Leave of Absence

HOUSE OF REPRESENTATIVES

Wednesday, November 27, 2019

The House met at 1.30 p.m.

PRAYERS

[Madam Speaker in the Chair]

LEAVE OF ABSENCE

Madam Speaker: Hon. Members, I have received communication from Mr. Barry Padarath, MP, Member for Princes Town, who has requested leave of absence from today’s sitting of the House. The leave which the Member seeks is granted.

PAPERS LAID


3. Ministerial Response of the Ministry of Community Development, Culture and the Arts to the Twenty-Seventh Report of the Public Accounts Committee on the Examination of the Expenditure and Internal Controls of the National Carnival Commission of Trinidad and Tobago for the years 2010 to 2018. [Hon. C. Robinson-Regis]
4. Response of the Tobago House of Assembly to the Twenty-Seventh Report of the Public Accounts Committee on the Examination of the Expenditure and Internal Controls of the National Carnival Commission of Trinidad and Tobago for the years 2010 to 2018. [Hon. C. Robinson-Regis]

ANSWERS TO QUESTIONS

The Minister of Planning and Development (Hon. Camille Robinson-Regis):

Thank you, Madam Speaker. Madam Speaker, there are four questions for oral answer and we will be answering all four questions. There are no questions for written answer. [Desk thumping]

ORAL ANSWERS TO QUESTIONS

Public Transport Service Corporation Buses (Details of)

4. Dr. Surujrattan Rambachan (Tabaquite) asked the hon. Minister of Works and Transport:

Could the Minister state:

a) the annual number of buses acquired by Public Transport Service Corporation (PTSC) from 2015 to 2019;

b) the annual total cost of the buses acquired in part (a);

c) the current size of the PTSC fleet of buses (exclusive of unserviceable buses);

f) the duration of time that the buses at part (e) were deemed not roadworthy; and
g) the number of buses required by PTSC to provide adequate service in Trinidad?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Thank you, Madam Speaker. Madam Speaker, during the period October 2014 to 2019, PTSC purchased 97 buses as follows: December 2014 that was delivered in 2015, 35; February 2017, 2; April 2018, 35; August 2018, 25, due for delivery in 2020. The annual total cost of the buses acquired above is as follows: December 2014, $40,689,000; February 2017, $1,020,000; April 2018, $34,403,000; August 2018, $29,543,000, and the grand total of $105,657,000. The current size of the PTSC fleet of buses is 336. From 2015 to date, 46 buses became unserviceable.

There are currently 27 buses that are deemed not roadworthy and are undergoing short-term repairs. The buses stated above were deemed not roadworthy as follows: 18 buses new defects, five buses deemed not roadworthy for one day, two buses deemed not roadworthy for three days, two buses deemed not roadworthy for 29 days. The current estimate indicates that PTSC requires approximately 450 serviceable buses in order to provide adequate service in Trinidad and Tobago. However, this estimate is undergoing regular review based on supply and demand. I thank you. [Desk thumping]

Debt Owed by Clico (Details of)

5. Dr. Surujrattan Rambachan (Tabaquite) asked the hon. Minister of Finance:

Could the Minister state:

a) the original Clico debt owed to the Government following its collapse;
b) the total debt repaid by Clico; and
c) the total remaining debt owed by Clico?

The Minister of Finance (Hon. Colm Imbert): Thank you, Madam Speaker.
Oral Answers to Questions (cont’d) 2019.11.27

The answer to part a), the amount owed by CL Financial and its subsidiaries under the Memorandum of Understanding and the shareholders agreement is as follows: injections into Clico to protect traditional policyholders, $5,000,000.95; injections into British American to protect traditional policyholders, $872,322,077; payments to Clico STIPs, Short Term Investment Products, $10,885,458; payments to British American, Short Term Investment Products, $765 million—sorry, let me repeat. Let me go back, Madam Speaker, my apologies, payments to Clico, Short Term Investment Products, $10,885,458,001; payments to British American, Short Term Investment Products, $765,065,063—[Interruption]

Madam Speaker: Minister of Finance—

Hon. C. Imbert: So childish.

Madam Speaker: Minister of Finance—

Hon. C. Imbert: Payments to CIB—

Madam Speaker: Minister of Finance—

Hon. C. Imbert: Yes, I am sorry, Madam Speaker.

Madam Speaker: Hon. Members, I think we all want to hear the responses so, you know, I would ask certain Members to please remember their volumes and the low ceilings that we suffer from here. Minister of Finance.

Hon. C. Imbert: Thank you, Madam Speaker. I think I better repeat: injections into Clico to protect traditional policyholders, $5,500,000,957; injections into British American to protect traditional policyholders, $872,322,077; payments to Clico, Short Term Investment Products, $10,885,458,001; payments to British American, Short Term Investment Products, $765,065,063; payments to CIB depositors, $1,870,659,526; payments to First Citizens Investment Services to protect CMMB, Caribbean Money Market Brokers investors, $731,176,936; payments to the liquidator of British American to acquire a promissory note.
$334,964,571; interest on financing cost up to April 2016, $2,665,740,710—the numbers are so large, Madam Speaker—total, $23 billion owed by CL Financial and Clico, and its subsidiaries, $95,387,841. This figure, Madam Speaker, of approximately $23.1 billion does not include other costs such as adviser and legal fees incurred by the Government.

Of the total $23.1 billion, the debt owed to the Government by Clico was $18.085 billion, inclusive of interest of $2.29 billion. To date the only member of the CL Financial group that has repaid moneys to the Government is Clico. As at September 30, 2019, Clico has repaid a total of $14,986,000,000 including interest in the amount of $2.159 billion. As at September 30, 2019, the amount still outstanding by the CL Financial group and its subsidiaries is $8,109,000,000, plus legal fees, interests and other costs of which Clico outstanding debt is $3,098,000,000 inclusive of interest to date.

Madam Speaker: Supplemental, Member for Tabaquite.

Dr. Rambachan: Thank you, Madam Speaker. Mr. Minister, can you give an idea of how much money was spent as advisor and legal fees?

Hon. C. Imbert: Madam Speaker, I do not have that information but it is a fraction of the money recovered. [Desk thumping] We recovered $15 billion and the fees paid was an infinitesimal fraction of that amount.

Madam Speaker: Member for Tabaquite, supplemental or—

Dr. Rambachan: Thank you, Madam Speaker, a supplemental. Madam Speaker, of the $8.1 billion that is still owed, what are the prospects of collecting that $8.1 billion?

Hon. C. Imbert: Under the PNM, excellent, and it is $8 billion-plus. [Desk thumping]

Primary and Secondary Schools
(Teaching Vacancies)

UNREVISED
6. **Dr. Surujrattan Rambachan (Tabaquite)** asked the hon. Minister of Education:

Could the Minister state:

a) the current number of teaching vacancies in primary and secondary schools; and

b) the annual number of vacancies filled from 2015 to date?

**The Minister of Education (Hon. Anthony Garcia):** Thank you very much, Madam Speaker. Madam Speaker, the current number of teaching vacancies at the primary school level is 23 and at the secondary level it is 229. The second part of the question, Madam Speaker, the annual number of vacancies filled at the primary and secondary schools from 2015 to date are as follows: in 2015, 201; in 2016, 107; in 2017, 219; in 2018, 151; and up to November 2019, 98, and that is for the primary schools. In the secondary schools: in 2015, 162; in 2016, 150; in 2017, 139; in 2018, 147; and up to November 2019, 176. Thank you.

**Madam Speaker:** Supplemental question, Member for Chaguanas East.

**Mr. Karim:** Thank you very much, Madam Speaker. Hon. Minister, might you be able to advise us as to what year is currently being interviewed by the Teaching Service Commission for teachers to be appointed to fill these vacancies?

**Hon. A. Garcia:** Madam Speaker, unfortunately I am not in a position to answer that question. That is in the realm of the Teaching Service Commission.

**Madam Speaker:** Member for Caroni East.

**Dr. Gopeesingh:** Thank you. Hon. Minister, would you by chance happen to have the breakdown in terms of denominational boards in terms of the vacancies versus Government schools? You might, might not have.

**Hon. A. Garcia:** Madam Speaker, in terms of the primary schools, the vacancies in the primary schools, yes, I can give that breakdown according to the boards and
I can give it to you now. Madam Speaker, the Anglican Board, three—

**Dr. Gopeesingh:** The whole thing.

**Hon. A. Garcia:** It is 23. All those vacancies—

**Dr. Gopeesingh:** Twenty-three.

**Hon. A. Garcia:** I said there are 23 vacant positions in the primary schools and all those vacancies sit in the denominational schools. That is okay with you?

**Dr. Gopeesingh:** Secondary.

**Hon. A. Garcia:** In the secondary schools you would know there is a big difference, it is according to the subject areas and most of the subject areas are in the technical/vocational area where we are having some difficulty in attracting teachers. I have a breakdown here which, again, I cannot give it according to the boards but it is according to the subjects. Okay? Thank you very much.

**Madam Speaker:** Supplemental, Member for Chaguanas East.

**Mr. Karim:** Thank you very much, Madam Speaker. Hon. Minister, given that you said that there is some of these interviews are in the realm of the Teaching Service Commission, as the Minister of Education, are you satisfied with the number of persons who you are forwarding to the TSC to be interviewed to fill these positions from the Ministry of Education?

**Hon. A. Garcia:** Madam Speaker, I am very happy to state that the Ministry of Education is doing all in its power to ensure that requests for the filling of vacancies that are made by this Ministry to the Teaching Service Commission are done in a timely manner and I am very pleased to announce that. Thank you.

[Desk thumping]

**Madam Speaker:** Supplemental, Member for Tabaquite.

**Dr. Rambachan:** Mr. Minister, can you tell us what is the average time it takes between when a person makes an application for a teaching position to the point at
which the person actually gets a job? What is the average length of time is it
taking to get a job in the Teaching Service, both at primary and at secondary
school levels?

Madam Speaker: I would not allow that as a supplemental question.

**Industry Sector**

**New Jobs Created**

8. Mr. Fazal Karim (*Chaguanas East*) asked the hon. Minister of Labour and
Small Enterprise Development:

Could the Minister provide the number of new jobs created from September
07, 2015 to August 31, 2019 according to industry sector?

The Minister of Labour and Small Enterprise Development (Sen. The Hon.
Jennifer Baptiste-Primus): Thank you very much, Madam Speaker. I am very
happy to provide the response to the question as posed by the hon. Member.
Madam Speaker, official statistics of this nature are produced by the Central
Statistical Office, popularly known as the CSO, and are available on either a
quarterly or annual basis. The most recent data available from the CSO is the
second quarter for 2018. So for the purpose of this question, Madam Speaker, I
shall report for the period, third quarter of 2015 to the second quarter of 2018, as it
is the most appropriate in relation to the period I just mentioned.

During the period of the third quarter of 2015 to the second quarter of 2018,
CSO has advised that the following sector produced 12,500 new jobs broken down
as follows: other agriculture, forestry, hunting and fishing, 600 jobs; other
manufacturing, excluding sugar and oil, 2,400 jobs; financing, insurance, real
estate and business services, 4,600 jobs; community, social, and personnel
services, 4,900 jobs. It should also be noted that the most recent unemployment
rate for Trinidad and Tobago that is available from the CSO, that is the second
quarter of 2018, is 3.8 per cent.
This rate, Madam Speaker, is well below the international standard of 5 per cent for full employment, thus confirming the sound economic management, good business practices and progressive policy of the present Government. I thank you, Madam Speaker. [Desk thumping]

DEFINITE URGENT MATTERS

(LEAVE)

School Bus Drivers
(Non-Payment of Outstanding Sums of Moneys)

Dr. Tim Gopeesingh (Caroni East): Thank you, Madam Speaker. Madam Speaker, in accordance with Standing Order 17 of the House of Representatives, I hereby seek your leave to move to the adjournment of the House for the purpose of discussing a definite matter of urgent public importance, namely the non-payment of outstanding sums of money to school bus drivers.

The matter is definite because it pertains to financial arrears to more than 300 school bus drivers, some of whom are owed for several months and are unable to repay bank loans, meet mortgages and other commitments. The matter is urgent because the untenable state of affairs is seriously disrupting this vital service to the nation’s children. The matter is of public importance because it affects the livelihoods of the school bus drivers and directly impacts the education of thousands of the country’s school children. Thank you, Madam Speaker.

Madam Speaker: Hon. Members, I am not satisfied that this matter qualifies under this Standing Order.

Murder of Patient at Port of Spain General Hospital
(Unprecedented Breach of Security)

Dr. Tim Gopeesingh (Caroni East): Thank you, Madam Speaker. In accordance with Standing Order 17 of the House of Representatives, I hereby request your leave to move the adjournment of the House at the sitting today for the purpose of
discussing the following definite matter of urgent public importance, namely the unprecedented breach of security at one of the country’s public health institutions.

The matter is definite because it relates to the murder of a patient of Ward 3 of the Port of Spain General Hospital on November 26, 2019. The matter is urgent because newspaper reports have indicated that hospital staff are fearful and expecting further public assassination attempts at the hospital while present ailing patients and visitors are experiencing serious trauma and panic. The matter is of public importance because such a crime having been carried out at a public hospital has placed the lives of all patients and employees at risk. Thank you, Madam Speaker.

Madam Speaker: Hon. Members, I am not satisfied that this matter qualifies under this Standing Order.

INTRODUCTION OF BILLS

Madam Speaker: Hon. Members, I seek your leave for this matter to be deferred and to be taken later in today’s business. Is this agreed?

Assent indicated.

BAIL (AMDT.) (NO. 2) BILL, 2019

Order for second reading read.

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam Speaker. Madam Speaker, I beg to move:

That a Bill to amend the Bail Act, Chap. 4:60, be read a second time.

Madam Speaker, we assemble today with Trinidad and Tobago’s safety and well-being squarely in mind. Forgive me, Madam Speaker, apparently there is a preceding point, may I?

Madam Speaker, in accordance with Standing Order 122(1), I beg to move for the suspension of Standing Order 64(1)(a) to permit the moving of the second

UNREvised
Hon. F. Al-Rawi: Madam Speaker, I now beg to move:

That a Bill to amend the Bail Act, Chap. 4:60, be now read a second time.

Madam Speaker, the Constitution of the Republic of Trinidad and Tobago is the supreme law so enshrined in section 2 of the Constitution, so stated expressly. We are permitted under the Constitution under section 53 of the Constitution to make laws for the peace, order and good governance of our society. This is the reason why two Houses of Parliament assemble, consider laws as we do and ultimately within the separation of powers principle we stand to state on behalf of the people whom we represent, particularly in this House as opposed to those whom are appointed to debate. We stand to give the signal as to what our country requires, what is considered justified in a society such as Trinidad and Tobago, and we leave laws on the books of Trinidad and Tobago there to be interpreted by the Judiciary and there to be operationalized by the Executive in its various iterations, be they under the police, under the Ministries with responsibility, security agencies, et cetera.

1.55 p.m.

The law which we bring today, having come from the Senate, having been passed without anyone in the Senate saying no to that law. In fact, seven Independents, 15 Government Members all saying yes, and absolute silence from the Opposition Bench, each and every one of them abstaining on the law. We bring law now to affect two fundamental human rights.

The first fundamental human right, of course, is to be found at section 4 of the Constitution, and that is:

“the right of the individual to life, liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by due process...”
Then, of course, in section 5 of the Constitution we look under the provision of the right to bail. Effectively, Madam Speaker, 5(2)(f)(iii) where someone ought not to be deprived when:

“(f)...charged with a criminal offence of the right—

(iii) to reasonable bail without just cause;”

On the one hand, therefore, we have the whole of Trinidad and Tobago, each and every person under the Constitution, looking for their right to liberty and enjoyment of life. On the other hand, we look to consider the effect of the right to bail and not to be deprived thereof except without just cause.

Today in the Guardian front page we see:

Hospital Hit
Patient shot multiple times on PoS Ward 3
Gunmen dressed in CSI kits carry out killing
25-year-old victim was admitted for stab wounds”

Today we see on the front page of another newspaper, the position this time of the Daily Express:

“Mystery Bomber
Hundreds evacuated as explosive device detonated at Parkade”

And today, quite simply, Madam Speaker, this Bill which appears to be short in its length certainly, treats with the very concepts that we are now addressing.

Two front page newspapers finding themselves in clause 3 of this Bill where we ask for the insertion of two things. One, under the provisions of the Bail Act section 5, we ask for bail restrictions in the case of persons charged with offences under section 9A of the Firearms Act. Section 9A of the Firearms Act which was recently introduced in August of this year, is the provision by which we establish for the first time, an offence for trafficking in firearms.
We also ask in section 5 of the Bail Act for the inclusion of bail restrictions for possession of a prohibited weapon. We specifically in clause 3 of the Bill define what a “prohibited weapon” means. We say that it means:

“(a) artillery or automatic firearm; or
(b) grenade, bomb or other like missile.”

Madam Speaker, that clause 3 of the Bill coincides with the two front page issues in today’s papers. Could we have anticipated today in this House as we come to debate this legislation, front page of Guardian, front page of Express, news in Trinidad and Tobago talking about bombs having been detonated, as is alleged, or devices having gone off, or automatic firearms having gone off? Perhaps fate has a way of working its way out. So let us look to what Trinidad and Tobago as a society is treating with.

Madam Speaker, the evidence before us right now says, from the Crime and Problem Analysis Branch—and I will just touch upon this, as I am sure my colleague, the Minister of National Security, will give us deeper details—but I would like to say that persons charged in the period 2009 to 2019, up to the 30th of June, 2019, for the possession of firearms, we see on our books machine guns and sub-machine guns. Whereas, for the period 2009 straight up to 2015/2016, we had no sub-machine guns. In 2017, we have 23 persons charged; 2018, we have 14 persons charged; 2019—as at June of this year, there has been more since—CAPAB’s analysis says seven people, a total of 44 people. We also see for machine guns in the same period, 2009 to 2019, that we have had 97 people charged for machine guns.

Now what is a machine gun? A machine gun, the weapon of choice these days, the AR-15, that is a weapon of war. And that weapon of war has been actually applied in Trinidad and Tobago with sub-machine and machine gun fire,
killing and wounding persons. One weapon of war, a machine gun, within seconds can kill up to 50 people if it is unfortunate enough to be successful in the way it is applied. What we do know that reports of firearm offences in the period 2009 to 2019, we have a total of 17,908. We treat with murders, 3574, as at the same date referred to earlier. Woundings and shootings, 2,911; robberies with firearms, 11,423. Arrests for possession of firearms in the same period 2009 to 2019, we are looking at 5,900 arrests. Arrests under the Anti-Gang Act in the period 2011 to 2019, 213.

I notice the Member for Naparima asking about anti-gang law being applied. Perhaps the hon. Member in my wrap up I will give him full details on that, but obviously he is not paying attention.

Madam Speaker, when we take our positions forward into attempted murder, that is shootings and woundings, the figures again stand in staggering proportion. Persons charged with crimes are one category of people, but let us look to what the Trinidad and Tobago Judiciary says, and what the Trinidad and Tobago prisons says. Certainly, when we look to the Judiciary, the Judiciary tells us that we have a number of cases standing before the courts, and when we look to their figures and we look at the Magistracy in particular, if we look at the case types before the Magistracy and matters pending—I am taking last year’s published figures—as at July 31, 2018, when we look to arms and ammunition, we have 7,045 matters standing before the Magistrates’ Court.

What we can say as well is that the number of convicted persons at the prisons, when we look under firearms, we are looking each year with a figure close to 100. For 2009 to 2019, each year the figures look as follows, 97, 81, 123, 97, 88, 91, 103, 147, 168, 196, and 49 and counting. This shows that convictions for firearm offences, in our judicial progress through to prison for actual conviction,
shows that the number of persons who have been convicted has risen sharply, going from 97 in 2009, to nearly 200 in 2018. We have doubled those figures.

Madam Speaker, when we look to the position of firearms and we look to persons remanded, if we look at the persons remanded as at the 16th of May, 2019, that is this year, albeit a couple of months ago, for firearms we have under the categories “armed robberies”, 212; discharge of firearm, one; possession of ammunition, 94; possession of firearms, 258; shooting with intent, 24. Now, Madam Speaker, these are no small figures. This shows that there is an epidemic in Trinidad and Tobago, one which is not new but one which has certainly climbed.

Madam Speaker, if we look to the functionality of our Constitution, under section 123A of the Constitution, the Commissioner of Police is charged with the responsibility of managing the forces under his command. When the Commissioner of Police steps out to indicate to the world that Trinidad and Tobago is required to equip the Trinidad and Tobago Police Service with a fighting chance by passing this law, I say to you, Madam Speaker, that we ought not to look at that position lightly.

There are two speakers opposite me who continuously make reference to Singapore; one is Naparima and one is Chaguanas East. When we look at this position, I would just like to put for the record that possession of a firearm in Singapore does not need to be treated with bail in the way we are treating with it. Possession of a firearm in Singapore, a conviction results in a hanging. The death penalty is prescribed for firearm possession—firearm possession.

We have a Commissioner of Police, we have Trinidad and Tobago under siege, we have Couva North on a continuous basis talking about the persons in her constituency and the application of firearms even on the seas, and yet the
Opposition says to this country that they are concerned to equip the policemen of this country with powder puffs. They are concerned to run a campaign of “who cares”. They are concerned to say that we ought to be afraid of something called “framing”, and the exclusion of the Judiciary as they allege, from this law.

So let me now turn to constitutional measures, to contemplation of the law, let me remind that the Bail Act which was born in 1994, which effectively did a codification of the common law, the Bail Act as delivered under Keith Sobion, then Attorney General, specifically said that bail will be a condition for the Judiciary to consider. It is stated at section 5(1) of the Bail Act, except in circumstances listed in the First Schedule. The First Schedule is where you are looking at offences that are capital offences: murder, treason, hijacking, et cetera, where the death penalty can be applied that section 5(1) of the Bail Act still stands undisturbed as the law. And I am going to come to that in due course when I treat with what the Judiciary has to say.

Madam Speaker, the fact is that Trinidad and Tobago in its constitutional arrangements under this law, the UNC, the Opposition is spreading fake news. They say to the country that the Bail Act is one which intrudes upon fundamental rights in a way that it ought not to. Let me put on the record, from 1994 we have had on many occasions the consideration of bail restrictions. In fact, today is the 17th time that we are seeking an amendment of the law. We amended the Bail Act in 2005 by Act No. 19; Act No. 32 of 2005; No. 30 of 2006; No. 10 of 2007; No. 15 of 2007; No. 25 of 2007; No. 17 of 2008; No. 9 of 2011; No. 11 of 2011; No. 12 of 2012; No. 1 of 2014; No. 7 of 2015. Five times in the period that the UNC was in office. For five years and three months we amended the Bail Act.

The UNC, the now Opposition, in amending the Bail Act saw Trinidad and Tobago effectively, especially under the Anti-gang Act companion bail
amendments, have people denied absolutely the right to bail on one charge—one charge under the Anti-Gang Act.

Madam Speaker, if you go to the 2011 amendment and you look at Act No. 9 of 2011, and you get to section 6 of that Act, which amended section (5) of the Bail Act, listen to this:

“(6) Subject to subsection (7) and (8), a Court shall not grant bail to a person who is—

(a) over the age of eighteen years; and

(b) charged with an offence under the Anti-Gang Act.”

Let me make this clear. The UNC, the Opposition, passed law in 2011 with the support of the People’s National Movement Opposition, and on one charge coming before the court. No prior charges, no two strike, no three strike, on one charge coming before the court, sat down and operationalized law where you could have been framed. We did not, as a responsible Opposition, come and argue that there was an unconstitutionality in this law. We put our hat, and we put it on a peg that said, “Trinidad and Tobago comes first”.

In the UNC iterations of law in 2015, section 5 was again amended to introduce the fact that if the prosecution informs the court that a weapon, a side arm, a gun any firearm was used in the course of the commission of an offence, that you shall be denied bail. Let me repeat that. Two real examples of the UNC saying the law ought to be applied so that we can actually have a fighting chance. One occasion, one charge, come before the court and no bail for you. Because what the hon. Members did then, and which we quite happily supported, we inserted into Trinidad and Tobago the ability for no bail, restrictions 120 days, one year positions coming back.

I looked at the Hansard reports, and I want to single out today Chaguanas
East, Tabaquite, Chaguanas West, then Attorney General Anand Ramlogan, every man jack, joined by the hon. Member for St. Augustine, each and every one of them in ensuring that the law was passed said, “Trinidad and Tobago must take a strong stance”, Madam Speaker.

Today I want to put on the record, Act No. 17 of 2019 is a radically different bail law in effect, than what the UNC was operating with. Madam Speaker, even though we have never had a case in the Commonwealth which has yet tested at the Privy Council level the equivalent of our section 13 of the Constitution and the reasonable justification argument, even though that is yet to come and it will come very shortly, we said as an Opposition then and we say as Government now, give Trinidad and Tobago a chance because it is okay for the Judiciary to be instructed as to what Parliament would like considered within the confines of the operation of the separation of powers.

In Act. No. 17 of 2019, we brought forward and we passed with the UNC kicking and screaming—thankfully, the Independent Senators voted resoundingly in favour of the law, and they were compelled to support the law out of pure shame—but in Act. No. 17 of 2019 we introduced a very important concept. We introduced into section 5 of the Bail Act a subsection 7A, and it says:

“Notwithstanding subsection (3) and subsection (7), a person to whom those subsections apply may, in exceptional circumstances, make an application to Court for bail.”

And we did that because we specifically did not amend section 5(1) of the Bail Act. Section 5(1) of the Bail Act says:

“Subject to subsection (2), a Court may grant bail to any person charged with any offence other than an offence listed in Part I of the First Schedule.”

That is offences for which you may suffer death as the penalty.
Let me make this clear. Section 5(1) of the Bail Act passed in 1994 has been left undisturbed by this Government. We amended subsections (2), (3) in particular, (4), (5), (6), (7). We expressly added in subsection (5)(7A) to say that you will always have the right to approach the court in exceptional circumstances. Today we seek to amend subsection (3). We are saying in subsection (3):

A court shall not—obviously subject to (7A) and section 5(1)—issue the consideration of bail under section 6 of the Firearms Act. That is possession. If you come before the court with a charge and you have a charge for a firearm. Secondly, if you have a conviction and charge, we have treated with that in the bail amendments. And if you have charge for a First Schedule Part II, and you come with another charge for a First Schedule Part II, that is serious offences, you ought to have bail restrictions on you.

But today in adding in trafficking in firearms and weapons of war as prohibited weapons, we are specifically saying to the world, to Trinidad and Tobago’s court system, to the Judiciary, we are saying to them that a court ought to be guided in not granting bail as an automatic easy process. We do so because effectively in section 5(7A), which we introduced by Act. No. 17 of 2019, we say:

“Notwithstanding subsections (3) and (7), a person to whom those subsections apply may, in exceptional circumstances, make an application…for bail.”

Now, Madam Speaker, I am mindful that I am being quite technical and legal, and I do so for the benefit of Hansard in the event that this matter goes to court. So forgive me for being a little legalistic on this point. I would love to speak in more basic terms, perhaps I will in my wrap up. But let me put this into context now.

We did two things in modelling this law. Number one, we looked at the UK experience. In particular, we looked at section 25 of the Criminal Justice and
Public Order Act, 1994, of the United Kingdom, which was amended after that law was struck down by the European court. Secondly, we also looked at local jurisprudence in the combination of the St. Omer decision and the Justin Stuart Charles decision, and I will come to those in a moment.

What we did there in looking at the UK position is to say to the world that Trinidad and Tobago considers the wisdom of the European courts and also the UK courts. Now, Madam Speaker, there are three cases that are relevant to considering the constitutionality of this law: Ryan Reno Mahabir v the Attorney General, CV 2015, 03229; CV 2015, 03475, Danielle St. Omer v the Attorney General and CV 2016, 00074, Justin Stuart Charles v the Attorney General. In these cases the attorneys-at-law for the defendants included Anand Ramlogan and Gerald Ramdeen. These two persons participated in the UNC, one as Attorney General, one as a Senator; supported the passage of the 2015 law; supported the amendments in the period 2010 to 2015, and then promptly upon leaving the UNC office went to court to challenge the constitutionality of the same law that they passed. They succeeded in the High Court but they lost in the Court of Appeal. It is the Court of Appeal decision that is very persuasive, because the Court of Appeal decision acknowledges what the UK Parliament did in its measures in supporting bail restriction.

I would like to say that in causing the amendments to the Criminal Justice and Public Order Act, Lord Falconer’s speech to the House of Lords effectively considered that there is a public interest and a primary concern in providing tough additional safeguards against bad bail decisions in these particularly serious crimes.

The House of Lords recognized that the Judiciary could get it wrong, but in recognizing that without interfering with the separation of powers, the legislature,
this House, the Senate already having said yes, can give the Judiciary guidelines. I would like to put out the dicta coming from Mr. Justice of Appeal Gregory Smith in the St. Omer decision. In particular, in that decision I would like to point out that the court recognized that in upholding the constitutionality of the 2015 law, that Ramlogan and Ramdeen wanted to strike down once they got fired, once they were no longer in the UNC and they went to court to challenge the law that their own party passed, and that they participated in, the Court of Appeal rejected their arguments, and upheld that the 2015 amendments were lawful.

That is where a prosecutor informs the court that you are in possession of a firearm, and that you could have a no bail restriction consideration. In upholding the law that the Bail Act was not unconstitutional, and in making a particular distinction, Mr. Justice of Appeal Gregory Smith said the reason why he would uphold that law is because section 5(1) of the Bail Act was not amended. It was not restricted.

Let me put it on the record. Nowhere in our recent amendments, Act No. 17 of 2019, nowhere in this Bill do we ever touch or seek to touch section 5(1) of the Bail Act. So the decision by Mr. Justice of Appeal Gregory Smith stands on all fours with what we are doing now, constitutionality.

Secondly, the honourable Justice of Appeal relied squarely on the State of Mauritius v Khoyratty which is of course a very famous decision coming out of the Privy Council, and he relied upon the dicta of Lord Rodger and also Lord Mance. I would like to put this on to the record. I read now from page 19 of the judgment. This is the Justice of Appeal quoting from the State of Mauritius case. He says at paragraph 30 of the judgment, Lord Rodger stated:

“I have come to the view that section 2 of the 1994 Act did indeed purport to make a fundamental, albeit limited, change to this component of the
democratic state envisaged by section 1 of the Constitution. The crucial problem lies in the absolute nature of section 5(3A). Where applicable, it would completely remove any power of the judges to consider the question of bail, however compelling the circumstances of any particular case might be.”

Now I want you to focus on this. The judge says:

“By contrast, a provision, for example, that persons of the type envisaged in the subsection should not be admitted to bail unless in exceptional circumstances would not create same problems…”

Let me repeat that:

“By contrast a provision for example that persons of the type envisaged in the subsection should not be admitted to bail unless in exceptional circumstances would not create the same problems…”

Because the judges would still have a significant, even if more restricted role in deciding questions of bail and the freedom of the individual.

Madam Speaker, let me stick a pin. Let me go to the Bail Act. Let me go to Act. No. 17 of 2019 which amended the Bail Act, and let me put on record, again for the sake of clarity, section 5 subsection (7A) as it now stands on the record, which says:

“Notwithstanding subsections (3) and (7)” — no — “person to whom those subsections apply may, in exceptional circumstances, make an application to” — the — “Court for bail.”

2.25 p.m.

We are therefore squarely maintaining the role and function of the Judiciary, Madam Speaker. We are in no circumstances ousting the Judiciary. We are therefore within the parameters of constitutionality. We are squarely aided by
umpteen decisions coming from the European Court, in particular, Madam Speaker, when we look to the cases coming of the European Chamber, and we look to the UK experience as well, we look to the case of *O v Crown Court at Harrow*, [2006] UK House of Lords 42, when we look to Lord Brown’s position there. When we look to the cases coming out of Canada in particular, when we look to the Trinidad and Tobago test of proportionality as well, Madam Speaker, we are within the boundaries of law. Now, let us go to proportionality.

In saying to the world that a judge ought to look twice at the issue of bail, a judge ought not to automatically grant bail, a judge ought to consider the circumstances of bail, if I can put it this way, with a jaundiced eye, the defendant always having the right to approach the court under section 5(7A), we are saying, number one, that there is a legitimate aim to the law. What is the legitimate aim? The legitimate aim is to allow people a chance at liberty and safety under section 4(a) of the Constitution. The legitimate aim is to say to people who have weapons of war and bombs and grenades, that they ought to know that they will be at risk of having limited access to bail, the legitimate aim being such, we are justified in infringing or derogating from the rights under section 4 and section 5 of the Constitution.

Secondly, is this legitimate aim and is this Bill rationally connected? Obviously there is a rational connection, we have demonstrated the statistical information which applies in this context, sub-machine guns, firearms being found in our jurisdiction. Do we go any further than we ought to? The answer to that is, no. In fact, we have distinguished ourselves from all bail laws prior, we maintain section 5(1) of the Bail Act, we allow section 5(7A) of the Bail Act to exist, *[Crosstalk]* you can approach the court—could Naparima just keep it down, Madam Speaker?

**UNREVISED**
Madam Speaker, we keep subsection 5(7A) of the Bail Act, we allow the access to the court. Do we oust the jurisdiction of the court? No, we do not. Is that to be had? Is it now in keeping with the law as currently cast? Let us look to the Bail Act itself. The Bail Act which is the law in Trinidad and Tobago last amended by Act No. 17 of 2019, is a very interesting piece of law. The Bail Act effectively has safeguards which act as safeguards in this particular law.

Number one: there is a sunset clause that applies to this law. This law has a sunset clause, this law will come to end in 2021, unless it is renewed.

Number two: in the Bail Act I want to point out that we have sections 9 of the Bail Act, 10 of the Bail Act, 11 and 11A. And what do those sections basically say? You go before a magistrate, both the prosecutor and the defendant have the opportunity to make submissions. When you get before the magistrate, if there is going to be a denial to any of the parties, prosecution’s case or defendant’s case, the magistrate is compelled to put the reasons in writing, and you have the right of appeal to a judge in chambers.

You get to the High Court, either the prosecutor or defendant do not like the decision in the High Court, you have the right of appeal to the Court of Appeal. Sunset clause, magistrate going to High Court going to Court of Appeal, you know what that is, very simply put, Madam Speaker?—that is called due process. Due process is the soothing remedy to constitutionality. Due process is what Baroness Hale in her celebrated paragraph 58 of a decision in Suratt says, requires you to feel comforted that not every section 4 or section 5 right requires a section 13 exception.

So, Madam Speaker, having put the law in thick context onto the record, let us talk to Trinidad and Tobago now. What will my friend from St. Augustine say today?
Mr. Lee: Nothing.

Hon. F. Al-Rawi: Hear Pointe-a-Pierre, “Nothing”. What will my good friend from St. Augustine say today when he is on record in 2011, 2012, 2014, 2015, saying that the law then was constitutional, that one charge under the Anti-Gang Act where you could be framed was constitutional. Will my friend today recant his testimony on Hansard. Will Chaguanas East who said the same thing in the Senate when he sat, who quotes for us Singapore on a daily basis, and he is my good friend, and I have good regard and great regard for him, will he recant his testimony today? Will Tabaquite, portrayed as an elder statesman today, recant his testimony to the people of Trinidad today?

Madam Speaker, it cannot be the case that the 2015, 2014, 2013, 2011 amendments where there was a complete ouster of the jurisdiction of the court, and where you could have been locked away on a charge simply under the Anti-Gang Act, where we are now in a different circumstance, where our circumstance is that we preserve section 5(1) of the Bail Act, we allow the access to court in exceptional circumstances. I have just read Lord Mance in the Khoyratty case saying that in the case where you preserve exceptional circumstances, that is a case of constitutionality.

How do my learned friends today stand behind Siparia?—absent, again, in the circumstances where Siparia says for her party, “We will not support the Bail (Amndt.) Bill” because we are concerned, according to Siparia—obviously a newfound concern—that people will be framed, because Siparia had no concern as Prime Minister when the Bail Act was being amended for the anti-gang charge. Siparia had no concern for a state of emergency. Siparia had no concern with a side-arm possession. Siparia had Commissioner Gary Griffith as the Minister of National Security who sat in a Cabinet who said let us put this forward as we
should have in the amendments prior to 2015.

We supported them in the PNM, Madam Speaker, because we are patriotic, Madam Speaker. [Desk thumping] We did not when fired like Ramlogan or Ramdeen, rush to the court to bring a constitutional challenge on the same law that the UNC passed. Madam Speaker, there comes a point when you just have to have some shame; some shame, because, Madam Speaker, today is a day where this law with the safeguards that are in possession have to see the light of day.

Today is a day where we need to draw a line in the war against crime. [Desk thumping] Today is a day when we need to recognize that when we did that collectively in the period 2006 to 2009 for anti-kidnapping and we wrestled kidnapping for ransom down to zero, it was because of the operation of the bail restrictions albeit in a law which is not the same law as this. That law which died in 2016 was an ouster of the court’s jurisdiction. Our court has a continuing jurisdiction, we do not offend the separation of powers principle. What will Barataria/San Juan say today?—with the warriors in Barataria. [Interruption] Does Naparima speak for you when he says, “Nothing”? 

Madam Speaker, the know-it-all of this Parliament on the UNC bench is Naparima. Madam Speaker, I mean it in the sense of the person to contribute but, Madam Speaker, today is the day, Siparia absent, spokesman for the UNC says nobody will say anything. The Hansard record is there for everybody to see. Today is the day that the whip should be lifted, and today is the day that I challenge the Leader of the Opposition, if she ever bothers to turn up—

Hon. Member: Where is your leader?

Hon. F. Al-Rawi:—to actually come and lift the Whip and allow the conscience vote of parliamentarians to prevail. [Desk thumping] I know that St. Augustine will not be able to look at himself in a mirror if he keeps an inconsistent cadence. I
know that Chaguanas West, that Barataria/San Juan, Chaguanas East will be in similar difficulty.

Madam Speaker, this law is required. The Opposition tells this country that the Government needs to be hard on crime. The Government is bringing legislation to deal with crime, not just because we think it is a good idea alone, but because the Commissioner of Police and the citizens of Trinidad and Tobago and seven Independent Senators said so. And we do that as well, Madam Speaker, because not a single voice in the Senate said no, including all six UNC Senators.

Madam Speaker, when that vote was taken and every man jack sat in the Senate, there were no voices saying no, because a division was called, every man put on his microphone, every hon. Senator as a woman put on her microphone and nobody said no. Today, the population looks at the UNC. Today, the Government looks to courage and support for good law coming from my colleagues opposite, and I beg to move. [Desk thumping]

Question proposed.

Madam Speaker: Member for Oropouche East. [Desk thumping]

Dr. Roodal Moonilal (Oropouche East): Thank you very much, Madam Speaker, for the opportunity to contribute on what is a very brief Bill before us, but one that should not be mistaken for something simple, but rather a very profound and possibly complex amendment, but very serious indeed, notwithstanding it is a very brief Bill with, might I add, about one serious provision in the Bill.

Madam Speaker, if some of us were a bit tired and a bit weary after several days of campaigning, the Attorney General did succeed in capturing our attention with what most of us on this side predicted to be the content of his presentation.

Madam Speaker, when we met in caucus to have lengthy discussions on this matter, we predicted the approach of the Government, we predicted the examples,
we predicted the narrative, we predicted the approach, and so for us on this side it is really match, set, game. [Desk thumping]

Madam Speaker, the country has heard this narrative before. We are now in the fifth year of an administration and the country has heard the narrative of the Government that this is D-Day. Now, I thought Monday December 2nd was D-Day, but today is D-Day, we will show courage, lift the Whip and look in the mirror and all of that type of thing.

Madam Speaker, today is a very important day, but this narrative is well known, and quite frankly I do not think that the narrative will make any change in the national community, so people who believe one thing of the UNC and the Opposition, that is how it is. Today, there will be no marginal increase or decrease “in nothing”. Having said that, this is not a matter that we wish to politicize, this is not a matter [Desk thumping] that we, we simply wish to generate emotion and hysteria. This is a society where it is easy to generate emotion and hysteria, and I appeal to colleagues opposite, it is the wrong approach to use crime to fuel emotion particularly when persons, [Desk thumping] all of us included are victims or potential victims of criminal activity.

A Member of Parliament in this very House a few days ago, a mere few days ago was indeed a victim of crime, and we are very happy and elated that things did not go as bad as it could and he is safe and his property recovered and so on. [Desk thumping]

So, Madam Speaker, we ought not to politicize, we ought not to carry emotion and hysteria, but really make our cold case, make our arguments in a very sober and cold way without emotions and so on. Because, you see, when you go in your fifth year, it cannot be that Members opposite are now in a state of political desperation, that you speak with such emotion about, you know, the war, weapons
of war and, you know, you create this imagery that if today we do something, it helps so much.

Over the years we have heard so much of, let us give the police a fighting chance. Every time we come with a Bill to deal with crime, it is giving a fighting chance. We have given fighting chance once, we have given fighting chance twice, we have given fighting chance a third time, we have given, I think, four fighting chances, and today we call for another fighting chance. And we will give that chance, the Opposition today is not inflexible on this Bill. [Desk thumping] We do not want a situation where persons are walking around the place like Rambo with automatic weapons and sub-machine guns and grenades and missiles and so on. That is not a situation that those of us in the Opposition want to see; not at all. So that, we stand ready to support the Government on harsh action that deals with that situation.

Nobody wants persons to be walking around with a crocus bag of grenades. Nobody wants, you know, to see the type of weapons on display, killing persons as leaders in the sector have said, hundreds of persons in seconds and so on, so we stand prepared to support the Government on any law that deals with this crisis; we do.

The job of the Opposition is fundamentally different than that of the Government; it is to raise issues of the rights of citizens, [Desk thumping] that is our fundamental job. The Government is to make law, the Opposition seldom, unless special majorities are needed, will participate in law-making in that way by the numbers, but our job is always to stand in defence of citizens [Desk thumping] and on previous occasions. Today I challenge the Government: What crime Bill have you brought in four years that the Opposition failed to support without proper debate, amendments where we need to and so on? What? Is it FATCA? Is it
anti-gang? Is it bail one, bail two? I cannot remember offhand. I think there are several pieces of legislation that the Government has come with, and 90 per cent of them we have supported. [Desk thumping] Yes! Yes. Yes. It took time, it took some painful time discussing, negotiating, and compromising.

I remember in this House one night we had to suspend the debate and committee stage and so on and huddle together both sides because we wanted to arrive at a consensus, and that is how we have worked with this Government.

This Government has taken another approach which they are entitled to take. There is a sign that I have along my property, it is a pirate sign, it goes, “the beatings will continue until morale improves”. And the Government’s approach was, beat the Opposition into submission. If you want to get their vote, beat them. Over the years governments of the PNM and others took a different approach. We said no let us meet before. Under the former Prime Minister Manning I know, under Mr. Panday, under Mrs. Persad-Bissessar, the governments of that time including Mr. Manning, when they came to the House with Bills like these they would meet the Opposition before. A delegation from Government, a delegation from Opposition, tell us what are your problems, you have seen the Bill, tell us, how can we compromise, how could we build consensus. If there is a fundamental problem, well, we know we cannot support.

But, you know, Madam Speaker, major change in the laws governing the police in this country, in fighting crime, kidnapping for ransom, for example, came about because of the initiatives of a Prime Minister and Opposition leader meeting before, discussing before. [Desk thumping] In these days of the administration of Diego Martin West, that is an old-fashioned approach. It is you come to Parliament and beat them into submission, and if they do not agree, we go to the population. So presumably, if we do not have consensus, by tonight, Piccadilly
somewhere or at some junction, the UNC, they are bad people, they support this, they support that, they do not want us to deal with crime, while you could have solved all this problem with consensus and dialogue. [Desk thumping]

Madam Speaker, but I am forever optimistic that even today, we can reach compromise on this critical matter and bring it to an end where the rights of individuals are protected, but also the need, [Desk thumping] the need to use force, serious state force and aggression to deal with; those elements are dealt with so we satisfy two requirements.

Madam Speaker, as the Attorney General pointed out, we are dealing with one Bill today, but it has serious, you know, interlocking consequences and implications with three pieces of legislation, the Bail Act 1994, the amendment No. 17 of 2019 and today’s Bail Bill before us today.

Madam Speaker, for better or for worse, the amendment of No. 17, 2019, at the time I was prepared to contribute, but I was involuntarily debarred from doing so. So today, I would like to, I welcome the occasion that I can speak and connect the two as the [Desk thumping] Attorney General did.

You see, Madam Speaker, the Attorney General loves the law, and no fault of his, he explained why he loves the law and went to give us some technical detail because he is preparing maybe for something else, and that is fine. But, Madam Speaker, the law must be seen in its social milieu, it must be seen in its social, economic and cultural context. It is not easy to take laws out of the United Kingdom, United States, Canada, anywhere, and just look at it and say look, this is what they do there, it works, or even Singapore, look at what they do there, it works and let us do it here.

In Singapore a Minister came back to Singapore on a plane, he went abroad to dine or was received by a foreign businessman, they suspected that he went to
take a bribe, I think he was executed.

Hon. Member: Oh no, it was suicide.

Dr. R. Moonilal: We do that in Trinidad and Tobago, we might not have a Cabinet. Madam Speaker, what obtains in Singapore or the United Kingdom, United States of America, Canada, you cannot just transpose those things just so, there is a cultural area that we operate in. There are institutions, there are colonial institutions of public administration that have functioned for decades in a certain culture with a certain, you know, social psychology so to speak. And I will come to some of these issues now, because on the face of it, what the Government is doing—and, Madam Speaker, it is not my intention to read word for word from the Bill, everybody read already and it is a short Bill. What they are doing essentially is to pull two offences, trafficking in arms and ammunition, firearms and ammunition, and possession of prohibited weapons which would be missiles and artillery and weapons of war and so on, and say, look, if you are caught charged with these offences, no bail, no bail, we are clear on that.

But, Madam Speaker, and this follows on the 17 of 2019 piece of law that came here and was debated and passed, and unless I am mistaken, Madam Speaker, this also offended the Constitution and they got the support, the Government at that time got the support of the Opposition. It was only, I believe, a couple of months ago, got the support of the Opposition to pass this piece of legislation, I believe the Opposition vote in the Senate and in this House.

And, Madam Speaker, while I am on that note, the Attorney General said, I think, on two occasions that nobody in the next place from the Opposition bench voted against or said no, and there is a reason for that. That did not happen by mistake, that was not accidental, in that there is a general agreement that the policy of a harsh, an aggressive approach to dealing with elements in possession of
prohibited weapons and trafficking in firearms and ammunition, that general policy is welcomed, so we are not against that.

So that is why the Opposition in the other place took a calculated, deliberate decision not to vote against, but to abstain [Desk thumping] because we had no fundamental disagreement with an approach that says we must be tough. We had a fundamental disagreement with the Government on protecting the rights of citizens. So there is a reason why you abstain and not vote against, otherwise you just sit down and say, no, but when you do not have a fundamental disagreement with a policy approach, there is no need to vote against, but you abstain because you have a difficulty with provisions particularly where it relates to the protection of individual rights, and that is a fundamental purpose for which we all adhere to.

So 2017, now the Attorney General began, of course, by telling us that, you know, by fate as it were, front page of the newspaper today, “Hospital hit”. What at the hospital hit, and made mention of that that gunmen walked into the hospital, found a victim there being treated for stab wounds and so on, and opened fire. [Interruption] Is it? A gunman. Sorry. Laventille West corrected me, he says, a gunman, and they opened fire and there was a fatality.

Then the Attorney General said, “We did not know that this would happen”. “Of course, there was no need to—how do we know that. Look, an explosive device, what we suspect to be an explosive device detonated at the Government Campus Parkade, we did not expect that either”, but look how both of those fell into the two limbs of the offences that we are considering today.

Now, I am not, of course, going in any way to suggest that anything like that could have been pre-planned, I think that is completely bewildering, but it happens. But something else happened over night and, Madam Speaker, we did not plan that either, because on page 5 of the Trinidad Guardian of today, alleged accuser in
sworn affidavit, “I never said CoP choked, pulled gun on me”. This has serious repercussions, implications for what we are doing today. Madam Speaker, we did not plan that either, but it happens as the hospital and the Parkade; and this involves the Commissioner of Police, and I am coming back to it because I think this is critical to our case here.

So, Madam Speaker, the Government is saying today, look—and we had crime data, we have the same crime data, there is no need to go and repeat the same crime data that the Attorney General outlined. One, I will say one thing in opening, again eh, and it might be even controversial. It is one of the challenges of younger Ministers and younger high officials of Government and maybe Opposition, but Government, is that when you are a young politician particularly in high, extremely high office, you have not yet faced the brutality of injustice. [Desk thumping] You have not faced the brutality of injustice, so sometimes there is a way of looking at the world as if it is perfect, there is a paradise, we will make law and it will be faithfully adhered to, it is utopian in some way that look, we can pass law, we can—what is it?—“getting it done”, is it? It that what they say? Get it out of the way and things will work nice because we are going to give you good law, you will implement the good law and things will work, and people are good, generally they are good people. You have not yet been bitten by the brutality of injustice [Desk thumping] so you can come around to the Hobbesian view of society, not yet. [Desk thumping] And some of us who are older in politics not necessarily in life, we have faced some of this brutality, and Caroni East here has faced a brutality that has shaped his framework.

**Dr. Gopeesingh:** Why I became back.

**Dr. R. Moonilal:** And that explains why he turned beast [Laughter] because one day Diego Martin West said, “I have known him for so much years, we ate
together, we played football or whatever, cricket together, and when he joined the UNC he turned beast”. But he turned beast because he faced the brutality—

**Dr. Gopeesingh:** In 2002.

**Dr. R. Moonilal:**—of injustice. And today, I call on Caroni East not to bring back that memory or to create unnecessary, you know, pain, but to remind Members of Parliament and the national community that we can all face this brutality, [*Desk thumping*] it is not Caroni East alone.

And our job, and I said this when I was in government several times, our job is to protect citizens from us, it is to protect citizens from the State and state institutions, that they may not fear law enforcement, they will not fear the prosecution system, they will not fear that they will be victimized or maliciously treated and so on, that is our job. And then and only then when you have conquered that, you can bring law and look at it as the best law and we will get through with it, it will work, but injustice is almost omnipresent in our business.

2.55 p.m.

So, Madam Speaker, I say that to get to my point now, and I want to cut to the chase because we do not have much time these days in speaking. There was a time we spoke for 75 minutes. We do not have that. What the Government is saying to do in a nutshell, is those two offences, one pursuant, I believe, to section 6 of the Firearms Act, that is the trafficking in firearms and ammunition, two or more weapons, and the possession of prohibited weapons, we defined that. When you fall now, you are arrested, you are charged for those offences, there is no bail. Now, someone is tempted to call this Bill “the plumber Bill”, because there is a famous or infamous occurrence over the past few days when a matter came up in the court and someone—a 19-year-old person was found sleeping in the back seat of a car and the police, of course, conducted a search and so on, and found
components in speaker boxes in the back seat of the—in the truck of the car. The person was taken to the court and there was a certain—persons revolted when bail was granted, to say, well, that person was in possession. Well, in the criminal court they make, I think, a distinction in practice with components and firearms, but the person is in possession of firearms and so on, ammunition, and they had the component parts, the person went to the court, it was felt that the person ought not to access bail in those circumstances. The Commissioner of Police made a statement, it is on the record. The Government, of course, made a statement.

Now, at first glance you felt well, something is wrong with this plumber case. But, Madam Speaker, I have had from where, from a source, I do not know, but I have had the benefit of reading some of the documents in that matter and it is very instructive, that the person was charged with possession of firearm and ammunition, which is already an offence under Part II of the Bail (Amdt.) Bill, pursuant to No. 17 of 2019, of course. So, the person had already, by virtue of being charged with an offence was already listed, the person could have easily fell within the catchment of 17 of ’19. But when they checked, of course, the person had no previous charge. The person had no charge pending and no previous conviction, so, slip out. But if this Bill is passed today, in the present form, the plumber may still access bail, because it was not the charge for trafficking in firearms and ammunition, or possession of prohibited weapon. The charge sheet is here. We have possession of the charge sheet, and notes of the police officers and so on. It is all here, plastic wrap—I would not read extensively—but where they found the items and so on. But the point I want to make from all of these documents pertaining to the plumber case is that if this Bill is passed today in its present form, that person could still access bail, because that person fell not under this matter but under the already established No. 17 of 2019, but had no pending
charge and no previous conviction. So, this is not a recipe for solving that problem.

Madam Speaker, the other related matter is that you are introducing now, the Government, and I humbly and respectfully make a submission now, and I ask colleagues opposite if they would, without emotion and hysteria, respond to this argument. The Government is taking a policy U-turn. There is a policy contradiction in the approach to bail. If it is in August, No. 17 of ’19, you provided that for the listed offences on Part II of the Schedule of the Bail Act, you cannot access bail, and I am not on the constitutional issue, eh. The Attorney General has spoken on it. I think other colleagues will speak to that, so I am not on the constitutional issue, I am on this issue. If on No. 17 of 2019 you have said that the Government made an amendment, I believe, in the other place, that a person now will be denied bail, or cannot access bail, if they have a pending charge and/or a conviction. So again, a first-time offender, so to speak, although it is not the correct term, a first-time offender would be outside as the plumber got out. Correct?

Hon. Member: Yes.

Dr. R. Moonilal: But that was the policy position of the Government a few days ago. But today it appears that the policy—there is a policy U-turn, a policy contradiction to suggest, Madam Speaker, that, hold on, you see for now trafficking in firearms and ammunition, possession of a prohibited weapon, we are not taking that so. First-time offender or not, having charged before the court or not, “you gone to jail.” One hundred and twenty days, if your matter starts—no, if your matter do not start, as the Attorney General like to say, it is pellucidly clear, that you knock on the door of the courthouse, you apply for bail.

However, if your matter starts on the 119th day, well then no bail, you
continue to stay in jail. But this is for the first-time offender who has no charge pending, who has no conviction, charged with trafficking in firearms, and charged with possession of prohibited weapons. So, there is a policy you changed. Why do you not just stick, remain faithful to your August 2019 policy position and we end the talk now. [Desk thumping] Put the same thing you did in August, put it in November and say, “Look, we are consistent in a policy sense, we coming with the same thing.” There are two new offences we want to raft in under Part II now, but we will just include that and say—and this is what the Opposition is calling for, [Desk thumping] And I intend today at an appropriate time, I intend to table an amendment to that effect, so that persons who are for the first time, they have no charge pending, they have no conviction on any of those Part II offences, can access bail. But that does not mean it is automatic even then. There are circumstances in which you may not get bail even though the law provides that you can access it.

Dr. Gopeesingh: It is the jurisdiction of the court.

Dr. R. Moonilal: So, the jurisdiction of the court. The other matter is on that plumber case it was very instructive, and correct me if I am wrong. When bail was granted, the police, subject to section 11 of the Bail Act, the prosecution, police, DPP and so on, they could have appealed to the High Court to deny bail or change circumstances or some new conditions, but they did not. Now, why did the police or the DPP not appeal the decision in the plumber case? [Desk thumping]

Dr. Gopeesingh: Redress is there.

Dr. R. Moonilal: Is it because they knew that they had no convincing argument, so it makes no sense going to the High Court to appeal. But Government comes with this draconian measure, speaking in emotional terms, of the war on crime and carrying around Rambo-like weapons and how much damage it could do to tell us
we need this and give the police a fighting chance. We gave them fighting chance four times, and they are fighting. But I would tell you, Madam Speaker, this is not an electoral issue. I want to tell you something, whatever happens today in this Parliament, it changes not a vote on Monday, December 2nd, so do not even go there. [Desk thumping] Madam Speaker, I had the privilege on Sunday to drive through some parts of La Brea in strong PNM areas, and I was shocked at the welcome the UNC received there. [Desk thumping] I was personally shocked. We were so well-received and embraced, I could not believe it. But, Madam Speaker, now is not the time for that. [ Interruption] La Brea, please. Madam Speaker, the outgoing Member for La Brea is harassing me. [Laughter] Madam Speaker, to come back to this point now, the Government could take the same position they did in August. Why not? Because there is so much room for abuse. I come back to the article I read a few moments ago. Before going in history, let us get to the issue of the day. This is a matter in which a front page story in the Sunday Express, I believe, spoke in blaring headline that the Commissioner of Police, no less a person, choked someone and put a gun to their head. This is the Commissioner of Police. Front page of the Express newspaper, which is a popular and well-circulated newspaper internationally. When persons read that all over the world, what is the impression of this country?

And, Madam Speaker, today, the person who is purported to have made that statement is saying today in the newspaper, that is not true at all. That is not true at all. If fact, the person is saying that no such thing happened, and the person has done an affidavit, sworn affidavit, denying this ever transpired and has gone so far as claiming, there is a committee consisting of police officers and media personnel operating to take down the Commissioner of Police. That is in the newspaper today, I am reading. Could you imagine that? The Commissioner Griffith is
responding by saying, and I quote him:

““I am not surprised. I have stepped on many big toes. It has been a few months now that there has been an orchestrated attempt to use certain individuals, rogue elements in uniform and one or two individuals in the media to deliberately undermine the TTPS in the performance of our duties because we have been hurting big illegal business.””

Now, Madam Speaker, if police officers, as the Police Commissioner is suggesting, can set-up and frame, attempt to set-up and attempt to frame the Commissioner of Police, “who is we?” [Desk thumping] Let us be real, who are we in the whole scheme of things that you can come to someone’s home—Let me give you practical examples—and throw two weapons over the fence. Throw some spent shells over the fence, and when they raid, they come the next morning and raid, you go down, you have not one charge before the courts. You have no charge, you have no conviction, so you are there resting. You know, resting in your winter years, Arima, and some malicious and vindictive soul come to that fence, probably angry that a school was not completed, and they throw some device resembling a grenade in the yard. “They take down” the poor Member for Arima and have him for 120 days in jail, waiting with the possibility of more, if the matter is not started in that time. What kind of legislation is that?

**Dr. Gopeesingh:** And the whole family.

**Dr. R. Moonilal:** And the whole family, not just the Member for Arima, hypothetically, but “de whole family go.” [Desk thumping] Madam Speaker, we grew up in a culture—

**Dr. Gopeesingh:** And Sadiq.

**Dr. R. Moonilal:** I am coming to Sadiq Baksh in a minute. We grew up in a culture where when you go in the market, you go down in the market to pick up
someone, they just make their market, or if they are wholesaling they will have several bags.

Madam Speaker: Member for Oropouche East, your original speaking time is now spent. You are entitled to 15 more minutes. Please proceed.

Dr. R. Moonilal: Thank you. So, Madam Speaker, we come from a culture where people go in the market, if they are wholesaling they buy 10, 12 bags and so on. When “de taxi pull up, dey tell de taxi pull de trunk, dey pull de trunk and you put de five crocus bags and de market basket” and so on inside, you say, “Let’s go.”

Now taxi drivers and PH drives, because they exist, do not come outside and frisk the bag and search the bag, and put the crocus bag through a metal detector test. Sometimes in the community they do not even know they name of people, they call them by a nickname. You do not even know their real name. You might have an idea where they are living because you dropped them by the junction of a trace, but you do not know their name.

Madam Speaker, they put something in the truck of the car you are driving. Police—they have a roadblock coming up there. The fella jumps out the back seat, when he sees police, he jumps out and run in the bush. Taxi driver reaches, he says, “Sir, what is the problem, licence and insurance. Open your truck.” Mr. taxi driver, with no matter before the court pending, no conviction, goes to jail for a 120 days plus. What law are you passing today? [Desk thumping] I ask the Government, Members, I join the Attorney General, and I ask you to look in the mirror. Look at yourself. Look at yourself. [Desk thumping] Think of your family. Think of your children, grandchildren in some cases, Arima. Think of them. If they become the victim of this. It will not be you. You do not do it. You are not the culprit, you are not the criminal, there are others. The Commissioner of Police has alerted us that there are rogues in uniform.
Madam Speaker, Sadiq Baksh, a former Member of Parliament here, one morning they found missiles and narcotics in a water tank. Mr. Baksh and his entire family, under this law, would be in jail for a 120 days plus.

Dr. Gopeesingh: No bail.

Dr. R. Moonilal: No bail. Is that the society you want to create? Because, you know, the Attorney General, with all good intentions, believes that he is implementing the law. He is not. The Attorney General is making law and not implementing law. [Desk thumping]

The Attorney General cannot speak for the sergeant, constable. And I want to make another point, I have interacted over the years with many police officers on the right side of the law, and, Madam Speaker, police do not trust police in this country. If a police is suspended and you ask the police, “Who yuh want to investigate yuh, police in Trinidad or Scotland Yard?” They say, “Scotland Yard, please.” They do not trust. In a real case that I know of, a policeman is before the court in San Fernando, suspended, and has a matter before the court. The policeman reports that the virtual complainant asked him one day when the matter was finally dismissed, after two years going to court, the virtual complainant told him, real case, he said, “What these police officers have with you? Why they put you through that?” And that is the issue. Diego Martin North/West is suggesting that that is foolishness. But it is foolishness for him because he comes from a privileged background with a boat, with a mansion, he believes he is protected from the injustice of the society.

Mrs. Gayadeen-Gopeesingh: Correct.

Dr. R. Moonilal: Madam Speaker, I share the view of that chairman in Diego Martin the other night. I share that view. [Laughter] So, Madam Speaker, today all I raise with the Government is that if you can tell us how are we going to
prevent this abuse that the Commissioner of Police is speaking about, no less a person, that we have examples of. And, Madam Speaker, they are real. They are the subject of court decisions. I have before me a documents where in matters, and I will just give you one example. In the *Guardian* newspaper of the 14th of December, 2016, headline, “Siblings freed as police fabricated evidence.” The *Guardian* newspaper now, Magistrate Ragoonanan said she believed their claims. The police officer claims she found— and she did not believe the police officers and found the persons not guilty.

Madam Speaker, it is said in that matter that the police officers could not be believed. You could not believe them. Madam Speaker, in another matter, when the State lose appeal and so on, judges regularly make comments about fabricating evidence, planting evidence. In a matter of *Anisha Raffick v The Attorney General of Trinidad and Tobago* 2017-01077, page 75 of the judgment by Justice Margaret Mohammed, she said and I quote:

“The allegation of fabrication and planting of evidence by police officers is a serious matter. I am satisfied that there was cogent and compelling evidence that the plastic bag”—whatever—“containing...cocaine was planted by the police officers who searched the middle bedroom since they had the opportunity to do so as no occupant from the house was present during the search of”—that—“bedroom.”

This is in a judgment, police officers—

**Mr. Charles:** In Trinidad?

**Dr. R. Moonilal:** In Trinidad and Tobago.

**Dr. Gopeesingh:** That is all?

**Dr. R. Moonilal:** Madam Speaker, it happens all the time, you could get plenty cases unquote. But, how can you therefore pass this law, which contradicts your
August policy decision, contradicts the policy decision in August, and say, “Listen, for these two things now, these two offences, absolutely no bail.” The Police Commissioner has raised an important issue.

Madam Speaker, we call for a full and complete investigation into any [Desk thumping] purported attempt to frame and set up the Commissioner of Police [Desk thumping] in this matter. Nothing else will suffice, because you cannot run a service where the Police Commissioner now needs to look behind his back, look “cokey-eye” at every police station in the country, if for one reason or another, discipline or otherwise, he transfers an officer. He has to look behind his back now, the police officer cannot go in 54 police stations and read the station diary. And, as I said before, this is the social, cultural environment in which we operate. So, what is our request? Is our request heartless? Is our request so callous? Reckless? Unreasonable? That we ask you to use the same policy frame you used a few weeks ago in August, and just set it now in motion that persons who are charged for the two offences that we speak here today, will be denied bail if they have a pending charge related. Under Part II, Schedule 2 of the Bail Act, if they have a charge before the court or if they have a conviction in the last 10 years or so, there is another formula for that.

Madam Speaker, what is so reckless and unreasonable about that? Is it that the Government is so adamant, so arrogant in some cases, that listen, “we doh want dat. We doh want dat.” Madam Speaker, we do not want that. We do not care about that, because, you see, the victims are people out there in the society who some of you may know. You may or may not be a victim, but the victims will be outside. And I want to leave the population with this notion, that while, yes, we can trust and we have faith in the— I think the mass majority of police officers, there are still problems with the police service that the Commissioner and others,
in law enforcement, are tackling, to clean up the police service, whether it is dealing with guns, dealing with narcotics, dealing with all types of things, rogue elements.

So, Madam Speaker, the Government’s spokesman, I would advise you, instead of giving us a nice, long lecture on the emotions of crime, and what is an Uzi and what is a submachine gun, and how much hundreds could be killed in two seconds and so on, tell us why you just cannot accept this one amendment that we will raise here, and let us pass the Bill. [Desk thumping] Let us in all good conscience pass this Bill. Get it over with. Because I will indicate, Madam Speaker, in case they forgot, it is not automatic that you get bail even if they put in this amendment. You can go to the court and the court will have other considerations. And you can appeal, section 11 of the Bail Act allows for an appeal, for a change, a fundamental change.

Madam Speaker, there is no need for this draconian step at this time, and I know the speakers opposite will come with all their data. I have the data in front of me, Madam Speaker, submachine gun data and so on. We received that piece of information. Submachine gun for the year 2009, zero, zero, zero, coming up the road; by 2017, 23 submachine guns seized; 14 in 2018; and six I believe so far this year. We have the same information. How many persons there, when arrested, when charged would simply fall into the category, which a new amendment will bring and you will still have them in custody. Because the Government agrees with the Opposition on another point, that bail is not a punishment. Bail has never been meant to be a punishment, it is meant to present you to the court, and in other circumstances you consider the seriousness of the offence, other matters and so on. So, it is really to ensure that you surrender yourself to custody and you come to court. It is to ensure that you pose no threat to someone outside, you will not
interfere with a witness, for example, you will not breach some other law, and the law already as set up caters for that. And there is a room for appeal on these matters if you feel that a decision is so perverse.

What is striking about the plumber case is everybody says it is perverse decision, nobody appealed. Nobody appealed. So, every time these things happen, we condemn but we never appeal. So, Madam Speaker, that is like saying, you know, the last ball was clear LBW but we did not appeal. [Laughter] You appeal if you believe something has gone wrong. You ask for a third umpire. You ask for the third umpire if you believe that you are right, but in that matter, there was no recourse for the third umpire, presumably, because we felt that the decision was not as perverse as portrayed. So, the Commissioner, the Government and the Opposition are on one side in this debate. [Desk thumping] We are on one side. Deal with people who are up to no good. Deal with those who are up to no good, because you cannot be walking around with submachine gun, you cannot be walking around with two grenades in your back pockets, you cannot be walking around with artillery for war, and you are up to good. What, you are going to exhibit in a bazaar? You cannot be walking around with that type of thing for any good purpose. Once you are doing that you are up to no good, and even for a first-time offender, if you put the amendment we are suggesting, there is no automatic guarantee that they will get bail. But what you have said done, is you would protect the innocent. [Desk thumping]

And, Madam Speaker, as hard as it sounds, there is a maxim, there is a belief, there is principle in our criminal justice system, that if one person out of 100, 1 per cent is innocent, it is too much, that you have incarcerated and condemned one person out of a 100, that you have done wrong although the 99 are guilty as sin. And the Opposition’s purpose today is to raise this matter. It is not
my intention to frighten anyone, to frighten Members of the House, to frighten members of the national community, my intention was always to give a realistic perspective on what happens in our society. [Desk thumping] And the Attorney General will mean good, members of Government, notwithstanding we spar and trade punches and so on, they are in public office, the presumption is that they mean good. That want to deal with a problem, but you cannot undermine the rights of citizens in this way, [Desk thumping] subject them to brutality and injustice, and say, “Okay, if you are treated badly, when you come out of jail in four, five years you will go to the High Court, nuh, and sue the police, and sue the Attorney General, and one day you will end up with $500,000, after you spend seven years in jail.” It cannot be the solution. It cannot be. You know how much money, I did not even call that, I have the data. How much money the State has had to pay over the years for police officers who violate the law, protocol, how much moneys we have had to pay taxpayers, and this is a matter that is receiving the attention of the Commissioner in the police manpower programme for change, but it will not happen overnight. It will not happen overnight.

So, Madam Speaker, I think, in closing, it is not necessary to have a long debate. It is not necessary to stay here till midnight. Those of us on this side have some purposeful campaigning to do. [Laughter] I note, Madam Speaker, that colleagues on the other side are required on the campaign platform, and had I been, you know, Diego Martin West, I would know why we do not want them on the platform, so that they can stay here all night. They can sit here all night. But, Madam Speaker, this does not require a marathon session. It requires reasonableness, it requires thought, consideration, protecting individuals whilst snatching those demons with all those weapons and artillery of war, while snatching them, one way or another, snatching them. It requires a little reasonable

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approach, and we are prepared to talk, to negotiate, to build consensus on our amendment, and, Madam Speaker, I will leave the Government with those few words.  *[Desk thumping]*

**The Minister of National Security and Minister in the Office of the Prime Minister (Hon. Stuart Young):** Thank you very much, Madam Speaker. Madam Speaker, I sat here with interest and listened for the last 45 minutes as I heard certain key tones and keywords be thrown out to try and grab the public’s attention, while creating some sense of murky water, if I may use that term.

The truth is, Madam Speaker, Trinidad and Tobago is facing very difficult times when it comes to crime. Crime is one of the main issues and has been for the past few decades, and I want to put on the record here, at the outset, as I have said repeatedly in my last few contributions, all the 41 of us in this House, elected Members, can do, while sitting here carrying out our duties, is pass legislation. That is all that we can do, and hopefully on every single occasion, regardless of the side of the House that we sit on, we all have one aim, which is the aim of passing good legislation for the people of Trinidad and Tobago. And if there is a single person elected in here who does not have that as his or her main purpose, when they come here at every sitting of the House, representing our various constituencies, then I would like to suggest that something is wrong.

To start by saying that the Government has changed its policy as though when you make a policy it is a policy set in stone, and no Government should change its policy, is hypocrisy at the highest level. Because we heard the hon. Attorney General, the Member for San Fernando West, tell us that not too long ago when those on that side sat in the seats of Government, they passed the same law which one can argue was even more draconian, at a time, and denied persons bail for side arms, denied persons bail without any previous conviction, or previous
charge for a mere sidearm.

Madam Speaker, I would like to assure the population of Trinidad and Tobago, and the citizens, and the people, that the heads of the various divisions of National Security, and myself, are working tirelessly and continuously to fight crime and the criminal elements. And I use this opportunity at the outset to thank the men and women of the Trinidad and Tobago Police Service, the Defence Force, our Prison Service, the Fire Service, Immigration and law intelligence services for the yeoman's duty that they are doing by putting their lives at risk on a daily basis. [Desk thumping] And I make that point to let the population know the reason the Government has come here between August and November with a change in policy, in a very limited way, and I will come to that, because you listened to the Leader of the Opposition, who is a member of the inner bar and someone who should interpret the law and know the law, and be able to profess on the law, unfortunately misleading, and even some of what my friend from Oropouche East said here today, misleads to an extent, but I would clear it up, and I am sure he had no intention to mislead the House or the population as to what the effects of this Bill are, and how narrow the circumstances in the parameters of this Bill are.

3.25 p.m.

So I started off by saying that the men and the women of the various heads and divisions, including, most importantly the police service, are the ones who are putting their lives at risk. And the reason for the policy change between August and now is because the police service, the same police service that the Member for Oropouche East is very, very cautious not to criticize and he said, and he has placed it on the Hansard that he supports the Commissioner of Police and the police service. It is the police service who have made this request; it is the police service who have asked and recommended we make this simple amendment,
because it is a simple amendment.  \[Desk thumping\]

Crime changes, criminal activity changes, it morphs. What we faced two decades ago we do not face now. Two decades ago the availability of automatic firearms was a non-existence; two decades ago the police service and us the citizens of Trinidad and Tobago did not face the possibility of going out there and being confronted by persons with automatic firearms, it simply did not exist. Two decades ago what we were facing on the streets, at best, was a semi-automatic handgun, the vast majority were old revolvers with a few rounds. Every single week now, as much as they try to trivialize it, every single week now, Madam Speaker, we face the reality of AK-47s and AR-15s and we cannot trivialize that. Because, Madam Speaker, one AR-15, one AK-47 and every time we find these perpetrators, they have more than one magazine and every magazine is full to the hilt.

I remind the people, a few weeks ago when we were facing this in the other place the live example on that day is that we have picked up the night before three persons, two dressed in police uniform with an AR-15 with two full magazines, so that is over 60 rounds of bullets, bigger than your finger, as well as a Glock handgun, which I have said repeatedly is a sophisticated handgun. That is what they had dressed in police uniform with another person and driving a vehicle with blue lights. That is what we are facing. That is the reality with what we are facing. It has nothing to do about passion and emotion. Passion and emotion are a good thing if you are doing it for the people of Trinidad and Tobago and that is what we are here today about, all 41 of us.  \[Desk thumping\]

Today, unfortunately once again, we are faced with this. During the period of time over the last two months we have had, the Member for Oropouche East calls it “the plumber case”. Again, in his typical style and fashion, trivializing it.
Nine AR-15s, whether a man is sleeping in a car, awake in a car, on his feet, whatever, I put to the people of Trinidad and Tobago through you, Madam Speaker, which person engaged in legitimate activity would have in their possession or have any lawful excuse whatsoever to have one AR-15, which is a machine gun, yes, it is a tool of war much less nine of them. Regardless of how a police prosecutor relays his charge and drafts his charge and components and parts, because the criminal element is a sophisticated one and they are not standing by with their AR-15s all assembled when they are transporting it. They are not stupid, they know how to break down these weapons of war and carry them in components to try and avoid the charge being faced when caught with nine AR-15s.

Less than two weeks later we then picked up in the Four Roads jurisdiction eight AR-15s; nine plus eight, 17 AR-15s. A Special Forces team is normally in a composition of between six and 10. That could have outfitted two Special Forces teams. And this is the reality, Madam Speaker, of what we are facing. It is not hypothetical, we are not here in this House today changing policy because we wish to. Because it is necessary—

**Mr. Al-Rawi:** Absolutely.

**Hon. S. Young:** It is absolutely necessary that the 41 of us here today pass this legislation in its current form without change. I want to tell the people of Trinidad and Tobago through you, Madam Speaker, all this Bill is doing is stopping persons in the first instance, they do not have a prior conviction, they do not have prior charge and I will come to why we went that way, who have in their possession artillery. When I mentioned this to some young people what this Bill is about, they said artillery. Even the young people know artilleries, a term of war. So this is to prevent any person from having in their possession artillery, automatic firearms, not side arms, not a handgun, not even a shot gun, automatic firearms. And by the
way, a Glock can be changed into an automatic firearm by just changing one component into it. And every time we pick up the criminal element with Glocks today we have what we call an extended magazine that can hold 33 rounds.

I guarantee you, Madam Speaker, anyone in this House today, including the men and women in the Trinidad and Tobago Police Service, any one of us today who faces the barrel of a firearm will not make any distinguishing argument as to whether it is a hand gun, a side arm or a weapon of war, an AR-15 or worse yet an AK-47. But they are out there. The reality is these are the weapons now being used by the criminal element. So all this Bill is doing is saying, anyone found in possession of artillery, automatic firearms, a grenade, a bomb or other missile, no bail for you for 120 days. And I ask any single Member of this House, including those absent, for example, the Leader of the Opposition who has Senior Counsel status, to stand and tell any right-thinking citizen in Trinidad and Tobago, any civic-minded citizen in Trinidad and Tobago that it is okay, it is okay for a person to have an automatic firearm and a grenade in their possession. And then on the first day, an occasion they appear in court charged with that offence, they should be back out on the street the next day.

So the person caught with the eight AR-15s and the nine AR-15s goes to court, because to have that level of sophisticated weaponry at your disposal you are going to be able to raise the money for bail. The person with the $500,000 bail got the bail and is out. And the next day he comes and he stands up next to you, anyone of us here in this House or any citizen of Trinidad and Tobago whose is a legitimate citizen, a law-abiding citizen, will they feel comfortable the next day a person who the day before was found with an automatic firearm and a hand grenade is standing next to them in the same proverbial bus that they talk about. And they are nice words, you know, by the Member for Oropouche East at the end,
talking about I did not come here to create any fear. Quite the contrary.

The typical strategy is the fearmongering. The typical strategy is to try and reach the citizens out there and say this is a draconian piece of legislation, you know, spend a lot of time about framing and setting people up and the police and the Commissioner of Police is talking about police setting you up. That is applicable to any single criminal offence, every single criminal offence. What stops a police officer from setting any one of us up with murder? And there is no 120 days to get bail in murder, because once you are charged for murder, until the matter is determined, you have no bail. So that is a fallacy of an argument. It is a ridiculous argument to make. It just makes no sense. You cannot opposed criminal legislation or a law to deal with criminality on the basis of saying, the police could set you up, because the police could set you up for anything.

**Mr. Al-Rawi:** Including murder.

**Hon. S. Young:** Including murders I just said, where there is no bail. So come with another example, come with another reason, but you cannot fool the people of Trinidad and Tobago.

So, Madam Speaker, the first point for people to understand is this is a very narrow restriction of your right to bail. If you have automatic firearm, if you have artillery, a hand grenade a bomb or another device like that. Which sensible person in Trinidad and Tobago will accept that anybody should have any one of those items in your possession? And you know what? You know what was left out, you know what was left out? Section (7A) which we passed in this House not too long ago, in the same August time, section (7A) of the Bail Act.

**Mr. Al-Rawi:** 5(7A).

**Hon. S. Young:** Section 5, sorry, subsection (7A), that says that:

“…a person to whom those subsections apply…”—which will include this—

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“may, in exceptional circumstances, make an application to a Court for bail.”

So what we have not been told, be it by the Leader of the Opposition with Senior Counsel status, be it by anyone else including the Member for Oropouche East here today, is you can still apply for bail even if you are found in the possession of an automatic firearm and a hand grenade, you can still go to a judge in the High Court and make your application for bail.

So again the whole rug is pulled out from underneath that argument. You are not being denied the right to bail. This is not like what happened between 2011 and 2014 when they ousted the court’s jurisdiction completely.

Mr. Imbert: “Doh make joke.”

Hon. S. Young: They ousted the court’s jurisdiction completely for a handgun, a side arm. We are here today—

Mr. Hinds: First offence.

Hon. S. Young: First offence, no offence, no prior conviction, nothing, no bail. We are providing here that you can go to the High Court for bail. The reality of the situation and they know, they know, in caucus they know what we are going to come and say. Well, I want to remind the people of Trinidad and Tobago why it is so important for us to be here today, Madam Speaker, passing this legislation to protect every law-abiding citizen in Trinidad and Tobago from those persons out there who have access to automatic firearms and grenades and the like. And there can be no legitimate argument, no legitimate response for anybody, not even a police officer, not even a member of the Trinidad and Tobago Defence Force walks around with more than one automatic firearm.

But we are picking up people with nine, nine in their possession and your ridiculous example, you go to the market, you are sitting down in a vehicle and
they pull over the vehicle and the man run out into the bush and leave you there. Go to the judge in the High Court and tell him, those are the circumstances. So are you not putting any faith whatsoever in the Judiciary? [Desk thumping] Well, we on this side believe that in those circumstances the High Court would do the right thing. And the point that was made, it is not absolute right for bail; it is still in the discretion of the court. But we need to make it harder for the criminal element to continue terrorizing us law-abiding citizens in Trinidad and Tobago. [Desk thumping]

Trinidad and Tobago Police Service Crime Statistics, dated the 25th of November. That is Monday of this week. This is presented by the Commissioner or Police and as the Minister of National Security I get a copy. So if anybody else inside this House has it, I have some questions to ask.

Mr. Imbert: He say he have it.

Hon. S. Young: Yeah, he have everything and I will explain why in a short while.

Mr. Imbert: Nonsense.

Hon. S. Young: I want the people of Trinidad and Tobago to know as at the 1st of January, 2019, till today, the 27th of November coming to the end of the year 2019, unfortunately as at the time I came into this Chamber even though the statistics are at Monday, at Monday the murder toll, the homicide number from the 1st of January to the 25th was 480. Last night another life was lost in very tragic, disturbing circumstances in the Port of Spain General Hospital. But, no, the person who committed that heinous act, putting many lives at risk in a place where they have gone to recuperate, according to those on the other side should be allowed back out on bail. They have no problem with that. Go and do it again. Because we are protecting—listen this law, Madam Speaker, [Crosstalk] Madam Speaker, to put it in context, eh, because there is an attempt to pretend to be the champions

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of justice for the poor and downtrodden. I want the population of Trinidad and Tobago to understand the fallacy of that argument, how misleading it is and that it is a figment of some imagination.

This law applies to persons caught with automatic firearms and grenades, full stop, in possession of. And as I said you could still go to the High Court and apply for bail. As at today coming into this Chamber the murder toll for the year stands at 480. There are four divisions that have given us concern throughout the course of this year. The Port of Spain Division, up; the Western Division, up; the Northern Division, up; and the North-Eastern Division, up. I do not think that that is a coincidence. I do not think that those are the divisions that are facing upsurges in the levels of criminality and crime with the use of firearms. And I have here with me today reports and documents from the police service and the Intelligence Services of Trinidad and Tobago that tell a very disturbing story, a very disturbing story about certain persons who are, no longer in the Chamber, who may not have come to the Chamber, who sit in the other Chamber and these types of things. Very disturbing, so I point out now to the people of Trinidad and Tobago, look at these divisions.

I then say, and this is provided by the Trinidad and Tobago Police Service, these are the statistics, this is the reality of what we are facing. This is not about old talk; this is not about emotion, these are pure data and pure facts for the year, for the people of Trinidad and Tobago to understand that as of Monday of this week, the police service have taken off the street for this year alone, 735 illegal firearms. And they will continue to take them off. Last year by this time it was 897. We believe that we are finally seeing that trend of, there is still an availability of illegal firearms but not as much as before. For the year we have taken 10,305 rounds off the street. That is all that we have taken, 10,305, the same time last
year, Madam Speaker 15,556 rounds.

Any sensible person will know when you are talking over 10,000 rounds that is enough to go to a small war with, marry that to the automatic firearms that we are talking about. And this is only what we have found and confiscated. This would not include every single shooting now you have with the gangs. It is not one or two shots you know. They spray and prey and God forbid it, it is any of us inside here or anybody we know, any family member, any constituents, any law-abiding citizen and it is their rights we have come here today to protect, because nobody, [Desk thumping] nobody, Madam Speaker, in possession of an automatic firearm should be permitted the right to bail.

What is this thing about, it is your first offence or a previous conviction? I will come to why that does not apply, but you are going to give somebody who had nine AR-15s the opportunity? So I catch you today with automatic firearms, but go back outside “nah” and let me see—be a good boy. Anybody in possession of an automatic firearm is not going to change overnight and become a good boy. Put them back out on the street.

Madam Speaker, I think the point is often lost and I would like to hear the response to this from any single person in the Chamber, be it on this side or the other side, what is the reason to be carrying a firearm, an illegal firearm in the first place? A person who is carrying an illegal firearm is carrying it with the intent to kill somebody.

Mr. Singh:  Not necessary.

Hon. S. Young:  It is not necessarily. If you have an illegal firearm, if even you make the argument it is to protect yourself, you are faced with a circumstance where you think you are going to protect yourself, you are going to kill the person you think is attacking you.
Mr. Singh: No.

Mr. Imbert: Yes.

Hon. S. Young: So that is a fallacious argument. But even if, I give you the benefit of the doubt, carry a handgun illegally to protect yourself. You are going to walk around with a machine gun to protect yourself and a grenade? There is no one that can stand up with any sense of decency or any sense of sensibility and say that a person should carry an illegal automatic firearm. Not even a firearm user licence holder could get the right to carry an automatic firearm. You cannot get the right from the Commissioner of Police to carry an automatic firearm. Not every police officer can carry an automatic firearm.

And, Madam Speaker, we go on, murders my motive. So out of the 480 murders as of Monday, 86 were unknown; 148 definitely gang-related; 60 revenge; 53 drugs. I added the 53, the 60 and the 148 because to me that is all gang-related and the criminal element, 261 out of 480. By that sector, the same sector, and I will tell you all why through you, Madam Speaker, you can no longer say in this day and age the person should have a first offence or a previous conviction. Because the statistics and the evidence are now showing that they are changing the persons carrying the firearms. They are ensuring that the persons carrying these automatic firearms from point A to point B for the criminal gangs they are using younger people and they are using people who have no previous conviction for exactly this reason. And that is another reason why the Trinidad and Tobago Police Service has asked us for this particular amendment.

This particular amendment, Madam Speaker, is for that phenomenon that you cannot say the person must have a previous conviction. And look at the live example. The person caught with nine AR-15s did not have a previous conviction. You think that is by choice? You think that is by coincidence?
Mr. Imbert: Who would have nine guns to plant on somebody?

Hon. S. Young: That is the whole point. [Crosstalk] Why would you even have one automatic firearm, one machine gun, and the trivializing, “Oh, doh tell meh about Uzi and doh tell meh about machine gun”, I know about sub-machine gun. But what we will be saying or what certain persons are saying, because we are certainly not saying it on this side, because you know what, it is fine you know. You are not previously convicted or charged for carrying AR-15s, go back outside, we are giving you a chance, go and take a walk, go and get another eight and come back. We are rejecting that and we are rejecting that based on evidence. [Desk thumping]

Another frightening statistic, total murders, woundings and shootings for the year as of Monday. So not only murders now, but also woundings and shootings, Madam Speaker. From the 1st of January, to the 25th of November this year, 1,121 murders, woundings and shootings occurred; 79.4 or 381 of the murders alone were committed with firearms. So 80 per cent of the murders committed in Trinidad for the year are through the use of firearms and about 99 per cent through the use of illegal firearms. That is the reality of what we are facing. So if we are facing that 80 per cent of the murders in this country are used, are committed through the use of illegal firearms, how could we with any conscience, whether the jokes are made about staring in the mirror at yourself or not, how can we with any conscience the one duty, the one job we all have, the 41 of us here in this House today to pass legislation could say that a person with a hand grenade, a bomb or an artillery, or automatic firearm should be allowed bail on the first instance or have the ability to get bail. We say the opposite.

We say no bail for 120 days, you do not have to have a prior conviction, because we are not going to give you the chance to go back out there and commit
the murder with an automatic weapon. [Desk thumping] And that is our position and a position that is defendable, it infringes on no person’s right. You cannot not pass law for the fear that one innocent person or two innocent people may be affected. Then do not have speeding laws. You want to talk about laws for set up, a police officer can pull any one of us over and say you are above the speeding limit, and there is nothing that you can do to prevent that. But you now must go and face the court and all of the trauma affected with it. So we would not pass a law to deal with speeding, because you were framed for it.

Madam Speaker, comparative wounding and shootings with firearms by the divisions from the 1st of January to November 25th, in 2018 there were 501 woundings and shootings, whilst in 2019, unfortunately, it has gone up to 641. We are working tirelessly and with all efforts, all hands on deck and all the law enforcement officers are asking is for the legislators to pass this piece of legislation because they do not want to have to face a person who had no previous conviction, no previous charge pointing those automatic firearms at them because that is what is happening.

**Hon. Member:** That is how the gangs are operating.

**Hon. S. Young:** That is how the gangs are operating. Every single one of these sophisticated gangs have access to these weapons and we are fighting it and we are meeting with some success. But still, Madam Speaker, we need the assistance. We need to be able to keep these persons off the street. And these are criminals, because as I say they can be no legitimate reason to have an automatic firearm in your possession. That is the simple premise. Weapons used in the commission of murders, another important statistic. So out of the 480 murders—

**Madam Speaker:** Member for Port of Spain North/St. Ann’s West, your original time is now expired. You are entitled to 15 more minutes to complete your
Hon. S. Young: Thank you very much, Madam Speaker. [Desk thumping] So, Madam Speaker, out of the 480 murders committed for the year as of Monday, 381 were committed using firearms. Let that sink in, 381 murders out of the 480 were committed using firearms, 47 with shape instruments. Therefore, firearms were used to commit 79.4 per cent of the murders followed by sharp instruments of 9.1 per cent. Wounding with firearms and other weapons, and shooting with firearms for the year, 599 compared to 656 last year. Possession of firearm and ammunition. Last year at this time 1,153, this year 935. So that shows that the hard work is bearing some success because both have gone down. Persons arrested. Persons arrested from the 1st of January to the 23rd of November, 2019, for murder, 59; for wounding and shooting, 184; for possession of firearm and ammunition, 1,138 persons.

So, Madam Speaker, to me that figure is startling, that for the year the police have arrested and charged, so not just arrested as my friend from the Member for St. Augustine would be able to point out the difference, arrested and charged for the year for possession of firearms and ammunition, 1,138. So 1,138 persons arrested and charged for being in possession of an illegal firearm. That is very frightening as far as I am concerned. These are some of the statistics, Madam Speaker, that go towards putting this Bill in a contextual reality. Not the old talk, not the speaking of the hypothetic but the reality of what is being faced.

Just quickly, Madam Speaker, to describe the bail process. So you are charged, you go before the court, you ask the magistrate to be granted bail which means to allow you out and you have your liberty until the trial and your sentencing, your conviction and sentencing. That is what we are describing. And all this Bill is saying is for anybody in possession of artillery, an automatic firearm,
a weapon of war, yes, a weapon of war, a hand grenade, a bomb or a device, other like missile, you have no access to bail for 120 days. But the two safety provisions, the police must start the case against you within that 120 days. So it is putting them in a tight time frame and if you think you can or you want to you can appeal to a judge in the High Court. All of your rights are protected, but let us remember whose rights it is we are protecting. People found in possession of automatic firearms and grenades and the like type devices. We introduced in August for the first time the offence of trafficking in firearms. And yes, we say this should also be caught by this legislation. Because anyone found in possession of eight AR-15s, nine AR-15s, we say more than two weapons you are trafficking.

3.55 p.m.

So it is not true to say that this legislation provides no bail, as was suggested. First fallacy. It is also not correct to say, as he put it, the plumber case—the Member for Oropouche East—the plumber case, it would not have changed anything. Completely untrue. Because if the police had the ability to have charged under this provision, it would have caught those specific circumstances.

Yes, we have explained why we are changing our policy with respect to trafficking in firearms and automatic firearms. I say it is nonsensical to use an excuse or to avoid passing law on the basis of, there can be fabrication of evidence and framing. No one wants that. Every single criminal offence, including murder, can fall prey to that. We do not legislate on the basis that someone can be framed by the passage of the Act. And as I say, in this specific piece of legislation we are asking, you can still apply to a judge in the High Court for bail. So it is not that you have no access to bail.

I also found it ironic when there was conversation about how much money we have to pay on a yearly basis, an annual basis, for persons who have been charged and malicious prosecution, et cetera, because the example that came
speedily to the front of my mind was the state of emergency, and that the taxpayers continue to pay tens of millions of dollars for a state of emergency that was unjustified.

**Hon. Member:** Correct. [*Desk thumping*]

**Hon. S. Young:** Madam Speaker, a short while ago, at the beginning of my contribution, I drew reference to what I found as a disturbing trend, that in certain divisions, the Western Division, the Port of Spain Division, the North-Eastern Division and the Northern Division, we saw spikes in crime. As the Minister of National Security, one of the burdens that you carry is that you receive reports, and I always laugh when any reference is drawn to these reports: take it to the police. These reports, on some occasions, come from the police and the police are letting the Minister of National Security, and on many occasions the Chairman of the National Security Council, know what is taking place in Trinidad, because you need to know so you are able to govern better.

I have in my possession—I have only brought three of them here today, but they are the most disturbing types of reports that any Minister of National Security could read. The first one involves an incident at the Hyatt Regency Hotel by a Member of this House. There was an incident at the Hyatt Regency during a sitting of Parliament where persons who are known to be involved in criminal activity began to have a stir and an outbreak at the Hyatt, and the Hyatt security called the police and they called a certain Member. And the reason they called that Member, Madam Speaker, is because the criminals said they were here to meet the Member—

**Hon. Member:** Hmm.

**Hon. S. Young:**—and when the Member turned up there, he ended up paying the bill for the drinks.
Mr. Imbert: “Waaaay.”

Mr. Hinds: Yes, that is right.

Hon. S. Young: And then said, “You were supposed to meet me.” Story is right here in a Special Branch Report provided—[Interruption] Thank you very much. I expect that from the Member for Naparima.

I “doh” make up anything, Madam Speaker, and the proof is in the pudding, very disturbing, because what it went on to say is that the Member admitted that he was supposed to meet them. And then the further evidence that the police gathered was on many prior occasions this was used as a meeting point.

Mr. Hinds: Villainy.

Dr. Gopeesingh: Madam Speaker, I rise on 48(6). The Member is imputing improper motives. He said the person is in the House. It could be all 16 or 18 of us. So on that basis, I start on 48(1), relevance of the speech, and 48(6), imputing improper motives. You cannot impute improper motives against any one of us here. We are in Opposition. We are Members of the House. [Desk thumping] So he might be referring to anyone, and we are not in that whatsoever. We are not in that whatsoever. It is a carte blanche thing and that is not acceptable.

Hon. Member: That is a notorious report and cannot stand up in court.

Dr. Gopeesingh: I ask for it to be retracted.

Hon. Member: It cannot stand up in court.

Madam Speaker: Firstly, any Member is entitled to stand under Standing Order and raise an objection, and I had hoped we would all tolerate that. Secondly, I overrule the objection. It cannot apply to all—I cannot remember the number you said, because the Member referred to a Member.

Dr. Gopeesingh: Madam Speaker, I want to say that—

Mr. Imbert: Wait, wait, wait. What Standing Order you on? [Crosstalk]
Madam Speaker: Member—

Dr. Gopeesingh:—I am not involved—

Madam Speaker: Member, I am—

Mr. Hinds: The Speaker is on her legs.

Mrs. Robinson-Regis: The Speaker is on her legs.

Dr. Gopeesingh: All right. He cannot be referring to us. I am on my legs.

Mr. Imbert: Sit down! [Crosstalk]

Madam Speaker: Member for—[Crosstalk] Now, I know in recent times we have been in many places. Many of you all here have been in all kinds of places where different rules apply. All right?

Dr. Gopeesingh: What “you” mean by that, Madam Speaker?

Madam Speaker: Please do not sit there and challenge me. I am not having a conversation with you, Member. All right? I am cautioning all Members to remember where we are and the rules which apply here. Member for Caroni East, you raised a Standing Order. I overruled. You have reminded this House repeatedly of your seniority.

Dr. Gopeesingh: That is why I am objecting.

Madam Speaker: Again—and this is the last time, Member for Caroni East, I am going to caution you—

Dr. Gopeesingh: All right.

Madam Speaker: Okay? And I am cautioning all Members. We are out in other places where other rules apply. Please remember where you all are.

Hon. S. Young: Thank you very much, Madam Speaker. Madam Speaker, I saw it fit to draw some of this to the population’s attention because I sat and I wondered why would anyone who is a right-thinking citizen or a civic-minded citizen, object to a person who is found in possession of an automatic firearm or a grenade. Why
would anyone object to those persons being kept in prison for 120 days? And it
dawned on me that we all have constituencies. We may all have constituents.
Sometimes constituents do not know electoral boundaries or have the parameters
of Parliament. But you have other types of constituents that you need to please.

Some of the other reports talk about disturbing conversations between a
sitting Member—not here—and persons behind prison walls about strategy for
local government. This report, in particular, talks about meetings with a notorious
gang leader and the promise of contracts estimated at $14 million after the
upcoming election.

**Hon. Member:** On the PNM side.

**Hon. S. Young:** Not on the PNM side. There are also other matters that have come
to the attention on activities taking place on the East-West Corridor. My fear is that
a possible reason to resist this type of legislation that is so narrow and so focused
on preventing criminals from being in possession of automatic firearms may be
determined by constituents—and I do not use it in the electoral sense—who, there
is a need to associate with and to please outside of the legitimate citizens and
lawful citizens of Trinidad and Tobago.

I leave it right there. Madam Speaker, I end and I conclude by saying to the
41 Members of the House that this piece of legislation is requested by the Trinidad
and Tobago Police Service to assist them in their fight against crime, and to say
that they are not meeting success and utilizing the pieces of legislation being
passed is also a fallacy and misinformation, and I plead with all Members to
support this because there can be no justifiable reason for amendment or to oppose
it in its current form. Thank you very much, Madam Speaker. [Desk thumping]

**Madam Speaker:** Member for Laventille West. [Desk thumping]

**The Minister in the Ministry of the Attorney General and Legal Affairs (Hon.**

**UNREVIS**
Fitzgerald Hinds): Thank you very much, Madam Speaker.

Dr. Gopeesingh: The Member never had his hand up.

Hon. F. Hinds: The Speaker recognized me. Thank you very much. Madam Speaker, I enter this very important debate admittedly in a mood that was affected by the presentation of the Minister of National Security in Trinidad and Tobago. Madam Speaker, we would have heard from the Attorney General the very simple terms and the framework in which this legislation is set. Madam Speaker, one of the big issues that had been raised is the question of the possibility of framing. The objection that is coming from the Opposition is that this legislation will permit the possibility of the police framing individuals in accordance with this law. The point has been made and now I reinforce it, that a police officer has tremendous powers under the Police Act and that he or she can, if he or she decides not to act in accordance with the laws, can certainly—and there have been examples of abuses of such authority and such power. Murder, Madam Speaker, is a capital offence and persons have been exonerated and it is obvious that persons can be framed whether in this jurisdiction or in other jurisdiction. It has happened for the capital offence of murder which carries no bail. A person could be framed for a marijuana offence, obscene language, any offence. So the issue of framing is not germane to this—it is not specific, sorry, to this measure. It is of general application and possibility.

So I cannot accept it as an argument against the provisions of the measures before us. It is not specific to these amendments. And as has been alluded to before, due process is a critical protective measure for the citizen in this matter and similar matters of criminal law. The sunset clause is a way that we treat with this question. We review the law after the sunset period would have expired and we have had that experience in here again. There is the possibility of appeal. If a man
is convicted and he was framed and at first instance, or the magistrate found that he was guilty, he has the right to appeal to deal with that. As well, Madam Speaker, and long before the appeal process—and that appeal process could take us even to the Privy Council, outside of Trinidad and Tobago, notwithstanding the fact that it is our highest Court of Appeal. And in this legislation both sides, both the prosecution and the defence, have the right to appeal if either side is aggrieved by the decision of the court.

And long before that, Madam Speaker, I was a police officer and while the Member for Oropouche East tells us that there are rogue police officers—and no one would doubt that—the history of the Trinidad and Tobago Police Service, of the Jamaican Police Service, of the UK Police Forces, of the United States Police Services or Forces, it is well known. There will be, and there have been, rogue elements. But that admission suggests that it is an element and that does not necessarily mean all are like that.

So if a man has been arrested and is being framed, the first issue the framing officer has to— he has to confront his peers. When he takes this man to the police precincts or station, he will have to explain to his immediate seniors, the Second Division officers—SDOs—why this man has been arrested, and there are procedures that they have to follow. So it is not just somebody decides to frame somebody. He would have to get past his peers on the first instance. He will have to get past his corporals and sergeants and inspectors of the Second Division, the SDOs. And then the way things go in the police service, as a former police officer I would know, they then carry this file with all of the statements and the charges and everything, to their senior officers in the division who review it and then decide whether they should continue or otherwise.

So within the police service itself—and police officers have arrested and
charged police officers for every possible crime known to us in Trinidad and Tobago, including murder. In fact, it is the police—whether it is the Professional Standards Bureau or whether it is regular police, police have investigated corrupt police and have charged them and many have gone to jail on the basis of that. So within the very police service that they suggest could frame someone, there are some mechanisms to deal with that.

And then in many cases for serious offences of this nature, the likes of these that we are dealing with in this law, they seek the advice of the Director of Public Prosecutions, exercising his authority under sections 90 and 91 of our Constitution, independent as he is. And if, as has happened many times before, the DPP finds anything uncanny, untoward, insufficient in the evidence, deficient in the evidence or legally problematic, he will send them back with it. That is another tier of protection. And I am dealing with this question of framing, as though some officer could just walk up, charge a man with a hand grenade or some automatic weapon, and that is the be-all and end-all of it. [Crosstalk] Of course.

And then the way our system goes, Madam Speaker—and I know of a case, personally was involved some years ago when I was in National Security, where a police officer, in fact, acted quite abusively and the DPP got personally involved. An entire family, including an elderly lady, I think about 87 years old, was arrested for something that was found in their backyard. And we got the facts, “becor” other police were paying attention to what was happening because there was advanced information. And the family got charged and the DPP, Mr. Henderson as he then was, got involved in the matter and entered a nolle prosequi immediately.

So there are mechanisms for protecting against this big concern about framing. And in the way our system goes, more often than not, and with the legal aid system in attendance, the accused or the defendant, or the suspect at the police
station, has advice from some lawyer. Lawyers will come in at the level of the police station to get an interview with their client; what is happening; speak to the police; speak to the client and then the lawyer. So the lawyer is very early involved in protection of this client, even before the man is charged sometimes. And, of course, once you get into the courts, the magistrate looks cursorily at the evidence, look at the documents whether it is a preliminary enquiry, and as we move into the more modern system, having abolished the preliminary enquiries, there must be sufficiency hearings. And if the evidence is sufficient or legally deficient, at that stage something happens. And, of course, if it gets to the stage of the trial, as I said earlier, you have appeals all the way up to the Privy Council, in some cases. And while all of that is happening, the citizen has constitutional rights, which this Parliament would have authorized and upheld as the law, the Constitution of Trinidad and Tobago, and they can seek redress in constitutional terms in the constitutional court if something went awry.

So there is a whole host of protections, Madam Speaker, and on that basis I consider, especially on the basis that framing is not specific to what is in front of us today, I contend that it really is of general application and possibility, and there are a thousand ways in which we redress that in Trinidad and Tobago. And then you have the Police Complaints Authority. The citizen, even if he is incarcerated, can complain to the Professional Standards Bureau, complain to the Police Complaints Authority and have persons investigate his concern or his claim against the framing officer. [Desk thumping] I have confidence in our system. No legal system is perfect. None could be. Like democracy, never perfect. After all, it throws up all kinds of people—democracy—people with horrific records in public life.

And, of course, in conclusion on this point, Madam Speaker, within recent times the Minister of National Security, the Attorney General, yours truly and
others on this side, we piloted, we promoted legislation protecting the citizens
against the whims and fancies and abuse of prison officer, customs officer,
immigration officer and police officer. [Desk thumping]

Hon. Member: And fire.

Hon. F. Hinds: And fire officers. [Desk thumping] We have arranged in the
anti-gang law, there are a host of offences and recent laws we passed which
suggest clearly to police officers, “If you act outside of the law, new serious
sanctions will be brought upon you.” And that is where we are in Trinidad and
Tobago, not the least, the recent Miscellaneous Provisions (Law Enforcement) Bill,
now perhaps an Act in Trinidad and Tobago.

Dr. Gopeesingh: We joined with you and passed that.

Hon. F. Hinds: So I reject—you joined with us, Member for Caroni East? Very
kind of you. So then I do not know, it is as if you swallow an elephant and
straining on a peanut.

Dr. Gopeesingh: No, this is separate.

Hon. F. Hinds: What we are doing today is no different to what we have done
before. In fact, no different to what you have done—

Dr. Gopeesingh: It is separate—

Hon. F. Hinds:—because you passed anti-gang law in this country with our
support that would have denied people’s bail on a first offence as we are trying to
do today. So when the Member for Oropouche East, hypocritically asking us, why
we have changed our policy between June and November, we have to ask you why
have you changed your policy from 2011 to today. [Desk thumping] What is the
issue with first-time offenders? So that is the question we have to ask you. We are
not persuaded by your fallacious arguments. We came here with Act 17 of 2019
and we said in respect of the Schedule 2 offences—because, Madam Speaker, all
we are doing as we proceed, is responding to the sociological and criminal circumstances that we face in Trinidad and Tobago. As the criminals step up the game, the Parliament, on behalf of the people, must step up our game. And that is why we have been amending laws, and they appear to become harsher because the criminals are behaving more emboldened [Desk thumping] and more criminal by the hour—

Hon. Member: That is the reality.

Hon. F. Hinds:—and the society has to respond to it. And that is the reason why we find ourselves amending laws like this as we go along, because there is a culture in Trinidad and Tobago and we have to react to the culture, Madam Speaker.

So we came in that Act 17 of 2019 and we said in terms of the very serious offences in Schedule 2—and we all know them. I do not have to waste our time. But they include offences under the Anti-Gang law, Anti-Kidnapping, Trafficking in Persons, those kinds of serious offences. We say, if you had a conviction for one and you are now charged with a similar Schedule 2 offence, you would be denied the bail. And if you had a pending charge and you found yourself with another charge for firearms, you would be denied bail. And if you were charged with a serious or Schedule 2 offence and you are now charged with another one, you will be denied bail, all sensible and all very reasonable. That is what we said.

And since then, Madam Speaker, we amended the Firearms Act to create new offences because we realized that instead of having one handgun, a person could be found with nine, two, three. And just like a certain amount of marijuana before decriminalization, over 1,000 grammes it was perceived that you had it not for personal consumption—right now in the decriminalization effort we are looking at personal use or having in your possession 30 grammes. When I saw 30
grammes of marijuana last week, I said that is “Ah lotta, ah lotta marijuana. Dah is about 60 splif. If a man smoke all of that, well, Bob Marley eh want nuttin wit him. He making song.”

But we are doing that and for good reason. But the person with 30 grammes—but if you had 1,000 grammes in the old traditional context of the Dangerous Drugs Act of 1994, if you had over 1,000 grammes you would have had it and you would be charged for possession for the purpose of trafficking because of the amount. And similarly we said in this, that if—we amended the Firearms Act, if you are caught with more than one firearm, illegal as it already is, you would be deemed to have the extra ones for the purpose—the firearms for the purpose of trafficking, sensible and deterrent to those who might ordinarily use them or carry them around.

And then we said prohibited weapons, as the Minister of National Security pointed out, that is a special class of weapons inside of the Firearms Act, and it was always there, and that includes automatic firearms. And the Minister pointed out even when you apply as a businessman to the Commissioner of Police for a firearm User’s Licence, you cannot get an automatic firearm. You will get a semi-automatic pistol or something like that. You would not get an AR-15, because that is a military weapon of war, not expected to be used in a civilized, civil context or circumstance. But the criminals now will get automatic firearms. And you know we have seen over the last 25 years the police service, that is the civil organization which got its tradition from the British police back in the day, today they are more militarized. You hardly see blue and grey with long pants anymore. It is operational wear with heavy arms, extra magazines. That is a reflection of the way the society is transforming at the hands of criminals.

So if a police went with a single—a pistol, a firearm in a sack like “long
time down on he leg here and he meet two AR-15s, is trouble.” So the police know that and since they have to protect us, they must first protect themselves. So we see an escalation in this situation. And we said that these prohibited weapons, automatic weapons, hand grenades—because now hand grenades are in the theatre of conflict here now too, you know. Those are prohibited weapons. It was always so under the Firearms Act. And if you are charged for those, you will be denied the right to bail. That is what we said when we amended the Firearms Act, Member for Caroni East. That is what we said. And then we sought to amend the Bail Act because of the seriousness of those offences, to say you will be denied bail for 120 days if you are charged for those two new firearms offences. That is what we are saying. And the subsection (7A) of the last amendment we did to the Bail Act, still stands on all counts. In all circumstances you still have the right to go to a judge and say, “I want bail”, and the judge will then decide whether you should have it or whether you should not. That security, that safety net, is still available, Madam Speaker.

And the hypocrisy of my friends, especially when a Bill requires a special majority as this one does—a three-fifths majority—they play that they are the biggest champion of everybody’s rights, and I say “play”, Madam Speaker. The Attorney General told us in this Parliament one time, some time ago, that privacy as a right under section 4 of the Constitution is not absolute. They went berserk over that. For weeks they criticized the Attorney General. We will now know that while they were shouting loudly, criticizing him, Cambridge Analytica was a reality in Trinidad and Tobago, since 2010.

**Hon. Member:** You believe that?

4.25 p.m.
Hon. F. Hinds: “I doh believe nothing. I doh believe nothing.”

Hon. Member: We know that. Before?

Hon. F. Hinds: Yeah, and even before 2010. [Crosstalk] I know, the facts of this book are before us. Let me leave that book—thank you, Madam—especially that book with a very difficult title.

Madam Speaker, the UNC spent almost five years and three months in office with the benefit of the anti-gang law with our support, and in that anti-gang law you would have been denied bail for a first-time offence under those new offences in the anti-gang law. What is the difference? We supported it because we always on this side act in the wider and the national public interest. We look beyond the faults and we see the greater need, faulty and imperfect as we know they are. “We doh take them on.” We know what is good for Trinidad and Tobago, and once it is good for Trinidad and Tobago, you are guaranteed to get [Desk thumping] the PNM’s support, in Opposition or in Government.

So what has changed? Why all of a sudden this idea, this principle, this concept of restricting bail for a first-time offence? All of a sudden it is anathema to my friends on the other side. It is hypocrisy, and the difference is that they take the opportunity to create obstacles, and the Minister of National Security gave us a possibility as to why and I cannot rule it out. Cannot rule it out because we lived through LifeSport. The COP lived through an internal election where thuggery was involved in the internal election at the COP by a former PP government Minister, who by the way we are told is still up and down the corridor, all in Carapo everything, campaigning for the UNC today as we speak; and another one is up and down in La Horquetta meeting with gang leaders as we speak, and we could pretend that we do not know in this House, you know.

The people on the ground out there, they know full well what is happening,
and they know that the Member for Laventille West is speaking the living truth, Madam Speaker. And when the Minister of the National Security spoke about a number of gangsters at the Hyatt last week—I am a member of the National Security Council and it came to our attention—went and paid a bill. In the fellow’s way they were expecting a meeting with the member and they ran up a bill in their excitability, and in the freeness, and the opportunity of the moment, and when challenged to pay they did not want to pay. They were waiting on someone who left where he was and went and paid the bill. That is in a special branch report. I do not know why the Minister of National Security did not call the name.

**Dr. Gopeesingh:** And you bring it in Parliament.

**Hon. F. Hinds:** And if you all provoke me, I will.

   Madam Speaker, the Minister of National Security was very on effusive on the question of the AR-15 in particular. We have seen a plethora of those within recent times. A man could make a robbery with a single firearm, a semi-automatic pistol, but when we see the accumulation of weapons of war, assault weapons, weapons that have a range of 3,000 yards and fatal in two, and using 5.56 ammunition and 7.62, we know we have a problem here, and the Parliament has a role to play, and the Government has a role to play. So the Government brings these measures and we bring it to the Parliament where they have to be discussed and distilled, and we hope to get the support to protect the people of Trinidad and Tobago. If we do, we say thank you God, if we do not, we say the wiles of the devil, the beast.

   And the Member for Oropouche—

**Madam Speaker:** Hon. Member—

**Hon. F. Hinds:** Milady.

**Madam Speaker:** Hon. Members, it is now 4.30 p.m., we will take the suspension
now. We will be back at five o’clock.

4:30 p.m.: Sitting suspended.

5:00 p.m.: Sitting resumed.

Madam Speaker: Member? Leader of the House and Whip, could you all please summon—? [Pause]

Member for Laventille West, you have five minutes of original time left and you are entitled to 15 minutes extended time. So you if you intend to go beyond the five minutes, I will invite you to request the extended time at this time.

Hon. F. Hinds: Might I so request at this juncture, Madam Speaker?

Madam Speaker: You may proceed.

Hon. F. Hinds: Might I thank you warmly. [Desk thumping] Madam Speaker, before we took the break, I was about to demonstrate that the assault weapons of which we speak, which fall in the class of prohibited weapons including the well-known AR-15s, the Uzis, and as Minister Stuart Young indicated on advice from the experts in the police service and otherwise, these young men out there now, persons, criminals, they are making the regular Glock firearm, automatic, and sticking in a magazine that could carry 41 rounds, 33 rounds, and presenting a serious cultural shift for us in Trinidad and Tobago.

Madam Speaker, in the so-called plumber case that the Member for Oropouche East spoke about, it had to do with these assault weapons, a number of them, and as well a hand gun, and shortly after the police found another nine. So we did talk about the amendment to the Firearms Act, which we got support from the other side to treat with, so that if you are caught with more than one. So it was after that event, Madam Speaker, that the police made a request of us to look at this law again. We are not here by whim or by “vaps”. We are responding to the call of the Trinidad and Tobago Police Service, the only organization under the Constitution
and under the law that is tasked with the business of dealing with crime, preventing crime, preserving the peace, detecting crime and other infractions of the law as the statute defines it. So in response to the police we absorbed the ideas intellectually, and we say, yes, you have a prohibited weapon, we should be able to deny bail. You have grenades, hand grenades and other weapons of war—one was used in an escape out of the prison on July the 24th, 2015. Fatefully and thankfully it did not detonate.

You can have a platoon of troops, a patrol of police and soldiers from the IATF, one such instrument could create a serious problem. It is a serious problem, and we have a very loose culture here. We have to deal with it. There is mayhem out there, Madam Speaker. We are now hearing that—the Member for Oropouche East spoke about someone who was shot in the hospital, we are now hearing in crazy Trinidad that that deceased man in the hospital was the wrong target. He was not the intended target. This has happened before. So we have a serious culture out there. Somebody put on the crime scene suit and walked into the hospital. We have to improve our security at our institutions, our schools, our hospitals. We have a job to do. We have to change the culture. These things happen in other countries, you know, but when you walk in England you just know that in the back of your mind you are being photographed 54, 60 times per day. If you do wrong you are likely to be caught. That is the culture. In the United States you are sure something happened, within one minute seven patrol vehicles on top of you; all the police on top of you. Brutal sometimes, but that happens. That is the culture in those countries.

I spoke to the Vice Minister of Public Security of China only yesterday at my office, who paid a courtesy call on us. We are a population of 1.3 million, China is 1.4 billion people, Madam Speaker. I asked the Vice Minister about their
murder statistics. He told me back in about 2000 and thereabout, they used to have 30,000 murders a year in China—across China—and it was intolerable and unbearable for the Government at the time, and for the people of China, and they have been able since then to reduce that figure by about 10 per cent on a yearly basis. Right now, their figure is about 8,000 for the year in a population of 1.4 billion people. That, Madam Speaker, is about 0.07 per hundred thousand. That is a fascinating rate.

So I asked the Vice Minister what does he attribute to that outstanding rate, in a land where they have guns, they have all kinds of implements, and the Chinese are the most creative people in the world as we would have seen. He tells me a number of things. He tells me that their whole social network to deal with the impoverished, and so on, they have a strong programme along that line. He said they educate for discipline. Education is not for just get a job and get a degree. Our education is for discipline. Well, of course, you have to look at the cultural context, the historical context of China through the Cultural Revolution and so on. It is a different kind of people to the free laissez faire people that we have evolved to be.

He told me their prosperity as well. China, as we know, have been able to move millions of people from below the poverty line as established by the international family, United Nations. But yet, in 2008, when we tripled our GDP we had the highest murder figure ever, 550. So while he explains to me that prosperity is a palliative to these murders, we have experienced here because our standard of living and our quality of life in Trinidad is comparable to countries anywhere in the world realistically speaking. We eat well, we dress well, we play well, we dance well, we are having a good time, and still we are having this phenomenon, but Trinidad is a country like that. But most of all, he spoke of
judicial cooperation. Their system is a little different to ours and the Judiciary, he explained to me, are a lot more cooperative—I am using his word—to the Government in its fight against crime, and the death penalty is a reality. They do not have to go to the Privy Council. It all happens inside of China and it happens very quickly.

So at the end of the day, there is a culture in that country far removed from the culture that exists here. I do not propose to discuss the whys or the hows, or the propriety or the impropriety of that, but the bottom line is it is a different culture all together. But we have a culture of mayhem out there, and when a criminal walks off the street, walks onto a ward in the midst of other patients—you could imagine—in the midst of other family members who come to visit patients, in the midst of these nurses who left their homes, their children, their husbands, their wives to go and work and have to be listening to 10 gunshots. And talking about 10, the Minister of National Security alluded to it, it is not one shot any more, you know. They killed a little boy in my constituency. It is about nine bullets they found in the little boy’s body, a 14-year-old or a 16-year-old, sometime last year. His parents are still in grief. I still am because I knew the young man and I got to know him even more since his passing.

In Jamaica there is a so-called “shower posse”. They got their name because they are not killing you with one shot. When they come they shower you with bullets, and we have a lot of copycats here. South east school reported today, shooting taking place. Bullets penetrate some classroom and a teacher and a student, or so, got injured in that, and these children have to be going to and from this institution. An institution that from the reports I got from the Ministry of Education have been performing particularly well over the last few years and on the rise academically, but they have to deal with these issues, Madam Speaker. It
is all part of the culture, wanton shooting.

When a man tells you now, “ah goin for a gun to come back”, “long time” you call that “ganta mouge”, “grand charge”. Now when a fella tells you he is going for a gun, he “doh” have to go far, and that raises the point. If you do not want to stop them first offence wanting, you leave them with bail to go and do it again. The statistic is showing that. But more than that, the criminals are far more clever than some of us, and if it is that you can go around and you do not have to fear not getting bail because this is your first time, or you did not get a conviction or a charge before, what they will do is take our 16-year-old sons and grandsons and let them, who have never had an interface with the police, be the mules to carry the gun to the hit scene, they commit the crime, and the “lil” fella carries it back. [Desk thumping] “That is how de ting does work.” So they cannot be wiser than us.

We all had GATE—well, no, not me. Those at my age would not have that. But we all have some brain, and we have some sense, and we are supposed to be representing the public interest, every one of the 41 of us. So we have to use what we have, and we have the power as lawmakers to respond to this culture and to try to change it for the better as China did from 30,000 a year down to 8,000 a year. We are no less than the trees and the stars, and it still leaves room in (7A) of the bail amendment that we did in 2019 for judicial discretion; still does.

So, Madam Speaker, I hope that having rehearsed some of these basic facts and elements without having to go into the actual terms of this very short Bill, it is simply as I said thrice before to adjust the bail law to accommodate the two new offences that we created on the request of the police which met and squared with our own intellectual assessment as to the propriety of it, the worthwhile element of it, the good sense of it; and it is designed in my view to create and begin the
creation of the new society that we have been talking about. [Desk thumping] It is to change the culture. The criminals must know that the balance does not favour them. And on the question of balance, every time—because no right, they could criticize me how they want. I will just tell them about Cambridge Analytica because that was the gravest intrusion in people’s privacy that we could ever have known about, exposing people to extortion and all kinds of things.

**Mrs. Newallo-Hosein:** Extortion?

**Hon. F. Hinds:** Of course, and all manner of things. We have to find a balance and this is well known. This is trite even. We have to find, as we make laws, a balance between the constitutional rights and respect for them, and at the same time individual rights, and this balance has to be worked out on an ongoing basis. When they came in 2011 with the anti-gang law, we knew that to take away bail for first-time anti-gang law; we knew that to create an offence of being a member of a gang, or harbouring a gang, or hiding a gang member took away a bit from the freedom of the society under the Constitution, but we did it, and the Constitution makes provisions for doing it. And the court, as you would have heard on umpteen occasions, have upheld the correctness and the rectitude in so doing it. So it is not new to us, Madam Speaker, and this is just another occasion for us to gang up on the criminals together as parliamentarians in the general public interest with a view of changing the culture, with a view of building a new society. [Desk thumping]

That really is what this is all about, and I must ask again as I wind to a close, why would the UNC, my colleagues on the other side, oppose this, seeing that they did it before? They did it. That is to say, create a condition for the restriction of bail for first-time offences. Why have they changed from that stance to today? It is for them to explain. And we heard from the Minister of National Security some elements of certain behaviour and I am personally familiar with some. We saw
this happen in Jamaica, you know, where politicians mollycoddled over years with unsavoury elements, and that affected their country in no end, socially, economically, politically, up to recently with the Dudus Coke issue. We do not want that in Trinidad and Tobago. So we all have to be strong, we all have to be watchful, because while that kind of thing may bring short-term benefit or appear to bring short-term benefit, in the longer term it gets a little difficult. More than a little difficult, Madam Speaker.

So I urge my colleagues to think as we go forward, and I urge my colleagues in the circumstances to not be afraid to love, not be afraid to represent your constituents stoically and manfully. Not be so politically myopic that because the Government is bringing something and it requires a special majority, you will not support it. And as the Member for Oropouche East said, they have an open mind. They are open to the principles here, and the reason why they did not vote against it, expressly in the Senate, is because they agree with the principle, but what they have a problem with is the question of the possibility of framing.

I began my contribution by demonstrating that this framing thing is a fallacious argument that is of general applicability, it is not confined only to this law. And secondly, in the event that an officer does that or tries that, there is a whole scheme of due process, and evidential, and administrative elements to protect against him. [ Interruption] And, of course, as my colleague, the hon. Attorney General, is just reminding me, and it is worth putting on the records, when you are a public officer you find yourself exposed if you do that, to the old offence of misbehaviour in public office. A very serious offence with a very severe penalty.

Mr. Al-Rawi: And perversion of the course of justice.

Hon. F. Hinds: And perversion of the course of justice could apply to anyone,
public officer or not, and it is a very serious state of affairs.

And we can now boast we have done a number of things to protect the citizens against the abuse of police, and prison, and Customs, and Immigration, and other such powers, and when we come back after the election, Madam Speaker, you will continue to see legislation precisely along those lines in the protection of the people. And with those few words, Madam Speaker, urging my friends on the other side to think and to act as Members of Parliament should in—how much more time I have, Madam Speaker? I see my friend is jumping up like a wooden inanimate object.

Madam Speaker: 23.51. So you three minutes.

Hon. F. Hinds: Three more minutes. I want to protect my friend, the Member for Naparima. I see him jumping up and down like a wooden object. So, Madam Speaker, I would like on behalf of the people of Laventille West to thank you profusely for an opportunity to have stood here and spoken in their best interest, and they will know from my contribution that when we act as Members of Parliament in their interest, we do so as we must, taking our oath to do good and to do right unto all men. Thank you very much, Madam speaker. [Desk thumping]

Mr. Rodney Charles (Naparima): Madam Speaker, thank you. I know, not the tallest of the Members here so I have to ensure that I do what is necessary to catch your eye. Madam Speaker, I never thought that it would fall upon me to correct the hon. Attorney General on a matter of law and on a matter of fact. You see, when I heard him speaking earlier today about Singapore, I knew that he was stepping into a territory in which he knew little of. So I asked my staff—I thought I had heard wrongly—did the hon. Attorney General say that if one is convicted for possession of a firearm one could face the death penalty? And I got the response from my research staff. Well, he said, the hon. Attorney General, that in Singapore
the penalty for possession of firearm is the death penalty.

Madam Speaker, I would wish to inform the hon. Attorney General that in Singapore the penalty for possession of a firearm is not the death penalty, and I refer—you see, we have to be careful with language. We have to be correct, we have to be precise, and most of all we have to be factual. Singapore has, and I will quote and I could give the source:

“Singapore…”—is—“one of the toughest gun control laws in the world. According to the Arms Offences Act, unlawful possession or carrying of firearms…”—is not punishable by death. However—“Using or attempting to use arms when committing a scheduled offense is punishable with death.”

Madam Speaker: Member for Diego Martin North/East—[ Interruption ]

Mr. Imbert: Sorry, Ma’am.

Madam Speaker:—do you want to make an interjection?

Mr. Imbert: I will have to speak in this debate.

Madam Speaker: Thank you. Please continue.

Mr. R. Charles: And when I go to the schedule offences, which are punishable by death, 130B says and they gave examples:

“…while committing or attempting to commit piracy…”—the person commits murder or attempts to commit murder or—“…does any act that is likely to endanger the life of another person…”

And they go on to give examples of what will occur, that will entitle someone to the death penalty if they have possession of arms, genocide, mutiny, assault, in desertion and mutinous situations. So, Madam Speaker, I have just corrected that for the record.

Madam Speaker, but this is not the first time. In a previous debate with UNSCR, Security Council Resolution 2231, three times I mentioned that it exists
and yet the hon. Attorney General got up and said, “The Member for Naparima said it does not exist”, and he could use a phone or something to call the UN. And when I went to the United Nations they shook their head, you see, Madam Speaker.

5.25 p.m.

Madam Speaker, in respect of components, I understand that the Member for Port of Spain North/St. Ann’s West said that the components are related to an AR-15 but I have with me the police station diary and the reports here and the police could not tell the court what weapon the components could build, [Desk thumping] it could not, and it seems to me that the Minister of National Security knows more—or the national insecurity—about weapon building and the components than do the police.

Madam Speaker, I was taken aback by the Member for Port of Spain North/St. Ann’s West, when he read what one would consider internal police documents, Special Branch reports. I had the privilege of working with Dr. Cuthbert Joseph when I returned from studies in Canada and every morning, he used to get Special Branch police reports and he would not let me see it, he would not let anyone see it because as far as he was concerned, those were classified documents. In the United States, that kind of internal police information is not for mass consumption [Desk thumping] and you see it on television. When they ask congressmen or members of the Senate, they inform the television or the host who is interviewing them and that they are not authorized to give classified information. And that is the problem in Trinidad where we have Government officials who do not understand the tenets and the protocols of governance.

But, Madam Speaker, I have a problem with Members from the other side quoting unknown documents and threatening us on the other side. I think it is something that we need to look at in respect of the operations of the Parliament. It
is something we need to look at. Often we hear they quote a document, the source is not properly identified, the date, the time, the information is not corroborated, and it is given in the public domain. It reminds me and we have to be careful lest we repeat the evils of emailgate where accusations are made against citizens of this country on the flimsiest of information.

Another point and I think it is important for me to raise in this House, this honourable House, is the fact that on the other side, they see consensus, they see collaboration, they see discussion as a situation in which their side, their view, their perspective alone matters. I recall in an earlier iteration of this Bill earlier this year, in a Bill that required a special majority, therefore, they needed our support. We suggested eight amendments. Not one was accepted it. It leaves us on this side to believe that their idea of consensus, their idea of discussion, their idea of working together is their way or the highway [Desk thumping] and that is inconsistent with the spirit of the Constitution, particularly with respect to the three-fifths majority situation which suggests the need for collaboration and interaction and debate and an honest appreciation of the other’s perspective.

Madam Speaker, we are here today to discuss the Bail (Amendment) (No. 2) Bill, 2019. This is a sequel of the Bail (Amendment) Bill, 2019, which was discussed in this House on July 31st, earlier this year, 2019. I will not be surprised if sometime in the not-too-distant future, we will be called to discuss Bail (Amendment) Bill part three, where one can only presume, given the penchant of this Government to pass more and more draconian legislation, that we will once again be summons to this Parliament—not to debate but to be abused—to be called unpatriotic and pressured to pass bad law.

As we meet today in this distinguished House, I wish to pay fulsome tribute to a distinguished son of the soil, the late Mr. Wayne Chance [Desk thumping] who
lived his life by seeing the good in his fellow man rather than the negative characteristics, especially of the disadvantaged. As I said in this House on July 21st, I would not have minded if we were here to discuss plans to help inner-city at-risk youth to be gainfully employed, to be encouraged to enquire employable skills, to learn discipline, to have a sense of belonging now provided mainly to them by gang leaders. I would have relished, like comrade Chance, sharing ideas on how we can use the Cadet Force, the 4-H Clubs, the Police Youth Club and MiLAT and MYPART to rehabilitate young people and ex-prisoners so that they can make a worthwhile contribution to Trinidad and Tobago and effectively deal with crime. That would be a most profitable and spiritual use of our time.

Madam Speaker, what is the Bail (Amdt.) Bill? This legislation was brought into law in 1994 and was amended many times and most lately in 2015, in 2016, ’17, ’18 and earlier this year, 2019. It will be recalled in that debate that this Bill and its immediate predecessor, the Bill deals with a number of troubling human rights, constitutional issues and democratic principles. As I said before, it was this Finance Minister, the hon. Colm Imbert, speaking in Parliament on a Bail (Amdt.) Bill on Friday, March 13, 2015, who questioned the constitutionality of the amendments before the Parliament.

[Device goes off]

Madam Speaker: Somebody has a device that is distracting me. Could I ask the Member to go outside, silence their device, and they could return? I also want to ask the Members on the Front Bench to my right to please contain their tones.

Mr. R. Charles: Madam Speaker, thank you. I quote the Minister of Finance, then Member of Opposition for Diego Martin North/East. He said:

“…the constitutionality of these series of amendments to the Bail Act was very questionable…
All it will take is one aggrieved prisoner to take this matter all the way to the Privy Council to get a determination as to whether all these amendments to the Bail Act are in fact allowable under a three-fifths majority.”

I could give way to the Member for Diego Martin North/East to find out if he still has those views or if he has changed his mind.

Mr. Imbert: Apparently that has happened.

Hon. Member: Exactly.

Mr. Imbert: You are out of order as usual.

Mr. R. Charles: Thank you. Thank you, Madam Speaker. He cannot with a straight face tell us he has changed his mind. So, Madam Speaker, according to the Explanatory Note, this Bill:

“…would provide for the inclusion of the offences of possession of firearm or prohibited weapon for the purpose of trafficking under section 9A of the Firearms Act, Chap. 16:01 and possession of a prohibited weapon, as offences for which a person would be denied access to bail for a period of one hundred and twenty days under the Bail Act, Chap. 4:60.”

The second iteration of the 2019 Bill now means that a person charged with possession of a firearm under section 9A of the Firearms Act or possession of a prohibited weapon, regardless of whether or not it is their first offence, will not be granted bail and a prohibited weapon means artillery, automatic firearm or bombs, grenades or other like missiles.

Madam Speaker, it would be useful at this juncture to identify what bail is, what is its purpose and why was it developed in a democratic society to protect the rights of citizens. According to the Legal Aid Society of New York, it says:

“Bail is only supposed to be set in cases where the court deems the accused person to be a ‘flight risk,’ meaning they are unlikely to return to court on
their own. The purpose of bail is to ensure that the person who pays bail, or who has bail paid on their behalf, will come to court on all of their court dates.”

While it is understood that the right to bail may be curtail in certain circumstances where it is warranted by the gravity of the crime, like murder, treason or rape or the ability of the individual to harm witnesses, in most jurisdictions, it is the court which decides whether or not a person is granted bail, not the Legislature. The primary purpose of bail is to ensure that a person does not abscond from the courts. However, those opposite appear to be using it primarily as punitive mechanism, mainly to plaster over inadequacies in our judicial system and in our approach to policing.

**Mr. Al-Rawi:** Please, Madam Speaker, Standing Order 44(10).

**Madam Speaker:** Okay, so Member for Naparima, 44(10) means that you are reading. We know it is a debate and I am sure that you are articulate enough to separate yourself from your notes. Of course, if you are doing an extract, you can do some of that, okay, so please proceed and be guided.

**Mr. R. Charles:** Okay. Thank you, Madam Speaker, I will be guided. In my contribution today, I propose to look at this Bill from the perspective of the layman, not a lawyer. And may I just say that laypersons constitute 99 per cent of the population and I have seven concerns from this perspective.

My first concern is that it seems to have been developed in a very ad hoc manner. Why were these amendments not considered when the Bail (Amdt.) Bill was brought to the House in July this year? What new information, not available to the drafters then, has brought us here today? Were artillery, automatic weapons, missiles, grenades or bombs not within the contemplation of the drafters of the previous Bill? Madam Speaker, this is lazy, vapid, shoddy, inadequate research on
the Government’s part.  [Desk thumping] This is unbecoming of a society, a country that is aspiring to First World status. And that is why we repeatedly call for joint select committees to look at the Bills holistically, to take on board all kinds of scenarios, all kinds of perspectives so at the end of the day, we come up with good legislation. It is my hope that we would not be summoned to Parliament tomorrow or the day after to increase penalties in a failing desire on part of this Government to stamp out crime in our society.

Madam Speaker, my second concern is the presumed assumption by this Government that increased punishment and more legislation would lead to a reduction of crime.

**Mr. Al-Rawi:** Madam Speaker, 44(10) please. Unbearable.

**Madam Speaker:** Okay so, all right. Member for Naparima, proceed but again, you know, it is a debate and you know I really do not want to stand on that but it is a debate and therefore as again, I said, you could quote extracts to some extent but I am sure you can contribute without being so tied to your contribution.

**Mr. R. Charles:** Yes, thank you, Madam Speaker. My second concern is the presumed assumption by that side that the more and more draconian legislation and the more laws that you pass would lead inexorably to reduction in crime. This is palpably false.

Last week, we had a situation and I have to read the names: Jamelia Chase, Kareem McEachrane and Michael “Grimey” Walker were shot and killed in Maloney. A *Newsday* report indicated that their deaths were as a result of gang warfare, so the three deaths were as a result of gang warfare. But we were told by the hon. Attorney General that the Anti-Gang Act would give the Government a fighting chance in the war against crime. He said that he knew the names of gang members. “Ah doh have tuh read fuh this.” He knew the names, he knew the
addresses, he knew where they were and he knew the number of gangs but yet today, in the last six days, we had four murders in six days that were gang-related.

Today, we ask the question, with a 600 million SSA, strategic agency, right, and gang units in almost every police division and armed with anti-gang legislation, why are they not able to effectively monitor gang members, anticipate their actions and stemmed their murderous activities.

Mr. Al-Rawi: I rise on 44(10) again, Madam Speaker. I am on a Standing Order. I really must rise on 44(10), Madam Speaker. There is a rule against it.

Madam Speaker: Yeah, but I think he is making an effort. Please proceed. And while I am giving you some latitude, as the AG said, there is a rule and let us try and comply please.

Mr. R. Charles: Yes, Madam Speaker. And my third concern relates to the concept of the separation of powers. Under our system of governance, we have three independent agencies: the Legislature which makes laws, the Executive which carries out the laws and the Judiciary which adjudicates on the law. I am looking at you, Madam Speaker. In my area of study, we also have the media, the fourth estate of governance. You know the three estates and the fourth. The media is supposed to provide information to our citizenry so that they can make informed decisions with respect to governance in the country.

May I remind the learned Attorney General of the Privy Council’s ruling and he quoted this in another place and he also did it today. And the Supreme Court of the Judicature and the case and I have it here, The State v Khoyratty in Mauritius 2006, the UK Privy Council 13, 22 March, 2006, The State v Abdool Rachid Khoyratty. Madam Speaker, the Privy Council in that judgment made and I quote and I want to read it because I want to be precise not like the Attorney General that comes and gives information and when you check it, you realize that there is a
level of imprecision. [Desk thumping] Madam Speaker, and I am quoting here that decision on bail—decisions on bail and I want to read this slowly were:

“…intrinsically within the domain of the judiciary.”

I did not make it up, it is here. The Privy Council further dismissed the appeal of the State of Mauritius against the decision of the Supreme Court which concluded that and I am going to quote because I heard him quoting on this document and I thought it was a different document from which I read. I quote in the judgment—

Mr. Al-Rawi: What page?

Mr. R. Charles:

“…it was not in accord with the letter or spirit of the Constitution, as it then stood, to legislate so as to enable the executive to overstep or bypass the judiciary in its essential roles.”

So the Privy Council is telling the Government, the State in Mauritius that they did not agree with the State’s request that the State could pass laws which would seek to curtail the jurisdiction of the Judiciary. It concluded, it dismissed the case against the State. The State wanted to—in fact, it passed legislation to circumscribe the granting of bail to tell the Judiciary that they could not grant bail in certain offences dealing with drugs. They had the scourge of drugs, we have the scourge of guns. Madam Speaker, it concluded by stating and I quote:

“To remove the court’s role…”

And the Attorney General has to deal with what I am reading. Either I am reading it wrongly, I am misquoting or my interpretation is wrong.

Hon. Members: All of the above.

Mr. R. Charles: He has to clarify.

“To remove the court’s role - and in the process to prescribe automatic detention in custody pending trial whenever prosecuting authorities have
reasonable grounds to arrest for a prescribed drug offence…The new scheme would contradict the basic democratic principles of the rule of law and the separation of judicial and executive powers which serve as a primary protection of individual liberty…”

End of quote. In fact, notwithstanding any of readings, the Privy Council dismissed the appeal, the appeal of the State against a judgment by the Supreme Court which upheld the separation.

Madam Speaker, the European Court of Human Rights ruled on February 08, 2000 and I have the ruling here. The case of Caballero v the United Kingdom, Application Number 32819/96.

The European Court of Human Rights accepted in a unanimous judgment—I am quoting here—the UK Government concession that the automatic denial of bail pending trial was a breach of Article 5.3 and 5.5 of the European Convention on Human Rights.

So, Madam Speaker, what that is saying is that we have to be careful and my perspective, my reading is supported by the Member for Diego Martin North/East who years ago indicated that all that would be required is for some aggrieved prisoner to take this matter to the Privy Council. And I warned the Attorney General because I read frequently.

Madam Speaker: It seems that the Member who is probably having a little pain and therefore if the Member is having pain and needs to groan, I will invite them to go outside. [Desk thumping] I think we do have a sick room where painkillers are available. Okay. I would like to hear the Member for Naparima. I believe the Attorney General has an opportunity to wind up and I believe the Member for Diego Martin North/East, if he wishes to join the debate, he can do so in due course. Please continue.
Mr. R. Charles: Thank you, Madam Speaker. You see, my job in the Opposition is to provide an alternative perspective that they could take on board or they can dismiss and can assist them in coming up with better legislation.

Madam Speaker, I note Sen. Chote’s comment on November 12, 2019, in the Senate in the other place and I quote from *Hansard* on page 103 and she said:

“...I oppose this proposed amendment. I could be standing alone, at the end of the day so be it. But I think the proposed amendment is unconstitutional.”

She is a lawyer. [Crosstalk] I am not a senior counsel but I can read the law and when I read the law, Madam Speaker, I see that our Attorney General, he may have misinformed himself or he may have misadvised himself, no wonder we lose a lot of cases in the Privy Council. [Crosstalk] But I continue for Sen. Chote. She says:

“But I think the proposed amendment is unconstitutional. It is not warranted in law.”

The 12 November, 2019. Please listen instead of getting into foolish discussions at the side.

“It is not warranted in fact. And I believe that from the contributions that I have heard, that we need to refocus…”

And this is something we need to think about in this Parliament.

“...we need to refocus on what test we should be applying when we treat with applications for amendment of legislation requiring a constitutional majority.”

Madam Speaker, my learned friend from Oropouche East indicated that they come with an attitude of arrogance in this Parliament. It is either you agree with us or you are unpatriotic. I always thought that if you wanted to get consensus, you wanted to get someone to agree with you, you would listen first to what the other side has to say and if there is any merit, you treat with the arguments. What we get
here is—and I have a concern because the Attorney General speaks after me and therefore, I get ad hominem attacks, [Desk thumping and crosstalk] I get slippery slope attacks, I get what they call putting “ah false narrative” and arguing against that. Madam Speaker, I taught at the university in communications and they have what they call false arguments, fallacious arguments that you could, if you cannot attack the point, you attack the person. [Desk thumping] That is one element and that happens and that is why I leave whenever he speaks.

Madam Speaker, Sen. Chote went further to say and I quote:

“The Bail Act provides that if the prosecution is dissatisfied with the decision of a magistrate or if an accused person is dissatisfied with the decision of a magistrate, there is a legal forum for either the prosecution or the accused person to go before the High Court. So the prosecution, if they are in disagreement with the magistrate’s adjudication, can go before the High Court and ask for bail to be revoked or that conditions be placed on bail.”

Madam Speaker, what is wrong with judicial officers making a judgment as to whether or not bail should be granted? There are so many instances, so many variations of situations that could bear upon the decision to grant bail or not, but here we are coming carte blanche, one-size-fits-all, no bail. Why it is in this Parliament, the hand of justice weighs heavily against the average citizen, particularly the poor, those who cannot afford a good lawyer? And that is where my heart grieves. I could get—in fact, they give threats every day in Parliament, Madam Speaker, you do not hear it.

Madam Speaker: Hon. Member for Naparima, your original speaking time is now spent. You are entitled to 15 more minutes to wind up.

Mr. R. Charles: Thank you, thank you very much.
Madam Speaker: And I just want you to be careful on the road you are travelling now.

Mr. R. Charles: Okay, thanks very much. So the question is: What is wrong with the approach that exists under the Bail Act? Why is the Government’s only solution to curtail the jurisdiction of courts? Is it not because they feel they are monarchs of all they survey and they are dicta?

Mr. Al-Rawi: I rise on 44(10) again.

Mr. R. Charles: Madam Speaker, I wish to remind the Member for San Fernando West that this is not Iraq, this is not Tikrit, Madam Speaker.

Madam Speaker: Okay. All right, one minute.

Mr. R. Charles: I was saying that in the—

Madam Speaker: One minute, please.

Mr. Al-Rawi: Oh really?

Madam Speaker: It did not appear so to me so I will ask you recoil and proceed. Okay.

Mr. R. Charles: Madam Speaker, I withdraw.

Madam Speaker: Yes, please.

Mr. R. Charles: I withdraw. I just wanted to make the point that in certain countries, the tendency is to curtail the Judiciary but we have a tradition, a Westminster tradition that speaks differently and governs the way we operate.

Madam Speaker, the question of proportionality and I am not a lawyer, it comes into question, especially when one considers—and this is a word I had to learn—the deeming aspect of the law is concerned. This Bill essentially seeks to deny bail to first-time offenders. Once you are in possession of or close to or in the same house with or in the same car with two or more weapons, a citizen can be denied bail and deprived of his freedom. What this means is that any time a citizen
enters a taxi, he has to open a trunk—not so?—to ensure that there are no weapons inside there. [Crosstalk] Madam Speaker, yes, it leads to that because if I am held in the car and I say that I do not know the source of that weapon, the driver is going to say that I brought it, so they will take all of us down. That is a fact and if I am wrong, I stand to be corrected and I would like to be corrected on that matter. And I am not speaking of guilty persons.

We have to be clear and I think the Member for Oropouche East made the point. We are all for the guilty paying the full brunt of the law. [Desk thumping] We want to be tough on the criminals, we live in Trinidad and Tobago but at the same time, we have a sacred duty and we will not be browbeaten from working against the interest of the average citizen of Trinidad and Tobago and ensuring that there is a proper balance and we feel that the balance could be gained by the amendments which we suggest. [Desk thumping] And for the heaven’s sake, we made eight amendments to the Bill, you did not accept one, not one did you see any benefit in and we still supported it.

5.55 p.m.

Madam Speaker, it cannot be that it is the PNM's way or the highway. That will not happen, not while I am the Member for Naparima. I will stand up and represent the 15,000 persons who elected me.

Madam Speaker, we have spoken about Sadiq Baksh. This is not something that we, abracadabra, conjured up for nothing. It happened in this country. And all of us, all of us on this side—I remember, Madam Speaker, in 2000, when the police raided PASU office in central Trinidad. Every Friday evening we used to be worried, because the police would “lock yuh up, not in daylight, is 10 o'clock in de night” and there is a reason for that. We passed around books, “How to Survive the Remand Yard” if you were not accustomed to that lifestyle. Madam Speaker,
the first time in my life that I contemplated living in situations where the norms that I had learnt would no longer be valid in that situation. “Dey telling me if you meet a fella, wink at yuh, cuff him down and hope yuh win. Because if yuh lose yuh in trouble.” When I checked they told me the number of people in a small area. Those are the people we have to protect in this Parliament and it cannot be just lock up the poor.

Madam Speaker, the burden to prove innocent falls disproportionately on the poor. We are aware—and “ah doh want tuh say dis nah”—of instances where children of the wealthy can get away. We are aware of that. “Ah doh want tuh go there”, Madam Speaker. But in order to ensure more balance in the operations of this law, why not in a pari passu manner, introduce framing legislation, which will make it a non-bailable offence for an officer of the law to frame an innocent citizen? Madam Speaker, if that were done, there would be an equal reticence on the part of the officer and that could balance the deprivations of the rights of the average citizen.

Sen. Vieira, Madam Speaker, made the point in the other place that each case is different and should include weighing factors such as past criminal history, flight risk, potential danger to victims or the seriousness of the charges; and therefore it is not fair to have a blanket clause which denies bail. Not fair, not fair, Madam Speaker. There are mitigating circumstances which some adjudicating officer must examine and see whether there is merit in granting bail. This legislation, by taking away—and I will get to that—that discretion of the judicial officers, denies the citizens of a fundamental right.

Madam Speaker, why not, why not, in—and I will get to the point of exceptional circumstances, which is loosely written. And I read in India where there is a reason why it is loosely written in the Indian context. But why can we
not use the intellect we have? We have bright people. We have Maha Saba schools. I am Naparima College, Madam Speaker. I mean, that produced brilliant people. We could put our brains to come up with a framing situation that could guide the judicial officers in exceptional circumstances. Madam Speaker, exceptional circumstances allow a person to apply to the court for bailing; what they call exceptional circumstances.

The AG in the other place made reference to section 5(7A), and I quote:

“(7A) Notwithstanding subsections (3) and (7), a person to whom those subsections apply may, in exceptional circumstances, make an application to a Court for bail.”

Madam Speaker, this has been used as a basis for claiming that the Judiciary is not entirely excluded from the process of granting bail in these circumstances.

Madam Speaker, why are these circumstances not listed as was previously done in other laws? I ask the question: Which inner-city youth will have the financial resources to hire top quality lawyers needed to successfully argue this case? Madam Speaker, are we in this country passing laws for one segment of the society and not the other? Why are we not empathetic enough to understand that there are citizens in need? And I said it before in a previous debate, if it were not but for the grace of God some of us would be in that circumstance and we on this side will ensure that we protect the right of the poor, the halt and the blind and the lay in our society. That is a spiritual injunction and no amount of insults that come from that side will stop us or get us to change from the spiritual path that we are on.

For example, in the Bail Act, in section 6(2), and I quote:

“Where the offence or one of the offences of which the defendant is accused”—or convicted—“in the proceedings is punishable with
imprisonment, it shall be within the discretion of the Court to deny bail to the defendant in the following circumstances:”

They have prescribed it. For heaven's sake, not lazy legislation. You come three months ago with a piece of legislation. You did not think it out well. You rushed us in three months after. And you may very well rush us into another debate three months hence, as situations arise. So this is legislation by “vaps” and not serious, intellectual contemplation to come up with the best legislation.

So, it continues:

“(a) where the Court is satisfied that there are substantial grounds for believing that the defendant, if released on bail would—

(i) fail to surrender to custody;

(ii) commit an offence while on bail; or

(iii) interfere with witnesses...”—and it goes on.

So, what we are asking for is that the Judiciary, and even then we know they would not give it, because they are on a—their narrative, Madam Speaker, is not to agree with anything we say and then when we do not vote or if we abstain, they run on the platform and say: “Yuh see dem, dey unpatriotic. Dey do not care about crime.” I want to say today we care about crime and we will do what is necessary to enforce the law and make sure that criminals are where they are.

Madam Speaker, they keep talking about convictions. Sorry, not convictions, they keep talking about arrests. “Everything is arrest and how much arrest.” I am not interested in arrest. As far as concerned a person is innocent until proven guilty. I am interested in convictions. So when you tell me that the anti-gang legislation is working and it has utilitarian value, I do not want you to tell me how many arrests have been made. That is easy to do. I want you to tell me that the process that we have inherited, the judicial process, that the person has
been convicted.

Madam Speaker, we came in July to discuss certain amendments to the Bail Act and the Bill was passed. No one expected that before the House we will be discussing today further amendments. Interestingly enough in September, the Commissioner of Police expressed certain concerns in a situation that took place and is now before the courts. One month later, one month, no consultation with any—at least not the Opposition. No consultation and joint select committee. The stakeholders have not been, as far as I am aware. They sat down in their room, in their ivory towers, and conjured up this legislation. [Crosstalk] Madam Speaker, we—

Madam Speaker: Order.

Mr. R. Charles: The question we ask: Where is the data? Do not tell me so many people were arrested from 2010 to now. How many people were convicted? And therefore I would know about the efficacy of the legislation. You need to tell me with a straight face whether we are not locking up more people to overburden the prison system, to make Remand Yard a place that is totally absolutely uninhabitable, Madam Speaker. That could be an unintended consequence of this penchant for locking up more and more citizens of our country, Madam Speaker. Will this now overburden the prison services?

We are told, you read, you read, you read your 44, exactly what I am reading now. We are told that 44 persons have been charged with sub-machine guns over the past 10 years. That is Hansard, November 12, 2019, page 33. Madam Speaker, that again is an example of arrest and no conviction. Where is the data on convictions? We are therefore premising this legislation mainly on arrests, Madam Speaker, not convictions and there is something inherently wrong with this, Madam Speaker. We are not premising it on factual information. Madam
Speaker, the question about it—

**Dr. Moonilal:** Madam Speaker, Standing Order 53(1)(e).

**Mr. R. Charles:** Madam Speaker.

**Madam Speaker:** Members. Member for Diego Martin North/East, I promise you that you will get an opportunity, if you so wish, to join the debate. I will ask you if, in the meantime, you would kindly listen in silence.

**Mr. Imbert:** I will.

**Madam Speaker:** Thank you very much, and remember this is not a conversation. Member for Naparima, please continue.

**Mr. R. Charles:** In the context of consultation I recall, in the last debate that in 20—

**Madam Speaker:** You know, Member for Oropouche East, you raised a certain Standing Order, but let me—*[ Interruption]*—no, no, no. You see, we are having a conversation. You are yourself falling into your same trap. Member for Naparima has some precious time left. Please continue.

**Mr. R. Charles:** Madam Speaker, I beg for injury time, please. Right? Madam Speaker, in the context of consultation, the Law Association raised some concerns about the bail amendment, which are relevant today. I would just quickly—they raised two fundamental issues that neither piece—I am told they speaking about the Bail Bill and the Anti-Gang Bill then and now anti-gang law—of legislation has acted as a deterrent to the commission of serious crime. Madam Speaker, I am yet to see the evidence that the suite of legislation is leading to a sour of criminals in prison.

And the second concern they say is the significant deficiencies in the forensic system resulting in unreasonable delay in forensic testing, mean that persons are likely to have matters involving the use of firearm heard within the 120
days. Madam Speaker, I am of the view that we have suggested certain amendments there is merit in these amendments. And if the Government could only find it in themselves to stop being arrogant—

**Madam Speaker:** Again.

**Mr. R. Charles:** Stop being arrogant, and let us have a fulsome discussion on the merits or demerits of our suggestion, rather than an out-of-hand dismissal of our views.

Madam Speaker, Eric Williams, the great Eric Williams, had an advantage. He used to take off the hearing aid when he felt that there were things being said that did not make sense. Madam Speaker, so you have to forgive me. But when the Hon. Attorney General speaks, I might find myself outside this room. Thank you very much. [Desk thumping]

**Mr. Prakash Ramadhar (St. Augustine):** Thank you very much, Madam Speaker. Let me try to anchor this debate a little bit into the fundamentals of the society that Trinidad and Tobago has been and wishes itself to be in the future. Sometimes it is important to take a position out of the battlefield. Five days before a local government election, we have debated in this Parliament a matter that involves the issue of bail, where one is entitled as of right to raise the issues of the criminality that has beset us, even up to last night in a hospital, a place where recuperation and repair has become a place for murder.

But I find it more than curious, Madam Speaker, that five days before a local election this debate has come before us. I am not one to politicize this because it is so serious and so important. But I ask the question: Could this have not waited till next week? Why is it time like this? And worse than that, my dear friend, the Minister of National Security, said something that allowed me the certainty. [Crosstalk] Madam Speaker, I know the Minister of Finance, he might be very
aggravated for other reasons. But he has promised to conduct himself and he has
broken that once again like many other promises that he has made.

I am on the point, Madam Speaker, that here we are debating without—
everybody says not to politicize. But I heard in this Parliament a most grievous
statement from my very dear friend, the Minister of National Security, that for
those who may oppose their position, that there is an ulterior motive that we may
have, and I say we because on this side there is no distinction. Because when you
cast the blame it falls on all on this Bench. [Desk thumping]

Now, I do not know if my friend intended the gravity of what he had said,
and I pause. If it is in a Parliament, you cannot take a position opposed to a
government, because then you are accused of harbouring criminality within your
bosoms or within your friendship. That was the insinuation as clear as is daylight.
And, therefore, it is an attack on the democracy and of the very Parliament, the
very purpose of Parliament, which is to openly debate issues. So that out of the
debate will come better law for the people of Trinidad and Tobago.

For too long we have been regaled with the issue that if we oppose this
Government, first of all, that you are unpatriotic. Now it has descended five days
before a local government election that if you oppose this Government you are
criminal? My God. And then you ask: Why is it that we believe, or the population
believes that you cannot trust the purpose of certain legislation this Government
brings.

[MR. DEPUTY SPEAKER in the Chair]

You see, I started off by saying we have to go back to fundamentals. And it
caused me some grief when I had to look at the definition of a Constitution. A
Constitution in a country is really that set of basic principles by which those who
are governed agree to be governed and the powers they give to those who are
permitted to govern them. And as a result of that wide interpretation, Trinidad and Tobago, from its Independence, had a Constitution to protect its fundamental rights. In a large part it was replicated in the Constitution of the Republic in 1976. And I will, with your permission, reflect upon the society that Trinidad and Tobago agreed to become and has been and hope to continue. Because too often we get carried away by the rancidity of the arguments and the low-level thinking that it is all about power for the purpose of holding political control as distinct from power to help the people and to make a more perfect society. [Desk thumping]

Mr. Deputy Speaker, when I look at the preamble of our Constitution it is something I always have enquired whether it is taught in our schools. And to that end the People's Partnership Government put on the computers we gave to our children the Constitution for every student. And without ruining the moment, we must reflect deeply on our society, where it is said:

“Whereas the people of Trinidad and Tobago—

a. have affirmed that the Nation of Trinidad and Tobago is founded upon principles that acknowledge the supremacy of God, faith in fundamental human rights and freedoms, the position of the family in a society of free men and free institutions, the dignity of the human person and the equal and inalienable rights with which all members of the human family are endowed by their Creator;”

And I shall move, that is from a, to d:

“d. recognise that men and institutions remain free only when freedom is founded upon the respect for moral and spiritual values and the rule of law;”

The rule of law requires us to have fundamental principles that guide us all. What is it in Trinidad and Tobago that we hold sacred, in terms of our freedom; a
country that came out of slavery and indentureship under colonialism and then into Independence? The bright brilliant future that we hope for and we said this is how this country would be moored. It would be moored on an understanding that all human beings are entitled to fundamental human rights, and the way to protect those rights have been put into our Constitution.

One of the first and foremost things you will ask anybody in our society is if you understand the issue of presumption of innocence. But I think now, that has been put more into the history books than into reality. When it is open to members of the highest office, the highest house in this land, to make allegations, to throw things out into the public sphere, to be consumed by those who may not truly understand that this is an era where truth really does not matter as much, to hear members who hold, not just the highest office, but the most confidential of offices, speak about Special Branch reports, read it into the parliamentary Chamber and into *Hansard* and, therefore, disseminated into the world, without naming persons, and rightly so, but to cast insinuations of criminality and criminal associations on the lawful Members of the Opposition, is a direct undermining of democracy of this country. [*Desk thumping*]

I am on the issue of presumption of innocence and due process. And if you will permit me to again reflect upon this most sacred of our documents, the Constitution of the Nation of the Republic of Trinidad and Tobago, whereas at the preliminary, section 1:

“The Republic of Trinidad and Tobago shall be a sovereign democratic State.”

What does democracy mean? It means that we all have a right to speak, but respectfully so. Where debate must go, not just wide but deep. So that out of that debate we will find answers to very serious problems and sometimes not lose sight.
And I will return to this mooring of the society we want. If it is that we are to abdicate our responsibility as Members of this Parliament and suggest that whatever forces within the society call for, that they must have, then there is no need for a Constitution. Then there is no need for a Parliament. There is no need for court systems. There is no need for anything other than tyranny and for mob rule. There must be checks and balances in a society. To do otherwise will create a future that nobody really wants, even those who temporarily hold power and believe that they are immune from the dangers of tyranny and mob rule. Let me explain what that means.

When one looks at our Constitution, and in particular section 4 of our enshrined right says, section 4 says:

“It is hereby recognised and declared that in Trinidad and Tobago there have existed and shall continue to exist without discrimination by reason of race, origin, colour, religion or sex, the following fundamental human rights and freedoms...

(a) the right of the individual to life, liberty, security of the person... enjoyment of property and the right not to be deprived thereof except by due process of law;”

And then we go now to where it is expanded out to remove doubts at section 5(2)(f) that reads, that Parliament may not—

“deprive a person charged with a criminal offence of the right—

i. to be presumed innocent until proven guilty according to law, but it shall not invalidate a law by reason only that the law imposes on... such person the burden of proving particular facts;

ii. to a fair and public hearing by an independent and impartial tribunal or;”
Enshrined rights.

“iii. to reasonable bail without just cause.”

And this brings us to the crunch issue, the right to reasonable bail without just cause. My learned friend, the Attorney General, lamented earlier on and called on the Member for St. Augustine and other Members here to speak to the inconsistency that he perceived that will come if we are to object or not support this legislation and referenced, indeed, the issue of the anti-gang legislation, which we all had voted upon, and the issue of bail had arisen about first-time offenders.

Let me put on the record, I for one, like any person who is mature enough, will reflect on our past and look upon what we have done and see whether it brought success or it brought failure. If it is that we saw something that we did in the moment of anguish, in the moment of desperation, indeed and then when one takes a clinical hindsight view of 2020 and realize: Wait a minute, something went amiss, we cannot be too big to say that they were wrong. But I believe that there are those amongst us who are arrogant to suggest that what applied 100 years ago can be the same that can be applied today. We cannot create a new normal where, because we say something at one period of time, circumstances change, perspective change, we cannot revisit what would have happened.

And I apologize, of course, because I was in the Government that declared a state of emergency. Of course we apologize for it because, let me tell you for the record again that there were persons within national security, the organization as such, you asked this Government at the time, in fact not just to ask, required of this Government, because of information they had that a state of emergency was required and that had we not done that there would have been a bloodbath.

I do not know for those who remember in the Cabinet and the day, that this is what we were told; that if a state of emergency was not declared, a bloodbath
would have ensued. What would the Government do? That is why I sympathize with my learned friends. Because I am almost certain it is the same people who have come now to indicate: Look, we need to ensure that there is no bail for any firearm offence like this. And it is important to appreciate that a loyal Opposition must tell you their view. And if it disagrees, must disagree respectfully, but very strongly in relation to that.

I tell you what, the People's Partnership paid a very dear price for many things. Because we thought at the time, based on the professional advice and request that was made of us, and we did what we thought in the moment was the correct thing. But we were voted out of office.

You might not remember, and therefore I shall repeat. The issue of the state of emergency was demonized in the worst possible way, when members opposed to the Government of the day and now in Government, had cast that as a racist attack on young black men in our society, when indeed thousands may have been arrested, and unfortunately without justifiable cause. And the State would have had to pay. That is a matter of history. But you think it was done with bad intent? It was not. It was done as a result of a Government attempting to be as responsible as it could have, based on the advice that was given to itself at that time. And, therefore, I ask this Government today to reflect upon that history and now, as we go forward to see whether indeed what they are attempting, with the hope that they should have the Opposition's help, is misdirected.

Long history, judicial history throughout this world, has told developed societies, today developed societies, and in its time developing societies, that there must be a system of checks and balances. The age of the old Monarchy has long gone, long, long gone. We live in a modern world. And I had cause to reflect because I did A’ level American History. It was the first class in this country that
did American history. And our teacher Boris Punch, at Presentation College, would always have said that history really is about the present, at the time, now looking back as a past. But history gives us a guidance as to how societies develop and how we today must look at ourselves, not only in the present moment but understand that we have come from somewhere and we must go somewhere. And what we do today will determine the direction that we go.

And there was a famous case in America, the United States Constitution having been proclaimed in the 1770s or thereabouts. In 1803, there was a case of *Marbury v Madison*. And that case had to determine a very simple issue as to whether a person would be entitled to a commission that had been granted. But the facts are really not important. But that case is landmarked in American judicial history, because the Chief Justice Marshall gave a decision that for the first time in American constitutional history gave and accepted and permitted the oversight of the Judiciary over the Congress.

The Congress had, of course, the power to make law. But in *Marbury v Madison*, for the first time the Chief Justice by his ruling accepted and put into law the authority of the Judiciary to interpret law and indeed to strike down law that had been passed but Congress, duly passed. And I make this point because, in Trinidad and Tobago one of the first cases that came on this issue as to whether a duly passed law by the Parliament, elected Parliament could be deemed unconstitutional.

**6.25 p.m.**

We had a history of this, in the case of *Prakash Seereeram v The Attorney General* argued by the late Fenton Ramsahoye and my legal mentor, Ramesh Lawrence Maharaj, brilliant man who argued that there being a law that was passed for many years that cane farmers whenever they had to sell cane to the
sugar factories, money would be taken out of the sales from the farmers and paid to an organization. They had no choice in the matter and that matter went before the court. The High Court agreed that it was unconstitutional and the Court of Appeal upheld that decision of Justice Isaac Hyatali. It is good reading when one has time.

So it has been long recognized in this country that the Parliament, as we say, is the highest lawmaking body of the land, always the subject to judicial oversight, always the subject to judicial review. And even though you do the proper manner and form requirements, for instance, as this legislation is, it says it requires a certain majority and under section 13, whenever any Act is inconsistent with the Constitution it must state so, and it must say what majority is required for it to be passed. And even after then, you may have all the manner and form requirements as we say in the law, the court can still look at it and say it is unconstitutional, because under section 13—and the Attorney General is very well aware and I know he really loves this area of law, and sometimes it is important just to refresh one’s memory on it. It says at section 13 of our Constitution, exceptions for certain legislation:

“13. (1) An Act to which this section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 and, if any such Act does so declare, it shall have effect accordingly unless the Act is shown not to be reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual.”

And this brings me to the point. The required constitutional majority, the court, our Constitution to which we agreed from Independence and in 1976, gave the authority to the courts to make that determination, even if Parliament, with all the necessary constitutional majority and voted upon, the court still has an overriding discretion if the law is not reasonably justified in a society that has the proper
respect for the rights and freedoms of the individual. What may have happened in
the past, whether it was wrong or right, let us deal with what we are dealing with
today?

This attempt, and I will deal with section (7A) and my learned friend most
admirably dealt with some of it. When my friend, the Minister of National
Security spoke to section (7A), it speaks to exceptional circumstances that you will
have access to the courts. I am not only on the issue that the Member for
Naparima spoke to, about the ability, financially or resource-wise, to access the
courts. What is the definition—and Attorney General, I look forward to your help,
I know you would have researched this, and I would like some clarity on it that:

“Notwithstanding subsections (3) and (7), a person to whom those
subsections apply may, in exceptional circumstances, make an application to
a Court for bail.”

What does that mean, “exceptional circumstances”? 

The one thing I could possibly conjure up is, for instance, a person who is in
custody without bail, falls gravely ill and requires surgery, or some other medical
attention not available within the prison walls, or even within the jurisdiction and
may need to have to go elsewhere and, therefore, would require bail so that he
could have his freedom to access medical attention. I could see that. How rare an
occasion would it be for a person to be lucky enough to have such exceptional
circumstances? Think about that for a moment—[Interruption] Yeah, that is the
point. You have to be gravely ill before you die before you could even access the
issue of applying for bail.

Now, Mr. Deputy Speaker, so that is no comfort to me, that you have access,
because nowhere did I find—and my friend from Laventille West, maybe we could
trash out a little bit more what the exceptional circumstances may very well be, I
do not know.

**Mrs. Gayadeen-Gopeesingh:** He does not know.

**Mr. P. Ramadhar:** So, therefore, that is not, shall I say safety valve exceptional circumstances, because what would one do and I heard it fall from the lips of my friends that you can go to the court and say, “Oh, I was just a passenger in the car”. That is your defence that is not an exceptional circumstance to go and get bail.

[Desk thumping] And if for a moment, before I shall let it pass, and for people to believe that it is fallacy or false news or whatever you want to call it that because you are the passenger in a car that you may—just because you are passenger does not mean that you are immune from prosecution. Let me tell you, I actually did a case— where is the Member for La Brea? Vessigny is in La Brea or is it Point Fortin, yes.

**Hon. Member:** La Brea, La Brea.

**Mr. P. Ramadhar:** La Brea, yes. You disown it quickly. Where a maxi-taxi—that is my friend, he and I have a very good relationship, yes. A maxi-taxi—where is the Member for San Juan/Barataria? Yes. I remember the case well. A large maxi-taxi with I think 20 persons or so, a 24-seater went down to Vessigny for a day of frolic and fun, beautiful music I understand, beverages, as my friend from Oropouche East would say, was flowing and everybody was having a very good time. And on the way up from Vessigny back to San Juan they stopped at a bar, I think, for refreshments and certainly for men’s room and ladies’ room purposes. And police were passing by and the music, I think was too loud in the vehicle and they decided, you know what, we are going to do a search. And guess what? A firearm was found under the seat in the maxi-taxi and all 20-odd persons were charged. All of them including two young ladies, two students from New York who had come down only for that week and had to leave on the Tuesday.
This is a weekend, a Sunday trip, Member for La Horquetta/Talparo.

The came to me fortunately, for me and to them and we had to go to the court to seek bail and at that time—I want to congratulate the DPP at the time, when he had heard of the circumstances and so discontinued against the two visitors, because there was no evidence in relation to them, but everybody else had to face a trial, because nobody could determine who owned the gun. And therefore, the law says that if you are in any vehicle, any room—this is it, you know, it is powerful thing, this thing called “possession” whether it be for drugs, whether it be for firearms. You are deemed to be in possession of the thing if you are there, and there is some level of knowledge and/or control.

And therefore, not being able to determine, the police—I do not blame them—according to the law, the way they interpret it, they charge everybody. Now imagine that, if this law today that they wish to pass it would mean 120 days, 120 days. What happened 120 days ago, any Member—what month was it, three months ago? November—

Mrs. Gayadeen-Gopeesingh: September?

Mr. P. Ramadhar: “Allyuh work it back”, August, September, October? How many meals have we had? How many events in our lives? How many days and nights? How many things transpired and you would be sitting in a prison that is well-known to be over populated with almost demonic conditions. For what? Because you have been charged. Now if we are to turn our country on its head, and suggest for a moment that because you are charged, you are to be penalized; that is what it is. I always believed that if there is to be a true presumption of innocence, if there is to be life and breath in our Constitution, this is the process that we must undergo.

First of all, if there is evident, you should be charged; two, you must be given due
process by access to the courts; three, that you must have a fair trial; four, if you are found guilty, only then will a penalty be prescribed to you. But we are turning it around now and not surprising—because I hear all my friends on the other side speak. Hear this, eh, if you are found with the guns, they have already become judge, jury and executioner. [Desk thumping]

**Mrs. Gayadeen-Gopeesingh:** The burden shifts.

**Mr. P. Ramadhar:** Suddenly you have been found with the gun. So the Minister of National Security and I understand why, because he is very, very, what shall I say? Intimately involved as he should be—

**Mrs. Gayadeen-Gopeesingh:** He hyper.

**Mr. P. Ramadhar:** I “doh” want to call him hyper.

**Dr. Moonilal:** Unstable.

**Mr. P. Ramadhar:** No, no, not even those words. But he is extremely invested in success and I understand this. So there is a tremendous anxiety to act on things. So that anytime a police comes and tells you, “We get dem with de gun,” in their minds, you already guilty. What have we done to the country we want? We have moved away from the presumption of innocence to a clear, not just presumption of guilt, but a presumption of guilt where you are being penalized before you have been tried and that is where I have grave difficulty. [Desk thumping]

And the mirror that my learned friend the Attorney General wishes me to look into, I have and I looked into the past and I look into the future. And having regard to developments in the recent past where after emailgate has been closed with all of the international assistance a government and a State could have gotten, they closed the investigation and said, “No evidence”, but our beloved Prime Minister and others said, “There is more.” And therefore I wrote. I wrote despite the lack of evidence. They wanted a presumption of guilt, on not just anybody—
Bail (Amdt.) (No.2) Bill, 2019 (cont’d)
Mr. P. Ramadhar (cont’d)

Attorney General, I know you. You do not have an ounce of hate in your heart, you cannot conceive—no, no, no that is a fact. He has been well brought up and well-loved by his family—[Crosstalk] He does not have an ounce of hate in his heart. But I want to remind him, I want to remind him, you know, everybody knows about the Nobel Prize, gentlemen and ladies. Right? You know about the Nobel Prize, right?

**Dr. Moonilal:** Nobel, not noble.

**Mr. P. Ramadhar:** Not noble, no he is a noble man, but we speak about the Nobel Prize. How many of us do remember or know that Nobel, that family, got its wealth from what? You know what? Dynamite. They were the manufacturers, I cannot say inventers— AG, I know you a lot about these things. And the dynamite of the day was used in construction, you had to blow through mountains in the Alps and so and create tunnels, so it was a wonderful thing, a new invention that could create pathways for roads and railways and so. But you know what—Alfred. Dynamite then became the weapon of war. So be careful what may be in your mind.

**Mr. Deputy Speaker:** Hon. Member.

**Mr. P. Ramadhar:** What, already?

**Mr. Deputy Speaker:** Your initial speaking time has elapsed. You have an additional 15 minutes. You care to avail yourself?

**Mr. P. Ramadhar:** I could take more if possible.

**Mr. Deputy Speaker:** Proceed.

**Mr. P. Ramadhar:** Wow. So the point I am making Attorney General, be very careful that this wondrous gift you think that you will give to law enforcement will become explosive and damaging not just to people, but to the future of our democracy. And that is why we must pause, we must reflect on what we are doing

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and ask ourselves, is this law necessary?

Now, there are many gifts that one would have been given, but I did not know the Attorney General was such a good dancer because he danced around a most important thing. You told us nobody raised their voice in opposition to this law. Sometimes you get tone deaf, sometimes you choose to hear what you wish. But when noble members of our Senate abstained, that is a very loud statement. [Desk thumping]

Dr. Gopeesingh: Deeply concerned, deeply concerned.

Mr. P. Ramadhar: And I shall not name names. But persons who are well respected in the Upper House did not give support to this with well-reasoned arguments. And you know, we keep hearing—seeing that I have very little time, I shall have to accelerate and move now so that we will not be drawn into untold issues, unspoken to. When we look at the Bail Act itself and at section 11A, it has been referenced by many but it is important for us at actually look at the wording,

Mr. Deputy Speaker:

“(1) Where an application is made to the High Court under section 11(1) and the High Court refuses or grants the application or varies the conditions, the accused person or the prosecution, as the case may be, may appeal that decision to the Court of Appeal.

(2) Where the Court of Appeal hears an appeal under subsection (1), the Court of Appeal may make any order as it thinks just.

(3) No appeal shall lie from an order of the Court of Appeal made under subsection (2).”

Now, the reason I went to that is to show you that the Judiciary is well-armoured to deal with issues right up to the Court of Appeal. But at section 11(1), I just referenced 11A(1), 11(1) says;
“(1) Where a Magistrate’s Court grants or refuses bail in criminal proceedings or imposes conditions in granting bail in criminal proceedings, the High Court may, on application by an accused person or the prosecution, grant or refuse bail or vary the conditions.

(2) Where the High Court grants bail”—and so on and it goes on.

The point being that the law already caters and this is seriously important. The law written, produced, approved by the Parliament of Trinidad and Tobago already caters for a situation where a person, or a group, or whomever is unhappy with the decision of a lower court that you have access to a higher court.

It was asked—we are hearing about nine machine guns, “Oh my God”, the way I feel that person “shoulda” never get bail, the way I feel. But I want to tell you something, Mr. Deputy Speaker, sometimes you have to be careful of what you feel because feeling without thinking leads you to all sorts of awful things. In most of the cases I have done in the criminal courts, especially for murder, you will hear the accused say “Oh God, I wish I coulda turn back the hands of time, but I will get so vex I lose, you know, I was not thinking straight, Sir”. In fact, they were not thinking. Let us stop and think about what we are doing.

So if there is access already to alternative, somebody asked the question and I really want an answer in that case that has brought around this whole issue of a person with nine machine guns or whatever—[Interruption]—the plumber case. I “doh” know if he is a plumber or what, but it has really thrown a wrench in the whole system. [Laughter]

Hon. Member: Nice one, nice one.

Mr. P. Ramadhar: You know, it has gravitated the country to believe and Member for Laventille West, I know you follow these things in more detail were they full formed guns or there were just parts of it?
Mr. Hinds: Guns.

Mr. P. Ramadhar: Actual nine full guns, right. It astounds me that the magistrate for whatever reason—I do not know the details, I am not to condemn, because I do not know all of the facts. There are subtle nuances, arguments have been raised there that allow the magistrate to exercise their discretion which the court is entitled to do. But if you are aggrieved by it, there is already a recourse. Did you use the available legal recourse? What is the response? To come with a nuclear weapon, a sledge ham now on the Constitution’s head, bang and say we are going to use a constitutional majority effort to deny you access to the courts. Is it that we are fed up with the courts?

Are we going to say, look enough of you all, all this thing about judicial review and oversight and all these laws and thing, let us forget about it. And let us be very practical, get rid of all the people you suspect, throw them in jail for 120 days and say that if you cannot start the case in 120 days then you could apply for bail, go back to the same court. But why do you not empower the courts by making the application? The DPP can do it, the police can do it, the complainant in the matter, a police officer can do it. Was there access to it? Or was this so timed, five days before an election to come here to lambaste the hon. Members of the Opposition, that we do not care. [Desk thumping] Not only we do not care, you are unpatriotic and worse than that, you might be criminal. Is that what we dealing with here? Is that why we have come on a Wednesday to deal with these matters?

Now, look, I have been dazzled by some of the arguments but I am certainly not blinded. I am not blinded to the reality because as a country goes through difficult times more than ever does it need to hold on tight to its moorings. Because today it is the possession of firearms, no access to the courts. What happens tomorrow when the new flavour comes around? What? No access to the courts?
And then again another issue, another round, no access to the courts. Eventually, we are going to say, “We doh need the courts. Let us be judge, jury and executioner, because a police officer says so.”

And for the record, Mr. Deputy Speaker, you are from Tunapuna, St. Joseph Police Station, how many would have remembered some time ago, not too long ago, they found guns up in the ceiling, police station. La Brea Police Station, guns again. What you think those there for? What do you think those guns are there for? Too often we have heard and this thing about setup; it is real. I was with Sadiq Baksh, I know what happened that morning, and setup is real. There is a story that goes around, because I heard it from a very senior prosecutor, police had shot someone.

Mr. Deputy Speaker: AG, please could you all speak in more hushed tones. Proceed.

Mr. P. Ramadhar: That a person was shot in Skinner Park, he was run away from the police and they called this senior advisor and he said, “Turn him around and shoot him in the front.” I am telling you these are the things that happen here. So let us not, you know, cuddle the idea that people “doh” get setup in this country. I am not saying it is widespread but it is real.

And as a result of that, as we were speaking about possession, the deeming possession, I was involved in the Privy Council in a case, Sandra Juman, a woman who—I think she was from San Fernando West, AG, she and her family. Police raided, they found two guns in a bag somewhere in a corner. They arrested everybody in the home. Do you know what Sandra Juman, you know what her fate was? She was blind, could not have seen a thing. She too was charged, had to go to court for umpteen times and the case was ultimately dismissed. Poor Sandra Juman would have spent 120 days minimum in jail, blind as she was, innocent that
her heart was, if this law existed then.

**Dr. Gopeesingh:** Fitting example.

**Mr. P. Ramadhar:** So it is real and my friends on both sides speak to the enormity of gun crimes. Let the police do their job. If they have reason to object to bail, object to bail. If they are unsatisfied with the Magistrate’s decision, go to the High Court. If you are dissatisfied with that, go to the Court of Appeal. Do not come to the Parliament and tinker with a Constitution as fragile as it is now, because as we repeat, a country under the gun, a country in danger would allow us—sometimes the example is used as a thirsty man will drink canal water when he is about to die. And therefore, we have to be very careful the cup that you bring and what you allow us to sip from.

We have to be very careful of the poison chalice because we are a society that will almost accept anything. After all, “Oh my goodness”, we accepted a PNM Government. [*Laughter*]

**Hon. Member:** Not for long.

**Mr. P. Ramadhar:** So I wish you well, you have done what you consider to be your best but this is not what the country expected. The country expects and needs more. We need people who have a vision, a wider view not just for the year 2019, 2020 but beyond that. And therefore what we do today will determine the kind of future, the kind of society we shall inherit tomorrow. Mr. Deputy Speaker, I thank you very much.

**The Parliamentary Secretary in the Ministry of National Security (Mrs. Glenda Jennings-Smith):** Thank you very much, Mr. Deputy Speaker. I rise to contribute to this Bill which is:

> “An Act to amend the Bail Act, Chap. 4:60”

Mr. Deputy Speaker, before I stand, I sat here for the past two hours and I
wondered if I was sitting in the Chamber in Trinidad and Tobago, because I was saddled with a lot of unrealities. You know something, Mr. Deputy Speaker, we on this side, we are a strong party to represent all of Trinidad and Tobago, and you know, sometime I sit here and I remember this story of *The Spider and the Fly*, where the poem is:

“‘Will you’— come— “into my parlour” said the Spider to the Fly.”

And some people, some flies are given certain positions to sit but they do not represent anything, they “doh” represent any people. So when they stand in this honourable House, they stand on behalf of their own selves, impossible people, impossible statements, unrealistic statements.

Mr. Deputy Speaker, so that when I start this debate I want to say first of all that section 5(7A) of the Bail Act always give a defendant the right to approach the court to appeal to a judge in chambers if they feel that they have a justifiable case. And all afternoon, Mr. Deputy Speaker, I have been hearing talks about, “Somebody driving ah car and they have ah firearm in ah trunk and what could happen to them and they could get lock up. And they have some missiles in ah water tank.” And we are in Trinidad and Tobago in 2019 and crime is at a critical state. Mr. Deputy Speaker, we just heard the Minister of National Security speak about 80 per cent of murders with the use of illegal firearms, right.

That is critical and, you know what I want to tell you Mr. Deputy Speaker, I was a police officer five years ago and you that statement of 80 per cent of murders with illegal firearms that existed in the Port of Spain East/Laventille area. But you know what is going on now, Mr. Deputy Speaker, this has gone to the entire country. It has gone to critical proportions. I cannot stand here, Mr. Deputy Speaker, and every time I stand I feel better you know, because being in another place, he who knows it, feels it. And when you know you as a police officer, you
have a Government standing and standing to ensure that they give you the tool or they respond to a request, that in itself tells you that you have a responsibility to a nation.

But, you know, as I sit here and I look across the floor and that last speaker, Mr. Deputy Speaker—you know, Mr. Deputy Speaker, I am speaking to you, eh, because I want to remind you, and I want to tell you a story and I have a story to tell in this House, you know. I was a police officer when the UNC came into office in 2010 and that person was among a group of other people who came to police headquarters and all that they were intent about, talking about is race and who they were seeing in front of them. And I could tell you as a police officer, and I am talking the truth you could go back and check. And I can tell you—

Mr. Ramadhar: Mr. Deputy Speaker—

Mrs. G. Jennings-Smith: I am speaking and I—[Crosstalk]

Hon. Member: What is the Standing Order?

Mr. Ramadhar: 48(6).

Mr. Deputy Speaker: Standing Order, Member for St. Augustine?

Mr. Ramadhar: 48(6). [Continuous crosstalk] Me, me?

Mr. Deputy Speaker: Again, Members. Proceed.

Mrs. G. Jennings-Smith: I will quantify my statement now. I will quantify it now, because what they were telling us. I was a senior superintendent at the time and I was in an audience welcoming the new government of the day and that new government was looking to us as police officers and telling us they were not seeing a proper representation before them on that day. And I wondered, what was the meaning of “proper representation”? Every police officer in this land is sworn to the people of Trinidad and Tobago and we are sworn beyond race—[Desk thumping]—beyond every single thing to serve people.

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And when you are sitting there and you know when I sit here and every time we have a debate in this House, Mr. Deputy Speaker, and we have to pass a Bill, the Bill is consumed with discussions and discourse and arguments about who is rouge police officer and why you cannot give the law to a police officer to engage in and this is so “minicule”, because, Mr. Deputy Speaker— “minicule, minicule”, I will say it again “minicule”. [Interruption] Miniscule, okay, miniscule, Mr. Deputy Speaker, Mr. Deputy Speaker—[Crosstalk] I am going to speak the truth, because I am not in a court, because you see in this honourable House I always speak about who is honourable and who is not honourable, you know. And we have a way of giving stories, giving stories and turning around stories to bring a particular meaning to something, right. [Continuous crosstalk]

So, Mr. Deputy Speaker, I want to refer to the key features of the Bill and, Mr. Deputy Speaker, I fear nobody on that side, I am a strong woman, and I am strong PNM woman, [Desk thumping] right. And I could stand because I have integrity and I will stand and I will speak clearly and I will always speak clearly. Because “I ent ready for allyuh with that statement allyuh making.” When you see the day come, I hope you all could stand up in court and say what you are saying in this honourable House. Continue and I will challenge you all.

6.55 p.m.

Mr. Deputy Speaker, the key features of this Bill relate to clause 3, and clause 3 of the Bill provide for the inclusion of the offences of possession of firearm or prohibited weapon for the purpose of trafficking under section 9A of the Firearms Act, Chap. 16:01, and possession of a prohibited weapon, as offences for which a person would be denied access to bail for a period of one hundred and twenty days under the Bail Act, Chap. 4:60.

The second issue, Mr. Deputy Speaker, is clause 3 of the Bill which also

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seeks to include a new subsection (3A) into this section 5 of the Bail Act to define a prohibited weapon as artillery, automatic firearm, grenade, bomb, or any like missiles.

Mr. Deputy Speaker, I have been in constant communication with many officers and when I saw the Commissioner expressed concern, I am pleased this evening to stand here in a debate where the Attorney General responded to the concerns of the Commissioner of Police, and I will tell you why. Mr. Deputy Speaker, crime in Trinidad and Tobago and criminal activity in Trinidad and Tobago is of critical proportion, but the whole idea about crime in this country is that crime is a business enterprise. Crime is a criminal enterprise, criminal business enterprise.

And when we speak about gangs, we sort of—we do not get the real meaning of what is really happening. Because we have persons, organizations operating there and we call them gangs, but they operate as a business enterprise, where they employ people as shooters, they employ people as carriers. And, Mr. Deputy Speaker, I want people to understand that when we have young men being employed to carry certain artilleries, as this Bill seeks to deal with, they are going with that in their waist, because they are assured that for the first time being caught, they would get bail. And before they reach to the station, I could tell you, before these people reach to the station, the lawyer is on the step waiting for the police officer to come there, and to advise the offending person what to say and what not to say.

I have experienced that in time gone by and this is a loophole in the law. It has always been a loophole in the law where you find a person with a firearm and they were given bail even before—you did not even have time to put them in the cell in the station, they will sit out there and you would fingerprint them, and
before you say “Jack Robinson,” the lawyer is on the step to you. And these people get bail, and the next morning they come to the court with you. “You looking more like the criminal than dem,” because you sweat all night, putting your documents together, writing up your information, taking finger prints, getting your witnesses, calling people here, there, and everywhere, and when you go to court next morning, “you sweaty, yuh eh even take a good bath [Laughter] and yuh facing a magistrate”.

You see, I would talk like this now because, Mr. Deputy Speaker, the Minister of National Security, he laid the issues of the statistics. The Attorney General laid the law and the rights and the privilege of the individuals. I am going to tell you what it feels like. [Desk thumping] Mr. Deputy Speaker, I could speak of myself because I have passed through the organization in every single rank. And I have laid charges to people in that nature, and as a woman, as a woman, Mr. Deputy Speaker, I had to go to court without even taking a proper bath and face a magistrate, right. And I can tell you, there were witnesses, when they come to court, they want to hide in a room. They are hiding in a room because they are telling themselves that person will get bail, or that person already on bail and they come to work in a jacket and tie looking snazzy as ever, and innocent as ever with a nice smooth face, and we looking as though we are under trial. And this is the problem I have, Mr. Deputy Speaker, and I must bring it to the attention of the nation. Trinidad and Tobago must know what police officers engage in.

And when you want to link your whole discussion, this whole discussion, this whole argument, this whole debate on rogue officers, you are going wrong. You need to look at the hard-working officers out there who lay their life at risk every single day. [Desk thumping]

Mr. Deputy Speaker, we have situations today where we have these young
men who are—and I want to explain this whole concept of the business enterprise. You see when a young man, they employ you, they employ you, you do the job. They may put down about “20 wuk” and what I mean by “20 wuk”, robbery, killing, and every work has a different distinction of salary. They could put down about “20 wuk”. And you heard the Commissioner say there is a person who committed 80 murders and he is still at large. We must never forget those things, right. So they put down work, right, and that person still at large. So that person salary keeps going up. When another person is caught, so he will get bail but his salary will drop, because he is already caught. They put out money on bail on his head. I am telling you this is what is going on outside. And, you see the Opposition, they know, you know? They very well know what is going on. But they just decide today, they are going to take a different stand because they have been in government, and they know the principles, they know what is the operation, and that is the operation.

So, Mr. Deputy Speaker, when you bring a law and you say first-time offenders would get bail, basically, and if a person even—as it was before, bail was applicable then we are engaging in helping the criminals to conduct their business.

**Hon. Member:** That is right.

**Mrs. G. Jennings-Smith:** Mr. Deputy Speaker, this Bail Act was before this very house. And I wondered why we could not go the distance? Because we left a big loophole, and many officers came to me and said “But girl, you were in the office, you were in the police service, you eh even say ah word.” You know, we have an issue, we have a serious issue in this country, that you have these young men and men, not only young men, men, women, being engaged and employed to carry firearms and now we talking about artillery. And one officer in particular told me, “Ma’am, you should look at that prohibited weapon issue.”
And I was shocked to see that my AG had picked it up already, my Minister of National Security, they had picked it up already, and they were working on it, because I brought it to their attention, and they were already working on it because they understood what was happening in this country. This is what—and you know what I want to say, Mr. Deputy Speaker, there is a particular song right now on the airwaves, about gun in a particular place, right. And the young people and men and women in this society, they have a little “penshant” with—it is a kind of a fantasy.

**Hon. Young:** A penchant.

**Mrs. G. Jennings-Smith:** A penchant, thank you, thank you.

**Mr. Young:** Naparima does say “penshant.”

**Mrs. G. Jennings-Smith:** Yeah, penchant, to have these firearms in their waist, right. This automatic thing and you see, they do not even want a Glock again you know—

**Mr. Deputy Speaker:** Please, Members.

**Mrs. G. Jennings-Smith:** Mr. Deputy Speaker, they do not want a Glock again you know, a Glock is no use, it is too slow firing, they want fast action. If you hear that tune on the market right now “Gun in she hole,” whatever it is, you will get the understanding of what is going on now. And it is as crude as it sounds, Mr. Deputy Speaker, and I am not going to put water in my mouth to say what is really happening in this country. [*Desk thumping*]

Because, Mr. Deputy Speaker, listening to those on the other side, it seemed as though you know “dey” from a different land, fairytale land. You know somebody from Singapore, and talking about Singapore. And you know, I want to say something, Mr. Deputy Speaker, they always talk about crime dropping in America. But I want to read something here this evening, you know:
“The Eighth Amendment to the U.S. Constitution provides…”—that—
“excessive bail shall not be required.”

And it goes on to say that:

“The U.S. Supreme Court has ruled that the Constitution permits holding a
defendant without bail pending a criminal trial."

And there is:

“No absolute right to bail exists.”

Right, and you know, I look—and I am going to continue, eh, I look at the
arrangement for bail in New Zealand and some of the guiding consideration:

“On one hand…”

They say:

“…a court must not unnecessarily keep people in custody who may be later
found not guilty.”

But:

“On the other hand, a court must take into account that certain people who
have been charged with or convicted of offences may pose a risk of harm to
the community, that they may offend again…or that they may fail to appear
before a court…”

In determining whether or not to grant bail, a court has to balance the
individual liberties of the person charged…”—versus—“…the safety of the
wider community.”

But you know what I want to say, Mr. Deputy Speaker, in this House we are giving
consideration to minority. We are not thinking that we have an entire nation to
protect. [Desk thumping] Our country, we as legislators, we have a nation to
protect, Mr. Deputy Speaker, and the nation which comprise of families, people,
communities, schools, industries, the entire country, they have rights too.
Hon. Members: Exactly.

Mrs. Glenda Jennings-Smith: They in the Constitution, the Constitution provides rights and privileges to freedom of speech, freedom of movement, and safety and security, and their rights are being challenged right now, Mr. Deputy Speaker. [Desk thumping] And when I sit here and I listen to the cries on the other side, about one or two people who are engaging and they are thinking about what will happen to them, Mr. Deputy Speaker, you have to look at the greater good. [Desk thumping]

We have a community out there talking to us every day, asking us what are we doing about crime, what are we doing about crime and criminality? And they on the other side know, you know, they know the loophole. Because if you have a business and you want to make a profit, Mr. Deputy Speaker, you looking for loopholes. You looking for ways and means where you could make the best out of it. And in the same way, the criminal enterprise approach, they look for loopholes, so as we make a law here, they already have a way to abrogate what we do here. They already have a way in which they could engage to have the criminal activity running.

And I am telling you that, Mr. Deputy Speaker, our young men, we are losing our young men and, in some cases, our young women because they are being caught up in this establishment we call criminal enterprise. They are taking some of our best and our brightest people. I remember speaking to the last Commissioner of Police and he was telling me that there was a young man in Laventille, that they started to beat him. He was engaged to look for when the police coming, he had a job to look out, he had a period of time when he had to look out. And what happened he stopped going to school, he stopped going to school because the time he had to look out, it kind of complicated his attending
school, and when they called him into the school and they decided to bring the police in, they realized that he could not go to school because he had a job to do. When he decided to come to school, the leader of the gang, they started to beat him and he had marks all over his body. That is how it was discovered about this young boy in Sea Lots, right.

So, Mr. Deputy Speaker, when we sit down here, and I sit down so nice dress up here with nice perfume in my skin and comb my hair nice, and the other side too, everybody with jacket and tie looking very honourable, and we talking about Singapore, we talking about America; America’s laws are different. And we sit down here and we make references to talk about why our laws, our crime cannot go down, and America re-engaged with Singapore—where is Mr. Singapore? Mr. Naparima? Mr. Deputy Speaker, we are unrealistic people here when we talk like that. Because you are talking about those countries in one way, but the laws of those countries are very different. I just read to you what engages—what I read about the type of conditions they have in America in a particular state and we will come back some other day and they would say, you know, you have crime dropping in those areas. And why crime cannot drop in Trinidad because “de police eh good, de Government eh good, de government doh know about stopping crime”.

But, Mr. Deputy Speaker, this Act, this Bail Act we have before this House this evening, it seeks to do that very thing. I want to bring an example, you know, Mr. Deputy Speaker, for a civil matter, if a person is charged with a civil matter in an office, do you know that they are removed from the office? You know they are removed from the office, Mr. Deputy Speaker? Have you had any experiences like that? Where a person was charged for fraud in an office, they would not leave that person there. But you have a man committing a criminal act, a criminal act, and
you want to keep him in the society. You want to bring him back in the society, you want to bring him back to disturb the witnesses, you want to bring him back, Mr. Deputy Speaker, to kill off the witnesses too, you want to bring him back to be an element in the community, to not only to witnesses, the witnesses’ family.

You have prison officers being killed, Mr. Deputy Speaker, look how much prison officers have been killed for this year, their families’ life being threatened. You have police officers life being threatened.

7.10 p.m.

Right now, I have been talking to an officer who wants to move from where he is living, right, because his life is being threatened, and it is all about persons before the court and they have been given bail for murders, right? Mr. Deputy Speaker, and you see—

Mrs. Gayadeen-Gopeesingh: You cannot get bail for murders.

Mrs. G. Jennings-Smith: And, you see, basically—sorry about that—wounding and robberies. Wounding and robberies, Mr. Deputy Speaker, because most of these offences are committed with a firearm. So that when these matters are placed before the court and persons have to give evidence in these matters, Mr. Deputy Speaker, their lives are at stake.

So, when we sit here in this court this evening and we talk about how many murders we have had for the year—we talk about also—and I have to talk about murders too, because you have firearms on the streets. Every other person owns a firearm. And then when we talk about AK-47, I mean, AR-15. Well, I trained to use an AK-47 but I do not even know—I have never been trained to use the AR-15—and I could tell you what the AK-47 is about. Right?

Mr. Deputy Speaker, we are in serious times and to stand or sit in this House here and trivialize this thing and talk about a tank, a water tank. So, okay, okay,
something happened in a water tank, so what happened to that water tank? Where was that person? What eventually happened? Let us go back in history. What eventually happened? And, you see, they are just wasting—I like to say wasting the court’s time—we are just wasting Parliament’s time.

Mr. Hinds: Yes.

Mrs. G. Jennings-Smith: We are wasting Parliament’s time. Come here and think about the people you represent. I mean, if you were given an easy seat, you really do not understand what the people are going through, eh, because you got a seat, you are sitting down in a seat, you have one person, you represent yourself. Right? You do not know what the people are going through, because you do not have your constituents to come to you and tell you, “Listen nah, we are not safe, another murder again, another murder up the road, this lady gun down” because firearms are all over the place.

And when we talk about young men and women and men carrying firearms, Mr. Deputy Speaker, and when a police officer arrests a person for the possession of a firearm, Mr. Deputy Speaker, we have to send a message. We have to send strong messages [Desk thumping] and the reason you have to send a strong message, Mr. Deputy Speaker, we must make this whole activity unattractive to the others [Desk thumping] because I will tell you something, you know, Mr. Deputy Speaker. “You know what criminals fraid? Dey fraid jail. Dey fraid jail. Dey fraid to dead. But, more importantly, dey fraid jail.” Some chose to go in jail for protection, but the majority, “Dey fraid jail”. “They eh fraid to get charge, you know, because they have lawyers line up” and if they have to get another lawyer for another offence, they put down a bigger robbery and it is all part of the livelihood. There is a livelihood in this country, Mr. Deputy Speaker. It is not a passion, it is a livelihood. People do that for a livelihood in this country. I have
sat in this police service for so many years and I have seen so many of them pass through. It is a livelihood. They live a short life and die. They do not really care about living to be old. They live for today, and it is a livelihood.

Mr. Deputy Speaker, it is a rough life and they engage in that rough life, and when you see the kind of—when you go to their homes to do searches and see how they live and how they do not respect cleanliness—and you know, cleanliness is not about richness, you know. Cleanliness is next to Godliness, and when you see how some people live, right, you—

Mrs. Gayadeen-Gopessingh: Mr. Deputy Speaker, 48(1) please. I cannot take this again, 48(1).

Dr. Francis: “What happen to duncey?”

Mr. Deputy Speaker: Overruled. [Desk thumping]

Dr. Francis: Ignore the vapid and vacuous.

Mr. Deputy Speaker: Please, please.

Mrs. G. Jennings-Smith: So I will go back on cleanliness. Cleanliness, Mr. Deputy Speaker, is next to Godliness, and I still have to explain something because, you see, I sat here and I listened—I have some other points I wanted to discuss, you know, but listening to the other side, I realized they were totally out of it. They are not living in this country. You see, they are so hell bent on not supporting legislation to make a difference in this country, that they are not seeing it. They are not focused. They are not focused on issues that we are facing every single day in this country, Mr. Deputy Speaker. They are focused on being very unnationalistic, unpatriotic. [Desk thumping] They are focused, Mr. Deputy Speaker, that if they sit on that side and say this afternoon we are going to support this legislation, PNM will look good, this Government of the day will look good, so we are not going to support it. We are going to sit there and we are going to let
it continue, because you know why? “They are in office. We have a few months or a year. It is time to get rid of that Government, do not support anything they come into this Parliament with.” So they cannot understand the importance of coming here on a Wednesday to debate a particular Bill which I felt, when it came here in the first instance, it should have been already included but, nevertheless, it is before us now and, Mr. Deputy Speaker, they cannot understand for the daylight. So what do they do? If you have experience, Mr. Deputy Speaker, you must take a lil journey to the court, you see, because I heard it being said that those on the other side, they feel that they own the court. They feel that they know everything about the court, and they feel they know how to manipulate things in a court. So when we come here in this debate, Mr. Deputy Speaker, same thing applies. They come here not to seek the interest of the public of Trinidad and Tobago, a country that we have to deal with, “but we seek to do the interest that we have at hand”. “We seek to keep that Government there to be unpopular that we would not get good law passed.” We are here as legislators, and I say every day—I may not be a lawyer—

Mr. Francis: The other “duncey” one standing up now.

Mrs. G. Jennings-Smith:—but I am very bright. I was trained in criminal analysis. [Desk thumping]

Mrs. Newallo-Hosein: 48(1).

Mrs. G. Jennings-Smith: Yes, I was trained in criminology.

Mr. Deputy Speaker: Member, you are saying something? I am not hearing you.

Mrs. Newallo-Hosein: 48(1), Sir.

Mr. Deputy Speaker: Overruled, proceed.

Dr. Francis: Ignore empty heads.

Mr. Deputy Speaker: Please Members.
Mrs. G. Jennings-Smith: So, Mr. Deputy Speaker, yeah, I have to talk about that because, you see, we talk about crime and we talk about what is happening in our country and we talk about legislation, right, and we talk about the need for legislation, but what we are facing in this country is a high level of crime and criminality, and every single time we do a legislation—I heard the Member for Naparima say, you know, every time we come with a new suite of legislation. You see, he does not understand that crime evolves. Crime evolves, and as crime evolves you have to bring legislation to deal with what particular issue is at hand. The crime of yesterday is not as today, because as I started earlier, I said we had 80 per cent of murders committed with firearms and that is only related to Port of Spain East. In those days, we used to focus only on Laventille and the area in Port of Spain, never anywhere else, but now it is chaotic. It is all over. It is a culture.

Mrs. Gayadeen-Gopeesingh: Mr. Deputy Speaker, 55(b), please. [Crosstalk]

Hon. Member: “It eh have no 55(b).”

Mr. Young: Cannabis eh legal yet. [Laughter]

Mr. Deputy Speaker: Overruled. [Desk thumping]

Mrs. G. Jennings-Smith: Mr. Deputy Speaker, you know, so I will be relevant, I will be very relevant now. Mr. Deputy Speaker, I will be more relevant. [Crosstalk]

Mr. Deputy Speaker: I have ruled, just proceed.

Mrs. G. Jennings-Smith: Yes, I am being relevant. Mr. Deputy Speaker, so being so relevant, I want to say to the other side, be more nationalistic, be more nationalistic. [Desk thumping] You all do not like the word “patriotism”, I will say a new word for you all, be more nationalistic, support Trinidad and Tobago. Put all the people, put the majority of the people first, vote in this Parliament today.
Mr. Deputy Speaker: Member, please. Your initial 15 minutes have elapsed. You have an additional 15 minutes. You care to avail? [Crosstalk] Your initial 30 minutes, sorry.

Mrs. G. Jennings-Smith: Mr. Speaker, I want to remind—

Mr. Deputy Speaker: Yes, you care to avail yourself of the additional 15? Mrs. G. Jennings-Smith: Yes, Mr. Deputy Speaker.

Mr. Deputy Speaker: Proceed. [Crosstalk]

Mrs. G. Jennings-Smith: Mr. Deputy Speaker, I stood in awe two weeks ago when I saw my friend from Princes Town being held up at gunpoint on television and, Mr. Deputy Speaker, are we going to give people the licence to walk around with guns and do as they please? Think about your colleague. You know, think about your colleague. You know what is going on with your colleague right now? I saw him take leave today. Mr. Deputy Speaker, you know what is going on with that colleague of theirs right now? They are at risk. They are at a very high risk. Whenever you are invaded in a robbery, your life is at risk, your family is at risk, because robbers, they come back at you. They hit you once, they give you a second hit sometimes, and that is reality. [Crosstalk] I am not threatening anybody, I am just telling you all the reality of what is going on in this country here.

It is a criminal enterprise. They target people, they deal with people. If they deal with people and they realize that you are going to come at them, they come at you, and are we going to leave it like that? Are you all going to think about your colleague? Are you going to leave it like that? But, Mr. Deputy Speaker, when we leave those people alone, they will come back to terrorize innocent people. They come back to terrorize innocent people. Some people, their homes have been invaded, they feel so helpless. They come back and now, we are talking about the
artillery, we are talking about prohibited weapon, where a man has the power to
throw something in an area and destroy innocent people within a second.
Mr. Deputy Speaker, this is serious business. This is a point where, you know, you
have to give the police all the power, all the privilege they require as far as within
the law circumscribed. Mr. Deputy Speaker, and I am suggesting that we sit here
in this honourable House this evening—and I am speaking to those opposite, you
know. I really am speaking to those opposite, because I have to speak to those
opposite. You know, we have to lead this fight directly with the criminals. You
cannot make 5 per cent of your country have a whole country at ransom and just
always come and put excuses and talk about police and police brutality and rogue
police. They are institutions that we must support. When you were in office and
you were in Government, you expected the police to protect you. Did you all not?

I was the Assistant Commissioner of Crime in San Fernando, Mr. Deputy
Speaker, and I did not know when that marijuana “leave south and reach in Port of
Spain”. Could you imagine that, Mr. Deputy Speaker? I was not even aware, and
we sit in this House and we talk all kinds of things here. I was not even aware.
When I hear talk about marijuana leaving a house in Southern Division and
reaching Port of Spain, it amazes me. You all were very well protected.

[Laughter]

So, Mr. Deputy Speaker, I am saying that, you know, we need to support
this legislation. I want to compliment the Attorney General, [Desk thumping] I
want to compliment my Minister of National Security. [Desk thumping] He went
to great ends to tell this nation the amount of firearms out there, the amount of
killings out there—the number of killings out there. The number of robberies, the
number of wounding with firearms, Mr. Deputy Speaker. He went to great ends to
tell the people of this country the situation that exists out there.
And, Madam Speaker, this country, we cannot protect every single witness in matters. It is impossible. This is not the United States of America, this is Trinidad. It is difficult. And even the witnesses, they do not even like to enter the programme. It is difficult to even keep them in the programme, and these are the serious issues that face us. And, Madam Speaker, those on the other side know about that. They have been there. They know about it. They are pretenders, right, and they are pretending they do not know [Desk thumping] but I know you all know, and I need you all to support this legislation, because it is important to the country.

And as we face the people, as we face the public, and we talk to the public for the next few days and the weekend before the election, we are going to tell the public all kinds of things about crimes. We are going to tell them every single thing we know, but are we going to tell the public that we sit here as legislators and seek their interest, the greater good, the greater amount of people? Are we going to do that or are we going to sit down here this evening and pretend that we feel we live in a place where we have to protect the few people who are the criminal elements in this country? And I tell you “criminal”, criminal by profession, not criminal by choice, criminals by profession, and it is about time somebody stand up here in this honourable House and recognize that we have criminals by profession [Desk thumping] not by choice, yes? And the police need to get their matters put together, so they need the 120 days. They need the 120 days, Mr. Naparima. They need the 120 days to put their matter together, to get their witnesses together, to put their case together and to proper prepare their witnesses to bring their matters before the court to get a determination.

We talk about matters not being completed, this law will help the police to
be even more efficient to having their matter completed within that 120 days without the risk factor that their witnesses will be threatened. And Madam Speaker, we sit here, a witness’s life is always at risk, and we have to compliment witnesses who come forth and give evidence. [Desk thumping] And what is this Government doing to protect them? This law will protect them [Desk thumping] until the dust clears, as the quote goes, until the dust clears, because during the course of that trial, I can tell you all—and you all claim to be lawyers, so maybe you all visit court from time to time—the court is not a nice place to be in. It is a place where you are under stress to get your witnesses together, to influence the witness to give evidence, to keep them together and to get them for that 120 days that that matter could be completed and we could show Trinidad and Tobago and to show all those men and women out there who are criminals by profession that this Government, we mean business, and we come out serious and we intend to take action. We want “allyuh” on the other side to support us. Come out and support us. “If allyuh name man across there and woman, come out and support us.” [Desk thumping]

Mr. Mitchell: Naparima already supports.

Hon. Member: “He coming with cocoyea broom.”

Mrs. G. Jennings-Smith: You could come with cocoyea broom, you could come with any broom. Once you come with a broom, clean your house first before you come across. Use the cocoyea broom and clean your house and then come across and support this Government with this legislation. [Crosstalk]

Madam Speaker, I want to end my contribution by coming back to section 4 of our Constitution, and section 4 outlines that we are entitled to freedom of movement, the right of an individual to respect of his private property, his family life and his safety and security. I, as a Member of Parliament for my constituency

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in Toco/Sangre Grande, I want to be feeling safe. I want my constituents to feel safe. I want every one of them to feel that they have a right to be protected by the organization that is deemed to be given the responsibility to protect them—that is the Trinidad and Tobago Police Service. We say after God is police, we still call police—after something happens, we call police—and we as a Government, we have to stand here strong in support of all our organizations—the police service, the prison service, the fire service, the defence force, the army officers out there who are working with us on the ground. We have to show that support to all of those organizations and built in in those organizations, Madam Speaker, there is a facility which is there to deal with rogue officers. Investigations, as my colleague for Laventille West outlined, there is the facility there, the institution there, complaints authority within the organization to deal with rogue elements and it is always going to be there to protect this nation.

Madam Speaker, I still end to tell you, Madam Speaker, this evening, I call on my colleagues on the other side, be nationalistic. [Desk thumping] I am not going to say patriotic, be nationalist. Think about your country, think about your children, think about even the young men who are lured into an occupation of crime and carrying guns as gun carriers, gun toters; young women who are carrying guns, gun toters. Think about what is going on in our country, think about the songs you are hearing in the society about guns and how that is a fantasy among young people and people who want to engage in crime and criminality, and sit down in your seats with your nice jacket and tie and your perfumes under your arm, and support, support, Madam Speaker. I am sorry to go so deep, but I have to go deep, Madam Speaker, because I sat here and I could not believe I was in Trinidad and Tobago. I felt as though I was in an island far away just bounded with water and no crime. This is a country where crime is of critical proportion.
The Attorney General is trying his best to bring legislation to make a difference in this country. The Minister of National Security continues to work assiduously to make sure that we give the organization what is required. Let us pass good legislation. Let us stop the gerrymandering in this Parliament. Let us pass good legislation, Madam Speaker, and let us get the job done. [Desk thumping] We on this side, we are getting the job done. Come on and support us and get the job done. Madam Speaker, I thank you. [Desk thumping]

PROCEDURAL MOTION

The Minister of Planning and Development (Hon. Camille Robinson-Regis):
Thank you very kindly, Madam. Madam Speaker, in accordance with Standing Order 15(5), I beg to move that the House continue to sit until the completion of the matters before it. Thank you.

Question put and agreed to.

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam Speaker. [Desk thumping] Madam Speaker, I would like to begin my contribution by saying that I sat riveted to my seat in this Chamber listening to my colleague, the Member for Toco/Sangre Grande, [Desk thumping] and I wish to express my profound admiration for her contribution this evening. It is one of the best contributions I have heard, because the hon. Member came to speak tonight to the people of Trinidad and Tobago [Desk thumping] in the reality of Trinidad and Tobago, and the hon. Member, in fact, laid onto the Hansard record—and I adopt everything she said fully, because when there is the Pepper v Hart principle applied to what this law means when a court is looking at it, I want the record to say that I, as the mover of the Bill, whom they will look to, to get the interpretation, I adopt everything that the Member has said, because the Member has given the lay
principle to section 13 of the Constitution.

Section 13(2), by which we allow the derogation of rights in the Constitution to be affected, to be put into gear, is where you look at, not only three-fifths of the Parliament voting, but where you are looking at whether the Bill is reasonable in a society such as Trinidad and Tobago, and it is the speech of my colleague, the Member for Port of Spain North/St. Ann’s West and the Member for Toco/Sangre Grande, they laid the fabric of what Trinidad and Tobago looks like and, therefore, why this Bill is reasonable in this kind of society.

Madam Speaker, the cameras look at us as the main speaker. Tonight as I wrap up this legislation, I will be the only person in full frame apart from those behind me and, therefore, Trinidad and Tobago will not know that there are only three Members of the UNC Bench in this debate, three Members.

Mr. Imbert: They run.

Hon. F. Al-Rawi: Not a single Member of the Parliament occupying the other benches, opposite us are present other than Pointe-a-Pierre, Caroni East and Oropouche West—

Dr. Francis: And she is only half-present.

Hon. F. Al-Rawi:—that is it.

Mr. Imbert: All these people spoke and then ran away.

Hon. F. Al-Rawi: If we wanted to pass this Bill tonight, Madam Speaker, there has been a sabotage by the Opposition. You see, we are required to have three-fifths of the votes of the Parliament, the House of Representatives—

Mrs. Gayadeen-Gopeesingh: You have the three votes.

Mr. Imbert: Not enough.

Hon. F. Al-Rawi: And, Madam Speaker—I will give way. Are you voting in favour of the Bill, Oropouche West? Sorry. Oropouche West, for a moment
there—I realize the Whip is not present in full form tonight—but I realize, because a Whip’s job is to keep the Bench populated. So, we did not see the Member for Siparia, the Leader of the Opposition, Mrs. Persad-Bissessar SC and member of the inner Bar. Everybody else has gone. So, Madam Speaker, when we look to the constitutionality of this Bill and trying to pass the law tonight, we are in difficulty because the Opposition, even though they are paid to be in the Parliament, they are absent from the Parliament tonight, and that I say is nothing other than a crying shame, Madam Speaker.

Madam Speaker, I will get to Naparima soon enough, because he promised he would leave, picked up his tools and his bag the minute I started to stand up to wind up, because he cannot take the flogging that he is going to get tonight, yet again, and I mean an intellectual flogging, of course, Madam Speaker. He is not here to be flogged otherwise, but the intellectual flogging is reserved for a little while now.

**Mr. Imbert:** “He catch a flight to Singapore.” [*Crosstalk and laughter*]

**Hon. F. Al-Rawi:** Madam Speaker, the hon. Member for Oropouche East gave a good contribution tonight. I will tell you why. Of the contributions coming from the Opposition Bench tonight, he tried to put sensible arguments forward and pass them off as a good reason for not supporting this law. The Member gave a good batting.

**Mr. Imbert:** “You must be hear a different ting.”

**Hon. F. Al-Rawi:** Effectively what I heard the hon. Member say that stood out at me was, why deviate from your policy? The hon. Member sought to advance a position to say that, we as a Government advanced a policy of saying, lightening ought to strike twice, put in quite simple terms. You ought to fall into the bail restrictions conditions, if you have a charge-charge. That is what the lightning

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strike twice principle is, and the hon. Member is correct. That is what the Government advanced as a position when we brought to life the amendments in Act No. 17 of 2019.

But the hon. Member in hanging the hat on that peg, did not take a view of the fact that we had amended the Firearms Act after that debate. And, specifically, Madam Speaker, for the record, the Firearms Act, Chap. 16:01, of the Laws of Trinidad and Tobago, that was amended by legislation coming after the Bail Bill had been passed and that amendment, Madam Speaker, coming in the month of August, I believe it was, that amendment took us to the introduction of, firstly, an offence of trafficking in firearms and, secondly, an introduction of offences for the possession of artillery, weapons of war. And Naparima tried to raise a point to say that we were, as he called it, intellectually lazy, we could not understand the position, we are a Government by “vaps”. Naparima said, and in making his argument as to our slothfulness intellectually, said, “Why did they not in Act No. 17 of 2019, why did they not in that July legislation come with the law to treat with this”?

For heaven’s sake, Madam Speaker, the hon. Member expects us to introduce a restriction in the bail law in July 2019 for a law that did not exist until August 2019. I mean, how do you really go about passing yourself off as someone who has done some form of research, as Naparima says he did. Naparima arrived here tonight, slave bound intellectually, to a spiral-bound document speech that he read from. In other words then, Naparima made the submission that we needed to have put into the law in July 2019, something which was not in the law until August 2019. Not only did the hon. Member think of it, he bothered to write it down, bind it in a spiral binder and then read it out in the Parliament. It was as ludicrous as the submission that came from Naparima where he said—and I really
The hon. Member said to the Parliament that there was no talk to stakeholders, no consultation. He then said, “Tell me with a straight face if you are intending to fill up the jails.” And listen to what Naparima said, “They are premising the law on arrests”. “We want convictions.”

7.40 p.m.

Madam Speaker, as Tabaquite, an intellectual returns; Naparima in a shrill tone said to us, “You are premising the bail law on arrests, we need to premise the bail law on convictions”. Madam Speaker, you only get bail in the context of arrests as to 99 per cent of it. The law technically allows you to go for bail if you are convicted in an application to the court, the High Court, the Court of Appeal but, Madam Speaker, it is beyond intellectual absurdity for Naparima to be telling the country, let alone the Parliament, that we ought not to be talking about arrests. Well, when else are you going to be looking at the right to bail?

Dr. Gopeesingh: When you are charged. [Crosstalk]

Hon. Member: But that is different to a conviction.

Hon. F. Al-Rawi: When you are charged the point at which you deal with an arrest, Madam Speaker, a charge and an arrest come together.

Madam Speaker, I cannot believe that the intellectual absurdity has now rolled its way down the bench, down to my learned colleague for Caroni East, [Crosstalk] because the law to treat with bail must be a feature of the arrest cycle. Now, Madam Speaker, there is something else that really struck me with the intellectual absurdity coming from Naparima and that is where Naparima effectively tells the country that—and his entire contribution is that this legislation is taking away the right to appear before a Judiciary in its wider form, be it the Magistracy or the High Court or the Court of Appeal. Naparima stood up after the
blurt of what I can only call to be racism in saying that we are not from Iraq. I am the only person of Iraqi descent here and I take great pride in having both—

**Mrs. Gayadeen-Gopeesingh:** 48(6), Madam Speaker, I would like the AG—

**Hon. F. Al-Rawi:**—Trinidadian and Iraqi heritage, so I do not know where that goes. But for the record—

**Mrs. Gayadeen-Gopeesingh:** Standing Order 48(6), please.

**Madam Speaker:** Overruled. Continue.

**Hon. F. Al-Rawi:** Thank you. Yes, Madam Speaker, I, like many Trinidadians, my colleagues on the benches here we come with ethnics roots from all over the world, China, India, Africa. In my case partly the Middle East as well.

I have no shame in saying that my family is a serious family from the Middle East and from Iraq, and with roots in Tikrit. I have no understanding why that bothers the Member for Naparima. But, Madam Speaker, the hon. Member sought to say that the case of Khoyratty applied and the hon. Member said that he would school me firstly by saying that he had to correct me about the law of Singapore, and then he would school me in the law, like he had to school me in a debate when we dealt with the Economic Sanctions Orders in relation to Iran, and I want to deal with those three things. Madam Speaker, firstly, the hon. Member read partly from a publication online, which in fact I pulled up because it is word for word what he read. It is at the URL loc.gov, and it went through the summary of Singapore. And, Madam Speaker, the phrase that he read, he only read part of:

“Singapore has one of the toughest firearms control laws in the world, according to its former Minister for Law, Professor S. Jayakumar.”

But what the hon. Member forgot to read was the rest of the page which confirmed exactly what I said in the context that I said it, and that is of course that possession of a firearm as utilized in the Singapore law can lead you to the death penalty,
because if you commit any offence—and do you know what those offences are, they are scheduled offences in the Singapore law. Do you know what they include, Madam Speaker? Larceny and graffiti.

If you have a firearm for a minor offence in Singapore you can find yourself subjected to the death penalty. So when Naparima comes to supposedly school the Government, oh Lord, Madam Speaker, respectfully, I beg the hon. Member to actually read the whole page, not just the headline. Madam Speaker, it is as egregious an untruth as when the Member said that he had to school me in relation to the Iran Orders. Madam Speaker, the Member was caught in an unadulterated untruth in the Economic Sanctions Orders and when he was put right in the law and told that what he was reading was incorrect, he actually threatened to bring me before the Committee of Privileges. Madam Speaker, I am still waiting two years later for the hon. Member to do that, so I take no guidance from the Member for Naparima on anything, and most especially the law.

Madam Speaker, let us get to the point raised by the hon. Member on the Khoyratty case, and the Khoyratty case is very important because the hon. Member in making the submission as to what this Bill supposedly is in his mind, because I will tell you, Madam Speaker, this Bill is not what Naparima said. This Bill does not exclude the Judiciary. The hon. Member sought to read the Khoyratty decision but the hon. Member did not read the full aspect of what the quotation is, and I want to take you, Madam Speaker, to *The State v Khoyratty (Mauritius)*, [2006], the UK Privy Council, UKPC 13 at paragraph 8.

“…the exercise of granting bail is a judicial one...

It is a judicial act in the same way as passing sentence and must be left to the judiciary to adjudicate when and in what circumstances it must be granted or refused.”
It does go on to say:

“Legislation impinges directly on judicial proceedings if the statute itself amounts to the exercise of an inherently judicial power. This may, for example, be because it determines…whether bail is to be granted...”

All of that is true but, Madam Speaker, the case then goes on at paragraph 30 to say:

“I have come to the view that section 2 of the 1994 Act did indeed purport to make a fundamental, albeit limited, change to this component of the democratic state envisaged by section 1 of the Constitution. The crucial problem lies in the absolute nature of section 5(3A). Where applicable, it would completely remove any power of the judges to consider the question of bail, however compelling the circumstances of any particular case might be. By contrast, a provision, for example, that persons of the type envisaged in the subsection should not be admitted to bail unless in exceptional circumstances would not create the same problems because the judges would still have a significant, even if more restricted, role in deciding questions of bail and of the freedom of the individual.”

Madam Speaker, I have just read what the hon. Member omitted and the hon. Member has therefore misled this Parliament into what the law is not by the Government’s draft. The hon. Member for Naparima who has fled the Chamber, no doubt because he could not be the subject of being corrected publicly yet again; the hon. Member left out the salient position of the judgment as put out by both Lord Rodger and Lord Mance in the Privy Council decision. And more particularly the hon. Member does not even have the intellectual courage to admit that the language of section 5(7A) of our Bail Act is exactly the same language that the case in Khoyratty upheld as being a permissible intrusion into the judicial exercise
You see, the Member for Naparima effectively has no intellectual courage, certainly will not read the entire text, certainly will not put it into context, certainly will not tell us the truth as to what the ratio of the case is, but more particularly, does not have the intellectual courage to tell us that section 5(7A) of our Bail Act is exactly what both Lord Rodger and Lord Mance consider to be permissible in the Khoyratty case. Madam Speaker, the contributions from the Members opposite, from the Member for St. Augustine, the Member for Oropouche East in part, but certainly the Member for Naparima, that this law is an ouster of the Judiciary, is the furthest thing from the truth. Let me put it on the record again. Section 5(1) of the Bail Act which is unamended and has stayed unamended effectively since 1994 when the Bail Act was brought into existence, that stays as it is, that you effectively have a general right to bail subject only to the first part of the Schedule, which is the capital offences, and to subsection (2), neither of which we seek to interfere with in the legislation.

Secondly, we are specifically putting ourselves within the ambit of the decision from the Court of Appeal of Trinidad and Tobago in the Daniel St. Omer decision, which I of course put on the record in my piloting. In that case, Madam Speaker, we are upholding the right of someone to approach the court. Now, St. Augustine asked a question, St. Augustine said, “Tell us what ‘exceptional circumstances’ means”? And St. Augustine asked for it to be adumbrated and explained, et cetera. Madam Speaker, the reason why law is stated the way it ought to be stated is so that it can be interpreted as the law is intended to grow. It is called growing up in the law, the law must be allowed to breathe. Madam Speaker, let us take the example of the Constitution of The Republic of Trinidad and Tobago, the supreme law. Section 2 says the Constitution is the supreme law, but
let us look at the very right to bail. Let us look at it in the context of section 5 of
the Constitution, 5(2)(f)(iii). It says that you cannot deprive a person charged with
a criminal offence—notice what I said, charged with a criminal offence—of the
right:

“to reasonable bail without just cause;”

Does the Constitution list out all the reasons as to what “just cause” is? Did the
framers of the Constitution see it necessary to say, “Just cause shall mean the
following things”.

You see, Madam Speaker, I would expect better from St. Augustine, St.
Augustine was the chairman of the Law Revision Committee, you know what that
means? He sat down as I have, and as Clarence Rambharat, Sen. Rambharat does
right now, he sat down with the legislative drafters and went through the laws that
come to the Parliament. Madam Speaker, surely my good friend, the Member of
St. Augustine has heard of the expression “ejusdem generis”. Ejusdem generis
which is a principle of interpretation quite simply says, if you are going to set out
in definitional terms what things are intended to mean and you use qualifying
words effectively at the tail end of the legislation, you are confined to that
methodology of interpretation. In other words, it would be a savage atrocity to the
courts of Trinidad and Tobago to have those exceptional circumstances defined in
an ejusdem generis scenario. In other words then, Madam Speaker, you just do not
do it. You leave it for the courts to interpret what exceptional circumstances
means.

What is important here is that everybody has used the example of framing
and we are talking about the maxi-taxi driver and the people in the bus or in a car,
and Naporima was ridiculous enough, intellectually, to speak about a circumstance
that you have to check a trunk before you get into the car. Madam Speaker, it is
well known that there is a difference between constructive possession and actual possession, that things in a crocus bag for instance, be it a dangerous drug or firearms, et cetera, that they go down to the role of actual possession. You have to some degree of knowledge whether it is described as a strict liability offence or not, like dangerous drugs. In the dangerous drug scenario where it is supposedly the case that your mental state of mind, your knowledge, your intention to commit the crime must be absent. You are not going to look at that, you are just looking at physical possession. Madam Speaker, our courts have gone so far as to distinguish that carefully so that you must actually have some degree of knowledge.

It is open therefore to a court to receive an application under section 5(7A) to say, “Look, in the circumstances where everybody was taken down, I did not have actual knowledge of these positions and there are certain degrees of hardship that I ask you to consider within the factors set out in section 6(2) of the Bail Act”, which are the reasons and circumstances that a judge can consider in the grant of bail. If that does not prevail before the magistrate, go to the High Court. If that does not prevail before the High Court, go to the Court of Appeal. That is what the Bail Act sets out in sections 8, 9, 10, 11 and 11A of the Bail Act, but you would never guess that the hon. Members opposite read that. So this law is not about exclusion of judicial discretion, it is the opposite because our law passed by Act No. 17 of 2019 is entirely different from the law before it fell in 2016.

Madam Speaker, Oropouche East said to the Parliament that consensus-building is the way to go, that the Opposition should be approached, that there ought to be a discussion; he reflected upon other Prime Ministers’ tenure. Madam Speaker, I want to remind that the Prime Minister and the Leader of the Opposition met, engaged in a system of exchange, several of us who went to that meeting were then appointed to speak to each other. Madam Speaker, we tried that exercise and
it collapsed completely. Oropouche East asked me to give an example of one anti-crime law that the Government brought that the Opposition did not support, and I will name one, the income tax amendments. Madam Speaker, when we brought the income tax amendments to allow the Trinidad and Tobago Police Service the ability to go and take your information from the Board of Inland Revenue, hopping and screaming, bawling and shouting, all mayhem broke loose. And you know what the Government had to do, we had to strip down the three-fifths majority aspects, pass the simple majority aspects and allow the law to come in. Perhaps—

**Dr. Gopeesingh:** We supported—

**Hon. F. Al-Rawi:** “We supported that”—

**Hon. Member:** Which part?

**Hon. F. Al-Rawi:** No, Sir. [Crosstalk] No, Sir. Madam Speaker, the hon. Members are saying they supported that, the record will show they objected.

When I sat in the committee stage and I stripped down the three-fifths majority provisions, Madam Speaker, they cried as if they were about to die, proverbially speaking of course. So, Madam Speaker, that is one example. FATCA came by kicking and screaming, anti-gang legislation by kicking and screaming; the Bail Act—Madam Speaker, let me give you another example where the Opposition refused to support. You remember, Madam Speaker, that we came to this Parliament to extend the life of the Bail Act, in 2016 the sunset clause was coming. We came to extend the Bail Act, the Bail Act that they passed. The Bail Act that was the companion Bill to the Anti-Gang Act, Madam Speaker, they had the audacity and lack of shame to tell this country, “Well, the Bail Act had its time, we did not see any effect”. “We want statistics and until we get statistics were are not supporting.” Madam Speaker, there died the Bail Act. It was amended from 1994 by 15 Acts of Parliament effectively, 14 or 15 Acts of Parliament. Every last
amendment that stood up to 2016, collapsed until we passed Act No. 17 of 2019. But, Madam Speaker, we learned our lesson— you know, we went to the Senate first, we made sure every single Senator said, yes, and then when they could not look at that in the position of all the Independents saying, yes, with all the Opposition of course saying, no, they were shamed into passing Act No. 17 of 2019. But they were shamed because we brought the Caballero and State of Mauritius-type amendments.

The Caballero is the case quoted by Naparima. It is trite law right now that these cases stand. The European court cases have stood on our books, I have addressed that on many occasions, but, Madam Speaker, the Bail Act collapsed and we went back to a formula of law with three strikes and you could not count convictions that were in 15 years of each other, et cetera. Madam Speaker, you see, the simple position is the Opposition believes that they will prosper when crime is out of control. It is as simple as that, Madam Speaker. And I take no pause in saying it the way that I have. So, Madam Speaker—

**Dr. Gopeesingh:** Madam Speaker, I take objection, 48(6) on that last statement that the Opposition feels that they will benefit when crime is out of control. That is wrong, imputing improper motive. [Crosstalk]

**Madam Speaker:** I will just ask you to withdraw that and say that in a more acceptable fashion.

**Hon. F. Al-Rawi:** Sure. I withdraw it in the fashion that I said and I will put it this way: It is my respectful view that the Opposition believes that they do not need to support certain laws which we consider are in the best interest of the people of Trinidad and Tobago because they believe that the pandemonium that flows from that is somehow prosperous to their intentions.

Madam Speaker—
Dr. Gopeesingh: Madam Speaker, 48(6) again, he couched it in a different way but saying the same thing at the end of it. [Crosstalk] Yeah, but he is saying the same thing.

Madam Speaker: Member for Caroni East, what he coloured it with was saying it is his own view. Member for San Fernando West, continue. [Desk thumping]

Hon. F. Al-Rawi: There is an art to debate, Madam Speaker, I thank you for keeping it alive. Madam Speaker, the position is that our Bail Act in particular as amended by Act No. 17—

Madam Speaker: Member for San Fernando West, your original speaking time is now expired. You have 15 more minutes to complete.

Hon. F. Al-Rawi: Yes, thank you. [Desk thumping] Yes, Madam Speaker, the position is that our Bail Act, No. 17 of 2019 really is a radically improved version of the bail laws. We have managed to treat with the concept of constitutionality. And, Madam Speaker, Naparima made a most boldfaced, lazy, foolish, intellectual submission, and I will tell you why. When he stood up to read out the contribution coming from—

Dr. Moonilal: Say that in a different way.

Dr. Gopeesingh: You are calling the Member foolish. [Crosstalk]

Madam Speaker: Member for Caroni East, I did not hear the AG say that the Member was either lazy or foolish. I did not hear him say either of that, so if that is what you are standing on, I overrule. Continue.

Hon. F. Al-Rawi: Yes, Madam Speaker. Naparima made a submission saying that the Member for Diego Martin North/East stood up in a 2015 debate on the Bail Bill and said that he had concerns about constitutionality of the legislation and that it would only take one person to go to court to challenge that law.

The Member for Naparima gave way to the Minister of Finance who put on
record that, yes, he said that, and the hon. Member did not quite catch what he was saying, you know, Naparima, because Naparima failed to understand that exactly what the Minister of Finance, then in Opposition, said would happen is exactly what happened. Anand Ramlogan, past Attorney General for the UNC went to court to challenge the law that the UNC passed on the ground of constitutionally for the exact submission that Diego Martin North/East, then in Opposition, made. Naparima thought somehow that he was making a point, Madam Speaker, all that he did was to prove that the Minister of Finance knows what he is saying and he is an intelligent man. Naparima was bumbling with joy almost, “his cup was then runneth over”, as they say, running over with joy, but, Madam Speaker, the fact is that law was challenged because that law was in fact a full ouster of the Judiciary. That law was a complete ouster of the Judiciary and the hon. Member for Diego Martin North/East was right to say that.

So, Madam Speaker, I do not know what Naparima was celebrating, certainly he seemed to be in a world of his own at that point. But, Madam Speaker, the submissions coming a little bit further also failed to understand where Trinidad and Tobago is. Oropouche East, in waxing philosophically, said that the Government had not yet faced the brutality of the law and he attributed a “Rousseauesque” type of view of our position. He said that we would soon come around to the Hobbesian view of course that life will be certainly short, nasty and brutish, Madam Speaker. But, Madam Speaker, I want to put on to the record an article appearing in the Loop publication online. It is entitled, “Griffith: rifles hard to plant, Opposition’s arguments ‘baseless’”, and I want to read into the record what the Commissioner of Police, past Minister of National Security in a UNC Government; a member who saw the birth of the anti-gang and bail restriction laws under the UNC has to say as Commissioner of Police fighting the criminal
enterprise, so capably explained to us by Toco/Sangre Grande in vivid form. Here is what the Commissioner of Police has to say with your permission:

“Police Commissioner Gary Griffith is once again slamming the Opposition for its position on the Bail Amendment Bill, 2019 which they’ve labelled a reactive measure to fight crime. The Government is seeking to pass the Bill to restrict bail for people held with illegal weapons and other forms of improvised explosive devices, for 120 days.”

They then go on, Griffith responds, and here is what they quote Commissioner Griffith as saying:

“‘I am amazed at the level of ongoing discourse on this matter. The red herring excuse by stating that a police officer can plant an assault rifle on someone, hence being the baseless justification to allow bail, is as ludicrous as it can get. What is this big fear and concern to ensure that those who have such weapons which can kill hundreds of people in seconds should be allowed back onto the streets?’”

That is the quotation from Commissioner Griffith.

They say:

“Griffith went on to say that based on that argument, every law should be abolished. He added that there are measures in place to ensure that police do not plant weapons on criminals.”

And then they quote Griffith again:

“‘Refusal to prevent bail for such criminal elements by anyone, simply means that individual stating this-‘I am prepared to have cold blooded criminals who are actually held with bombs, hand grenades or assault rifles, being transported or in possession by them to kill, that they be released on
bail to try to commit their crime on law abiding citizens, based on the possibility that a law abiding citizen could be given bail if one day, once on a blue moon, a rogue police officer would have tried to frame him’.’”

And then Commissioner Griffith goes on to state that it was the same Government then, now Opposition, that actually passed more restrictive laws. Madam Speaker, the Commissioner is able to independently testify to this country that the Opposition when in Government was prepared to pass draconian laws, laws which stood on the books of this country until they caused it to collapse in 2016, laws which were quite properly put on the books, in my view, to give us a fighting chance, and there is nothing wrong with a fighting chance. We in the PNM supported those measures, Madam Speaker, but today when they are in Opposition all of a sudden they have no difficulty in saying no to the law.

Madam Speaker, *Hansard* will reflect Act No. 11 of 2011, Ramlogan saying, this Bill is about taking our country back, pulling the country back from the brink of the precipice in which the PNM left it. He said there was a need to include gang members; a message was being set sent. The 120-day safeguard sending a message to criminals. Saying that there is no absolute or divine right to bail in this country. Those were the words coming from Prakash Ramadhar. Prakash Ramadhar saying at page 136 of the *Hansard*, Friday, December 10, 2010:

> There is no absolute or divine right to bail in this country.

Dr. Surujrattan Rambachan, page 192 of the *Hansard* for Friday:

> One cannot be sympathetic in dealing with criminals.

But today we have to hear other spokesmen say the opposite of that.

8.10 p.m.

Fazal Karim, the hon. Member in this House, Page 113 of *Hansard* for Tuesday, April 19, 2011 in the Senate: This Bill is necessary to fight against
crime. Ramlogan in the Senate: Criminal minority allowed to take hold of our communities. And then we had the famous statement from Anand Ramlogan, Attorney General for the UNC: “Jail eh make to ripe fig”. How far we have come, hon. Members. From “Jail eh make to ripe fig”, to the Member for Tabaquite, Member for Oropouche East, Member for St. Augustine, every single one of them, under the most absent Leader of an Opposition in a Parliament, the Member for Siparia, not here today again, on a Bill as important as this. All of them then prepared to oust the jurisdiction of the court completely. And today when we preserve the right of the jurisdiction of the court, the right to access bail under section 5(1) of the Bail Act, under section 5(7A) of the Bail Act, all of a sudden today is a different story. So, Madam Speaker, can we genuinely take anything that the UNC says seriously?

I am looking at Pointe-a-Pierre with a look on his face of almost shame—shame.

**Mr. Imbert:** That is not possible. He has no shame.

**Hon. F. Al-Rawi:** This ties in to what Oropouche East said, you know, when he was speaking about the need for a Hobbesian view on law and the brunt of crime, and said that there are elder parliamentarians who know better and they understand this. Madam Speaker, Tabaquite has been in the Parliament for how many years? Twenty-seven years. Twenty-seven years in the Parliament, Tabaquite—[Interruption] certainly since the NAR days, right? Senator for one year. Has been in the Senate in the NAR years, has been in the UNC, has been in government, has served in local government. My dear friend, the Member for Tabaquite, who I have a lot of regard for, that hon. gentleman fits the category that Oropouche East put. Oropouche East said that you cannot have this Rousseau rose-tinted view of the law, because you did not face the brunt of the crime. So
what was Chaguanas East, Tabaquite, St. Augustine and Oropouche East? What were they, hon. Members, if not experienced parliamentarians in 2010, 2011, 2012, 2013, 2014 and 2015, when they passed the most draconian bail laws in this country? Madam Speaker, that is intellectual hypocrisy at its worst and that is to play Russian roulette with our country.

Madam Speaker, the OCIU, the anti-gang unit in the Trinidad and Tobago Police Service that has been doing yeoman service for this country with intelligence-led facilities coming from the Minister of National Security, the law enforcement agencies, they tell us without a doubt that it is exactly what Toco/Sangre Grande put on the record. Young men, young women, gun toters, gun minders put to hold a weapon, these are the people most at risk in our society. In my own constituency of San Fernando West, I can testify to you that I knew of these circumstances, and as we try to usher the most vulnerable in our society away from these things, there has to be a fear that the law will be applied. The law is not law without a sanction of law. [Desk thumping]

The sanction of law must say is check once, check twice, check three times, “doh” get caught with an artillery, gun, weapon, bomb, grenade. Madam Speaker, what are you doing with a weapon of war? “Yuh cyar be talking about yuh want to protect dis country and fraid to give de power,” because we are not proposing a law that separates the Judiciary from its role. That is where we are different from the Opposition. We preserve the judicial integrity and scrutiny under the separation of powers principle. It is there in the law.

So what are we going to do? Where does the axe fall? Do we protect the rights of Trinidad and Tobago in the en masse equation, the section 4(a) right, the right to life? Do we protect that right, the utilitarian argument, the greater good? Do we look at those who are most inclined to this law and tell them, “You need to
be ‘fraid de law.” You need to be careful of the law. You need to make sure you are nowhere near a weapon of war, and you are nowhere near a prohibited weapon. You should not have more than two weapons. What are you doing with more than two weapons in your possession?

Madam Speaker, we have taken care of the risk of the innocent being caught in the net. We preserve the Judiciary’s rights. The role of the Judiciary is present in this law for the first time. We have done that. Is it proportionate? Yes. Is there a sunset clause? Yes. Is there a right of appeal to the High Court? Is there a right of appeal to the Court of Appeal? Yes. Have the cases in the United Kingdom spoken to this? Yes. Canada? Yes. European Star Chamber? Yes. European Court of Human Rights? Yes. Court of Appeal of the Republic of Trinidad and Tobago? Yes. “So all ah dem right and de Government wrong,” according to the UNC.

Madam Speaker, it just does not make sense. I urge the Opposition to wake up and protect the citizens of Trinidad and Tobago. At least bother to come to Parliament. [Desk thumping] It is unacceptable to three Members of Parliament on the Opposition Benches for most of the debate. This law is proportionate. It is necessary. It is high time that we treat with this, and I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

The Minister of Planning and Development (Hon. Camille Robinson-Regis): In accordance with Standing Order 50(3) I beg to move that the debate on this Bill be adjourned. [ Interruption ]

Question put and agreed to.

Madam Speaker: Hon. Members, we shall now revert to the item of business which was adjourned earlier in the proceedings.
FINANCE BILL, 2019

Bill to provide for the imposition or variation of certain duties and taxes and to introduce provisions of a fiscal nature and for related matters [The Minister of Finance]; read the first time.

ADJOURNMENT

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Madam Speaker, I beg to move that this House do now adjourn to Friday the 6th day of December, 2019, at 1.30 p.m. At that time we will do the Finance Bill, 2019.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 8.19 p.m.