

SENATE*Friday, November 24, 2023*

The Senate met at 10.00 a.m.

PRAYERS[MR. PRESIDENT *in the Chair*]**LEAVE OF ABSENCE**

Mr. President: Hon. Senators, I have granted leave of absence to Sen. Dr. Sharda Patasar, who is out of the country, and Sen. Jayanti Lutchmedial, who is ill.

SENATORS' APPOINTMENT

Mr. President: Hon. Senators, I have received the following correspondence from Her Excellency the President Christine Carla Kangaloo, O.R.T.T.:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By Her Excellency CHRISTINE CARLA
KANGALOO, O.R.T.T. President of the
Republic of Trinidad and Tobago and
Commander-in-Chief of the Armed Forces

/s/Christine Kangaloo

President.

TO: MR. JOSH DRAYTON

WHEREAS Senator Sharda Patasar is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:

NOW THEREFORE, I, CHRISTINE CARLA KANGALOO, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, JOSH DRAYTON, to be a member of the Senate temporarily, with

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Senators' Appointment

2023.11.24

effect from 24th November, 2023 and continuing during the absence from Trinidad and Tobago of Senator Sharda Patasar.

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 22nd day of November, 2023."

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By Her Excellency CHRISTINE CARLA KANGALOO, O.R.T.T., President of the Republic of Trinidad and Tobago and Commander-in-Chief of the Armed Forces.

/s/Christine Kangaloo

President.

TO: DR. TIM GOPEESINGH

WHEREAS Senator Jayanti Lutchmedial is incapable of performing her duties as a Senator by reason of illness:

NOW THEREFORE, I, CHRISTINE CARLA KANGALOO, President as aforesaid, in exercise of the power vested in me by section 44(1)(b) and section 44(4)(b) of the Constitution of the Republic of Trinidad and Tobago, acting in accordance with the advice of the Leader of the Opposition, do hereby appoint you, TIM GOPEESINGH, to be a member of the Senate temporarily, with effect from 24th November, 2023 and continuing during the absence of Senator Jayanti Lutchmedial by reason of illness.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago

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at the Office of the President, St. Ann's, this 24th
day of November, 2023.”

OATH OF ALLEGIANCE

Senators Josh Drayton and Tim Gopeesingh took and subscribed the Oath of Allegiance as required by law.

PAPERS LAID

1. Ministerial Response of the Ministry of Public Administration to the Ninth Report of the Public Administration and Appropriations Committee on the implementation of the 2021 budget with emphasis on the “Green Economy”. [*The Minister of Public Administration (Sen. The Hon. Allyson West)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the Statement of Recovery of Expenses of the Ministry of Energy and Energy Industries for the year ended December 31, 2022. [*The Minister of Foreign and CARICOM Affairs (Sen. The Hon. Dr. Amery Browne)*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Mayaro-Rio Claro Regional Corporation Chairman's Fund for the financial year ended September 30, 2020. [*Sen. The Hon. Dr. A. Browne*]
4. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Office of Procurement Regulation for the financial year ended September 30, 2021. [*Sen. The Hon. Dr. A. Browne*]
5. Third Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Point Fortin Borough Corporation for the financial year ended September 30, 2003. [*Sen. The Hon. Dr. A. Browne*]
Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the San Fernando City Corporation Mayor's

Project Fund Account for the financial year ended September 30, 2018.

[*Sen. The Hon. Dr. A. Browne*]

6. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Telecommunications Authority of Trinidad and Tobago for the financial year ended September 30, 2020. [*Sen. The Hon. Dr. A. Browne*]

PUBLIC ACCOUNTS COMMITTEE REPORTS

(Presentation)

Administering of Government Grants

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

Tenth Report of the Public Accounts Committee, Third Session (2022/2023), Twelfth Parliament, on an Examination of the concerns raised in the Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the financial year 2021 with specific reference to the administering of government grants.

Children's Authority of Trinidad and Tobago

Eleventh Report of the Public Accounts Committee, Third Session (2022/2023), Twelfth Parliament, on an Examination of the Audited Financial Statements of the Children's Authority of Trinidad and Tobago for the financial years 2014 to 2018.

Ministry of Energy and Energy Industries

Twelfth Report of the Public Accounts Committee, Third Session (2022/2023), Twelfth Parliament, on a Follow-Up on the implementation of the recommendations made in the Thirtieth Report of the PAC on the concerns raised in Reports of the Auditor General on the Public Accounts of

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the Republic of Trinidad and Tobago with specific reference to the Ministry of Energy and Energy Industries.

Special Audit of the PTSC

Thirteenth Report of the Public Accounts Committee, Third Session (2022/2023), Twelfth Parliament, on an Examination of the Reports of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Public Transport Service Corporation for the financial years 2014 to 2018 and follow up on the implementation of the recommendations made in the Eighth PAC Report, 11th Parliament, on an Examination of the Report of the Auditor General on a Special Audit of the PTSC.

PUBLIC ACCOUNTS (ENTERPRISES) COMMITTEE

(Presentation)

National Maintenance Training and Security Company Limited

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

Thirteenth Report of the Public Accounts (Enterprises) Committee, Third Session (2022/2023), Twelfth Parliament, on an Examination of the Audited Financial Statements of the National Maintenance Training and Security Company Limited for the financial year 2018 and follow up on the implementation of the recommendations contained in the Committee's Eleventh Report from the 11th Parliament.

Community-Based Environmental Protection and Enhanced Programme

Thirteenth Report of the Public Accounts (Enterprises) Committee, Third Session (2022/2023), Twelfth Parliament, on the Follow-Up Examination on the Implementation of the Recommendations of the Fourth Report of the

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Committee on the Audited Accounts, Balance Sheet and other Financial Statements of the Community-Based Environmental Protection and Enhancement Programme for the financial years 2009 to 2014.

**Estate Management and Business
Development Company Limited**

Fourteenth Report of the Public Accounts (Enterprises) Committee, Third Session (2022/2023), Twelfth Parliament, on the Examination of the Audited Accounts, Balance Sheet and Financial Statements of the Estate Management and Business Development Company Limited for financial year 2015 and follow-up on the Implementation of the Recommendations of the Committee's Seventh Report from the 11th Parliament.

Tourism Trinidad Limited

Fifteenth Report of the Public Accounts (Enterprises) Committee, Third Session (2022/2023), Twelfth Parliament, on the Examination of the Audited Accounts, Balance Sheet and other Financial Statements of Tourism Trinidad Limited for the financial years 2018 to 2020.

10.15 a.m.

URGENT QUESTIONS

Mr. President: Sen. Mark.

**UWI Global Campus
(Late Payment of Salaries)**

Sen. Wade Mark: Thank you, Mr. President.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: To the hon. Minister of Education: Given reports that the late payment of salaries to staff of the UWI Global Campus for the months of October and November has imposed severe hardships on these employees, can the Minister

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indicate the measures being pursued to rectify this situation?

Mr. President: Minister of Education.

Hon. Senators: [*Desk thumping*]

The Minister of Education (Hon. Dr. Nyan Gadsby-Dolly): Thank you, Mr. President. Mr. President, the staff of the UWI Open Campus are not paid directly by the Government of Trinidad and Tobago. The Open Campus was built on a revenue-generating model and the management is pursuing measures to ensure that they are able to meet their expenses in a sustainable manner.

Mr. President: Sen. Mark.

Sen. Mark: Thank you, Mr. President. Can the hon. Minister explain or share with this hon. Parliament what are some of the measures being pursued by the administration of the Global Campus, UWI, to address this situation facing employees of said Campus.

Mr. President: Minister.

Hon. Dr. N. Gadsby-Dolly: Thank you, Mr. President. Mr. President, it is my understanding that the Campus has hired a consultant to lead a committee in this regard and once we are apprised as the Government of what those measures are then certainly those can be shared, but we are not in possession of those at this time as they are currently being formulated.

Mr. President: Sen. Mark.

Sen. Mark: Can I ask the hon. Minister, through you, whether the 14 per cent reduction in subvention to the UWI has, in any way, contributed to the challenges currently facing the Campus, UWI, Global Campus, in any indirect or direct ways, Mr. President?

Mr. President: Minister.

Hon. Dr. N. Gadsby-Dolly: Thank you, Mr. President, the answer is, no.

Mr. President: Next Urgent Question Sen. Mark.

**Mandatory Policy for Expelled Students
(Commencement of)**

Sen. Wade Mark: Thank you, Mr. President. To the hon. Minister of Education: Can the Minister inform the Senate when will the mandatory policy for bad behaviour of expelled students commence?

Mr. President: Minister of Education.

Hon. Senators: [*Desk thumping*]

The Minister of Education (Hon. Dr. Nyan Gadsby-Dolly): Thank you, Mr. President. Mr. President, that policy has already been approved by Cabinet and therefore it is currently being implemented.

Mr. President: Sen. Mark.

Sen. Mark: Can I ask the hon. Minister whether there were any consultations with the stakeholders involved in that particular industry before the formulation and final approval of said policy, Mr. President?

Mr. President: Minister of Education.

Hon. Dr. N. Gadsby-Dolly: Thank you, Mr. President. Mr. President, the National School Discipline Matrix was consulted on with the TTPS; with the Children's Authority; with the Ministry of Youth Development and National Service, with the Ministry of Education, with the NPTA and many other stakeholders and this forms part of that policy.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Mark.

Sen. Mark: Can I ask the hon. Minister, was a report arising out of those consultations generated and, Mr. President, may I ask the hon. Minister whether such a report will be made public?

Mr. President: Minister.

Hon. Dr. N. Gadsby-Dolly: Thank you. Mr. President, the consultations would have resulted in the amendment of the National School Discipline Matrix. It was approved by Cabinet and it is on the Ministry's website for quite some time and can be perused by any member of the national public.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Thompson-Ahye.

**Transitioning into MiLAT Programme
(Legal Authority for Expelled Children)**

Sen. Hazel Thompson-Ahye: Thank you. To the Minister of Education: Can the Minister state the legal authority under which children expelled from the school system will be transitioned into the MiLAT programme?

Mr. President: Minister of Education.

The Minister of Education (Hon. Dr. Nyan Gadsby-Dolly): Thank you, Mr. President. Mr. President, by law, students under the age of 16 are required to be enrolled in an educational institution—

Mr. President: One second. Sen. Thompson-Ahye, you can take your seat. Go ahead Minister.

Hon. Dr. N. Gadsby-Dolly: Thank you. However, the Education Act provides for expulsion of students by the Minister under certain circumstances. MiLAT is a special educational institution and can therefore accommodate the educational continuity of students outside of the mainstream school system. This is the legal framework which underpins the compulsory enrolment of students under the age of 16 into MiLAT. While these students may have behavioural challenges and may not be able to thrive in the school environment, as far as possible, the Government is committed to giving them every opportunity for transformation so that they can become productive citizens of Trinidad and Tobago.

For those students over the age of 16, while they are not required to

compulsorily register, the MoE will continue to recommend their registration at MiLAT and assist in any way possible to allow them to continue their education in that transformative environment.

Sen. Thompson-Ahye: So you are saying that you really have no authority because they are not under your programme; MiLAT is not run by you?

Mr. President: Is that a question Sen. Thompson-Ahye? Phrase it as such.

Sen. Thompson-Ahye: Yes. MiLAT is a Military-Led Academic Training Programme, a social intervention programme, which is not conducted or supervised by the Minister of Education. So how are you fitting students into that programme?

Mr. President: Minister.

Hon. Dr. N. Gadsby-Dolly: Thank you. Mr. President, this is a decision of the Government, it is a policy of the Government, and it is an arrangement between the Ministry of Education and the Ministry of Youth Development and National Service that is guided by an MOU that allows our students to be able to transition into this environment to allow for their continuity of education and their transformation.

Mr. President: Senator.

Sen. Thompson-Ahye: So it is a policy and it is not a law? You have no legal— That is really what you are saying; you have no legal right to—

Mr. President: No. Sen. Thompson-Ahye you are making a statement. Is there a question?

Sen. Thompson-Ahye: Are you saying that you have a legal right to put students who are expelled out of the education system because you are the Minister of Education? They are not under the Ministry of Education.

Mr. President: So the question is?

Sen. Thompson-Ahye: Do you have authority over children who are being expelled out of the education system?

Mr. President: So Sen. Thompson-Ahye, have a seat. That is sounding pretty much like a statement. You have to ask a question of the Minister. Is there a specific question?

Sen. Thompson-Ahye: My question, hon. Minister, is, do you have, I am asking again, any authority over students who are expelled, as Education Minister, out of the school system, who are expelled out of the school system, so they are not under the Ministry of Education, to do anything for them like that, put them into that programme.

Mr. President: Minister.

Hon. Dr. N. Gadsby-Dolly: Thank you, Mr. President. On the basis of the advice from the legal department, the Minister of Education is given the responsibility for the educational continuity of all of our students under the age of 16 and to ensure that they are in educational institutions. MiLAT is such an educational institution and therefore the MOU between the Ministry of Education and the MYDNS allows for the transition of students who are expelled from the mainstream school system into the MiLAT system to allow for their educational continuity and to allow them a chance to develop into productive citizens.

ANSWERS TO QUESTIONS

Mr. President: Leader of Government Business.

The Minister of Foreign and CARICOM Affairs (Sen. The Hon. Dr. Amery Browne): Mr. President, the Government is in a position to answer question No. 4, question No. 5, question No. 6, question No. 31, question No.—

Hon. Senator: [*Crosstalk*]

Mr. President: Continue, continue. One second Leader. So, just allow the

Leader of Government Business to say what he is saying so that I can hear exactly which questions are to be answered. Continue Leader of Government Business. Could you start over for me, please?

Sen. The Hon. Dr. A. Browne: Thank you, Mr. President.

Hon. Senators: [*Crosstalk*]

Sen. The Hon. Dr. A. Browne: Mr. President, I am still being interrupted by a Senator here this morning.

Mr. President: All right. So we are early in today's proceedings. Again, this is just a simple procedural matter, very, very, simple. Leader of Government Business.

Sen. The Hon. Dr. A. Browne: Thank you, Mr. President. Mr. President, the Government is in a position to answer question No. 4, question No. 5, question No. 6, question No. 31, question No 32, question No. 33, and question No. 49 for oral response. We request a deferral for two weeks of question No. 50, please.

Sen. Mark: Is 40 in that?

Sen. The Hon. Dr. A. Browne: Mr. President, question No. 40, I believe there is a procedure with respect to that particular question.

Mr. President: Hon. Senators, the deferral that the Leader of Government Business seeks on question No. 50 is so granted.

Sen. The Hon. Dr. A. Browne: With respect to written questions, Mr. President, the Government is in a position to respond to question No. 43, 44 and 45. All three questions are qualified for today.

Mr. President: Sen. Mark.

WRITTEN ANSWERS TO QUESTIONS

Secondary Entrance Assessment 2018—2023 (Breakdown of Overall Performance)

43. **Sen. Dr. Paul Richards** asked the Minister of Education:

Can the Minister provide a breakdown of the overall performance of students who sat the Secondary Entrance Assessment (SEA) in each year during the period 2018 to 2023, disaggregated by gender, educational district and subject areas (Language Arts, Mathematics and Creative Writing):

- (i) the number of students that scored between 100% and 50%;
- (ii) the number of students that scored 50% and under;
- (iii) the number of students that scored 40% and under; and
- (iv) the number of students that scored 30% and under?

**Monthly Detection and Solve Rates of Crimes
(September 2022—September 2023)**

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

Can the Minister provide the monthly detection and solve rates for the following crimes during the period September 2022 to September 2023:

- (i) murders;
- (ii) robberies;
- (iii) larceny;
- (iv) house breaking;
- (iv) rape;
- (v) sexual assaults; and
- (vi) other ‘serious crimes’?

**Breakdown of Offences Recorded in Police Divisions
(September 2022—September 2023)**

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

Can the Minister provide a breakdown of the number of offences recorded per month in each Police Division, during the period September 2022 to September 2023 in the following categories:

- (i) murders;

- (ii) robberies;
- (iii) larceny;
- (iv) house breaking;
- (iv) rape;
- (v) sexual assaults; and
- (vi) other 'serious crimes'?

Vide end of sitting for written answers.

ORAL ANSWERS TO QUESTIONS

The following question stood on the Order Paper in the name of Sen. Dr. Paul Richards:

Restructuring of Service Commissions (Introduction of Legislation for)

- 50.** With respect to the Government's plans to restructure the Public Service, does the Government intend to introduce legislation within the next six (6) to twelve (12) months to restructure the Service Commissions?

Question, by leave, deferred.

LNG Export from Trinidad and Tobago (Details of)

- 4.** **Sen. Wade Mark** asked the hon. Minister of Energy and Energy Industries: In relation to LNG exported from Trinidad and Tobago, can the Minister advise as to the following:
- (i) what was the total volume of LNG exported in 2022;
 - (ii) what percentage of this volume went to Asian Markets; and
 - (iii) what percentage of this volume went to European markets?

Mr. President: Minister of Energy and Energy Industries.

Hon. Senators: [*Desk thumping*]

The Minister of Energy and Energy Industries and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you, Mr. President. Mr. President, I was a bit surprised by the question, because all of this information, all of it that is being sought in this question, is available in the *Review of the Economy, 2022 and 2023*, copies of which every Member of Parliament get at the budgetary time. It is also all available in the consolidated monthly bulletins published on the website of the Ministry of Energy and Energy Industries.

In addition, Mr. President, Standing Order 28(1)(g)(ix) makes it abundantly clear, in the clearest language, that a question shall not be asked:

“the answer to which can be found by reference to available official publications;”

Three official publications of which I just identified, and accordingly, Mr. President, no further response is required.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Mark.

Sen. Mark: Mr. President, is this arrogant Minister—

Ms. John: Sickening.

Mr. Roberts: “Yeahhh.”

Ms. John: Sickening.

Hon. Senators: [*Desk banging*]

Mr. President: So again, I did not hear a word Sen. Mark said because the decibel level in the Chamber went up before he could finish what he was saying. Again, please allow this procedure to continue in silence so that I can hear what is taking place. Sen. Mark repeat what you said.

Sen. Mark: Mr. President, through you, can the Minister answer the question as was approved by your good self in this Parliament. Can he answer the questions

that the hon. President approved and not come and give us a lecture on anything? So let him answer question No. 4.

Mr. President: There is no need—Sen. Mark have a seat.

Hon. Senators: [*Desk thumping*]

Mr. President: Okay, so that is not a supplemental question. Sen. Mark, do you have any further supplementals in relation to this question?

Sen. Mark: I think the Minister is suffering from dizziness—

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

10.30 a.m.

Mr. President: Sen. Mark. Sen. Mark, take a seat. Sen. Mark, take a seat. I think we have all been here long enough to do exactly how this procedure works. That is not a question; that is also not allowed. If you have no further supplementals I invite you to move on to the next question on the Order Paper.

Sen. Mark: I hope I do not get the same answer.

Mr. President: Sen. Mark? Sen. Mark, take a seat. Take a seat. Minister of Finance, one moment. If this procedure cannot go on as per my ruling, I will take the necessary action. Just ask the next question on the Order Paper without commentary.

Restructuring of Atlantic LNG (Details relating to)

5. **Sen. Wade Mark** asked the hon. Minister of Energy and Energy Industries: Given the December 2022 announcement on the restructuring of Atlantic LNG, can the Minister advise as to the following:

- (i) what is the National Gas Company's shareholding in the restructured Atlantic LNG; and
- (ii) when did the new structure of Atlantic LNG take effect?

Sen. Wade Mark: May I ask, Sir? Thank you. Question No. 5 to the Minister of

Energy and Energy Industries.

Mr. President: Minister of Energy and Energy Industries.

The Minister of Energy and Energy Industries and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Mr. President. Mr. President, as Sen. Mark is fully aware, and well aware, these are confidential commercial agreements that are currently being negotiated. At every step and every stage over the last four years when this Government initiated the conversation with the shareholders, the major shareholders of Atlantic LNG being BP and Shell, we have at every stage when there have been progress told the nation what is going on.

What I can say today is these confidential and very sophisticated and complex negotiations that have never taken place because there has been no re-negotiation of an LNG structure in the world to date, are currently in the final stages of negotiation and that at appropriate time the necessary information, when completed, will be provided in full transparency that is permissible to the population.

Sen. Mark: Can I ask the Minister to confirm or deny a public statement made by the Prime Minister that in the restructured and re-unitized Atlantic LNG that Trinidad and Tobago's shareholding is now 10 per cent? Can the Minister confirm or deny the Prime Minister's confirmation of this?

Hon. Senators: [*Desk thumping*]

Mr. President: Minister.

Hon. S. Young: Thank you very much, Mr. President. What I can tell the population without fear of contradiction, the negotiations that we have been undertaking on behalf of the people of Trinidad and Tobago, as a minority shareholder in Atlantic LNG, will, when completed, be to the benefit of the people

of Trinidad and Tobago. In fact, the price structure that we have renegotiated over the past few years has resulted in over \$17 billion additional income to the people of Trinidad and Tobago that we would not have received. The final shareholding will be an increased shareholding for the people of Trinidad and Tobago at no additional cost to us.

I can understand the anxiety by those on the other side who did not negotiate a single gas sales contract during their period of time, and, in fact the record shows the only energy contract they negotiated continues to cost the people of Trinidad and Tobago on an annual basis losses of billions, I repeat, billions of dollars. So the struggle to understand complexity and confidentiality of energy negotiations is well understood by the rest of us.

Mr. President: Sen. Mark.

Sen. Mark: I am not struggling for anything.

Hon. S. Young: Literacy.

Sen. Mark: Mr. President, let me ask—I will say what I have to say about this gentleman—

Mr. President: One second. Sen. Roberts, I can hear the rumbling going on. Sen. Mark.

Sen. Mark: Can the Minister tell this Parliament whether in arriving at this new percentage ownership there was a trade-off with Shell in terms of the pipeline from the Dragon Gas Field to the Hibiscus Plant that amounts to some \$5 billion? Can he deny or confirm there was a trade-off?

Mr. President: Minister.

Hon. S. Young: Mr. President, again, that is an absolute figment of the imagination of the population. This is the first time I have ever heard of such—I am tempted to use unparliamentary language. The answer is no. That is a figment

of the Opposition's imagination.

Sen. Roberts: [*Inaudible*]

Hon. S. Young: And that is why—

Sen. Roberts: Say it “nah”.

Mr. President: Do not do that. Do not. Do not. Sen. Mark.

Sen. Mark: Mr. President, through you again—Mr. President, can I?

Mr. President: Yes.

Sen. Mark: Through you, to the Minister of Energy and Energy Industries. Can the Minister indicate to this honourable Parliament what role he, the Minister, has as a policymaker to be the lead negotiator in this process involving—

Hon. Senators: [*Desk thumping*]

Sen. Mark:—the restructuring of the Atlantic LNG? Is there a distinction in this instance between a policymaker and a lead negotiator; or is he the lead negotiator?

Hon. Senators: [*Desk thumping*]

Hon. S. Young: What I can say, M. President, without fear of contradiction, as a result of these negotiations in just one aspect with two of the companies, the people of Trinidad and Tobago have received over \$17 billion that they would not have received.

Hon. Senators: [*Desk thumping*]

Hon. S. Young: Tangible money that has gone to the coffers of Trinidad and Tobago, and that is only one pillar of the achievement of the negotiations to date.

Mr. President: Sen. Mark.

Sen. Mark: What sell-out—can I ask the hon. Minister, what sell-out arrangement did the Government have to undergo, through you, the hon. Minister, in exchange for what you are talking about, \$17 billion? What did you sell out?

Hon. Senators: [*Desk thumping*]

Mr. President: Minister.

Hon. S. Young: Mr. President, the answer to that is very simple, we sold out nothing. We fought for the people of Trinidad and Tobago, starting with the energy spotlight—

Hon. Senators: [*Desk thumping*]

Hon. S. Young:—something that the UNC was incapable of doing after they decimated the energy sector between the years of 2010 to 2015, resulting in over \$9 billion in claims being left behind by the whirlwind. And I would like to remind the population at this stage, a leader of the Opposition who stood up in a budgetary debate not too long ago, unfamiliar and not even aware of what was the shareholding of the people of Trinidad and Tobago in Atlantic LNG, and I would be the last person, if I were Sen. Mark, to talk about selling out, lest his history come back to haunt him.

Sen. Mark: Do I have a final question?

Mr. President: That was the final question, Sen. Mark. Right. So, Sen. Mark—

Sen. Mark: [*Interruption*]

Mr. President: Sen. Mark, I am not inclined to allow this type of behaviour to continue. Let this be the final warning to all for the rest of the day. Leader of Government Business. You want to say something, Leader of Government Business?

Sen. Dr. Browne: No.

Mr. President: Sen. Mark. Go ahead, next question.

Sen. Mark: Yes, Mr. President, I have my final question?

Mr. President: No. You had four questions, on question No. 5. You are on question No. 6 now.

Arrest of Trinidad and Tobago National in Barbados

(Details regarding Extradition of)

6. Sen. Wade Mark asked the hon. Prime Minister:

In light of reports of the arrest in Barbados of a Trinidad and Tobago national and the individual's subsequent repatriation by Trinidad and Tobago police, can the Prime Minister advise as to the following:

- (i) was said arrest treated with via an extradition order;
- (ii) who, if any, were the key Government representatives involved in this extradition process;
- (iii) what was the role of the Office of the Attorney General, if any, in this extradition process;
- (iv) who authorized police officers to use a Trinidad and Tobago Defence Force aircraft for this mission; and
- (v) whether an independent investigation has been launched into this matter?

Sen. Mark: Yes, thank you very much, Mr. President. Question No. 6—where is the Prime Minister? Question No. 6 to the Prime Minister, please.

Mr. President: Leader of Government Business, who is answering question No. 6?

Sen. Dr. Browne: Attorney General.

Mr. President: Attorney General.

Hon. Senators: [*Desk thumping*]

The Attorney General and Minister of Legal Affairs (Sen. The Hon. Reginald Armour SC): Thank you very much, Mr. President. Mr. President, on May 10th, 2023, before the House of Representatives, as Attorney General and Minister of Legal Affairs, I made a ministerial statement with respect to the matter of Civil Action 2022-04567, Brent Thomas and Specialist Shooters Training Centre

Limited against the Attorney General and Director of Public Prosecutions, and the judgment delivered by Mr. Justice Devindra Maraj—Rampersad, I beg your pardon—on the 25th of April, 2023. I reiterated and I emphasized then, as I do now, which has already been said by the hon. Prime Minister, that the Executive played no role in the events and the facts giving rise to the judgment and commented on by the judge.

Mr. President, I stood before the House of Representatives and informed that my office has filed an appeal against the judgment in this matter bearing Civil Appeal No. CAP 123 of 2023 between the Attorney General and Brent Thomas and another, and my Office has filed an application before the Court of Appeal to hear this appeal urgently in priority over all other appeals. The matter is set for a case management conference on Wednesday, 07 February, 2024. This substantive matter is ongoing before the Court of Appeal and, therefore, obviously sub judice, and Sen. Mark well knows that it is a breach of Standing Order 47 to pursue any matter which relates to active proceedings in any court of record until the proceedings are ended by judgment or discontinuance. Thank you.

Mr. President: Sen. Mark.

Sen. Mark: M. President, can I ask you to rule on this abuse of the sub judice rule on matters that are not before a judge and jury? Because the hon. Attorney General was threatening and cautioning me—

Mr. President: No. No. Sen. Mark, okay.

Sen. Mark: So I wanted you to rule on this matter before—

Mr. President: So there are several things here. The question has been asked, the Attorney General has given an answer. You have responded by asking of me a certain question, but in that response just be absolutely careful in terms of imputing improper motives of any other Member in this Chamber in relation to that

commentary. Two, the question has been answered. It is up to you to ask your supplemental. So I will ask you to do so now.

Sen. Mark: Mr. President, I want to ask the distinguished Attorney General to share with Trinidad and Tobago who authorised police officers, members of the defence force, to board an aircraft to kidnap Brent Thomas?

Hon. Senators: [*Desk thumping*]

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

Sen. Mark: I would like the Attorney General to answer that question.

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

Sen. Nakhid: [*Inaudible*]

Mr. President: That—no, Sen. Nakhid, I am on my legs. Sen. Mark, that question is out of order and I will not allow it. Next supplemental.

Sen. Mark: Mr. President, in light of the gravity of the Government involvement in this kidnapping exercise—

Mr. President: Sen. Mark, that question is not allowed. Take a seat. Please refrain from using or imputing improper motives in relation to the asking of any question during this proceeding. You have a third supplemental. Continue.

Sen. Mark: Mr. President, through your good self, I do not want to get you on your legs too often. So I am going to ask the question so that I will avoid you from rising. Mr. President, through you, can I ask the hon. Attorney General whether the gravity of this matter should attract an independent criminal forensic investigation to get to the bottom of this whole debacle that has impacted on—

Hon. Senators: [*Desk thumping*]

Mr. President: Attorney General.

Sen. The Hon. R. Armour SC: Mr. President, the matter is before, as Standing Order 47 says, a court of record, and a court of record being an independent court

of record of the Supreme Court of Trinidad and Tobago, and there is no need for me to engage in the speculation that is invited by Sen. Mark's question.

Mr. President: Sen. Mark, a supplemental?

Sen. Mark: Can I ask through you, Mr. President, when the Attorney General made the statement on May or in May, did not the Attorney General, through you, understand the same Standing Order that he is quoting when he attacked the judgment of the justice?

10 45 a.m.

Mr. President: Sen. Mark, this is the third time I am asking you on a question to refrain from making those kinds of statements. I am not going to allow that to continue. Next supplemental, Sen. Lyder not supplemental, next question, sorry.

Sen. Lyder: Thank you, Mr. President, in accordance to section 27(17), I withdraw Question 31.

Mr. President: So noted. Sen. Lyder, next question.

Scope of Works for SOGET Contract

(Details of)

32. Sen. Damian Lyder asked the hon. Minister of Trade and Industry:

Given that the Ministry has entered into a contract with the company SOGET at a value of USD \$9.8 million for the development of a Port Community System, can the Minister indicate what is the scope of works for this contract?

Sen. Damian Lyder: Thank you, Mr. President. Question 32 to the hon. Minister of Trade and Industry.

Mr. President: Minister of Trade and Industry.

Hon. Senators: [*Desk thumping*]

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon):

Thank you, Mr. President:

“The project scope for the Port Community System entails the design and set up of technical and functional infrastructure and installation of the PCS software, the design and implementation of twelve modules and maintenance and support for the...(12) PSC modules. The project scope is divided into 4 phases:

- i. Phase 1 - Project Initiation;
- ii. Phase 2 - PCS Design and Implementation of Primary PSC Modules;
- iii. Phase 3 - Implementation of Secondary PSC Modules; and.
- iv. Phase 4 - Maintenance and Support.

The Modules to be implemented are as follows, Modules 1- 4 being implemented in Fiscal 2024:

Module 1.0 - Administration and Portal;

- The administration module handles system configuration, security, and user management, while the portal module provides stakeholders with a user-friendly interface to access services, share information, and streamline port-related processes.

Module 2.0 - Ocean Import (Voyage and Manifest);

- Modules will enable shipping companies and other cargo and freight transport entities to announce schedules of vessels, and their port of calls, register cargo manifests for submission to the Customs Boarder Control System and notify stakeholders of cargo arrival.

Module 3.0 - Maritime Transport;

- This module will enable shipping companies, airlines and other cargo and freight transport entities to announce the schedules of vessels, aircrafts and their ports of calls.

Module 4.0 - Ocean Import (FCL RORO, Break Bulk, Bulk)

- This module will facilitate the completion of formalities for importation of goods, manage authorizations required for cargo release, as well as special cases of movements of goods for transfer or specific exit requests.

Module 5.0 - Ocean Export + Transshipment (voyage and announcement)

- The module will facilitate the registration export port calls, cargo bookings and manage events related to the transport of goods.

Module 6.0 - Ocean Export + Transshipment...

- This module will facilitate the completion of formalities for export of goods, manage authorizations required for cargo loading, as well as special cases of booking updates or change of vessel.

Module 7.0 - Ocean Import...

- This module will facilitate the completion of procedures for the organization and transfer of containers for de-stuffing purposes. This would include the registration of house manifest, submission to the Customs Border Control System and notification of the deconsolidation to stakeholders.

Module 8.0 - Ocean Export + Transshipment...

- This module will enable the management of cargo consolidation, including stuffing operations and transfer of containers for loading.

Module 9.0 - Road Transport.

- The module will enable the terminal operator to handle trucker appointments configuration, and to manage appointment requests from truckers.

Module 10.0 - Air Import.

- The module will facilitate the registration of flight calls and cargo arrival manifests, as well as completion of procedures for the release of cargo.

Module 11.0 - Air Export.

- The module will facilitate the registration of flight calls and export manifests, as well as completion of procedures for the on-board loading.

Module 12.0 - Business Intelligence.

- This module will facilitate the generation of ad hoc and periodic statistical reports, allowing the port community and its stakeholders to gain actionable insights, monitor performance, and optimize operations.
- This will contribute to informed decision-making, improve efficiency, and enhance competitiveness within the port and logistics ecosystem.”

10.50 a.m.

For modules two to 11, the following features will be facilitated:

- (i) provide real-time exchange of data and streamline and improve the efficiency of import-export maritime and road transport related activities.
- (ii) tracking and managing vessel arrivals and departures.
- (iii) communication between vessels, port authorities and terminal operators.
- (iv) registration of inward and outward manifest.
- (v) registration of the Customs exit permit import.
- (vi) control and recording of entry and exit of trucks and containers to the port.
- (vii) traceability of transactions; and
- (viii) alerts and notifications.

Thank you very much for allowing this, Mr. President. Thank you.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Lyder.

Sen. Lyder: Thank you, Mr. President and through you, could the hon. Minister indicate, given the agreement of the US \$9.8 million on this project, exactly where they are in the implementation of this project?

Mr. President: Minister of Trade.

Sen. The Hon. P. Gopee-Scoon: Thank you very much, Mr. President. We are at this stage waiting on the first module, that is right. We are in the first phase which is the project initiation phase, and as I have said to you before, there are four areas which will be implemented by the end of fiscal 2024.

Mr. President: Sen. Lyder.

Sen. Lyder: Thank you, Mr. President, through you to the hon. Minister of Trade and Industry, can the Minister indicate if, of the US \$9.8 million, that also includes training and the upkeep of the service and for what period of upkeep?

Mr. President: Minister of Trade.

Sen. The Hon. P. Gopee-Scoon: Thank you very much for that question. As I go to the final module which will facilitate the generation of ad hoc and periodic reports allowing the port and the stakeholders to gain insights and to monitor performance. So it involves some monitoring of performance and optimization of operations and so on. But as to whether it includes training, that is not included in this particular but we have budgeted for training that may be required.

Mr. President: Sen. Lyder.

Sen. Lyder: Thank you. Mr. President, through you, can the Minister indicate exactly how much have been budgeted for training and maintenance for this system and through which period?

Mr. President: Minister.

Sen. The Hon. P. Gopee-Scoon: I do not have that figure with me at this time.

Mr. President: Sen. Lyder.

Sen. Lyder: Yes, if you can provide it, I would like to get that on record. And finally, Mr. President, through you, can the hon. Minister indicate what was the selection process in choosing SOGET as the project implementer?

Mr. President: Minister.

Sen. The Hon. P. Gopee-Scoon: As you know this was done under the SEW, under an—sorry. This was done, yes, under the SEW department but through an IDB loan arrangement and therefore we would have gone through the process as is required for seeking any projects under any IDB facility.

Selection Process of Commercial Officers (Details of)

33. Sen. Damian Lyder asked the hon. Minister of Trade and Industry:

With five appointments of Commercial Officers who will operate in Trinidad and Tobago's diplomatic and economic interests, and another two said to be appointed later in 2023, can the Minister indicate what selection process was employed in arriving at the final list of successful candidates for the posts identified above?

Mr. President: Minister of Trade and Industry.

The Minister of Trade and Industry (Sen. the Hon. Paula Gopee-Scoon):

Thank you, Mr. President. The selection process employed in arriving at the final list of successful candidates for the post of commercial officers and commercial attachés is as follows. The positions were advertised in two daily newspapers during this period, September 30th, 2022 to October 14th, 2022, inviting applicants to apply for the vacancies. Applicants were shortlisted based on possession of the required qualifications, skills, attributes and work experience of the positions. Commercial officers were shortlisted based on their possession of a Master's degree in Business Administration, International Relations or Economics; considerable knowledge and at least five years of experience in international trade;

a minimum of five years' experience in business experience working at a senior managerial position; advanced or native level of proficiency in the language of the host country; experience in undertaking business development activities; proficiency in sales planning and market research; possession of excellent negotiating skills.

Applicants for commercial attachés, that position was shortlisted based on the Bachelor's Degree in Business Administration, International Relations or Economics; five years of experience in private sector trade outreach activities or with public sector institutions involved in trade promotion; training in diplomacy and protocols; experience in undertaking business development activities; knowledge of Trinidad and Tobago trade agreements; proficiency in sales planning and market research; possession of excellent negotiating skills.

During the period 20th of September 2022 to 19th of January 2023, interviews were conducted for the positions. Interview questions were derived from the job description that is designed to elicit behavioural evidence of competencies in the primary job activities for the position. Candidates underwent an assessment based on their competencies in the areas of sales planning, market research and negotiations and communications led by a panel comprising of representatives from the Ministry of Trade and Industries, Ministry of Foreign and CARICOM Affairs and exporTT Limited and the top scoring candidates were selected and offered the advertised positions. Thank you.

Mr. President: Sen. Lyder.

Sen. Lyder: Thank you, Mr. President. Through you to the hon. Minister of Trade and Industries, can the Minister how many persons applied for this position? Are you in a position to say how many persons applied for this?

Mr. President: Minister.

Sen. The Hon. P. Gopee-Scoon: While I cannot give you the specific figure but I can tell you there was well over 100 applicants.

Mr. President: Sen. Lyder.

Sen. Lyder: Thank you, Mr. President. And to the hon. Minister of Trade and Industries, can the Minister indicate from those 100 applicants, if a merit list exists that would be open for scrutiny by the public after this panel has made this choice?

Mr. President: Minister.

Sen. The Hon. P. Gopee-Scoon: Yes of course, there is a merit list.

Mr. President: Sen. Lyder. Sen. Lyder, question, question.

Sen. Lyder: So can the Minister provide it? Can the Minister provide the merit list?

Mr. President: Minister. Have a seat.

Sen. The Hon. P. Gopee-Scoon: Any information in any Ministry within the Government is available to the public.

Sen. Lyder: Yeah, we look forward to receiving it.

Mr. President: Sen. Lyder.

Sen. Lyder: Yes, thank you, Mr. President. And can the Minister also confirm whether the final two appointments that the Minister had promised or that the Government had promised to fill in late 2023, if those appointments have been filled?

Sen. The Hon. P. Gopee-Scoon: Are you speaking of the additional—

Sen. Lyder: Yeah, the additional two.

Sen. The Hon. P. Gopee-Scoon: Two commercial attachés? No, we want to ensure that the system is working properly before we take on two further commercial attachés but all of the commercial officers and the two attachés chosen at present are out on the field and in their respective countries and performing their

duties.

**Ministries, Departments, and State Agencies
(Status Update on Digital Transformation)**

- 48. Sen. Dr. Paul Richards** asked the hon. Minister of Digital Transformation:
- Can the Minister provide a status update on the digital transformation of Ministries, Departments, and State agencies, including the following:
- (i) the percentage completion of the digital transformation process;
 - (ii) details on the main areas of completion in various Ministries, Departments, and State agencies;
 - (iii) the major phases of digital transformation that remain incomplete; and
 - (iv) projected timelines for completion of the phases identified at (iii)?

Sen. Dr. Paul Richards: Thank you, Mr. President, good afternoon colleagues. May I just take a moment before I pose the question to express condolences to Minister Imbert and his family on the passing of his mother and may ask that God grant them grace and strength to bear this difficult period.

May I also advise, Mr. President, through you, in accordance with Standing Order 27(17), I withdraw Question 48 and advise my intention to refile for written response?

Mr. President: Your withdrawal is so noted, Sen. Richards.

Sen. Dr. Richards: Thank you.

Question, by leave, withdrawn.

Mr. President: Next question on the Order Paper.

**Government's Plans to Restructure the Public Service
(Status update)**

- 49. Sen. Dr. Paul Richards** asked the hon. Minister of Public Administration:
- Can the Minister provide a status update on the Government's plans to restructure the Public Service, including but not limited to the following:

- (i) the major elements of the revised structure;
- (ii) an estimated timeline for the restructuring of the Public Service;
- (iii) whether the Government intends to absorb long-standing contract employees into the new version of the Public Service establishment;
- (iv) if the answer to (iii) is in the affirmative, when will said absorption process occur; and
- (v) if the answer to (iii) is in the negative, provide the rationale for the Government's decision?

Mr. President: Minister of Public Administration.

The Minister of Public Administration (Sen. The Hon. Allyson West): Thank you, Mr. President. Respectfully, the question appears to be inconsistent with Standing Order 28(1)(g)(xiii) which states that a question shall not be asked:

“raising questions of policy too large to be dealt with in the limits of an answer to a question.”

The hon. Senator is therefore respectfully requested to simplify the question and reduce its scope so that it can be fully compliant with the Standing Orders, at which time, we will be happy to respond, Senator.

Sen. Dr. Richards: May I rephrase the question at this time, Mr. President, through you?

Mr. President: You can ask a supplemental.

Sen. Dr. Richards: Can the Minister indicate if the Government plans to restructure the public service; full stop or question mark?

Sen. The Hon. A. West: Yes, Mr. President, thank you. Senator, we have indicated some of the initiatives that we have embarked on, one of them being a review of the legislation regarding the regulation of the public service. Some of that work has started and is in progress, some of it is still to start. We have

reintroduced the SHRM Council which is comprised of the Ministry of Public Administration, the Personnel Department and the Service Commission Department to collaborate in terms of how best to restructure the public service. There are some issues of constitutional import that will impact how far we go and these matters are still in discussion. So that briefly is the approach that we are taking.

Sen. Dr. Richards: Thank you. Through you, Mr. President, can the Minister indicate if there is a specific timeline involved in these collaborations and integrations of various sectors in the interest of this proposed restructuring for efficiency in the public service?

Sen. The Hon. A. West: Yes, Mr. President. Senator, we are seeking to be able to report to and to come to the Parliament hopefully with amendments to legislation during the course of 2024.

**MISCELLANEOUS PROVISIONS (TRUSTEES, EXCHEQUER AND
AUDIT ACT, THE MINISTER OF FINANCE (INCORPORATION) ACT,
PROCEEDS OF CRIME, INCOME TAX, COMPANIES, PARTNERSHIPS,
SECURITIES, TAX INFORMATION EXCHANGE AGREEMENTS, THE
NON-PROFIT ORGANISATIONS AND MUTUAL ADMINISTRATIVE
ASSISTANCE IN TAX MATTERS) BILL, 2023**

Bill to amend the Trustees Ordinance, Chap. 4 of 1939, Exchequer and Audit Act, Chap. 69:01; the Minister of Finance (Incorporation) Act, Chap. 69:03; Proceeds of Crime, Chap. 11:27, Income Tax Act, Chap. 75:01, the Companies Act, Chap. 81:01, the Partnerships Act, Chap. 81:02, the Securities Act, Chap. 83:02, the Tax Information Exchange Agreements Act, No. 5 of 2020, the Non-Profit Organisations Act No. 7 of 2019 and the Mutual Administrative Assistance in Tax Matters Act, No. 7 of 2020 [*The Minister of Finance*]; read the first time.

Mr. President: Minister of Finance.

Sen. Mark: Mr. President, before the hon. Minister, can I ask you whether this Bill does not satisfy Standing Order 62(1) having regard to the fact that we only received it at around 5.00 p.m. on Monday evening. Monday does not count because it is four clear days under 62(1) and therefore this Bill is subject to first reading by being laid and then subject also to our collective agreement on second reading because this Bill is inappropriately before this honourable House.

Hon. Senators: [*Desk thumping*]

Mr. President: So Sen. Mark, there is a procedure to take place which I will now invite the Minister of Finance to do. Minister of Finance.

Motion made: That the next stage of the Bill be taken later in the proceedings. [*Hon. C. Imbert*]

Question put.

Sen. Mark: Division.

The Senate divided: Ayes 19 Noes 6

AYES

Browne, Hon. Dr. A.

Armour SC, Hon. R.

Gopee-Scoon, Hon. P.

West, Hon. A.

Mitchell, Hon. R.

Cox, Hon. D.

Bacchus, Hon. H.

Singh, Hon. A.

Ibrahim, Dr. M. Y.

Sagramsingh-Sooklal, Hon. R.

Sookhai, Hon. R.

Lezama-Lee Sing, Mrs. L.

Hislop, L.

Richards, Dr. P.

Teemal, D.

Thompson-Ahye, Mrs. H.

Hutchinson, Prof. G.

Francis, H.

Drayton, J.

NOES

Mark W.

John, Ms. J.

Nakhid, D.

Lyder, D.

Roberts, A.

Gopeesingh, Dr. T.

Ms. S. Maharaj abstained.

Question agreed to.

11:05 a.m.

Mr. President: Minister of Finance.

Hon. Senators: [*Desk thumping*]

**THE MISCELLANEOUS PROVISIONS (TRUSTEES, EXCHEQUER
AND AUDIT ACT, THE MINISTER OF FINANCE
(INCORPORATION) ACT, PROCEEDS OF CRIME, INCOME TAX,
COMPANIES, PARTNERSHIPS, SECURITIES, TAX
INFORMATION EXCHANGE AGREEMENTS, THE NON-PROFIT**

UNREVISED

**ORGANISATIONS AND MUTUAL ADMINISTRATIVE
ASSISTANCE IN TAX MATTERS) BILL, 2023**

The Minister of Finance (Hon. Colm Imbert): Mr. President, before this Senate is a Bill with a rather long name entitled, the Miscellaneous Provisions (Trustees, Exchequer and Audit Act, the Minister of Finance (Incorporation) Act, Proceeds of Crime, Income Tax, Companies, Partnerships—oh, I am terribly sorry.

Mr. President: Yeah, you want to start over, Minister of Finance?

Hon. C. Imbert: Yes I will, certainly.

Mr. President: Go ahead.

Hon. C. Imbert: Thank you very much, Mr. President, I apologize. I beg to move:

That a Bill entitled An Act to amend the Trustees Ordinance, Chap. 4 of 1939, Exchequer and Audit Act, Chap. 69:01; the Minister of Finance (Incorporation) Act, Chap. 69:03; Proceeds of Crime, Chap. 11:27, Income Tax Act, Chap. 75:01, the Companies Act, Chap. 81:01, the Partnerships Act Chap, 81:02, the Securities Act, Chap. 83:02, the Tax Information Exchange Agreements Act, No. 5 of 2020, the Non-Profit Organizations Act No. 7 of 2019, and the Mutual Administrative Assistance in Tax Matters Act, No. 7 of 2020, be now read a second time.

And that actually, Mr. President, would allow me not to read the title of the Bill again. And before I begin, let me thank all Members of the Senate who have expressed condolences with respect to my recent bereavement.

Mr. President, I want to stress from the outset that the passage of this Bill is absolutely essential to the economic growth and development of this country. It is aimed at ensuring that our laws are consistent with international standards on the transparency and exchange of information for tax purposes as set by the Global

Forum. And, Mr. President, one needs to understand that the world that we live in now, is completely different to what it was 20 years ago. Mr. President, 20 years ago there was no requirement, for example, for a Financial Intelligence Unit. There was no pressure coming from the Financial Action Task Force, there was no pressure coming from the Global Forum, or the EU Council of Ministers on other countries, in terms of the exchange of tax information.

But we live in a completely different world now, where these powerful entities and these powerful countries are now dictating to countries such as Trinidad and Tobago and other Caribbean countries and other emerging economies, developing countries and so on, as to what our tax laws should contain in them. And regrettably, unless you comply, you will face sanctions because they simply are proceeding. There is a lot of protest about this, CARICOM in a united effort has been speaking loudly about this issue, about the fact that we are being bullied by the developed countries. And I do expect in due course that there will be some give and take, but at this time, we have no choice but to comply.

By way of background, the Global Forum on Transparency and Exchange of Information for Tax Purposes is an international body established by the Organization for Economic Cooperation and Development, OECD for short, consists of a collective of 169 member states, and 23 observer international organizations including the UN, World Bank, the IFC and the Financial Action Task Force. The objective of the Global Forum is said to be simple, putting an end to bank secrecy and tax evasion through global tax cooperation. The intension is to eradicate tax havens that have denied countries around the globe legitimate revenues. Unfortunately, the definition of what is a tax haven is where one gets caught. And I remember having several conversations with the people in the

OECD headquarters where they apologized and said that Trinidad and Tobago is not by any stretch of imagination a tax haven. But because of the definition, we fall within that rubric unfortunately.

The Bill is urgent because Trinidad and Tobago will commence its peer review assessment before the end of this year. We have decided to proceed with this and not delay any longer. Consequently, in order to stand a chance of changing our rating which is currently non-compliant, to compliant or even largely compliant, the legal framework must be in place by the end of this year.

Based on the timelines that I have been given by the Global Forum, the peer review team is scheduled to perform an onsite visit to Trinidad and Tobago in February 2024, and it will not consider any further legislative changes after the end of June 2024. This means that after the onsite visit there is less than four months to address any legislative deficiencies that are revealed during the peer review. But the peer review begins almost immediately and they will be looking at our legislation immediately. We have not set about doing this blindly, the Bill before us is the product of years of technical assistance received from the technical assistance team of the Global Forum secretariat, who has reviewed several draft versions of this Bill and advised. And it is a moving target, the goalpost keeps moving all the time.

The technical assistance team has made 23 recommendations for amendment to our legislation for the purpose of addressing compliance with their standards on tax. These 23 recommendations together with a technical assistance action plan by that team, formed the foundation upon which this Bill is drafted. I will now go through the Bill clause by clause.

The first Bill of course, short title, which I have read, the second Bill—the second

clause, sorry, provides for the commencement of the Bill by a date to be fixed by proclamation by the President, the usual commencement clause. And given the onerous requirements of the Bill in relation to the filing and maintaining of beneficial ownership, and that is the problem. Because there are so many people that hide behind various facades and fronts, who really own companies, people hide. And this is why the Global Forum and other similar entities are now being so focused on the whole question of beneficial ownership. There is a need to ensure that individuals and entities because of the onerous requirements of the Bill, have sufficient time to put in place the necessary mechanisms to give effect to the requirements.

The passage of the Bill will take us a long way to complying with the Global Forum requirements for its standards on tax. Clause 3 amends the Trustee's Ordinance to make provision for the ascertaining, filing and maintaining records on the beneficial owners of trusts. Trusts are quite a common device used to hide the beneficial ownership of corporate bodies and other similar forms of legal arrangement under the Trustees Ordinance. The maintenance of beneficial ownership is a cornerstone that underpins not only international standards on tax under the Global Forum framework, but also our international obligations under the Financial Action Task Force framework as it relates to money laundering, countering of terrorist financing, and proliferation of weapons of mass destruction. To understand the synergies between standards set by the Global Forum and FATF on beneficial ownership, a recent publication entitled:

“Building Effective Beneficial Ownership Frameworks
A joint Global Forum and IDB Toolkit”

Published around 2021 says:

“The availability of beneficial ownership information on legal persons and arrangements is a key requirement of tax transparency, and...”—an—
“...instrument in the fight against tax evasion and other...crimes, such as corruption, money laundering...terrorist financing.”—and so on. “The term beneficial ownership is defined by the Financial Action Task Force...”—
as— “...the natural person(s) behind an entity, whether a legal person or arrangement, who exercise(s) control over it.”

Transparency of beneficial ownership is now required under international standards of exchange of information for tax purposes.

11.15 a.m.

From a tax perspective, knowing the identity of the natural persons behind entities not only helps a jurisdiction preserve integrity of its tax system but also gives treaty partners the ability to achieve their own tax goals. It is essential that jurisdictions deal with these international transparency standards in a manner consistent with their national, legislative and institutional systems. In other words, we do not need to do exactly what is done in other countries. Methods may differ from one jurisdiction to another. We do not need to, and we should not give up our sovereignty.

The Global Forum does not prescribe any particular mechanism for implementing beneficial ownership standards. There is no one size fits all. However, jurisdictions are required to implement a sound framework for ensuring effective availability of beneficial ownership information. If I look at the last statement from the Global Forum, it will give some indication of how complex the drafting process has been and why it has taken years to address.

Jurisdictions should implement the requirements for beneficial ownership under

the international transparency standards in a manner consistent with their national, legislative and institutional systems. The problem with this is that our national, legislative and institutional systems continue to evolve. International transparency standards continue to evolve, and this is why the goalpost has kept moving. So that what we had to do was an entire overview of all illegal entities in Trinidad and Tobago. In Trinidad and Tobago, there is a microcosm concerning illegal entities, including trusts and associated legal arrangements; companies established under the Companies Act; partnerships; reporting entities under the Securities Act; statutory bodies; non-profit organizations and the corporation sole, which is the body corporate established in the sitting Minister of Finance.

You will find therefore, Mr. President, in clause 3, the proposed amendments to the Trustees Ordinance require beneficial ownership information to be ascertained. And I wish at this time to indicate that I will be moving an amendment to this clause, because the clause as drafted requires a natural person to file a statement of ownership within 14 days of the commencement of the Act. Any change in beneficial ownership is required to be filed, and the Registrar General is required to maintain a register of beneficial owners concerning trusts and other forms of legal arrangements.

On reflection, I wish to change this to 30 days and also to put in a provision that the Minister can extend this period by Order, because of recent events. We have seen cyber-attacks. We have seen issues with the Companies Registry, persons not being able to access the Registry easily. And, therefore, it is necessary to build-in some flexibility here. Because even though this is a fundamental requirement of the Global Forum, that beneficial ownership be filed quickly, we have our own issues in Trinidad and Tobago, and it is necessary for us to have the flexibility to

extend the period of time for persons to file statements of ownership, because there are penalties. The penalties in the Bill is a fine of \$10,000 and imprisonment for up to three years, for failure to take reasonable steps to deal with beneficial ownership, or knowing or recklessly filing a return, obviously, that has false information or failure to ensure the information is accurate or correct. The retention period for beneficial ownership information, under the Trustees Ordinance, is a period of six years, and therefore, we have kept that six-year period for uniformity.

Going to clause 4, this deals with the Exchequer and Audit Act. This requires beneficial ownership information in relation to statutory bodies that are subject to the provisions of the Exchequer and Audit Act. Under that Act, a statutory body is defined as any municipality, county council, board, commission or similar body corporate established and incorporated by an Act. This is a very wide definition. It covers virtually every statutory body. And the obligations relative to beneficial ownership will now be imposed on all of these entities.

The international standards on tax require a cascading approach to ascertaining beneficial ownership. This means that one must seek out the natural persons in control of a legal entity that have ultimate beneficial ownership. Where no beneficial can be identified, then exceptionally, the natural person who holds the position of senior managing official should be identified as the beneficial owner. So if you cannot find out who the beneficial owner is, for some reason, then the person in charge of the entity will be identified as the beneficial owner.

Given the legal composition of statutory bodies, an approach where shareholders file beneficial ownership information is not appropriate, because statutory bodies have no shareholders; so this cannot work. So, again, the Bill captures beneficial

ownership of statutory bodies through the controlling mind of the statutory body. So that the persons in charge, the board, and so on, will be required to file beneficial ownership information. And a definition has now been inserted in the Exchequer and Audit Act, by way of this Bill to define “member” as the person or persons having control over a statutory body, including a director. Such members, the equivalent of directors, commissioners, and so on, will now be required to file the beneficial ownership information with respect a statutory body. And that given that the Minister of Finance has main responsibility under the Exchequer and Audit Act, it follows that the Treasury is the appropriate body to monitor the filings of statutory bodies, with respect to beneficial ownership information and to maintain a register. There would be a similar requirement for six-year retention of beneficial ownership information for statutory bodies.

Clause 5, deals with the Minister of Finance himself and requires the Minister of Finance to file beneficial ownership in relation to corporation sole, in relation to state corporations where the Minister of Finance, as corporation sole, is vested with the shares of State corporations. Now, there is a little issue here, because the Minister of Finance in the Corporation Act, the Corporation Sole Act as it is also known, already provides that the Minister for the time being shall be a corporation sole by the name of the Minister of Finance and all property transferred to and vested in the Minister by this Act or otherwise acquired by the Minister, shall be held in trust to the State. So it already says that the Minister of Finance is the beneficial owner of the shares of state enterprises. However, the advice we got from the Global Forum Secretariat is that this is required to be ascertained. So that we would just have to follow the procedure.

Clause 6, Proceeds of Crime Act, amends the Proceeds of Crime Act and

substitutes the definition of “beneficial owner” to include, amongst other things, the provision for other types of legal arrangements. This is a compliance requirement.

Clause 7, Income Tax Act, this is meant to ensure that the use of taxpayer information received by the Board of Inland Revenue from another country is consistent with the terms of the Tax Information Sharing Agreement in place between Trinidad and Tobago and that of other countries. And the OECD the model tax convention provides that any information received by a contracting state shall be treated as secret, in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities, including courts, concerned with the assessment or collection of, enforcement or prosecution, in respect of, or the determination of appeals in relation to the taxes referred to or the oversight of the above. Such persons or authority shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. This is how we deal with our income tax secrecy provisions. So that, if information is disclosed by Trinidad and Tobago to another jurisdiction or another member by way of a treaty or otherwise, it must be consistent with our secrecy laws.

Effective mutual assistance between competent authorities requires that each competent authority must be assured that the other will treat with proper confidence—confidentiality—the information it obtains in the course of the corporation. So there is a safeguard in clause 7. It is intended to ensure compliance with international standards on tax, relative to confidentiality.

To this end, expanding the treaty network of Trinidad and Tobago with other jurisdictions is also of paramount importance in promoting our country as an

investment jurisdiction. And this is an issue. I do remember a visit by a distinguished person from China, former Governor of the Central Bank of China, and he did ask me about our compliance with the Global Forum. And he did indicate that there would be issues with respect to investment by Chinese banks in Trinidad and Tobago, if we were not able to achieve some sort of compliance with the Global Forum. This can only happen if we support measures such as confidentiality of taxpayer information from other jurisdictions. So the concern was that if other countries provide our Inland Revenue Division with taxpayer information, it must be confidential. So this is in clause 7.

Clause 8, amends the Companies Act, makes the provision for the abolition of bearer shares. For those who are not too familiar with bearer shares, this is an instrument, which is infamous for its ability to change ownership without any documentation, infamous of bearer shares. This is something that is certainly being highlighted within the international tax conversation, and it is now required that holders of bearer shares would be required to redeem and convert these assets on or before an appointed date. And persons who fail to surrender these bearer shares before the appointed date will have to do so within a three-month period, only in circumstances beyond their control and beyond the control of the true owner of the bearer share, or with the approval of the Registrar General. Failing that, the court would intervene. I am advised that these provisions are proportionate and provide many opportunities for due process to be facilitated and therefore no constitutional majority is required.

The imposition of sanctions is also subject to due process requirements, where the Registrar General is required to make an application to the court before seeking appropriate restrictions, and this would apply to the whole question of bearer

shares. It is like currency. It is as if you had a \$100 bill, it has no real owner. It has value but it is anonymous, and a bearer share is exactly like that. It is anonymous but it has value. It can be converted into cash, without revealing the owner of the bearer share.

Clause 9, sets to implement the same requirements for filing, maintenance and retention of beneficial ownership that has been adapted for partnerships. Again, it implements a requirement for the retention of beneficial ownership information for six years.

11.30 a.m.

Clause 10, deals with the Securities Act, and implements a requirement for beneficial ownership information in relation to reporting entities under the Securities Act, and the approach with the Securities Act is similar to the approach with the other bits of legislation with respect to retention periods, sanctions, and the cascading approach. And I may point out that the Securities and Exchange Commission already possesses the power to impose fines under the Securities Act for persons who fail to disclose changes in beneficial ownership.

Clause 11 amends the Non-Profit Organisations Act to make similar provision for beneficial ownership information as all the other clauses in the Bill. A non-profit organization is defined as, under this amendment, as:

“A body of persons, whether incorporated or unincorporated, which—

- (a) is established primarily for the promotion of a patriotic, religious, philanthropic, charitable, educational, cultural, scientific, literary, historical, artistic, social, professional, fraternal, sporting or athletic purpose, or some other useful object and raises or disburses funds for that purpose or objective;

(b) carries on its business without pecuniary gain to its members or officers except as reasonable compensation for services rendered; and

(c) restricts the use of any of its profits or other accretions to the promotion of its purpose or object;”

And, the Registrar General has oversight for monitoring filings with respect to non-profit organizations.

Clause 12 deals with the Tax Information Exchange Agreements Act. It ensures that a Presidential Order is issued for all exchange of information agreements so that the BIR has the power to obtain information to enforce these agreements in cases where the requested information is not required for its own tax purposes. Clause 12 also provides for exceptions in particular circumstances when such notification is likely to undermine the chances of success of an investigation conducted by the requesting jurisdiction.

Clause 13 deals with the Mutual Administrative Assistance in Tax Matters Act. It amends that Act to ensure that a number of definitions meet the international standards on tax and it addresses minor drafting deficiencies to match what the Global Forum has asked us to do.

In 2019 and 2020, we did address Global Forum requirements at that time and four pieces of legislation were enacted to address efficiencies known to us at that time. But as I said this is a moving target. It evolves, it morphs, it transforms every single day. We are hopeful that this Bill will address most of the issues that have arisen and may arise in the future. At that time, we amended the Companies Act, the Income Tax Act, the Mutual Administrative Assistance in Tax Matters Act, and the Tax Information Agreements Act. However, in 2021, the Global Forum looked

at what we did and determined that we had to do more to address new deficiencies. So this is where the 23 recommendations came from and these are in the areas of exchange of information and beneficial ownership and this Bill is designed to deal with those 23 issues that the Global Forum identified after the passage of those 2019 and 2020 Bills.

Trinidad and Tobago's placement on the EUs list of non-corporative jurisdictions is as a result of three criteria, namely:

1. A non-compliant rating under the exchange of information, common reporting standards, and the signatory and ratification of the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters;
2. The Forum on Harmful Tax Practices and;
3. The inclusive framework on Base Erosion and Profit Shifting.

11.35 a.m.

Hon. C. Imbert: The European Union tells us that they wish to improve tax transparency and good governance globally by ensuring parity in keeping with the standard set by European member countries. Now this is important, so they are telling us that they are setting the standards and we must comply with their standards, unfortunately. The EU's list of non-cooperative jurisdictions for tax purposes was created by the EU as a tool to tackle tax fraud or evasion, tax avoidance, and money laundering. Their framework has three pillars, transparency, fair competition and base erosion on profit-sharing.

The Government led by a team from the Ministry of Finance, the Tax Treaty Unit, the Board of Inland Revenue, the Office of the Attorney General, has established a high-level committee to deal with this problem. The placement by the

EU of Trinidad and Tobago on a list of non-cooperative tax jurisdictions. The committee continues to work with the Global Forum secretariat through intense technical assistance towards a common goal of preparing the necessary legislative, administrative, and operational improvements to undergo the peer review to protect the integrity of the global financial system and to comply with the EU requirements. As I said, our peer review is expected to commence in the first quarter of 2024.

In October of this year, the EU added Antigua, Belize and the Seychelles, together with Trinidad and Tobago, to a total of 16 countries that they have decided are on the EU's list of non-cooperative tax jurisdictions. So we have to get off of this list. We have to sign the OECD Multilateral Convention on Mutual Administrative Assistance, they will not let us sign it unless the legislation is consistent with their requirements.

They had indicated we have harmful tax regimes and that is as simple as our free zone legislation. They determine that you should not have free zone legislation. And the Minister of Trade and Industry would have come to this Parliament over the last several years with legislation to abolish free zones and replace free zones with exclusive economic zones to meet global tax information standards. They have indicated we do not implement base erosion and profit-sharing standards on a country-by-country basis, and we do not have automatic exchange of information with all of the Global Forum EU countries.

So this Bill is designed to deal with these issues. There are some companion pieces of legislation, which—but there are some companion pieces of legislation which should have been laid in the Parliament today that we will have to address in due course, and those deal with base erosion and profit-sharing, and also the

Regulations for the Exclusive Economic Zones. And I can just refer Members to them: the Miscellaneous Provisions (Registrar General Companies Registration of Business Names) Act; Non-Profit Organisations Bill, 2019; and the Base Erosion and Profit Shifting Inclusive Framework country-by-country reporting plan. So we will deal with that in due course. Those are companion bits of legislation.

This Bill seeks to make provisions for ensuring the availability of adequate, accurate and timely information on trusts including the information on the identity of the trustees, the settler, the protector, the beneficiary, the class of beneficiaries, and any other natural person exercising control over a trust. The Bill will require trustees of any trust to hold basic information on the regulated agents of and service providers to the trust. Mr. President, how much more time do I have?

Mr. President: You finish at 11.51.

Hon. C. Imbert: Okay, I have 11 minutes, okay—including investment advisors or managers. So providers to a trust, this information will have to be made available, accountants and tax advisors. The Bill will introduce penalties for nondisclosure of beneficial ownership information by trustees to competent authorities including law enforcement.

The peer review that is coming up is crucial to assess how the country processes and responds to exchange of tax information requests. The review will cover all exchange of information requests received and sent during the review period and will look at responses received during and after the review period.

During the period, next year, the Global Forum will critically examine all legislation and supplementary information to assess whether Trinidad and Tobago can be delisted from the EU. And I want to stress that this is the first step. This

Bill is critical; otherwise, it is like a lottery “if yuh doh have ah ticket, yuh doh have ah chance.” So we must proceed with this legislation.

I wish to assure this Senate that the Government is taking all possible steps to secure the best position for Trinidad and Tobago in this matter. We do not intend to give up our sovereignty but we must address remaining deficiencies. The legislative solutions proposed are expected to be addressed in this Bill and by the companion legislation I spoke about, the SEZ Regulations, the BEPS Inclusive Framework. And we will also be undertaking administrative and operational measures to achieve the removal of Trinidad and Tobago from the EU list.

In fact, we have a team going to Europe at the end of this month, within a week actually to meet with the Global Forum and the EU officials to continue the dialogue with respect to getting Trinidad and Tobago off the list. Now, mechanisms to ensure confidentiality and data protection must be in place for the effective implementation of information exchange. The Inland Revenue Division has been working on improvements from a policy perspective to deal with this confidentiality issue. This includes the finalization and approval of 20 documents on confidentiality and data protection and the information security management work plan with the Global Forum.

Another important aspect of our peer review is the requirement to ensure that Trinidad and Tobago has a strong exchange of information function in relation to the timely sharing and updating of information, and the Inland Revenue Division is working assiduously on strengthening its operations in that respect. Of relevance to improving our chances of coming off the EU’s list and the OECD’s list, is the updating of the Information Exchange Articles contained in each agreement within our tax treaty network. So we have a lot of work to do.

We decided some years ago that the Exchange of Information Articles in our tax treaties should be updated to the Global Forum standard, and at this time our current Double Taxation Agreement is based on the United Nations Model Double Taxation Convention. The committee that deals with tax treaties has on its agenda the inclusion of the UN version of the relevant Article, Exchange of Information, Article 28 in Double Taxation Treaties, and again, this will be subject to dialogue and agreement with our current tax treaty partners.

I just wish to highlight the importance of this Bill to ensure that our legal framework is compliant with the Global Forum standard. And the main issue here, there are two issues: one, is to determine who really owns companies in Trinidad and Tobago. There are many companies where you just do not know who owns them. And the other objective is to ensure there is timely and accurate exchange of tax information. One of the first bits of legislation that we achieved in this Parliament was the FATCA legislation where the United States had required us to enter into an exchange of tax information arrangement with them where US persons and US companies doing business in Trinidad, we were required to send that information to the United States competent authority, the US Treasury, and they were required to send to us information on Trinidad and Tobago citizens and entities doing business in the United States, and we achieved that, and that is working well, and I am not aware there have been any issues with respect to breaches of confidentiality and so on.

This Bill seeks to strengthen our overall tax compliance efforts, Bill capacity in tax administration and to improve our international reputation. I will address any issues that hon. Senators raise in my response, but I think at this point in time I have explained what this Bill is all about. If I were to summarize, what it seeks to

do is to remove once and for all the ability of persons to hide their ownership of corporate entities and similar bodies, and it will now require complete transparency in terms of beneficial ownership. I beg to move.

Hon. Senators: [*Desk thumping*]

Question proposed.

Mr. President: Sen. Mark.

Hon. Senators: [*Desk thumping*]

Sen. Wade Mark: Thank you very much, Mr. President. Mr. President, let me join my esteemed colleague at the back of me in extending to the Minister of Finance, we have our exchanges from time to time but you see death is a serious business, and I really want to join with the hon. Sen. Dr. Richards in extending my condolences and the condolences of the front Bench—

Hon. Senators: [*Desk thumping*]

Sen. W. Mark:—on the passing of the hon. Minister's dear mother, Dr. Maura Imbert. And I would like to say that we would like her soul to rest in perpetual peace—

Hon. Senators: [*Desk thumping*]

Sen. W. Mark:—and rise in eternal glory. So we would like to do that from the word go, Mr. President.

I would also like to indicate, like the hon. Minister of Finance, that the Bill before us today is a very serious piece of legislation. There are some troubling aspects to this Bill before us and I am sure that the Minister of Finance would want to ensure that there is consensus, even though on the face of it the Bill calls for a simple majority.

11.50 a.m.

We on this side are opposed and will do everything, Mr. President, to strengthen the use of devices, techniques, measures, corporate vehicles, in order to conceal and/or obscure ill-gotten gains—

Hon. Senators: [*Desk thumping*]

Sen. W. Mark:—through money laundering, through the financing of terrorism, and through the financing of the proliferation of weapons of mass destruction. We are also mortally opposed to anyone using vehicles, corporate vehicles, using, Mr. President, legal devices in order to avoid paying their fair share of taxes—

Hon. Senators: [*Desk thumping*]

Sen. W. Mark:—to the people of Trinidad and Tobago, through what is called, Mr. President, tax avoidance, tax evasion. So we are in support we, in fact, we initially in 2014, the intergovernmental agreement that brought into being Mr. President, what is known as FATCA. The agreement between the United States and Trinidad and Tobago. Yeah, we initialed that. So, from 2014 to the present time, there has been a journey, Mr. President, to address global standards, as enunciated by FATF and its Caribbean version CFATF and of course, the Global Forum for transparency and also the exchange of and sharing of information, agreements, for tax purposes. Yes.

So we would want to ensure, Mr. President, that we have a robust legal framework, because it is our view that the anti-money laundering mechanism in Trinidad and Tobago today is extremely weak. And too many people in this country use different devices in order to rob and deny the people of their fair share of taxes in this country. And that is why we could talk about leakages of over \$10 billion. That is why the Minister of Finance can come and tell us through the FIU every year, hundreds of millions of dollars, Mr. President, in what is called

suspicious transactions, suspicious activities. All of these things are taking place and nobody is held accountable. Nobody is sent to jail in Trinidad and Tobago, because of weak enforcement and very weak infrastructure in our nation.

So today, Mr. President, we have before us nine pieces of weighty legislation. In fact, the Minister of Finance told us earlier, years, it has taken the Government, years through some technical programme and a technical team to arrive at what we have here today. Yet still we are Senators who are asked to approve legislation of the complexity and technicality that we have before us—we were given only 72 hours, 72 hours to debate among ourselves before we came here today on very weighty pieces of legislation. I mean to say, Mr. President, something has to be wrong with our system.

None of us has a personal assistant to conduct any research. So we have to do our own research in 72 hours, Mr. President, on nine Acts of Parliament. And when I checked them out, Mr. President, four of the nine Acts of Parliament were passed in this Parliament with special constitutional majorities. It meant that our rights and freedoms were infringed by certain provisions in those four pieces of legislation. The Proceeds of Crime Act, the Securities Act, the Tax Information Exchange Agreements Act, and then the last one is the Mutual Administrative Assistance in Tax Matters Act. Those were passed with special constitutional majority. So, we have to be very careful when we come here to debate matters, that we do not sell out the rights of the people—

Hon. Senators: [*Desk thumping*]

Sen. W. Mark:—of Trinidad and Tobago, we have to be very careful, Mr. President. So this is a very serious matter that we are engaging in here today. For me, I cannot go through all of these pieces of legislation so, what I have done, Mr.

President, is to confine myself to at least three. And I am sure if the Minister of Finance, if I know him well, in this period of mourning would give consideration to some of the points that I am about to make, because I am sure that the hon. Minister of Finance would like us to have consensus in the passage of this piece of legislation. Because like him, we are all committed to getting our beautiful and beloved country off the black list—

Hon. Senators: [*Desk thumping*]

Sen. W. Mark:—we want to get Trinidad and Tobago off the blacklist, which the Europeans call de-list, or de-listing. We want to get off the blacklist.

So, if this piece of legislation as the Minister said, is going to give us one step on this ladder that we have been climbing for some time now, so that we could get off the blacklist, Trinidad and Tobago that is, we welcome that. But, Mr. President, there are some concerns, there are some concerns that I would like to bring to the attention of the hon. Minister of Finance, because he made some points and I took note of it and I am in his corner, because I too, like him, I am not prepared to sell out the sovereignty of the Republic of T&T.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: And whilst we might be small, Mr. President, we are not to be bullied. So we have to do what is necessary, Mr. President, to ensure that when this piece of legislation is ultimately fashioned, refashioned, it can withstand the test of times and that no smart alec will use loopholes in the legislation in order to undermine it and subvert it. And I am seeing some loopholes in the legislation and I am seeing some areas for consideration by this honourable Senate, Mr. President.

Mr. President, let me say the following and the Minister of Finance, said it: Why are we here, what are we doing? He said it, and I want to repeat it. We are

trying to achieve two objectives, two aims, two goals essentially. To unmask those criminals, I call them criminals who use companies, who create shell companies in order to hide their true identities as it relates to their true ownership. So many of them exist in this country, denying taxpayers their fair share of taxes. They do not pay stamp duties, some of them do not pay their fair share of taxes and the reason for that, Mr. President, they use all kinds of devices, as the Minister said, trusts, deeds, shell companies among others, what they call in the literature, corporate vehicles are used, Mr. President.

So one, Mr. President, we are seeking, that is what the Senate is attempting to do today, to unmask those who hide behind companies, and we do not know who are the real owners, “is dey mudda, dey fadda, dey sista, dey nephew, dey niece”, but it is not them. But they are the real owners of the companies. And, Mr. President, what is his second aim? We want to engage in what is called timely and accurate and correct updated information exchange for tax purposes, Mr. President, with counterparts that are involved in what is called double taxation treaties, or arrangements, or what is called in the literature before us, or the Bill before us, declared agreements, Mr. President, declared agreements. Okay?

So where are we? Mr. President, I want to take you on a brief journey, very brief because as I said, I am not going to deal with all these Bills, all these Acts, rather, that we are asked to amend, I am just dealing with two, or three. And the first one I want to bring to your attention, Mr. President, is clause 9. Clause 9 of the Bill deals with the Tax Information Exchange Agreements Act, '20. Mr. President, if you want to strengthen legislation to get at the bandits, to get at the money launderers, to get at those who are financing terrorism, to get at those who are involved in tax avoidance and tax evasion, you have my support, but do it

properly, do it properly. Do not bring miscellaneous omnibus legislation to this Parliament. And how—and populated in this legislation are pieces of legislation that based on the amendments will infringe on sections 4 and 5 of the citizens’—

Hon. Senators: [*Desk thumping*]

Sen. W. Mark:—constitutional rights and freedoms. Because it is the very criminals who we are trying to deal with, will go to the courts and say, “look, they passed this piece of legislation and they did not pass it with the constitutional majority that was required”. And in addition to that, Mr. President, you see banking information, you see the details of your banking information is sacrosanct—

Sen. Roberts: Or they get it from TSTT—[*Inaudible*]

Sen. W. Mark—it is confidential. And nobody, nobody has the authority to go to any bank that you have an account in, bypass you, bypass you and get all your banking details to somebody else who you never see but who is investigating you. I am saying, Mr. President, you want to do that, you are infringing the rights of citizens.

12.05 p.m.

Trinidad and Tobago has a written Constitution and we have something called an enshrined or entrenched Bill of rights. Under section 4(c) there is something called privacy rights and I have a right to privacy under the Constitution, and if you are going to invade my privacy, you must get the requisite constitutional majority and it is not in the Bill that is before us.

Mr. President, let me explain. If you go to clause 9 and you have to read clause 9 in conjunction with this Act called Act No. 5 of 2020. So you have to read Act No. 5 of 2020 to understand what is at stake here. And I do not care if

Global Forum is asking for it, eh. Global Forum cannot tell Trinidad and Tobago to undermine the rights and freedoms of our people—

Hon. Senators: [*Desk thumping*]

Sen. W. Mark:—that is enshrined in the Constitution. We have a democratic sovereign republic. So, let me tell you Mr. President, what is going on here, I do not know if it was an oversight on the part of the Minister and drafters of this piece of legislation, but I find it quite troubling; I find it quite disturbing; I find it quite dangerous; for the Government to introduce such a measure, and the hon Minister maybe as I said he is undergoing a period of condolences or mourning or grief I should say, or bereavement, whatever, so maybe he—it might have slipped him.

The drafters who put this together bypassed the Minister. So, I do not want to blame the Minister for the time being. So, Mr. President, let us go to clause 9, and clause 9 says in 9—9, clause 9, and I am going to the sub (c), and it reads, Mr. President, after section 11, the following new section is inserted. This is the new section that is inserted here. What is section 11, by the way, so we could understand? Section 11 in Act No. 5 of 2020 says,

“Where the Board provides information to a competent authority of another State under any declared agreement, the Board shall...”

Mr. President, this is the language, eh. Listen to the language:

“...the Board shall...”

It is mandatory, it is mandatory, Mr. President, under section 11.

They—“...shall, within one year of such provision, notify the persons in respect of whom the information relates that personal information relating to that person which is required to be reported under this Act and

under a declared agreement has been forwarded to the competent authority of that State.”

What this is saying in essence is that if a requesting party, Jamaica, asks for your private data or banking, let me not say data, your banking information, because they are conducting an investigation into you, for tax purposes that is.

Sen. Mitchell: Tax purposes.

12.10 p.m.

Sen. W. Mark: For tax purposes that is.

Sen. Mitchell: Tax purposes?

Sen. W. Mark: Yeah, tax purposes. So they want to get your information. Thank you, my brother. Thank you. So for tax purposes, Mr. President. What this is saying, in 2020—

Mr. President: Sen. Mark—Sen. Vieira, you would ask Sen. Mark to give way.

Sen. Vieira SC: Sorry to interrupt. You were referring to clause 9 of the Bill but clause 9 deals with Partnerships. I am a little lost.

Sen. W. Mark: May I? May I? May I? Mr. President, I must admit, and I apologize, I had the old version that was sent to me. So I do not have the gazetted version.

Mr. Imbert: What is the old version?

Sen. W. Mark: No. In other words, look it here. Look it here. Look my Bill here. It is something that you printed and sent to me.

Mr. President: So, Sen. Mark, which—there are—

Sen. W. Mark: Mr. President, I understand—

Mr. President: Hold on. Hold on.

Sen. W. Mark: Yeah.

Mr. President: There are Bills circulated for today's debate. I would assume that you have gotten the most recent version as circulated by the clerks. If you are going to refer to a particular clause so that you do not confuse other Senators and—

Mr. Imbert: [*Inaudible*]

Mr. President:—Minister of Finance, one second—you do not confuse the Minister piloting the Bill, I would ask you to try and get the most recent version so you could reference the clause that you are speaking to.

Sen. W. Mark: But it—

Mr. President: I would assume it is not clause 9.

Sen. W. Mark: I do not have a copy so—[*Inaudible*]

Mr. President: Okay. So I would ask the clerks to furnish you with the most recent copy—

Sen. W. Mark: Yes, please.

Mr. President:—and that way if you are referencing the clause, reference the correct one.

Sen. W. Mark: Yeah. But I think, if I am not mistaken, Mr. President, but this is the same version I am getting again. Is this the gazetted version, Mr. President? I thought there is a gazetted version. Is this the gazetted version? I am not too sure.

Mr. President: Sen. Mark, that is the most recent version, so I would ask you to take two seconds, check the clause, reference the correct clause and then continue your contribution.

Sen. W. Mark: Yeah. So, Mr. President, I do not have to check, I understand what I am saying. Mr. President, what I am saying to this honourable Senate is that in the Bill, which is an Act of 2020, if you are going to enquire into my

banking details for tax purposes, you must notify me.

Mr. Imbert: Excuse me—

Mr. President: The Minister is asking for you to give way.

Mr. Imbert: Would you give way? Thank you very much, hon. Senator, for giving way. I listened very carefully to everything you were saying. I looked in the Bill, I could not find anything even remotely resembling the words that you are referring to. I have no idea what you are talking about and I suspect others are in the same dilemma. I do not see anything about banking. I do not understand. So could you perhaps tell me where it is?

Sen. W. Mark: Mr. President, I do not want to take the Minister who is in a state of bereavement—

Mr. President: So that is—no. Have a seat. Have a seat.

Sen. W. Mark: [*Inaudible*]

Mr. President: So, Senator, have a seat. Have a—both—

Sen. W. Mark: I apologize to you.

Mr. President: Have a seat same way.

Sen. W. Mark: Yeah, I apologize to you. Yeah.

Mr. President: Let us not—

Sen. W. Mark: Yeah, I apologize—

Mr. President: Sen. Mark, I am on my legs.

Sen. W. Mark: But I apologize.

Hon. Senators: [*Crosstalk*]

Sen. W. Mark: Sorry about that.

Mr. President: So as much as you are saying you apologize, Sen. Mark, let me just state that we do not go down that road. You have stated in the very beginning

of your contribution what you had to say in relation to that matter involving the Minister of Finance, that is it; it ends right there. There is no need to mention it again because it goes past what it is intended to be.

Sen. W. Mark: Yeah. [*Inaudible*]

Mr. President: Right? In relation to the matter raised by the Minister of Finance, I invite you now, if you would like to take just a few seconds, find your bearings in relation to the most recent Bill that is before you so that you can continue to make your contribution and everybody could be on the same page. I now invite you to do so, Sen. Mark.

Sen. W. Mark: Yeah. Mr. President, let me see if I could get—Mr. President, I think it would be—it is not the Securities, Mr. President—yeah, clause 12. Mr. President, I think it is 12(1), I am being advised. So can I ask my colleagues to check 12(1) to see if—okay. Mr. President, it is clause 12 and I am seeing page 32. I do not know if everybody is on the same page like me. Is that okay? Right. Clause 12 of page 32. So, Mr. President, what is being said here is that under this 12(c), and I am dealing with 12(1) of 12, which is clause 12. I read for you the following—12(1) reads:

“Notwithstanding section 11...”—

—and, hon. Minister, if you are following, I would like you to go to this Act No.—Mr. President, Act No. 5 of 2020, and I am referring to section 11. Section 11 is being amended to insert a new subsection, which is what I am referring to, Mr. President.

Under clause 12, Mr. President, that I have before me, it states that by inserting, after section 11, the following new section, and it reads, section 12(1)—you with me? Right. So what this is saying is:

“Notwithstanding section 11...”

—in Act No. 5 of 2020:

“...where in the course of making a notification under section 11...”

—so a notification is being made by the board:

“...the requesting jurisdiction...”

—whichever jurisdiction:

“...informs the Board that the notification is likely to undermine the success of an investigation being conducted by the requesting jurisdiction, the Board may withhold such notification.”

That is the point that I am making.

So if the board may withhold notification to the individual, it means to say, Mr. President, you are giving the board a discretion and the board does not have that power to have a discretion on the rights of the citizen. And what we are arguing here, Mr. President, is that this is inconsistent, contrary, and incoherent with previous laws that we passed in this Parliament.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: If you go to FATCA, Mr. President, you would see where in FATCA we spent a lot of time in 2017—this is the Act here, Mr. President, between the United States and Trinidad and Tobago, and there is a whole preamble. You know what was going on before this Act was passed? The Board of Inland Revenue was passing your private, personal, sensitive information, Mr. President, to an external party without your consent, without your knowledge, without your permission, and this Act was passed in 2017 with a three-fifths majority to validate the illegal and unconstitutional behaviour of the Board of Inland Revenue.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: That is what was done. And in this Act, Mr. President, it is called Act No. 4 of 2017. There is a whole preamble, and I will just bring to your attention the following:

“And whereas the Act provides for the sharing of personal information of identifiable individuals without first obtaining their consent..”

That is what was going on. They passed on your information without your consent:

“And whereas the sharing of personal information of identifiable individuals without first obtaining consent for such sharing amounts to a breach of that person’s right to his family and private life as guaranteed by section 4 of the Republican Constitution:”

All this was in the preamble. And it went on, Mr. President, to say:

“And whereas personal information in the possession of the Board of Inland Revenue has been shared with the Secretary of the Treasury under the 1989 TIEA without the consent of the person to whom the information relates:”.

It went on to say:

It is now—”...necessary to validate the actions of the Board of Inland Revenue in this regard”

And this was passed with a three-fifths majority, because the Board of Inland Revenue for years was providing third parties with your private, personal, sensitive and confidential information without your consent. And the Government recognized that and the Government brought this Bill called FATCA, and the preamble made it very clear; it was illegal, unconstitutional, unlawful to do what the Board of Inland Revenue did.

You come back in 2023 to give the Board of Inland Revenue that same power that we said you could not give them and you have to pass this with a constitutional majority. How can the Board of Inland Revenue, a group of public servants, have the power when they are going to give their personal and sensitive information not to inform you? You must be informed, Mr. President. You must grant your consent, and if the Government does not want that to be inserted, this is going to be challenged in the court. It would be struck down as unconstitutional. So, I bring this to the attention of the Minister so that the Minister could give it some thought. Mr. President, it is repeated in Act No. 7 of 2020—in Act 27—in Act 7 of 2020, the Government continues that particular excursion into people's private and confidential information. And, Mr. President, if you go again—this is 12—Mr. President, if you go to clause 13 of 32, page 32, that is, right? Go to 32 and, Mr. President, you go to—let me tell you the exact section because I had it in a— Yeah, Mr. President, I just want to get the correct section for you. Mr. President, if you go to page 37, you would go to (iii), you go to subsection (5), the same language that is used in the exchange of information sharing agreement, it is the same language that is used in this mutual assistance in tax matter—

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

Sen. W. Mark: Yeah. Mr. President, so the same language is used in this section. Mr. President, I would like the hon. Minister to amend these two sections or two clauses. I want the Minister to delete clause 5 on page 37, clause 13, (iii)(5). I would like the Minister not to give the Board of Inland Revenue the authority to bypass an individual whose personal information is being shared by a third party without the person's consent. And if you do not do it, I am going to put an amendment for the consideration of this Senate because this is an infringement on

people's constitutional rights.

12.25 p.m.

Mr. President, I just want to bring to your attention a recent piece of law that was issued in the courts of Trinidad and Tobago where Justice Devindra Rampersad made it very clear on page 31 of a judgment issued. Let me tell you, that judgment was dated sometime, Mr. President, on the 11th September, 2023. And in this judgment, the distinguished and honourable Justice Rampersad said, Mr. President, that your banking information is a constitutionally protected right to privacy under the Constitution. Nobody can go into your banking account for any information. The judge ruled that it is your constitutional right and, therefore, Mr. President, I call on the Government to address those two dangerous, troubling, and disturbing provisions in those two pieces of legislation. That is, clauses 12 and 13 we need those to be amended and I can help the Minister amend those to ensure that the rights of citizens are protected in this regard.

Mr. President, in closing, I know I have a few moments but I think the Minister made mention of it, I would just make mention of it en passant. Bearer shares and share warrants are to be something to be outlawed but this was supposed to have been done by now because in the 2019 debate, the Government brought an amendment to the Companies Act that was beginning that process. So I was shocked that in 2023 we are now going to outlaw bearer shares and share warrants and bearer certificates which is a mechanism and device being used to hide behind the real owners of shares in companies, Mr. President. So that is something that we felt was late in coming, but it is here. And I just want you to look at the Anti-money laundering and counter-terrorism financing measures, Trinidad and Tobago, Mutual Evaluation Report, June of 2016, CFATF. And you will see in this report a

series of recommendations aimed at strengthening legislation to deal with anti-money laundering countering of the financing of terrorism, Mr. President, as well as financing of weapons of mass destruction, along with tax evasion and tax avoidance.

Mr. President, I know you are about to rise. I want to thank you for giving me the opportunity to make this limited intervention to see if we can add some flavour and strength to what is before us. So at the end of the day, you bring a Bill, you have a piece of legislation that can withstand the time or could stand up to the times. Mr. President, I thank you.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Dr. Richards.

Sen. Dr. Paul Richards: Thank you, Mr. President—

Hon. Senators: [*Desk thumping*]

Sen. Dr. P. Richards: —for the opportunity to make what I hope would be a short contribution to this The Miscellaneous Provisions (Trustees, Exchequer and Audit Act, the Minister of Finance (Incorporation) Act, Proceeds of Crime, Income Tax, Companies, Partnerships, Securities, Tax Information Exchange Agreements, the Non-Profit Organisations and Mutual Administrative Assistance in Tax Matters) Bill, 2023.

Let me be honest from the start, this is a very difficult proposition for even persons who are trained in these specialist areas. And while I understand the Minister's route of potential efficiency in bringing an omnibus

Bill, one has to admit if one is honest that this in terms of exercising due diligence, which I think is part of our responsibility in fact it is part of our responsibility in looking at legislation and seeing whether or not it fits, it meets muster in terms of

its objectives. And I have no reason to disagree with the Minister or doubt his urgency in terms of our international obligations for compliance but part of our job or part of my job here is exercising due diligence and going through each clause and each part diligently to see if it meets muster.

And I have to admit, I am not trained in this area so I have to rely on common sense which I hope I have some of, and go through nine Acts and the parent Acts and match it against the proposed amendments here and make sense of it in 72 hours and think that is unfair, I think it is anathema to due diligence which I think is part of our responsibility and we must, although I understand the need sometimes for efficiency and it may fulfil the requirements of omnibus legislation. I really do not think it is in the interest of ensuring due diligence is carried out and I am not casting blame on the Minister here but I am simply putting it on the Floor for future consideration, for us not to have to deal with these Bills in this manner. Because I do not think it is in keeping with the principles of due diligence and responsibility which we are sworn to uphold. So I just wanted to put that on the Floor.

I understand clearly the need for compliance, and among the issues I intend to raise today is the comment from the hon. Minister through you, Mr. President, about the moving goalpost which has been identified by not only Trinidad and Tobago Prime Minister, Dr. Keith Rowley; Barbados Prime Minister, the hon. Mia Mottley; Jamaican Prime Minister, Andrew Holness, and several other regional leaders individually and in CARICOM fora that the Caribbean and CARICOM cannot continue to be slavishly dragged around the floor under these conditions. Because very often we are not the ones who are most guilty globally of tax evasion, tax fraud, and being accused of tax havens and I will just go through one article here

that I managed to capture from the OECD regarding the countries that have the highest and most damaging reputations as tax havens.

The first one is from Statista where the headline is:

“The UK dominates the most damaging tax havens.”

But they are directing to us how we should jump and how high we should jump and when we should jump. Topping the list: British Virgin Islands, second, Bermuda, Cayman Islands, Netherlands, Switzerland, Luxembourg, Guernsey, Singapore, Bahamas, Hong Kong, Ireland, United Arab Emirates, United Kingdom, Mauritius, Belgium, Isle of Man, Cyprus, China, and Hungary. That is just one.

The countries losing the most to tax abuse: Ireland, 22.26 per cent of GDP; Colombia, 18.2 per cent of GDP; Singapore, 10.73 per cent of GDP; Pakistan, 9.30 per cent of GDP; Angola, Mexico, Egypt, Netherlands, UK, Philippines, Indonesia and Germany between 4.15 and 7.36 per cent of GDP. I will not go down the list to belabour the point.

International tax evasion by member States: 2016 estimates as a percentage of GDP. Topping the list: Malta, Cyprus, Latvia, Sweden, Greece, Belgium, France, Portugal—none of those are CARICOM countries—Estonia, Ireland, Bulgaria, Austria, United Kingdom, Czech Republic, Poland et cetera.

Now, I understand because of these statistics the need for those countries to refine their laws regarding tax evasion and tax avoidance and the terrorist financing small arms funding et cetera and because of that, because they are large countries with which we have to do business we have to fall in line, otherwise, we will be black or grey listed there are negative potential impacts on our correspondence banking et cetera we have been through all of those debates 2018, 2019 and beyond. So we

are at the behest of them because we are small, they are large we have to do business with them. But I think CARICOM needs to take a stronger stance on this because of the continuous impact on Caribbean countries, and just in Trinidad and Tobago alone, the huge hoopla that arises when we are blacklisted and grey-listed and the global implications are profound.

12.35 p.m.

So, I think from CARICOM's perspective they need to do more. That is not to say Trinidad and Tobago does not have issues. The data I spoke to just now, Mr. President, through you, just for the *Hansard* is from the OECD, Organization for Economic Cooperation and Development "Report on Tax and Fraud and Money Laundering Vulnerabilities Involving"—that is—"the Real Estate Sector".

In Trinidad and Tobago if I could quote from a *Newsday* article of the 24th of January, 2023 authored by Clint Chan Tack, the title is, "\$1.93b suspicious transactions in 2022". And it quotes the:

"Finance Minister..."—as reporting the—"(FIU) reported a total 958 suspicious transaction reports/suspicious activity reports (STRs/SARs) at the end of September 2022...total monetary value of \$1.937..."

—billion thereabouts, which focused on primarily:

 "...tax evasion, fraud, money laundering and drug trafficking.

Breaking down..."—

Minister:

 "...Imbert..."—

I am continuing the quotation:

 "...said 844 (valued at \$1...)"—

—just under \$1.6 billion:

“...were completed transactions...”—

—completed suspicious transactions at that:

“...195 (valued at \$350,864...)”—thereabouts—“were attempted transactions.”

At the time it:

“...represented a 24 per cent decrease in completed transactions and a 68 percent decrease in attempted transactions compared to the previous reporting period.”

Which means there was an improvement however, we do not know how much of that, sorry, are in what category and how vulnerable we are because of those, and how many of those went into the illicit trafficking in arms and drugs, et cetera, and those things need to be investigated.

Mr. President, one of the other areas of concern to me is, and the Minister mentioned it, is the issue of how this, I think he used the word “bullying” of the CARICOM Member States and the smaller developing nations is affecting business in the particular jurisdictions, is affecting Government’s ability to keep up and continuing doing business globally and keeping their reputations sound. So again, I think there needs to be some sort of stronger action by CARICOM on this because of the onerous, I think that was the word the Minister, the hon. Minister used, “onerous” demands as we see outlined in these nine Acts and the provisions contained therein.

One of the areas I have the most concern with and the Minister mentioned it is the varying definition of “beneficial owner” or “beneficial ownership” which I just looked at “partnerships”, it is on page 17, the Securities Act page 22 and I want to hone in on the Non-Profit Organisations Act, 2019 which is clause 11 which it

says:

“...by inserting...the definition ‘AML/CFT/PF’ the following new definition:”

Keep in mind we passed NGO law or updated NGO laws in this country a couple of years ago which instituted significant new requirements for NGO ownership and the NGO sector in Trinidad and Tobago has done and continues to do amazing work and many of those NGOs have reported the difficulty in their resources and capacity to keep up with the new onerous requirements and we are adding more now. I think, if we continue with this for two more cycles, we are going to run three-quarter of the NGOs out of business in this country which will be a sad day in this country.

The new requirement for beneficial ownership, the new definition, sorry, of beneficial ownership means, and this is quoting from Act No. 7 of 2019, clause 11:

“‘beneficial owner’ means in respect of a Non-Profit Organisation subject to this Act -

- (a) the natural person who owns or controls ten per cent or more of the membership interest in a Non-Profit Organisation...
 - (i) direct ownership;
 - (ii) indirect ownership; or
 - (iii) control through other means;”

Mr. President, through you I will ask the hon. Minister to please explain to me in the context of an NGO, what is 10 per cent of an NGO? I do not know. It is an NGO.

Hon. Senator: *[Interruption]*

Sen. Dr. P. Richards: Yeah. Well, I am reading from the document, the latest

document here so that is what it says.

“the natural person who owns or controls ten per cent or more of the membership interest of a Non-Profit Organisation...”

I racked my brain to figure out what that means in the context of an NGO.

Sen. Armour SC: Voting rights.

Sen. Dr. P. Richards: Thank you. The Minister says voting rights. Well, maybe it should be more clearly specified here because I do not know that an NGO has shares that they could share around like that and—

Mr. Imbert: It has a structure.

Sen. Dr. P. Richards: Oh, I understand. Thank you.

Mr. President: So, Minister, do you want to—yeah.

Mr. Imbert: All NGOs are required to have a structure. There would be persons in control of the NGO. They would have a constitution and would be a system by way decisions are taken by majority vote and so on. So that is what that is all about. Okay?

Sen. Dr. P. Richards: Thank you. Well, you could imagine if I am confused how many of the NGOs are confused too. It just becomes more and more difficult to exist in the space because of the strings being pulled by the European Union. As I said before, I am really concerned that the more these requirements become more and more onerous, the more people will just say, “You know what, this is not making no sense anymore” and good work will fall by the wayside because they just do not have the resources to continue to be compliant or they do not have legal expertise or other resources that may not be available to the particular NGO. I really think that that would be a shame if we continue to dance to this foreign beat, this non-regional beat to remain in compliance in one area, while other areas are

being detrimentally affected.

The other issue I would like to raise is, and I think the Minister mentioned it and I hope I did not hear wrong because I was trying to pay attention, the Minister may have mentioned the municipal corporations that may be affected and how we are to rationalize that in the context of the new requirement if and when we have a revised, a reformed Municipal Corporations Act, local government Act which has not been fully proclaimed, yet we are putting provisions in place for compliance. Under the European Union requirements for compliance but we have not fully proclaimed the law in Trinidad and Tobago and operationalization already has so many implications for compliance in different areas locally and we are adding international jurisdictional compliance requirements. So, I think all those things need to be rationalized and reconciled because of the potential impact locally.

And I understand, as I said before, the need for us to not, in our assessment, end up wanting to be blacklisted or grey-listed because of the implications for the financial services sector, and while we have to balance the protections as envisioned in these provisions of the nine Acts, I think not being able to go through them in detail and distil them as to the potential impact locally is extremely disturbing to me, and I am sure will be onerous to the local entities who now have to comply once these provisions are passed or if these provisions are passed in this honourable House. So that is why I said earlier on, through you, Mr. President, that I think a more productive approach in these nine may have been to come for three days and do three at a time so we can fully distil. I understand the need for urgency and efficiency—

Mr. Imbert: May I?

Sen. Dr. P. Richards: Absolutely, Minister.

Mr. Imbert: Thank you very much for the opportunity to clarify that point that you raised and the previous point. The Global Forum requires Corporation Sole. It requires a process to determine whether Corporation Sole is the owner of shares in a state enterprise. One would think that is obvious from the Corporation Sole Act, but it is just the way they operate. And it is similarly they will want to know who the beneficial owners of a municipal body are, and if there are no shares in a municipal body, then they want to know who is the controlling mind which will obviously be the council. So it is just a process that they have that they need to know, according to their formula, who owns this entity and if there are no shares, then who controls this entity. And in the case of a municipality, that would clearly be the council. Okay?

Sen. Dr. P. Richards: Thank you so much for the clarification. So, as I said, I did not intend to be long but I also think that part of the responsibility that we should shoulder when we are trying to become compliant in so many different aspects of law in Trinidad and Tobago, is to ensure that the public, the wider public has a clearer understanding of these provisions and what the implications are for them as individuals, whether they be business owners, shareholders in businesses, et cetera, operating in the spaces that these Acts and provisions in these Acts affect, because very often, well, ignorance is no defence in law, but because the cycle is changing so quickly, to keep up with it, with the new provisions when you have just become accustomed to the old provisions of 2019, 2020, become more and more onerous and put people more at risk for defaulting and ending up on the criminal side of things. So, with those few words, 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): Thank you, Mr. President, for giving me the opportunity to participate in this debate. Let me start by commenting on Sen. Richards' concerns. I do acknowledge that the Bill is cumbersome and that Members of the House did not get a significant opportunity to get into the meat of it and do proper research and verification. But notwithstanding that, what I would say is that while the Bill, the legislation may appear to be complicated, it is actually very simple in concept. Essentially, it is looking at our various legal structures which have evolved over the years through which human beings owned or hold interest property and it is seeking to identify who the actual human beings are who own the property or have interest in property. That is essentially the purpose of the Bill.

But before we get into how the Bill is proposing to do this, to identify who the human beings are, who the real owners of property are, let us briefly discuss why this legislation is important and I am not going to focus on the pressures that we are receiving from outside to get this done, but why those pressures exist. Because there are approximately 200 countries that are part of the Global Forum who have, at least, in theory, agreed that this legislation is required. Because we operate on a global scale, businesses are cross-national, they operate across the world and that gives those businesses the opportunities to hide behind different legislation in different parts of the world to come up to all kinds of machinations, to hide income, to get involved in trafficking, in tourism—sorry, in terrorism and all these kinds of things. So if countries do not collaborate to share information to understand what businesses are doing, then the businesses will inevitably win. So it is necessary if we are to ensure that we get our fair share of taxes, that we counter all these negatives, anti-money laundering activities, terrorism activity and

so on, that we share information. So that essentially is why we need legislation of this nature.

Yes, we appreciate that most of the perpetrators of these international crimes come from the bigger countries and that they are the ones who have the most to gain in terms of reducing tax avoidance because a lot of the taxes that will have to be cleared and paid in those countries, we also have a benefit to gain from understanding the real percentage of the income from the international operations that should be ascribed to Trinidad and Tobago. We have real benefit to gain from understanding how these entities are using their funds to support terrorism, to get involved in money laundering, drug trafficking, human trafficking. So unless we share the information, those perpetrators of these various crimes will continue to win the war.

12.50 p.m.

So, while it is an imposition, while it is difficult on all of us, while it is cumbersome, as we become more and more international, as borders become less and less relevant, this becomes more and more critical. Yes, I understand that CARICOM needs to push back, because my first reaction when this legislation was first introduced some years ago was this is ridiculous, why are we spending money to gather information to benefit places like the United States and the United Kingdom. The more you delve into why and how, the more you realize that this is all part of what we need to do. The same way the Prime Minister would have reached out to the US a few months ago, to say that the legal and illegal guns in Trinidad and Tobago, are coming from the US, we need to work with you to reduce the incidence of guns coming into this country, the same way we have to work with other countries to reduce the incidence of all of these other negative

things that are mainly financially related. So, essentially that is the rationale for this legislation.

This legislation is coming in accordance with our obligations to the Global Forum. The main focus of Global Forum is to minimize the opportunities for tax evasion and tax avoidance, as well as to counter money laundering. And what is money laundering? Legitimizing money earned from criminal activity in various spheres. The more you reduce the benefits of conducting criminal activity, the less lucrative it becomes and therefore the less likely it is for people to get involved in that area, and what we want is to reduce the incidence of these kinds of international, very destructive crimes. So, the rationale for the Bill is essentially that.

So, how is the legislation then seeking to discover who actually owns property? Because when we know who owns property, we know the linkages throughout the world, how they are using their network to get up to these criminal activities, who is doing it, who do we go after to reduce a level of criminal activities. So, the legislation is saying, let us find out who is doing these things, who has the resources and how they are using the resources.

So firstly, the legislation requires us to identify the various ways in which properties are own and this will vary from country to country, so we have to look at what obtains in our country to determine what actions we need to take to address it. In Trinidad and Tobago, we have identified that property is owned by Person A on behalf of Person B, through various vehicles, as Sen Mark referred to them. So, trust has been something that has been around for a while which is where Person A is the legal owner of property but he is holding it for the benefit of Person B

Non-government organizations, NGOs, is another form of ownership of property which is held not for the benefit of the members of the NGO, but for others.

“Companies”, a company is a separate legal entity but it does not own property for and on behalf of itself. “Corporation sole” has been separately identified as a person who owns property for and on behalf of others and partnerships. So those are the entities we are targeting, who own property, not on their own behalf, but on behalf of others, who we are saying you need to identify who are the beneficial owners of the property that you hold, who has interest in that property.

Having identified the vehicles through which properties are owned other than by the individual who is the beneficial owner, what we need to do is identify those beneficial owners. The intention is not to interfere with how those entities operate and the business they do, it is really to allow us to see if there is suspicious activity happening in those entities, who stands to gain from those activities, so we know who needs to be approached in terms of reducing or getting rid of those activities. This is why we need to know who the beneficial owners are or perhaps, it starts with us identifying that Person X is involved in international criminal activity. Let us see where he holds property so that we know how he is channelling his funds to promote those criminal activities.

12.55 p.m.

Unless we have that information, it is difficult to identify the perpetrators and difficult to stamp it out. So the legislation requires the entities to provide details of persons who hold beneficial interest in them. Trustees must declare their beneficiaries, companies and NGOs must declare their shareholders, and, yes, Sen. Richards, NGOs do have shareholders. Most of them have shareholders that are limited by guarantees so people do not make upfront contributions to purchase shares like they do in business operating companies, but they undertake if something goes wrong with the company and the company needs funds to settle

debts and so on they will contribute, so they are shareholders limited by guarantee. Corporation sole must declare the officer in charge and partners must declare their partners. Not only are they required to declare these interests, but they are also required to keep the information up-to-date, current and accurate. Those details and updates must be provided to the regulator/registrars to whom the entities report. The Registrar General in the case of companies and NGOs, the Securities and Exchange Commission in relation to publicly listed companies, trustees also report to the Registrar General. When we are talking about cross-border activity two other bits of legislations come into play that have been amended by this legislation, and are: The Tax Information Exchange Agreements Act and the Mutual Administrative Assistance in Tax Matters Act.

So, what are we of Trinidad and Tobago required to do? We are required to ensure the adequate, accurate and up-to-date beneficial ownership information of legal persons. A legal person can be an individual, a company, a trust, an NGO, a partnership. A beneficial owner is a natural person, a human being who ultimately owns or controls property. So we have artificial entities and we have human persons. We want to know who is the human person who owns or controls property so that we know who to go after. We know who is pulling the strings, we know who is ultimately committing the crimes. And the legislation also accepts that in certain cases the beneficial owner cannot be determined, for example, Corporation Sole. Who is the beneficial owner of property owned by the corporation sole? Is it the Government of Trinidad and Tobago, or is it the people of Trinidad and Tobago, every single individual? And when you talk about the people of Trinidad and Tobago is it a dash now, is it a citizen, is it a resident?

So in those cases the legislation says, "Okay, do not identify the beneficial owner

we will deem the beneficial owner to be the controlling person”. And it does allow—the guidelines set by Global Forum, does allow us to set thresholds below which we are not required to go to identify the beneficial owners. So that Sen. Richards again raised the issue of the 10 per cent ownership in NGOs. So if your ownership in NGOs is below 10 per cent, the legislation does not require the NGO to report on you. So it puts a threshold. The guidelines indicated that we were not to go below a 25 per cent ownership, but we opted to go with a 10 per cent ownership. So everybody who owns 10 per cent or more in those entities are required to be identified.

So we are required to ensure the adequacy, accuracy and currency of the beneficial ownership information. The information must be sufficient to identify the actual persons who are the beneficial owners and the means and mechanisms through which they exert ownership and control. So included among the information that is required is the name, the nationality, unique ID number, the residential address. And to identify the means and mechanisms of beneficial ownership, the type of information that we required would be the type of participation, are there Chairs, are the Chairs limited by guarantee or otherwise, is it voting rights, is it participation in a partnership? What is the means of control, the level of voting rights and the scope of controls?

. And it cannot be one thing or the other because one thing may not determine the ownership or who actually has the control. I will give you a simple example: We have TSTT, which is owned by the Government in a private entity. The Government owns 51 per cent of TSTT but there is an unusual shareholder's agreement which gives the other shareholder a greater than 49 per cent right to vote and make decisions, and therefore one has to weigh those two things to come

to a landing on who should be regarded as the person in actual control of the TSTT assets. This information must not only be provided, it needs to be capable of verification, so we are required to ensure that the information is right and that be sub-dated within a reasonable time of any change occurring. So this is an ongoing obligation. And, of course, in order to make it effective, sanctions are placed on persons who fail to comply with the requirements under the legislation.

The security exchange Act requires reporting issuers and reporting entities to get confirmation from holders of their securities of the capacity in which they hold. Because at the moment the Securities and Exchange Commission can tell you who—everybody who owns shares in listed companies, but that does not mean that the people who own, who have the beneficial ownership in those shares, and who actually have the interest in the company. So they now have to go beyond what they have traditionally done and find out whether their shareholders hold these shares in their own right or whether they hold them for the benefit of somebody else. And if they hold them for the benefit of somebody else, then those shareholders are required to declare to the SEC who the beneficial owners of those shares are. So it is a deeper dive than has currently applied, but I have sought to explain why that deeper dive is necessary.

Public responsibility for holding the beneficial interest—sorry, there are public bodies who are responsible for receiving this information on the beneficial ownership from the various entities, the trusts, the NGOs, the companies, they are required to receive the information, ensure that they get it on a timely basis and ensure that they maintain data bases to be able to communicate this information as and when required, to our cooperating countries. Countries with which we have exchange of information agreements.

So those entities that have that responsibility include the tax authority, the FIU, the Companies Registry, the SEC. And because traditionally the Inland Revenue, in particular, has not—I need to go beyond saying has not have the authority, has actually been debarred traditionally in their legislation, section 4, from sharing information on persons' tax affairs with third parties, specific legislation had to be included to allow them to share this information for the limited purpose of the global forum activity under the Tax Exchange of Information Bill, so that—
[*Device rings*]

Mr. President: Sorry, Minister. Person with the offending device, could you please just put it on silent? Continue Minister.

Sen. The Hon. A. West: Thank you, Mr. President. So that let me give you an example or two of how Trinidad and Tobago can benefit from the sharing of information. We do have companies in Trinidad and Tobago, coming out of Trinidad and Tobago history, that have cross-border activity. Most of them are restricted to the Caribbean, but certainly not all of them. There are countries operating as far as Malta, they operate out of the United States, the United Kingdom. So we do have a lot of cross-border activity.

As somebody who has provided tax advice to various entities such as this on how to minimize their taxes—and I will caution Sen. Mark that most of these companies do not get involved in illegal activities so it is wrong to call them criminals. The law has what I will call “loopholes” that companies can take advantage of to minimize their tax liabilities. It is all legitimate, it is all above board. So that is what the companies do and making money all over the world, how can I minimize what taxes I can pay? So they get involved in different activities, and what tax authorities have to do to counter that, is determine which

are the most egregious loopholes—because you cannot close them all—and try to address those.

In order to be able to properly know which loopholes are being taken advantage of and what additional legislation is required to reduce them, you need to know who is operating where and what they are doing and how they are taking advantage of the loopholes. And you can only do that if you get cross-border information. So when company “X” sets up in a tax heaven in St. Lucia, when that exists there, operating in a tax-free zone in St. Lucia, in Barbados, in St. Kitts, and transferring profits over there legitimately, in accordance with the legislation, to reduce their Trinidad and Tobago taxes, there is nothing we can do unless we get the information as to how they are doing this, how much money is involved, and then once we understand that we can look to close those loopholes.

So while we lament the imposition on us of the obligations that we have that require us to make these adjustments, what I am hoping, as a tax practitioner, the Board of Inland Revenue and the TTRA to come, will do, is take advantage of this opportunity. Take advantage of the additional information that we will be gathering to shore up our own tax provision to make our own tax compliance more effective and allow us to collect more of the taxes that we should be collecting, if we had all the information that we had, and if we have the opportunity to close the loopholes that exist. So that essentially is what this legislation is about.

As I said, there is a lot of it. If you look at it closely there is a lot of repetition throughout the various Bills, and so the bottom line is, we are seeking to determine who the beneficial owners are so we can determine how they are using their funds to avoid—to embark on criminal activities. The most obvious being tax avoidance and tax evasion. Tax avoidance not being illegal, let me remind you. But more

egregious being all of these other things: the money laundering, the terrorism financing, the human traffic financing, the financing of weapons of mass destruction. All of these are things that impact us throughout the globe, and we cannot hide in our little corner and say, “Well, that is a big country matter it does not concern me so leave me alone let me continue on the course that I am on”. We all have to participate in minimizing and reducing the activities that happen in these criminal spheres, and that is what this legislation is about.

So while, yes, it was unfortunate that we could not give the Senators more time to digest the Bill, the Minister of Finance would have pointed out to you the constraints we have in terms of our requirement to comply. The fact that we need to ensure that we improve our status on the listing that is ascribed by the global forum. That is the reason why we had to come to the House so quickly, in such a short time, to seek your support in getting this Bill through, so that we can improve our status and continue operating our business while CARICOM continues to discuss what should be done in terms of, we are sure what will be additional obligations that will be sought from us and take appropriate action to treat with this.

So with those few words, Mr. President, I thank you.

Hon. Senators: [*Desk thumping*]

1.10 p.m.

Mr. President: Sen. Dr. Gopeesingh.

Hon. Senators: [*Desk thumping*]

Sen. Dr. Tim Gopeesingh: Thank you, Mr. President. It is a privilege for me to be here this afternoon to be able to contribute to this very important piece of legislation which is, from a financial perspective as a country, important for us as

Trinidad and Tobago to get out of the grip of being blacklisted in terms of what we do with the rest of the world as far as financial matters and other matters are concerned. I want to say thanks to the hon. Leader of the Opposition for allowing me the privilege of contributing to this debate.

It is good that the Government has acknowledged, that they have been found wanting in being able to provide the ample time and opportunity for the parliamentarians to study and to research this piece of legislation, and 72 hours as mentioned by my colleague, Sen. Mark and, of course, by Independent Sen. Dr. Richards as well and, of course, confirmed by Sen. the Hon. Allyson Smith.

Sen. Mark: West.

Sen. Dr. T. Gopeesingh: West. Sorry, my apology.

Mr. President: It is Minister of Public Administration. We use the titles.

Sen. Dr. T. Gopeesingh: Minister of Public Administration. Yes, so that we have all understood the significance of this piece of legislation which is broad and wide and this encompasses about 41 pages, 41 pages, Mr. President, for us to digest, research, and make a meaningful contribution to.

So we are caught in a dilemma and the dilemma is that the Opposition, which is going to be the next government of Trinidad and Tobago in 2025—

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

Sen. Dr. T. Gopeesingh:—and we are looking at ourselves on the other side now, in 2025. We, as my colleague Sen. Mark indicated, we are in full support of all exercises and legalities to ensure that Trinidad and Tobago is removed from that list and that we are in full support of any measures taken to eliminate anti-money laundering practices and the financing of counter-terrorism and the financing of the proliferation of arms, Mr. President. So we are in sync with the Government on

those matters and we will continue to work with them to ensure that we get out of that blacklist of 16 countries.

But, listening to the hon. Minister of Finance, Mr. President, I am amazed that in 2023, we are now coming to talk about getting out of FATF regulations and the CFATF requirements and the Global Forum requirements and the EU requirements. This has been a Government, now in its ninth year of governance, and they were left in 2015 with work that had been done by the People's Partnership Government. I remember the Attorney General coming on many occasions to speak to Cabinet on the work that is being done with FATF and CFATF on numerous occasions and then by the end of 2015, when we demitted office, but in the last year of 2015 we had a visit from the Global Forum and they brought in the requirements that were needed to be implemented, but we demitted office in 2105.

But then the Global Forum and so on, put out on June 2016, a Mutual Evaluation Report, Mr. President, on "Anti-money laundering and counter-terrorist financing measures - Trinidad and Tobago". And in that report, Mr. President—may I be permitted to read some of the things which should have been done by this Government and not being entertained seven years later, but immediately when they came into Government. In 2016 this report came in, in June 2016, the Mutual Evaluation Report and it deals with anti-money laundering and counter-terrorist financing measures for Trinidad and Tobago.

And that report, Mr. President, analyzed the level of compliance with the FATF 40 recommendations and the level of effectiveness of Trinidad and Tobago with anti-money laundering and counter-financing terrorism systems and provided recommendations as how the systems could be strengthened, in 2016. We are in

2023, and it is only because of the pressures of the community and the nation and the nationals and CARICOM finding themselves in the same problem that something is now being done seven years after this administrative mutual report. And I want to proffer that they are very slow and tardy and there is a general degree of malice and incompetence that is pervasive with this Government over the period of the nine years. This should have been dealt with early.

“The National Anti-Money Laundering and Counter Financing of Terrorism Committee...advised that Trinidad and Tobago was in the process of reviewing, consulting on and finalizing the collated Report before sending to the World Bank.”

They admitted that we were doing that between 2010 and 2015. This report came out in 2016.

“The FIU”—of Trinidad and Tobago—“has received information in the form of”—Suspicious Transaction Reports and suspicious activity reports—“which may indicate that some legal entities are engaged in conducting businesses with entities that may be involved in terrorism activities.”

But this was the People’s Partnership Government in 2010—2015 doing the work and the report from the Global Forum on the Mutual Evaluation Report speaks loudly about the work of having suspicious activity reports and suspicious transaction reports.

So, it also went on to identify areas, and the hon. Minister of Finance, he is there now for his ninth year, should have worked more assiduously to bring about some of these and effect some of these recommendations.

Sen. Roberts: Nine years of pain, pain.

Sen. Dr. T. Gopeesingh: The key findings were:

“Identifying, assessing and understanding...
 The Limited Use of Financial Intelligence...
 Money Laundering Investigation and Prosecution...”

They identified that these need to be done.

“Confiscation...
 Terrorist Financing...”—needs to be looked at.

They mentioned the whole question of non-profit organizations and today, nine years later, we are now coming to deal with non-profit organizations. And they said in the report:

“NPOs are required to register with the Registrar General’s Department however there is no proper AML/CTF policy in relation to the management, supervision and monitoring of these entities.”

You suddenly awake seven years later after this report. I do not know whether the Minister would have seen this report or whether he knew of the report, but it was telling us just an area of the non-profit organization, just one of the areas, that there was no proper AML/CFT policy in relation to the management, supervision, monitoring of these entities:

“A targeted risk assessment for these entities has not been done as yet, neither are there adequate laws to address this area which means that for most intents and purposes the sector is not being sufficiently regulated.”

The 2016 report is saying that, we are in 2023, and we are now hearing about non-profit organizations—

Sen. Roberts: Shame.

Sen. Dr. T. Gopeesingh:—in a legal—for laws to be passed on it.

Sen. Roberts: “They lazy”.

Sen. Dr. T. Gopeesingh: And they even mentioned—

Mr. Mitchell: Mr. President, on a point of order, please, 46(1).

Mr. President: So, Senator, you have created your context, you have spoken to the report and you need to tie it into the specific clauses of the Bill as to where it connects. But I think you have made your point, you have gone through the report, I invite you now to move forward.

Sen. Dr. T. Gopeesingh: Thank you, Mr. President. So I wanted to draw the attention of this honourable House to that report—and a lot more work should have been done between 2015, and now 2023. They are crying for help now and I want to respond to some of the other statements made by the hon. Minister of Finance.

He said 20 years ago there was no pressure from FATF and Global Forum and EU. But we were hearing of that from since 2012/2013, that is 10 years ago, there is pressure. So he cannot come today and say they are now beginning—pressure is now on Caribbean countries, what tax laws we have unless you comply, CARICOM is being bullied by developing countries.

The Global Forum established 116 by 169 member States and 23 other bodies and they admitted that Trinidad and Tobago is not a tax haven. They said the Bill is urgent. Of course we know the Bill is urgent today, but you gave us 72 hours, we mentioned that already. He said that there is going to be a peer review by the Global Forum before the end of the year. We are in November and there is going to be a peer review before the end of the year. So when is that peer review going to take place? And were you sleeping on the job that you know that a peer review is going to come before the end of the year and Trinidad and Tobago is crying out to be removed from that blacklist and we are in the last part of the year now trying to bring the legislation and rushing it within 72 hours and that is

incompetence, gross incompetence, gross mismanagement. And they really are crying for our support and we are prepared to give the support, but not with that level of tardiness that had been exhibited by this Government over the period of time.

He said the legal framework must be in place before the end of the year and when we pass this legislation now when is it going to be proclaimed by Her Excellency, the President? It has to be proclaimed. And my colleague raised some significant points. This Bill, Mr. President, has 13 clauses and impacts upon nine pieces of legislation, four of which had required special constitutional majority, namely: the Securities Act; the Proceeds of Crime Act; the Tax Information Act and the Mutual Administrative Act.

1.25 p.m.

And my colleague made the strong point that in the area of litigation, if you do not protect Trinidad and Tobago with the laws that require a special majority and you do not exercise that principle here for the passing of this Bill, and the four Acts that will require special majority are not taken care off by a certificate of special majority, it can be brought to court and found deficient and the entire thing collapses as a result of non-inclusion of the certificate of special majority voting. So these four Bills, four Acts, and the aspects within them require a special majority passing and we want to reemphasize that, and I want to reemphasize what my colleague Sen. Mark made about these particular Acts of Parliament.

Now, the first Act that is being looked at in this Bill is the Trustees and Ordinance, 1939, and the Act has added a number of sections after section 10 and it says:

The beneficial owner must within fourteen days of the Act come into being register with the trustee of the trustees or the administrator of the other form

of legal agreement.

And what is the direct trust or expressed trust? It is an intentional trust in expressed terms. And it goes on to say:

A person who fails not registering this—

I believe the hon. Minister said that he has expended it from 14 days now to 30 days. And if it is not registered it is considered an offence and is liable to summary conviction to a fine of \$10,000 and to imprisonment for three years. Who inspects this registry? Where is the registry held? This is an administrative aspect of the management of all the aspects in this Bill. Who supervises the registry?

So the registry is there. You are supposed to send the information to the registry within 14 days or 30 days; or where is the registry? Who is responsible for the registry?

Hon. Senator: The Registrar General.

Sen. Dr. T. Gopeesingh: The Registrar General. Well, it must be said. And as my colleague has been mentioning the Registrar General, before I forget, my understanding is that the Registrar General's Department is swamped. There are deficient personnel in terms of numbers, and when all this information goes to the registry, how are they going to deal with that?

So this is just not a matter of passing the law here today, but it is a matter of the administrative aspect and the management aspect of it. Sure it goes to the registry, and how does that information go to the registry? Is it by personal? Does it go personally or by electronic system as well? So all these administrative aspects need to be taken into consideration for us to succeed in this fight against the counterterrorism measures and so on that we want to adopt. And he says this

includes directors. Directors of where? This is the Exchequer and Audit Act. Who are these directors? Well, of course, the obligation in respect of beneficial ownership information. Maintain and keep a register. So where are these registries created? And may I ask at this moment as well for elucidation? When these registries are maintained, does the general public have any ability to go and check in these registries to get information? I think these questions need to be answered.

And keep the information for six years. Why is that six-year limit being made? I need a little understanding—we need a little understanding of this. We know the Income Tax Act has that you have to keep your information with you for six years. Where did this six-year come from? Why it cannot be four years, or five years, or three years? And then every member who were gatekeepers, beneficial owners, their names have to be stored on that, who were beneficial owners before the names have to be stored on that for the six years prior to when their registry is.

So that is creating a lot of administrative pressures, Mr. President. And who came up with the figure of 10 per cent or more of membership interest? Is that something that is international, something that FATF has asked for; or is it something that we made up to ask for 10 per cent? Who owns 10 per cent of the shares or whatever has to be registered as a beneficial owner? And every member is liable when statutory authority fails to maintain its register. So you have a board of directors or so and every member in that board of directors is liable to be charged or to be jailed if that registry is not up to date. So who takes the responsibility?

I understand the Treasury will keep the register. Who determines in the Treasury who is taking the reasonable steps to ascertain the information? You have to

ascertain information; who are beneficial owners of the past; who are beneficial owners now; and the Treasury has to keep a register. Failing to take reasonable steps to ascertain information can lead to jail. So who is going to be jailed? Who is responsible? So these administrative issues, Mr. President, need to be dealt with and answered. So the Exchequer and Audit Act, I have dealt with that.

The Minister of Finance (Incorporation) Act is amended in section 2 and the corporation sole must maintain beneficial ownership information on the corporation. The Corporation Sole is the hon. Minister of Finance. Is he putting on himself the responsibility of maintaining the beneficial ownership register? And the Corporation Sole to keep updated a register of beneficial owners on details date on which any persons seeks to be beneficial owners. The hon. Attorney General could probably assist us with the Minister of Finance in giving us information of, really, is the corporation sole the person responsible for keeping this register, or he delegates responsibility to someone else in the Ministry of Finance to keep the register? And, of course, you have to keep that information for six years.

Then it also speaks about people within the Ministry of Finance being responsible for having the registry as well. So the whole issue of the corporation sole needs some clarity of who is dealing with the registry and where the registry is being kept. Is it the Treasury or is it the corporation sole in the office? And this is very, very confusing. Then there is an area about dissolution of corporation sole. What do they mean by the dissolution of corporation sole? Is the corporation sole not going to be there anymore? Is he going to move himself from being corporation sole, the Minister of Finance? So that word inside there leaves a lot of questions to be answered.

Of course, you have to verify information on the register of beneficial owners of corporation sole. Who are the beneficial owners of a corporation sole? Who are the beneficial owners of a Ministry of Finance? What do they mean by beneficial owners of corporation sole? That leaves major, major questions to be answered. And, corporation sole to ascertain info on beneficial owners. So I will sit now if the hon. Attorney General will help us to understand who are the beneficial owners in the corporation sole area? Hon. Attorney General?

Corporation sole to file annual return. So the Minister of Finance has to file annual return. And the register of owners to be made available to the Board of Inland Revenue where required under the tax sharing information agreement. My colleague, Sen. Mark, spoke about the necessity for the protection of the privacy for bank information. What is the corporation sole doing there? To file annual return, and register of owners to be made available to Board of Inland Revenue. Where is that registry of owners? Who are the owners inside there? The corporation sole. So, Mr. President, this leaves a lot of questions to be answered.

I will now move on to the other one now. The Proceeds of Crime Act, Chap. 11:27, is amended in Financial Regulations 12, deleting the definition of “beneficial owner” and substituting a new definition; and deleting the definition of “legal arrangement” and substituting a new definition. And also, to provide an interpretation for the term “natural person” in relation to legal arrangements.

So this is not a difficult Act to have amended, the Proceeds of Crime Act, if they are just looking at deleting of the old definitions of “beneficial owner” and substituting a new one, and deleting the definition of “legal arrangement” and substituting a new definition. But when you go through this Bill, Mr. President, you will find in every one of the Acts and the amendments in the Acts, they are

speaking of new definitions of “beneficial owners” from time to time. So in the one Act, and in one amendment, they have a definition for “beneficial owner” and in the next Act and in the next amendment another definition for “beneficial owner”.

1.40 p.m.

So it is very confusing and I am wanting to say that there should be a fixed definition of what a beneficial owner is and beneficial ownership that will be across all the nine Acts of Parliament that we are looking at and the amendments in these nine Acts.

The clause 7 is—amended the Income Tax Act, and it says:

“...notwithstanding any law to contrary, if taxpayer information is received by the Board from another jurisdiction under a tax information sharing agreements for the exchange of information in relation to taxes the Board shall only disclose such taxpayer information to other agencies and the Board and other agencies shall only use such taxpayer information, as is permitted under the terms of the tax information sharing agreement for the exchange of information in relation to taxes.”

[MR. VICE PRESIDENT *in the Chair*]

So:

“...the Board shall only disclose such taxpayer information to other agencies...”

Mr. Vice President, who are these other agencies that the Board of Inland Revenue will disclose information to? That is under the amendment to the Income Tax Act, clause 7. And my colleague was reminding me that with this new Revenue Authority, where the Minister elects the board, the Minister decides the board, and

the board decides who is the head of the Board of Inland Revenue, that is wrong. It is fundamentally wrong.

So when you amend this Income Tax Act on clause 7, what is going to happen when the Revenue Authority, if and when it comes into being, it would be the Minister being able to get information on anybody's personal financial account—

Sen. Roberts: Correct. Dangerous.

Sen. Dr. T. Gopeesingh:—and it is very, very dangerous.

Sen. Roberts: [*Inaudible*]—with their track record.

Sen. Dr. T. Gopeesingh: So, Mr. Vice President, the Companies Act in clause 8 says:

“...from a day to be appointed share warrants or bearer share warrants shall cease to be valid...”

and:

“...shall for all purposes be cancelled and be of no value.”

Is there going to be an education programme across the country telling businesses and citizens or entities, legal entities and legal arrangements when the Act is coming in to place and what are the requirements for these share warrants, people holding share warrants or bearer warrants? Because they are giving them a time frame to close up shop and to report it.

“A Company shall convert...share warrant... prior to the appointed date.”

When is the appointed date? Is it when the proclamation has taken place or you are giving them a time frame after the proclamation has taken place? So all those who have share warrants—well, of course, we want to know who the beneficial owners are. It is correct to make them determine—say who are the beneficial

owners.

Now, they say the Registrar can approve conversions up to three months after the appointed date. We are unclear of what is the appointed date, what date they are speaking about. Is it the proclamation of the Act—of the Bill? So it is massive confusion in terms of the information that is provided in the amendments. It is very confusing and this is why we have been saying that 72 hours is not enough. Even at 72 hours we can ask these questions for answers and we do not know whether these answers will be forthcoming, but we are prepared to assist the Government in moving forward expeditiously to get us out of the trap that we are in. But these are questions that are to be answered.

1.45 p.m.

And it also says where:

“...share warrant...cancelled...prior to the expiration of eighteen months...apply to the Court for-

(a) the reinstatement of the share warrant...”

So we do not know what date we are looking at. Mr. Vice-President, how much more time do I have?

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

Sen. Dr. T. Gopeesingh: Five more minutes. It also goes on:

“...delete the definition of ‘broker’...replace...with a new definition...”—under—“...the Securities Act, 2012.”

And make provisions for aggrieved decisions of the Registrar. The Registrar General obviously has a hand in determining what to do with the share warrants and share certificates and bearer certificates and so on.

“...if a bearer share, bearer share certificate share warrant or bearer share

warrant is cancelled...the holder...within...”—a four-year period can—“...apply to the court.”

So enough information is not given to people holding share warrants and warrant certificates and so on.

So these are the six Acts that I have barely touched on, Mr. Vice-President. My colleague, Sen. Mark, raised some very serious concerns on the other three Acts and some of these needed special majority consideration. So questions have to be answered and we hope that the answers will be forthcoming from that side.

So there are some questions that remain to be answered. Why six years to keep a registry? Where does that come from? Is the Registrar General’s Department capable of handling this amount of information going and how is that information to going to Registrar General’s Department? Who inspects these registries? For someone to be guilty of not complying with the requirements, who will visit these registries and where are the registries kept? Who will visit the Treasury? Who will visit the Registrar General’s Department? So people could be “landing up” in jail for three years and not getting their due justice. And these 30 days and 14 days that they speak about in the legislation, are they working days? That is important to know but I guess in the legal language, they probably refer to 30 working days, normal days, or 14 days.

I ask, again, who are the owners of this corporation sole—in this corporation sole department? If the corporation sole does not keep a proper registry, who is the Minister of Finance, there is a jail sentence applied to that for three years. If the corporation sole does not keep a registry, he is guilty of being jailed for three years or fined \$10,000. So, is he subjecting himself to that? And then if he delegates authority, who are the other people in the corporation sole area?

And so, Mr. Vice-President, the administrative aspect of all of this is weak. We understand and we see clearly that there will be weak monitoring mechanisms even though we pass the laws here. It will not come to fruition. The professionalism and the competence does not reside here, and this is where we have to lift our capabilities. The training is required and so we want to work with the Government in ensuring that we get out of this list of 16 countries that are wired up inside of there and cannot get out. And this has been going on for the nine years of this administration, when they could have done—this report, administrative report, came out in 2016, where they could have started working in 2016, 2017, 2018, and we would not have found ourselves in this trouble that we find. They are being rushed and this team of people is coming before the end of this year. They gave them up to four months next year to put their house in order. I think we are still in the same position and we are going to be in the same position next year as we are in now.

So, Mr. Vice-President, thank you for allowing me the opportunity.

Hon. Senators: [*Desk thumping*]

Mr. Vice-President: Sen. Sunity Maharaj.

Hon. Senators: [*Desk thumping*]

Sen. Sunity Maharaj: Thank you, Mr. Vice-President. I am all for shredding the veils of secrecy over beneficial ownerships. For far too long we have allowed—the law has allowed, created vast spaces for people to hide ill-gotten gains, unfairly ill-gotten gains from one shell company, inside of another shell company, inside of another shell company where it is impossible to trace. So I am all for that. And, of course, like many people here, I cannot miss the irony of us being put over a barrel by the EU or the OECD countries which, of course, were

the masters of that system, where all these offshore entities where people hid their moneys were in countries like ours, small islands—there are still a few left—and they made themselves through the Swiss banking system, the gold standard for hiding money and assets. So now with the rise of the Global South and the redistribution of power and the globalization of financial assets, of course, people are changing and, you know, here we are today being asked to just sign off these things and get on and be part of this. My only hope is that as much as OECD countries will use it, we will use it as well for money that finds its way outside of our territories and the question is, do we have the infrastructure to do that?

I also cannot miss the irony that the last time we were here, we were being asked or we were debating the widening of the exemptions of services, another set of services outside of the scrutiny of the procurement regulator, which is in the opposite direction to what we are agreeing today. So that being said, I know why we are here. We are over a barrel, as I have said. We have very little choice. We are being told, you are going to stay on that blacklist with consequences and we have to get over that. Nobody is going to deny the Minister the opportunity to take the country out of that but there are things that we have to ask. One of them, very clearly, is what level of stakeholder consultation took place ahead of this Bill being brought to the Senate?

Right now, we know that Barbados, which is in an even worse situation than us, I think they are on two blacklists, they are intensely engaged in stakeholder consultation. So that when it comes to their Parliament, the public will know what we are talking about, what is being spoken about and they will have an investment in that. The same circumstances that the Senators have found themselves in today, having to hustle to try to make sense of this Bill of high finance and various other

things, can you imagine the average persons? I am particularly worried about the non-profit organizations and I would hope that the Minister will shed some light on what has been the experience with the 2019 Non-Profit Organisations Act, in terms of what level of compliance and does he feel certain that given that experience, non-profit organizations can meet the 30-day deadline I think for getting their house in order with passing this information forward. That is a critical sector.

I also imagine that he has the benefit of a whole team of people with all kinds of training and expertise and so on to assist him. I think the non-profit sector, in particular, needs resources. They need some sort of group that they can go to, to get this kind of assistance, otherwise the great risk of this piece of legislation is that we will pass muster with the OECD and it will not be enforced, and it will just join another piece of paper work that is just lying fallow.

The other thing is I hope the Minister would also help us to understand about the enforcement. I see that the Registrar General will deal with companies that fail to file. I imagine it is also to do that with non-profit organizations. Where is the enforcement—and perhaps I missed it—on corporation sole if that register is not kept or the statutory bodies?

The other point I want to make is what this is shaping up to be is a national register of beneficial ownership and what extent of access does the media or the public have to this list. Now, ownership is very different from taxes. I understand the confidentiality. That is a different thing. The media and the public has a right to know who owns what, especially when it comes to politically-exposed persons and we need to consider where we are taking this list and what arrangements are going to be put in place. Indeed I wonder if this information, one's entire trail of ownership should not be in the integrity legislation as well, not simply what you

have 100 per cent in your own name. I am embracing this piece of legislation because it is consistent with a culture of transparency that can only be to the benefit of entire societies. The hiding and the non-accounting simply puts the public at a disadvantage. It is unable to hold people to account. You cannot be talking about a democracy and you cannot hold those who act in your name to account.

And so I think that just saying that we are doing this because, you know, we have to do it, it misses the point that we should be wanting to do this, and we should be wanting to have a powerful procurement Act, and we should be wanting to seed a culture of accountability and transparency, and not just because we need to be compliant to somebody else's agenda.

So I will leave my contribution at that point and say I support this move but there are quite a number of elements there that are worrying. I am particularly concerned about this piece of legislation not having the infrastructure for actual implementation to the point of enforcement. Thank you.

Hon. Senators: [*Desk thumping*]

Mr. Vice-President: Attorney General.

Hon. Senators: [*Desk thumping*]

The Attorney General and Minister of Legal Affairs (Sen. The Hon. Reginald Armour SC): Thank you very much, Mr. Vice-President, for the opportunity to contribute to this debate today on this important suite of legislative amendments that the Bill before us asked this House to introduce and to pass. Before I get into the few remarks that I wish to make on the substance of the debate, permit me to address the remarks of my colleagues who have preceded me.

First of all, and I regret that he is not here because I do not like to say things

critical of persons in their absence, but Sen. Mark's contribution amounted to arrant nonsense.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC: Sen. Mark spent a third of his time referring to a Bill that is not before this House and then he premised all of it on the basis that clause 12 of the Bill—clause 9, he said, first of all—eventually he was taken to clause 12—deals with a particular piece of legislation and he suggested that that legislation that is being amended is to infringe persons' rights to privacy. It is truly regrettable that the citizenry of this country have to be subjected to the kinds of contributions that Sen. Mark continues to make his trademark.

2:00 p.m.

It is truly regrettable. The clause to which Sen. Mark was referring, in the substantive legislation which is law, is section 11(1) of the Tax Information Agreements Act No. 5 of 2020. And section 11(1) says:

“11. (1) Where the Board provides information to a competent authority of another State under any declared agreement, the Board shall, within one year of such provision, notify the persons in respect of whom the information relates that personal information relating to that person which is required to be reported under this Act and under a declared agreement has been forwarded to the competent authority of that State.”

And subsection 2:

“(2) A Notification under subsection (1) shall be in the form prescribed by the Minister by Order.”

That is the law. Sen. Mark was allowing himself to suggest that the amendment is seeking to do this. That is already the law since 2020, and the amendment that is

being proposed is simply to follow that, and to put circumstances on hold in an appropriate situation. It distresses me. It distresses me. So, let me say immediately in response to Sen. Mark and Sen. Gopeesingh who I am saddened to see associated himself with Sen. Mark's comments, this Bill requires no special majority.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC: This Bill infringes no rights of any citizen of this country. This Bill seeks to introduce a number of amendments to different pieces of legislation which in the scheme of the transparency—and I am grateful for her emphasis on it, which Sen. Maharaj addressed—in the scheme of the transparency which the Bill is seeking to introduce, is proportionate and has the legitimate aim of transparency. And those are the measures by which in the law that exists today, constitutionality or unconstitutionality is measured. If the law is proportionate and has a legitimate aim, it does not require a special majority.

And the Suraj case is the latest authority that makes that very clear and happily has endorsed the fact that a government such as this Government, which I am proud to belong to, which has the mandate of the population to govern, can come to this Senate and pass legislation with a simple majority in the interest of transparency. A legitimate aim.

Hon. Senator: [*Desk thumping*]

Sen. The Hon. R. Armour SC: Let us get “real” in these debates that we are allowing ourselves to engage in.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC: I pass to Sen. Gopeesingh, he spoke of bearer shares, and he says who is the beneficial owner of the bearer shares? I beg your

pardon, Mr. Vice-President, bearer shares require no beneficial ownership. As the Minister of Finance said, it is like a piece of currency. When I hand it to you, you are the bearer of that share and you are therefore the owner. And you earn dividends simply by presenting it to the company that has issued it, by possession of the piece of paper. Let us get “real”. Bearer shares, dividends are paid against the presentation of the paper, and the identity of the beneficial owner, whoever is holding it, does not have to be known because you simply present it. You send your messenger with it to the company to get the dividend.

So, Mr. Vice-President, let us talk about beneficial ownership and I adopt the language of my colleague Sen. West, Member Government, Minister of Public Administration. The concept that translates across all of the legislation that we are seeking to amend today, is a simple concept. It is simply about the availability of the identity of the persons who are concealing themselves behind clothes or other disguises of ownership. The natural person, that is what beneficial ownership is about. The natural person behind a legal entity or arrangement which is now the key requirement that international tax transparency, and the fight against tax evasion is concerned with. Tax evasion, financial crimes—

Sen. Dr. Gopeesingh: *[Interruption]*

Sen. The Hon. R. Armour SC: Yes you may.

Sen. Dr. Gopeesingh: Thank you, hon. Attorney General. The issue of “beneficial ownership definition is being changed in almost every one of the Acts. You will see that there is a change of definition of beneficial ownership. We understand what the real definition is, but why are they seeking to change the definition of beneficial ownership in almost every one of the amendments that we have in these Acts?

Sen. The Hon. R. Armour SC: Through you, Mr. Vice-President, thank you, Sen. Gopeesingh, why is that the case? It is because we are dealing with different fact scenarios from case to case. And essentially, the definition of beneficial ownership will have to be adopted and adapted to the particular set of facts that is going to be governed among trustees, among non-profit ownership organizations, among corporations within the Companies Act, within the tax evasion legislation. So you have to tailor the legislation to get at the identity of the natural person behind the disguise.

So, you cannot have one definition because you are dealing with different factual scenarios. You are talking about the transparency of ownership in fighting financial crimes, in fighting corruption and money laundering, in fighting terrorist financing. You cannot have one definition for terrorist financing and the same definition for a company that is owned by X number of shareholders. You have to tailor the legislation to fit the particular facts that you are dealing with. And that is why, going back to Minister of Public Administration, my colleague Sen. West made the point, it is a simple concept, you are identifying the legal natural person behind the facade of different disguises of ownership. That is what beneficial ownership is about.

So, Mr. Vice-President, the ultimate controller is what this legislation is seeking to do. So in the case of the corporation sole, yes you have to identify who is the ultimate controller as the corporation sole. As the Minister of Finance said in answer to Sen. Richards, in the case of a municipal corporation, it would be the council. You have to look to the controlling entity, and what this legislation is seeking to do, Mr. Vice-President, is to give the law in different scenarios, the flexibility to be able to hold all of the different controlling entities accountable. It

is as simple as that. So if I may just spend a little time, Mr. Vice-President, on the Bill before us.

It seeks to amend a number of different pieces of the legislation which includes the Trustees Ordinance, the Exchequer and Audit Act, the Minister of Finance (Incorporation) Act, the Proceeds of Crime Act, the Income Tax Act, the Companies Act, the Partnerships Act, the Securities Act, the Tax Information Exchange Agreements Act, the Non-Profit Organisations Act, the Mutual Administrative Assistance in Tax Matters Act. Let me pause there for a moment, the Companies Act, one of the things of the amendment, and the paper is being laid on the table today—even though we are not debating that aspect of it—one of the things that the amendment to the Companies Act is going to seek to do, is to provide for not only the definition and enhanced definition of beneficial ownership, but it is providing for what is known as CROS, the Computer Registration Online System, which is going to allow when that amendment is debated in due course, and it is one of the Bills that has to be read with this legislation, it is going to allow everybody who has access to a computer to go online and get access to all of the information in the companies registry in order to be able to register their companies; in order to be able to see who are the beneficial owners under these amendments that we are putting in now; in order to be able to change ownership and change shares; all of that is going to be capable of being done by a Computer Registration Online System which addresses the point.

2.10 p.m.

And I want to correct Sen. Dr. Gopeesingh. The Registrar General's Department, which is responsible for the oversight and management of the Companies Registry, is not swamped. They are adequately, if not fully deployed,

in terms of personnel. And when I was last in the Senate, during the course of the budget debate, I made the point that coming out of the Stanley John report, there are a number of changes that are being made in the Civil Law Department, which includes the Registrar General's Department, and offices are being filled as we speak. There is ongoing exercise right now that is taking place in the Registrar General's Department, in the Civil Law Department of the Chief State Solicitor and the Solicitor General's Department for a comprehensive restructuring and reform. We have begun those discussions. So the Registrar General's Department is not swamped. And in any event, the system is going to be largely online. So it is not a question of asking: Where is the registry? Who is in the registry? What part of Port of Spain is the registry? It is all online. It is out there.

Mr. Vice-President, as a sovereign nation, Trinidad and Tobago has to accept, and we regret, yes, the playing field is not level and we would wish that we could ignore the requirements of the OECD and the other Global Forum and Financial Action Task Force requirements that put the pressure on us but the reality is we belong to an international community with whom we trade, with whom we bank. And in order to be part of that, we have to stand strong and we have to make the legislative amendments to our laws so that we can participate on an ongoing basis with the best of them, and we are doing a pretty good job of it, Mr. Vice-President, if I may say so with respect.

The Global Forum organization concept is a multilateral response to tackle offshore tax evasion, among other things, bringing together 168 jurisdictions, including Trinidad and Tobago, dedicated to improving transparency and the exchange of information for tax purposes. We might wish—and it is a point that, again, I refer to Sen. Maharaj, and she did not put it in these terms, but we might

wish that we had the benefits of the State of Delaware, which allows for a significant tax evasion to large corporations that are not being subjected to what we are being subjected to. But the reality is that we have to work within an international system which we belong to. We have to work with our international banking arrangements. We have to trade on a day-to-day basis with other countries, with other institutions. And in order to be part of those international arrangements, we accept that we must continue to adhere to the requirements that are being made of us by the Global Forum and indeed the Caribbean Financial Action Task Force machinery, which we also belong to, and we continue to do a very good job of leading the charge to ensure that we are compliant.

And let me disabuse Sen. Dr. Gopeesingh. We have done, this Government, more work in the period that we have been in office to make ourselves largely compliant than was done before we took office.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC: Because Global Forum originated in 2000. It was restructured in September 2020, but it began in 2000, and it is when this Government took office that we began to put things in place that now has us, admittedly not compliant, not fully compliant, but in the last report that came out of Global Forum in October 17, 2023, it says, among other things:

“Trinidad and Tobago...does not have a rating of at least ‘Largely Compliant’ by the Global Forum...”

It says:

“Trinidad and Tobago has committed to addressing the Global Forum recommendations with regard to automatic exchange of information

(criterion 1.1) in due time, so as to achieve determinations of at least ‘In place, but needs improvement’ ...”

So the Global Forum regime recognizes the work that we are doing as a responsible Government.

And we are here today to appeal to our fellow parliamentarians, not in a partisan way to seek to embarrass each other, but to take our nation forward and to ask everyone to join with us to take us forward as we continue to trade, to engage and to find our way forward for the generations to come to benefit from the achievements that we are making on a day-to-day basis in improving the economy of this country for every citizen.

Mr. Vice-President, I can assure this honourable House that this Government is taking every possible step to secure Trinidad and Tobago’s best position as a sovereign nation, and we are addressing our deficiencies as they are revealed to us, as we reveal them to ourselves because Global Forum is a peer review enterprise that has everybody assisting everybody else to keep themselves under scrutiny. And the peer review system of Global Forum also provides for capacity training and capacity building. So persons from within the Ministry of Finance, persons from within the Office of the Attorney General and Ministry of Legal Affairs are constantly going off on training programmes so that we can work with our international partners in order to make ourselves more and more compliant.

In short, Mr. Vice-President, this legislation will address the remaining legislative gaps and they identified 23 recommendations, while simultaneously addressing deficiencies observed by Global Forum on Transparency and Exchange of Information for Tax Purposes. The Government continues to work closely with Global Forum, Mr. Vice-President, to improve Trinidad and Tobago’s current

non-compliant rating and to ensure that Trinidad and Tobago becomes fully compliant with Global Forum recommendations. As the world becomes increasingly globalized and increased cross-border activities—and that is important. We are not anymore an island in the Caribbean Sea. We are engaging all the while in cross-border transactions and as we deal with that, the tax administration needs to work together to ensure that taxpayers pay the right amount of money and are held accountable in a transparent situation. And I appeal to our fellow members of this august Chamber to support this Government in passing this legislation today so that we continue the work for our citizens and the generations of Trinidadians and Tobagonians to follow. Mr. Vice-President, thank you very much.

Hon. Senators: [*Desk thumping*]

Mr. Vice-President: Sen. Vieira. Excuse me, sorry, Sen. Lyder.

Sen. Damian Lyder: Thank you, Mr. Vice-President. Mr. Vice-President, I thank you for—we might be both Portuguese so that is probably why he got confused. But I thank you, Mr. Vice-President, for actually giving me the opportunity now to stand and contribute to this very important debate. And though coming very low on the batting line-up and hearing lots of noise coming from the other side, Mr. Vice-President, there is a lot that has been said already. A lot has been said by the Opposition, a lot said by the Government and Independent Bench. So therefore, I would not want to be repetitive, except to say that there is one common trend coming out of both the Opposition as well as the Independent Bench. It is the concern as to the length of time we were given to really scrutinize this piece—this very important and lengthy piece of legislation.

It is important to note that we were summoned here at really short notice, Mr.

Vice-President. In fact, a Motion had to be moved to correct a Standing Order that was breached because of the timing of the laying of this paper. So that is to tell you the length of time we had to deal with looking into this Bill. And then we come here to see this rather inconsistent and oddly-flavoured pelau of legislation that really is once again indicative of a Government that continues to pass legislation in a knee-jerk reaction way and a sort of a halfway manner, Mr. Vice-President. So we see this hydra of a Bill seeks to bring significant amendments to numerous laws engaging several portions of financial legislation regarding beneficial ownership transparency, and subsequently the part that I would look at which would be partnerships and non-profit organizations.

But let me from the onset make it very clear so that this Government stops hoodwinking the population into thinking that this Opposition does not support important pieces of legislation. I want to clarify that the United National Congress fully supports any legislation that will bring about greater transparency and accountability. In the case of this Bill today, we will support any legislation that will combat against corruption, that will combat against money laundering, tax evasion, financing of terrorism. Of course, we would. But at the same time, Mr. Vice-President, this legislation must be properly balanced to ensure that we protect the rights of citizens, the freedoms that have been enshrined in our Constitution, in the Constitution of Trinidad and Tobago.

Citizens have the rights of privacy, Mr. Vice-President, especially if their personal information—

Hon. Senator: *[Interruption]*

Sen. D. Lyder: No, it is okay. It is okay because, Mr. Vice-President, they want us to just listen to them and believe what they say. They want us to do that. You

cannot come here, bring nine pieces of legislation, where we do not have the time to study it properly and stand up, but we must take the hon. Attorney General's word for it. No, Mr. Vice-President, we must scrutinize it. And if there are things we do not understand, we appreciate if they clarify it for us, if they can.

But, Mr. Vice-President, as it pertains to today's Bill, it needs to be said that there are several valid and deep-rooted concerns with the Government's approach here today, and it was discussed by Sen. Dr. Gopeesingh and Sen. Mark. So just imagine, Mr. Vice-President—and I must reiterate it because I feel personal about it when you take about 38 pages of proposed amendments to nine bits of legislation, all lengthy pieces of legislation, and we do not have the ability to look at this, a number of wide-sweeping changes, multiple additional sections, several incredibly potent proposed clauses—yes, very potent. Some of you on the other side may not be potent but although creating this monstrosity, Mr. Vice-President, in this Bill that could possibly impact the lives and freedoms of citizens. And we will get an opportunity to review this Bill in more depth after, Mr. Vice-President. We will.

Mr. Vice-President, it is not me alone. I have stood up here and listened to several Independent Senators raise the same concerns that we have. It is not the United National Congress alone here. But you see, Mr. Vice-President, this PNM Government, that is governance for you, especially when it comes to matters of finance and economy. I am getting accustomed to that now. This Government has seemingly abdicated its role in maintaining an efficient and fair financial climate. So we have gotten accustomed to that. That is why we have the mistrust here today, Mr. Vice-President.

Under this PNM Government, Trinidad and Tobago has become accustomed to

falling into blacklists, warnings from the international entities. We listened to the Minister of Finance admit that today. For several years, the administration has failed to deliver proper and timely legislation to ensure that our country's economy, our business opportunities and our reputation remain in good health.

Sen. D. Lyder: Mr. Vice-President—

Hon. Senator: *[Interruption]*

Sen. D. Lyder: Yes, I wrote it. I wrote it. But you gave me a little bit of time, so I have to write it and read it. The hon. Attorney General stands here and says to us that the PNM is not changing anything serious. We just want to be compliant with international standards. At what cost, Mr. Vice-President, when we delve into this Bill properly?

Let us not forget that it was in 2017 that the Organization of Economic Co-operation and Development reported that only one country failed to comply with international transparency standards. And do you know what that country was, Mr. Vice-President? You would not believe it. Trinidad and Tobago under this PNM Government.

2.25 p.m.

Mr. Vice-President, it was not until 2020 that the Caribbean Financial Action Task Force saw it fit to remove us from this grey list. And in 2021, it was the International Monetary Fund that pleaded with us in the Article IV Consultation Report:

...to implement fully measures for a clear and transparent medium term fiscal framework strengthening anti money-laundering and combating and financing of terrorism framework, and effectively report economic statistics.

So, these measures were highlighted all the way back by the IMF in 2018, but we are here in 2023 going into 2024 now, racing to the end of December to pass this Bill. Mr. Vice-President, the PNM's initial handling of regulation has made us an international embarrassment and has set us back. It has set us back rather than take us forward. The Attorney General said they have done more to make us more compliant than anyone else, yet we hear that by December if we are not compliant we could go back on another blacklist.

So, they talk about progress, but what they are doing is going backwards, Mr. Vice-President, and then running trying to catch up, while not giving anyone of us on this side the opportunity to understand what is within this Bill, and how it can impact us. So, how does the Government seek to address this? They come here with a rushed Bill with multiple legislative changes glued together in the hope to push this thing quickly in the Upper House, and this could not be good governance. This cannot be effective policy making by any standards. And, so therefore, for me it is as though the PNM continues to make the same mistake, they have not learnt after eight years of poor legislation, of poor framing of legislation, they have not learnt.

Mr. Vice-President, portions of the legislation, as indicated by the hon. Minister of Finance, was proclaimed in 2019, which allowed for the development of the Beneficial Ownership Registry, but it must be noted that the Registry named the Trinidad and Tobago Extractive Industry Transparency Initiative, which only serves the energy sector, Mr. Vice-President, eight years later, this is the only registry that is live today, and the Minister of Finance could correct me if I am wrong. No, well, you can correct me if I am wrong, but this is the only one we see on record that is live today. Maybe there is one I am missing, but we are here

today discussing a whole slew of different industries that this Government has neglected in activating the Registry.

Mr. Vice-President, so the question must be asked: Why did the Government take so long to bring proper legislation on beneficial ownership? And why is legislation being brought to the Senate in such a hastily manner? But again, Mr. Vice-President, we heard the Minister actually admit it today, it is very strange we would hear him admit that they have put themselves in a spot of bother, but he has admitted it today. We have to pass this today otherwise we are in trouble.

You see, Mr. Vice-President, what I would have recommended, had we had time, would be for the Government to allow this to go to a joint select committee so that all persons, the Government, the Opposition, the Independents, could raise all their concerns about the issues in this Bill. But we do not have that, we do not have that luxury today. And, Mr. Vice-President, another question I have, I am not clear on it. Maybe again the hon. Minister of Finance would clear this up for me. But, with the Board of Inland Revenue fundamental on their functionality of the Beneficial Ownership Transparency framework, and the Trinidad and Tobago Revenue Authority coming on stream—I see they won their case—but coming on stream, is the Government, I do not know, will they have to bring further amendments to the Bill? So, Mr. Vice-President, I am seeking clarity only. But I see no reason behind this timing other than, as I said, there is a pending grey list or black list coming, there are pending sanctions coming, as I heard the Minister speak about possibility of sanctions. But just as Sen. Gopeesingh and Sen. Mark indicated earlier, and again I am not just accepting the Attorney General's word for it, but as both of them indicated earlier, we are discussing critical pieces of legislation of which Sen. Mark indicated four of those were passed by special

majority, four of them.

I am going to repeat it. They can say what they want I will say what I have to say. And we have been asked here to pass amendments to these four pieces of legislation by simple majority.

2.30 p.m.

Mr. Vice-President, again, a joint select committee would have helped us to avoid all of these problems at a much earlier time this year where we could have come here today and had an easy debate on this legislation, but we come here today to pass this Bill, and I ask myself, how can I, how can I, in my conscience, vote in favour of something when I have not been able to see or study the entirety of this Bill?

Remember I started off by saying that we are for good legislation that will bring us up to international standards, but we should have been given more time to study this. How can I, in my good conscience, vote on something that could potentially impact and infringe on the rights of privacy, can have persons charged and jailed? How could any of us on either side, in good conscience, do that?

You see, Mr. Vice-President one common trend I got from the Independent Bench on this side is that, again, we have not had the opportunity to study this Bill. So I put it through you to the Government, Mr. Vice-President, who on the Government side besides the hon. Attorney General and the hon. Minister of Finance, maybe we will have a debate that goes into two in the morning. Who on the other side has actually read this in its entirety and can debate this here? “Ah” hope somebody follows me and it is not a windup after this Mr. Vice-President. But they will all vote yes, blindly. So it is clear that the Government’s back is against the wall and they will have to pass this Bill by hook or by crook. However, in this moment I

just have a few words, because I am not going to be very long, Mr. Vice-President, I just have a few words to focus on a few key concerns that I have. You see, Mr. Vice-President, the Caribbean Action Task Force's Anti-money Laundering and Counter Terrorist Financing Measures Mutual Evaluation Report of 2016 that I heard my colleague Sen. Gopeesingh speak about, highlighted several shortfalls in Trinidad and Tobago's Beneficial Ownership Transparency Framework. And it states in section 25, it says and I quote, Trinidad and Tobago has:

“No express legal requirement for the keeping of beneficial ownership and control information within the Companies' Registry.”

And there is:

“No specific mechanism to ensure that beneficial ownership and control information is adequate, accurate and updated on a timely basis.”

So that is there in the report and that is why we are here today. Furthermore, the Financial Action Task Force's guide on transparency and beneficial ownership of 2014 states, and I quote:

Fundamental to beneficial ownership transparency is the use of public nationwide registries to ensure that corporate entities do not utilize the cover of anonymity to conduct illicit financial practices.

So you see Mr. Vice-President, the concept of beneficial ownership in legislation and the implementation of proper beneficial ownership registry is key in the process of combating illicit activities and schemes, but these were recommendations that were put to this Government way back in 2016. And if you read the report you will see that many of the nine that we are discussing here today are there in those recommendations.

Dr. Gopeesingh: Non-profit organizations.

Miscellaneous Provisions
 (Trustees, Exchequer and Audit) Bill, 2023
 Sen. Lyder (cont'd)

Sen. D. Lyder: Non-profit organizations, are there in those recommendations.

Sen. Mitchell: Mr. Vice-President, 46(1) please and by way of expounding, perhaps they do not know, Act No.7 of 2019—

Sen. D. Lyder: What is the Standing Order?

Sen. Mitchell: —the Non-profit Organization Act has been passed. The Companies Act—

Sen. D. Lyder: What is the Standing Order?

Sen. Mitchell:—has been amended several times, 46(1) please.

Sen. D. Lyder: Mr. Vice-President, how is he debating? I do not understand, what is the Standing Order, 46—what? Mr. Vice-President—

Sen. Nakhid: Standing Order and stop.

Mr. Vice-President: Have a seat, please. Have a seat please, Sen. Lyder, have a seat. Sen. Lyder, continue.

Sen. D. Lyder: Thank you, Mr. Vice-President—

Sen. Roberts: Thank you.

Sen. D. Lyder:—thank you for your protection, Mr. Vice-President. You see, Mr.—we need the protection, especially from someone who should know the Standing Orders like a book printed in his memory, printed.

Hon. Senators: [*Desk thumping*]

Sen. D. Lyder: So in the implementation of registries it is important to note that the international standards per the—

Sen. Mitchell: That is a whole Act.

Sen. Lyder: FATF is the creation of multiple specialized registries, Mr. Vice-President covering multiple if not all sectors of business within a state, and I am telling you why I am mentioning this now because I am going to use some

international examples. The Government likes to use international examples when they are trying to defend their poor performance against others, well we will show where this Government has performed poorly and we will compare them to other international jurisdictions.

Hon. Senators: [*Desk thumping*]

Sen. D. Lyder: See, Mr. Vice-President these registries maintain that the proper legislative foundations of the entities of partnerships and non-profit organizations, however, from the 2016 recommendations as I was stating, and in 2019 when the legislation was passed up until now, as I stated earlier there was only one functioning registry. And again, we will see if there is one, the TTEITI, right? And the Government “mu’be want tuh” hold this as an achievement but let us put it into context here today, Mr. Vice-President.

The hon. Minister—sorry, the hon Sen Gopee-Scoon, Sen. Gopeesingh, sorry—“oooh good” that combination, a relation? We spoke, the hon. Sen. Gopeesingh spoke, about the amount of work done by the People’s Partnership Government and then of course we lost government at that point in time and what did we see? We saw a PNM Government come in and collapse the agenda—

Hon. Senators: [*Desk thumping*]

Sen. D. Lyder:—because, Mr. Vice-President, when you look at 2016 when the Recommendations came out, 2016 is an important year. Let me tell you all how important 2016 was.

In the United Kingdom, they have 11 live registers all of which are available online covering every sector in the UK’s economy and the earliest registers are dated back to the first quarter of 2016. It does not stop there you know, Mr. Vice-President, South Africa under the ANC Government has had registers up since 2016

accommodating public assets, all sectors of the economy, as well as non-profit organizations, unique registry. New Zealand has laid the foundation for two registries. Canada has implemented four registries all of which are public to cover all the sectors of the economy. In 2022, they published a register structured for partnerships targeting LLCs.

Mr. Vice-President, you know, the hon. Minister of Finance loves when he cannot compare to the international, the big boys, he likes to compare, sorry, the hon. Minister likes to compare to our neighbours and our CARICOM neighbours to say how we are performing better than them. But Jamaica, they were able to launch and maintain a COVID-19 registry from 2020 with public accessibility.

Mr. Vice-President, I do not mean to be facetious you know, but imagine Afghanistan has registers still operational, five in total, including energy and other sectors up since when, 2016. So Mr. Vice-President, even the Taliban is more compliant than the Government of Trinidad and Tobago. Can you imagine that, Mr. Vice-President? Even the Taliban.

Sen. Nakhid: “The PNM is an economic Taliban.”

Sen. D. Lyder: [*Laughter*] I do not mean to be facetious, this is serious business, Mr. Vice-President. We are far behind and it is time we accept that, but how do we accept coming here and rushing this legislation and throwing it down our throats today? That is the problem we have.

Trinidad and Tobago lags behind. There are dozens of countries with multiple public accessible consistently upgrading their systems, their registries, the service, improving and increasing on transparency, accountability beyond just extractive industries as we are doing now in Trinidad and Tobago.

So therefore, that is why I say that this Government has come once again with a

knee-jerk reaction because their backs are against the wall.

Sen. Nakhid: “Dais it right there. Dais it.”

Sen. D. Lyder: Because the international committee has said, “No more, if yuh don’t comply sanctions for you.” So “yuh doh only have tuh worry about what happening down south in Venezuela yuh have to worry about not complying” and getting sanctions placed against you.

Mr. Vice-President, and I thought I had to be the one to expose this to this Senate but the hon. Minister of Finance did it all for me today, because he admitted on *Hansard* that we stand as one of 16 countries that are blacklisted by the European Union today. And I agree, we do not have to be bullied, we are a sovereign nation, we must protect that but something is wrong when you are only one of 16 blacklisted. Something has to be wrong with you. At what point do you look in the mirror and say, “I have a problem?”

Mr. Vice-President, and while we are blacklisted, the likes of Grenada, Barbados, our regional brothers and sisters have come off the blacklist because they have done the work. Mr. Vice-President the most notable criteria for this blacklist is a lack of legislative environment for combating tax evasion and profit shifting both of which run significant risks to us if we do not bring proper legislation to the table. Therefore, the Government is continuing in the veil of being reactive, slow, some may say lazy—

Sen. Nakhid: Lethargic.

Sen. D. Lyder: —lazy when it comes to legislative agenda, we have seen that recently. Oh, how we miss the honourable—

Sen. Nakhid: No.

Sen. D. Lyder: We do not?

Sen. Nakhid: No, no.

Sen. D. Lyder: But at least he used to bring plenty more legislation to the table. We seem to be a slumber in this Senate, Mr. Vice-President.

Sen. Nakhid: No, No.

Sen. Roberts: “Leave he where he is at”.

Sen. Lyder: But Mr. Vice-President, I just want to touch a few small points that you know, just a few points that I noticed when I looked at a couple of areas in this Bill, Mr. Vice-President. When we look at the proposed legislation itself, so there are some questions I have regarding when we look at the proposed amendments to the Partnership Act. Again, we must not—we were not given enough time to look through it but I picked up on this little thing, I asked about the justification on fines for example, proposed fines. So when we look specifically at 20(b)(7) which states and I quote:

A partnership that fails to ensure that the information is maintained in respect of beneficial owners of the partnership is current and correct commits an offence and is liable on summary conviction to a fine of TT \$10,000 and to imprisonment of three years and for every day in which the offence continues a further fine of \$300.

Now Mr. Vice-President, whereas there is a fine here, you tell me how impactful is that to any company that is dealing with millions of dollars in tax evasion or millions of dollars in money laundering? That \$10,000 will just become a cost of doing business.

Sen. Nakhid: Peanuts.

Sen. D. Lyder: So if we are really serious about dealing with implementing fines

on those who are not compliant, then I think all we need to do is look a little further to our international community again to see what the fines are over there. Mr. Vice-President, when you look at other jurisdictions one would find throughout the Commonwealth and beyond, many States will utilize a more stringent level of fines for non-declaration of proper beneficial ownership information. In the United Kingdom, for example, the fines start at £2,500, starts at it, per offence and of course, as you continue on, Mr. Vice-President, and that is per day, every day after that, that the offence continues, £2,500. We see in other jurisdictions the equivalent of US \$500 per day on the ongoing offence added to a fine of US \$10,000.

Mr. Vice-President, when it comes to TT \$10,000, as I said that is barely a fine. Again, in a joint select committee, there may be these recommendations we would have been able to give in terms of fines. If we are serious about stopping money laundering, weapons of mass destruction, funding terrorism.

Mr. Vice-President, you have to wonder, is it yet an indicator of this Government's lukewarm response to the international financial mandates? I do not know; I am just asking.

2.45 p.m.

So, if the Government is really serious on cracking down on the possibility of money laundering, they may want to consider some more robust penalties in this regard. And then I see they have some concerns about the proposed legislative amendments to the Non-Profit Organisations Act. Well, with very loose, light fines compared to international standards and now with the NPOs we see a very stringent classification now, compared to international standards. So firstly, the

proposed amendment to section 3(1) defining a beneficial owner which reads and I quote:

““beneficial owner” means in respect of a Non-Profit Organisation subject to this Act-

...the natural person who owns or controls ten per cent or more of the membership interest of a Non-Profit Organisation through

- (i) direct ownership;
- (ii) indirect ownership; or
- (iii) control through other means;”

So what I see as stringent is this selection of a 10 per cent threshold, when we look at other jurisdictions such as United States of America, Australia, where the threshold is 25 per cent. So I must ask the question that this strict choice of 10 per cent and ask if the Government’s attempt to be serious about the framework, is that it there? What is going on here, Mr. Vice-President? What it seems to me, is just like a wish-wash, a mishmash of fines, amendments, just so that they can race to the finish line at the end of December to become compliant, and it is not properly thought through.

Mr. Vice-President, I have concerns also about the proposed legislation for NPOs as a whole, although non-profit organizations do serve as hotbeds and I do admit they can be hotbeds for profit shifting and tax evasion, in many jurisdictions and yes, possibly in Trinidad and Tobago as well, many countries have opted to sort of exempt this class of organization from mandates for registry and I will tell you why. You see, the reality is that currently, there is too much fluidity within the operations of NPOs as allowed within many of the jurisdictions to be able to regulate it to an effective extent without hampering the possible growth of the

NPOs. For example, although the proposed legislation tries its best to cover all bases for a certain beneficial ownership in an NPO, it still does not have the capacity to contend with many NPO structures especially what we see here in Trinidad and Tobago, Mr. Vice-President. Where I would say to you it is almost near impossible to confirm any one natural person as a sufficient owner, or interest, and/or enjoys the benefits of ownership.

Furthermore, the proposed amendment on 21(A)(5) of the Non-Profit Organisations Act states and I quote:

“A Non-Profit Organisation shall not remove beneficial ownership information from its register, for a period of six years...”

I think Sen. Gopeesingh spoke about that.

“...a person ceases to be a beneficial owner; or
 (b) the dissolution of the Non-Profit Organisation”

The dissolving of a non-profit organization. This does not give the consideration to the shifting membership, directorship, and therefore the beneficial ownership.

Mr. Vice-President, I belong, right here in Trinidad and Tobago to a non-profit organization made up of probably about 100 or more members, I think, Sen. Gopeesingh may also be a member, some of you all on this side may be members of NPOs. I do not know. And how do you now identifying a beneficial owner when you have 100 persons, none of which has any ownership or holds 10 per cent holding or anything in this organization so, maybe we will get some clarity there, as to how you intend to deal with beneficial ownership there.

So, in some jurisdictions where the problems are the same, we see an attempt to mandate registration based on service, projects, or types of assets dealt with by the NPO. For example, Mr. Vice-President, when we look at Brazil, it

targets organizations that conduct any form of business via seaports. Germany, both foreign and domestic entities must register once they are on land within the State. So in the same vein, we must consider our options on innovating, in regulating while we still continue to develop beneficial ownership and the transparency that comes from it.

I understand what the Minister says that the goalpost changes, and it continues to change and we have to change with it. But you cannot come and tell me that we have had seven years since the recommendations of 2016, we have had going on to nine years under this Government, and we have only one registry going and we are scampering—

Sen. Gopeesingh: Supposed to do everything.

Sen. D. Lyder:—to December—

Sen. Gopeesingh: One month.

Sen. D. Lyder:—to become compliant with only six months after that to ensure we make any further amendments. See, this is a problem we have, Mr. Vice-President.

Sen. Gopeesingh: Incompetent.

Sen. D. Lyder: I have just taken my time so as not to be repetitive to go and compare us to other jurisdictions. And all I can say at the end of the day, Mr. Vice-President, is no wonder why we are one of 16 blacklisted by the European Union. There is no wonder why our CARICOM neighbours are ahead of us. There is no wonder why all of us could stand up here today and though—and I will tell you this, Mr. Vice-President, and though, I do not know how the Independent Bench will vote, I cannot say how they will, but it is almost as though the Government has left us with no choice. What are the consequences if we are

blacklisted further or receive sanctions? What are the economic consequences? What are the consequences to the business community in this country to our ability to travel? Open bank accounts outside, send money for our family in schools. What are the implications? I could go on and on.

Sen. Nakhid: “We dotish.”

Sen. D. Lyder: But really and truly the Government has really left us with no option here today—

Hon. Senators: [*Desk thumping*]

Sen. D. Lyder:—no option here today, Mr. Vice-President.

Sen. Gopeesingh: Incompetent government.

Sen. Nakhid: “If we cah get US, we dotish. Somebody say dat.”

Sen. D. Lyder: So Mr. Vice-President, I would simply say that this haphazard Bill has been delivered to the Senate in a shameful manner. That is how I put it.

Hon. Senator: What!

Sen. D. Lyder: In a really shameful manner. No it is shameful. It is not only shameful, but it is disrespectful.

Sen. Nakhid: “Yeah, dais ah good word, dais a good word.”

Hon. Senators: [*Desk thumping*]

Sen. D. Lyder: It is disrespectful to your colleagues—

Sen. Nakhid: “Dais the word there.”

Sen. D. Lyder:—you do not have to like the Opposition but at least treat your Independent Senators fairly. Give them the opportunity to have a say in this. I think Sen. Richards indicated that he was not an expert in this area. I think I heard something like that. So, he might need a little more time so do I, I am not a lawyer. I am not a brilliant lawyer, like the hon. Minister of Tourism—

Miscellaneous Provisions
 (Trustees, Exchequer and Audit) Bill, 2023
 Sen. Lyder (cont'd)

Sen. Roberts: Stop telling fibs.

Sen. D. Lyder:—an amazing—

Sen. Roberts: Tell the truth in the Senate.

Sen. D. Lyder:—an amazing lawyer—*[Laughter]*

Sen. Roberts: You cannot tell fibs in the Senate.

Sen. Nakhid: “Is jokes day or what?”

Sen. D. Lyder:—you know.

Sen. Nakhid: “Is jokes day today?”

Sen. Roberts: But “it have” to be a joke.

Sen. D. Lyder: So I too wanted a little more time. Right. I do not just want to take the Attorney General’s word for it, the hon. Attorney General’s word for it, that everything is A-okay.

Sen. Roberts: “Yuh go take ah affidavit.”

Sen. D. Lyder: Lord, Father, “I eh going down there”. *[Laughter]* So, the Bill in my opinion, Mr. Vice-President, has many gaps, inconsistent measures, a lack of consideration of the private sector, tone-deafness, and does not meet the prior international standards. Clearly does not, because we see so many differences. So for me, Mr. President, as I wind up I asked myself, how can I, on behalf of the 309,000 citizens that put us here, and to the many thousands more who will put us into the Government by 2025—

Hon. Senators: *[Desk thumping]*

Sen. D. Lyder:—how can I with good conscience stand up here, despite understanding the importance of this legislation, despite understanding the seriousness and the serious consequences that could befall not just the Government but the citizens of Trinidad Tobago. But how can I really do justice and vote for

this, unless of course, this Government is prepared to take a slew of legislations that my honourable colleague Sen. Mark has indicated will—sorry, amendments, that my honourable colleague Sen. Mark has indicated are coming, and maybe then we can support it in its entirety.

So, Mr. Vice-President, as I close, let me repeat that we in the UNC believe in fighting anti-money laundering and combating financial terrorism. But not at the cost of the constitutionality enshrined and the rights enshrined in our Constitution. Rights, that every citizen in this country deserve, as well as the right of this Senate to have the time necessary to scrutinize this Bill. You cannot expect us to come here today and blindly support something without prosecuting each clause individually and properly.

Mr. Vice-President, the balance—

Mr. Vice-President: Senator, you have just under five minutes remaining.

Sen. D. Lyder: Oh, really? That just goes to show you, eh, you could take one point, Mr. Vice-President, and show you how this Government has completely failed—one point, just compare them with the rest of the world and you see how bad this PNM has performed and how they have put us backwards.

Hon. Senators: [*Desk thumping*]

Sen. Roberts: PNM is a curse.

Sen. D. Lyder: You see, Mr. Vice-President, the balance of the scales of justice must never be tipped in any one position. We must always balance what is good legislation, what is right for the citizens of Trinidad Tobago. Yeah, the scale. You all know about that? You all know about that scale? “Is be tipping” on one side for the whole PNM Government.

Mr. Vice-President—[*Laughter*]

Miscellaneous Provisions
 (Trustees, Exchequer and Audit) Bill, 2023
 Sen. Lyder (cont'd)

Hon. Senators: [*Laughter*]

Sen. Roberts: “You look for dat.”

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

Sen. D. Lyder: No, “is be one side”.

Mr. Vice-President: Sen. Lyder.

Sen. D. Lyder: The poor—

Mr. Vice-President: Sen. Lyder.

Sen. D. Lyder: Yes.

Sen. Roberts: You look for that.

Hon. Senators: [*Crosstalk*]

Mr. Vice-President: As you utilize your last four minutes in wind up—

Sen. D. Lyder: “Eh-heh.”

Mr. Vice-President:—I ask that you keep your contributions towards the Bill—

Sen. Roberts: Correct.

Sen. D. Lyder: Yes.

Mr. Vice-President:—and you were coming to a conclusion—

Sen. D. Lyder: Yes.

Mr. Vice-President:—about 10 minutes ago.

Sen. D. Lyder: Mr. Vice-President, I am closing, I am closing, I just want to try to rebalance that scale because it is badly tipped from the other side—

Sen. Nakhid: Yeah, bring it back.

Sen. D. Lyder:—badly tipped from the other side. I want to rebalance the scale.

Sen. Nakhid: Bring it back, bring it back.

Sen. D. Lyder: Right.

Sen. Roberts: We beg for that, lollipop.

Sen. D. Lyder: So you must never bring erratic and rushed legislation to this Senate especially when there are major implications. See, Mr. Vice-President, by rushing this legislation we have to ask ourselves what ill fate awaits the country by not passing it today, but what ill fate that falls upon the citizens of Trinidad Tobago by us not properly scrutinizing it—

Sen. Roberts: Correct.

Sen. D. Lyder:—to ensure that we protect—

Hon. Senators: [*Desk thumping*]

Sen. D. Lyder:—their rights and freedoms.

Sen. Roberts: Preach it, boy.

Sen. D. Lyder: We must balance the need for compliance with the protection of the rights of citizens. So we call upon this Government to act in the interest of the business community, of the constitution of this country and of the people of the Republic of Trinidad and Tobago, and take seriously, we are going to go to committee stages, and take seriously the amendments that are going to come from the Opposition and I have no doubt there are going to be amendments presented by the Independent Senators, Mr. Vice-President, and with those few words, I thank you very much.

Hon. Senators: [*Desk thumping*]

ARRANGEMENT OF BUSINESS

Mr. Vice-President: Hon. Senators, I seek your indulgence to revert to item No. 13 on the Order Paper.

MISCELLANEOUS PROVISIONS (REGISTRAR GENERAL, COMPANIES, REGISTRATION OF BUSINESS NAMES, AND NON- PROFIT ORGANISATIONS) BILL, 2023

Bill to amend the Registrar General's Act, Chap. 19:03, the Companies Act, Chap. 81:01, the Registration of Business Names Act, Chap. 82:85, and the Non-Profit Organisations Act, No. 7 of 2019 [*The Attorney General and Minister of Legal Affairs*]; read the first time.

**BASE EROSION AND PROFIT-SHIFTING INCLUSIVE
FRAMEWORK (COUNTRY-BY-COUNTRY) REPORTING BILL,
2023**

Bill to provide for the Country-by-Country Reporting (CBCR) by Multinational entities relative to the Base Erosion and Profit Shifting Inclusive Framework and to provide for matters related thereto [*The Minister of Finance*]; read the first time.

**MISCELLANEOUS PROVISIONS (TRUSTEES, EXCHEQUER AND
AUDIT ACT, THE MINISTER OF FINANCE (INCORPORATION) ACT,
PROCEEDS OF CRIME, INCOME TAX, COMPANIES, PARTNERSHIPS,
SECURITIES, TAX INFORMATION EXCHANGE AGREEMENTS, THE
NON-PROFIT ORGANISATIONS AND MUTUAL ADMINISTRATIVE
ASSISTANCE IN TAX MATTERS) BILL, 2023**

Mr. Vice-President: Ask and you will receive. Sen. Drayton.

Sen. Josh Drayton: Thank you, Mr. Vice-President, for the opportunity to weigh in on this very important matter at hand. I must say that, like my other colleagues on the Independent Bench I—and Opposition, I must also register my disappointment in the length of time that we are allowed to review such an important piece of legislation. But with every crisis, there is an opportunity. I do think that it is an opportunity for governments to recognize the need to educate all Members on issues related to financial crimes. Since time and time again, we have

had colleagues getting up and saying they are not specialists in this area. But we do understand the impact that it has on our financial system, our citizens, and of course, our international reputation at large. So I do hope that that recommendation is taken somewhere by the Government that there is a need to bridge that gap in terms of sensitization of all Members.

Nonetheless, I would like to start off by saying beneficial ownership is not a very new concept. I think a lot of the Members may be thinking that it is something new. If we were to go as far back as 2005 in the United Nations Convention against Corruption, you would see beneficial ownership appearing in several articles. Further, issues related to the denial of favourable tax treatment have also been included in the Inter-American Convention Against Corruption. That was around since 1996.

3.00 p.m.

So the whole issue of understanding the connection between taxation and financial crime, and what globally is called illicit financial flows, has been explored globally for two decades, roughly.

The perspective that I am going to bring today is for us to recognize that in order to follow the money, and it has been mentioned before but I would reiterate, we need to be able to go behind these various veils, whether they are corporate veils or otherwise. We need to be able to trace assets, we need to be able to find—as this Bill seeks to do, the natural persons. And, while I will agree that it is quite lengthy, the Bill satisfies some baseline requirements, or low hanging fruits for beneficial ownership, noting that this is the start of a beneficial ownership and transparency regime—at least, this is how I would like us to see it, and hope that this is a start and a more robust system would be rolled out in the future. But the

low hanging fruit is for us to identify who are beneficial owners.

This Bill in various provisions seeks to do so, from my understanding. While it has been adapted to different corporate vehicles, by and large it seeks to do several things:

1. Can we identify who the natural person is, or owner in this instance?
2. If there is no owner in that way, are we able to identify who has that control over the decisions that are taken?

So this Bill does that, to satisfy those basic requirements, which I think is a good starting point, and of course it has to be built on. It then goes in to address something that is a bit more serious with respect to the anonymity of transactions, which is what we have heard so far, bearer shares, bearer negotiable instruments, that type of thing. Essentially, where it can move from one hand to the other without you knowing who are the legitimate owners, only those who bear it. So in simple terms, the Bill does that, it seeks to remove that, because if you are a financial investigator, you have to follow the money, and if it is moving as much as cash, and of course we do recognize that we live in a cash based society, then it is going to be extremely difficult to go after the criminal.

I also want to say though, that not because you have veils or covering or trying to mask the ownership, means that you are involved in some corrupt enterprise or some financial crime. People do these things for various reasons. They may be because there is a high risk of kidnappings, for example, and therefore they do not want to be identified. I also want to clarify some points that were raised earlier which was that there is a difference between tax evasion, tax avoidance, so please let us not mix the two. Tax evasion is illegal, tax avoidance is your right, essentially, to determine where you can maximize your earnings. So,

all in all, I see this Bill from that perspective, and being able to close some of those gaps.

My concern has to do really, with the number of registers that are being outlined in this Bill. If the Minister of Finance would refer to the most recent document, guidance document from FATF on beneficial ownership, there is a leaning to centralized registers, and this is something that we have to take into account.

3.05 p.m.

Where that would be is, you know, that has to be explored.

There is also the question of interoperability between registers given the information that is collected, and I see in some sections it is noted that, “any other information” or “relevant information”, these kinds of phrases. You may want to be more specific to ensure that if we have registers being used, by law enforcement in particular, that they are able to speak to each other, that they have the similar fields, data is collected, and it is useful. So interoperability is a very important theme.

I also note that mention was made about capacity and our capacity to be able to review these disclosures essentially and to keep them up to date and apply the necessary sanctions and the like. I point you to the latest FIU annual report, where, because of the increase in the number of NPOs, there is also a requirement for them to do more with less. So, there are different ways to approach it. I do not know whether the Government may be approaching this from utilization of technology or whether increasing manpower for this new and added function or layer for compliance and oversight.

I also wish to note that it seems as though we have this perception that it is the

view that financial crimes are across the board and therefore there is no need to apply a risk-based approach. I want to emphasize again, while we are able to pass very good laws, moving forward, the evaluation of Trinidad and Tobago, whether it is by Global Forum or by FATF, would be on the effectiveness of our ability to implement those laws and ensure appropriate compliance measures. So again, if we apply a risk-based approach, is it that the perspective is a full adoption of recommendations such as for NPOs?

If you were to read the FIU reports again, you would note that it is actually a very small fraction of NPOs that fall above the \$500,000 threshold—right?—somewhere around 10 per cent. And then even when they go further, they have not identified NPOs as having high risk for certain kinds of activity. So I think part of it in your justification, Minister of Finance, for—and it is not necessarily for us here, but for the evaluators, is in fact to justify using the appropriate data to determine this risk is quite low and therefore the steps that we are going to take is going to be different or it is going to be on a tiered basis. So applying the standard cookie-cutter approach is not where we would like to be.

In addition to that, I want to come back to something again, Minister of Finance, perhaps if referring to recommendations provided by evaluators, you may want to share those recommendations with us in preparation because that would help all of us to have a better appreciation as to what the requirements are, what the timelines are. You did reference the November timeline, and June of course being the latest. I would close by just saying that I would also like to find out from the Minister of Foreign and CARICOM Affairs, the impact that the decision two days ago would have on us with the United Nations voting on establishing a tax system, a UN tax system, tax convention, and whether this might be premature. But I do not know

whether the Minister may be able to advise on this but I want us to also have this— to bear this in mind in terms of the implication that this would have in terms of our amendments moving forward.

What I would like to see is a more robust system of beneficial ownership, which would tackle all the elements. Reference was made to EITI, a lot of the times we are doing things piecemeal and in silos. We need to start to pause a little, breathe a little, rethink, and look at it from that big picture approach. So, Mr. Vice-President, without further ado, I would like to thank you again for the opportunity for allowing me to contribute, and I do hope that my perspectives were able to assist the hon. Minister of Finance in his wind up. Thank you.

Hon. Senators: [*Desk thumping*]

Mr. Vice-President: Sen. Anthony Vieira.

Hon. Senators: [*Desk thumping*]

Sen. Anthony Vieira SC: Thank you. I was not planning to speak but I have a couple of thoughts that I thought I should put on the record. So, knowing the beneficial owners of organizations is crucial for regulators to prevent money laundering, corruption and illicit activities, that is a given, and I support the thinking behind the legislation which is to enhance transparency, accountability, and to help ensure compliance with laws and regulations. I think most of us in this Senate have already expressed that view and taken that position. I am not disputing the need to come off the black and grey lists or for our laws to be consistent with international best practice. I am not going to speak about the double standard in the international community where countries like ours are pressed into very draconian laws and practices in the name of anti-money laundering and anti-terrorism activities while we get blacklisted and shamed and

punished for not meeting these high international standards.

At the same time, jurisdictions like Jersey, Guernsey, Channel Islands, the city of London—if you would recall when the Ukraine crisis took place and they wanted to put sanctions on the Russian oligarchs, and lo and behold, where is all the money stashed?—in the same First World countries that pontificate on us. They were living large in these jurisdictions. Delaware in the United States is a convenient jurisdiction for the huge money-making machine that is operated by trillionaires and billionaires and transnationals where they routinely, not avoid, but they evade taxes. Billionaires and transnationals who, like criminal and terrorist networks, they have no home, they owe no loyalty to anyone and they are accountable to no government. So while I am willing to support this legislation, I do think that we have to raise our voice; the international community needs to deal with this double standard. It is time to rein in these tax havens where it is hard to figure out who owns what and who owns how much. But that is not the purpose of my concern today with this legislation.

So I do have some concerns with the legislation before us now and my concerns really have to do with practical aspects, how this legislation is going to impact certain stakeholders. So let us look firstly at the question of trust and trustees. Clause 10B—no, it is clause 3, under Part IIA, Beneficial Ownership of Express Trusts. I am looking at 10B:

“A trustee of every express trust, or the administrator of any other form of legal arrangement, shall ascertain and obtain information as to all the beneficial owners of the express trust or other form of legal arrangement.”

Fair enough. I draft wills from time to time, and in those wills I often set up trusts. My executors are both executors of the will and trustees of the estate. I am

sometimes asked to act as a trustee under people's wills. Now, how is that going to impact me? How is that going to impact all those people who operate under wills where you now have to fill out all kinds of returns and you have to maintain registers, and failing to do that is a very serious criminal offence. So that is one point; I am hoping that you all can deal with it at committee stage.

Let us turn to another one. So partnerships, my attention had not really been looking at this, but when Sen. Mark inadvertently referred to clause 9, he drew my attention to this, and so having looked at clause 9 now, it got me thinking.

Sen. Roberts: Well done, Sen. Mark.

Hon. Senators: [*Desk thumping*]

Sen. A. Vieira SC: Yeah. Absolutely. So let us look at partnerships, because, again, it is nice to read it on the law but, you know, under our Partnership Act, you could be in a partnership and not even realize you are in a partnership, because under our Partnership Act, a partnership is defined as:

“...the relation which subsists between persons carrying on a business in common with a view of profit.”

So the three of us here decide we are going to bring out a mas band next year; we set about doing all kinds of things and the idea is we are going to divvy up the expenses and then we are going to split whatever we earn. We have not described ourselves as a partnership, but we are a partnership at will because we are looking to make a profit.

So now here again we are talking about partnerships, but the impact on people in this country who are in partnerships every day without even realizing that they are in a partnership at will, they are not aware of their legal status. You have obligations once you are deemed to be in a partnership, to fill out forms, fill out

registries, and if you do not, some hefty penalties are available to you. So that is the second concern I have that I would like to just draw to your attention. And the third one, similar vein, non-profit organizations.

Now, I totally understand how lawyers and accountants can use corporate vehicles to hide nefarious activities and to conceal the identities of the guiding minds and the directing minds of the organizations, totally understand it, and you can do that very often under the guise of an NGO. But, we have a lot of very legitimate NGOs in this country. And so let us give an example, let us take for example COTT; COTT is a non-profit company where all the calypsonians and musicians, the songwriters and the lyricists who belong to COTT are members of the organization. They have the votes in the company and at their annual general meetings and their EGMs, they dictate what course the company is going to take.

Now, what does this mean for COTT? COTT now will have to maintain a register of beneficial owners, so you will have to be listing all the people who are members of the organization and lodge it in a particular registry, and if you fail to do that, does that mean that you have committed a corporate offence, you are now guilty of a criminal charge? So the point I am making is that, look, these things look nice, but when you really drill down into them at a practical level, we have to imagine for the impact it is going to have on the ordinary citizen, on a lot of these organizations. And I could tell you, as someone who has worked with many NGOs, a lot of times they are understaffed, they are working with very, very limited financial and other resources, this is a heavy burden on them, and it is a heavy burden that has real bite if they run afoul of the regulator. So I do not want to say more than that. Those were just my points that I wanted to draw to your attention and perhaps it can be dealt with at committee stage. I thank you.

Hon. Senators: [*Desk thumping*]

3.20 p.m.

Mr. Vice-President: Minister of Finance.

The Minister of Finance (Hon. Colm Imbert): Thank you, Mr. Vice President. It is very difficult to deal with the points made by Sen. Mark, Sen. Lyder, and Sen. Gopeesingh because they were all over the place and confused, uninformed, and wrong but I will deal with the points starting with Sen. Maharaj. And Sen. Maharaj made the—

Sen. Roberts: [*Inaudible*]

Hon. C. Imbert: Mr. Vice President—

Sen. Roberts: “Doh call meh name.”

Hon. C. Imbert: Sen. Roberts in his usual style continues to interrupt.

Sen. Roberts: “Doh call meh name, boy.”

Hon. C. Imbert: I just did.

Sen. Roberts: “Doh call meh name.”

Mr. Vice President: Senators—

Hon. C. Imbert: And for his rudeness too.

Mr. Vice President:—kindly allow the Minister to wrap up his summation in silence, please.

Hon. C. Imbert: Thank you, Mr. Vice President. I am trying to deal with an important contribution made by an Independent Senator. So the issue about transparency was raised by Sen. Maharaj and from the perspective of the media and otherwise in terms of determining who owns what and an example was used with respect to politically exposed persons. I think it is necessary to inform and educate. If you go to the Companies Registry online right now, and I did it, while

Sen. Maharaj was talking I went to the Companies Registry online because I have found myself as “corporation sole” and in my private life having to sign a return of beneficial ownership. As Corporation Sole I am now required to sign Form 42, I think it is, for all the state companies, and identify myself as the sitting Minister of Finance, as the beneficial owner of the shares in all state enterprises. And so I decided, look let me go to the Companies Registry and I just picked a company. I decided to look—I picked a well-known company, Massy Automotive Components. I went to the online registry and I pulled up records with respect to Massy Automotive Components and I was able to establish that that entity had in fact filed its most up-to-date Form 45, it is actually form 45, “return of beneficial interest in the shares of a company” and when one goes to it, one sees that they have indicated that the beneficial owner of Massy Automotive is in fact Massy Holdings Ltd. And then, this is just an example I am giving, and then you can go to the return of Massy Holdings and you will see it indicates it is a listed company but you can do it for a private company.

Sen. Roberts: [*Inaudible*]

Hon. C. Imbert: Mr. Vice President, would you ask Sen. Roberts to stop it, please? I am making a serious point in response to a serious point made by a serious Senator.

Mr. Vice President: Please minimize crosstalk and commentary and allow the Minister to contribute and wrap up this debate in silence, please.

Sen. Roberts: [*Inaudible*]

Mr. Vice President: Without backchat, please. That applies as well.

Hon. C. Imbert: Serious evaluation is required here. So the point is one can go to the Companies Registry and because of a law that was passed a couple of years

ago, it is now a requirement that all companies on the Companies Registry must have a statement of the beneficial owner, that is there so you can find it. So for any company that is registered with the Companies Registry, you can determine who the registered owner is and who the beneficial owner is so that is now publicly available information.

But I was interested, as well to establish what it was for non-profit organizations because Sen. Lyder, being completely uninformed about what is the reality in Trinidad and Tobago, said that the only register available is the Extractive Industries Register. I have already shown that the Companies Registry will tell you who the beneficial owners are of companies, but believe it or not there is also a register of non-profit organizations. And it is active and I actually went on it and when you go on that website you get various links, it takes you to—one link is non-profit, you go there you click on it and you go search and a whole menu comes down and in there you can put the name of the non-profit organization and up will pop the beneficial ownership of that non-profit organization.

I understand these things are very new, this has only been in place now for a couple of years but believe it or not, the beneficial owners of companies and non-profit organizations are now online and can be searched by any member of the public. I thought it was necessary to say that because Opposition Senators just say anything that comes into their heads and if you listen to them you might believe them, you might believe the nonsense that they talk. But in Trinidad and Tobago today, you can get the beneficial ownership of companies and the beneficial ownership of non-profit organizations online and I thought that was very important.

And the irony of some of the utterances of Sen. Lyder trying to sound intelligent

saying “Where did this 10 per cent come from? Why did we pick 10 per cent as the controlling interest in a non-profit organization? Why not 25 per cent?” But in the beginning of his contribution he hailed the Extractive Industries Registry as an example of transparency. If you go to the Trinidad and Tobago Trinidad and Tobago Extractive Industries Transparency Initiative you will see these words:

“A beneficial owner refers to a living person who directly or indirectly owns the company OR who controls at least 10% of the shares or total votes...”

Hon. Senator: [*Desk thumping*]

Hon. C. Imbert: The same 10 per cent. So let me go on to another document that is publicly available and that is a document from the Registrar General’s Department and it is called “Frequently Asked Questions, Registration of Non-Profit Organizations” and then it answers all of the frequently asked questions such as, Is there specific legislation governing the non-profit sector in Trinidad and Tobago. If you listen to Sen. Lyder, you would think no. Sen. Mitchell got up to correct him but obviously, Sen. Lyder was not interested and the fact is that the Non-Profit Organizations Act 2019 came into effect on the 14th June, 2019 governing the registration and supervision of non-profit organizations in Trinidad and Tobago. That information is available on the Registrar General’s website and it is the first frequently asked question and answer. That there is legislation governing the non-profit organization sector and it came into effect in June of 2019. It goes on to say, what is an NPO, what is considered an NPO under the NPO Act, and it gives a definition,

“...a body of persons whether incorporated or unincorporated which—
 (a) is established primarily for the promotion of a patriotic religious,

philanthropic, charitable, educational, cultural, scientific...”— and so on.

The exact same definition I used in my piloting of this legislation, it is there on the Registrar General’s website.

3.30 p.m.

Next question:

“If I want to operate a...”—NPO—“in Trinidad and Tobago what do I need to know?”

And it says, you cannot do that unless you are registered under the 2019 Act.

“Where must I go to register?”

Registration may be done at any...of the following offices of the Registrar General’s Department...”—

and gives the—

“Who must register...”

Next question:

“Is anyone exempted...?”

Only:

“A society registered under the Friendly Societies Act...is exempt.

Are non-profit companies incorporated under the Companies Act...also required to register...?

The...Act...”—says—“that...”—once you are—“...incorporated under the Companies Act...”—you are—“deemed to be registered as...”—a non-profit organization.

So that is an NPO incorporated under the Companies Act. It is already registered, deemed to be registered.

“If non-profit companies are deemed to be registered are there any

documents to be submitted to the Register General?"

It gives all of it, all of the documents.

So everything is there already in the public domain. We already have legislation governing non-profit organizations and there already is a public register that you can go to and get information on beneficial ownership of non-profit organizations. I thought it was important to repeat, reemphasize and assert these things because if one listens to the Opposition, you might become confused. The things that they say, it makes absolutely no sense and it all started with Sen. Mark's contribution where he confused himself, confused whoever was listening to him and spoke about breaches of the constitutional rights of citizens and the right to privacy, completely oblivious to the fact that when we passed legislation in 2019 and 2020 we already gave the competent authority the Board of Inland Revenue the right to share information with other tax authorities overseas with the requisite special majority. It is already the law and this legislation does not in any way affect that. It does not in any way affect that. That is already the law, that the Board of Inland Revenue can share tax information with competent authorities overseas. It is already there.

And it is important to understand that the particular provision that Sen. Mark confused himself about, is a specific requirement of the Global Forum and it makes absolute sense because if you are investigating a criminal who is trying to evade tax or to launder money or to finance terrorism, you do not want to tip them off. Tipping off is a very serious matter. So when one looks at the Bill before the House, all the Bill is saying is that if the jurisdiction, the overseas jurisdiction who is chasing a criminal, a transnational criminal who is trying to launder money in Trinidad and Tobago through a Trinidad and Tobago bank, the Interpol or whoever

it is running them down, you do not go and tell them, I am going—I am investigating you.

What the legislation says is that if the overseas authority says, “look, I am trying to investigate a terrorist who may be using Trinidad and Tobago banks to launder money, do not tell them please”. “It is only when we have reached the point, maybe we have arrested them or prosecuted them or indicted them or whatever it is, then you could tell them.” This is all this amendment is seeking to do. It just means you have a holding period if an international body is chasing a criminal, that you do not tip them off that they are being investigated. And that is standard. That is not rocket science. That is not something that needs all of this carrying on here from the Opposition Benches.

Sen. Drayton made a very insightful observation. That what this legislation seeks to do is simply to ensure that the true owners of various entities are identified and exposed. That is all it seeks to do. The true owners. And it is the same request that Sen. Maharaj made, that we need this sort of thing. We need this and if one goes through every clause, that is all it is seeking to do.

Sen. Vieira asked about partnerships and quoted the law on partnerships and I pulled up the Partnership Act:

A—“Partnership is the relation which subsists between persons carrying on a business in common with a view of profit.”

The fact of the matter is, it is a group of people coming together to make money and they are making profit so they are subject to tax. I mean, follow it logically. You only tax profits. So if a group of people come together to create a partnership to make a profit, then they will have to pay tax and they have to fall into the tax net. It is unfortunate but that is what a partnership is. It is specifically to make

profit, not to not make profit. You know, you can have another kind of organization and a non-profit organization is such an organization that gets together not to make profit. But a partnership by law is designed to make profit. So, yes, now partnerships will have to fill out the forms, but it is logical because if we are trying to avoid tax evasion and so on, then that is how it is. I am sorry, that is how it is.

And Sen. Vieira has made the point that we do not want to do this. We do not want to do this. And that is why the point made by Sen. Drayton, a very important point, that was a historic decision of the United Nations, historic, where the United Nations just a short while ago, when exactly was it? It was this month, November, just a couple of days ago apparently, and I will read a news report on it from the International Consortium of Investigative Journalists.

The “UN votes to create ‘historic’ global tax convention...”

—22nd of—that is just yesterday, November. Yeah. The day before yesterday.

“...despite EU, UK moves to ‘kill’ proposal.”

And what is so interesting about this—and I really want to thank Sen. Drayton for bringing up this—is that the United Nations in a historic vote where 125 countries voted for and 48 voted against to adopt a resolution tabled by Nigeria last month on behalf of African Member States calling for a UN tax convention that could drastically change how global tax rules are set. And what is so important about this is that this is the world deciding they have had enough. So no longer would the OECD and the other powerful countries in the world be able to establish what international tax rules would be. It will now be established by the United Nations, and that should in time put an end to all of this bullying that we have spoken about. That is a historic move, 128 votes—125 votes for, 48 against. So the world has

decided that it had enough of this. But until this is done and until the international tax rules change, we really have no choice but to go along with this. I mean, we have a choice. We could say, no, but then look at what happens. Yes, Sen. Vieira.

Sen. Vieira SC: Minister, thank you for this, but my concern really was about the impact on ordinary people. So, for example, people may not be aware of their legal status whether as an executor and trustee under a will or that you are actually in a partnership, and given the potential sanctions, I think, it would be incumbent on the Government to educate people, because ignorance of law is no excuse.

Hon. C. Imbert: I completely acknowledge that. And as you know as a lawyer, you know, an express trust is explicit instructions on how property is to be held. I do not need to tell you that, as senior counsel now as a matter of fact. But you are dealing with property, so you are going to fall within a net. The way we have dealt with your concern is that we have a commencement date, so we are not going to make this thing law until that public education programme is done.

And secondly, there is an amendment I have circulated that now gives—changes the time to 30 days and also gives the Minister the ability to extend the period. So, we are going to be very careful about this, because I totally agree with you that some people may not understand that they are involved in an express trust or some other similar arrangement.

So, I am very grateful for the expressions of support. I am very grateful for the interventions of persons such as Sen. Drayton, Sen. Maharaj. I hope I have answered the question about who controls a non-profit organization and how that control is exercised. It is who votes in the organization and therefore, with those few words, I beg to move.

Hon. Senators: [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

3.45 p.m.

Mr. Chairman: Alright, can you just hold on a second the procedure will begin shortly.

Mr. Roberts: Or—

Mr. Chairman: Okay, hon Members, the Bill, before has 13 clauses, and I have circulated amendments from the Attorney General, as well as Senator Mark, so if everybody is ready, they have the correct Bill, before them?

Mr. Roberts: Yes, Sir.

Mr. Chairman: Yes. Okay, and everybody has a copy of both circulated amendments?

Hon. Senators: Yes.

Mr. Chairman: Yes, okay. Clerk, ready to begin.

*Clauses 1 and 2 ordered to stand part of the Bill.
Clause 3.*

Question proposed: That clause 3 stand part of the Bill.

Mr. Chairman: Attorney General or Minister of Finance?

Mr. Imbert: I could handle that. Thank you Mr. Chairman, this is the amendment I referred to where we are changing the period for compliance from 14 days to 30 days, and inserting a provision where the Minister, can extend the period which probably is going to be quite necessary. The last part is just tidying up some language, so the big “B” at the bottom of the circulated amendment to delete the words “knowingly” and replace with the words “knowingly or”. The advice I got is,

it is either/or. So, you are either doing something “knowingly” or you are doing it “recklessly”. Kind of difficult to do it “knowingly” and “recklessly” at the same time, so it is just tidying up the language.

Mr. Chairman: Sen. Mark?

Sen. Mark: Yeah. Mr. Chairman, could the Minister, indicate to this committee, what is the basis for justifying or his justification for increasing the number of days, from 14 to 30? That is the first thing, and what is even more egregious is that the Minister, arrogates on to himself, the power to extend whimsically—

Mr. Imbert: Whimsically?

Sen. Mark: —whenever he chooses, at his time. So, the question here, is the Minister undermining his own legislation? Because if we want to catch, as he claimed earlier on, the criminals who are robbing the country and hiding their assets in trusts and the Minister would be aware of these things, right? If you are doing this, why are you giving them “ah bligh”, from 14 to 30, and then “yuh gone” further to say what I have just said. So, I would like the hon Minister, to just really justify that to this Committee, so I can be convinced of what he is attempting.

Mr. Chairman: Okay. Sen Gopeesingh, do you have anything to add to that or you have something else new?

Sen. Dr. Gopeesingh: Yes. I want to echo the sentiments of my colleague Sen Mark—

Mr. Imbert: He has nothing to add.

Sen. Dr. Gopeesingh:—by indicating that I have a difficulty with this, “the Minister may by Order approve”. The Minister, arrogating on to himself again and there is the subsection 2(ii), “or such other period as the Minister, may by Order approve”, so twice the Minister, is arrogating onto himself. The authority to change the time, I heard him just mentioned that he will change the time to extend it to

from 14 to 30, but he could also reduced it from 14 to seven. So, what is he trying to do and why does he have to put in that, that the Minister, may by Order do? I object to that, I think that should be left out, “the Minister may by Order...” that should be removed.

Mr. Chairman: Alright. Minister of Finance?

3.50 p.m.

Sen. Mark: Now, umm, Mr. Chairman—

Mr. Chairman: Sen. Mark unless it is Part B—

Sen. Mark: An additional part to Part A.

Mr. Chairman: Is it Part B to this?

Sen. Mark: Yes.

Mr. Chairman: Okay.

Sen. Mark: I would like the Minister to consider if he is going to issue by Order a decision to extend that that be subject to an affirmative resolution of the Parliament so we can have some control and supervision over the Minister.

Mr. Chairman: All right Sen. Mark, so you have made the suggestions. Minister of Finance.

Mr. Imbert: Mr. Chairman, this is so difficult. You would think that persons with the experience of Sen. Mark and Sen. Gopeesingh would know, they themselves in their ministerial capacities have proposed legislation of this type, have exercised powers of this type, which is standard and commonplace and routine. We have situations where the various Attorneys General have extended the time for the filing of annual returns, for the filing of come—it is commonplace. And, in addition, what bothers me they were not listening to anything Sen. Vieira said. Where he said, you have a lot of people who may not understand that they are in the position of an expressed trust, for example, or persons within NGOs,

who may not be sophisticated. And therefore on reflection, even though the Global Forum would like us to make this as strict as possible, we felt it was inappropriate to put 14 days for unsophisticated people.

And as Sen. Vieira has said—now, ignorance of the law is no defence, and therefore it is completely appropriate to extend, to change the time from 14 to 30. Completely appropriate. And then the idea that a Minister is extending a time, that is routine. Why would you want to waste the Parliament's time to determine whether and additional two weeks or three weeks or a month should be given to NGOs and so on, to comply with this new legislation? Why? Why would you want to come to the Parliament and establish two series of debates to do that? In all the amnesties, for example, that this Parliament has agreed to, there is a provision for the Minister to extend the time for tax amnesties and so on. So, I do not understand the points made, and all it tells me is that Members of the Opposition just want to oppose for opposing sake.

Sen. Dr. Gopeesingh: No.

Mr. Chairman: Senator!

Mr. Imbert: I think these provisions make absolute sense. They are intended to help people, they are intended to help little people, they are intended to help people who may not understand the effect, impact and extent of this legislation, and they are perfectly in order, they are commonplace, they are routine and they subsist in legislation throughout our law books, Mr. Chairman.

Mr. Chairman: Sen. Vieira.

Sen. Vieira: Thank you gentlemen. In following up on what you said earlier Minister, I know that expressed trusts and legal arrangements are wider than probate—

Mr. Imbert: Yeah.

Sen. Vieira:—but this is going to impact probate practise significantly.

Mr. Imbert: Yes.

Sen. Vieira: And so I would like to suggest to the hon. Attorney General that perhaps your office can arrange with the probate registry and perhaps liaise with the Law Association—

Mr. Imbert: Yes. I think it is important.

Sen. Vieira:—for appropriate guidance to be given—

Mr. Imbert: I agree with that.

Sen. Vieira:—because people need to be alerted to the fact that they may be in a particular situation—

Mr. Imbert: I agree with you.

Sen. Vieira:—and we do not want innocent people being prosecuted.

Mr. Chairman: Sen. Mark.

Sen. Mark: I want to support and endorse—

Mr. Imbert: Who you supporting?

Sen. Mark:—what my colleague has said, because maybe the goodly Minister of Finance needs to do some more negotiating with the Global Forum. So that, Mr. Chair, the point that is being made by Sen. Vieira must be taken on board, because the practicality of the implementation of what is being proposed—

Mr. Imbert: Did he not just said 14 was correct?

Sen. Dr. Browne: Yes. They are not supporting the amendment.

Sen. Mark:—is serious. And, Mr. Chairman—why am I being disturbed by these people?

Mr. Imbert: Because you are contradicting yourself that is why.

Mr. Chairman: Members! Members! Members!

Mr. Imbert: Because you are contradicting yourself that is why.

Mr. Chairman: Minister of Finance! Sen. Mark! Minister of Finance and Sen. Mark let us not fall awry of the process. Minister of Finance, you could turn off your mike for me, please?

Mr. Imbert: Sure.

Mr. Chairman: Sen. Mark, you could wrap up your point?

Sen. Mark: Yes, I want to wrap up. Mr. Chairman, what I am simply saying is that we have to bring some degree of accountability. We do not trust this Government and that is why we are saying that if the Minister wishes to extend the power of approving by Order that that be subject to some kind of control, whether it is a negative or an affirmative. That is what we are saying.

Hon. Senators: [*Desk thumping*]

Sen. Mark: But he wants to have licence to do whatever he wants to do—

Mr. Chairman: Okay. All right Sen. Mark the point.

Sen. Mark: —and we cannot support that.

Mr. Chairman: Sen. Mark the point has been made. Minister of Finance final statement.

Mr. Imbert: No, no, this is commonplace and standard routine.

Mr. Chairman: Okay. All right, so I will not put the question. Hon. Senators, or, Sen. Gopeesingh.

Sen. Dr. Gopeesingh: I have not been afforded the opportunity, Mr. Chairman. After Sen. Mark spoke I had my hand up to complete what I wanted to say. We have had time and time again—I am glad he said we have the experience in Parliament. I had been here probably more than 20 years. But from this Minister we have had time and time again where he had orders made, he fought when he was in Opposition for affirmative resolution, which we gave him many times, and then now he is asking for just, “may by Order”, and we understand that is by

negative resolution. So this may be *gazetted* and the Opposition may miss it, and then he goes on to do whatever he wants. So by making an order it means then that he can “stealthily” extend the time or reduce the time without Parliament knowing. This is an Act of Parliament, and we cannot play around with it. We have to be strong, and what he is making, we are making an Act of Parliament here and we do not conform with his proposal.

Mr. Chairman: So, Minister of Finance no final statement?

Mr. Imbert: All I would say is that what the hon. Senators have said does not make any sense. It is standard practice when you are imposing a deadline that you give the Minister, whoever it is, the ability to extend that deadline, especially when what is being imposed is onerous. And to have to come to Parliament every single time you want to extend a deadline, convene debates in—

Hon. Senators: [*Interruption*]

Mr. Imbert: Mr. Chairman.

Mr. Chairman: Allow the Minister of Finance to make his final statement. Sen. Nakhid. Please, Minister of Finance.

Mr. Imbert: Quite frankly I think the proposition is unproductive. I do not think that it would add any value to what we are doing. I cannot support it. It will make this thing extremely cumbersome and we would fall into the trap that Sen. Vieira is warning us not to fall into, that you would have onerous requirements imposed on little people, unsophisticated people, or people who simply just do not know that they have found themselves within a legal framework and then you have to convene Parliament to avoid that trap. And while you are doing the debates and you have the same Opposition Senators saying they want to send the request for an extension of time to a joint select committee, because they are capable of that, eh, and stick it up there for two years, while all of these people who are now in danger

are going to be in serious trouble, this does not make any sense, I cannot support it.

Mr. Chairman: I will now put the—

Sen. Mark: Mr. Chair, I want to ask the goodly Minister, through you, since he is violently opposed to an affirmative resolution, would he consider a negative resolution so that it will just be published and then we will have to come and file for an annulment? Would he consider that?

Mr. Chairman: I think the Minister has made a final decision on that and as such I should now put the question.

Question put and agreed to.

Clause 3, as amended, ordered to stand part of the Bill.

Clause 4.

Question proposed: That clause 4 stand part of the Bill.

Mr. Chairman: Minister of Finance.

Mr. Imbert: Thank you. Mr. Vice-President, this is similar.

Sen. Dr. Browne: Mr. President.

Mr. Imbert: Sorry, Mr. President. I am terribly sorry. We are changing the word “fourteen” so it will now no longer be 14 days for compliance, it will now be “thirty, or such other period as the Minister may by Order approve”. And I will send, although I am not sure they will bother to read it, a document that I have sent to other Senators with respect to the making of statutory instruments and the various types of statutory instruments and the various criteria that are applied in terms of the different categories, affirmative resolution, negative resolution, or simply an Order by a Minister, the circumstances under which these things are done, I think it is an assembly in Wales, and it is very educational.

I am not sure if the Members of the Opposition will bother to read it, but I will send it to them anyway. So this is the same approach, we are trying to help

people, instead of 14 days, 30 days, and, Mr. Chairman, let us be serious, the Office of the Attorney General and Ministry of Legal Affairs was just subjected to a cyberattack, everything shutdown. The company's registry was under attack. We have had our telephone company under attack. What is going to happen if people attempt to file and they cannot, because they are locked out, because some Russian criminal has decided to launch a cyberattack on our registry, and you do not have the ability of the Minister to extend the time and do it quickly, and do it immediately? What is going to happen?

We have found ourselves now in Trinidad and Tobago very vulnerable to these cybercriminals who are destroying our ICT systems, or trying to destroy our ICT systems, trying to shut down our registries, trying to lock people out, you have to have this kind of flexibility. You have to have this kind of nimbleness where a Minister determining there is a problem, people cannot file, they cannot get online, they cannot electronically submit documents, you have to be able to extend right away. I would think recent experiences would explain why it is necessary to do something like this.

Mr. Chairman: Sen. Vieira. Sen. Vieira.

Sen. Vieira: Thank you, Mr. Chair. In similar vein—now, with the wills we have an advantage that there is a probate registry that guidance can be given there, but partnerships, you have law partnerships, dental partnerships, medical partnerships, accounting partnerships, business partnerships, and those are partnerships that have written agreements. We have many other partnerships that are partnerships where people may not even be aware they are in a partnership, so the question is, is there a mechanism or an agency that can speak to and educate these people? I was thinking that in—now very few partnerships in Trinidad actually register partnership deed. At highest you may have just a very general agreement, but most

of them will register with the Registration of Business names, and so maybe at the Registration of Business names that might be an opportunity again to liaise with the Law Association, and for guidance to be given that once you are in a partnership you now have these additional statutory duties and obligations.

Mr. Imbert: And for that—sorry, would you like to get—?

Mr. Chairman: I would like to hear Sen. Mark. Sen. Mark.

Mr. Imbert: Yes, sure. Okay.

Sen. Mark: Just for clarity, Mr. Chair, is my friend and colleague, Sen. Vieira, talking about partnership? If he is are we on clause 4 or are we on some other clause in terms of what you are seeking to debate and to discussion? I am not too sure, because I hear the hon, Senator talking about partnership but before me is the Exchequer—

Mr. Chairman: I think Sen. Vieira was just using certain examples and certain entities as it relates to clause 4 to make a point. That is my understanding. So if you have another comment to make in relation to clause 4, Sen. Mark, I invite you to do so now.

Sen. Mark: And I was about to ask the distinguished, can I have peace here please?

Mr. Imbert: Is your Members disturbing you, “yuh” know.

Sen. Mark: No, forget them, I am talking to you.

Mr. Imbert: I must forget them?

Sen. Mark: No, I am talking to you.

Hon. Senators: [*Laughter*]

Sen. Mark: Mr. Chairman, talk to the hon. Minister of Finance, please. I want your undivided attention.

Mr. Chairman: All right. Okay, let me just say that Sen. Mark is the person

speaking right now, and when we get into this back and forth it gets all muddy in terms of points that need to be brought across. So Sen. Mark continue.

4.05 p.m.

Sen. Mark: I was about to ask the distinguished—can I have peace here, please?

Mr. Imbert: “Is your Members disturbing you, you know.”

Sen. Mark: No, no, forget them, “ah” talking to you.

Mr. Imbert: I must forget them. [*Laughter*]

Mr. Chairman: Okay, all right.

Sen. Mark: Mr. Chairman, let me talk to the hon. Minister of Finance, please. I want your undivided attention.

Mr. Imbert: All right.

Mr. Chairman: Let me just say that Sen. Mark is the person speaking right now, and when we get into this back and forth it gets all muddy in terms of the points that need to be brought across. So Sen. Mark, continue.

Sen. Mark: I was about to ask the distinguished Minister of Finance, whether—there is a problem he made mention of, ransomware attacks by criminals from Russia. I want to ask the Minister of Finance—

Hon. Senator: In this Bill?

Sen. Mark: “Dais not what he say?”

Sen. Roberts: Yeah.

Sen. Mark: So I want to ask the Minister, this ransomware attacks, is there any association with any party that you know of in Trinidad with these Russians?

Mr. Chairman: So, again Sen. Mark that has nothing to do—

Sen. Mark: I am just asking.

Mr. Chairman:—with clause 4 or the Bill that is in front of us—

Sen. Mark: But let me deal with my substantive matter.

Mr. Chairman: Senator, Senator, Sen. Mark—

Sen. Mark: Yes, let me continue, Sir.

Mr. Chairman: Sen. Mark—

Sen. Mark: Mr. Chair, I was just responding to the ransomware—

Mr. Chairman: Sen. Mark I am talking, I am talking, I am speaking.

Sen. Mark: Okay.

Mr. Chairman: I have not called upon you yet.

Sen. Mark: Mr. Chair—

Mr. Chairman: Sen. Mark “yuh still talking”.

Sen. Mark: [*Interruption*]

Mr. Chairman: I am talking.

Sen. Mark: Okay, sorry, Sir. My apologies.

Mr. Chairman: So, again, we have Bill before us, we are dealing with clause 4. In spite of whatever the Minister of Finance would have said to create context, he still was relevant to clause 4. Let us keep it relevant and succinct, okay. You have comments in relation to clause 4 which, by the way, is almost exactly the same as clause 3 and the arguments have been back and forth for clause 3, they have not changed, they have not changed as it relates to Sen. Vieira. Do you have something new in relation to clause 4, given the fact that it is very, very, similar to clause 3?

Sen. Mark: Mr. Chairman, you know I am guided by you and you know I, like you, have the freedom of speech. So I would like you to give me the opportunity to speak. So all I am saying, Mr. Chairman, in the context of clause 4, whether the Minister has taken one matter raised by my honourable colleague on trust or trustees ordinance and now he is applying that to the Exchequer and Audit Act. I do not understand that. And then he goes to all of them. So what is the

justification—I understand for trustees, but what is the justification for Exchequer and Audit Act, what it is?

Mr. Chairman: Minister of Finance.

Mr. Imbert: It is very difficult to answer Sen. Mark because I think even Sen. Mark is confused about what he is talking about. This refers to statutory bodies. If Sen. Mark would read the Bill, if Sen. Mark would read the Bill, clause 4 deals with beneficial ownership of statutory bodies. And if you have a statutory body, whether it is—well it is a public body of course, it is still required to comply with the law. There is no free pass here. So I explained that as corporation sole, for some odd reason, I have to fill out the requisite form to prove that I am the beneficial owner of the shares of state enterprises even though there is a corporation sole Act which says that the sitting Minister of Finance is the beneficial owner of shares of state enterprise. I still have to fill out the form. And therefore statutory bodies will not be exempted from filing out and complying with the requirement for beneficial ownership. But, if for some reason they cannot get access to the Companies Registry to do the necessary submission then that is an example of why it would be necessary to extend the time quickly.

Sen. Mark: Mr. Chair, may I ask the distinguished Minister, hon. colleague, let me ask you something, through you. In your instance, I understand corporation sole. In the case of a statutory body would it be the Minister along with directors of a statutory body that would be responsible for putting into the register their beneficial interest, insofar as ownership is concerned. Could you clear the air for me? Is it just the directors—

Mr. Imbert: I am waiting for you to finish.

Sen. Mark: Yeah, only directors?

Mr. Imbert: Because you are going on and on and on.

Sen. Mark: Right, I am asking.

Mr. Imbert: Right. If you read the legislation and if you went to clause 4 in the legislation and then you went to 31 (a) and you go over to (b) your answer is there:

“the natural person who exercises ultimate effective control of the statutory body indirectly or through other means...”

And then you go to (c):

“if no person is identified...if there is any doubt that the person identified is the beneficial owner, the natural person who holds the position of senior managing official...”

So it depends on the statute. The statute will tell you who has control over the statutory body and if it is not clear it is the senior managing official. It is all there.

Sen. Mark: I do not think there is need for an extension.

Mr. Chairman: Sure. All of that is here. Dr. Gopeesingh.

Sen. Dr. Gopeesingh: Is there a determination of the senior managing official? That is ambiguous Minister.

Mr. Chairman: Minister of Finance.

Mr. Imbert: I was waiting for Sen. Dr. Gopeesingh to complete his contribution. Are you finished, Sir?

Sen. Dr. Gopeesingh: “Um-hmm.” I am asking, when you say senior managing official in the Act, who is considered the senior managing official? Is it a designated position? Thank you.

Mr. Imbert: Thank you very much. When one is interpreting legislation if there is no definition in the interpretation section then it is the natural English meaning of the words. That is trite, and someone of your experience should know that.

Hon. Senators: [*Crosstalk*]

Mr. Chairman: Okay. Hon. Senators I shall now put the question. Hon.

Senators the question is that clause 4 be amended as circulated by—

Hon. Senators: [*Crosstalk*]

Mr. Chairman: I will just wait because this question has to be put, it has to be heard by all Senators in order for it to be correct.

Question put and agreed to.

Clause 4, as amended, ordered to stand part of the Bill.

Clauses 5 to 8 ordered to stand part of the Bill.

Clause 9.

Question proposed: That clause 9 stand part of the Bill.

Mr. Chairman: Minister of Finance.

Mr. Imbert: Again, just to correct a typographical error. Instead of “knowingly and” it is “knowingly or”. It is “knowingly and recklessly” or knowingly—we are changing it to “knowingly or recklessly”. Okay.

Question put and agreed to.

Clause 9, as amended, ordered to stand part of the Bill.

Clause 10.

Question proposed: That clause 10 stand part of the Bill.

Mr. Imbert: Again, this is the same theme where we are changing “14” to “30” or such other period as the Minister may have required. Same concept.

Question put and agreed to.

Clause 10, as amended, ordered to stand part of the Bill.

Clause 11.

Question proposed: That clause 11 stand part of the Bill.

Mr. Imbert: Yes, this is the same two concepts where we are changing “14 days” to “30 days” or such other period as the Minister may by order approve and also dealing with the typo, “knowingly and” and changing that to “knowingly or”.

Mr. Chairman: And at (c)?

Mr. Imbert: “Oh”, and there is another typo. Clause 11 (c), it should be in “subsection 5” and not “subsection 6”. So I would like to propose that this amendment as further amended. We could change “6” to “5” in (c).

Mr. Chairman: Hon. Senators—

Sen. Drayton: Chair.

Mr. Chairman: Sen. Drayton.

Sen. Drayton: I have a question.

Mr. Chairman: Sure.

Sen. Drayton: With respect to clause 11 (a), under beneficial ownership, (c).

“if no person is identified under paragraphs (a) or (b) or if there is any doubt that the person identified is the beneficial owner, the natural person who holds the position of senior managing official...”

I would like to recommend that that is consistent with the NPO Act and we just use “control”. Is that fine?

Mr. Imbert: Just a second.

Sen. Drayton: Sure.

Mr. Imbert: I am told by the draft persons next to me that the senior managing official is not the comptroller.

Sen. Drayton: It is two separate persons?

Mr. Imbert: Yes. Comptroller is a term of art, okay?

Sen. Drayton: Thank you.

Mr. Chairman: Hon. Senators listen carefully. The question is that clause 11 be amended as circulated and further amended at subsection (c) to delete “6” and replace “5”.

Question put and agreed to.

Clause 11, as amended, ordered to stand part of the Bill.

Clause 12.

Question proposed: That clause 12 stand part of the Bill.

Mr. Chairman: Sen. Mark.

Sen. Mark: Yeah. Mr. Chairman, the last time I checked the Constitution, citizens have the right—well put it another way, one is not guilty unless one is convicted and one is innocent until one is proven guilty. I am seeing in this particular provision before us, an investigation, just an investigation is taking place. And if the investigation is to be successful do not inform the individual who is being investigated. Mr. Chairman, are we mad? And this is what we are being asked to support and approve. Just an investigation and do not notify the individual who is investigated because it could compromise the investigation. Mr. Chairman, something is fundamentally wrong with this provision.

Hon. Senators: [*Desk thumping*]

Sen. Mark: And when I hear the Attorney General and the Minister of Finance both agreeing with this and saying this is nothing big, it is in the law, et cetera. Yes, it is in the law, Mr. Chair, it is in the law, but they are adding something to negate what is in the law. The law is saying in section 11 that this is what you are entitled to, notification. They are now inserting a new subsection, crashing, cancelling 11(1). So there is no notification in the new subsection, bypass you like if you are having heart surgery, have a bypass and you bypass me and “you gone” directly to the person who is requesting the information.

And, Mr. Chair, may I advise you, if you go to 11 it is your personal information and if you go to the law there are categories that constitute personal information and you are not being even made aware that your personal information is being shared with a third party. And the Government is telling us, that is okay,

that is okay. We are not in support of that. We are not supporting that, Mr. Chairman.

Mr. Chairman: Minister of Finance.

Mr. Imbert: Right. When we did the previous legislation, a couple of years ago, it was the Opposition that asked for a notice period, a notification, sorry, when someone information is being shared with another competent authority in another country.

4.20 p.m.

When the Opposition asked for that, we made the point—could you let me finish?

Sen. Mark: Could you repeat yourself, Sir? He said something I—

Mr. Chairman: No, Sen. Mark. Sen. Mark, Sen. Mark, one second.

Mr. Imbert: What is wrong with—

Mr. Chairman: Sen. Mark, if you would allow him to finish, he would repeat what he said for clarity, but he has to finish. Sen. Mark, Sen. Mark. Minister of Finance.

Mr. Imbert: When we amended the Income Tax Act on the last occasion to become compliant with the Global Forum and the EU Council of Ministers, with respect to this particular provision, there was no requirement for a notification in the original draft. It was the Opposition that asked that the person be notified. It was then agreed that that notification will come an entire year after the fact. That is in the current legislation.

When the Opposition asked for that, and when it was agreed that it would be done a year later, we made it very clear—it is on the *Hansard*—that we were not certain whether the Global Forum would agree to that. The Global Forum has now told us, emphatically, unambiguously, that if we do not put in this amendment here, where a criminal is under investigation and therefore there is no tipping off of

that criminal, if we do not do it this way we will fail the Global Forum. And it makes eminent sense. If you are investigating a criminal, why are you going to tip them off? So I just want to tell—

Hon. Senators: [*Crosstalk*]

Mr. Chairman: Wait. There is a procedure here. The Minister of Finance is speaking. When he is done Members will be allowed to respond. Minister of Finance.

Mr. Imbert: Sen. Mark has given the false impression that this will apply to all persons, all, whose information is being shared across the board no matter what, whether they are completely innocent and upright or not as the case maybe. This only applies if a foreign jurisdiction is chasing an international terrorist or a criminal. It does not happen by vaps. They would have reasons to believe that somebody is either financing terrorism, or somebody is laundering money, or somebody is trying to evade tax. They would have reason to believe that, and they will ask that in that situation where they are pursuing somebody who they believe is a terrorist or believe is a money launderer, a drug dealer, an arms dealer, whatever, they are pursuing this person, they will want to request Trinidad and Tobago, please, do not tip off that person that we are looking into the information that you have given to us. And when we have reached a point where either the person is indicted or the person has been exonerated, you can then share it with them.

So all that is happening here is that we are qualifying it. We are not deleting the requirement for the notification. I am not finished. I am not finished. We are simply qualifying it. All we are saying is that in a particular instance where a foreign jurisdiction tells us, and this happens across the board with all sorts of things, Proceeds of Crime, all sorts of things where foreign parties, foreign

jurisdictions are trying to deal with a criminal, they will request that we do not inform the person. It is standard. It will only apply in those cases. It will not apply to everyone and it could only apply in a small number of cases. And they have told us if we do not do this we will fail the peer review.

Mr. Chairman: So I have Sen. Vieira, Sen. Mark, Sen. Roberts and then Sen. Gopeesingh. Sen. Vieira

Sen. Vieira SC: Thank you, Chair. I understand Sen. Mark's concern but I think in trying to address it, I would just make a couple of points. First, I think it is erroneous to conflate investigation with conviction. They are two separate things. An investigation does not preclude the presumption of innocence. When police and regulators are investigating a potential crime, as tax evasion is, there is no obligation to inform the suspect he is being investigated. That is generally what applies.

Secondly, I think that we need to read this clause in tandem with clause 7 earlier because 7 speaks about where:

“...taxpayer information is received by the Board from another jurisdiction under a tax information sharing arrangements for the exchange of information in relation to taxes the Board shall only disclose such taxpayer information to other agencies and the Board and the other agencies shall only use such taxpayer information, as is permitted under the terms of the agreement...”

So there is a particular context that needs to be made. So it is after the investigation if it is felt that there are charges that will follow, at that point, the suspect, the subject of the investigation is notified of the offence and it is then the constitutional right to be afforded an opportunity to explain yourself or to speak is afforded. Thank you.

Sen. Mark: Mr. Chairman, I just want—I think my colleague would like—with your leave, Sir, I want to bow to my colleague.

Mr. Chairman: Sen. Roberts.

Sen. Roberts: Mr. Chairman, it baffles me to know that the hon. Minister of Finance has an LLB. He just stated for all of us here that the international community may be investigating a criminal. One can only be a criminal after indictment and conviction. Mere investigation does not define a criminal. Therefore, with the principle that we operate under, innocent until proven guilty, what we just heard was a portion of insanity that will send me straight up St. Ann's right now. You cannot go into people's private bank records and so on when they are being investigated. We have a whole system here of jurisprudence that police have to go to a court and get a warrant and apply and so on and you are sitting here telling us in the Senate now that some foreign agency unknown says that they are investigating John Brown and they could just go in John Brown, innocent until proven guilty, get his private records, and a year down the line if they happen to convict him, you say to notify him. That makes absolutely no sense whatsoever.

Hon. Senators: [*Desk thumping*]

Sen. Roberts: So please let us stop there and to revert to the laws of Trinidad and Tobago, the laws of natural justice, the principle of innocence until proven guilty, and I would give the hon. Minister of Finance the opportunity to withdraw his entire statement because it really disappointed me after 33 years of knowing his intelligence.

Mr. Chairman: Sen. Gopeesingh.

Sen. Dr. Gopeesingh: Yes. Thank you very much, Mr. Chair. The first statement made by the hon. Minister of Finance is that Trinidad and Tobago was told by the authority that this is what they want Trinidad to do. First of all, how can we

ascertain whether that statement was made and the truthfulness of that? But we will have to consider the Minister is speaking the truth but there are question marks on that. Can the authority tell Trinidad and Tobago that they must deprive a citizen of Trinidad and Tobago, a sovereign nation, of that citizen's right to privacy which is enshrined in the Constitution under section 4? So no foreign authority can tell that—the first question is: Whether that has been told? And the second question: Can an authority tell Trinidad and Tobago to deprive a citizen of Trinidad and Tobago of their constitutional right?

And second point I want to make: Is the Minister aware that there is a legal judgment that has been handed down in the court recently that prevented people from going into the bank accounts of a citizen or two citizens of Trinidad and Tobago? And that is by the courts of law which is an independent body.

Sen. Mark: Mr. Chairman, I just want to follow up to consolidate. Mr. Chairman, right now the competent authority is the Board of Inland Revenue. Let us assume but not admit, Mr. Chairman, that the Government of Trinidad and Tobago wins the battle for the TTRA in which the Minister is directly involved in the activities and decision-making of the TTRA. You know the political implications of what we are passing here? Mr. Chairman, may I advise that the court has determined that the right of privacy to your banking information is sacrosanct. It is a human right—

Hon. Senators: [*Desk thumping*]

Sen. Mark:—and I want to warn this Government today, you pass this piece of legislation and anybody could challenge it and they will get away. You know why? Because we have not taken into account—because, Mr. Chairman, you would know that under section 13(1) of our Constitution, even though you pass a law with three-fifths, the court could rule that in a country that has respect for

human rights and fundamental freedom, a law is still totally unconstitutional. So what I am saying to this Government, through the hon. Minister, we have to be careful what we are doing. That is why we argued, Mr. Chairman, that we need time to study these things and luckily we were able to pick it up, and we are helping the Minister in this instance. So we are asking the Minister, do not go down that road. That is not a proper road to go down to bypass the rights of people. Because what? The investigation that you are conducting might not be successful. Mr. Chairman, something is wrong with that, so we totally, completely and comprehensively reject this particular proposal.

Hon. Senators: [*Desk thumping*]

Mr. Chairman: Attorney General.

Sen. Armour SC: Thank you, Mr. Chairman. I think the point is being missed entirely that the amendment which is being sought by the Bill before the House, and if you look at clause 12, you will see the Tax Information Exchange Agreements Act, 22, is amended. And when you go to (c), Sen. Mark is asking that (c), which seeks to introduce an amendment to the Tax Information Agreement Act, should be deleted. When we look at the Tax Information Exchange Agreements Act, No. 5 of 2020, it provides for the exchange of information between institutions of Trinidad and Tobago and other institutions of other countries, and that Act is passed by a special majority. Section 11 already provides for an exchange of information in the circumstances outlined by the Minister of Finance consistent with an Act that is passed with a special majority. So that there is no question of the amendment now that is being sought contravening anyone's right, and I thought that I had made that clear when I spoke earlier. Thank you very much.

Mr. Chairman: Minister of Finance. Sen. Mark, Sen. Mark, I will ask the

Minister of Finance to respond and wrap up. Minister of Finance.

Mr. Imbert: What is unfortunate here, and what is bothering me, is I do not know if this is purposeful or it is just accidental. I do not know. It is difficult. Because this has nothing to do with anybody's private bank account information. Nothing. There is no word in the Bill, in clause 12, that will allow anybody to get access to anybody's private bank information. There is nothing here. It does not exist. It is a fantasy being propagated by Sen. Mark, Sen. Roberts and Sen. Gopeesingh—a fantasy. All this does, it is codifying existing law. And I want to repeat because it is necessary to repeat, that the Opposition agreed, the same Sen. Mark agreed to the Tax Information Exchange Agreements Act of 2020. He agreed to that, and in that Act he agreed that tax information held by our Board of Inland Revenue could be shared with a corresponding tax authority in another country. He agreed to that. So Sen. Mark and the whole Opposition in this place and in the other place already agreed to the sharing of tax information with a special majority. They gave us the special majority that allows the sharing of tax information. Not bank information, not bank account information. I think it is just wrong to gallery to the public and pretend that what the Government is trying to do is to get access to people's private bank information. That is totally untrue.

4.35 p.m.

It is just wrong to keep shouting over there hoping that somebody would listen to you and think that clause 12 is giving the Government access to people's private bank information. That is simply wrong. It is just wrong. All clause 12 is doing is amending an Act which already allows the sharing of tax information, which was passed with Opposition support—unanimously with Opposition support.

And all we are saying—and to deal with the point made by Sen. Roberts, if you have a Russian oligarch already convicted as a criminal, who is hiding in an

express trust in Trinidad and Tobago under a dummy company and you do not know who the beneficial owner is and—with this legislation you can now find that convicted criminal Russian oligarch and you can determine whether he is using a shell company in Trinidad and Tobago to launder dirty money. That is perfectly permissible. That is simply an example. You may have convicted criminals who are using shell companies in Trinidad and Tobago to launder dirty money. My statement does not mean that everybody who is being investigated is already a convicted criminal. There are categories of people, there are suspects, there are convicted persons who would be hiding their beneficial ownership of companies. So please, do not shout and scream like that and disturb people who do not understand that what the Opposition is doing is making a mockery of this Parliament. This has nothing to do with private banking information.

Hon. Senators: [*Interruption*]

Mr. Chairman: Members, Members, Members, Members, Members. Sen. Roberts, very briefly.

Sen. Roberts: Yes, very briefly and very emotional from the Minister of Finance. I never mentioned a word about anybody's banking private information. I am speaking about information—

Hon Senators: [*Interruption*]

Sen. Roberts: Excuse me.

Mr. Chairman: Members, Members, Members, Members.

Hon Senators: [*Continuous interruption*]

. Roberts: Excuse me.

Mr. Chairman: Members, Members, Members, Members, Members.

Sen. Roberts: Do not be specific.

Mr. Chairman: Sen, Roberts, Sen, Roberts. Silence, silence, silence.

Mr. Imbert: Good grief.

Mr. Chairman: I do not want this exchange to get heated. Let us maintain a certain level of decorum. Sen. Roberts, quickly.

Sen. Roberts: Mr. President, I am speaking about people's information, whether tax, whether private banking. I never mentioned any specific information. Minister said that when there are investigations, that there are investigations going on, on a criminal. And I started off by saying if they are investigating, you cannot be a criminal. You become a criminal after you are indicted and convicted. And he—the hon. Minister is now trying to make it specific to only private banking information. I am speaking about any personal information, including tax information, health information, any information that is private and confidential to an individual who is innocent until proven guilty. And now the hon. Minister, secondly, comes in with this convoluted, concocted situation hypothetically that there is some Russian convicted oligarch and therefore, the convicted oligarch is who you are trying to investigate. However, even if you are investigating the convicted Russian oligarch, you cannot come to an innocent citizen in Trinidad and Tobago to try and say that you are somehow connected to the convicted oligarch and breach their rights. So on both points, the Minister is confused.

Mr. Chairman: Okay, good. So let me have the final say and then I will invite the Minister of Finance to close it off. Again, the way this procedure works is quite simple. The person that moves the amendment opens by explaining why they moved that amendment, which Sen. Mark has done. After everybody who wishes to contribute on said amendment has done so, the Minister of Finance responds to everyone, which he has done. In relation to all comments made by the Opposition and including Sen. Vieira in that, at this point in time, I need to put question. Minister of Finance, final words.

Mr. Imbert: Thank you. I just want to make it crystal clear that clause 12 of the Bill, on page 32 of the Bill, deals specifically with the sharing of tax information which we as Parliament have already agreed unanimously can be done and will not infringe constitutional rights. That is all clause 12 deals with, the sharing of tax information, which this Parliament and the Opposition agreed can be done and is already in our law with a special majority. That is all it deals with, nothing else.

4.40 p.m.

Mr. Chairman: Hon. Senators, the question is that clause 12 be amended as circulated by Sen. Mark.

Question, on amendment, [Sen. W. Mark] put.

Sen. Roberts: Division.

The Committee divided: Noes 21 Ayes 6

NOES

Browne, Dr. A.

Armour SC, R.

Sinanan, R.

Hosein, K.

West, Ms. A.

Mitchell, R.

Cox, Ms. D.

Bacchus, H.

Singh, A.

Ibrahim, Dr. M. Y.

Sagramsingh-Sooklal, Mrs. R.

Sookhai, R.

Lezama-Lee Sing, Mrs. L.

Hislop, L.

Vieira SC, A.

Teemal, D.

Thompson-Ahye, Mrs. H.

Dillon-Remy, Dr. M.

Hutchinson, Prof. G.

Drayton, J.

Gopee-Scoon, Mrs. P.

AYES

Mark W.

John, Ms. J.

Nakhid, D.

Lyder, D.

Roberts, A.

Gopeesingh, Dr. T.

The following Senators abstained: Dr. P. Richards, Ms. S. Maharaj and Mr. H. Francis.

Amendment negatived.

Question put and agreed to.

Clause 12 ordered to stand part of the Bill.

Clause 13.

Question proposed: That clause 13 stand part of the Bill.

Mr. Chairman: Sen. Mark.

Sen. Mark: Mr. Chairman, I do not have to—

Mr. Chairman: Briefly, Sen. Mark, because it is the exact same thing as clause 12.

Sen. Mark: You know, brilliant minds think alike because I am just about to tell you that I am going to be very brief but you took the words out of my mouth. Mr. Chairman, I support what you said, I have raised my arguments, I do not want to reiterate them. So the question is clear, we are not in favour of what the Government is—[*Inaudible*]

Mr. Chairman: Minister of Finance, final few words. It is the same as clause 12, so I am assuming the argument is the same. Sen. Mark has just repeated the same argument as 12.

Mr. Imbert: Our argument is exactly the same.

Mr. Chairman: Exactly the same. Okay. Hon. Senators, the question is that clause 13 be amended as circulated by Sen. Mark.

Question, on amendment, [Sen. W. Mark] put.

Sen. Roberts: Division.

The Committee divided: Noes 21 Ayes 6

NOES

Browne, Dr. A.

Armour SC, R.

Gopee-Scoon, Mrs. P.

Sinanan, R.

Hosein, K.

West, Ms. A.

Mitchell, R.

Cox, Ms. D.

Bacchus, H.

Singh, A.

Ibrahim, Dr. M. Y.

Miscellaneous Provisions
(Trustees, Exchequer and Audit) Bill, 2023

Sagransingh-Sooklal, Mrs. R.

Sookhai, R.

Lezama-Lee Sing, Mrs. L.

Hislop, L.

Vieira SC, A.

Teemal, D.

Thompson-Ahye, Mrs. H.

Dillon-Remy, Dr. M.

Hutchinson, Prof. G.

Drayton, J.

AYES

Mark W.

John, Ms. J.

Nakhid, D.

Lyder, D.

Roberts, A.

Gopeesingh, Dr. T.

The following Senators abstained: Dr. P. Richards, Ms. S. Maharaj and Mr. H. Francis.

Amendment negatived.

Mr. Chairman: Hon. Senators, the question is that clause 13 now stands part of the Bill as it is in the Bill.

Question put and agreed to.

Clause 13 ordered to stand part of the Bill.

Question put and agreed to: That the Bill, as amended, be reported to the Senate.

Senate resumed.

Hon. Imbert: Thank you, Mr. President. I wish to report that Miscellaneous Provisions (Trustees, Exchequer and Audit Act, the Minister Of Finance (Incorporation) Act, Proceeds of Crime, Income Tax, Companies, Partnerships, Securities, Tax Information Exchange Agreements, the Non-Profit Organisations and Mutual Administrative Assistance in Tax Matters) Bill, 2023, was considered in committee of the whole and approved with amendments. I now beg to move that the Senate agree with the committee's report.

Question put: That the Bill, as amended, be reported to the House.

Sen. Roberts: Division.

The Senate divided: Ayes 22

AYES

Browne, Hon. Dr. A.

Armour SC, Hon. R.

Gopee-Scoon, Hon. P.

Sinanan, Hon. R.

Hosein, Hon. K.

West, Hon. A.

Mitchell, Hon. R.

Cox, Hon. D.

Bacchus, Hon. H.

Singh, Hon. A.

Ibrahim, Dr. M. Y.

Sagramsingh-Sooklal, Hon. R.

Sookhai, Hon. R.

Lezama-Lee Sing, Mrs. L.

Hislop, L.

Vieira SC, A.

Thompson-Ahye, Mrs. H.

Dillon-Remy, Dr. M.

Hutchinson, Prof. G.

Maharaj, Ms. S.

Francis, H.

Drayton, J.

The following Senators abstained: Mr. W. Mark, Ms. J. John, Mr. D. Nakhid, Mr. D. Lyder, Mr. A. Roberts, Dr. T. Gopeesingh, Dr. P. Richards, Mr. D. Teemal.

Sen. Mark: [*Inaudible*]

Mr. President: Okay, again, I have had too many times during the proceedings of the Senate to have to raise to my feet during the calling of division. This is simple. I should not have to tell anybody that in order for this division to occur properly, every vote must be heard. This is extremely important. You all should know that. Therefore, moving forward, in every Senate sitting, there will be silence during a division. Continue, Clerk.

Question agreed to.

Question put: That the Bill be now read a third time.

Sen. Mark: Division.

4:55 p.m.

The Senate divided: Ayes 22

AYES

Browne, Hon. Dr. A.

Armour SC, Hon. R.

Gopee-Scoon, Hon. P.

Sinanan, Hon. R.

Hosein, Hon. K.
 West, Hon. A.
 Mitchell, Hon. R.
 Cox, Hon. D.
 Bacchus, Hon. H.
 Singh, Hon. A.
 Ibrahim, Dr. M. Y.
 Sagrainsingh-Sooklal, Hon. R.
 Sookhai, Hon. R.
 Lezama-Lee Sing, Ms. L.
 Hislop, L.
 Vieira SC, A.
 Thompson-Ahye, Mrs. H.
 Dillon-Remy, Dr. M.
 Hutchinson, Prof. G.
 Maharaj, Ms. S.
 Francis, H.
 Drayton, J.

The following Senators abstained: Mr. W. Mark, Ms. J. John, Mr. D. Nakhid, Mr. D. Lyder, Mr. A. Roberts, Dr. T. Gopeesingh, Mr. P. Richards, Mr. D. Teemal.

Question agreed to.

Bill accordingly read the third time and passed.

Mr. President: Leader of Government Business.

Hon. Senators: [*Desk thumping*]

ADJOURNMENT

The Minister of Foreign and CARICOM Affairs (Sen. The Hon. Dr. Amery

Adjournment

2023.11.24

Browne): Mr. President, I beg to move that this Senate do now adjourn to Tuesday November 28, 2023 at 1.30 p.m. for Private Members day, and the Opposition might wish to indicate.

Mr. President: Sen. Mark.

Sen. Mark: Thank you, Mr. President. We shall be pursuing Motion No. 1 on the Order Paper.

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 for the adjournment of this Senate. Sen. Dr. Richards.

CUSTOMER PROTECTION SYSTEMS OF COMMERCIAL BANKS

Sen. Dr. Paul Richards: Thank you, Mr. President.

Hon. Senators: [*Desk thumping*]

Sen. Dr. P. Richards: I thank you for the opportunity to raise this Motion for the adjournment of the Senate: the need for the Minister of Finance to engage the Central Bank with a view to re-evaluating the antifraud and customer protection systems of commercial banks in the country. Mr. President, the banking institutions in the country are an indispensable and central part of aspects of all persons lives in almost every demographic with the exception of children, who obviously cannot open a bank account. But for those who must use the banking sector, there have been several incidents in the last couple of weeks and months that have raised concerns in the general population that I think need to be more assiduously addressed.

The first is the issue of the cyber-attacks which have plagued many institutions and a couple electronic glitches which one commercial bank had taken responsibility for with regard a retailer in the country, a popular retailer in the country. And the fallout from that in terms of the trust and confidence in the systems that we all

must use in the country and the understanding that what may have worked six months ago or 18 months ago, may need to be revised now with some supervision from the regulator. And because transparency, and public confidence and trust is a cornerstone of financial banking institutions and commercial banking institutions in the country, that must be protected at all costs, and transparency mechanisms should be at the forefront of the banking sector's interface with the public.

The public protection, of the public interest I should say, where commercial banks may have had a tendency in the past to manage instances of fraud whether originating internally or externally, quietly and internally, may not be the best and most transparent way to move forward in the context of them getting the kind of information to the public to maintain public trust and confidence. The other issue has to do with where in the public domain there is a disquiet in the public about persons in many cases are a vulnerable group—the elderly—being targeted, either stalked outside of commercial banks and ATMs. In some instances intercepted when they leave the institution or when they are about to get home, and robbed, traumatizing them which is even more disturbing for the elderly persons who have been the victims of these attacks. There has been speculation that the security of customer information and regarding that customer information, if there had been breaches by the customers or of the customers information provided to the criminals either by internal agents to the banking institutions or breaches to the systems in the banks.

And there has been a lack of clarity to me from the Bankers Association of Trinidad and Tobago, and the banking institutions about those suspicions—and I stress suspicions and allegations—in the public domain. I have seen the banks and the Bankers Association issue a release, there may have others that I did not see

but that is unlikely because I am in the media, urging customers to be vigilant and take the necessary steps to protect themselves, which is commendable. But I do believe a lot more needs to be done. There is a responsibility of the banks and the Bankers Association to have a thorough, transparent investigation into these allegations in the public interest.

And of the outcomes, I believe the public has a right to know, and the Banks have a responsibility to indicate if these allegations have been thoroughly investigated, and the outcomes of these investigations in the public interest. I think customers who drive the banks' billion-dollar profit lines, which is not a problem, banks are in the business of making money, by the patronage derived from their clients, deserve better. I hope the Minister of Finance can have discussions with the Bankers Association as well as the Central Bank of Trinidad and Tobago, in a bid to showing greater attempts at displaying a bit more definitive protection measures and information in relation to their valued customers. I thank you, Mr. President.

Hon. Senators: [*Desk thumping*]

The Minister of Finance (Hon. Colm. Imbert): Thank you—

Mr. President: Minister of Finance.

Hon. C. Imbert: Sorry, Mr. President. Thank you very much for just clarifying exactly—[*Inaudible*]. The letter I received had two parts, the schedule only has one part and deals with antifraud and customer protection. But you in your contribution spoke about the two parts in your letter, both the issues with ATMs and then also antifraud protection. So I will try my best.

Mr. President: Alright, so let me—I am now figuring out exactly what occurred. Sen. Richards, it seems as though what is on the Order Paper to be done by way of the Motion to be raised on the matter for the adjournment, the one that you spoke

about is not the one that is specifically here. As such, there is only one way to properly deal with this, and that is, either you choose to stand down that one that you did and we will correct that, or with the leave of the rest of the Senators, I allow you to do the actual one that is on the Order Paper if you are prepared to do so, if the Minister of Finance is also ready to answer that. Minister of Finance?

5.05 p.m.

Hon. C. Imbert: Just allow me to clarify. What Sen. Richards appears to have done is deal with the two things in the letter that was sent to the Senate, which is both the anti-fraud and the removal of teller services. I am not clear on exactly what was presented.

Mr. President: What happens, Minister of Finance, is that when the letter is sent to you, as the Member raises the matter or posing to raise the matter, there would have been two sent, and he would have chosen which one he wanted to do today. Sen. Mark has the second one on the Order Paper for today. We did both.

Sen. Dr. Richards: May I, Mr. President?

Mr. President: Yes, go ahead.

Sen. Dr. Richards: Thank you. Through you, Mr. President, I was informed that one of the two would be able to be raised today and the other one at a different time, because Sen. Mark has one on the Order Paper also. So I chose the second one. I apologize for not clarifying that.

Hon. C. Imbert: I am ready.

Mr. President: For the second one?

Hon. C. Imbert: Sure.

Mr. President: Yes, okay. Go ahead.

Hon. C. Imbert: I could have answered the first one as well. It seemed to have

come in there with the ATM issue; it seemed to. I kind of picked up, Sen. Dr. Richards, that you were adverting to the removal of teller services when you spoke about the problem with the elderly and the ATMs.

Now, the Central Bank issues guidelines—and I am glad you brought this up and I was quite interested to learn exactly what the issues were, because the commercial banks, driven by profit, I guess, over the last 10 years, have tried to introduce more, I would say, online and digital services and more impersonal services. They have tried to get people to use ATMs and so on, and they have sort of discouraged people from using teller services. Okay? So I am glad you brought it up because I was not sure, Mr. President, exactly what aspect of this whole problem that Sen. Dr. Richards was going to raise. And it is quite a complex issue with the banks changing their whole business model for efficiency and profitability, to try to reduce personal contact. That is really what is going on. And that then exposes people to cyberattacks and cyberfraud.

So the Central Bank has issued a number of guidelines to the banking sector, and some of the guidelines that are worthy of mention include a guideline on the security systems for safeguarding customer information. This was issued in May 2005, quite a long time ago. It sets out:

“...a standardized framework for an effective customer information security programme...”—for—“...preserving the integrity and confidentiality of customer records and information.

So there are guidelines, and banks are mandated to follow these guidelines. With respect to market conduct, the Market Conduct Guidelines were issued in November 2018, and this gives guidance to banks for implementation of:

“...proper market conduct practices, policies and procedures to facilitate a sustainable, fair and sound financial environment for customers.”
Then you have the Corporate Governance Guidelines, which were revised in March 2021, to take account of best practices and establishes:

“...standards of business conduct and code of ethics for directors, senior management and other personnel...”
And then, the Cybersecurity Best Practices Guidelines, issued just a couple months ago, in September 2023, which:

“...seeks to provide companies with guiding principles that are consistent with international best practices for establishing adequate cyber security frameworks to ensure cyber reliance.”
Now, respect with respect to the specific matter that Sen. Dr. Richards raised, the question of a particular company where persons were charged twice, in some cases, for items that they may have purchased once, what I was told, and I think the bank in particular that committed that error, I think they were very forthright. They came out and admitted it after a while. They did not come out right away, but they came out and admitted that what happened was that the company that they were working with, the retail outlet, had two types of credit card systems: one that remitted the funds in foreign currency and one that remitted the funds in local currency.

And somehow—and these things happen as we move into the electronic age—there was a glitch in the software so that the software did not recognize that it had already billed the persons. It did not recognize that these transactions were in TT dollars and it billed the people in US dollars. So there were double billings, and

US dollar billings, when it should be TT dollar billings. And in attempting to recover from that error, they then converted at the wrong exchange rate, because we have a buying rate and we have a selling rate, and persons were billed at the buying rate and then reimbursed at the selling rate or vice versa, resulting in a loss. It really was quite confusing to me as to how a serious bank could make an error of that nature, and I can tell you that matter is being investigated by the Central Bank and a report is expected in the near future. But how that could happen, that somebody does a TT dollar transaction with a local retail outlet and it is somehow billed on their credit card as a US dollar transaction, and then it is billed twice, and then in the reimbursement they used the wrong exchange rate and they said it is a glitch in the software, I mean, come on, it is quite ridiculous. So that I am glad you brought this up because this could certainly happen again and it makes people lose confidence in the system, you lose confidence in the company.

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

Hon. C. Imbert: Yes, sure. It makes consumers lose confidence in the company where they purchased the goods from. Because that was the initial belief, that it was the company, the retail company, that was overbilling people. Then it makes you lose confidence in the bank because you think such a prestigious bank should never have a mistake like that. So certainly, the Central Bank is going to improve guidelines to try to deal with that sort of problem.

But I just wanted to make it clear that there are already cybersecurity best practice guidelines, published as recently as 2023, and the sole purpose of those is to eliminate fraud. But we have very sophisticated criminals out there at this point in time and this requires constant vigilance. It requires vigilance by the regulator. And I can assure you, as Minister of Finance, I am very disturbed by all of this and

Customer Protection System
Of Commercial Banks
Hon. C. Imbert

2023.11.24

I will be working with the Central Bank to do whatever can be done to minimize this kind of thing in the future.

Mr. President: Sen. Mark.

**Telecommunications Authority of Trinidad and Tobago.
(Failure to Enforce Cable & Wireless Terms of Agreement)**

Sen. Wade Mark: Thank you, Mr. President. Mr. President, the matter on the Motion for the Adjournment deals with the failure of the Telecommunications Authority of Trinidad and Tobago to enforce the terms of the Cable & Wireless acquisition agreement to have Liberty Latin America divest its 49 per cent shareholding in the Telecommunications Services of Trinidad and Tobago after some eight years.

Mr. President, it was in 2015 that Trinidad and Tobago was told by the Telecommunications Authority that there was a change of control of Columbus Networks International (Trinidad) Limited and Columbus Communications Trinidad Limited through the acquisition of Columbus International Inc. by Cable & Wireless Communications.

Now, Mr. President, this was in 2015, and under the Telecommunications Act of our country, the Telecommunications Authority is supposed to avoid market concentration and through that process, prohibit anti-competitive pricing in the marketplace. What has happened is that, according to the information I have, Mr. President, Cable & Wireless and Columbus Communications was supposed to divest the 49 per cent owned by Cable & Wireless in TSTT, based on an agreement with the Telecommunications Authority, in 2015. Cable & Wireless was supposed to have a complete divestment of their 49 per cent shareholding in TSTT within one calendar year or such extended date as maybe approved by the Authority in

writing, such extension not to exceed a maximum of six months.

So within 18 months of 2015 December, Cable & Wireless was supposed to divest its 49 per cent shares or shareholding in TSTT. Mr. President, it is now eight years and that has gone to sleep and you have one giant in charge of the telecommunication industry in Trinidad and Tobago. Outside of Digicel, Mr. President, Columbus Communications, Cable & Wireless control that market.

Mr. President, this is extremely serious. It is very alarming. What is even more critical, Mr. President, is that when we look at the people who own Cable & Wireless and who own Columbus Communications, it would shock you. Based on research that we have conducted, we understand that a company by the name of Portland Holdings, whose Chairman is a fella called Mr. Michael Lee-Chin and who is the CEO of Portland Holdings, in 2005 they linked up with a group called the Risley Group to form Columbus International, known as Columbus Communications. It was supposed to be a diversified company whose core operations, Mr. President, was supposed to provide cable television services, high-speed Internet access, digital telephone and Internet infrastructure services at the retail level.

Mr. President, what has happened is that we have learnt that this company, in 2015, Cable & Wireless, acquired Columbus Communications, and this was acquired later on by Liberty Global in 2016. So what we have in Trinidad and Tobago, as we speak today, is Cable & Wireless, Mr. President, is supposed to own 49 per cent but they were supposed to divest of that 49 per cent to the people of Trinidad and Tobago, or to whoever they wish. Eight years later, they are still in charge of the 49 per cent shares. So they are competing directly with TSTT. So you have Columbus Communications known—trading as FLOW. You have Cable

Telecommunications Authority of
Trinidad and Tobago
Sen. Mark

2023.11.24

& Wireless owned by Liberty Latin America, which is owned by a fella called Michael Lee-Chin. And they are now effectively in charge of TSTT. When I say TSTT, let me just rephrase that. Their 49 per cent ownership in Cable & Wireless now put them, Mr. President, in direct competition with TSTT and their services. You see why TSTT cannot survive? The Government has facilitated this Cable & Wireless failure through TATT to divest its 49 per cent shareholding after eight years.

And given the agreement I have seen, Mr. President, they were supposed to divest of their shareholdings within one year—

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

Sen. W. Mark:—and there are no more than six months by extension. So within 18 months, they were supposed to divest of these shares. So, Mr. President, I have brought this to your attention and to the attention of this Senate, so that we can get answers from the Telecommunications Authority, through the hon. Minister, as to when Cable & Wireless will divest its 49 per cent shareholding in the people's company called TSTT.

Mr. President, I await answers from the Minister of Digital Transformation to tell Trinidad and Tobago why Cable & Wireless have not divested its 49 per cent shareholding in TSTT after eight 8 years. I thank you, Mr. President.

Mr. President: Minister of Digital Transformation.

The Minister of Digital Transformation (Sen. The Hon. Hassel Bacchus): Thank you, Mr. President. Again, I do not always share Sen. Mark's enthusiasm, in terms of the sensationalization of the way things are. I am going to, for all intents and purposes, set the record straight.

The Telecommunications Authority and—by the way, I must compliment Sen.

Telecommunications Authority of
Trinidad and Tobago
Sen. the Hon. H. Bacchus

2023.11.24

Mark in that he got quite a number of the things that he said correctly. I will say those things as I go through here. The Telecommunications Authority, on March 12, 2015, and confirmed on the 26th of March, granted approval to Cable & Wireless Communications to purchase Columbus International. The Authority's approval required that CWC, which is Cable & Wireless Communications, sell 49 per cent shareholding of telecommunication services of TSTT. Accordingly, Cable & Wireless Communication, CWC, and Cable & Wireless West Indies Limited entered into a divestment and suspension agreement, a DSA, with National Enterprises Limited, NEL. And there were some stipulations to that. The agreement actually has 26 items inside of it. It is available on the web, you can get it. And the stipulations in there included, and I would read a part of it, but it included that they give up their rights on the board, et cetera, et cetera. So they really had no control and still have no control over TSTT.

Really, what they would receive would be dividends should the company make a profit, and some other rights that they had. But they really had no control. To specify that, CWI and CWC agreed to suspend the exercise of all of their respective rights and receipts of all respective benefits under the shareholders agreement. So they had to give it up. That was in the law. Right? And they also indicated that in contemplation of the completion of the acquisition of the—that is the closing of the entire issue, the share capital and so on, and pursuant to the terms and decisions of the Telecommunications Authority, communicated on the 12th of '15, that they had to divest the 49 per cent. That is really what it is. So Sen. Mark, you were correct, relative to that divestment piece. The companies were wrong but the divestment is right.

To date, however, again he is correct, that divestment has not happened. Right?

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But it is not that it just does not happen. There are things that have to be applied for. So the Authority has been in receipt of request for six-month extensions from Cable & Wireless dating back to the 30th of June, 2017, to effect the said divestment. So it is not that they were not doing anything. They had to apply not to be able to do it and the Authority has been granting them that, and there are reasons why that did not happen.

The 18-month piece is also correct. It says in clause 22 of the DSA if the expiration of the 12 months or in the event that the extension is referred to in this paragraph being granted by TATT of 18 months, et cetera, that is there, no binding agreement has been entered into for the divestment of, again, the Cable & Wireless West Indies Limited, the Cable & Wireless Communications and NEL.

5.20 p.m.

They shall meet—once that did not happen—they shall meet to explore in good faith further options for the disposal of the shares, acknowledging, however, that any such disposal would be subject to the consent of TATT. What that means is that with Cable and Wireless and CWI not being able to divest it on their own, they would meet with NEL, see if they can get a buyer for it once it meets with TATT's approval. That has been ongoing.

They said CWC sought and was granted extensions of time by the Authority to sell the said shares, and CWC indicated that the delay of the sale of the shares was predicated on some things. Interested parties in purchasing the shares, the negotiations of those things, and of course, the price of the shares, they say it was not attractive. They had put the shares at a particular value, they went into the market, they did not get the amount of buyers they were looking for, and even when they were negotiating with them, the prices that were being offered were not

consistent with what they valued their shares at.

On the 20th of June 2018, Cable and Wireless again dipped back into their— and asked for an extension to give them until December 31, 2018. They still did not find one. Subsequently, in February 2019, Liberty Latin America, the Parent company of CWC, wrote the Authority and indicated inter alia, that there were some reasons, but the discussions with TSTT regarding the divestment of CWC shareholding in TSTT were at a standstill, and that the parties could not agree on a reasonable valuation for the shares.

This was despite best efforts for the completion of a transaction, including offers that were being made below the floor price. They really were not getting what they wanted. So, Liberty again met with NEL, they had discussions with other government officials, they still have not been able to do it. But it is not that it has been standing still. The Authority continues to monitor the efforts of Liberty Latin America, who has provided the Authority with status updates on its efforts to sell its shares. So, it has been updating the Authority. The Authority met with Liberty on the matter again to seek updates and the latest of these was on August 15, 2023, which was just recently. The Authority wrote to Liberty Latin America requesting an update on the sale on the 49 percent shareholding, and on September 21, 2023, Liberty Latin America responded and provided a status update on the sale of the said shares. It said the company was reaching out to various parties who may now be interested in purchasing the shares. And you will understand, that given the recent audited numbers for TSTT, it is now once again an attractable interest. So you would understand why people would be trying to get it.

But the last two pieces I think are very important for the public, and for everyone to know and for this honourable House. It should be noted that the

Telecommunications Authority of
Trinidad and Tobago
Sen. the Hon. H. Bacchus

Authority's responsibility in this matter is to ensure fair competition in the market for telecommunications services. The Authority will continue to monitor the attempts of CWC and NEL to sell the shares. The Authority has no responsibility or authority to sell shares. This remains the remit of NEL, and Liberty Latin America.

In the interim, the Authority has ensured that Liberty Latin America is not part of the decision-making function at TSTT, and in fact its only involvement is to receive dividends, if and when they arise. In this way, the anti-competitive efforts of their ownership as a competitor of the Telecommunications Services of Trinidad and Tobago, would have been removed.

So, Sen. Mark, I hope this allays some of the fears that you have relative to this being that they are still in control of TSTT or are in some way in control of it. They have been removed. The Authority validated that. They continue to do this, and the attempts to sell the shares continue. I believe with the turnarounds in fortune at TSTT that may be something that maybe accomplished within a shorter time as opposed to depressed, and when COVID happened, et cetera, et cetera. Mr. President, I thank you.

Hon. Senators: [*Desk thumping*]

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 5.29 p.m.