

SENATE*Wednesday, June 12, 2019*

The Senate met at 2.30 p.m.

PRAYERS[MADAM PRESIDENT *in the Chair*]**VACANT SEAT**

Madam President: Hon. Senators, I have received the following correspondence from Her Excellency the President, Paula-Mae Weekes, O.R.T.T., the declaration of a vacant seat.

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ Paula-Mae Weekes

President.

TO: MR. ASHVANI MAHABIR

WHEREAS by the provisions of section 43(2)(e) of the Constitution of the Republic of Trinidad and Tobago, the President, in exercise of the power vested in her, and acting in accordance with the advice of the Leader of the Opposition is empowered to declare the seat of a Senator to be vacant:

NOW, THEREFORE I, Paula-Mae Weekes, President as aforesaid, acting in accordance with the advice of the Leader of the Opposition, in exercise of the power vested in me by the said section 43(2)(e) of the Constitution of the Republic of Trinidad and Tobago, do hereby declare the seat of you ASHVANI MAHABIR, to be vacant, with effect from 12th June, 2019.

UNREVISED

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 12th day of June, 2019.”

REVOCATION OF APPOINTMENT

Madam President:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

TO: MS. SHERVON IFILL

WHEREAS by instrument dated 10th June, 2019, I appointed you as a temporary Senator, with effect from 11th June, 2019 and continuing during the absence from Trinidad and Tobago of Senator. Dr. Maria Dillon-Remy.

In exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, I, PAULA-MAE WEEKES, President as aforesaid, do hereby revoke with immediate effect, your appointment to act as a temporary Senator. Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 12th day of June, 2019.”

SENATORS' APPOINTMENT

Madam President:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

TO: MR. SEAN SOBERS

In exercise of the power vested in me by section 40(2)(b) of the Constitution of the Republic of Trinidad and Tobago, I, PAULA-MAE WEEKES, President as aforesaid, do hereby appoint you, Mr. Sean Sobers, a Senator with effect from 12th June, 2019.

Given under my Hand and the Seal of the
President of the Republic of Trinidad and
Tobago at the Office of the President, St.
Ann's, this 12th day of June, 2019.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO
TO: MS. ZOLA L. PHILLIPS

WHEREAS Senator Dr. Maria Dillon-Remy is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, PAULA-MAE WEEKES, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, MS. ZOLA L. PHILLIPS, to be a member of the Senate temporarily, with effect from 12th June, 2019 and continuing during the absence from Trinidad and Tobago of the said Senator Dr. Maria Dillon-Remy.

Given under my Hand and the Seal of the
President of the Republic of Trinidad and
Tobago at the Office of the President, St.
Ann's, this 12th day of June, 2019.”

OATH OF ALLEGIANCE

Senators Sean Sobers and Zola L. Phillips took and subscribed the Oath of Allegiance as required by law.

JOINT SELECT COMMITTEE REPORT

(Presentation)

Social Services and Public Administration

Treatment of Non-Communicable Diseases

UNREVISED

Sen. Paul Richards: Madam President, I have the honour to present the following report as listed on the Order Paper in my name:

Tenth Report of the Joint Select Committee on Social Services and Public Administration, Fourth Session (2018/2019), Eleventh Parliament on an inquiry into the potential benefits of traditional, complementary and alternative medicine in the treatment of non-communicable diseases affecting the Trinidad and Tobago population.

URGENT QUESTIONS

Protest Action by Lifeguards

(Actions taken to Address)

Sen. Wade Mark: Thank you, Madam President. To the Minister of National Security: In light of recent protest action by Lifeguards at the Maracas Beach facility and the consequent safety concerns of members of the public, can the Minister advise as to the actions being taken to address the issues raised by the Lifeguards?

The Minister of National Security, Minister of Communications and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam President. Madam President, the issues that are being raised by the lifeguards at the Maracas beach are with respect, as I am informed, are with respect to their changing facilities and other facilities that they have to use. Immediately upon becoming aware of this, UDeCOTT was engaged and UDeCOTT is doing some preparatory works up at the facilities. I have also asked the Deputy Permanent Secretary to go up to the site and to see exactly what it is, and then we are also meeting, or have called for and asked for, requested a meeting with the lifeguards and their representatives for tomorrow morning at 9.30 where we would

be able to hear first-hand from them what the issues are so that we can move expeditiously to address them once they are reasonable.

Madam President: Sen. Mark?

Sen. Mark: Can the Minister indicate why it took two weeks for the Ministry of National Security to respond to this situation?

Hon. S. Young: Thank you very much, Madam President. Madam President, I do not know where this time frame of two weeks has come from. As I said, UDeCOTT was engaged. They are on-site doing work so it did not take two weeks to be dealt with or rather for there to be a response. The response, depending on the work that has to be done, is not going to be an immediate rectification of what their grouses may be. But the point is that UDeCOTT was engaged and is doing those works. And in addition to that, I will meet with the lifeguards to hear from them what their issues are.

Madam President: Sen. Mark?

Sen. Mark: Is the Minister aware that these lifeguards have been seeking a meeting with the Minister of National Security to discuss safety concerns impacting upon them over the last two to three weeks?

Madam President: Minister?

Hon. S. Young: The answer is no. As the whole of that bench is aware, because they made a lot of noise about it, I was out of the country for 10 days. They were questioning why I was out of the country. That is now two weeks ago. So I, personally, am not aware of that nor have I seen any correspondence. Nevertheless, I will reemphasize for the third time now, I am going to meet with the lifeguards at 9.30 in the morning.

**Venezuelan Migrant Registration
(Increased Security for Venues)**

Sen. Khadijah Ameen: Thank you, Madam President. To the Minister of National Security: Can the Minister indicate whether there are plans to increase security at the venues where the registering of Venezuelan migrants is taking place?

Madam President: Minister of National Security.

The Minister of National Security, Minister of Communications and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam President. Madam President, there is no plan to increase the security. The security was increased, has been increased over time depending on what it is that needs to be dealt with at the specific venues. So, for example, yesterday the police service and the defence force that were on the ground at the Oval, took decisions of their own volition to increase their numbers and to increase the strength there. Today that will continue. It is a fluid situation. If there is a requirement for additional security resources, as has happened over the last two weeks, or there is a requirement for less security, that also happened over the period of time, those on the ground in the Trinidad and Tobago Police Service and Defence Force make those decisions and make their decisions accordingly.

Madam President: Sen. Ameen?

Sen. Ameen: A follow-up question. Minister, in light of the overwhelming response that led to the chaos yesterday, is consideration going to be given to extend the deadline for registration for Venezuelans who are already in the country?

Madam President: That question does to not arise, Sen. Ameen. Next question? You have any further supplementary?

Sen. Ameen: Madam President, I am hoping you will allow this one. It is to ask the Minister with regard to the resources available to the Ministry for those who

would be unregistered at the end of the period, you would, of course have to extradite or send them back to their country—in terms of the resources to deal with the unregistered migrants who would remain after the deadline passes.

Madam President: Sen. Ameen, that question also does not arise.

ORAL ANSWERS TO QUESTIONS

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. Madam President, the Government is pleased to announce that it would be answering questions 161, 179, 262 and 263. We ask for a deferral of Question No. 162 for two weeks.

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

Protection of Maritime Borders

(Additional Resources For)

- 162.** Given the statements by the Executive Director of the CARICOM Implementation Agency of Crime and Security (IMPACS) that more resources should be directed to protect our country's maritime borders, can the hon. Minister of National Security indicate what, if any, additional national security resources will be directed to protect said borders?

Question, by leave, deferred.

Alleged Beating of Child by Teacher

(Provision of Counselling Services)

- 161. Sen. Wade Mark** asked the hon. Minister of Education:

In light of the trauma caused to the 10-year-old boy from Kelly Village, Caroni who was allegedly beaten by his school teacher, can the Minister

indicate whether the Student Support Services Division of the Ministry is engaged in providing counselling services to the child?

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. Madam President, several attempts have been made by the Student Support Services Division of the Ministry of Education to provide the necessary support and counselling to the student. The following is a breakdown of those attempts:

1. The parent and student failed to show for an initial consultation on February 01, 2019.
2. Suggested home visits were not accepted.
3. Student Support Services Division held a meeting at a venue near to the child's home with the parent and child.

At that meeting, the parent agreed to attend counselling sessions. However, the parent and child again failed to attend any counselling session. Ongoing efforts by the Student Support Services Division to provide assistance so far has been unsuccessful. Madam President, the Ministry of Education remains ready to provide the required counselling and other support for the child.

Madam President: Sen. Mark?

Sen. Mark: Thank you, Madam President. Can the Minister indicate whether, because of the intensity of the poverty experiencing—or being experienced, I should say, by the parent and the student, whether the Student Support Services Unit is prepared to go on-spot wherever they may be located and administer with the relevant professionals the services required? Can you share with us whether that is—

Madam President: I understand the question. Minister?

Sen. The Hon. F. Khan: Madam President, from the response I have given here which was prepared by the Ministry of Education, all efforts are being made by the Student Support Services to engage the parent and the child. For reasons unknown to us, they are rejecting the overtures. Further investigation, obviously, is involved, because there may be other issues that do not fall under the ambit of the Student Support Services.

Madam President: Sen. Mark?

Sen. Mark: Madam President, in light of the fact that corporal punishment had been abolished in Trinidad and Tobago several years ago, can the Minister indicate whether the teacher who it is alleged administered these lashes or blows to the student—the 10-year-old student—whether an investigation has been launched by the Ministry of Education into this matter?

Madam President: Minister?

Sen. The Hon. F. Khan: Thank you very much, Madam President. Madam President, it is reported to me, through the Ministry of Education, that an investigation was launched by the Ministry of Education. That report was submitted to the Teaching Service Commission and it is our understanding that a “cease to report to duty” has been issued to the teacher pending further action.

Madam President: Sen. Mark?

Sen. Mark: Can I also ask, Madam President, whether the Police Protection Unit with responsibility for caring for children, whether a report was formally launched to that particular unit on this particular incident? Can the Minister share with this House whether he is aware of such a report being launched with the Child Protection Unit of the police service?

Madam President: Minister?

Sen. The Hon. F. Khan: Madam President, I regret to say that I do not have the answer to that question at this point in time.

Sen. Mark: Could the Minister give an undertaking that that particular answer would be made available in writing, maybe at the next sitting of this honourable Senate?

Sen. The Hon. F. Khan: I can so do, Madam President, but not in the next sitting, probably within a week or so.

Injury Resulting from PTSC Bus Crash

(Compensation for Victim)

179. Sen. Wade Mark asked the hon. Minister of Works and Transport:

In light of the Public Transport Service Corporation's (PTSC) failure to compensate the mother of three, who was injured when a PTSC Bus crashed into her Cashew Gardens, Chaguanas home, how soon can the victim expect compensation?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Thank you, Madam President. Madam President, the PTSC has conducted its investigations into the larceny of its bus on November 19, 2018, from the Chaguanas depot. The investigations have revealed that a third party is responsible for the breach resulting in the larceny. The PTSC is not liable for any third party claim arising out of the breach. However, PTSC's legal team and its insurance brokers are working to resolve this serious matter. The PTSC continues to follow up on the matter and is committed to finding an amicable resolution, with a view to ensure that the victim is compensated for her injuries and losses. Thank you.

Sen. Mark: Can the hon. Minister share with this Senate what specific steps have been taken, or are being taken, to have this matter resolved so that the individual

affected can be properly and speedily compensated? Can the Minister share with us what steps are being taken—

Madam President: Well, I think the Minister has set that out in his response.

Sen. Mark: Well, may I ask a further question, Madam President? Can I ask the Minister, based on the investigation conducted by the PTSC, whether the security services engaged by the PTSC were in any way liable for the actual relief of that bus from its location at the material time in question?

Madam President: Minister?

Sen. The Hon. R. Sinanan: Madam President, I did indicate that it is a third party claim and our legal team and the insurance brokers are working on a solution to the matter. This has been the theft of a bus, and this is a matter that is before the security services, the police, and it is also an insurance matter. So all the processes that have to take place, and anybody that has to be accountable will be held accountable in this matter. I do not know if that answers the question.

Madam President: Sen. Hosein?

Sen. S. Hosein: Thank you very much, Madam President. Supplemental question to the Minister: Minister, without prejudice to any court action being filed and advice being received by the Ministry, is the Ministry at liberty to pay any interim compensation or give to this mother any sort of payment on an interim basis based on the losses that she would have suffered, without prejudice to any legal advice?

Sen. The Hon. R. Sinanan: Madam President, again I would not want to prejudice this matter. However, I just want to reiterate that the incident is with a third party and I cannot answer that question without getting the legal advice, without prejudicing the case. Thank you.

Madam President: Sen. Mark?

Sen. Mark: Madam President, in light of what the Minister has said, and given the fact that a third party is involved, can the Minister indicate whether the PTSC has taken any steps or measures to visit the family of that particular individual? Or I should say whether the PTSC has visited the affected individual since the incident took place? Has the PTSC done that?

Madam President: Sen. Mark, that question does not arise. Sen. Hosein?

Sen. S. Hosein: In light of the Minister's answer with respect to awaiting legal advice, can the Minister indicate what time frame in which he would receive this advice, having regard to the expediency of this matter?

Madam President: Minister?

Sen. The Hon. R. Sinanan: Madam President, I do not know if I said awaiting legal advice. I said the legal team is working with the insurance brokers to reach to—*[Interruption]* I need legal advice to answer your question. It is a question that is without prejudice and, again, I cannot, you know, make statements in this House that could prejudice the case.

Hon. Al-Rawi: Or make it on the fly.

Sen. The Hon. R. Sinanan: All right? So, the thing about it, we take this matter very seriously, and it is a delicate situation. My information is that the PTSC team is monitoring the situation; is in touch with all the parties involved and PTSC would do all in its power to ensure that the victims of this accident are compensated in the best way. Thank you.

Madam President: Sen. Ameen?

Sen. Ameen: A follow-up?

Madam President: Sure.

Sen. Ameen: Minister, would you be willing to provide, in writing, the advice concerning this specific matter about interim compensation after getting guidance from your legal persons at the Ministry?

Madam President: Minister?

Sen. The Hon. R. Sinanan: Madam President, I do not know where this subject of interim payment by the PTSC came about. This is a matter where a third party had stolen a bus from the PTSC and PTSC cannot set a precedent at this point in time to compensate people for actions by a third party. Because where will that stop?

Hon. Al-Rawi: That is a matter for court application.

Sen. The Hon. R. Sinanan: This is a matter that will be before the court if the situation is not settled. So this question of compensation, I mean, I will not want to introduce this into my conversation at this point in time. Thank you.

Effects of Cyclone Idai

(Government's Assistance to Countries)

262. Sen. Taharqa Obika asked the hon. Minister of Foreign and Caricom Affairs:

Given the effects of Cyclone Idai in Malawi, Mozambique and Zimbabwe, can the Minister indicate the Government's position on assisting with relief efforts?

The Minister of Foreign and Caricom Affairs and Minister in the Ministry of National Security (Sen. The Hon. Dennis Moses): Madam President, at the outset, on behalf of the Government of the Republic of Trinidad and Tobago, I would like to extend my deepest condolences to those who were affected by the damage caused by the Cyclone Idai in Southern Africa. It is indeed a tragedy that has left many people facing challenging situations. Trinidad and Tobago is well

known in the Caribbean region and beyond as being generous within its means in lending assistance in deserving cases. Madam President, Trinidad and Tobago stands ready to do its part and join with the international community in rendering assistance with relief efforts to those affected countries where such assistance is requested and where there are appeals under multilateral frameworks. Thank you, Madam President.

Madam President: Sen. Obika?

Sen. Obika: Thank you, Madam President. Can the hon. Minister indicate whether there are any Trinidad and Tobago nationals who were caught, or who were affected by Cyclone Idai in Malawi, Mozambique, Zimbabwe?

Madam President: Minister?

Sen. The Hon. D. Moses: Madam President, we have no such information. Thank you very much.

Madam President: Sen. Obika?

Sen. Obika: Thanks, Madam President. Can the hon. Minister indicate whether or not there is any Trinidad and Tobago-based companies—companies headquartered in Trinidad and Tobago that are affected by the cyclone in the referenced countries?

Madam President: Minister?

Sen. The Hon. D. Moses: Madam President, neither do I have such information. Thank you very much.

Hyatt Regency Trinidad Hotel

(Details of TTD Value Paid)

263. Sen. Taharqa Obika asked the hon. Minister of Housing and Urban Development:

Can the Minister inform the Senate as to the TTD value paid to the State from surplus on operations of the Hyatt Regency Trinidad Hotel for each year during the period 2015 to 2018?

The Minister in the Ministry of Finance (Sen. The Hon. Allyson West): Thank you, Madam President. Madam President, the total surplus of the operations of the Hyatt Regency Trinidad Hotel during the requested period was \$242,601,007, broken up as follows: 2015, \$66,309,527; 2016, \$50,995,509; 2017, \$60,037,045 and 2018, \$65,258,926. Thank you, Madam President.

Madam President: Sen. Obika?

Sen. Obika: Thank you very much, Madam President. Can the hon. Minister indicate any reasons for the fluctuation in the surplus?

Madam President: Minister?

Sen. The Hon. A. West: Madam President, I do not have that information.

Madam President: Sen. Obika?

Sen. Obika: Thanks, Madam President. Can the hon. Minister indicate which currency the surplus is paid in?

Madam President: Did not your question ask for it in a particular value?

Sen. Obika: I asked for the value, but not for the actual—the currency of the transaction.

Madam President: Minister?

Sen. The Hon. A. West: Madam President, reading the question:

“Can the Minister inform the Senate as to the TTD value paid to the State?”—

So I responded in accordance with the terms of the question, Madam President.

Madam President: Sen. Obika?

Sen. Obika: Thank you very much, Madam President. Can the hon. Minister indicate the timing of the payment, if all came in their respective years?

Madam President: I would not allow that question, Sen. Obika.

2.00 p.m.

BAIL (AMDT.) BILL, 2019

[Second Day]

Order read for resuming adjourned debate on question [June 11, 2019]:

That the Bill be now read a second time.

Question again proposed.

Madam President: The Attorney General was in the process of winding up. Attorney General, you have 43 minutes remaining.

Hon. F. Al-Rawi: Thank you, Madam President. I guess I start afresh. I thank you for the opportunity to address this honourable Chamber on a Bill which is of immense importance to Trinidad and Tobago.

Madam President, we have come to this honourable Chamber with what appears to be a very simple Bill. Notice I stressed that it appears to be a simple Bill. In piloting this Bill and in having the speakers exchange in their commentary, we have recognized that we have before us a law which affects all of Trinidad and Tobago. It is true that the law is targeting persons who find themselves before the court and who wish to have exercise of their constitutionally recognized right to bail in certain circumstances. But it affects victims who are not before the court as this is the case of persons not being charged but who are affected by crime, and very much so, it affects all of Trinidad and Tobago in the confidence of Trinidad and Tobago.

Because the fact is that we are wrestling with Trinidad and Tobago effectively, figuratively and mentally being shackled by crime. This is not

something that is new in our society. We have a choice. Let all the accused people out, forget the concept of bail or just incarcerate the rest of Trinidad and Tobago as they are currently incarcerated. Let us put people behind burglar proofing, behind cars with armour-piercing shielding protection, let us put them in free blast zones, let us have gated communities. Let us gate up and gate up and gate up and gate up some more. Let us then go, as Sen. Vieira told us in being away recently, how refreshing it was to be in another jurisdiction where you can walk down the street, where you have a police force as large as Trinidad and Tobago policing 20 million people. And you note in other countries, no burglar proofing, no walls, no fencing, no guard dogs, no newspapers carrying stories of murder, mayhem, panic and shooting on a daily basis.

I am a child of two countries: my father is Iraqi, my mother is Trinidadian. I can tell you, as I grew up and experienced life in Iraq as well, there are no burglar proofs, there was no positioning. A society of 32 million people at one point under the Iran-Iraq war conditions where bombs fell, as I have been in cars where tomahawk missiles are flying overhead. Iraq seems and seemed by far more safe than Trinidad and Tobago at times and I am telling you from a personal experience, Madam President. [*Laughter*] My friends can laugh but I have lived a different experience. The one trail of that example we have here is someone by similar name. [*Laughter*] In Arabic, the word “sadda” means “to hit”, “Saddam” is the one who hits, meaning the one who opposes. And when I listen to the Arabic meaning of “Saddam” which means to oppose, I wonder if the Opposition Bench is all “Saddam” in the meaning that it has in Arabic, just to oppose. [*Crosstalk*] And I will come up with that in just a little while, Madam President.

So let me put this quite simply because I am talking to Trinidad and Tobago, through you, Madam President. The UNC has said plainly and clearly they will

not support the law. Sen. Mark stood up last night, in high decibel volume, to make that a clarion call on behalf of the UNC. So the question for us is: In considering bail, what do we do? Do we give Trinidad and Tobago a different version of chance? So I said that I was going to focus a bit on the Constitution, and let us go to the Constitution. Section 5(2)(f)(iii) says the right to reasonable bail is to be factored.

“(2) Without prejudice to subsection (1), but subject to this Chapter and to section 54...”

Section 54 and this Chapter is where you deal with how you abrogate rights with constitutional majorities: three-fifths, two-thirds, three-quarters majority.

“...Parliament may not—

(f) deprive a person charged with a criminal offence of the right—

(iii) to reasonable bail without just cause;”

Now, we have in our constitutional considerations, separation of powers to consider. I will make it very simple. Can this Legislature decide to tell the Judiciary, “You have no business in considering bail”? Ought you constitutionally to do that because there is a constitutional prohibition that says, “Look, you must have a separation of powers”. “The Legislature ought not to tell the Judiciary that it cannot do something.” The word is “ouster”. You cannot oust the jurisdiction of the court. That is the first legal constitutional provision that is before us now.

The second one is whether we can, in fact, infringe this right, this qualified right. Let me repeat it:

“...the right—

(iii) to reasonable bail without just cause;”

The “just cause” is attached to section 13 of the Constitution. Section 13 of the Constitution says that you can infringe a section 4 or section 5 right on two bases.

One, you have the required majority which is three-fifths majority, and two, it is just in a society such as Trinidad and Tobago, respecting the kind of democracy that we do, to interfere with that right.

Now, let me put a few constitutional landmarks on the table. It is a matter of law, it is a matter of fact, that in Trinidad and Tobago, when we look to what law ought to prevail here, there has been no case in the Commonwealth in which legislation of this kind, set against Trinidad and Tobago's factual scenario—let me repeat that. There has been no case in the Commonwealth set against the factual matrix of Trinidad and Tobago where this issue has been considered. What is the factual matrix of Trinidad and Tobago? The factual matrix of Trinidad and Tobago, just to refresh hon. Members and put it into constitutional context now, is such that the Trinidad and Tobago Police is telling us that the types of firearms that we have now—the arrests for possessions of firearms, the arrests under Anti-Gang Act, Larceny Act, et cetera—right now include submachine guns. Zero submachine guns all the way up to 2016; in 2017, we have 23, then 14, then six. We have 43 submachine guns. Similarly, machine guns, we have 23, we have five in total—sorry, 97 in total machine guns in our jurisdiction, and let me stop right there. What on earth is a citizen doing with a machine gun or a submachine gun? One submachine gun holder, one machine gun holder, with two big clips in their hand, can suppress the field of fire for a full five minutes ripping through concrete walls, tyres, cars and people.

We come here today to talk about providing a law which says you may be the person in possession of that type of weaponry—because a firearm has many types and this is one of the types—and if you find yourself with a charge on the back of a conviction for that—[*Crosstalk*] Please, Sen. Obika.

Sen. Obika: Apologies.

Hon. F. Al-Rawi: And if you find yourself as a victim or a person with a charge and a charge for something like that—in other words then, two charges. One that you are on and you are in court on already, and the other one that you are now coming for again. If you are that type of person, in the further amplified scenario of a porous border situation in Trinidad and Tobago—look, the fact is we do not have offshore patrol vessels. Might laugh about it all you want but it would have been a good opportunity to patrol our shores because the philosophy behind that was you would station the vessel far out, radar would work, fast interceptors. You would have the AgustaWestland helicopters flying off the deck with long range. It was a comprehensive plan which is why our little country had three offshore patrol vessels on purchase and had four AgustaWestland helicopters. That would have locked down our shores. That is just a fact but it does not exist. So I am on the issue of just cause and section 13 and I am on the point that no Commonwealth jurisdiction has had a case where we are treating with this type of factual matrix.

Further, Sen. Ameen, I believe it was, asked a question about prisons and reoffenders so I took the opportunity to pull that information. I think Sen. Hosein also asked about the number of persons in prisons. I can say that now. As at May 16, 2019, 3,964 inmates. Of that, 1,670 were convicted, 2,294 remanded. And what we did is we went further to break it down to persons incarcerated for firearms, gang activity, larceny, sexual offences against children, sexual offences against adults, offences against the person, dangerous drugs, anti-terrorism, human trafficking, kidnapping, integrity and forgery and I am going to pass this out. Why? These are included in the schedule of offences we are asking about now.

And what I can tell you with respect to firearms: armed robbery, 212 people, both remanded and convicted; discharged firearm, one; possession of firearm, 94; possession of firearm, 258; shooting with intent, 24; gang activity, belonging to a

gang, six; member of a gang, two; gang leaders, two, et cetera. What was the reoffending rate is also quite interesting. In the period 2009—2019, the years from 2009—2019, first-time offenders versus reoffenders, I am going to give you the percentages of reoffenders, listen to this. The percentages of reoffenders from 2009—2019, and follow these stats: 68 per cent, 69 per cent, 68 per cent, 69 per cent, 68 per cent, 67 per cent, 69 per cent, 67 per cent, 75 per cent, 70 per cent, 77 per cent up to 2019. So the reoffender rate has gone up from 68 per cent in 2009 to 77 per cent in 2019. Want data? Let us deal with data. Let us peg that data in the context of the constitutional argument here. Our society has a position of there being no precedent anywhere in the Commonwealth where a factual scenario such as this exists elsewhere. Furthermore—

Sen. Thompson-Ahye: If I may?

Hon. F. Al-Rawi: Yes, please.

Sen. Thompson-Ahye: Through you, Madam President, is the Attorney General able to make a categorical statement that the situation with regard to crime in Trinidad and Tobago is worse than in our island of Jamaica?

Hon. F. Al-Rawi: I cannot speak to nor have I done the research to be able to say that, nor is it relevant respectfully from my position today. Today, I am talking about Trinidad and Tobago and the Constitution. I will come to children separately on a very important issue that the hon. Member had raised but I am respectfully not prepared for that because I would have to do the research and I just do not have it, nor would I want to hazard that guess.

Furthermore, the courts have not considered instances where bail legislation has been passed by special majority. The jurisprudence coming out of Canada, no special majority. The jurisprudence coming out of the United Kingdom, no special majority. None of the other countries in the Caribbean, Jamaica included, have the

special majority clause for national security. None. We stand unique in our republican Constitution insofar as we require three-fifths majority, two-thirds majority, three-quarters majority and there is no exception for national security. So is this Senate being invited to deal with something that is novel? Yes. Is this the first time this Senate is being asked to treat with something that is novel? No.

Let us start with that. 1994, novelty, three-fifths majority, Act No. 18 of 1994; Act No. 19 of 2005, Act No. 32 of 2005, Act No. 30 of 2006, Act No. 15 of 2007, Act No. 25 of 2007, Act No. 17 of 2008, Act No. 9 of 2011, Act No. 11 of 2011, Act No. 1 of 2014, Act No. 7 of 2015, Act No. 11 of 2017, Act No. 15 of 2018. Get my drift? These are all the occasions where our Parliament has had the opportunity to consider using a three-fifths majority to pass law to infringe upon the separation of powers principle, to infringe upon the section 5 right to reasonable bail without just cause. We have done it on umpteen occasions.

Sen. Vieira: Thank you, AG. And in your matrix of just cause, would you also consider section 53 of the Constitution which gives Parliament the powers to make laws for the peace, order and good governance of Trinidad and Tobago.

Hon. F. Al-Rawi: You have anticipated me. I was going to come to that after laying the groundwork to give the comfort to the country that we have precedent. However, we have had these laws, we have exercised it on umpteen occasions. And Sen. Mark had the gall, the intellectual gall, last night to stand up and mockingly refer to the 2014 legislation and read out with a Cheshire cat smile, intellectually—I withdraw, Madam President. Thank you. I withdraw.

Madam President: Thank you very much.

Sen. Mark: “Ah feel yuh going crazy, eh know.”

Madam President: Sen. Mark, no, let us not go down that route. Attorney General.

Hon. F. Al-Rawi: Thank you. Sen. Mark seemed to relish intellectually in reading out the fact that the PNM Opposition Bench, then in January 2014, did not vote for a particular amendment that the Opposition was coming with, and last night I put on the record that what Sen. Mark really needed to do was to reflect upon the fact that we voted yes on every other Bill, in particular—and if not every other Bill, almost all, forgive me if I am wrong. [*Crosstalk*] In particular, we voted for the 2015 Bill [*Crosstalk*] and the 2015 Bill—you know, hon. Senators, take note, “I doh read ah speech”. This is from head and from memory. Right? So understand what preparation is equal to.

So let us get to the just points in this debate. [*Crosstalk*] “Just be quiet, nah.” [*Continuous crosstalk*] Let us go to Act No. 7 of 2015. [*Crosstalk*] Madam President, assist me with the Opposition Bench.

Madam President: Well, I have to—[*Crosstalk*] Attorney General, anytime you have an issue, direct it to me and not to the Opposition Bench, and Members, please, could we listen to the Attorney General in silence. Attorney General.

Hon. F. Al-Rawi: Thank you. Madam President, Act No. 7 of 2015 specifically is the one closest in matrix to the one that we are treating with right now. In particular, that Act dealt with possession of a firearm and I would like to read the clause 4 which amends section 5 of the Act and inserts a subsection (5)(b):

“on or after the commencement of the Bail (Amendment) Act, 2015, is charged with an offence—”

And listen to this, part (ii):

“specified in Part II of the First Schedule, except an offence under section 6 of the Firearms Act, where the prosecution informs the Court...”

Let me repeat that.

“...where the prosecution informs the Court that the person or any other

person involved in the commission of the offence used or had in his possession a firearm or imitation firearm during the commission of the offence;”

In other words then, to listen to the Opposition come and deprecate the clause which was passed into law in 2015, make a mockery and say, “We doh know what de prosecution means by yuh had in yuh possession” and “what would that mean” and “that would be dangerous”. You cannot have passed it into law in 2015 and come today in 2019 and make a mockery of the law, and I am referring now to the precedent of the law. So let us go further.

Let us add now that our local jurisprudence, as we heard in the cases of St. Omer and Justin Stuart Charles in the Court of Appeal—there was, of course, the High Court decision—and *Ryan Reno Mahabir v the Attorney General*. I want to put on record that the attorneys-at-law who went to court to challenge the amendments to the Bail Act, 2015, after it was passed by a UNC with PNM support in Opposition, those attorneys-at-law were Anand Ramlogan and Gerald Ramdeen who went to court to challenge the law that the UNC passed. The High Court initially upheld their point of view and the Court of Appeal reversed it. So I am trying to tell the Members of the Independent Bench, because the Opposition has stated their point of view already, and I am asking through you, Madam President, to talk to the people of Trinidad and Tobago, do not be persuaded by what the UNC has to say because today is yes, tomorrow is no. It is yes when “yuh in Government” and it is no when “yuh out of Government” and I am giving you two examples of gross inconsistencies on the part of the Opposition.

So constitutionally, we are in a unique situation. We really need to test as a country—ultimately the Privy Council is going to test this law. Ultimately, the Privy Council will test this law and they will be testing—let me put it in a precise

way. They will be testing the limits of ouster. Let me repeat that. They will be testing the limits of constitutional ouster of the Judiciary because what we are doing in this bail amendment is to say, leave the first part of the Schedule alone. No bail for murder, piracy, matters involving death, et cetera. Leave that alone. That is saved law.

Secondly, we are saying that you shall not have bail if you have a conviction and charge. You shall not have bail—we are telling the court, do not consider bail if you have conviction and charge. We are telling the court do not consider bail if you have charge-charge. We are zoning it into very serious offences. It is not just any offence that we are coming with, we are actually going with very serious offences which are set out in the Schedule to the legislation and the offences which are captured under the Anti-Gang Act are all very serious offences. I do not think that anybody could have an exception with that. We make a provision for the loco parentis person who is managing a child. We say that we will treat them separately in the amendments. Under the Firearms Act, we are treating, again, with a host of serious matters. Sexual offences, victim is a child; Offences Against the Person Act, victim is a child, et cetera. Anti-Terrorism Act, Trafficking in Persons Act, and we will circulate the offences so that we are sure as to what we are putting in here.

But when we look to this, Madam President, it is true that the ouster is being tested but our ouster is not absolute. Our ouster is saying, look, you have found yourself before this court on something which must be abhorred, you are in possession of a firearm. Now, let us deal with simple possession of a firearm because Sen. Heath made a very powerful point. Look, the simple possession of a firearm can include people who can be taken in “grop”—a group of them, similar to a possession, simple possession for narcotics. The issue of mental intention in

certain circumstances is debatable.

But let me ask you this. I can tell you this as a representative of very marginalized areas in a marginal constituency. I can tell you this. Community members know where the guns are. Community members are often prevailed upon to hide the weapon, “store it in ah ceiling”, “put it under ah floor board”, “know where it is in ah bush”. Community members are often indoctrinated into the gang activity by saying, “You’re ah good boy, hold ah lil something”. “When ah call fuh de ting, when it is time to rain corn”—meaning I will shoot you with a gun that they are holding—“I will call you for it, and yuh deserve yuh respect.” I am talking real now.

We know and we uphold, as Sen. Vieira said, a powerful example of Singapore being a society to be respected. In Singapore, if “yuh chew chewing gum and yuh spit it on de road”, you could find yourself in for a public flogging where a President of the United States has to intervene as happened in the case of Michael Fay. Some of you may be too young, some of you may remember. The young man from the United States of America who spat on the sidewalk in Singapore and was going to receive a public flogging and the President of the United States had to beg for him not to get “ah cut—”, to have a public flogging on national television.

But in Trinidad and Tobago, we are wrestling with the situation of where do we draw the line on firearms, submachine guns, automatic rifles? We are being asked to apply a limitation on the Judiciary’s consideration for a period of time, 120 days. If your trial is not completed within one year, go back to the court and ask again. Reoffending rate at 77 per cent. Now, it is true from a veil of justice point of view that we need to fix the system, better Remand conditions, et cetera, and whilst that project is going on and I could give you a whole update on what we

have done and where we are nearly at some of significant reforms, the point is what do we do? Wait for the perfect jail before we limit people committing the perfect crime? Is that what we are saying? Sen. Hosein referring us to Madam Justice Gobin's excellent judgment where she defined Remand conditions as "ah hell hole". But what do we do? Fix the "hell hole" and watch everybody else go to either heaven or hell? This is what we are really dealing with today, hon. Senators. This is what is on trial today.

The Independent Bench has a very important role to play today. The Opposition has already said they are not going to support this law, no matter what. Sen. Hosein was strident in saying, "We tried that and it did not work". Oh, really. When we look at the trying of the state of emergency as it happened, and 177 people were arrested for gang activity, all of whom received millions of dollars in state costs when they went for their claim, there was a consequence, you know, crime fell temporarily. There was a redistribution. But you know what? That is the same event that the Leader of the Opposition stands up and tells the country, "We reduced crime". "The PNM has not." [*Crosstalk*] And hear the echo in this Chamber, "Yeah, she did, she did". "Dey eh tell yuh it was on ah back of ah state of emergency where yuh lock up ah whole bunch of people, 7,000 people. None ah dat happened." Because what we should do is to take the advice of the UNC. So the Independent Bench, in considering its position—and I must say, there were some very powerful submissions coming from the Independent Bench—today is where we tell Trinidad and Tobago, decide upon an issue.

3.30 p.m.

What is the issue? The issue is: What are the positions of Government and government-in-waiting on an issue of crime? Do we not often lament that our country is not driven by issue-related politics/issue-driven politics? We lament that

our country is driven by terrible factors such as bipartisan racial support, as some of the examples go. How do we return issue-based politics to the fore? How do we send a signal to the country as to what is to be supported and what is not?

Now, what are the potential remedies? I have identified a few mischiefs. Permit me, Madam President, what is the full-time end?

Madam President: 3.43.

Hon. F. Al-Rawi: Much obliged. Sen. Thompson-Ahye raised passionately and commendably as she always does, the voice of the child in this arena. And what I would like to say is that, in looking at the voice of the child, the hon. Senator is correct. We have not treated with bail in relation to child offenders particularly in relation to the issue of murder, in the manner that other societies have. Factually, we have teenagers killing people, 14-year-olds, 16-year-olds, 17-year-olds, killing people, stone-cold killers. Factually speaking, we have created child rehabilitation centres when there were none. Factually speaking, we have amended the manner in which we may sentence children under the Children Act.

Now, under the Family and Children Division legislation, which we passed in 2016, section 25 creates a child court to deal with child charges. And the child charges deal with everything from murder come down. So children are no longer dealt with in the regular courts. They are dealt with in the Children Courts. Children are now shunted to the child rehabilitation centres regime, which is a very remarkably different position from adult prisons.

Child offenders who reach the age of maturity, you will recall that we amended the law in the miscellaneous provisions legislation to allow us the opportunity to keep ageing out offenders who were children into rehabilitation centres. In other words then, we allowed for the opportunity to not send them to adult prison because we recognize that the process of trial takes long.

In treating with the issue of bail, I want to urge caution, and I turn by way of comfort to the decision of the Privy Council in the Brian and Sasha Seepersad matters. Those matters involved a claim by a minor who was on a charge for murder committed whilst the minor was 16 in one instance and the other minor was certainly younger than that. There was a murder that was committed. The law, of course, in relation to bail, tells us that you cannot have bail for the offence of murder. Whilst that is there, you must be put into incarceration. And that matter actually came to the fore when it was picked up and evidence was being filed in 2015. What happened was, there was a proclamation of the child rehabilitation centres law and effectively a minor who was on a charge for murder should have been remanded to a child rehabilitation centre.

The UNC Government proclaimed the law without the creation of a single child rehabilitation centre. On the 9th of September, 2015, in the middle of being sworn in as this country's Attorney General, I was called to the side to give instructions to the Solicitor General's Department on litigation brought against the State, judicial review and constitutional proceedings, condemning the State and asking for damages and asking for the child to be bailed out into the custody of the mother. On the 9th of September, that action was being aggressively pursued by “a fella name Anand Ramlogan”. In other words, the UNC passed a law, proclaimed the law, did not operationalize anything for the law, did not build a single child rehabilitation centre. And then their Attorney General goes to court to seek damages and declaratory relief, mandatory relief, for not having the thing which they should have done. A more staggering case of lack of shame than that “you cah have”.

What I am trying to tell you, it is that same cohort that was considered by the Privy Council and the Privy Council in its decision in that case was very careful

not to comment on how we ought to treat with bail for minors who are on those kinds of charges.

So I am offering the caution right now. I hear you, Sen. Thompson-Ahye, and I am looking at the issue together with the team, the children's team. We have introduced child advocates. The Solicitor General's Department functions there. We now have a Child Offenders Division in the TTPS. We now have probation officers. We have a specialist Children Court. We have anonymized records. We have the ability to have sentencing managed under the Children Act in a very unique way. We have the Child Rehabilitation Centres, as they include homes and as they include centres. So we have a whole lot more than we had before and we have to, as a policy decision, treat with this now. Because, and here is the point, we have to be careful about the argument of implied repeal. And if we touch the concept of the child in bail circumstances now, including a child for murder, I fear the constitutional argument that everybody who is an adult, who is a person in similar circumstance to an extent, meaning you are both on a charge for murder, whether you are an adult or a child, I fear the constitutional argument of implied repeal. And for that reason I cannot respectfully deal with it in this legislation right now.

Sen. Vieira: I would not be long, AG. I think it is dealt with. My understanding of 15(6) is that where a person brought before the magistrate, under subsection (4), is a child and the magistrate does not grant him bail, subsection (5) shall have effect, subject to section 54 of the Children Act. So in other words, under 18, whatever the charge is, if you do not get bail, you are going to be remanded in the custody of a community residence.

Hon. F. Al-Rawi: Yes, that is correct, but I was really pinpointing particularly on the issue of a murder charge, which I cannot treat with. I am very comfortable that

the Children Act as amended, sections 50, 51, 52, 53, 54, 60, 61, I am quite comfortable with the amendments that we have made in the period 2016 go forward. But it was an important impassioned point by Sen. Thompson-Ahye and I just wanted to touch upon it.

Sen. Vieira raised a brilliant suggestion. We are talking about one of the mischiefs before us right now is a policeman “set yuh up”. You were not in possession twice.

Madam President: Attorney General, you have five more minutes.

Hon. F. Al-Rawi: Thank you. You were not in possession twice of a firearm. “Dey set yuh up two times.” The first time when you get charged, or the second time and you got convicted, or you got charged again. Because that could happen. They may know you have an actual conviction and you might get a charge—“ah sending yuh down de road”.

And Sen. Vieira raised a wonderful suggestion, and I want to thank him for, publicly, the concept of an offence of framing. Sen. Vieira, if I may, through you, Madam President, indicate we have laid—and I do not want to breach the rules of anticipation—a Miscellaneous Provisions (Law Enforcement Officers) Bill, where we propose heavy criminalization if you are messing with law enforcement, SRPs, police, prisons, Customs, certain aspects of immigration. If you mess with police and those other categories, defence force, et cetera, you are going down hard. And we have balanced it by saying: “You in those services—law enforcement officers, police, defence force, Customs, et cetera, fire officers—all of you if you tip off somebody, if you are guilty of a crime, you going down hard”, to put it quite simply.

We have started drafting the offence of framing and we propose to insert it into that legislation, because it is a wonderful point. It takes us beyond damages from

malicious prosecution. [*Interruption*]

Sen. Mark:—the legislation that is before us.

Hon. F. Al-Rawi: Madam President. Madam President. Oh gosh.

Madam President: Attorney General. Sen. Mark, he is answering an issue that was raised by Sen. Vieira. I am listening to what the Attorney General is saying.

Hon. Al-Rawi: And I caution myself saying I did not want to offend and I am being careful. So, it is a brilliant suggestion raised in this debate. We are in the context of drafting it. It allows us much more latitude than just malicious prosecution, which is limited in certain circumstances, albeit it will be an offence. An offence is something which can be managed carefully. So, is it 3.41 or 3.43, Madam?

Madam President: 3.43.

Hon. F. Al-Rawi: 3.43. In the less than three minutes I have, let us wrap this up. We propose to consider, in committee stage, the recommendations of hon. Senators. We have drafted something which we think can work. We have drafted a halfway house, which we will put into circulation. If we had the support of the Opposition, we would be good, but those days are gone. They are no longer in Government, so the idea is not good, even though it was passed into law. Hard luck for Trinidad and Tobago, UNC in Opposition. So, what we have now, in our halfway house proposal, is no bail; court do not consider bail until you get up to 120 days. Let us allow you the opportunity to be discharged after. If your trial is not completed within one year, let us drop a milestone in the middle somewhere there that says: “In exceptional circumstances, we will consider your application for bail”.

That would take care of Sen. Chote's example of the very sick young man who was shot in the back and that had to go to hospital, et cetera. That could take

care of that. We are wide open to suggestions. It is really a very narrow issue point. The narrow issue point is: Do we put down a limited ouster of the court? Because that is what we are asking. And is our society prepared to allow law enforcement a fighting chance?

Because, hon. Senators, we are doing or dying as we speak. As we speak, this country is doing and dying. And the data, contrary to what Sen. Hosein says, demonstrates that whenever we use these provisions of the 120-day period, there was a definite relief in society. The whole realm of destroying kidnapping for ransom is evidence of that alone.

There was a point in time when that was everything that was in this country. People were going to put implants their teeth for GPS tracking, to find their children or loved ones who were kidnapped. Kidnapping insurance was booming. Those days “done” and they died because we are putting legislation exactly like this into the laws of Trinidad and Tobago.

I ask for your support hon. Members of the Independent Bench. Let us craft something together. We know what the Opposition's position is, and I beg to move. [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Madam Chairman: Hon. Senators, just to have everyone on the same page, there is a list of amendments circulated by the hon. Attorney General. I think that is being circulated as we speak. There are some supporting documents as well. Those documents have also been circulated, or are being circulated as we speak. There is also a proposed amendment by Sen. Vieira. So I just want to make sure

that everyone has the requisite documents. Attorney General, are you in a position to begin?

Mr. Al-Rawi: Yes, Madam Chair.

Madam Chairman: Members, are we ready? Yes? “Gih meh a lil nod, nah?” Yeah? Thank you.

Clauses 1 to 4 ordered to stand part of the Bill.

Clause 5.

Question proposed: That clause 5 stand part of the Bill.

Madam Chairman: There is an amendment circulated by Sen. Vieira.

Sen. Vieira: Thank you, Chair. As the hon. Attorney General pointed out, I think that they were looking to include this amendment in another piece of legislation. I am comfortable with that. My only point though is that the way I crafted this amendment is not only for law enforcement who may be corrupt, but also for malicious persons who are private citizens as well. So that being aside, I will withdraw my amendment.

Mr. Al-Rawi: Madam Chair, if I may?

Madam Chairman: Just one second. So the amendment circulated by Sen. Vieira is withdrawn.

Amendment withdrawn.

Madam Chairman: Attorney General, there is an amendment circulated by you?

Mr. Al-Rawi: Sorry, Madam Chair, I just wanted to say something before you had put the note of withdrawal.

Madam Chairman: Sure, well yeah, okay. Very quickly.

Mr. Al-Rawi: Is it okay?

Madam Chairman: Yes.

Mr. Al-Rawi: Well, let us press on then.

Madam Chairman: Okay. So, let us now move on to the amendment, Attorney General, proposed by you.

Insert after subsection (7), the following subsection:

“(7A) Notwithstanding subsection (7), a person to whom that subsection applies may, in exceptional circumstances, make an application to a Judge for bail after the expiration of one hundred and twenty days after the reading of the charge.”

Mr. Al-Rawi: Madam Chair, just for the record and so that hon. Members are, as Madam Chair put it, reading from the same page. We have taken the opportunity to circulate a marked-up version of the Bill. May I just enquire whether that marked-up version—sorry, of the Act, forgive me; a marked-up version of the Act. We sent out a marked-up version of Act—just to note that there is a colour legend at the back, which will tell you what we are really looking at. The things in green, yellow, and red were all already done. They are in the law, but they came in successive steps. The matters which are bolded blue text, those are the things which are in the Bill for amendment now.

So, Madam Chair, with respect to clause 5 of the Bill, which proposes an amendment to section 5 of the Act, we are asking for consideration of an amendment, which is an insertion of a new (7A). So (7) treats with the 120 days and reading of charge and trial not completed within one year. So that is the: “Look, you have been strung along. Your matter is going nowhere. Your trial has not been completed at any point.”—(7) is where you actually can go to the court and say: “Hear me on bail.”

We are asking, therefore, for a new (7A), which says:

“Notwithstanding subsection (7),”—therefore, you preserve that one-year position—“a person to whom that subsection applies”—that is qualifying

under (7)—“may, in exceptional circumstances, make an application to a Judge for bail after the expiration of one hundred and twenty days after the reading of the charge.”

So that is specifically designed to catch the person who is stuck in the cycle of 120 to one year.

Sen. Heath had raised the issue of the length of time, first of all. We had gone with the 120 days because that was the law as it was amended since 2010, 2011. In 2010, we amended the Anti-Kidnapping Act to make it 120 days. In 2011, we moved from 60 days to 120 days. That stood for a full five years until 2016, when the law collapsed. So we had gone with 120-day marker, because it was law for a full five years.

In this particular subsection (7A), we are giving the opportunity in a formula, which is described as exceptional circumstances. That is the key, meaning it is up to the Judiciary to consider what those circumstances will be over time. We did not want to condescend to a prescriptive formula, so that there would be an argument of *eiusdem generis*; that you did not fit within the bracket of circumstances that Parliament considered and certainly from a statutory interpretation point of view. So this is intended to treat with a mischief. It is a hard formula to come up with, to be quite frank, in terms of a drafting perspective. And the rationale is to give you a chance, after the 120 days, to have opportunity to go to the court and say: “Look, I think I ought to be bailed, and these are my circumstances.”

Sen. Seepersad: Madam Chair, through you to the Attorney General. Hon. Attorney General, could you explain, or the definition of exceptional circumstances is kind of wide, and what you might think or I might think, and how do we treat with that?

Mr. Al-Rawi: Sure. I regret that I spoke in legalese a little while ago. So, specifically, if I can now expand it. We have proposed that that formula, exceptional circumstances, be subject to judicial interpretation, and it is up to a judge to fashion the law to decide what will be exceptional circumstances. We have felt that if Parliament were to prescribe the types of circumstances which were deemed to be exceptional, we would be bound by the rules of statutory interpretation.

Statutory interpretation has a formula. It is a Latin phrase, *eiusdem generis*, which says that the words are to be interpreted, because of how you start off with and then you go. So if I say, all animals who are dogs and who are puppies, it confines me away from cats, fish, et cetera. So that *eiusdem generis* example, if we were to prescribe it, we felt would limit us by people fighting, that you are in or you are out. So, we felt that it was better to allow the Judiciary to consider, in the development of case law, what exceptional circumstances ought to be and then to change its mind over the course of time.

Sen. Seepersad: Thank you.

Sen. Thompson-Ahye: Madam Chairman.

Madam Chairman: Sen. Heath.

Sen. Heath: Madam Chairman, if I may give way to my colleague, with your leave.

Madam Chairman: Sen. Thompson-Ahye.

Sen. Thompson-Ahye: Madam Chairman, through you, I am asking whether the Attorney General would consider going back to the original 60 days, as now obtains in Jamaican legislation?

Mr. Al-Rawi: Could I perhaps hear some more views on the bench? I will say why. Jamaica is operating with a very important cohort to the law. It is called the

special zones law. They have a rolling law to declare limited states of emergency across Jamaica. It is actually in effect right now. So Jamaica has managed to, over the course of the last two and a half years, put down the special zones, where they basically “lock yuh down clean” and their Parliament has allowed that to happen. So their 60-day is really icing on the cake, because their special zones take the brunt of that.

Sen. Thompson-Ahye: But if I may, Jamaica has charge after conviction. We have charge after conviction and we also have charge after charge.

Mr. Al-Rawi: Yes. I am open to suggestions.

Sen. Heath: Madam Chairman, through you. Hon. Attorney General, I see the concession by the introducing (7A). However, it might be something that I can digest, but my issue continues to be at subsection (3), where it is persons who are charged. Are you minded to consider making that a charge scenario? So someone who has a charge and who comes before on another charge, rather than someone who is simply charged for the first time and will be subjected to your 120 days, I could well see someone arguing that it is an exceptional circumstance that this family was caught in this raid by the police, and the perpetrator is willing to plead guilty, but because of how it is laid, they cannot. And they would get off after 120 days, but that is not to say they would not have been incarcerated. It is not likely that though they may be on previous charges.

Mr. Al-Rawi: So Senator, if I may? It is intended to be charge-charge, (3) as drafted by us.

Sen. Heath: Yes.

Mr. Al-Rawi: And, perhaps, I need to—it took me several readings to get it right in the pre-LRCs, et cetera. So the chapeau of subsection (3) says subject to (2), (4) and (5),

“...a Court shall not grant bail to a person who on or after the commencement of the Bail (Amendment) Act...is charged with an offence—”

—under the Firearms Act, and the person has a pending charge for possession of a firearm; (b) the person is charged with an offence:

“listed in Part II of the First Schedule and has a pending charge for an offence specified...”

(c)—the person is charged with an offence: “listed in Part II of the First Schedule, except...”

—for the one which we dealt with above, and you are informed that the gun was there.

“...firearm or imitation...during the commission of the offence.”

So, you are charged with an offence:

“listed in Part II of the...Schedule, except”—where—“an offence under...6 of the Firearms Act, where the prosecution informs the Court that the person or any other person involved in the commission of the offence used or had in his possession...”

I think that—is this the one that is causing the concern?

Sen. Heath: Yes, it is (3), but my—how it reads—what I have here certainly does not speak to having a pending matter.

Madam Chairman: Sen. Heath, are you speaking about 5—

Sen. Heath: I am—

Madam Chairman: No, just one second. Are you speaking about 5(3)(a)?

Sen. Heath: Yes.

Madam Chairman: Is that the one that you are concerned about?

Sen. Heath: Yes, please, Madam Chairman.

Mr. Al-Rawi: Madam Chair, if you just permit me a moment. There were many iterations in preparation and I just want to double-check something. If you will permit me a moment. [*Pause*]

4.00 p.m.

Thank you, Madam Chair. Sen. Heath—May I, Madam Chair?

Madam Chairman: Yes.

Mr. Al-Rawi: Yes. Sen. Heath, I have to confess that I was working with an earlier draft of my draft marked-up Bill, and the one that has been circulated now which is the Bill, I have now got you spot on. You are correct. What is provided here in (3)(a) is, in fact, if you end up before a court with a gun, you are gone, no bail for you, and the CPC's department was just reminding me that this particular amendment was the agitation of the Commissioner of Police and approved by the Cabinet, that the gun possession issues were so significant in our country that we had a problem with that happening. Because, quite frankly that is where, as the Minister of National Security read out, 77 per cent of our murders are with guns or higher, 90 per cent, et cetera. So I now understand what you are saying. You are expressing a discomfort with the fact that a wider range of persons may be caught under a simple charge and be incarcerated?

Sen. Heath: That would be a fact, hon. Attorney General, but because you have given the statistics about the reoffenders which seems to be high, I am simply suggesting that if you were to put it charge-charge, it would seem that you would capture a lot of the persons who are repeat offenders, but what you would do, at the same time, because I can say—and this is all premised on my personal experience—that the police carry down persons in droves when it is raids on houses or raids on establishments in which guns are found. These persons would find themselves before the court for perhaps, in many cases, for the very first time

and for a 120 days, at least, they are going to be incarcerated. That has a certain level of discomfort whereby if it, it is not likely such a person would have a previous charge.

I am saying, if it is that you are not so inclined to be a criminal or lime with criminal elements, it is highly unlikely that lightning would strike twice. So that you would not have a pending charge and you would not be caught by this. And I still think you will be able to achieve a significant mileage because of the stats you have provided, whereby persons seem to reoffend even if you listed, as in (b), that if you are charged and you have a pending matter, as per the Part II Schedule, no bail.

Sen. Chote SC: Thank you very much. Hon. Attorney General, through you, Madam Chairman, I have expressed my concerns about this legislation in some detail, but the (3)(a) which concerns Sen. Heath also concerns me, simply because it is not unusual for licenced firearms holders travelling abroad, for example, or borrowing a bag from a relative, to find themselves at the airport with a bullet, and they are charged with possession of ammunition under the legislation, and the deeming provision kicks in for them.

I have had instances, one lady was a retired school principal, one was a prominent businessman. These people as well will be caught by the draconian nature of this subsection. So I respectfully ask you to reconsider or consider a possible redrafting so that persons such as those will not find themselves in such a situation.

Mr. Al-Rawi: Madam Chair, I thank hon. Senators for bringing balance. It is very hard when you have paternity over law to sometimes get the light of day inside of your perspective. So I genuinely appreciate the perspectives offered. It is a very bold step to say, look, anybody in possession, you are going down. It is

extremely bold, potentially dangerous, because even though the lawyer in me jumps in and says well, you have lawful excuse, you are still on a charge until you could prove your lawful excuse and then be exculpated. I accept that.

We were wrestling, the Minister of National Security and I were, together with the Chairman of the LRC, Sen. Rambharat, we were contemplating actually an amendment to the firearms legislation to treat with a category of weapons—AR-15s and semi-automatic and automatic weapons—which we felt that you should have absolutely no bail for. You cannot explain to me why you feel the need to shred a concrete wall with that type of weaponry and being in possession of it.

Can I ask a question? If we were to exercise one of two options: option one is modify subsection (7A) as circulated to say, not only after 120 days but any time after you are incarcerated with no bail, you can in exceptional circumstances knock on the door of the court. In other words then, from day one, straight up to the one year when you could say, well, look I really need to get out, you did not finish your trial. Option one could be that.

Option two could be, wait for me to amend the Firearms Act—and, by the way, the legislation is in the House right now—put in that subcategory which we would add in as an amendment and then invite the Senate to consider simple possession, first time, automatic weapon, no bail for you. In other words then, the second option would mean deleting subclause (a) and returning to a different version of it. The version of it would look like this: “If you are charged with an offence and you come under”—sorry, you want to say something. Okay.

If you are charged with an offence under section 6 of the Firearms Act...
—which is a possession offence—

...and you have a pending charge.

In other words then, only take a firearm holder down for charge-charge. To use

Sen. Heath's neat encapsulation, hard to explain lightning striking twice. So that is the option one. Move away from you are under possession, first time, you are out, and modify it to charge-charge. Would that allay the difficulties?

So 6, (a), we modify it to say:

If you are charged with an offence under section 6 of the Firearms Act for possession of a firearm, ammunition or prohibited weapon, as the case may be, and that person has a pending charge for possession of a firearm, ammunition or prohibited weapon.

In other words then, go for the lightning striking twice. Slowly warm the water. Would that be agreeable?

Sen. Heath: That would be something that I could digest.

Mr. Al-Rawi: Yeah?

Sen. Chote SC: Yes. Then it suggests that the accused person is likely to be someone who breaks the laws as it pertains to the Firearms Act, so it would exclude the category of persons to whom I just referred.

Mr. Al-Rawi: Could I ask a few more questions?—sort of an unusual approach to this committee. Would it be agreeable to modify that which we have circulated, (7A), so that we provide the knock on the door from day one as opposed to after the expiration of 120? In other words then, give that person who says, look, I ought to be treated differently, I have an exceptional circumstance, the opportunity to still knock on the door. It would mean that the court will have to wrestle with Parliament's intention to keep you in and then really exercise its mind to giving you the opportunity to come out, and we have an interesting filter because Sen. Heath mentioned something which was quite interesting, which was the magistrate having a convenient locus to treat with this matter, but I would like to maintain it as a judge because it will cause for a little bit more rigorous inspection. Perhaps

the magistrate may have, as often I do, the difficulty of paternity of something and may, in the rush and load that magistrates have not consider it in, in as careful a measure. Would that be agreeable?

Sen. Chote SC: Thank you. I think we ought to preserve it with the magistrate, because remember in order for the person to go before a judge, the person has access to a judge only once per week, and even sometimes that may be cancelled. Usually, to go before a judge, because of the procedural requirements, a person is required to have representation. It is very unusual now for an accused person, exceptionally circumstanced, if I may so describe him, to go unrepresented before a Judge in Chambers. Magistrates—and I think let us not underestimate their value here, because our system now allows for magistrates to become Masters with equal powers to judges, so let us not underestimate their value. Because if there is an exceptional circumstance, the magistrate is the one who the accused person goes to first, and let us say it is a health issue. The magistrate can adjourn that matter under the Criminal Procedure Rules to two days hence, or even to the following day to ensure that the person is not kept in custody, or his liberty is not deprived in the circumstances where it may amount to a loss of life, because we have had enough examples of that. So, I do not see that we will benefit by taking it away from the magistrate.

Sen. Vieira: I was going to just suggest, instead of saying “a judge makes an application to the court” because in the Bail Act “court” is defined as including a judge, a magistrate, a Justice of the Peace and includes and I think we will go to the Masters down the line as well.

The other point I was going to ask earlier is: Am I understanding that what you are saying is that we are going to soften (7A), by just saying “may make an application to the judge or a court for bail.”? And not worry with “after the

expiration of 120 days? Because I think if you do that, that will go a long way towards softening to allowing for the humanistic, to allow for the court's intervention and also for the constitutionality of this.

Mr. Al-Rawi: Yep. So, Madam Chairman, we will have to amend this. Madam Chair, yes, it would certainly take us in the direction of some of the Canadian jurisprudence, which is not on all fours with ours, because they do not have the—we are really going to test this ultimately at the Privy Council because we are in the unique position in the whole Commonwealth, our law. So that is yes, I accept that position and I am also intrigued by Senators Vieira and Chote together coming up with the concept of court, particularly because we have multiple jurisdictions now in the Criminal Division. It could be a magistrate, a master or a judge and, in any event, I think my fear would perhaps be allayed, because the prosecution has the right of appeal preserved under the existing Act. I think it is wonderful.

Sen. Seepersad: Thank you, Madam Chair, and I ask you guidance. I do not know if this is going to be allowed. Sen. Vieira withdrew his amendment, hon. Attorney General, and I just would like to know, if you could give us some idea when you will be bringing the legislation?

Madam Chairman: No. Well, yes, I understand, but let us not deal with that right now because we are dealing specifically with the particular clause and the proposed amendment. Yes? Okay?

Sen. Seepersad: Thank you.

Madam Chairman: No problem. So, Attorney General, is it that you are going to further amend your proposed amendment?

Mr. Al-Rawi: Madam Chair, if there are other issues that the Senate would like to consider within this clause, what I am going to ask for your consideration is, to allow me the opportunity to sit with the drafters. There is one thing I got to work

out in my mind, which is the reformulation of (7A). I want to make sure that I am not unwittingly constraining myself to the 120 by cross-reference to subsection (7) because that is what it currently has. So I just want to think about it, just to double-check it.

The redraft would be, redraft (3)(a) to catch charge-charge—I will call it “lightning strike twice”—and then we draft (7A) as in circulation by me, to make sure that we catch you with the opportunity to knock on the door of the court at any point in time where your bail is denied. It is 4.00. I do not what time you had intended to take a break, Madam Chair?

Madam Chairman: Right. Let me just ask you, can we stand clause 5 down for further consideration and just let us just go through the other clauses?

Mr. Al-Rawi: Should it please you.

Madam Chairman: Yeah? So clause 5, the deliberations on clause 5 are deferred.

Clause 5 deferred.

Clause 6 ordered to stand part of the Bill.

Clause 7.

Question proposed: That clause 7 stand part of the Bill.

Sen. Thompson-Ahye: I am suggesting, if I may, Madam Chair, that the period of “five years” be abridged.

Madam Chairman: Yes, to?

Sen. Thompson-Ahye: And the period of “two years” be substituted.

Madam Chairman: Okay, just one second. So, Attorney General, it is being proposed that an amendment be made to clause 7, to change “five years” to “two years”.

Mr. Al-Rawi: I hate to sound like a barterer, but would three suffice?

Sen. Thompson-Ahye: I thought about it too, you know. I like averages, but—

Madam Chairman: Sen. Thompson-Ahye, three?

Mr. Al-Rawi: Let me explain why.

Sen. Thompson-Ahye: I know you had the “two” before.

Mr. Al-Rawi: Yeah. “Two” intellectually is fine and all that it means is that we come back to the Parliament and lay data, et cetera. I have no problems in doing that. But I am looking now at the administration and statistics. I want to get statistics out and the cycles may not lend the best statistics for proper reconsideration. That is the only reason why I am suggesting “three”.

Sen. Thompson-Ahye: The gentleman doth protest too much. Yes, I will go with “three”.

Sen. Vieira: Sen. Deyalsingh and myself were going to suggest “three”.

Mr. Al-Rawi: We would be agreeable.

Madam Chairman: So the question is that clause 7 be amended as follows:

Delete the word “five” and substitute the word “three”.

Question put and agreed to.

Clause 7, as amended, ordered to stand part of the Bill.

Madam Chairman: Attorney General, you are ready?

Mr. Al-Rawi: Yes, Madam Chair, we are ready.

Clause 5 reintroduced.

Madam Chairman: The Attorney General may have some proposed amendments.

Mr. Al-Rawi: Yes, please. Yes, Madam Chair. In the circulated amendments that we put, Madam Chair, and bearing in mind discussions, we are proposing that the subsection (7A), as is in circulation read instead:

“Notwithstanding”—just add—“subsections (3) and (7)”—and then it

continues—“a person to whom those subsections apply may,”—and it continues—“in exceptional circumstances, make an application to a court for bail.”—and delete all the rest of the words appearing thereafter. Delete “after the expiration of one hundred and twenty days after the reading of the charge”.

So (7A) would read:

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

We are proposing, Madam Chair, that subsection (3), bearing in mind the discussions coming from hon. Senators that we delete “(3)(a)”. Actually, we do not need to delete it. We can just amend it. I was going to give you the full language. So, Madam Chair, if you would follow me at (3)(a) so, under section—just remove “6(1) or 6(2)”. So, if you are charged with an offence:

“under section 6 of the Firearms Act”—and then we go here, insert after the word “Act” the following words—“and the person has a pending charge for possession of...”

Okay. So let me get this again, so:

“under section 6 of the Firearms Act and the person has a pending charge”—forget the words “for possession” because it is there. So it will continue—“for possession of a firearm, ammunition or prohibited weapon as the case may be;”

Yes, that will do it. So let me repeat. Madam Chair, “(a)” would be modified to say:

“under section 6 of the Firearms Act”—insert the following words—“and the person has a pending charge”—now continue—“for possession of a

firearm, ammunition or prohibited weapon as the case may be;”

Yes?

Madam Chairman: Yes. Hon. Senators, can I ask you to please pay attention as I do this so, hopefully, I would not have to do it again. That the question is that clause 5 be amended as circulated by the Attorney General and further amended as follows, so that it will read as follows:

“(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.”

And then further at subsection (3)(a), for it to read as follows:

“under section 6 of the Firearms Act and the person has a pending charge for possession of a firearm, ammunition or prohibited weapon as the case may be;”

Question put and agreed to.

Clause 5, as amended, ordered to stand part of the Bill.

Preamble approved.

Question put and agreed to: That the Bill, as amended, be reported to the Senate.

Senate resumed.

Hon. F. Al-Rawi: Thank you, Madam President. Madam President, I wish to report that a Bill to amend the Bail Act, Chap. 4:60, was considered in committee of the whole and approved with amendments. I now beg to move that the Senate agree with the committee’s report.

Question put and agreed to.

Bill reported, with amendment.

Question put: That the Bill be now read a third time.

Madam President: This Bill requires a special majority and, therefore, a division will be conducted by the Clerk.

The Senate divided: Ayes 24 Noes 6

AYES

Khan, Hon. F.

Gopee-Scoon, Hon. P.

Baptiste-Primus, Hon. J.

Rambharat, Hon. C.

Sinanan, Hon. R.

Moses, Hon. D.

Hosein, Hon. K.

West, Hon. A.

Le Hunte, Hon. R.

Lester, Dr. H.

Singh, A.

De Freitas, N.

Cummings, F.

Simonette, G.

Young, N.

Richards, P.

Chote SC, Ms. S.

Vieira, A.

Deyalsingh, Dr. V.

Deonarine, Ms. A.

Seepersad, Ms. C. Thompson-Ahye, Mrs. H.

Heath, J.

Phillips, Ms. Z.

NOES

Mark, W.

Haynes, Ms. A.

Ameen, Ms. K.

Hosein, S.

Obika, T.

Sobers, S.

Question agreed to.

Bill accordingly read the third time and passed.

4.30 p.m.

**MISCELLANEOUS PROVISIONS (FINANCIAL INSTITUTIONS,
SECURITIES AND INSURANCE) BILL, 2019**

Order for second reading read.

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

That a Bill to amend the Financial Institutions Act, Chap. 79:09, the Securities Act, Chap. 83:02 and the Insurance Act, No. 4 of 2018, be now read a second time.

Madam President, the Bill before us is certainly one of significant import, if not one that indicates that import by the brevity of the legislation in its proposed form. The Bill proposes, in simply four clauses, amendments to the following laws: the Financial Institutions Act, the Securities Act, the Insurance Act. These amendments are coming, Madam President, borne on the back of recommendations which our country is asked to apply in its compliance with the Financial Action Task Force recommendations and also the Caribbean Financial Action Task Force recommendations. For the benefit of those who are listening, through you, Madam

President, I am able to remind the country that Trinidad and Tobago stands as a member of what is referred to as a FATF-style regional body, an FSRB. The FSRB, which we are a member of, is called the Caribbean Financial Action Task Force, and that entity, the Caribbean Financial Action Task Force is a member itself of the Financial Action Task Force.

The Financial Action Task Force is a body comprising 190 members with several FSRBs, because there are FATF-style regional bodies in different parts of the world. There is one in South America called GAFILAT. There is our grouping called CFATF, which is the Caribbean version. We have the MENAFATF, which is the Arabian countries. We have the ACP, which is the Asian/Pacific, et cetera. We have MONEYVAL, which is the European version. So these subset FATF-style regional bodies themselves have members.

In our basin we have 25 members in the Caribbean Financial Action Task Force. So that 190 is comprised of entities which have entities of their own. Our CFATF, as a member of FATF, we have 25 members ourselves. The process of applying the world view contained in the United Nations resolutions, in particular the Palermo Convention and other conventions of that type, those conventions were birthed at the United Nations, and, effectively, the conventions which treat with stamping out corruption, money laundering and terrorism, those conventions were adopted by the G20 countries. The G20 countries caused the creation of the Financial Action Task Force and they came up with 40 recommendations, evolved over time into 40, and they came up with immediate outcomes, 11 of them.

Essentially, these 40 recommendations are recommendations to tell you, starting off with recommendation number one, that you have to have a national risk

assessment. Every country must assess its risk in relation to exposure to money laundering, corruption and financing of terrorism. And then the other recommendations treat with your international cooperation, how your laws operate, and then they specifically dive down into the need for technical compliance; that is, having laws on the books of your country to treat with certain offences: anti-terrorism laws, money laundering laws, corruption laws, proliferation financing laws. So these 40 recommendations are driven in large part to say: Do you have a law to treat with this? The immediate outcomes are: Do you have something to show as an immediate outcome from having that law? So, in other words then, the Financial Action Task Force is looking at, do you have a law and is it effective? That is what the recommendations and outcomes mean, “IOs” and “recs”, as we call them in that world.

The world body decided that the best way to have these things implemented and tested and made effective was to agree that we will undergo something called “mutual evaluation”. In the Caribbean Financial Action Task Force we say to the other countries in the basin: Look, you come and assess us; we will agree to be assessed; we will cooperate with you; bring “de fellas on de block” who know, from other jurisdictions, bring some third-party observers, bring the Financial Action Task Force, bring some independent countries—referred to as cooperating nations; we call them COSUNs—bring France, bring the UK, bring whomever are in the pool of COSUNs, come and assess us.

Trinidad and Tobago underwent First Round Mutual Evaluation, Second Round Mutual Evaluation; we started a Third Round Mutual Evaluation, but the world does not wait for you to decide when you are finishing your mutual

evaluation, they put you on a timetable and then they urge you to be completed within a specific period of time.

So, Trinidad and Tobago was undergoing its Third Round Mutual Evaluation when the UNC was in office. We had not completed our Third Round Mutual Evaluation, and that Third Round Mutual Evaluation was: Do you have laws technically on your books? We, Trinidad and Tobago, had the distinct pleasure of being the Deputy Chair of the Caribbean Financial Action Task Force; that is no small position. You serve as Deputy Chair for one year, you are in active participation in the exercise of mutual evaluations, you are in the heart and soul of CFATF and in FATF, you are representing your country, but you are representing—in those days there were 27 countries, it is now 25. We were representing 27 other countries and our Deputy Chair was Anand Ramlogan, Attorney General; one whole year as Deputy Chair. In that period of time the UNC elected that Trinidad and Tobago should forego completing its Third Round Mutual Evaluation, roll it up and start the Fourth Round Mutual Evaluation.

Now, the entire world was, at that point, now coming to Fourth Round. Third Round is technical compliance: Do you have a law? Fourth Round is: Do your laws demonstrate efficiency and effectiveness? Do you have something to show? Do you have a law for money laundering? How many convictions you have? You have a law for beneficial ownership? How many people are registered as beneficial owners? They are coming to check you. They are testing you.

Our Government then, the United National Congress said, “You know what, forget the fact that we did not finish the Third Round Mutual Evaluation, doh worry with dat. Let’s start the Fourth Round Mutual Evaluation at the same time,

and, you know what, let's go better, let's be the first country in the world of CFATF to undergo Fourth Round Mutual Evaluation, and let's be one of the first countries in the globe to undergo Fourth Round Mutual Evaluation.”

So Attorney General Anand Ramlogan, Deputy Chair of the Caribbean Financial Action Task Force, Mrs. Kamla Persad-Bissessar as the Prime Minister of Trinidad and Tobago, the Minister of Finance, Mr. Larry Howai, and the Minister of National Security, playing a much lesser role in that division, but really it is Finance and Attorney General and Prime Minister formed this decision because there is something called an interministerial committee. We therefore went into Fourth Round Mutual Evaluation, and we said to the world, “Come and check us out, conduct your examination of Trinidad and Tobago, our doors are open.” They came to Trinidad and Tobago in January 2015, and they unleashed the Fourth Round Mutual Evaluation.

The Government changed, September 07, 2015; September 9th a new Attorney General was appointed. I therefore became the Deputy Chair. The first week in November I became the Chairman of the Caribbean Financial Action Task Force, but fortunately I came in with a corporate/commercial, corporate background, litigious background and had a slightly different perspective from previous Attorneys General who came in with administrative law, public law and constitutional law backgrounds. We were able to hit the ground running. Trinidad and Tobago stripped down CFATF and rebuilt it back. We had a Chair, a Deputy Chair and an outgoing Chair. We improved the work product of Caribbean Financial Action Task Force by 400 per cent, because we took our employees from National Security and AG, we add them to the pot of CFATF and our country

rebuilt the Caribbean Financial Action Task and has been recognized as one of the leading countries in the world in terms of the work product that we have put down. [*Desk thumping*] It is not often I will give this story. I have spoken about FATF and CFATF on many occasions, this is the first time you are hearing it this way. When our report was published at the plenary in November 2015, as I came in as Deputy Chair, Trinidad and Tobago was on the table being assessed. Our report card was being made public. We failed all 11 immediate outcomes, failed.

We had five successes out of 40 in the technical compliance. We sat at that table demoralized and shocked—demoralized and shocked, because you know what happened next?—we were put on a compliance list publicly in the world. We were put into two forms of supervision. “Dey eh lock yuh up once, dey lock yuh up twice.” They said, “You, Trinidad and Tobago, you find yourself under review in something called the ICRG, the International Co-operation Review Group. You find yourself at every plenary that FATF is sitting down and you come and report on what you are doing, and you, Trinidad and Tobago, you give us a work plan with legislation and inputs and outputs, and if you do not meet that you are in more trouble.” That was not good enough, CFATF was required to put us into something called “enhanced follow-up”. So we had to find ourself at every CFATF plenary as well; FATF three times a year, CFATF three times a year, six times a year we are on the clock dancing and shaking and dancing and shaking, and the FATF methodology, which is applied, changes every plenary. Every plenary they tweak, they twist, they go, they tweak, they twist.

We committed to a work plan and our work plan was diligently performed. I cannot speak to it publicly, it is much like being in a joint select committee before

you publish the report. We were assessed by CFATF May this year, I cannot wait to tell you how we did in that because you would be proud, but I have to wait for the results to come out. This weekend, Sunday the 16th of June, 2019, I have to be before the plenary of the Financial Action Task Force coming to report on Trinidad and Tobago's performance of its action plan. Our action plan began—it is a three-year action plan, it began in June 2016, and we had until June 2019, to complete it.

And, hon. Members of this Eleventh Republican Parliament have participated in a number of pieces of law that we have passed as a group where we have treated with FATF regulations, recommendations and immediate outcomes, and at the same time we have also been improving the systems, moving the criminal justice system, plea bargaining, maximum sentence indicators, Criminal Division, Family and Children Division, computerization of courts, 77 per cent increase in judicial capacity, new buildings, rules of court, money laundering tweaks, anti-terrorism law, non-profit organization law, beneficial ownership law, registration of deeds law—you get the drift? We have been busy.

The Government has been very pleased to take limes and make lime juice with the terrible record that the UNC left us because it met our own agenda, and what we did was to up the ante. We added in civil asset forfeiture, explain your wealth legislation. We added in a number of tweaks to our laws to bring us into a different realm of following money, because when you follow money you are treating with money laundering, you are treating with financing of terrorism, you are treating with corruption. That is why we moved the Legal Affairs division under the Attorney General, we moved the Ministry of Justice under the Attorney

General, and we have done all of these tweaks, which we will boast about very shortly, because strategy is not strategy and everybody knows it, and our country is tired of hearing old talk, they want to see performance.

So we will unveil what we have done. We have one serious measure left which was only brought home to the table when we did a face-to-face of the joint group in April of 2019. So on the FATF realm I had to find myself in front of 23 experts from the whole rest of the world. Those 23 experts sat before us and they drilled us on the law: You have Companies (Amdt.) Bill? You have Non-Profit Organisations Bill? You have terrorist financing? You have amendments to the Anti-terrorism Act? Everything that we have done, but I want to say something here now—Madam President, what time is full time?

Madam President: You finish at 16 minutes past 5.00.

Hon. F. Al-Rawi: Thank you. Listen to this, sitting in front of the World Bank, France, Germany, England, FATF, and then the joint of assessors comprising Mexico, Spain, et cetera, all technocrats, as the first Attorney General who is an elected Attorney General and not an appointed Attorney General, after we left the room they said to me, you are the first technical Attorney General we have had appear before us that could actually handle what is coming at you. And they were pleased because we got to actually speak from a first-hand Executive point of view as to the Government's high level commitment behind the laws.

In this case here there was a technical Attorney General performing a political function as well. And they read out to us, hon. Senators, in interrogating us on this law that is now before us, they linked it to the Non-Profit Organisations Bill. And I want to just say this as I come into the Bill now, the Financial Action

Task Force joint group read out every statement that the Opposition had to say in Parliament on the Non-Profit Organisations Bill. They read out every negative comment and irresponsible statement because that is what they do, they read what is put out in the public domain and they expect that responsible parliamentarians will act responsibly. They cannot understand that people will just say something, vote yes today and vote no tomorrow. They cannot understand the concept of flipping and flopping, and I am saying this so that the world pays attention to the fact that the voices on the UNC bench unfortunately echo in other halls. So this particular Bill, as Sen. Hosein says, “Dais ah good ting”, they did not find it so good when they read your comments on the Anti-Terrorism Bill. [*Crosstalk*] It appalled them as to the volte-face that happened on that.

So let us be serious, I am putting today on the record serious issues our Parliament has scrutinized. The legislation before us treats with something called “proliferation financing”. Recommendation 7 treats with proliferation financing. What is proliferation financing? It is money which is supporting nuclear weapons, chemical weapons, biological weapons or things which are innocuous in their appearance like agricultural produce or—what do you call it?—chemicals in the agricultural sector; those things, ammonia, compounds, et cetera, they monitor those things—toxins, et cetera—to see if they can be used as weapons. And they say, in proliferation financing—

Sen. Richards: Thank you, AG, for giving way. Through you, Madam President, I looked at the list in this new paragraph (a) and I would be happy if you could help if there is a requirement to or if it is relevant in the listing that is provided here, and I am reading from the third line:

“...for the manufacture, acquisition, possession, development, export, transshipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons and their means of delivery and related materials...”

—in the context of proliferation and the fact that some jurisdictions are actually adding or considering adding digital weapons because of their ability to disrupt critical infrastructure. And, also, as I am still on my feet, if you could possibly consider providing for Members of this honourable Senate, a list of the previous requirements, those that we have made progress on and those that are still outstanding as we seek to become fully compliant in our assessment. Thank you.

Hon. F. Al-Rawi: Thank you, hon. Senator. I cannot provide that list yet until it is made public because I cannot—it is not public until they tell me I can publish. It is like premature publication in our joint select committees. We in the joint select committee know what happened but we cannot say it yet until the report is laid. So I have to wait for that report and that report will tell us where we are and how well we have done, and I am itching to say it but I cannot. And I will get to the digital disruption in just a second.

So proliferation financing is something which Recommendation 7 and Immediate Outcome 11 treats with and they tell us we need to treat with these particular laws. In 2015 when we were assessed, and our 2016 report card, we were non-compliant entirely in proliferation financing. We came to this honourable Senate, we came to the House of Representatives and we took avail of an existing piece of law, the Economic Sanctions Act, and under the Economic Sanctions Act the Parliament has the authority where the President makes a

publication and the President affirms an order that is to be applied in the circumstances that the order sets out to limit your economic business with certain countries, which is exactly what proliferation financing requires. So we came to the Parliament, Her Excellency the President had orders which were laid. We debated those orders. We affirmed them, we put them into law and they treated with two particular countries. They treated with the Islamic Republic of Iran and they treated with North Korea. Why? The existing UNSCR, the United Nations Security Council Resolutions 1718 treats with the North Korean republic and 2231 treats with the Islamic Republic of Iran.

We were required therefore to implement those UNSCR Resolutions into our law, we did that via the Economic Sanctions Act. We did it by the orders. Those orders as law basically replicate the listing provisions that we have in our Anti-Terrorism Act where the Attorney General will list the entities that the United Nations says has to be listed. Since we have listed those laws we have already had 80 individuals and 75 entities under UNSCR 1718, that is North Korea, and we have dealt with 23 individuals and 61 entities under UNSCR 2231, which is Islamic Republic of Iran. Very importantly the Irani situation is less volatile than the North Korean situation. There is a lesser application of sanctions against Iran, and our orders permit for those purposes.

The remodelled FATF methodology said to us, “It is not good enough that you have a law which now treats with Recommendation 7, proliferation financing, we want you to actually ensure that you are implementing the monitoring and evaluation of that law”, and so that is why we are before you now. We are before you now because when we got notice of this in May we had to craft a new law,

pass it through stakeholder consultation and lay the Bill now. Now, I am taking time to set out how this happens to let you know this is not last-minutedness, this is when they tell us, we tell us; we get consultation and we come to the Parliament.

So, it is not that the Government comes last minute on these things at all, we are on the ball, we are required to be on the ball, but I do not have room because I have to be in Orlando on the 16th, this Sunday, to report as to where we are. The legislation before us effectively asks us to amend the Financial Institutions Act, securities legislation and the Insurance Act. Why? Because these entities are co-regulators alongside the FIU. The FIU has guidelines and positions. It regulates the entities which fall under its purview which are listed in the Fifth Schedule to the Proceeds of Crime Act, lawyers, real estate agents, et cetera, et cetera. The insurance regime is run by Central Bank as the Supervisor of Insurance under Act No. 4 of 2018. The securities industries laws are regulated by the SEC, the commission, and, obviously, the Financial Institutions Act has the Central Bank with focus on financial institutions.

So, tying in the amendments that we have here before the hon. Members is the matrix, number one, in each of the Acts we insert a definition of proliferation financing. For the first time in those laws we introduce proliferation financings under the Economic Sanctions Act. So we have a definition already. This definition is borne from Recommendation 7.3 as it has been updated in February and disseminated post-May of this year to us as an FSRB, a FATF-style regional body; that is CFATF.

So you would see the Financial Institutions Act, you would see the Securities Act, Chap. 83:02; you would see the Insurance Act, No. 4 of 2018; in

treating with these things we are introducing the definition of proliferation financing, and then what we do is we basically go to the provisions that treat with monitoring and compliance. Under the FIA we are treating with section 10 which deals with guidelines; section 33, persons debarred from management; under the Securities Act, we are dealing with section 6 which deals with functions of the commission; section 57 which issues of warning; section 58, revocation of registration; section 87, recordkeeping; section 89, compliance reviews; section 90, compliance directions; section 146, guidelines. Under the Insurance Act we are dealing with section 34, which is revocation of registration; 65, persons debarred from management; section 121, revocation of registration; section 136, financial statements of intermediaries; section 147, audit of returns, and section 278, guidelines. Those particular sections of those three laws are where we have to now triplicate the things to be supervised. Obviously we know them by now, Proceeds of Crime Act, Anti-Terrorism Act, they are there already; we needed to add in Economic Sanctions Act, that is what we are doing.

Secondly, we must add in the subsidy legislation, the regulations which are made under those laws. The civil law countries believe in being prescriptive in language. In other words then, the people who are assessing us like to see more. The Commonwealth countries are very—how should I say—understated in their expression of law and they go for framework. Our Interpretation Act says that if you have a parent law to be complied with, all subsidiary instruments, subsidiary legislation are caught by that, that is axiomatic for the common law lawyers, but for the civil law lawyers they want to see prescriptions. So we have now added in, in express language, that you must comply with the Proceeds of Crime Act, that

was there already; the Anti-Terrorism Act, that was there already, we are adding in the regulations there, subsidiary legislation, and now we are adding in the Economic Sanctions Act and its regulations.

Across the categories that we are treating with in these pieces of law, we are effectively saying, “If you breach the law you cannot be a member”; the obvious things, which is why I read the heads of what the sections are equal to. Guidelines must relate to you, audits of returns must relate to you, financial statements of intermediaries must check for compliance and monitoring. There must be a revocation of registration if you have breached the law for economic sanctions, not only just POCA and the Anti-Terrorism Act. Persons are to be debarred from management, not just money launderers and convicted people there in anti-terrorism, also now economic sanctions, and that is just to give you an example under the Insurance Act, No. 4 of 2018. It is replicated in the Securities Act and replicated in the Financial Institutions Act, and what we really do now is we harmonize this with the Financial Intelligence Unit, legislation which governs us.

5.00 p.m.

So in effect, Madam President, we are taking a necessary step to achieve effective compliance, technical compliance with Recommendation 7.3 of Recommendation 7. We are satisfying Immediate Outcome 11 of the FATF methodologies. The good news is we have things to show, because we have operationalized the law already. We have gone to the courts, we have done the Orders, we have done the listings for hundreds of individuals and entities.

When we inherited the Anti-Terrorism Act, which was law since 2010 under

the UNC, not a single entity was listed under the Anti-Terrorism Act, not one. So our grade for effective implementation was zero out of 100. In November 2015, when this Government took the reign of authority, we did our first listing. The first listing we did was Kareem Ibrahim, listed as a terrorist in the United States of America. We have since crossed 400.

Hon. Senators, you will be pleased to know as will the country, Trinidad and Tobago's laws for anti-terrorism are now the model laws for the Caricom region. More particularly, Trinidad and Tobago's recommendations coming from the Government as to how that law is to be improved, are accepted. I remind that because the Opposition refused to support certain amendments when we needed their support in a three-fifths majority, so we flagged it up and said, listen, our law could have gone a little bit further, but we were constrained by our Opposition because they were playing politics with the law.

The position in relation to our effectiveness, we have 100 out of 100 in points, and our model of effective application of law is now applied across the whole CFTAF. So we are not doing anything other than our best in this arena. We are viewed on the world stage as a country that is a proud successful entity. We are not out of the woods. You never truly come off the list because the list continues to evolve. And you know what? The list ought to evolve. Why? Terrorism mutates, money laundering mutates, proliferation financing mutates.

I am sure that hon. Senators would remember when the big deal in terrorism was the hijacking of a plane. Then the big deal became biological weapons in the form of cyanide and other positions in letters, or toxins in the mail, and then the big thing became bombings, and then the big things became crashing planes and

acts of terrorism. So terrorism mutates, and as the Isis army is pushed backwards and as the concept of foreign terrorist fighters splinter back to home territories with returning foreign terrorist fighters, terrorism is mutating again, and that is where vigilance in our financial sector becomes an extremely important consequence.

I wish to pay compliment to the Financial Intelligence Unit and all listed entities, because under this Government you would note, we were able, because of additional resources in the FIU in particular, to move the reporting of suspicious activities and suspicious transactions. In the period 2010 to 2015, that aggregated roughly \$4.5 billion. All the suspicious transaction reports (STRs), all the suspicious activity reports (SARs), when aggregated as a dollar figure for the entire period 2010 to 2015, that dollar figure was \$4.5 billion.

One year after the UNC came out of office, the aggregated figure for the period 2015 to 2016 was \$22.5 billion in suspicious activity and suspicious transactions. Let me repeat that, one year was \$22.5 billion. We will account for that in the public domain soon enough, as to how that happened and what it relates to, but that is for another forum. Maybe that is for two other forums.

So, hon. Senators, the work before us is targeted, it is really quite simple. It has dynamic effect because it goes to an issue which concerns us all.

Madam President, I look forward to the contributions of hon. Senators. I am open to understanding what could be amended in this, but genuinely speaking I respectfully do not see that position yet. I must deal with the issue raised by Sen. Richards which is the digital aspect. That falls under a different realm of consideration. Here, we are bound by the UNSCR obligations, and they have categorized how they treat with things. So the Palermo Convention deals with one

thing. UNSCR 2231 is different from 1718—if I remember the number right. Is it 1718? Yes. It is different from UNSCR 1718, and they have confined it within the definition of “proliferation financing” as we have offered here. This is taken from the FATF methodology recommendations. It is harmonized with our Economic Sanctions Act and Orders. The Act allowing for the Orders and the Orders providing for this.

The aspect of attack to critical infrastructure, et cetera, as we know, we are considering that in a different forum where we are looking at cyber security and cybercrime, where we treat with the economic attack to Trinidad and Tobago, which could be an act of terrorism obviously. Shut off the lights, the water and the banking system and there is chaos. What was that *Die Hard* movie, *Die Hard 4*? Somewhere around there; I forget which one. But it is a real concept of cyber-attack to destabilize an economy and a world.

So, hon. Senators, I commend this legislation for your consideration and, Madam President, I beg to move.

Question proposed.

Sen. Wade Mark: Thank you very much. Madam President, the matter at hand this evening addresses more or less anti-terrorism measures along with money laundering, but we would realize that from what the legislation indicates here today, it is about ensuring that consistent with Recommendation 7 of the FATF standards, all countries that are associated with this organization are supposed to assist and implement measures that would look and examine the whole issue of proliferation financing, related targeted sanctions made under the United Nations Security Council resolutions, and other recommendations.

So today we are here looking at out of 40 recommendations, Recommendation No. 7, Outcome No. 11 and to some extent, Recommendation 2 which, Madam President, requires countries to put in place effective national cooperation, and we appropriate coordination mechanism to combat the financing of proliferation of weapons of mass destruction.

I want to refer to “FATF Guidance on Counter Proliferation Financing”, which is a document produced by FATF on the implementation of financial provisions of the United Nations Security Council Resolutions to counter the proliferation of weapons of mass destruction.

Madam President, before getting into some of the clauses of the legislation before us, may I say that it is extremely worrying and troubling, it is almost bordering on abuse, when we on the Opposition Bench are summoned to a Senate sitting to deliberate on matters that would have been tabled less than 24 hours before deliberations in this Chamber. This is undemocratic. [*Desk thumping*] This, Madam President, to us is an undermining of not only us being able to properly study and analyze the measure that we are debating here today, so that we can give the public proper information based on our research and analysis of this measure, but it is really making a mockery of our democracy. [*Desk thumping*] So I wanted to put on record our complete dissatisfaction, disappointment and abhorrence of the Government’s continued abuse of the process by bringing legislation at the eleventh hour for us to debate in this hon. House. Nevertheless we are called upon to do our duty even though we would not have gotten the kind of time to study the material in the way that we would have liked.

Madam President, I have in my possession a document called the “Anti-

money laundering and counter terrorist financing measures Trinidad and Tobago”. It is a Mutual Evaluation Report dated June of 2016. The Government of Trinidad and Tobago that is now in office would have been in office when this report would have been published and circulated.

Madam President, we are told by the Attorney General that experts and FATF officials were very concerned about our Parliament, and about positions being taken by the legitimate and official Opposition of this country. But when the officials of FATF understand that we are called upon today, after having a Bill tabled yesterday, to deliberate on a matter of importance to take our country out of the grey list, so that we can get out of all the risk or risks that would be associated with being on that grey list, we are called upon to deal with measures, as important as they may be, in such short order, I would hope that members of FATF in which the Attorney General said he has been applauded for being the most technically efficient member that ever faced them, I hope that FATF would be able to appreciate that in Trinidad and Tobago we are governed by a Constitution, and we have to ensure that the rights of the people are not abrogated, infringed, breached or violated. That is what we are committed to protecting.

Madam President, let me go to this particular report. This report which the Government had in its possession since 2016. We are now in 2019. In this report under a section called “Priority Action”, I want to quote for you what we were asked to do in 2016 and to do it in a very expeditious manner.

We were told, and I quote on page 9 of this report, to develop:

“A comprehensive policy on the implementation of measures for targeted financial sanctions related to terrorism and terrorist financing needs to be

done.”

It goes on to say that the Anti-Terrorism Act:

“...needs to be amended to provide clearly for requirements of the recommendations pertaining to designated persons, listing and delisting requirements, freezing and other...measures in keeping with the obligations of the UN Sanctions regime.”

This was in 2016—June 2016.

The Government rushed a couple weeks ago with orders and a Bill on economic sanction, and today we have this provision to give effect to that measure. Why did it take the Government June 16th to June 17th, June 17th to June 18th, and June 18th to June 19th? Almost three years it took the Government to take action to bring legislation to give effect to this particular measure that was given priority attention in the mutual evaluation report of 2016? It does not stop there. We were instructed and asked to prioritize the following. Develop:

“A comprehensive policy on proliferation of financing of...”—weapons of mass destruction.

That is what we were told.

Madam President, it did not stop there. We were asked as a member of FATF to ensure that financial institutions, primarily credit unions—and we have measures before us today that deal with the Financial Institutions Act, we are dealing with the Insurance Act, we are dealing with the Securities Act. But here in the FATF/CFTAF recommendations of June 2016, they are calling on Trinidad and Tobago to ensure that financial institutions, primarily credit unions and SIFIs—that is the abbreviation or acronym for some body I would imagine:

“...take immediate steps to identify and verify the beneficial ownership of all accounts including legal entities and arrangements that were in place prior to the FOR amendments which required RDD and take corrective action...”

Madam President, I would like to ask the Attorney General when he is winding up why we have not taken measures consistent with the recommendation and priority action outlined in the FATF Mutual Evaluation Report to focus on credit unions. Because, Madam President, you know we have a lot of credit unions in this country. Very powerful credit unions, some with an asset base of over \$2 billion, and they pay out hefty dividends on an annual basis, and it is a good area for money laundering.

So I would like the Attorney General to explain to us why action has not been taken, and nothing brought before this honourable House to deal with the matter of the credit unions, as we were instructed to do in this particular report.

Madam President, when you look at this report you would see that many measures were supposed to be taken by the Government over the last three years. But it has become a practice and a habit on the part of this Government and the Attorney General to come last minute. [*Desk thumping*] And you cannot tell me that FATF is responsible for that. To tell us that you met in April with FATF and experts asked you about what law you passed, these are the laws you have passed and you have this one to complete and that one to complete. That may be sounding good for the Attorney General and his friends and experts, but when it comes to the Parliament, we have to have respect for this institution.

So, Madam President, I am very concerned about recommendations that we

have been asked to implement and to effect by FATF, and we have not attended to some of them and those that we are attending to are coming very late in the day.

There is something that is extremely important. When you look at the measures that have been proposed in this piece of legislation, the Financial Institutions Act, and we look at the concept under the Financial Institutions Act, clause 2, the definition of “proliferation financing”. Madam President, it tells you what this means. Among other things, for the public of this country, I will want to quote exactly what we have in the legislation.

“‘proliferation financing’ means the act of providing funds or financial services which are used, in whole or in part, for the manufacture, acquisition, possession, development, export, transshipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons and their means of delivery and related materials, including both technologies and dual-use goods...”

And anyone using, or let me just repeat:

“dual-use goods used for non-legitimate purposes, in contravention of any written law or, where applicable international obligations;”

Madam President, I read out this to bring to your attention the need for us to pay attention to the whole question of export control systems and internal control systems. May I advise that there is a document that I have in my possession, it is called, “Combating Proliferation Financing”. It is a status report on policy development and consultation. It is dated, of course, February 2010. Now, it might of course be dated but the information is very relevant today. What this report from FATF was advancing is that if we are going to deal with proliferation

financing, there is need for us to pay attention to export control systems.

In that regard they make reference to the need for countries to pay attention to certain resolutions, and to become part of the non-proliferation treaties. This brings me to a very important point. So it is not only export controls, but it is also domestic measures to control this question of proliferation financing so that we do not get funds going into the manufacturing and/or production of weapons for nuclear, for chemical and for biological purposes.

Madam President, I want to bring to your attention a matter that is related to what we are dealing with. It is the Biological and Toxin Weapon Convention. I do not know if the Attorney General is aware that Trinidad and Tobago ratified that convention back in 2004/2005 and translated that convention into legislative clothing in 2012. Madam President, from 2012 to 2019, an important piece of legislation was passed in our both Houses of Parliament to give effect to this convention. To date, as we speak, that law has not been proclaimed; it has not been proclaimed. The regulations have not been tabled in the Parliament, but here we are dealing with the whole question of proliferation financing and we are talking about stockpiling or the use of nuclear, chemical or biological weapons.

We must never forget that Trinidad and Tobago at one time, it was reported, had over 400 of its citizens engaged in terrorism activities because they were members of the ISIS group fighting in Iraq and in Syria. We had about 400.

Hon. Al-Rawi: That is not true.

Sen. W. Mark: We understand. I am saying it was reported that we had about 400.

Hon. Al-Rawi: That is not true.

Sen. W. Mark: You will tell us how many it was. You cannot speak whilst I am speaking.

Sen. Gopee-Scoon: Hold on. Listen.

Sen. W. Mark: So this is what was reported to us. The AG and the hon. Paula Gopee-Scoon will have an opportunity to speak and bring the facts to the table. I am saying it has been alleged. It has been reported that we have over 400 fighters in Syria and in Iraq.

Let me indicate something here. How can we effect these measures in the way that we are seeking to effect them, through the passage of this law this evening, if the Government does not have the appropriate control mechanisms in place to properly monitor these activities that we are talking about.

Madam President, let me bring to the attention of this honourable House, there are over 175—I am informed—laboratories operating in Trinidad and Tobago today. Those laboratories are not accredited nor are they licensed.

Madam President: Sen. Mark, we are nearing the time when we are going to take the break, but I am not following your argument right now as it relates to the definition I am seeing for “proliferation financing” in the Bill. Just giving you a caution.

Sen. W. Mark: Madam President, I want to indulge you and engage you because this has a definite link, because remember we are signing up and we have signed up to international treaties and conventions. We are a party to the UN resolution on this whole question about weapons of mass destruction, and we are also committed to ensure that non-State actors do not come in possession of what is called weapons of mass destruction. So what it means, we have to avoid the kind

of chemical or the kind of materials getting into the hands of those non-state actors.

I am making the connection to the fact that in this country there are over 175 laboratories that are not licensed, that are not accredited and that may be funded and financed by forces that can have evil intentions in our country. If that is the case, what mechanisms do we have in place to ensure that those laboratories do not produce bombs as, for example, if they are not licensed? If those laboratories are not licensed and the State does not have a national regulatory framework—

Madam President: At this stage we are going to suspend the sitting, but please when we resume I am just asking you just to look at the definition of “proliferation financing”, okay?

Hon. Senators, we will suspend the sitting and return at 6.00p.m.

5.30 p.m.: *Sitting suspended.*

6.00 p.m.: *Sitting resumed.*

Madam President: Sen. Mark. [*Desk thumping*]

Sen. W. Mark: Thank you very much, Madam President. Madam President, I know that I have made my point to you and to the honourable Senate as it relates to the nexus between this question of proliferation of financing, and what I would like to appeal to the hon. Attorney General is to look into that whole question about the biological and toxin weapon convention, and particularly those laboratories in our country that are unlicensed and that are not accredited.

Madam President, the amendments that we have before us that deal with the Financial Institutions Act, as well as the Securities Act and, of course, the Insurance Act, you would realize that they are almost a replication of all three sets as similar in nature and they all seek to achieve the same objective at the end of the

exercise. I want to make—the legislation is seeking to ensure that these very important financial institutions have a responsibility of ensuring that those actors in the market place, whether they be under the Financial Institutions Act, whether they come under the Insurance Act or the Securities Act, that they are not in any way using the facilities of state in order to promote and to engage in what is called proliferation financing.

Madam President, the question I would like to raise as it relates to their new responsibility, re what is called Economic Sanctions Act or orders, and as you know, Madam President, these economic sanctions/orders, coming under the Economic Sanctions Act along with the accompanying regulations, are directed at this time at two main parties. We are talking about the Democratic People's Republic of Korea, what is known as North Korea, and the second one is the Islamic Republic of Iran. So the whole objective of the measures before us this evening, is to ensure that whether it is terrorism, whether it is financing in terms of proliferation financing, weapons, stockpiling of same, be it nuclear, chemical or biological, do not find their way or are delivered in any way or related sense in terms of materials, technology, dual-use goods to these parties involved.

But most importantly, under the UN Security Council resolution, one of the obligations of member states like ours is to ensure that these weapons that we are referring to, do not ever end up in the hands of non-state actors, I think that is very important.

Now, the institutions that have been addressed in the legislation, Madam President, which are the three that I have mentioned, what we need to clarify this evening, would be the kind of mechanisms, the kind of monitoring mechanisms

that will be put in place to ensure that there are no cracks created so that, for instance, what we are trying to avoid would, in fact, would not happen or would not take place.

Madam President, we know some of these institutions as we speak today, the Securities and Exchange Commission which falls under the Securities Act, we know that they have a lot of critical responsibilities to carry out under the Act, but we also know, Madam President, that there have been a lot of activities taking place in Trinidad and Tobago on the Stock Exchange in that arena that leave a lot of room for concern, and that is why I would like to ask the Attorney General, whether a special monitoring mechanism—we know the Central Bank will deal with the institutions that fall under the Financial Institutions Act and they will be monitoring what is going on at the commercial banks, Madam President, and also non-bank institutions that may be falling under their direct control.

We know that the Insurance Act will ensure that all insurance companies would fall under that particular institution as well, and they will have to issue the necessary guidelines and regulations to ensure that these institutions do not run afoul of what we are dealing with when it becomes law.

Madam President, we would also like to know and get from the Attorney General, are regulations, and when regulations and guidelines will be effected to give some kind of guidance, some kind of direction, to those institutions that would fall under this piece of legislation that we are dealing with, the Economic Sanctions Act and the Orders accompanying that particular piece of legislation. That is very important for us to appreciate and for us to ensure materialize.

Madam President, the Attorney General also in his presentation made

reference to the United National Congress and particularly the Government when it was in office between 2010 and 2015, and made a statement that the Government or the party in Government at that time, was engaged in what is called politics. In fact, he said the Government at that time was playing politics with this whole question of CFATF and all the recommendations that we had to address, and therefore not bringing laws to the Parliament to effect same.

Madam President, I want to tell you that when the United National Congress was in office, I recall distinctly that the former Prime Minister, who will become the next Prime Minister [*Desk thumping*] shortly, I distinctly recall that that particular Prime Minister stood up in defence of anti-terrorism activities, not only in Trinidad and Tobago, but throughout the world, and no other person than the distinguished former President of the United States piloted and promoted a special United Nations Security Council resolution.

Madam President: Sen. Mark, I have to caution you that that is not relevant to the Bill. Really, I have been giving you some latitude, but in your last few minutes you need to be a little more specific to the Bill. Okay?

Sen. W. Mark: But, Madam President, I have the right, and you will guide me on this, if the Attorney General makes a statement that is very injurious to the Opposition, is the Opposition not entitled to respond to the Attorney General? So whilst we may not be, Madam President, referring directly as “he”, [*Interruption*—no, I am not challenging the President, I am just saying, Madam President, that I am seeking your guidance because the Attorney General did make a statement and I am simply responding to clear the air on the statement that was made by him. So I am not doing anything to run afoul of relevancy, 46(1), I am

not dealing with that.

I just felt that I owe it to this Parliament and to your good self and to this country to, at least, set the record straight, that it is unfair for the Attorney General to have accused the then Government of only playing politics when it came to the recommendations, the 40 Recommendations and the 11 outcomes as it relates to FATF, re what we are dealing with. And what are we dealing with, Madam President? We are dealing with money laundering still, we are dealing with anti-terrorism, we are dealing with proliferation financing, and within that context we are looking at the measures of economic sanctions, the orders and the regulations. These are the matters that we are dealing with, but the hon. Attorney General, Madam President, took the opportunity to take a swipe at the UNC, as he is entitled to, he is entitled to take a swipe at us, but I am on behalf of the Opposition also entitled to rebut the statement made by him. [*Desk thumping*]

So, I am saying it is wrong for the Attorney General to tell us and to tell you and this honourable Senate that the UNC was only engaged in politics when it came to this matter of FATF and CFATF.

Madam President: Sen. Mark, you have five more minutes, and having elaborated on that point, I would ask you now in your five minutes to just bring together your points on the Bill at hand.

Sen. W. Mark: Madam President, you would understand that we are at a great disadvantage here, and you of all persons are supposed to help us, because they only gave us a few hours to deal with this measure. And as you know, I am a person who will always fight in defence of the people's rights although they did not want us to talk today [*Desk thumping*] but we had to do our work and we are

doing our work as best as we can, but I am being guided by you, of course, and I respect you.

Madam President, may I say that when we pull all of the strands together, what we can say is simply this. The Attorney General and the Government have spent almost four years dealing with these matters and they have always come at the last eleventh hour to get our support for these measures as they are doing today. What we are saying, Madam President, is this.

We will always do what we have to do to in support of measures to take Trinidad and Tobago off the grey list. We are committed to taking Trinidad and Tobago off the grey list and the hon. Attorney General, I am sure he got advance knowledge that when he goes to Orlando next Sunday as he told us, he is going to report back to us in the next couple of days when he returns, that our rating would have gone up and we will be in a better place, I am sure we will no longer be in the grey zone. We will be coming out, Madam President, I believe from what the AG is telling us, in a positive light, and that is why he is saying that he knows what is going to happen but he cannot reveal it.

So, I am hoping, Madam President, that whatever opposition, whatever concerns that we would have expressed as it relates to the legislation governing FATF and CFATF, it was always in the interest of the people of our country. And in that context, the measures that we have here today dealing with the Insurance Act, dealing with the Securities Act, as well as the Financial Institutions Act, we know that they are all designed to strengthen our presence on the world stage, and to ensure that at some rate or the other, Trinidad and Tobago will in fact be able in the not-too-distant future, to find itself out of that zone, as I call it, the grey zone.

With those few words, Madam President, I want to thank you for giving me the opportunity to say a few words on this very important matter. Thank you very much, Madam President.

Madam President: Sen. Vieira. [*Desk thumping*]

Sen. Anthony Vieira: Thank you, Madam President. I think before I begin the substantive contribution, it might be useful to just highlight two things. First, the definition of “proliferation financing”. This means:

“...the act of providing funds or financial services which are used, in whole or in part, for the manufacture, acquisition, possession, development, export, transshipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons and their means of delivery and related materials, including both technologies and dual-use goods used for non-legitimate purposes, in contravention of any written law or, where applicable, international obligations;”

It also is important to understand that we are talking about economic sanctions, and economic sanctions are commercial and financial penalties which are applied by one or more countries against the State, and as we know they may include tariffs—we hear a lot about tariffs these days, barriers, restrictions on financial transactions. In international affairs today, economic sanctions are now the tool of choice rather than warfare and other means of moving forward, and there is a whole talk now about smart sanctions, but that is a different topic.

Anyway, the purpose of this legislation is to comply with our international obligations, and in particular the United Nations Security Council’s imposition on member states to implement United Nations sanctions, to exercise continued

vigilance over businesses potentially connected with prohibited activities, and especially to implement proliferation controls that would prevent non-state actions from acquiring weapons of mass destruction.

Now, to appreciate the significance of this legislation it might perhaps be helpful to put things into perspective. Under treaty law there are essentially two different traditions and approaches, monism and dualism, and in states with a monist system, a treaty automatically becomes law, it does not need to be translated or incorporated into the national law.

So in those states, treaties are self-executing and it will allow national courts to apply and adjudicate on them without further ado, once they have been ratified. That is not us, we subscribe to the dualist tradition, and under the dualist approach, no special status is afforded to treaties. So in other words, even though we sign all of these international treaties and conventions, they do not apply domestically in our law. The rights and obligations created by treaties have no effect in our domestic courts, unless special legislation is brought giving effect to those treaties in the national law.

So even though we are a member of the United Nations and are obliged to comply with the United Nations Security Council's injunctions, and we are obliged to implement proliferation controls, first we have to translate the applicable provisions into our national legislation before they can be properly operationalized and applied in our national courts.

Now, that raises a whole host of broader questions about treaties which we negotiate and do not sign, about treaties which we sign but do not ratify, and about treaties which we ratify and do not properly or fully operationalize into our

domestic law.

Today, we live in an interconnected world and treaties are fundamental, but as someone with an international relations background, I have to say, we do not pay sufficient attention to the treaty-making process, and the whole treaty system is weak in many respects. For example, our treaties are not scrutinized or debated in Parliament. Under the Economic Sanctions Act at section 11:

“There is established, for the purposes of this Act, a Joint Select Committee of Parliament to be known as ‘the Joint Parliamentary Committee on Economic Sanctions’.”

I do not know if that exists, so there is a disconnect.

Be that as it may, what this Bill seeks to do is to fill gaps in the legal and regulatory framework for implementing proliferation financing controls. This legislation recognizes the need for government, public authorities and the private sector to work together. Working together means sharing information and coordinating in an integrated way when dealing with anti-money laundering, terrorist financing and proliferation financing.

This legislation recognizes the need to recruit, to empower, and to accommodate our financial institutions, in particular the Central Bank, the Securities and Exchange Commission and the Insurance sector into, for want of a better expression, into a public/private partnership with appropriate proliferation financing controls. It recognizes that many financial institutions may not be well attuned to proliferation trends. As mentioned by both the hon. Attorney General and Sen. Mark, proliferation financing is targeted at halting the financing that is providing funds or financial services of weapons and especially weapons of mass

destruction.

This legislation will empower the Central Bank, the SEC to issue guidance to assist and raise awareness among our financial institutions, about the risks of proliferation financing, and it will assist them in complying with our international obligations.

A fairly significant proportion of proliferation activities use trade finance as a vehicle. And so special attention needs to be had for our finance and trade and insurance institutions, for example, when it comes to the giving of loans and extending credit facilities; to factoring, that is the purchase or discounting of a foreign account receivable for cash at a discount at face value; when it comes to giving guarantees and for providing insurance.

So this legislation is necessary because without it, we run the risk of being seen as a country with weak financial safeguards. And I do not want to minimize or depreciate what Sen. Mark has been saying about the weapons of mass destruction. I recognize Sen. Mark as someone with a very deep understanding and knowledge of that area, and I know we tend to blow it off and think, oh, that does not apply to us in Trinidad and Tobago, but no, not so. And weapons of mass destruction are not just about bombs and radiation and nuclear warfare, it can also pertain to everyday ordinary objects like a laptop, coffee, that can be adapted or used towards the making of weapons of mass destruction.

So one has to be sensitive and we have to train and guide our financial institutions to be able to discern, you know, how certain things may be taking place, whether it is in one of these laboratories that Sen. Mark spoke about or elsewhere, that can be implicated or involved in terrorist activities.

So the bottom line, the UN Charter imposes obligations on all its member states to implement the UN sanctions. The UN Security Council imposes a broad requirement on countries to exercise vigilance over businesses potentially concerned with prohibited activities.

Many financial institutions we recognize are challenged when faced with implementing country-specific sanctions, and so for the powers that be to properly go forward in meeting our international obligations, we need to operationalize the domestic legislation so that there is a proper legal framework for our institutions to be able to take the necessary and appropriate actions. And so that is my understanding of the purpose of this legislation, and with that, I thank you. [*Desk thumping*]

Madam President: Minister of Agriculture, Land and Fisheries. [*Desk thumping*]

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, thank you very much for the opportunity to joint this debate. And, Madam President, I am full of energy and very motivated after listening to Sen. Mark. I think the AG should be happy, Sen. Mark is excited about ensuring that Trinidad and Tobago complies with all the FATF requirements and so on, and he is ready to go.

Because, Madam President, once again, the Opposition really has me perplexed because there is this anxiety to reflect upon September 2015 to now, and question the urgency and the work programme of the Government, but I will just refresh the Opposition's memory.

In 2016/2017, we dealt with, in that time from '15 to '19—we have been here long, a lot of hours, but we had the Anti-Terrorism (Amdt.) Bill, the

Gambling (Gaming and Betting) Control Bill—I am sure you all are familiar with that—and the Insurance Act, the Bill, the 2016 Bill which we eventually passed in 2018 with your support and we thank you for that.

In 2017/2018, anti-terrorism, gambling, still with us, insurance, and Trinidad and Tobago Revenue Authority. And I am sure that you know the TTRA is an important component in our international obligations compliance, particularly with FATF, and we look forward to your support on that.

2018/2019 has been particularly busy. Civil asset recovery, I am sure you are familiar with that, an important part of what the FATF wants of us. The Companies (Amdt.) Bill, to treat with the issue of beneficial ownership; Gambling (Gaming and Betting) Control Bill, it is still with us; miscellaneous provisions Bill to deal with POCA and anti-terrorism financing; registration of deeds laid in the House to comply, again, with obligations relating to the opportunity to trace property, to deal with fraud, to deal with the opportunities that are now available—but with this legislation will no longer be available—to use land transactions, to move assets, to hide funds; and finally, the non-profit organization legislation.

Now, the NPO is a very interesting story in relation to this Bill and in relation to what Sen. Mark has to say, because the NPO has a very interesting record in relation to the FATF.

6.30 p.m.

You see, Madam President, my friends may have forgotten, but on October 29, 2010, a few months after they came into Government we had the third follow-up report on the Third Mutual Evaluation Report, and among the many things in that report was the NPO, and the record in that report in relation to the NPO is that

there are no requirements in legislation, regulations or other enforceable means to comply with this recommendation; so it was not there in 2010. Fourth follow-up report, May 2011, not there again; fifth, October 27, 2011, no compliance with the requirements for NPO, the same paragraph; sixth, May 12, 2012, nothing on NPO; seventh follow-up report, November 2012, nothing on NPO; eighth follow-up report, May 30, 2013, nothing on NPO; ninth, November 22, 2013, absolutely nothing on NPO; tenth follow-up report, May 29, 2014, still nothing on NPOs; eleventh follow-up report, November 2017/2014, nothing on NPOs.

In fact, by the time we got to November 2017/2014, Trinidad and Tobago had been non-compliant on 12 of the core of key recommendations. In the October 2010, we had been non-compliant on 11 out of the 16, and four years later we were non-compliant on 12 out of the 2016. And I have just used NPOs as one example, because if you are so anxious to meet the FATF, and you want to work hard, and you want to deal with this, 2010 to 2014 you had the third report, the fourth report, the fifth report, the sixth report, the seventh report, the eighth report, right up to the eleventh report.

So, Madam President, I do not think that the Opposition is being sincere, or at least not Sen. Mark. I do not think sincere in the criticism of the Government and sincere in dealing in the Opposition's own track record in relation to the compliance with FATF. In fact, Sen. Mark says we have a practice of coming to the Parliament at the last minute, and my response to that is that you have a practice of not coming to the Parliament at all. [*Laughter*] Even when we brought the NPO to correct your tardiness from 2010 to 2014, we had to drag you kicking and screaming to support us in that legislation, Sen. Mark talks about credit unions,

Recommendation 29. Well, Recommendation 29 has been there, you had your five years to comply with it, you did absolutely nothing about it.

So, Madam President, this is not complex legislation. Over a period of time—and I would get to that—Trinidad and Tobago has in fact been able to move from the first mutual evaluation in April 1995, the report, through to the fourth, we have been able to move towards the sort of compliance we should have, and what we are doing tonight, I want to use the word “retrofitting”. We are simply retrofitting existing legislation. This is not a case where we have to pass a brand-new piece of legislation to meet the requirements of CFATF or FATF. This is a case where we are asked to retrofit three pieces of legislation. And if anybody is finding it difficult to make 40 minutes or avoid tedious repetition it is because there is not a lot in this Bill. What this Bill seeks to do is one, and you could extend your time by talking about the three times we are using the same definition.

This Bill is retrofitting the Financial Institutions Act, the Securities Act and the Insurance Act by inserting in those three pieces of legislation a definition of proliferation financing, and you could extend your time by reading it out. I would not do that because Madam President would not allow me to do that. So that is the first thing we are doing, because we now have to ensure that the existing legislation addresses proliferation financing, we have to insert a definition in there, and I do not think anybody could argue with that. And I must say, Madam President, when you go through from 1995 straight up to the fourth round report, it is only between 2014 and now we see the requirement for anything relating to proliferation financing. So it is relatively new, but we are able to use existing legislation to deal with what we are required to do.

The second thing we are doing, Madam President, and you cannot do much about arguing this point. In order to comply we are cross-referencing certain things, and in clause 2(b) of the Bill, clause 3(b) of the Bill and clause 4(b) of the Bill, we are deleting some words and we are inserting some words, and in particular we are inserting the reference to Economic Sanctions Act or Orders made thereunder as they relate to proliferation financing. And I am happy Sen. Vieira raised that issue of the Joint Select Committee, because when Sen. Mark was talking about parliamentary oversight, I felt that this was in fact, if he wanted and was strong on oversight he could achieve oversight by all of this by simply agreeing to the amendment by reference to the Economic Sanctions Act, which ensures that that inclusion of the reference brings the Joint Select Committee into play if we want oversight. So I thought it made sense, and I am sure if he had another few minutes to speak he would have gotten to that point. We are also deleting some words and substituting those words, and I would not read what they are in 2(b)(ii) and 2(b)(iii), and it is repeated through the Act.

And, Madam President, as the Attorney General pointed out, because of the need to comply with the requirements of other drafts people and the style which is required, we have to spell out the reference to the Regulations and the Orders made under primary legislation. But, Madam President, this piece of work represents continuing work that Trinidad and Tobago has undertaken, and if I have to put this Bill in context, I just want to make this point. The point is that when we went through the third round review, if you look at the report from May 2007, you would be quite surprised. In 2007 there was—the report says that Trinidad and Tobago has no law relating to participation in an organized group, no law relating

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to racketeering, no law relating to terrorism or terrorist financing, no law relating to trafficking in human beings, no law relating to migrants smuggling, no law relating to piracy, no law relating to civil forfeiture. The report says there are no casinos, and there are no casinos but private members' club operate like casinos. There is no real supervision over private members' clubs and gaming houses, there are no AML/CFT guidelines with regard to private members' clubs. The real estate business industry is not regulated. There is no mechanism in place to supervise NPOs, and of course there is no reference to proliferation.

But, Madam President, over a period of time we have been able to deal with much of what was not found in our law in 2007, and we have gone through periods where we are catching up, and we have gone through periods like we have gone through from '16 to '19, 2016 to 2019, where the AG and his team from the Attorney General's office and the CPC have done tremendous work in ensuring that Trinidad and Tobago finally catches up with what we are supposed to be doing. So if you go back to this list that I have just read out from the 2007 report, and I would leave it to somebody else, if they want the opportunity to use up some time [*Laughter*] but if you go back you start to see how we have been building, and not alone, we have been building it, all of us have been building it out.

And I am particularly happy, Madam President, with the way we have gone and the direction that we are heading, and the extent to which, and I am really hoping that the AG and his team bring some excellent news for us in terms of the recent review. But I want to say, Madam President, as I close, I want to say that I am particularly anxious now, given the fervour of the Opposition, because I imagine that any time soon this Gambling Control Bill will come back to this

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Parliament, and I know that all of you have been reading the various reports, the reports from the four rounds, you have been reading all the follow-up reports, and you know that the FATF has always flagged this issue of private members' club operating as casinos with absolutely no supervision in this country, and I am sure that you are looking forward, just as you are going to join with us tonight, you are looking forward to join with us so that we could finally regulate gambling in this country and comply with the FATF, and I am sure you are looking forward because that Bill has already been laid. The TTRA legislation, I am sure that you are anxious to help us comply with the FATF by having a modern regulatory agency for dealing with this matter of collection and administration of taxes. And, Madam President, I thank you very much. [*Desk thumping*]

Sen. Taharqa Obika: Thank you, Madam President. I would like to begin on a point that the Minister of Agriculture, Land and Fisheries raised regarding the non-profit organizations, and the Attorney General in another place mentioned that FATF asked about the condemnation of the NPO Bill and so on, but what I am sure the AG and the Minister of Agriculture. Land and Fisheries would remember is that the non-profit organizations protested because they were not brought into the consultative process.

Madam President: Okay, so I am so sorry Sen. Obika because this is your first sentence of your contribution. But I just do not want us, and though mention has been made of it, I do not want us going back to debates that we have held already. Okay? Do not start to re-debate an issue that has been decided already in this Chamber.

Sen. T. Obika: Thank you, Madam President. The Attorney General is on record

as saying that the Opposition opposes. He went at length speaking about that issue, and what he had to confront when he went to FATF and so on. However, what this Government needs to be reminded of is that we would support law that is responsible and that is good and appropriate. [*Desk thumping*]

Now, clause 2 of the Bill contemplates, or actually makes it clear regarding monitoring of proliferation financing and it indicates that the Central Bank is to be instrumental in that process, but before I get to the financial institutions and their subjection to being targeted financial institutions based on the sanctions of FATF, I want to just bring a point that the Attorney General spent at length in this presentation, and that has to do with the Fourth Round Mutual Evaluation brouhaha. Now, the Attorney General boasted from pillar to post that he headed CFATF and represented the Caribbean in his capacity as a senior official on CFATF, and he extolled his own virtues as the only technical AG that went before FATF. “Fisherman never say he fish rotten.” Pardon the colloquial expression. But I am not sure if it applies there fully, but the issue is this, the Attorney General must understand that with every position, work is required, so you cannot boast of being the head, being the head honcho, but you are afraid to do the work that the position calls for. So, that is the big issue. The Attorney General needs to stop loudly boasting and actually just get down to doing the work, because you do not want to bring the next cliché about empty vessels and make reference to the AG.

Now, Madam President, as a result of this failure by the hon. Attorney General and the regime to do the work on this process that is outlined based on Financial Action Task Force requirements, money laundering, counterterrorist financing, anti-money laundering procedures in the financial services sector and

what have you, T&T was placed in the CFATF regime called “enhanced follow up”. And I would get to what that is when I deal with the FATF—what happens with financial institutions that are targeted for sanctioning.

And the second thing is, FATF International Cooperation Review Group listed Trinidad and Tobago as having strategic deficiencies in anti-money laundering and terrorist financing laws. What is the reason for this? The reason for this, Madam President, is what I could simply call political grandstanding, brinkmanship. You bring legislation with aspects that could only be seen as problematic, “toxic” would be another word, but I would stop at “problematic”. And you bring it at the very last minute, you bring it where you did not hold consultations on the difficult parts, the difficult clauses of the legislation, and you expect to run it through the parliamentary process. Now, that is what I call political brinkmanship, legislative disorder. As a result of that, the regime—the agenda that the Government should have followed from the FATF recommendations and the CFATF programme of action could not have materialized. So, the failure is on the head of the hon. Attorney General, and the filibustering on even on this Bill was seen only recently, Monday. So I do not need to go into that and what would happen there.

I was about to go in FATF Recommendation 7 but Sen. Mark went at length on that, and I have no intention to detain this House further, but I want to just make a reference to FATF Guidance on Counter Proliferation Financing: The Implementation of Financial Provisions of United Nations Security Council Resolutions to Counter the Proliferation of Weapons of Mass Destruction, which is pertinent to this Bill as in clause 2 as well as—well, even when you go further

down in clause 2 it speaks to what the insertion would empower the commission to issue warning to registrants where they breached a particular Act, being the Anti-Terrorism Act. Now, when we turn to this Annex B of the document I just referenced from FATF, it spells out a few things which want to contribute for the discourse in this debate, albeit a short debate. And I quote:

“When implementing Recommendation 7, competent authorities may wish to consider other regulatory measures within their legal framework to prevent asset flight and overall risks on financial and payment systems and protect the position of counter-parties acting in good faith.”

So that is the point I want to develop on, counter-parties acting in good faith. And let me just go further: There is another paragraph but to summarize it, it says that there is an issue regarding the protection for their parties from the extent of sanctions.

And a simple example, although not referenced in the document, but a simple example, Madam President, would be money transfer companies. Because if, as the Attorney General said, there are 400 persons, citizens of Trinidad and Tobago, or persons whether they be or not be citizens of Trinidad and Tobago, who were flagged in terms of engaging in terrorism or terrorist financing, and they used a money laundering mechanism—a money transfer company to send their moneys whether it be to ISIL or what have you, there is a risk of those institutions and the persons connected to those institutions being subject to sanctions, and it would be incumbent on the Government to look at that.

And the last point I want to end on, Madam President, and I would quote this sentence and I would end on this point. This has to do with application of targeted

financial sanctions. They must:

“Determine whether the designation financial institution has a presence in their country. A financial institution may have a presence by being constituted within that country, because it has a branch there or because it owns or controls an entity in the country...”

So, we should have featured, in terms of the innocent parties that are engaged, not to their knowing, in the global supply chain of terrorist financing, there should be some mechanism where Central Bank reports to policy makers, at least, if the information is too sensitive, and the information that could be broadcasted to the national community.

So, in summary, Madam President, I wanted to say that today should be the last day, as a nation we are subjected to the hon. Attorney General, four years in his office, having boasted of being the head of CFATF, taking the praise of the position and not holding himself accountable to do the work that is required. Today should be the last day that we hear the hon. Attorney General blaming the last administration for his failure. [*Desk thumping*] And, I want to recommend that the Central Bank, as referenced here, should include in their reportage to policy makers for details that are specific and that could be injurious to national security concerns, and in more brief, in summary, to the wider public in their publications, so that we can be beneficiaries of information that flows from where we are in respect of the proliferation financing, in terms of terrorist financing. I thank you.

Hon. Al-Rawi: Madam Chair?

Madam President: Well, no. Sen. Hosein.

Sen. Saddam Hosein: Thank you very much, Madam President. [*Desk thumping*]
I am grateful. Madam President, I promise not to be short as—

Hon. Senator: “Aaah”. [*Laughter*]

Sen. S. Hosein: No, I will be short. I will be short. [*Laughter*] But, Madam
President, thank you for allowing me the opportunity to contribute on this Bill.

Now, Madam President, the Bill, it may seem very simple on the face of it, but it is
not, and the reason I say that, Madam President, is because when I had the
opportunity to examine the debate at the end, sorry, on Monday, with respect to
this debate at the other place, there were several Government speakers and they
would have raised several issues of pertinent public importance with respect to the
clauses in this Bill. Because when we speak about proliferation financing for the
purposes of terrorism we speak about preventing weapons of mass destruction
being able to be built and utilized to destroy the peace and order and governance of
any society and country. Now, while we may not have any instances in Trinidad
and Tobago of the manufacturer of these weapons, we have a very robust
economy, and moneys can be transmitted from one jurisdiction to the other in
order for the financing of terrorism and the financing of the proliferation of
weapons, and this Bill and the model that FATF would have adopted was one in
which it must be criminalized in almost all jurisdictions that they have coverage
over.

And in particular Trinidad and Tobago, we have come under scrutiny in
terms of the world by the Financial Action Task Force and also the Global Forum
that deals with matters of terrorism and anti-money laundering. Especially,
Madam President, that we have been placed on the grey list, and we have known
this because there was a 2016 Mutual Evaluation Report on Trinidad and Tobago,

and this particular Bill would have been touching and concerning Recommendation 7 in particular. And Sen. Mark had raised it that it was since 2016 that as a country and as a Government they knew that we were deficient with respect to our laws when it comes to the proliferation of financing for weapons and terrorism. So, 2016 we had noticed but we come in 2019 in order to pass the legislation.

Madam President: Sen. Hosein, I know that you had said that you are going to be brief, but you are rehashing what has been said before. So, you can make your other points without going back into what has been said before.

Sen. S. Hosein: And, Madam President, I thought I was going to have a record today that you would not stop me, but I guess I would try another day. *[Laughter]* I would try another day.

Sen. Haynes: To fight another day.

Sen. S. Hosein: I would try another day. And, Madam President, I looked, at the brief time that I had to do the research there were papers that were produced by FATF and there were various options they would have given various jurisdictions in order to enact the legislation. And the Attorney General chose one of the easier methods, and I pour no scorn or criticism on this method, because we must make laws as simple as possible for the ordinary man to know. And that is one of the requirements that FATF has.

Because what they say, Madam President, when you deal with offences relating to proliferation of financing, which this Bill does, is create offences. They said that a person or the country, sorry, must make their—the persons under the regulation, aware of what would amount to proliferation, and I think that is very

important, because you have such a robust regulatory framework in terms of attorneys-at-law, real estate agents, insurance brokers, all now falling under the watch of the FIU and the FATF requirements, that these persons must now be aware. Because when transactions are made, the ordinary man on the street needs to know whether or not a transaction that he is going to be engaged in will not amount to proliferation of financing for weapons, because these things carry very serious and severe consequences.

And I think that the Government—do not just pass the legislation because FATF told us to pass it. Pass it because you want to also make Trinidad and Tobago a better place. Pass it so that the citizens of Trinidad and Tobago understand their sanctions, their responsibilities and their obligations under all of this framework. Because as an attorney-at-law, Madam President, I myself sometimes I am so confused with the amount of regulations that are now being placed upon us, so the ordinary man in the street obviously would have some difficulty in digesting all of these FATF requirements. And I think it is especially important because of how rapidly we pass these legislation in this particular Parliament.

And I want to go with respect to the Attorney General's comments when he speaks about mutual evaluation and Trinidad and Tobago re-rating. Now, when FATF decides to evaluate a particular jurisdiction they do so and they examine two things. The first thing is effectiveness, and the second thing is technical compliance. Now, the Attorney General boasted, and I know many speakers said it, that he is the most technical Attorney General, but, Madam President, FATF would not leave us there. They would look at the effectiveness, because we passed

all of the laws—[*Madam President moves microphone*—and I know you are listening attentively so you would have moved the mike so that you can have the benefit of the entire contribution. [*Laughter*] I thought I was going to be stopped.

But, Madam President, no, the effectiveness must also be evaluated, because when you pass a law you do not just pass it for the purposes of getting off a list. You pass the law so that it works. That it works not just for the Government, but for the citizens of Trinidad and Tobago, and with these pieces of particular legislation it benefits the entire world. Because, while we may not be subject to any terrorist activity or terrorists—we may have terrorist threats in the past, at least we can say we are lucky that it is not on such a scale as other places around the world where lives have been lost due to bombings and radicals shootings, and the hijacking of planes. And these are very pertinent issues, because at the end of the day in order to stem terrorism and the fight against terrorism, we must cut their lifeline. And what is that lifeline? It is financing, it is money. Money is required for terrorists to function, and therefore we must as a country ensure that we do not participate in financing terrorism in any part of the world, and especially in Trinidad and Tobago.

And this Bill also will touch and concern the Anti-Terrorism Act, and FATF had a lot of good things to say also when they examined our Recommendation 7 compliance back in 2016. And they would have said that notwithstanding you do not have laws to deal with proliferation of weapons, when you look at the Anti-Terrorism Act, in particular, sections 22B and 22AA, they are listing elements, and this is the old Act that I would be quoting, because we would have recently amended the Anti-Terrorism Act, and they said that there have been provisions for

the seizing of assets and the listing of terrorists, so that is a good thing.

7.00 p.m.

So that, we are not completely not compliant with FATF, we have reached somewhere and we are continuing to go somewhere. And I am happy as a patriot of Trinidad and Tobago to know that the Attorney General of Trinidad and Tobago can come here and say that we stand a very good chance of getting a good report at the end of the day. I am very happy for that. But as Sen. Obika said, the Attorney General cannot take the credit for it. It was the Parliament as a whole, every single sitting Member of this Parliament would have contributed to Trinidad and Tobago finding its place on a better rating, on FATF, Madam President. And I think as a Parliament we must commend ourselves for that.

Another issue the Attorney General raised was the listings of the terrorist organizations, the terrorist entities, and I am happy to know that, that Trinidad and Tobago listed so many individuals. They listed so many entities, but, Madam President, when you look behind this, because you will see it in the newspapers ever so often, there is an Order made by the court with respect to a certain entity being listed. I believe even Osama Bin Laden's son was listed as a terrorist in Trinidad and Tobago.

But what is the effectiveness of that, Madam President? The effectiveness is that we only list, but at the end of the day Trinidad and Tobago—they have no assets here because when you read the Order, the Order also makes an Order that the person's assets are seized in Trinidad and Tobago. So it is really an empty Order which is being made with respect to the listings under the Anti-Terrorism Act. It is really a rubber-stamping exercise. Because when the United Nations

Security Council lists someone it is an automatic listing right here in Trinidad and Tobago.

I promised that I would not be very long. [*Crosstalk*] That was a joke. [*Laughter*]

Hon. Senator: They do not understand.

Sen. S. Hosein: Yeah, you do not understand the jokes. But, Madam President, the Attorney General spoke of flip-flopping. He spoke of flip-flopping, that one day we support, one day we do not support. But, I think the Attorney General is also guilty of flip-flopping, because if I could remember, it was the same Attorney General, the Hon. Faris Al-Rawi, who would have commended Sen. Saddam Hosein on the good work at the Joint Select Committee of the Anti-Terrorism Act. And I—

Madam President: Sen. Hosein, are you going to say, right now, “I thank you”? Because you are straying very, very, very far.

Sen. S. Hosein: “Aah”, Madam President, I thought that I would have been stopped once, but it was twice. But I am going to end, I was just rebutting the Attorney General but I must also congratulate Sen. Sophia Chote who also worked diligently with us on that JSC and all other Members of the Parliament. [*Desk thumping*] And I thank you very much, Madam President, for having this opportunity to ensure that we have good law and that we are able to put ourselves on a better place on the international scale and I thank you. [*Desk thumping*]

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam President. Madam President, I thank hon. Members for their contributions. I also wish to thank Sen. Rambharat in particular for effectively giving a comprehensive reply to

many of the issues on the table. I wish in relation to this Bill, because this Bill does attach on to the statements that Sen. Hosein was just making on the Anti-Terrorism Bill. As a matter of fact, Sen. Hosein, that I did certainly compliment him for the work done in the Joint Select Committee. Unfortunately that fell apart when we came to the House and that is where the about-face happened. So we need to be careful with precise aspects of it. Great work in committee, “doh” come and then take it back in the House and say you “doh” agree with your own report, because that is what that was about.

Madam President, this Bill is important, it is proportional, it is measured. There has been fulsome advocacy in piloting the legislation. Sen. Rambharat has given excellent response. I beg to move. [*Desk thumping and crosstalk*]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Madam Chairman: Attorney General.

Mr. Al-Rawi: Yes, Ma'am.

Madam Chairman: CPA ready?

Mr. Al-Rawi: Yes, please.

Clauses 1 to 4 ordered to stand part of the Bill.

Question put and agreed to: That the Bill be reported to the Senate.

Senate resumed.

Bill reported, without amendment, read the third time and passed.

ADJOURNMENT

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. Madam President, before I move the adjournment, when I came into the Senate this afternoon somebody told me I was looking tired. So thank you for an early night.

Madam President, I beg to move that this Senate do now adjourn to Monday the 17th of June, 2019, at 10.00 a.m. We will be doing the Miscellaneous Provisions that will be debated in the House on Friday. It deals with tax amnesty, freedom of information, et cetera.

Hon. Senator: And pensions.

Sen. The Hon. F. Khan: And pensions, yeah.

Hon. Senator: What time?

Sen. The Hon. F. Khan: At ten o'clock, Monday.

Sen. S. Hosein: Tuesday?

Mr. Al-Rawi: Tuesday it has to go to the House—

Sen. The Hon. F. Khan: Tuesday it goes to the House.

Mr. Al-Rawi: And there is a tax amnesty, that is why.

Sen. The Hon. F. Khan: There is a deadline for the tax amnesty. [*Crosstalk*]

Madam President: Hon. Senators, I had approved two matters on the adjournment, but I am not seeing Sen. Mark. So the question is that the Senate do now adjourn—**Hon. Senator:** Aye!

Madam President:—to Monday, June the 17th, 2019 at 10.00 a.m.

Hon. Senators: Aye!

Madam President: Those in favour—no, no, no. [*Laughter*] Those in favour say, “aye”.

Hon. Senators: Aye!

Adjournment (cont'd)

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Madam President: Those against say, no.

Sen. S. Hosein: Nooo!

Madam President: The ayes have it. [*Laughter and desk thumping*]

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 7.11 p.m.