Government. Unfortunately, for my learned colleague, he used an unfortunate analogy, because the PNM has decimated the very energy sector that he boasted about in its entirety. Now it seems [Inaudible] data protection as well.

The Act we are debating here was first passed through Parliament in 2011. The Minister’s position that the word “immediate” is unreasonable because technology and its implication for data are rapidly evolving on a continuum—so what are we doing? Wait until it stops evolving, or the pace of evolution slows down and then play catch up?

But I could tell you that the Opposition is so—we are so empathetic for the Government in its state on incompetence that hon. Sen. Wade Mark and Sen. Lyder have even agreed to amend this Motion to ease up the pressure on the PNM Government. We are feeling so sorry for you all that that is what we will do. So do not argue with us for feeling—we are trying to help you. The people need help and you all need help, so that is why we amended it to give you a little date, a little ease.

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts: We are sorry for trying to put too much pressure on you all. We

know you are not capable. The Minister of Digital Transformation went on:

“Mr. President”—he said—“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”—said the Minister—“since we have this.”

Again, I state, we must validate that it is fit for purpose, that it will meet today’s fast-paced, rapidly changing and evolving digital world. But every day in a PNM’s slow pace, the pace of the sloth, the world moves forward 10 paces, so we might be here 20 years. Luckily, there will be an election in less time and we will not have to deal with the slow pace of the PNM anymore.

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts:

“The first thing we have to make sure”—said the hon. Minister—“is that it addresses various technological and social changes that have occurred since it was partially proclaimed in 2011...2012.”

I would like to suggest that the proclamation of the Act really is a subsequent thing to the modernization of the Act. I...”—also—“want to put both of them as a one-time exercise.”

This is the excuse being used by the PNM for coming here and begging the citizens to bear with them, that they are trying their best and they will try to do better.

Now, work on the modernization of data protection—and he goes on lower down, he said—the hon. Minister said:

“...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.”

Well, of course, that was a very strong term. We are still waiting, Sir, for example, for the pepper spray to keep our women, our ladies safe. Where is the pepper spray? They said, of course it will come, of course they will have it, of course it will be available, but where is it? It is not here. Factor, we came here in the Senate and Lower House and we said that they would pass the laws, and the UNC, the Opposition supported, yet our bank accounts in Europe in the embassies are closed. So I do not share the confidence of the hon. Minister that, of course, the amendments would reach.

“The office has been proclaimed.”

He said:

“Notice I did not say it with the flare and gusto...”

He said the Office of Commissioner has been proclaimed. Fair enough. Where is the commissioner? What is his number to call him? How to check him? How was he appointed? What is his credentials? He does not exist. So proclamation, passing legislation and appointments with the PNM each is a tedious thing to go through at this pace. Incompetence with leaving our people unprotected. The Minister of Digital Transformation—I am sorry to continue with him but he is in charge. He is a good fella, you know, but the Minister of Digital Transformation said:

“...we are working to ensure that the measures in this same Data Protection Act meet and are consistent with European Union’s General Data Protection Regulation...”

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—as long as it takes me to read the hon. Minister’s words, it is 10 times longer for this PNM to actually achieve work. Why is the PNM so averse to work, to success, to implementation, to improvement of the lives of the citizens?

Sen. Dr. Dillon-Remy, she had my frustration. She asked the hon. Minister, and the hon. Minister gave way. And hon. Sen. Dr. Dillon-Remy asked:

“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?”—asked Sen. Dillon-Remy.

And the hon. Minister answered—I do not even want to read it out because I do not have that much time. Let me say, he did not answer. He used a lot of words, which is the PNM’s way, and he did not answer. He gave no answer, no timeline, no confirmation, nothing other than a lot of beautiful words said in a soft voice. So the Minister, in true PNM form, “plenty words”, no answer, no action.

He said—and the hon. Minister said that the:

“...process has to happen for this to—what I can assure you is that we are trying to do it in the shortest possible time.”

Well, I will just tell you as an Olympic swimming coach, losers try, winners achieve, winners succeed. So all of this trying, trying, trying, the PNM is showing their quality and their calibre. The shortest possible time.

I heard the hon. Attorney General, who I will get to shortly, the crux of his

contribution here today was about the shortest possible time. “We will do it as soon as possible,” but we will wait for that.

“The other thing about it, Senator, is that we do not have to do all...” —this is the hon. Minister answering Sen. Dr. Dillon Remy:

“...we do not have to do all at once, as...” —we have seen—“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...”

Now this led me to scratch my bald head. Because we come here to make laws, and we would love to make laws in a general sense. It does not matter who is in government. The laws should be impartial, they should be even, they should be—every citizen, no matter of race, ethnicity, class, income bracket, the laws should be applied equally.

But when I looked at some of these laws, these clauses that were proclaimed, it was very interesting. And one of the points made by the UNC and by Sen. Mark is that one must not cherry-pick clauses to proclaim. If you have a law and it is designed to protect, proclaim the law and protect the people. But it is very interesting. Because I was privileged to get a document from the Ministry of Finance, a memorandum from the Valuation Division, and it is to a Ms. Suzette Taylor-Lee Chee, Permanent Secretary, from Emeris Garraway-Howell, Commissioner of Valuations, and it is dated the 10th of August, 2021. Keep that date in your mind. And the subject is, “The effect of section 6(c) of the Data Protection Act on Valuation Division’s ability to share data with the BIR and the Ministry of Rural Development and Local Government”.

Now, some in the PNM would already know what I am talking about. But for those at home, let me give you a little context. Remember, the PNM

Government wants to oppress you further with property tax. No matter how hard things are and no matter how much unemployment, no matter how much food price inflation, no matter how your fuel subsidies are gone, they are insisting that now is the PNM's time for property tax, but they had to get to a certain benchmark. They had to get to a certain number because the UNC had taken them to court previously, and they had to get a certain amount of the population to fill out forms and get data and move the process forward to pass that, to put property tax on each and every one of you. But on the 10th of August, 2021, a public servant wrote, and I quote from this document:

Valuation Division is mandated under the Valuation of Land Act, Chap. 58:03, section 25, that upon the creation of the valuation roll to share same with the Board of Inland Revenue and Ministry of Rural Development and Local Government, and such persons as may be prescribed, the information to be shared will consist of the name and address of property owners.

Such information, according to the Data Protection Act, section 2(d) is considered personal data, and section 6 of the Act prohibits the division from sharing such data.

It is noteworthy that the effect of this section of the Data Protection Act is that it overrules section 25 of the Valuation of Land Act, and thereby makes it difficult for the implementation of the section 25.

As you are aware, the valuation roll facilitates the collection of revenue via property tax by the Board of Inland Revenue. Therefore, I am concerned that should the Data Protection Act remain in its current form (not fully proclaimed), then Valuation Division would find difficulty in successfully achieving its mandate.

5.30 p.m.

Therefore I am concern that should the Data Protection Act remain in it is current form (not fully proclaimed) then Valuation Division would find difficulty in successfully achieving its mandate.

So the Valuation Division mandate from the PNM is get many people, get the rolls, fill it out, we have to tax them, we have to take their money, get it done. But this lady in charge says, well the Data Protection Act not being fully proclaimed is inhibiting us from doing what the PNM has instructed us to do. So what does this public servant say. The following is therefore recommended:

1. That the Data Protection Act be fully proclaimed.

This would mean that section 42, which provides and I quote, meaning the lady who is writing the memorandum:

“Except as provided under any other written law, personnel information under the control of public body may only be disclosed—

- (a) for the purposes for which the information was collected or compiled by the public body or for a use consistent with that purpose.”

That is their first recommendation, proclaim the whole Act, please, proclaim the whole thing so we could do our “wuk”. You all want us to get there and tax people and hit them property tax, tax them and take more money from them, we need that. Or, secondly:

The Data Protection Act be repealed.

Those were the two suggestions from the independent public servants. Now if you all were—I told you all what date to remember, 10th August, 2021. I now take you to the 23rd day of August 2021.

Legal Notice No, 220 Republic of Trinidad and Tobago. In this Legal Notice, 13 days after this memorandum, the Government of Trinidad and Tobago, the Cabinet of Trinidad and Tobago decided to provide a solution to ensure that property tax will be put on the citizens. What was this solution? The recommendation said proclaim the whole Act, or repeal the Act. The PNM takes that and decides to proclaim, to cherry-pick and proclaim section 42 (a) and (b) by itself. Let me read the proclamation. A Proclamation No. 18 of 2021, dated 23rd day of August, 2021:

“By Her Excellency, Christine Kangaloo, Acting President of the Republic of Trinidad and Tobago and Commander-in-Chief of the Armed Forces.

Christine Kangaloo

Acting President

A PROCLAMATION

Whereas it is provided by section 1(2) of the Data Protection Act, Chap. 22:04 (hereinafter referred to as “the Act”) that the Act shall come into operation on such day as is fixed by the President by Proclamation:

And whereas it is expedient that section 42(a) and (b) of the Act come into operation:

Now, therefore, I, CHRISTINE KANGALOO, Acting President as aforesaid, do hereby fix the 23rd day of August, 2021, as the day on which section 42(a) and (b) shall come into operation...”

So please, PNM, save me all the discussion today about a changing world global landscape and proclaiming the law is so difficult and we need to research and consult and we are working and we are working in progress. When the PNM wanted something done which is to ensure that people will have to pay property

tax they got it done, they cherry-picked and they proclaimed a section to allow the people to suffer under their—

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts:—heinous, wicked, oppressive tax. And there is no escaping it. So all the nice talk, all the beautiful words about coming and as soon as possible and we shall do this, you did what you wanted to do for yourselves, for what your agenda was and you came to cherry-picking legislation which is not the way law should be made.

As we talk about the ways law should be made the hon. Attorney General entered the debate today and it will be remised of me if I left the beleaguered Attorney General unscathed. I will assure the hon. Attorney General from the onset that my legal colleague on this side, a lawyer, brilliant, young female lawyer has certainly not lost her honour in any form or fashion—

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts:—as was suggested by the Attorney General. I can also assure you that my learned Senatorial colleague on this side never lied on an affidavit and signed it local or foreign.

Hon. Senators: [*Continuous desk thumping*]

Sen. A. Roberts: I can also assure you that my learned colleague on this side never misplaced a file whether hard copy or digital, so she sits with honour—

Mr. President: Senator, Senator, Senator, so as you are beginning to get into your contribution the voice level is going quite high so just do me a favour and push the mike away from you—

Hon. Senators: “Oh goood”

Mr. President: So that it does not bombard us. Thank you.

Sen. A. Roberts: I humbly apologize, I agree with you there, Mr. President, because when someone uses their office to take advantage of a brilliant woman, a brilliant attorney, I get sort of angry so my voice raised—

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts:—and I humbly apologize. I apologize to you, Mr. President, you are fair and I agree with your assessment because I really went up loud. But please forgive me that is the way my mother raised me.

Hon. Senators: [*Interruption*]

Sen. A. Roberts: Exactly. One may have learned before, however, one becomes—no matter how learned one may have been before hon. Attorney General, once one becomes infected with Balisier juice all previous learning is sadly, swiftly lost. The hon. Attorney General said governance is difficult, consultation, bureaucracy. We on this side understand that because we are in politics, political science and governance. It seems that the PNM has come to do or learn on the job, on the job training. We on this side know about the bureaucracy, we know how slow things work and that is why the UNC always works and “ole” talk never wins, performance beats “ole” talk.

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts: If you cannot do the job, move, “leh we pass”. But do not come here and cry that the job is so difficult, it is so hard, we do not know what to do, oh my goodness it is a bureaucracy and you have to wake up early and you have to make many calls and you have to push people to get the job done. That is what the job entails to serve the people.

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts: If you cannot do the job, come out. The hon. Attorney General

said it is a work in progress. Well let me alert him that the UNC works and completes work. The PNM in eight years, every single thing has collapsed, everything is a work in progress for the PNM. The PNM uses terms such as, hopefully, maybe, possibly. What is an absolute certainty is that the next time you in the PNM dare to face the polls you will be resoundingly voted out of office in a tsunami of national discontent.

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts: The hon. Attorney General said he amended this Motion to say, as soon as possible. And being an Olympic coach who works with time down to the hundredth of a second, I was wondering what time is, as soon as possible. If I took George Bovell into the Olympic finals in 2004 and he said, “Coach what time should I go out, my butterfly and then my split for the back stroke,” and I said, “Boy you just go, as soon as possible, you take it, as soon as possible”. I wondered if he would have understood what time it is.

But as soon as possible, hon. Attorney General, your PNM Government said, the Petrotrin Refinery shall be reopened as soon as possible. It open yet? Five years and counting. The PNM Government of which you are a part now said, the recommendations made by the Judith Jones Report on abuse of our nation’s children at homes across T&T will be implemented as soon as possible. We are waiting 14 months, yet our children remain unprotected and at the mercy of monsters. The PNM Government said, as soon as possible the Dragon gas deal will dance since 2018. We are in 2023, no dragon, no gas, no dance, no cash. The hon. Attorney General stated that the population—to the population that a judge in Florida was patently wrong and the error would be corrected as soon as possible. Well “meh eh” see it corrected, I saw it endorsed.

I support my colleague's Motion as amended and urge the PNM in the little time they have left in office to please try to complete some work, do something, "ah begging yuh all", because it is very hard to see a government that is just so totally incompetent, the citizens are unprotected, unsafe, scared, and rudderless, pained, disappointed and losing hope daily due to your PNM Government's complete and absolute incompetence. Either work or move, "leh we pass", protect the data, protect the children, protect the citizens, protect our country, call elections now since "all yuh" arrogant—

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts:—call it now so we will protect the country under the UNC and the rising sun. Thank you, Mr. President.

Hon. Senators: [*Desk banging*]

Hon. Senator: "Ah feel sorry for allyuh".

Sen. Mitchell: Long live Kamla.

Sen. Mark: Licks, licks, licks.

Sen. Mitchell: Long live Kamla.

Sen. Mark: Licks, licks, licks.

Sen. Mitchell: I agree, long live Kamla.

Sen. Mark: Licks, licks, licks.

Mr. President: Sen. Mark, Minister of Tourism, Culture and the Arts. Minister of Trade and Industry.

Hon. Senators: [*Desk thumping*]

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon):
Thank you very much, Mr. President. Let us get back to some sobriety.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. P. Gopee-Scoon (cont'd)

Sen. The Hon. P. Gopee-Scoon: Let me say, first of all, Mr. President, let me thank you for allowing me to join the debate on this Motion which is about a subject matter which is absolutely important. However, beyond that let me say that the Motion which has been presented, this little, thin, four-pronged Motion must be dismissed in its current form. It is poorly drafted and unconvincing. It is bereft of any critical thinking. More than a decade later the UNC has come forward with a very outdated and archaic and narrow positioning put forward by Sen. Mark. As usual not forward thinking and therefore we are not surprise, Mr. President, but the Motion has to be rejected in its current form.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. P. Gopee-Scoon: I want to say that a major concern in the discussion would have been about the safeguarding of the personal data and information of members of the public. And let me say very clearly up front, that for us in this PNM Government that the personal data and information of the public remain sacrosanct and must be guarded and that we will do even as we seek to modernize the legislation before us. But therefore, Mr. President, I must say that I was quite amazed that Sen. Mark and his UNC colleagues would have the audacity to come to this Parliament and express concern for safeguarding the information of citizens. And regardless of how many books were sold and whether we all have them on our shelves, the fact remains, anyhow you take it, that the UNC was part of a huge breach in which information was used, you were part of this entire Cambridge Analytica scandal where information was used for political purpose using the personal information of Facebook users in this country.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. P. Gopee-Scoon: And you cannot get away from the fact, and I

am speaking about limb three in the thin Motion, you cannot get away from the fact that and it was pinpointed by the former director of research Mr. Christopher Wylie that Trinidad and Tobago—

Sen. Mark: [*Interruption*]

Sen. The Hon. P. Gopee-Scoon:—no—as events unraveled—

Mr. President: One second, Minister of Trade and Industry, Sen. Mark, so, as you are well aware we do not shout across the floor to talk to a Member contributing. Please allow the Minister to contribute. Continue.

5.45 p.m.

Sen. The Hon. P. Gopee-Scoon: Thank you. As events unravelled, Mr. Wylie did in fact pinpoint that Trinidad and Tobago was the site of a data and communication mining test project conducted in 2013 under the Kamla Persad-Bissessar-led UNC Government. That is a fact. And we were even mentioned, our country was even mentioned in the 2019 Netflix documentary *The Great Hack* courtesy the UNC which is the same party which has shamelessly brought this Motion to the Parliament, talking about safeguarding the personal data of persons.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. P. Gopee-Scoon: You had no concern about protecting the privacy of citizens' information when you were using that very same data for your general election campaign, and that, my friends, that was their gift to the nation.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. P. Gopee-Scoon: And they have never apologized to the public about it but I guess when you come to some level of sobriety, I do not know when that ever would be, that you may consider doing it but you have never apologized to this nation.

Before I go to the crux of my contribution with whatever little time that I have and what I can speak of today, I will just go back to the points raised by the hon. AG when he said that we must pay attention to the fact that sections 4 and 6 of the Data Protection Act were in fact proclaimed and of course, in particular section 6 which speaks to general privacy principles does in fact give the protection in terms of the privacy of information of individuals in terms of data being collected. And I think he made reference to (l) in section 6 speaking to the fact that:

“(k) the individual has the ability to challenge the organization’s compliance with the above principles and receive timely and appropriate engagement from the organization...”

But beyond that, it speaks directly to the level of protection and in the case of (a) that:

“an organisation...”—must—“be responsible for the personal information under its control;”

And that:

“(b) the purpose for which personal information is collected shall be identified by the organisation before or at the time of collection;”

So we are talking about the use of personal data and very importantly that:

“(c) knowledge and consent of the individual are required for the collection, use or disclosure of personal information;”

And that:

“(e) personal information shall...be retained for as long as is necessary for the purpose collected and shall not be disclosed for purposes other than the purpose of collection without the prior consent of the

individual;”

That:

“(g) personal information is to be protected by such appropriate safeguards having regard to the sensitivity of the information;”

That:

“(h) sensitive personal information is protected from processing except where otherwise provided for by written law;”

Twelve principles, Mr. President, very important principles in terms of the safeguarding of the personal information and data of the citizenry and I just wanted to repeat that to give comfort to the population.

But what we are talking about this afternoon is about the importance of data and let us accept that sound, accurate and up-to-date data are key factors in decision-making and I will make two references. I must do that. That the COVID-19 pandemic has reinforced the value of a robust appropriate framework for the gathering, processing and sharing of data in Trinidad and Tobago, and two, especially as I speak as Minister of Trade and Industry, it has been stated that we live in a time that has ushered in the fourth industrial revolution where data is the new gold. And as my colleague, the hon. Minister of Finance would have shared in his Keynote Address at the UN Trinidad and Tobago Big Data Forum in December 2021, big data is:

“...now the currency of the technological economy and is incorporated into every sector - from manufacturing, banking and agriculture to disaster risk reduction, urban management, biodiversity monitoring.”—and so on.

And I wanted to make the point of the importance of data in today’s world.

So let us face it, an individual’s personal data is collected and stored from

your birth and it continues throughout your life, your marriage, your death and so on. Data is collected by governments, businesses, non-governmental organizations, academic institutions and therefore, Mr. President, proper collection and processing of data is important and its importance is insofar as it can allow you to generally allow for better decision-making by individuals as well as the public sector, the private sector in terms of planning and implementing and evaluating national programmes, in modernizing government services, in improving the economy and enabling the users to more easily identify areas that are in need of attention. And it is precisely because of the value of data that any government would need to ensure that the data protection framework is appropriate and it is relevant to the times and that is the importance of the modernization of the legislation which is before us.

Now, let us agree that there are deficiencies in the current legislation and that my colleague Sen. Bacchus, Minister of Digital Transformation, brilliantly laid out the importance of data protection as a pillar in supporting the advancement of Trinidad and Tobago digital strategy. He also rightly pointed out that over 10 years have passed since the Data Protection Act was enacted and partially proclaimed, and that during this time, technologies have changed significantly and therein lies the importance for review and to ensuring that our approach in modernizing the legislation is well handled.

And my colleague Sen. Sagramsingh-Sooklall, the Minister in the Office of the Attorney General and Legal Affairs outlined the range of activities to be undertaken by the Government during the period—that the activities which were undertaken during the period 2016 to the present to review the data protection regulation regime in Trinidad and Tobago. So what I am saying is that review has

been ongoing from 2016 and mention was made about the work undertaken by the Office of the Prime Minister in 2020 through the Inter-American Development Bank to review the Data Protection Act and this is where the Ministry of Trade and Industry steps in.

So that, Mr. President, in October 2020, the Ministry of Trade and Industry, under its Strengthening of the Single Electronic Window for Trade and Business Facilitation, an IDB funded loan programme executed this consultancy for the provision of advisory services to amend the data protection legislation in Trinidad and Tobago and this was undertaken—and I want to just correct Sen. Deonarine, it was undertaken at the proactive request, not by Ministry of Trade and Industry alone but by the request of the Office of the Prime Minister, the Communications Division where their portfolio of our data protection is assigned. So that their consultant Ms. Tira Greene worked very closely with international experts such as King's Counsel John Mc Kendrick and they undertook a series of activities including the completion of a gap analysis of our local legislation as compared to the standards in the UK, in the US, in the EU and other jurisdictions. They also prepared a legislative brief inclusive of recommendations for amendments to the Data Protection Act and they coordinated private and public sector consultations on proposed legislative amendments and they ensured that a final presentation of proposed amendments was made to the Ministry of Public Administration and OPM. This is in late September 2021, in the form of a detailed legislative brief.

So that a great deal of consultation had been done and I think when I return to speak when the debate continues, I would speak to the key stakeholders were engaged to inform the completion of the project and this is as per the consultancy with Ms. Tira Greene but some of these would have included several Ministries

and agencies within Caricom, within Trinidad and Tobago, and it is arising out of these activities that it was discerned that there are several gaps in the domestic legislative framework for which amendments are required and I will give you some examples.

For instance, developments in data protection at the international level and since the passage of the Act, there have been developments in data protection at the international level. These have increased the possibility for the mass collection of personal data and as such, there is a need to protect that data against cyber attacks and misuse that must be covered. Also the new technological developments and digital transformation initiatives, the use of new technological developments such as fintech and distributed ledger technologies, including block chain, artificial intelligence. All of these have become more common place especially in trade, in commerce and within governments and so on. And therefore, the Data Protection Act needs to be revised to ensure that there are no legislative barriers or hindrances to innovation or proper adoption of such technologies.

Also, the consideration of the rise of big or open data which Sen. Bacchus would have explained. Also, the rise of artificial intelligence and standards in data, the emergence of the UN Commission on International Trade Law on electronic transfer records, the European Union of the General Data Protection Regulation and the EU data report and data sharing for public good, Mr. President, and it is useful to recall that our Data Protection Act is based on the old UK Data Protection Act which was replaced in 2018.

And another critical development is the adoption in 2016 by the EU GDPR which has essentially become the worldwide standard for data protection. It has been used as the model for data protection legislation in several jurisdictions

including Chile, Mauritius, South Africa, Japan, the UK and so on. And even within our region, several data protection laws, like for instance, in Barbados and Jamaica, were heavily influenced by this EU GDPR and certainly the Bahamas, Bermuda, Belize and the British Virgin Islands have also followed that model.

And the point I want to make and the consultant—and when I come back, I am going to detail actually some of the areas, about 16 areas that it was found that our legislation was aligned, for instance, there were about 16 areas where recommendations were reviewed in terms of the alignment with the GDPR and it was found that our legislation aligned with the GDPR in only three instances: the material scope and definitions, the fundamental principles relating to processing and of course, the code of conduct and certification. So I am going to speak more to that when I come back but let us agree that there were several gaps. So I want the Opposition to speak to that when I come back.

But what this has told us, that there is definitely the need for comprehensive work to be done and I like the fact that Sen. Deonarine alluded to that in terms of the enormity of the task that is before us. We know where we are going. There is some work that has been done from 2016 to now, but the point is the timelines put forward by the Opposition, it is just not reasonable enough, it cannot happen. We are prepared to put forward a timeline that is reasonable. Sen. Deonarine spoke to, I think about 18 months, we are thinking that we can perhaps come back in 12 to 15 months which is a more reasonable time. I would when I come back, as I said, lay out some more detail but I am saying to you that we do not want to leave it on the table that it is okay, “gonna be” anytime in the future, we want to come back to say a reasonable period like 12 to 15 months will allow us the time to do the further consultation, to do the further review that is required.

We want to commit ourselves to this very important piece of legislation and of course, look extensively at the alignment of the Act with the data privacy and protection framework of the GDPR. We want to consider amendments for introduction of exceptions to consent requirement for disclosure in cases of investigative journalism and forms of artistic expression, substantial consultation, again, with relevant stakeholders including the representative bodies of the media houses and media practitioners where necessary. All of those things have to be done. Additionally, review of the Act is being pursued for alignment with important principles of digital transformation, notably open government and open data as well.

Again, and importantly to ensure appropriate alignment of the objectives of the Act with the appropriate administrative and regulatory framework for data privacy, the information commissioner would be required to be recruited and appointed along with the necessary staffing and supporting structures for the office of the information commissioner. So that we definitely—and I will speak further to it—would want propose an outer limit for proclamation.

6.00 p.m.

As I said, at best, given the parliamentary vacation periods, given the budgetary period as well, we must take those into account. Looks to me, more realistically, to be another 12 to 15 months. And it is a commitment that we will be prepared to make in order to ensure that we do this well.

So, Sen. Dillon Remy, whilst we appreciate your comments on the need to press forward, we are saying, yes, press forward with the work that has to be done. But it must be done properly, and I hope that you appreciate that. But there is still a significant volume of work to be done. As I said, Sen. Deonarine said 18

months, but we are thinking we could get it done before that time.

And when I come back, as well, I would have the opportunity again to— when I come back I would have the opportunity to speak to and to put in context several of the digital transformation projects that are currently being undertaken by the Government, in terms of the national identity management solution, the interoperability services solution, the trade and business information portal. Yes?

ADJOURNMENT

The Minister of Foreign and CARICOM Affairs (Sen. The Hon. Dr. Amery Browne): Mr. President, I beg to move that this Senate do now adjourn to a date to be fixed.

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

Hon. Senators: [*Desk thumping*]

Natural Gas Prices 2023

(Effect of Decline)

Sen. Wade Mark: Thank you, Mr. President. Mr. President, the Motion before us is calling on the Government to advise this country on the effect of the decline in natural gas prices on the 2023 budget and on Trinidad and Tobago's economy.

Mr. President, a major economic hurricane is brewing that can have catastrophic consequences for our national economy and society. The situation is such that we need the Government to come clean on what is taking place with the revenue side of the budget.

We are all aware that since the arrival of Columbus in 1498, we have never had any government or Minister of Finance setting the prices of energy products,

oil as well as natural gas, at the levels at which they were set for the 2023 budget.

The budget was set, in terms of natural gas, at US \$6.00 per MMBtu. And in the case of crude oil, it was set at US \$92.50 per barrel. The last time I checked on the system, the WTI was traded at \$76.81. Brent crude was being sold at US \$83.89 and natural gas was being traded at \$2.77 per MMBtu.

It is clear that Trinidad and Tobago is in crisis and that is why COVID-19 has struck for the fourth consecutive time in less than one year. That is why, Mr. President, what we are faced with in Trinidad and Tobago, as a result of this development, that is the collapse of all gas prices in our society, is a situation where the budgeted numbers are going to be in trouble. Our budget is \$57.8 billion, according to the Minister of Finance. But with the price of gas being traded at \$2.77, for the last two months it has been hovering between US \$2.50 to US \$3.00 per MMBtu. We need the Minister of Finance and the Government to come clean and tell Trinidad and Tobago what is the state of the revenue side of our budget for 2022/2023. We are predicting that the budget deficit, which stood at 1.5 or estimated at 1.5 billion, or 0.8 per cent of this country's GDP, is going to be widened. We do not know by how much. And therefore, we need the Government to tell Trinidad and Tobago—given what is taking place on the global marketplace, where, as we speak, we know that the daily production of natural gas is just about 2.8 billion cubic feet, we need about 4.1 billion to run this economy optimally. We know, as we speak today, the volume of our crude is between 55,000 to 60,000 barrels a day. Mr. President, the Government needs to tell us, what is taking place on the international energy market, how is this development impacting on the revenue side of the budget? Will it mean, Mr. President, that the Government will have to come here in the next few weeks to revise the budget? Is

the Government going to revise the budget? Are we going to experience cuts in expenditure as a result of this massive decline in natural gas prices?

And let me make it very clear, Trinidad and Tobago is a gas-driven economy. And when we look at the budgetary figures, \$25 billion is expected to come from oil and oil-related products. And if what we are seeing taking place on the global market, in terms of energy prices, the Minister must tell us, the Government must tell us, how much revenues have we lost in the second quarter, as we enter the third quarter of the fiscal year? How much revenues we have lost? Is it \$1 billion? Is it \$2 billion? Is it \$10 billion, at the end of the fiscal year projected? What is the present situation? We need to know. And we need to know, Mr. President, whether the Government is going to revise and review the budget. Because at \$92.50, the Minister has set this price so high for crude oil, that will give him an excuse to dip into and to raid our HSF. That is the whole issue here too. So our savings might be in trouble. And he can do this without informing the Parliament through a debate. We get a piece of paper telling us he has dipped into the HSF. And then, we can come and debate it after the fact.

So, Mr. President, our citizens are concerned about what is taking place. And all the distractions and deflections that this Government is engaged in, is not going to change the price of cocoa or coffee. Because when that economic hurricane hits here, Category 5 status, it will damage a lot of property and it will injure a lot of citizens in a negative way. So we are calling on the Minister of Finance and the Government to come clean. They must take responsibility for setting the price of gas at US \$6.00 per MMBtu.

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

Sen. W. Mark: And they must take responsibility for setting the price of crude oil

at \$92.50. I am not even blaming the Minister of Finance. The Prime Minister of the country, who heads the Cabinet, must take responsibility for what has happened.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: And they are keeping things quiet. But we intend to let them know, it is no longer quiet. We need to get to the facts.

And by the way, as I close, I want the Minister of Finance to tell us whether the Government of Trinidad and Tobago is involved in money laundering. I would the Minister indicate why our embassy—

Mr. President: Point of Order, Minister of Tourism, Culture and the Arts.

Sen. W. Mark: [*Inaudible*]

Mr. President: Sen. Mark, Sen. Mark.

Sen. Mitchell: Mr. President, Standing Order 46(6), please 46(6).

Mr. President: Standing Order 46(6) is upheld, Sen. Mark. Just be mindful of the language that you are using and the imputation of improper motives.

Sen. W. Mark: Mr. President, our Brussels embassy has—their banking accounts have been closed. And the Prime Minister came to this Parliament recently and said one of the reasons for it is to mitigate money laundering, and he said that in the context of the laws of the European Union. How is our embassy involved in money laundering? Who is laundering money? These are very serious matters because it will affect our image as a society and as a country.

And therefore, Mr. President, we have raised this issue affecting the nation of Trinidad and Tobago, the collapse of gas prices in particular. “Doh come and mamaguy we about oil”. We want to know about gas, which is now \$2.77 per MMBtu. Tell us how that is affecting our revenues; how it will affect our

expenditure; and how our citizens will be affected; and what measures are you taking as a Government, in the short term, to cushion the effects of this economic blow that we are experiencing. Thank you very much, Mr. President.

Hon. Senators: [*Desk thumping*]

Mr. President: Minister of Finance.

The Minister of Finance (Hon. Colm Imbert): Thank you very much, Mr. President. I did not see any reference to the embassy in Brussels in the matter. I think that was just a little lagniappe that the hon. Senator threw in there. I found him a little hysterical today, Mr. President. Perhaps, it is this back and forth with his own Members about trafficking that has confused them.

Mark: [*Inaudible*]

Hon. C. Imbert: But, Mr. President—

Sen. Mark: [*Inaudible*]

Mr. President: No, no, no, no. Sen. Mark, you would notice that the Minister of Finance remained quite silent—

Sen. Mark: My apologies.

Mr. President: —whilst you moved your Motion on the Adjournment. Please allow the Minister of Finance to make his rebuttal.

Hon. C. Imbert: Now, clearly the UNC prays every morning that the country will collapse. I saw how gleeful the hon. Senator was when he made his completely fallacious, erroneous, flawed, inaccurate, irrational presentation. I will give Sen. Mark the benefit of the doubt. I will not say he is being politically mischievous. I will say he is just being politically ignorant.

And, Mr. President, what the Members opposite on the Lower Bench probably do not know—because they do not want to know, or if they know, they

do not want the country to know that. Because of the work done by the hon. Prime Minister, supported by the Minister of Energy and Energy Industries, in all of the various travels that the Prime Minister and the Minister of Energy and Energy Industries made to various capitals of the world, meeting with the oil majors, meeting with the companies that do business in Trinidad and Tobago, in terms of gas in particular—because this matter is about gas. Because of the work done by the hon. Prime Minister, supported by the Minister of Energy and Energy Industries, the price that is used to calculate revenue or to derive revenue for the country, for the Government, and the people of Trinidad and Tobago is not the Henry Hub price that you referred to. That was the UNC way.

6.15. p.m.

What the Keith Rowley Government did, hon. Keith Rowley Government did, is immediately negotiate new formulas for the derivation of revenue for the country and the people of Trinidad and Tobago. So that the LNG net back price for example, is influenced to a significant extent by the price of gas in the UK using a benchmark called NBP. Clearly, the hon Senator is blissfully unaware of that benchmark. And also, its influence to some extent by a benchmark in the Far East, the JKM, which is Japan/Korea benchmark. And as we speak here today, although Henry Hub is \$2.70 the NBP price for natural gas in the UK is \$16. And the JKM price for gas in the far east is \$16. So what the hon. Prime Minister was able to do, notwithstanding the old talk from the UNC, was to negotiate a new formula for revenue for this country based on these three benchmarks, not simply Henry Hub, but also the UK price and the Far East price. And that has given us significant additional revenue from LNG, and that is not all.

With respect to the price that is used for petrochemicals, the hon. Prime

Minister, and the Minister of Energy and Energy Affairs, have been able to negotiate a regime where the price of ammonia and the price of methanol influence to a significant extent the price that is used for natural gas to derive revenue for the people and country of Trinidad and Tobago.

So if you do not know, and you just go on the Internet and see that Henry Hub is \$2.77, you would simply be completely oblivious to the fact that we get revenue in a completely different way. And I want to say, at this point in time, based on the information that I have with respect to the country weighted gas price that we have received for the first four months of the fiscal year, we are holding our own, Mr. President. It is nowhere even remotely close to the specter of collapse that the Senator has told this country. That is nonsense.

Hon. Senators: [*Desk thumping*]

Hon. C. Imbert: When I look at the actual country weighted gas price for the first four months of the year, we are holding our own. We are well within our budget prices, Mr. President, well within. So all of that is just nonsense.

But the whole point is, the whole point is there are ways and means and established procedures for informing the public on the fiscal outturn. And one way is not to deal with it by a matter on the Motion for the Adjournment. And this is not a Motion, I heard the Member say that, and that is probably part of his confusion. This is a matter on the Motion for the Adjournment for which we have a maximum of ten minutes. And I can assure you that I will not disrespect this Senate and try to give a mid-year review in ten minutes. We have established systems. And I can say now, the plan is that there will be the usual mid-year review at the end of April of 2023. At which time, all of the figures and facts will be outlined for the hon. Senate and the other place, and the country will learn in the

established way how we are doing in terms of our fiscal outturn.

But I can say that because of the work done by the Prime Minister and the Minister of Energy and Energy Industries, notwithstanding all the noise on the other side, the misinformation, the bad propaganda, all the “ole talk”, all the foolishness, Mr. President, that we are holding our own and we are doing well. And I end by saying I looked at the overdraft percentage this morning and instead of the usual 95 per cent and 90 per cent that I used to see in 2017, and 2018, and 2019, the overdraft this morning was 43 per cent. I beg to move.

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

Sen. Mark: “Wha yuh beg to move? Yuh eh move nuttin”.

Mr. President: Sen. Mark. Sen. Mark and Members to my right. Sen. Lyder.

Hon. Senators: [*Desk thumping*]

State of Vagrancy and Street Dwellings

(City of Port of Spain)

Sen. Damian Lyder: Thank you, Mr. President. And I thank you for acknowledging me and allowing me to raise and rise this matter of interest in the people of Trinidad and Tobago, which is the state of vagrancy and street dwellings in the City of Port of Spain and its impact on business, national security, health, and tourism.

And on this matter, Mr. President, I have consulted with various stakeholders, some of who I have had the privilege to support with their endeavors pertaining to feeding the socially displaced. And I have met with various stakeholders in the city, in Port of Spain’s businesses community, and Mr. President, they have complained about the inaction from this PNM Government with regard to street dwellers and its impact on the economic activity in Port of

Spain.

Mr. President, the size of this problem is truly immense. A stakeholder at last count provided anywhere between 250 to 400 meals continuously every night for seven long years without missing one night. And the question is, Mr. President, what happens when this private entity stops feeding the street dwellers? Who will support these persons? Will these desperate persons now resort to drastic measures such as busting the windows of bakeries and supermarkets in the city? Will this impact on crime in the capital city?

You see, Mr. President, the key issue is the safety of the environment and the general feel in the city. Persons do not want to be in an environment where they have to be stepping over people sleeping in the streets of our capital city just to buy curtains and shoes. This affects national security, Mr. President, because there are many persons who are desperate persons on the fringe of society struggling to survive. Some of them mentally challenged who may pose risks of bodily harm to other citizens. Many persons are ailing from all manners of sickness, Mr. President, living on those streets. And stakeholders from my consultation have indicated that there are many instances of persons who have been dying in the streets. These persons do not have the luxury of a cell phone to call an ambulance or taxi fare to get to the general hospital. Mr. President, many of these persons meet their end as John Doe, to be buried anonymously.

Many of the stakeholders I spoke to have estimated there are as much as 500 or more street dwellers through the length and breadth of Port of Spain. Approximately 350, running anywhere between the west and the southeast of Port of Spain. And from the south part of Belmont, it is estimated in the constituency of the Member of Parliament for Port of Spain North/St. Ann's West, roughly just

over 100 street dwellers. And this does not include another couple hundred of persons that are living in derelict government plannings, depleted homes in the city, many of them without running water or electricity. They are sleeping on mattresses and coming out in the streets just to find food, Mr. President.

Outside our own national library, a stone's throw from here where our children and students go to study, Mr. President, on any night you can see 30 persons or more standing there waiting and depending on good Samaritans to bring them food. And I know many Ministers on that side in the Government come out of their vehicles when they come to Parliament and refuse to look to the right. Maybe they are afraid to see protestors. But if they look beyond the thousands of protesters they will see street dwellers in the park sleeping on benches.

One only has to go on the porch right now, on the eastern wing and we can see that, Mr. President. And what is the Government's solution? Lock the parks at night; lock the parks at night so that the street dwellers will not sleep in there. And regarding the NIPDEC car park which housed a number of homeless people, this was shut down by this Government. And I know that the hon. Minister of Social Development and Family Services will come to say that they have decanted them and placed them in an alternative accommodation.

But let us not be blind, Mr. President, we could leave Parliament now and drive in front of that car park and we see them sleeping right outside where they have been kicked out. They are living in their numbers, in dozens on the street, just around that building that they have been evicted from by this PNM Government. And when the PNM removed the 80-odd dwellers, and we know it is more. I went there and bought food for them too. When we saw them kicked out last August, the Minister of Social Development and Family Services in a

Guardian Newspaper on August 2022, when the hon. Minister was asked about the relocation of the socially displaced the reply was and I quote:

We are relocating them based on their situations to different homes. The truth is many are simply scattered near and around the same facility that housed them for three decades. We saw recently in carnival time social media showing the amount of persons living in the streets of our capital city. And it took an uncaring PNM Government to evict them from that car park. Every citizen is entitled to a share of our nation's wealth. And the majority of persons are simply persons who have fallen on hard times, suffering joblessness as a result of the mass unemployment created by this PNM Government. So we should not be paint a broadbrushed picture and categorize them all as drug addicts or mad people when they need help from us more than just shelter. These are citizens deserve a warm meal when they are hungry, clothes to preserve their dignity, and shelter befitting every citizen of this nation. As we know, these are the basic need covered in the Maslow's hierarchy of needs, Mr. President.

This Government has abandoned these citizens. And as such that is why the MP for Port of Spain North/St. Ann's West, the MP for Port of Spain South, and the Prime Minister amongst all other Cabinet colleagues should hold their heads in shame when they drive through the capital city. And let me remind the Member of Parliament for Port of Spain South that many of them do not have even a breadfruit far less a coal pot to roast it on. Just ask Richard who is living down the road by the Guardian Media building for five years after his business had burnt down and he lost his job, he is still there.

The situation in Port of Spain warrants the need for other solutions. Solutions must have a human face and ought not to report our citizens as statistics.

Solutions must include an assessment of each individual to understand what is needed to provide support. Whether it is mental rehabilitation, medical treatment, access to employment. Many simply just need to be reunited with their families. Families who have lost touch with them do not know where they are. Merely relocating them as hinted by the Minister in that article last year reminds me of that saying, out of sight out of mind, and it raises the question to me, as I have heard many citizens ask, is the Government trying to hide—

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

Sen. D. Lyder: —this homeless problem? And Mr. President, when we consider defecation of the streets. The only public toilets in south Port of Spain are on the Promenade and in City Gate. Many homeless persons have no choice but to defecate and urinate on the streets. These persons desperately have to rummage through garbage bags. And when you think that the garbage bags are being torn up by dogs, it is our own citizens who are desperate for food searching for this.

So as I conclude, Mr. President, this Government is in its eighth year of office. This is the constituency of the father of the PNM, Dr. Eric Williams since 1962. This is not just a national problem but it is a PNM problem, and ten minutes is not enough to deal with this so I am going to bring it under a Private Member's Motion.

So I ask now, the Minister of Trade and Industry and the Minister of health through you, what say you when you sit with the Minister of Social Development and Family Services when it pertains to the impact of business and health in the Port of Spain? I ask through you, to the Minister of National Security what say you when you sleeping away in Cabinet next to the Minister of Social Development and Family Services as it pertains to crime in the City? And I ask

my good friend, the Minister of Tourism and Culture and the Arts, my good friend, what say you, when you sit in the Cabinet when you all arrive in the Parliament? When you all go to your Government offices in the city? What say you when those brilliant cruise ships pull up in our port and the tourist have to walk through the streets of Port of Spain to see the filth of garbage in the streets, human feces in the road, and forgotten and abandoned citizens sleeping in the streets on cardboards in our capital city, in our capital city?

Mr. President, as I close, the Opposition and the rest of the country listening do not want to hear a response today coming from this Government that is laced with excuses repeat with blame Kamla for seven and a half years. The people are only interest in solutions. We must fix our capital city, Mr. President, we must help the desperate—

Mr. President: Senator—

Sen. D. Lyder: —and anything short of that is a betrayal to this country. I thank you.

Hon. Senators: [*Desk thumping*]

6.30 p.m.

Mr. President: Minister of Social Development and Family Services.

Hon. Senators: [*Desk thumping*]

The Minister of Social Development and Family Services (Sen. The Hon. Donna Cox): Thank you, Mr. President. Mr. President, the issue of homelessness as presented several challenges to successive governments. This Government remains committed to achieving its goal that no one is left behind by addressing the problem of vagrancy in the city of Port of Spain and throughout Trinidad and Tobago. And we are aware and we agree that street dwelling impacts a wide cross

section of our population, from private citizens walking through the streets, to visitors, to business persons and to government agencies; no one is exempt.

The Ministry of Social Development and Family Services has responsibility for assisting homeless persons who wish to leave the streets voluntarily, while the Ministries of Health and National Security are authorized to cause their involuntary movement through various legal channels. The management of street dwelling has always been and remains to the present time, a collaborative effort among key stakeholders and including the Ministry of the Attorney General and Legal Affairs as well as, representatives from the municipal corporations, business community, civil society, Ministry of Health.

The Government through the Ministry of Social Development and Family Services, our Social Displacement Unit, implements an integrated programme of support for street dwellers that includes but is not limited to the following. And I have to give this information because of the fact that I think persons have it wrong. The Ministry of Social Development and Family Services does not have the capability to move persons off the street, we do not have the legal teeth to do that. Okay? We are responsible for moving persons voluntarily. The role of moving them involuntarily will come through the police service and through the legal forms. What we do, we conduct regular street counts so the Social Displacement Unit conducts street counts twice a year, in collaboration with the regional corporations. We have routine engagements of persons living on the streets. So, field officers are out on the streets at least four times per week in Port of Spain and they conduct visits in Chaguanas and San Fernando quarterly. And during these encounters the officers provide street dwellers with information on the various options available to them to make referrals for their further support and treatment.

So, if the street dwellers are willing to move after doing an assessment, because they must be assessed in keeping with international standards, you cannot just take persons and move them, you have to assess them first because some may be, as you say, as you mentioned, some of them may be mental health persons and if so, then they are referred to mental health. Some of them have drug related problems, therefore, they would be asked if they want to go into rehab, it is involuntary, we cannot, we cannot move them, okay? We have moved some of them and I will explain in a little while.

Persons who, in the officer's opinion, appear to have mental health issues are reported to the district mental health and wellness clinic for assessment. And some persons are—who appear to be, they have to be interviewed by the mental health officers and they are subsequently transitioned to a designated shelter or transitional facilities. But it must be underscored that of course street dwelling, they must be willing to be moved and they must accept the various options that are placed before them.

Continuum of care for the socially displaced. This has been established whereby they must first be engaged by the assessment, treatment, rehabilitation, transitional housing, employment and then to independent living. And this is what we are working on so, it is not just about just moving them but of course putting them into a place where they can be self-sufficient. Not everyone on the street has a mental problem. And once you do not have a mental problem when they are assessed, then we move them into a continuum of care. We have found some persons on the street who are ill, and they have been taken to the hospital.

The need for a purpose built facility to deliver the appropriate continuum of care services to the socially displaced, including street dwellers has long been

known and established. Identifying an appropriate location that was acceptable to street dwellers and the surrounding communities proved to be very challenging. What has happened is that every time the Ministry finds somewhere, somebody would tell you, there is not the place for them, they do not want them near to them. So the Ministry has been looking and I want to say that at long last, we recently received Cabinet's approval for the construction of a social displacement and assessment centre in Port of Spain.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. D. Cox And this will be a permanent five story facility, fully dedicated to assessing and housing the socially displaced. It will be the first of its kind in the history of Trinidad and Tobago.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. D. Cox: And construction is expected to commence in fiscal 2023 and we are eagerly looking forward to its completion because this is long overdue.

The Ministry knows that it cannot accomplish any sustainable improvement in the lives of the homeless on its own. So therefore, it requires a collaborative approach. And since 2020, we have been having high level meetings with key stakeholders who also form part of the same enterprise and all of us are keen to address the critical issues of treating with homeless persons. Some of the stakeholders that we met with include the Mayor of Port of Spain, the Ministers of Health and Rural Development and Local Government, the Commissioner of Police, permanent secretaries from the various Ministries, chief medical officer, municipal police and of course, we also met with the chairmen of regional corporations, because we understand that there are problems in the different municipalities and we have had meetings with them because, we know that we

cannot do it alone. So we have to meet with everyone and come up with some solutions and we have been having these meetings. We also have been meeting with civil society organizations that take care of the homeless. So stemming from this consultative process, the relevant issues and concerns raised are these and subsequent follow-up sessions have considered in finalizing a draft policy for street dwellers. And this is for inclusion in the proposed amendments to the socially displaced amendment Act.

The Ministry is avidly pursuing amendments to this Socially Displaced Persons Act, No. 59 of 2000, which aims to provide for the assessment, the care and rehabilitation of socially displaced persons and related matters. And we have come to realize that the existing system for dealing with street dwellers as currently outlined in the Act has several weaknesses and consequently, there is a need for a more consistent and streamlined system for the removal, the assessment, rehabilitation and reintegration of street dwellers. And some of the reasons for people who are socially displaced are unemployment, illness, substance abuse, abandonment, rejection from family, family disputes. And additionally, some of its contributory factors are social problems in the home, difficult childhoods, substance abuse, financial problems, mental illness and drug addiction. And given this wide range of contributory factors, it is obvious that the solution to street dwelling requires wide ranging assessment and—[*Inaudible*]

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

Sen. The Hon. D. Cox:—far beyond the “get them off the street” social development.

So, Mr. President, I want to go into the Centre for Socially Displaced Persons quickly because I heard Sen. Lyder speak as if we just left the persons in the street.

The Ministry conducted a comprehensive assessment of persons in that centre, that centre was not fit for humans, that was supposed to be a temporary shelter for homeless persons. So this is since 1991, it far outlived its time, the Ministry decided to remove the persons and they were all engaged, every one of them were engaged. Some were sent to community care programmes, some were sent to mental health long term care, some accepted training opportunities through Vision on Mission, others were admitted to drug rehab centres, some persons were reunited with their family, other clients accepted the Ministry's rental assistance grant so that they can start again because some persons who were living there were actually working. Two persons were hospitalized, and of course, the Ministry will place them when they are discharged.

So, it is not right to say that we just closed it and left them. Those who did not accept it because we could not force them—there are people who did not accept and said they did not want to move from there, they wanted to stay on the street. We could not get them off the street, we continue to engage them, our officers continue to engage them but our officers are not trained to deal with mental health persons, our officers are not police officers, and this is so therefore, they continue to engage them and try to get them to move voluntary and that is what it is.

Sen. Nakhid: [*Inaudible*]

Sen. The Hon. D. Cox: So some residents, of course, Mr. President, we continue to engage them and of course, with our legislation and the assessment centre, we would be moving persons off the street as soon as possible. Thank you.

Hon. Senators: [*Desk thumping*]

Sen. Lyder: [*Inaudible*]

Mr. President: So, Senators, before I put the question in the adjournment just as a reminder, I have taken note of the fact that we have gotten into a habit of shouting across the floor to Members regardless of side when they are making their contribution. I just remind you that procedurally, you can ask a Member to give way if it is you wish to engage them while they are making a contribution, it is just more efficient and it is easier to do so.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 6.41 p.m.